

Hearings Commissioner

Notice of Meeting

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

**Thursday & Friday
17 & 18 July
9am**

**Application by
Evo Holdings Limited**

**Part One
Pages 1 - 433**

**Commissioner
David Hill**

Hearings Commissioner

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Application by
Evo Holdings Limited

Part Two
Pages 434 - 845

Commissioner
David Hill

Hearings Commissioner

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**Application by
Evo Holdings Limited**

**Part Three
Pages 846 - 1294**

**Commissioner
David Hill**

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

This land use consent application was lodged by Cato Bolam on behalf of EVO Holdings Limited and was reported on by Council's Senior Specialist (Consents), Ueli Sasagi

The proposal is for the subdivision of the site at 390 Three Mile Bush Road, Kamo into 74 new allotments consisting of 69 small allotments less than one hectare ranging from 1,780m² to 8,497m² and 5 larger allotments greater than one hectare ranging from 1.1 to 4.2 hectares. The subdivision includes new allotments allocated for Reserve and Reserve Parking, Walkways, Roads, Land for Future Roads and Jointly Owned Accessway. A Management Plan is included as part and in support of the proposal.



3 July 2014

Ueli Sasagi – Senior Specialist (Consents)

Date

This report was peer reviewed by the following signatory:



3 July 2014

**Alister Hartstone – Resource Consents
Manager**

Date

Statement of staff qualification and experience

Ueli Sasagi – Senior Specialist (Consents)

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

Dean Murphy – Council Senior Environmental Engineering Officer

My full name is Dean Murphy. I work as a Senior Environmental Engineering Officer for the Whangarei District Council in the last seven and half years. I hold the qualifications of NZCE (Civil) and graduate member of IPENZ (GIPENZ). I have five years of experience in civil construction site engineering and project management including earthworks, drainage, roading, water treatment plant, sewer scheme & roading maintenance.

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

Section 42A Hearing Report

Hearing By: Hearings' Commissioner David Hill of a discretionary subdivision proposal by EVO Holdings Limited to subdivide the subject site into 74 new allotments consisting of 69 small allotments less than one hectare ranging from 1,780m² to 8,497m² and 5 larger allotments greater than one hectare ranging from 1.1 to 4.2 hectares. The subdivision includes new allotments allocated for Reserve and Reserve Parking, Walkways, Roads, Land for Future Roads and Jointly Owned Accessway. A Management Plan is included as part of the proposal.

The site is located at 390 Three Mile Bush Road, Kamo being legally described as Lot 2 DP 25589 and Lot 2 DP 327650 held in CFR 112401

Evidence By: Ueli Sasagi – Senior Specialist (Consents), MRRP, BSc (Forestry), GradDip (Agri) MNZPI (Full member).

File Refs: SL1400005 P035627 TRIM 14/42798

Dated: 3 July 2014

1.0 The Proposal & Background

1.1 The proposal

1.1.1 The proposal is for the subdivision of the site at 390 Three Mile Bush Road, Kamo into 74 new allotments. The applicant refers to this subdivision proposal as the "Karanui" development. There are 69 allotments of less than one hectare ranging from 1,780m² to 8,497m²; and 5 allotments of greater than one hectare ranging from 1.1 hectares to 4.2 hectares. The scheme plans (including staged plans) are in **Attachment 1**.

1.1.2 In addition, there are also areas set aside for the following intended use:

- Reserve and parking – 2 allotments of 3,159m²
- Walkways – 1.6 kilometres (4,603m²) within the development (excluding walkways within roads) and approximately 1.5 kilometres of further walkways outside the development site;
- Roads – total length 2,000m (4 hectares)
- Land for future roads (3,061m²)
- Jointly owned accessways (two proposed of 3,385m² and 366m²)

1.1.3 The subdivision is proposed to be carried out in four main stages (**Attachment 1**) as follows:

- Stage 1a

Comprising Lots 1-9, this being the northern lots from Three Mile Bush Road to the first rock wall. This stage constructs the main site entrance and 0.21 kilometre of roading. All stormwater from this stage is proposed for sheet flow disbursement to enter the existing overland flow and stream channels.

- Stage 1b

Consisting Lots 14-26, 44, 50 and 100 this being the first rock wall and including the large farm lot 50 and 100. This stage constructs 0.37 kilometres of roading. All stormwater

from this stage is proposed for sheet flow disbursement to enter the existing overland flow and stream channels.

- Stage 2

Consisting of Lots 10-13, 27-43, 51 and 52, this being the north eastern lots on the volcanic flats up to the stream in the centre of the site. This stage constructs approximately 400 metres of roading and 320 metres of JOAW¹ (Lot 205). It also allows for two stormwater pipe discharges to the stream.

- Stage 3

Consisting of Lots 45-49, 57-74 and 101, this being the western lots of the northern flats, the stream crossing and remainder of the lots on the clay ridge to the south of the stream. This stage constructs approximately one kilometre of roading including a culvert stream crossing and 100 metres of JOAW. It also allows for two further stormwater pipe discharges to the stream.

1.1.4 Features of the Karanui development include:

- Stone Walls – are considered to be an important feature of the subject site and as such will use existing gateways through the walls for road access to minimise damage to the walls.
- Roads and Access – There will be one main road traversing the site which will be vested with Council and is designed and positioned to relate to the alignment of stone walls. Lots 300 and 302 are intended for potential road access to adjoining properties but ownership will remain with the developer at this time.
- Building Clusters²:
 - Cluster 1 includes Lot 1-9 which has a strong relationship with Three Mile Bush Road. The allotment size in this cluster has an average area of 3,700m².
 - Cluster 2 includes Lot 10-31 which is situated in the central part of the development and is defined by the arrangement of stone walls. The average area of an allotment in this cluster is 2,280m².
 - Cluster 3 includes Lot 37-43 located on the eastern side of the volcanic knoll. The eastern part of this area offers a low outlook to the indigenous bush while the western part adjoins a farmed lot. The average area of an allotment in this cluster is 2,065m².
 - Cluster 4 comprises Lots 32-36 which is defined by a triangular wing of stone walls with an outlook to the indigenous bush on a neighbouring property to the south. An average allotment area is 2,871m².
 - Cluster 5 comprises of Lot 44-49 which is a linear block defined to the west by a stone wall and in the east by the main road. The cluster is connected to the western face of the volcanic knoll. Average allotment area is 2,542m².
 - Cluster 6 comprises Lots 51, 52, 54, 55, and 56 which is associated with the upper reaches of the stream as it flows through the site and with the backdrop of native trees standing immediately to the east. Average allotment area is 1 hectare.
 - Cluster 7 comprises Lots 57-60, 63, 69-74 which relates to the linear central open space with an average area of 2,823m² per allotment.
 - Cluster 8 comprises Lots 61, 62, 64-68 which is the southern most cluster and relates strongly to the Pukenui Forest. The average lot size is 5,500m².

¹ Joint Ownership Accessway

² Refer page 12-15 of the Management Plan for illustration

- Open Spaces – a pattern of covenanted no-build areas where buildings cannot be sited have been identified for many allotments, specifically to conserve open space characteristic in adjacent public areas. A key component of the development in terms of open space is the large block of open space centrally located comprising Lots 50-54, 100 and 101.
- Site and Building Controls – in addition to the defined covenanted building areas, various other site and building controls apply to private sites in the development. These include features like level of permeability³ and low roadside barriers. The applicant anticipates developing a small guideline booklet “Karanui Site Development Design Guide” for future landowners.
- Vegetation Framework – The “Ecological Management Report” submitted in support of the application contains the framework for vegetation. It highlighted the importance of existing mature indigenous trees as the site’s identity. The Developer and future landowners’ obligations in relation to vegetation protection and planting are outlined in the Management Plan.
- Stream and Riparian Restoration – The applicant proposes to widen the stream and protect stock from the broad margin either side of the watercourse. An intensive planting programme is also planned using locally common indigenous species.
- Pest and Predator Control – A number of initiatives for pest control to protect the natural areas within the development from damage by pest animals and contribute to the protection of flora and fauna have been put in place. One obvious initiative is the erection of a proposed dog proof fence around the boundary with the Pukenui Forest.
- Walkways – A network of well-connected walk paths that link to the Pukenui Forest have been proposed. A walk path has also been proposed to traverse the full length of the site from Three Mile Road to Pukenui Forest.
- Pukenui Forest Entry and Track Upgrade – the proposal includes car and coach parking in association with a proposed new Pukenui entrance point. This allows connectivity of the site to Pukenui Forest and gain access to the track network in the reserve.
- Farmed Lots (Lots 50/101 and 68) – Located centrally providing a rural outlook to the entire development. Restrictions are included for stock aimed at minimising damage to soils and steeper slopes.
- Reserve and Private Tennis Court – A passive reserve providing recreation to future residents of the development.
- Archaeological and Historic Features – Recognising the importance of archaeological and historic sites. The Management Plan includes procedures for their monitoring and protection in accordance with statutory requirements and the local iwi protocols.

1.1.5 The full proposal including all technical and specialist reports supporting the application are in **Attachment 3**. These supporting documents include:

- Karanui Management Plan – EVO Holdings Ltd (revised version supplied with s92 information on 27 June 2014)
- Engineering and Infrastructure Report by Cato Bolam Consultants Ltd, reference WH31531, 12 March 2014
- Assessment of Landscape and Rural Amenity Effects by Littoralis, March 2014
- Traffic Effects Assessment by Engineering Outcome Ltd, 7 January 2014
- Ecological Management Report by Cato Bolam Consultants Ltd, 27 February 2014
- Cultural Impact Assessment report by Ngararatunua Marae Trust, 20 December 2014
- ‘Authority’ from NZ Historic Places Trust pursuant to Section 14 of the HP Act 1993 for work affecting an archaeological site dated 31 January 2014

³ Design to improve openness on frontages of developing sites

- Archaeological Assessment of a Proposed Subdivision of 390 Three Mile Bush Road by Geometria Limited, 17 December 2013
- Contaminated HAIL Assessment by Cato Bolam Consultants Ltd, 10 April 2014.

1.2 Background

- 1.2.1 Council received the application on 27 March 2014. Initial checks revealed that an assessment of the proposal against the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 was missing. The applicant was subsequently requested to provide an assessment.
- 1.2.2 A Management Plan submitted with the proposed subdivision plans was referred to as the basis of an application formally utilising the Management Plan Technique in the District Plan. This raised confusion as the information provided did not reflect the Management Plan Technique approach in terms of the District Plan requirements. As such, the applicant was advised that this needed to be clarified whilst the public notification of the application proceeded.
- 1.2.3 At a meeting held on 29 April 2014 between Council's staff and the applicant it was agreed that the proposed subdivision will be considered as a proposal lodged for consideration under the subdivision provisions of the UTE zone and not as an application using the Management Plan Technique under the District Plan. The management plan prepared would still be considered as a supporting document containing information that would be relevant for the assessment of effects and other technical matters.
- 1.2.4 Further information was sought from the applicant under section 92 of the Act after closure of the notification period and a subsequent meeting held on Wednesday 4 June 2014. In summary, matters sought for further information or clarifications include:
- Consideration of issues raised in submissions.
 - Confirming the application was submitted under the UTE requirements.
 - Consent notice for maintenance of swales; who is responsible?
 - Relevant width of roads.
 - Impact of stone walls on the road width; acceptable approach.
 - Issues on rumble strips on roads.
 - Turning head need further clarification.
 - Car parks & parks access – clarify management and maintenance of this asset.
 - Extending road reserve to accommodate water tanks and license to occupy.
 - Need detail for other parking areas.
 - Guard rails – need detail and connection path.
 - Stormwater – need peer review, generally follow ARC TP 124.
 - AEE – need to improve by linking the application and the management plan.
- 1.2.5 Response to the above matters was received on 24 June 2014 (except for the peer review of stormwater design and information on soils), are in **Attachment 4**.

2.0 Site and Surrounds Description

2.1 Zoning, Resource areas and Other Notations

- 2.1.1 The site is located in the Urban Transition Environment of the Whangarei Operative District Plan.

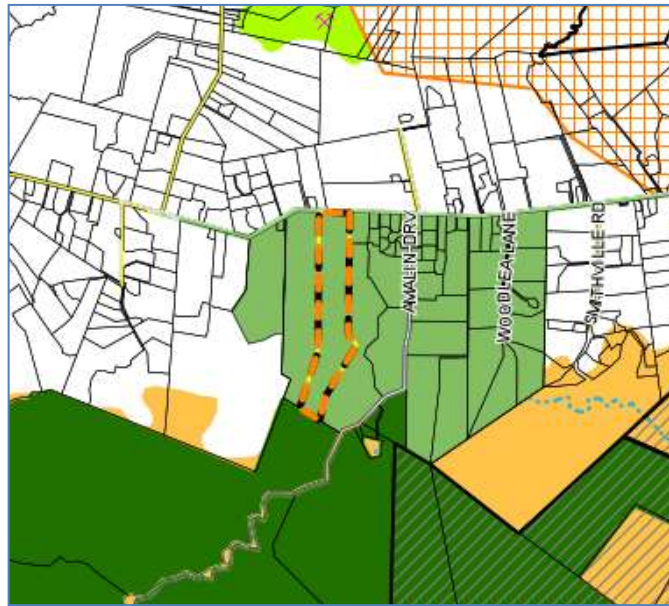


Figure 1: Environment (Zoning) of Application Site

2.1.2 In terms of land stability, Council's Geographic Information System identifies the site as subject to a moderate stability hazard and the southern tip of the property is a Notable Landscape Area.

2.2 Site Description

2.2.1 The site is fully described in section 3.0 of the application and pages 6 to 10 of the Management Plan of which I concur.

2.2.2 In summary, the site is located at 390 Three Mile Bush Road; legally described as Lot 2 DP 25589 and Lot 2 DP 327650 held in CFR 112401 and has a total area of 37.89 hectares.

2.2.3 It described the site as having three distinct topographic areas as follows:

- *North: Northern flat volcanic land extending approximately 600m south of Three Mile Bush Road. The land slopes toward the south at grades of approximately 5° - 8° with the exception of a volcanic knoll centrally located. This area is divided by stone walls and a small area of native remnant forest in the north west of the site. An existing dwelling is located in the north of the site which is accessed directly off Three Mile Bush Road.*
- *Central: The stream gully area consists of a steep slope of approximately 20° falling from the northern volcanic flats into a natural rock lined stream. The area around this stream contains a number of springs and a small wetland with a mixture of exotic and native vegetation.*
- *South: The grassed spur area south of the stream area is a rising ridgeline into the Pukenui Forest. Slopes of this spur range from approximately 15° at the stream edge to 5° - 8° at the top of the broad crested spur.*

2.2.4 The neighbourhood contains a number of rural residential pockets including the Cairn Way/ Amalin Drive development immediately east of the subject site and the Palm Grove to the north. These have been developed as discrete pockets with little or no connection with adjacent public corridors or surrounding public sites. These developments have introduced an element of rural residential character to this part of Three Mile Bush Road.



Figure 2: Aerial Photograph of Application Site and Receiving Environment

- 2.2.5 Situated predominantly along the southern margins of the Three Mile Bush Road, Pukenui Forest is a large block of elevated and bush-clad terrain that serves as a defining backdrop to the area.

3.0 District Plan Assessment

3.1 Urban Transitional Environment - UTE 3.1 Eligibility Rules

- 3.1.1 This provision stipulates that subdivision undertaken in accordance with an approved management plan is a permitted activity, whilst all other subdivision proposals shall be considered as a Discretionary Activity. The creation of any additional allotment within areas subject to a 'no residential unit' restriction is a prohibited activity.
- 3.1.2 In this instance, no approved management plan exists for the site, nor is the site subject to a 'no residential unit' restriction. As such, the proposed subdivision meets the criteria to be considered as a Discretionary Activity pursuant to UTE 3.1.

3.2 UTE 3.3 Notification Rules

- 3.2.1 An assessment of the proposal in accordance with UTE 3.3 *Notification Rules* is provided below for assistance in determining the degree to which the application is consistent with the relevant provisions for subdivision within the Urban Transition Environment.

UTE.3.3 Notification Rules

As defined in the Urban Transition Environment Chapter, the following activities will automatically result in the requirement for public notification of the proposal:

- a) *More than 1 allotment larger than 2500m² except that more than 1 allotment larger than 2500m² will be allowed where that allotment in its entirety is subject to a conservation covenant, Reserve Act covenant or similar restriction.*

The proposed subdivision fails this rule because there are 33 allotments with areas more than 2,500m². None of these lots are entirely set aside for a conservation covenant, reserve or similar restriction. Instead parts of these allotments have building areas identified.

Lot No	Area (m ²)	Lot No	Area(m ²)	Lot No	Area(m ²)	Special Lots	Area(m ²)
1	4,806	26	2,068	51	8,497	100	5,090
2	5,281	27	2,638	52	2.0863ha	101	3,059
3	4,090	28	3,187	53	3.1565ha	200	4,638
4	3,100	29	2,337	54	1.1646ha	201	7,706
5	3,296	30	2,161	55	4,607	202	3,535
6	2,140	31	2,375	56	4,620	203	3,855
7	3,108	32	2,374	57	3,414	204	7,139
8	3,735	33	2,791	58	2,729	205	3,385
9	3,728	34	2,411	59	2,569	207	1.3165ha
10	3,190	35	3,901	60	2,616	208	1,721
11	2,488	36	2,877	61	4,315	209	366
12	3,066	37	1,982	62	4,245	300	1,972
13	2,371	38	2,079	63	3,121	301	496
14	2,036	39	2,021	64	4,805	302	1,089
15	2,381	40	2,143	65	4,567	303	2,003
16	1,780	41	2,037	66	2,908	304	648
17	1,818	42	2,163	67	2,620	305	396
18	1,791	43	2,033	68	1.4953ha	306	280
19	1,846	44	2,573	69	2,569	307	67
20	1,800	45	2,531	70	2,611	308	713
21	2,112	46	2,091	71	2,636	400	1,438
22	2,120	47	1,954	72	2,499	802	16.3ha
23	2,425	48	2,114	73	2614		
24	2,136	49	3,984	74	3,678		
25	2,085	50	3.7099ha				

- b) *Yield of a subdivision exceeding one residential lot per 5000m² of net site area.*
The net area of the site is 37.89ha; therefore the creation of 74 residential lots will not exceed the above density yield.
- c) *Location of new residential building sites further than 50m from an existing or proposed residential building site, within the Urban Transition Environment.*
Because of the area of this proposed subdivision being considered as large in term of UTE provisions, not all building sites identified on the plans will be located within 50m of each other.
- d) *Indefinite retention of less than 50% of the total site area of the subdivision.*
As per the proposed scheme plans of subdivision (WH31531 S1-S5, 17/02/14), 'no build areas' across all new allotments serve to ensure that over 50% of the site is retained indefinitely.
- e) *Creation of allotments less than 2000m², where the physical identification of suitable building platforms in accordance with the Environmental Engineering Standards 2010 cannot be demonstrated.*

Seven new allotments of less than 2000m² have adequate suitable building platforms identified.

- f) *Creation of allotments less than 2000m², where the identification and establishment of access ways in accordance with the Environmental Engineering Standards 2010 (EES) cannot be demonstrated.*

Seven new allotments of less than 2000m² have access identified which will be in accordance with Council's EES.

- g) *Location and construction of building platforms within 20m of the boundary of State Highways and roads shown on the planning maps.*

As per the proposed scheme plan of subdivision, only Lots 2, 3, 4, 5, 6, 8 and 50 are located at more than 20m from the road boundary. All other lots adjoining the road boundary are setback 10m.

- h) *Establishment and low impact management of the roading network (including State Highways) in accordance with the Environmental Engineering Standards 2010 cannot be demonstrated.*

The proposal has been reviewed by Senior Environmental Engineering Officer and Council's Roding Department (as discussed in further detail in this report), the activity is able to meet the standards set out under the Whangarei District Council Environmental Engineering Standards 2010 Edition. As such, this requirement is considered to have been met.

- 3.2.2 Overall, based on the above assessment, it is considered that the proposal is a Discretionary Activity and required to be notified pursuant to Rule UTE 3.3(a). All other rules are met.

3.3 Subdivision Design Assessment

- 3.3.1 The expectation of the UTE zone is for any proposed subdivision to be designed to achieve its General Policy 1.4, the 'Notification Rules' in UTE 3.3 and Specific Policies in UTE 3.2. The UTE provisions – particularly Policy 1.4 – requires a clear consideration of the landscape issues pertaining to a site and this is intended to translate through the identification of building platforms and a potential need to supply additional detail regarding house orientation, landscaping and design and construction detail (perhaps with the submission of landscape report with some applications). The UTE provisions are not intending to create lots with a broad brush approach to lot design and building platform identification using merely setbacks, but are seeking a more discrete identification process to take place using design elements matters while still retaining the need for clustering and hazard identification. When this assessment takes place it may be that the maximum yield cannot be achieved in terms of lots numbers, but the outcome achieves a sense of spaciousness, rural outlook and privacy and a safe building platform.

- 3.3.2 The applicant presented an Assessment of Landscape and Rural Amenity Effects by Littoralis in support of the application (**see Attachment 3**). The assessment took the UTE zoning as a baseline for the development of the subdivision design. It identified natural and historical landforms which are then incorporated into the UTE zoning provision that results in the proposed subdivision design. Although the design does not fully comply with the UTE provisions, the applicant argues that it is the best outcome considering the existing character and landscape elements on the site. As part of the assessment conclusion the applicant commented that:

"This application has been founded upon an analysis of the site's character and role in a wider setting. The elements that are of particular importance to the identity of the place have been teased out and the format fitted around those crucial component and themes. The configuration of the stonewalls on the site has been amongst the most influential aspects to shape the proposal....In this case, the 'clustering' promoted by the UTE is determined by the spaces that the stone walls create..."

- 3.3.3 I agree with the applicant's basis for the proposed subdivision design. The design concept is in **Attachment 2**.

4.0 Notification, Submissions and Written Approvals

4.1 Notification

4.1.1 The application was lodged as a full notified application.

4.2 Submissions

4.2.1 The period for submissions opened on 16 April 2014 and closed on 16 May 2014. Copies of the application were specifically served upon Northland Regional Council, NZ Historic Places Trust, Department of Conservation, Northland Health, NZ Fire Service, NZ Transport Agency, Pukenui/Western Hill Forest Charitable Trust and all directly affected surrounding landowners.

4.2.2 Council received 21 submissions within the timeframe, with 9 in support seeking approval of the application, and 12 in opposition requesting that the application be declined. 11 of the submitters have requested to be heard in support of their submission.

4.2.3 The individual submissions are summarised as follows (a full copy of the individual submissions can be viewed in **Attachment 5**).

Name	Postal Address	Issues	Relief Sought
Christopher James Barber	199 Church Road, RD1, Kamo 0185	<p>Opposed the application -</p> <p>The number of allotments proposed in the subdivision, and lack of provision for the most appropriate use of the high quality soils contained on the property. The submitter felt that larger allotment can still allow the property to be farmed. The submitter also felt that smaller allotment will be subject to reverse sensitivity if one future owner uses a property for farming activities.</p> <p>Traffic movements generated by the subdivision will provide additional dangers along the rural Three Mile Bush Road and provide additional dangers to pedestrians and cyclists that use the road.</p>	Decline the application.
M Smith	C/ Resource Management and Assessment Ltd, P O Box 1135, Whangarei 0185	<p>Supported the application -</p> <p>Mr Smith has concerns on the management and treatment of lands along the western edge of the subdivision site; in particular the impact of the subdivision site on the view and daylight to Lot 1 DP 25589 and undue screening from plantings along the western border.</p> <p>The submitter also notes that close planting of larger trees next to the stone walls along the boundary of Lot 1 DP 25589 may compromise the integrity of those walls.</p>	<p>Approve the proposal subject to the following:</p> <ul style="list-style-type: none"> Provision 5(o) should be reworded as – <i>“Any tanks within 3 metres of the boundary of lots 1, 4, 16-20 and 44-49 shall be buried to achieve a height of no more than 1.2 metres.”</i> Provision 5(g) is supported. Provision 5(d) shall be reworded as – <i>“Any planting within 3 metres of the</i>

Name	Postal Address	Issues	Relief Sought
			<i>western of lots 1, 4, 16-20 and 44-49 is to achieve a height of no more than 2.5 metres."</i>
MGC & DF Darroch	378 Three Mile Bush Road, RD1, Kamo 0185	Supported the application.	Approve the application
Gareth Turner	P O Box 837, Whangarei 0140	Opposed the application - The proposed development is too intensive (average lots too small) for an un-reticulated development in this area. The submitter will like to see a minimum allotment of 4000m ² which will accommodate larger homes and waste water system comfortably in keeping with existing built environment in the area.	Decline the application
Ian Francis Buckley	403 Crane Road, RD1, Kamo	Opposed the application - There has been evidence of increased number of fauna (pigeon, tui, and bat) in the Pukenui Forest. The Pukenui Trust is also planned to apply for translocation of kiwi, north island robins, whiteheads, and kakapo. All these good work will be seriously jeopardised if cats and dogs are allowed in this subdivision.	Decline the application. If granted, the consent should be subject to a condition that no cats or dogs allowed.
Graham Maxwell Hutchings	566 Three Mile Bush Road, Kamo 0185	Supported the application - While the development on the other hand will enhance and attract biodiversity to the area, dogs and cats present a major predator danger to the enhanced biodiversity.	Any consent to be granted should be subject to a dog and cat free subdivision.
G Smith	294 Three Mile Bush Road, Kamo 0185	Opposed the application - 74 lots subdivision in this area is flawed and should not occur because of the following reasons: The site is not on the city water supply or sewer systems. Increased discharge of waste water that finds its way to the underground aquifer will pollute water supply to nearby residential activities that depend on it for water supply.	Decline the application.
		No footpath shown on the plans.	
Northland DHB	Private Bag 9742, Whangarei 0148	Neutral - The proposal must investigate options of connecting to a Council reticulated drinking water supply. West Kamo is the highest growing area in Whangarei and the public health gain is enormous if	Approve the proposal with recommended approach as follows: Approach council to investigate options of connected to a

Name	Postal Address	Issues	Relief Sought
		connected to a reticulated water supply. As such risk of health hazard by drinking from roof water is reduced.	reticulated water supply; If reticulated water supply is not possible, then houses should have enough storage for drought periods. There should also be good initial design, sufficient treatment and maintenance of roof water supplies to protect health.
S & K Henare	50 Boundary Road, Tikipunga, Whangarei 0112	Opposed the application - The Henare supports the Pukenui Trust submission. They considered that they have high concern for cats than dogs. They realised that dogs have greater risk for kiwi but cats are a much larger risk for a greater range of indigenous fauna. Allowing limited cats and dogs in a subdivision next door will create risk for kiwi and native fauna in the Pukenui Forest.	Decline the application. If consent is granted, they must be subject to a condition that no cat or dog allowed in the area.
Sue Milner	C/ Pukenui Western Hill Forest Charitable Trust, P O Box 4028, Kamo 0141	Supported the application - The Trust is mindful of the Whangarei Growth Strategy and the accumulation of issues that may come with more development proposals in the area. They are concern that by allowing dogs and cats in this subdivision, it will set a precedence that all other future subdivision will follow. Dogs and cats are known to be the greatest threat to kiwi and the wildlife. The developer has proposed mitigation by limiting the amount and a dog proof fence. However, issues like effective monitoring and enforcement is still loose. Furthermore, future subdivisions may result in increased population of cats and dogs.	Approve the application subject to the following matters to be imposed as consent conditions: <ul style="list-style-type: none"> • Must identify what tree species are to be planted; • Adopt a sustainable design criteria; • 50m buffer between residential dwelling and native plants; • No cats or dogs • A landcare group must be formed to carry out pest and weed control. Developer to contribute financially. • Clear signage at all access point to the forest advising people about the prohibition of dogs in the area.
Tanya Louise Cook	88 Scott Road, RD4, Whangarei	Supported the application - Need clear controls on planting exotic	Approve the application subject to the following matters to be imposed

Name	Postal Address	Issues	Relief Sought
	0174	<p>plants known to be invasive.</p> <p>Need to incorporate sustainable design in building development controls i.e. incorporation of features such as passive solar design, solar heating systems, solar electricity generation, and greywater system.</p> <p>A clear buffer area of 50m between the built environment and the forest edge. In addition, steps should be put in place for the protection, maintenance and enhancement of the indigenous flora and fauna of the Pukenui Forest.</p> <p>Cats and dogs are a significant threat to the indigenous fauna.</p> <p>A landcare group should be established by the developer with property owners as they purchase the properties aiming for pest control. The developer must contribute financially.</p> <p>Clear signage must be places strategically advising people about the “no dog” rule and educate them on the values of the forest.</p>	<p>as consent conditions:</p> <ul style="list-style-type: none"> • Must identify what tree species are to be planted; • Adopt a sustainable design criteria; • 50m buffer between residential dwelling and native plants; • No cats or dogs • A landcare group must be formed to carry out pest and weed control. Developer to contribute financially. • Clear signage at all access point to the forest advising people about the prohibition of dogs in the area.
Christopher Berry	C/ Department of Conservation, Private Bag 3072, Hamilton 3240	<p>Neutral -</p> <p>Pukenui Forest is classified as ‘Conservation Park’ under s19 of the Conservation Act 1987. The forest is defined as a “Level One” Protected Natural Area (PNA). The Pukenui Forest is declared a “Controlled Dog area under section 26ZS of the Conservation Act 1987 with No Dog access permitted.</p> <p>DoC acknowledged the recommendation for dog proof fence proposed in the application. However, DoC considered that:</p> <p>The close proximity of this subdivision has potential to threaten any restoration attempts by the Pukenui Trust to translocate kiwi within the forest. Proximity of dogs may jeopardise the likelihood of a successful translocation.</p> <p>Feral cats are predators for native wild life that are currently being controlled within the Pukenui Forest. It should be noted that this could create a risk of conflict between the conservation work of the local community and potential residents with domestic cats.</p>	<p>Did not state what relief they are seeking.</p>

Name	Postal Address	Issues	Relief Sought
David Lourie	Cullen Road, Waipu, Whangarei	<p>Opposed the application -</p> <p>The proposal does not recognise and provide for matters in 6(c) of RMA i.e. the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;</p> <p>The proposal does not have particular regard to section 7 of RMA.</p> <p>There are concerns about the effects of the development stormwater discharge.</p>	Decline the application if the proposal cannot achieve avoidance of threats to the biodiversity and water quality.
Kristi Henare	Forest and Birds Brach, P O Box 1375, Whangarei 0112	<p>Opposed the application -</p> <p>Allowing cats and dogs will pose threats to kiwi and wildlife in the nearby forest. Even if limited number of dogs and cats is imposed, who will monitor and enforce such requirement.</p>	<p>If consent is granted we would like to see the following as condition:</p> <ul style="list-style-type: none"> • No dogs or cats allow; • Erect signs to advise people that dogs and cats are not allowed and educate people about the forest; • Developer working together with the Pukenui Trust and local Hapu/iwi in forming a landcare group. • Planting of native plants and avoid exotic species; and • Ban firework in the area.
Gerry Brackenbury	C/ Pukenui Western Hill Forest Charitable Trust, 166 Kiripaka Road, Whangarei 0112	<p>Opposed the application -</p> <p>As chairman for Pukenui Western Hills Forest Charitable Trust, he is concern about the impact of the new development on the adjoining forest and their endeavour to re-introduce bird species and generally enhance the biodiversity of the area. The trust is working with DoC to return kiwi to the Pukenui Forest.</p>	If consent is granted, there must be no cats or dogs allowed.
Cynthia & Bob Starr	P O Box 25028, Whangarei 0148	<p>Opposed the application -</p> <p>The proposed subdivision is not in keeping with the semi-rural outlook of the area. The visual appearance of dwellings from the road will impact on their rural outlook and view.</p> <p>The environmental impact of 74 houses in a small area is significant. There will be more cars, increased noised and will be</p>	<p>Decline the application.</p> <p>If granted, they will like to see that:</p> <ul style="list-style-type: none"> • the number of houses are decreased to 20 only. • Strictly follow their development plan

Name	Postal Address	Issues	Relief Sought
		unsafe for residents.	regarding landscaping and lessening the visual impact of so many houses.
Te Kahu O Torongare Hapu	323 Pipiwai Road, RD6, Whangarei	Supported the application - Affected hapu has been consulted	Approve the application.
Denis Hewitt	295 Three Mile Bush Road, RD1 Kamo 0185	<p>Opposed the application -</p> <ul style="list-style-type: none"> The productive capacity of the area will be lost as the area is known to have Special Elite Soils. Farming will bring economic and social benefits to the community. Interesting statement <i>“Sorry Cato Bolam you didn’t do your home work. You made no mention of all kiwi fruit orchards, the macadamias, the walnuts, the plums, the massive glass house of tomatoes and cucumbers (very susceptible to the spray drift of hormone weed killers often used on lawns), the citrus trees, mandarin, sweet oranges, lemonade, lemon, the passion fruit crops, the various types of berries, apples, orchids, garlic, plant nurseries, the plant quarantine station, the new fruit development nursery etc.”</i> What is the implication of this on the NES assessment submitted? The surrounding forest and its native habitat are likely to be threatened by the proposed development. They sought a green-belt around the bush from Council but no avail. Mangakahia Iwi may be an affected local iwi, have they been consulted? The roads in the area are so narrow that many vehicle accidents have occurred because of that. 	<p>Decline the application.</p> <p>However if consent is granted, the development must be:</p> <ul style="list-style-type: none"> Pets free; Palms free; Water supply must be filtered and cleaned before it enters the streams in the forest; No fire works; No outside rubbish; The developer must put up a ten million dollar fund to alleviate problems created by the subdivision; No historical stone walls be removed or altered; No drilling for water supply. Lower speed limit to 50km/hr between Kamo village and Amalin Dr. Require bond money for rubbish collection and the extension of infrastructure services (water and sewer)
Sarah MacCormick	C/ Beca Ltd, P O Box 6345, Auckland	<p>Neutral -</p> <ul style="list-style-type: none"> Water supply must be provided on site for fire service; Access to dwelling in accordance with the District Plan. 	Grant the consent with the proviso that water supply and access shall be carried in accordance with that proposed in the applicant.

Name	Postal Address	Issues	Relief Sought
Julia E Going	57 Woodlea Lane, RD1, Kamo 0185	Supported the application - <ul style="list-style-type: none"> Road in the area is very busy but narrow – risk of accidents for overtaking vehicles; Likely to be an increase in water consumption thus result in more drilling for ground water take. 	Grant the consent with the following conditions: <ul style="list-style-type: none"> Widened the road and construct footpath; No drilling for water allowed.
Kristi Henare (On behalf of KCC Kids Kiwi Conservation Club)	50 Boundary Road, Tikipunga, Whangarei 0112	Opposed the application - <ul style="list-style-type: none"> Concern about the proposed development particularly on threats and risk to the forest and their native bird species, bats and the loss of opportunity to have kiwi released in this area. 	Development to be cats and dogs free.

- 4.2.4 It is noted from a review of the submissions that there are some matters raised that may be interpreted as questioning the UTE zoning applicable to the site, and the level of development it may allow. While the change in zoning is recent, it has followed due process and does now set a different set of expectations in terms of development that previously did not exist when the Countryside zoning applied.

5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

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

(a) *any actual and potential effects on the environment of allowing the activity; and*

~~[(b) any relevant provisions of—~~

~~(i) a national environmental standard:~~

~~(ii) other regulations:~~

~~(iii) a national policy statement:~~

~~(iv) a New Zealand coastal policy statement:~~

~~(v) a regional policy statement or proposed regional policy statement:~~

~~(vi) a plan or proposed plan; and]]~~

(c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

5.2 Section 104B

5.2.1 Only relevant if discretionary or non-complying activity

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

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

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

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

6.1 Definition of Effect

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

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

6.2 Permitted Baseline

6.2.1 In terms of determining whether the adverse effects of the proposal are more than minor, section 104(2) of the Act provides that Council ‘may’ have regard to the permitted baseline in order for effects on the environment that are permitted under the Plan (or by way of resource consent) to be disregarded.

6.2.2 There are no permitted forms of subdivision within the Urban Transition Environment (unless an approved Management Plan exists), and therefore the development controls for land use activities form an appropriate baseline for the consideration of this application.

6.2.3 In this regard, the residential density enabled under UTE.2.1 (r) is relevant to the consideration of this application. This provision stipulates that “*the construction or location of any residential unit where the total residential density will exceed one residential unit per 5000m²*” is a discretionary activity. Therefore upon a site with 37.89ha of land located within the Urban Transition Environment, a maximum yield of 75 residential units is anticipated; however it is realistically precluded as a permitted activity given UTE 2.1(b) restricts a cumulative building footprint on any single site to 500m². Notwithstanding this, the provisions of UTE 2.1(r) provides an indication as to the density of development anticipated and provided for on a per site basis within the Urban Transition Environment, and it is recognised the density of development proposed under this application is not exceeded in this regard, but must still be considered as a discretionary activity.

6.3 Effects Assessment

6.3.1 Below is a summary table of assessment provided by the applicant to assist Council's auditing of the Assessment of Effects on the Environment (AEE). The table refers to different parts of the main application relevant to each assessment matter, the relevant supporting document and the related draft condition. The general conclusion reached in the effects assessment of the proposal on the environment is that of ‘no more than minor effects’.

6.3.2 I have reviewed the AEE provided and I am in agreement with it.

6.3.3 I have briefly provided relevant comments below where necessary in order to address any issue raised by the submitters.

Effects Matter	AEE	Other Documentation	Draft Conditions
Positive Effects	5.2.1		
Character and Amenity (including visual and landscape effects and rural amenity effects)	5.2.1	Landscape and Visual Assessment (AEE Appendix G) Draft Management Plan	3(a), 3(h), 3(p), 3(p), 3(r)
Earthworks and Construction	5.2.2	Earthworks and Infrastructure Report (AEE Appendix F) Geotech Report (AEE Appendix H)	3(a), 3(j).
Roading, Access and Traffic	5.2.3	Traffic Assessment Report (AEE Appendix I)	3(a), 3(d), 3(e), 3(q)
Ecological Effects	5.2.4	Ecological Management Report (AEE Appendix J)	3(l), 3(m), 3(n), 3(o), 4(b), 4(c) s224(c)(k)
Stormwater and Flooding	5.2.5	Earthworks and Infrastructure Report (AEE Appendix F)	3(a), 3(g), 3(k)
Wastewater	5.2.6	Earthworks and Infrastructure Report (AEE Appendix F)	3(a)
Water Supply	5.2.7	Earthworks and Infrastructure Report (AEE Appendix F)	3(a)
Other Servicing			3(c)
Land Contamination	5.2.8		N/A
Effects from Farming Activities	5.2.9		3(r)
Archaeological and Historic Features / Cultural Concerns	5.2.10	Archaeological Report (AEE Appendix M) NZHPT Authority (AEE Appendix L)	3(i), 3(p), 3(r), s224(c)(l)
Productive Soils		Supplementary Report	N/A

6.4 Cultural Effects

- 6.4.1 As the proposed subdivision site is located in an area that Te Kahu O Torongare has mana whenua over, the applicant is required to consult with them. Furthermore, NZ Historic Places Trust recorded an archaeological site Q06/631 as a collection of stones consisting of stone walls, stone site clearance mound and stone platform/caches.
- 6.4.2 The applicant discussed this issue in section 5.2.10 of the AEE and was further assessed in the Archaeological Report. The assessment concluded that there will be very minor effects on the stone walls of which I agree.
- 6.4.3 Furthermore, NZHPT granted 'Authority' to carry out work on the identified archaeological sites and Te Kahu O Torongare has provided a confirmation that they are satisfied with the consultation undertaken between themselves and the applicant.
- 6.4.4 Denis Hewitt submitted as to whether or not the applicant consulted the local iwi. I have noted above that confirmation of consultation with Te Kahu O Torongare has been submitted as part of the application. That addresses this concern.

6.5 Amenity and Character

- 6.5.1 The Urban Transition Environment is essentially a zone which provides for people who wish to live in close proximity to urban areas and associated amenities, but prefer to live in areas that have a rural outlook, ambiance and amenity on a section large enough to achieve a high degree of privacy without being a maintenance burden. This is achieved through provisions which seek to ensure subdivision design produces a clustered residential enclave development pattern, with uninhabited areas preserved for their recreational or conservation potential.

- 6.5.2 The application assessed the character and amenity; visual effects, landscape effects, rural amenity and positive effects in section 5.2.1 of the AEE. This is supported by a comprehensive report on Landscape and Visual Assessment by Littoralis and a Draft Management Plan. It concludes that the proposal will establish a high standard of character and amenity both for future residents and those experiencing the development from the outside. The effects are no more than minor of which I concur.
- 6.5.3 I was also mindful of the level of noncompliance of the proposal with the UTE standards under the notification rules, and whether or not they are significant enough in outweighing the baseline approach for the design. In my view, the clustering of potential built-form balanced out by the open space will achieve the purpose of the UTE zone being a residential living environment with a rural outlook. This is a large development with multiple clusters of built-form with a wide open space provided in the middle. As such, I agree with the approach taken by the applicant for the design which will have no more than minor effects on the amenity and character expected in this area.
- 6.5.4 Submissions of Cynthia & Bob Starr, and Gareth Turner expressed concern on the proposed subdivision as not in keeping with the outlook of the area. In my view, the assessment by the applicant together with the conditions offered in sustaining the amenity and character of the area is considered sufficient to address the submission. As per my previous comment, it is important to note that the site has recently been zoned UTE from Countryside. The expectations for outcomes of any development on these two separate Environments are entirely dissimilar.

6.6 Ecological Effects

- 6.6.1 The applicant provided an 'Ecological Management Report' by Cato Bolam in support of the proposal. It also provided a comprehensive assessment of effects of the proposal on the ecology of the area in section 5.2.4 of the AEE. It included a list of 'Prohibited Planting Species Schedule'. The applicant concluded that the overall net effect of ecological effects will be positive of which I agree.
- 6.6.2 Council's Park Department reviewed the AEE and the supporting Ecological Management Report and commented that while they are happy to have reserves, maintenance of structures associated with them may be an issue. However, the applicant has since indicated that maintenance will be by way of private covenants.
- 6.6.3 Many submitters expressed concerns on the effects of the proposal on flora and fauna in the area. In particular, allowing dogs and cats will threaten the wildlife in the nearby Pukenui Forest. Submitters include M Smith, Ian F Buckley, Graham M Hutchings, S & K Henare, Sue Miller, Tanya L Cook, Christopher Berry, Kristi Henare, Kerry Brackenbury, and Denis Hewitt.
- 6.6.4 The Ecological Management Report submitted in support of the application provided a thorough assessment of the impacts of keeping dogs and cats by potential owners of the subdivision sites. The report recommended mitigation measures that may avoid, remedy or mitigate the impact of dogs and cats on the flora and fauna of the nearby Pukenui Forest.
- 6.6.5 The District Plan contains objectives and policies in regard to biodiversity in general and to kiwi in particular. Chapter 17 – Indigenous Vegetation and Habitat – contains a number of relevant objectives and policies. Kiwi/dogs/cats are mentioned specifically on page 1, 4, and 5. Policy 17.4.5C states: "To recognise that dogs, cats and mustelids are a significant threat to kiwi". Resource consent conditions are identified as regulatory methods in section 17.5 Methods (page 5) and in 17.5.3 – Information, Education and Advocacy (page 6). There are also relevant objectives and policies in Chapter 8 of the District Plan – Subdivision and Development.
- 6.6.6 Parks Department of Council provided the following assessment:
- "...considers that it is not appropriate to allow cats and dogs in this subdivision, and points out that there is active trapping and poisoning in the adjacent area of forest, so that allowing people to own these pets in close proximity does not make sense."*

- 6.6.7 In my view, provided that clear conditions of consent require dogs and cats monitoring around the new properties, the likely impact on the nearby flora and fauna can be mitigated to an acceptable level.
- 6.6.8 Regarding agricultural land use (soils) as raised by submitters, the applicant has indicated that they have engaged Mr Bob Cathcart, a Land and Environmental Consultant to prepare a comprehensive report on the site soils and productive potential. This is expected to be tabled at the hearing which may address the submissions.
- 6.6.9 The applicant has proposed a dog-proof fence, private covenants for owning dogs and cats and including education signage and materials. These measures are offered by the applicant in addressing the issues raised by submitters.

6.7 Site Suitability and Servicing

- 6.7.1 The application is supported by a detailed Engineering and Infrastructure Report prepared by Cato Bolam Consultants Ltd dated 12 March 2014 which provides an investigation of the suitability and stability of the proposed subdivision, and servicing arrangements including earthworks, access & parking, flooding, wastewater management, water supply and stormwater management.
- 6.7.2 The applicant assessed these matters separately in sections 5.2.2 (earthwork and construction), 5.2.5 (stormwater and flooding), 5.2.6 (wastewater), and 5.2.7 (water supply). In conclusion, the applicant generally considered that the development of engineering design of these matters using Council's Environmental Engineering Standards 2010 Edition will ensure any adverse effects arising are avoided, remedied or mitigated. Furthermore, Council's Senior Engineering Officer and Senior Roding Engineer reviewed the application and have concurred with the design. Some of these matters are addressed by consent notices and management of covenants wherever necessary. Such will ensure that any adverse effects arising from the proposal are properly managed.
- 6.7.3 The submissions of Gareth Turner, G Smith, Northland DHB, David Lourie, and Sarah MacCormick expressed concerns on the availability of water, the ability of the site to absorb stormwater and wastewater discharges, and the impact of wastewater discharges to the groundwater resources.
- 6.7.4 The supporting documents provided in support of the application demonstrated that the effects of the proposal on those matters are considered to be no more than minor. Council's Senior Environmental Engineering Officer also reviewed the documents which he concurred with. It therefore addressed the concerns expressed by submitters.
- 6.7.5 Furthermore, Northern Regional Council has assessed the application for a permit for earthwork associated with the proposed subdivision and subsequently granted resource consent.
- 6.7.6 Regarding reticulated water to the site, Council is currently considering the potential for water supply to be extended to the site which is not part of this application.

6.8 Road Safety and Access Effects

- 6.8.1 Council's Roding department has been meeting with the applicant to sort out technical aspects of the roads to vest, although in principle, the Traffic Effects Assessment by Engineering Outcomes concluded that the risks associated with the generated traffic will be well within acceptable limits.
- 6.8.2 The assessment of traffic effects by the applicant is in section 5.2.3 of the AEE which concluded that the roading and access as proposed are considered appropriate. Council Senior Roding Engineer agrees with the conclusion.
- 6.8.3 Submissions of Julia E Going, Denis Hewitt, G Smith and Christopher Barber expressed concerns on the narrow roads and the absence of any footpath shown on the plans may exacerbate safety on the rural roads.

6.8.4 As stated earlier, the applicant contended that the proposed roads are within acceptable standards in accordance with Council's Environmental Engineering Standards 2010 Edition. As such, any effects arising from increased traffic are acceptable. Council's Senior Roading Engineer agreed. Such will address the above submissions.

6.9 Cumulative Effects

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

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

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

6.9.2 Having regard to the above, the following assessment considers whether the residual effects of the proposed activity (after mitigation by conditions) will give rise to an unacceptable increase in cumulative adverse effects that are beyond the carrying capacity of the receiving environment, including supporting infrastructure and the amenity and character values that define the locality.

6.9.3 For a cumulative effect to be significant, it must breach a threshold or 'tip the balance'. In this instance, the proposal facilitates the opportunity for 74 additional residential units to be constructed within defined building sites. Areas of built development are to be offset by 'no build' areas that will retain (indefinitely) areas of open space within the allotments, in accordance with the requirements for subdivision and development within the Urban Transition Environment. As identified earlier in this report, no constraints with respect to site servicing or the receiving road environment have been identified.

6.9.4 I am satisfied the proposal will not give rise to effects that are beyond the supporting capacity of the receiving environment, at this particular moment in time.

6.10 Effects summary

6.10.1 Overall and taking into account recommended conditions of consent, I am of the opinion that the adverse effects on the environment arising from the proposal will be no more than minor, and therefore acceptable.

7.0 Relevant National Environmental Standard (s104(1)(b)(i))

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

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

Question	Answer	Comment
Is an activity described on the HAIL currently being undertaken on the piece of land to which this application applies?	No	Council records do not show HAIL activities affecting the site for this application.
Has an activity described on the HAIL ever been	No Evidence	

undertaken on the piece of land to which this application applies?		
Is it more likely than not that an activity described on the HAIL is being or has been undertaken on the piece of land to which this application applies?	No Evidence	

- 7.1.2 The applicant submitted an assessment of the site which looked at the activities against the relevant National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011. It states that *“The site has no recorded hazardous activity as assessed from Council records, previous occupier’s knowledge of Archaeological and Geotechnical Assessments”*. The applicant also provided an assessment of the subject property for current and historical hazardous activities and industries using the Council’s check list for the NES.
- 7.1.3 I concur with the conclusion by the applicant and therefore the proposal is not subject to the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES Contaminated Soils).
- 7.1.4 Mr Hewitt’s concern on the implication of the subdivision on the NES may be addressed by the above assessment.

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

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

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

- 8.2.1 The Regional Policy Statement for Northland (RPS) was made operative in July 2002; however in October 2012, a new Proposed Regional Policy Statement for Northland (PRPS) was publicly notified, which will (in its final form) supersede the 2002 document. The decisions on the Proposed Regional Policy Statement for Northland were publicly notified in September 2013. These documents contain high level policy guidance for the development of lower order statutory documents, including the Regional Soil and Water Plan, and the District Plan. The Resource Management Act 1991 requires that district plans must “give effect to” the regional policy statement of a region and must “not be inconsistent” with regional plans.
- 8.2.2 The document has not been declared as operative at this point in time (pending appeals) so full weighting cannot be given to the provisions at this time, however it is considered to more accurately reflect the current issues relating to subdivision and development than the RPS which was prepared in 2002. Therefore, in terms of controlling the effects of subdivision, Policy 5.1.1 *Planned and Co-Ordinated Development* of the PRPS seeks to ensure that:

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

- a) *Is guided by the ‘Regional Form and Development Guidelines’ in Appendix 2;*
- b) *Is guided by the ‘Regional Urban Design Guidelines’ in Appendix 2 when it is urban in nature;*
- c) *Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects of development;*

- d) *Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
 - e) *Should not result in incompatible adjacent land uses in close proximity and avoids the potential for reverse sensitivity; and*
 - f) *Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
 - g) *Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- 8.2.3 In terms of maintaining the opportunity for soil based primary production, Whangarei District Council's Land Use Capability Maps identify the subject site as having an LUC III rating, denoting the site as having moderate limitations for arable use, however is identified as suitable for cultivated crops, pasture or forestry. The opportunity is there for continued grazing across the no-build area of Lots 50, 51, 52 and 53 as a result of the development.
- 8.2.4 No apparent conflicts between the RPS have been identified, and based on the above; it is considered the proposal is also consistent with the PRPS.

8.3 Regional Soil and Water Plan for Northland

- 8.3.1 The Regional Water and Soil Plan for Northland (RWSP), which is administered by the Northland Regional Council, covers the land and water resources of the Northland region, it controls discharges and land disturbance activities. The Plan aims to prevent activities occurring which can result in unacceptable adverse effects.
- 8.3.2 Considering the proposal has been granted earthworks permit by the Northland Regional Council (APP.036684.01.01), it demonstrates that the proposal is acceptable under the requirements of the Regional Water & Soil Plan.
- 8.3.3 Moreover, Council's Senior Environmental Engineering Officer, Dean Murphy, has considered matters relating to site servicing (onsite sewer system), including the engineering recommendations within the application. Mr Murphy is satisfied that subject to appropriate conditions of consent, future development will achieve the environmental results anticipated by the RWSP

8.4 Operative Whangarei District Plan

- 8.4.1 Those objectives and policies of relevance to the proposal are included within UTE.1, Chapter 5 'Amenity Values', Chapter 6 *Built Form and Development*, Chapter 7 'Tangata Whenua', Chapter 8 'Subdivision and Development'. A full copy of these chapters is included in Attachment 6.
- 8.4.2 The applicant has submitted a referenced document summarising the assessment of the relevant objectives and policies which is contained in the application AEE. It also included further comments supporting their previous assessment in the application. This is provided as part of the s92 information in **Attachment 4**
- 8.4.3 The following table assesses the proposed subdivision against the relevant objectives and policies within these Chapters:

Table 2 – Assessment of Relevant Objectives and Policies within the District Plan

UTE 1.3 Objectives	
Objective	Comment
1. Opportunities are provided for people to live in close proximity to urban areas and associated amenities, in a	The key outcome sought by this objective is providing opportunities for alternative living choices, close proximity to urban areas, with a rural outlook.

<p>manner that safeguards rural character and ecological and productive values.</p>	<p>The applicant provided a comprehensive assessment of this objective in the draft Management Plan pages 12 and 13 of which I agree. The subdivision design will achieve this objective.</p>
<p>2. Building sites are grouped together to maximise the extent of openness and rural outlook between clusters, and are sensitively located to achieve the maximum available privacy.</p>	<p>The outcomes sought by this objective are to ensure that sections are large enough to achieve privacy without maintenance burden, and preservation of recreational and conservational potential of uninhabited areas between development clusters.</p> <p>Designated building sites across all allotments within each identified cluster are clustered to ensure this objective is met.</p>
<p>3. Allotment sizes are no larger than necessary to provide sufficient area for dwellings, accessory buildings and cartilage.</p>	<p>This objective seeks to achieve the outcomes in 2 above.</p> <p>All new allotments have identified building sites and 'no-build' areas. The designated building sites are mostly within the 50m distances from each other where accessory building and curtilage can also be accommodated in each identified cluster.</p>
<p>4. The uninhabited spaces between residential clusters are retained indefinitely, whilst providing for flexibility regarding their ownership, ongoing management, and productive uses.</p>	<p>The 'no build' areas, to be adhered to on an ongoing basis by way of consent notice, will ensure the retention of uninhabited spaces between residential clusters.</p>
<p>5. Provision is made for addressing reverse sensitivity issues, where the uninhabited spaces around clusters are, or can be, used for productive agricultural or horticultural activities.</p>	<p>The application site is currently used for pasture grazing. This existing use can be continued on the bottom part of the site which will not create reverse sensitivity effects on potential residential activities on new allotments.</p> <p>The applicant contented that the farmed blocks are to be limited to the farming of grazing animals to provide a pleasant rural feel and to avoid potential negative effects of other types of farming activities on the residential lots. This has been offered as a private covenant to be registered on the title.</p>
<p>UTE 1.4 Policies</p>	
<p>1. To preserve rural character and amenity whilst enabling urban development in a transitional environment and maintaining factors that contribute to the rural character including:</p> <ul style="list-style-type: none"> • Dominance of natural landforms with built features and roading subservient to and cohesive with these; • A sense of spaciousness; • Low night time light 	<p>The Assessment of Landscape and Rural Amenity Effects by Littoralis has provided a comprehensive assessment supporting these policies. In addition, the applicant stated that the balance between rural character and enabling urban development is a fundamental basis for developing the concept design which is consistent with this policy.</p> <p>Therefore I consider the proposal to be consistent with these policies.</p>

<p>levels;</p> <ul style="list-style-type: none"> • Dominance of natural features • including landforms, watercourses, and vegetation. 	
Chapter 5 – Amenity Values	
Objective	Comment
5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.	The application site and the proposed subdivision reflect a pattern and density of subdivision that is generally anticipated and provided for within this UTE zone. As such, I am satisfied that the proposal is consistent, and will not detract from, the characteristic amenity values found within this area.
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.	
Chapter 6 – Built Form and Development	
Objective	Comment
6.3.2 Subdivision and development that ensures consolidated development in appropriate locations and avoids sprawling or sporadic subdivision and ribbon development patterns in the coastal and rural environment.	The consistency of the proposal with the outcomes anticipated within the UTE ensures the application reflects an appropriate development pattern that is not sprawling or sporadic in nature.
Policy	Comment
<p>6.4.2 Consolidated Development</p> <p>To consolidate urban development by:</p> <ul style="list-style-type: none"> i. Further develop within existing built up areas, so as to avoid sporadic or sprawling subdivision and ribbon development patterns, particularly in rural areas and along the coast. ii. Directing rural lifestyle and rural-residential 	The application of the UTE zoning to the application site indicates the site is appropriate for the density and layout of subdivision proposed, recognising the proximity of the site to the urban settlement of Kamo. As such, I am satisfied the proposal does not represent a form of subdivision that is sprawling or sporadic in nature.

development to appropriate locations adjacent to existing settlements, rather than allowing sporadic development throughout rural and coastal areas.	
<p>6.4.10 Policy – Productive Soils</p> <p>i. To identify and protect the district’s highly productive and versatile soils for their productive capacity.</p> <p>ii. To recognise the value of productive soils and economic farming units to the District’s economy.</p>	<p>The subject site is currently used for grazing (the site is identified as having moderate limitations for arable use, but suitable for cultivated crops, pasture or forestry). The opportunity for pasture grazing can be continued across the identified Lots 50, 51, 52 and 53 at a controlled rate. As such, it is considered that the rezoning of the area from Countryside Environment to UTE can still meet this policy.</p>
Chapter 7 – Tangata Whenua	
Objective	Comment
<p>7.3.1 Within the respective domains of the exercise of rangatiratanga and kawanatanga, ensure that priority is afforded to the act of protection of taonga of tangata whenua, and to the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.</p>	<p>There is no evidence to suggest the proposal will adversely affect any sites of waahi tapu or taonga; however the Te Kahu O Torongare have provided their support for the proposal having been satisfactorily consulted. Furthermore, NZHPT has given authority to the applicant to undertake works on the archaeological sites.</p>
<p>7.3.2 To enable tangata whenua to exercise rangatiratanga and kaitiakitanga over their ancestral lands, waters, sites, waahi tapu and other taonga in the District.</p>	
<p>7.3.3 In the implementation of this Plan no action will be taken which will knowingly exacerbate registered treaty claims.</p>	<p>I am not aware of any registered Treaty claims relating to the application site.</p>
Policy	Comment
<p>7.4.1 Interests of Tangata Whenua</p> <p>To ensure that in the use, development and protection of natural and physical resources, the views and interests of the</p>	<p>The mana whenua of Te Kahu O Torongare hapu over the application site has been recognised in the consideration of this application, and satisfactory consultation has been undertaken by the applicant. As such I considered this policy to have been met.</p>

tangata whenua are fully represented at every stage of the process, including the preparation and implementation of the District Plan.	
<p>7.4.2 Sites of Significance to Maori</p> <p>To ensure that land use, subdivision and development does not adversely affect Sites of Significance to Maori, or other taonga identified in the District Plan or Hapu Environmental Management Plans.</p>	The Operative District Plan does not identify any sites of significance to Maori within the subdivision site, nor is there a Hapu Environmental Management Plan relating to the site or locality. The cultural impact assessment by Te Kahu O Torongare has confirmed that.
<p>7.4.3 Consultation</p> <p>To ensure effective consultation with, and participation of tangata whenua in resource management processes</p>	Consultation has been satisfactorily undertaken by the applicant.
Chapter 8 – Subdivision and Development	
Objective	Comment
8.3.1 Subdivision and development that achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.	I am satisfied that the proposal is consistent with the purpose and principles of sustainable management, and subject to recommended conditions of consent, will incorporate sufficient and appropriate means to avoid, remedy or mitigate adverse effects on the environment.
8.3.2 Subdivision and development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.	As previously discussed, I am satisfied that the proposal will not detract from the character of the locality, and no conflicts between incompatible land use activities have been identified.
8.3.7 Subdivision and development that provides for comprehensive development of land with a range of allotment sizes and is appropriate to the character of the Environment in which it is located.	It is evident that the proposal aligns with the policies for subdivision within the Urban Transition Environment and therefore reflects a density and layout of subdivision which is anticipated and provided for within this zone.
Policy	Comment
8.4.3 Density of Development To ensure that subdivision and development results in a pattern and density of land use this reflects flexibility in allotment size,	The proposal is of a density appropriate to the locality, and reflects flexibility in allotment size that will facilitate the overall purpose of the Urban Transition Environment, to produce a 'residential zone with a rural outlook'.

and is of a density appropriate to the locality.	
<p>8.4.4 Cumulative Effects</p> <p>To ensure that the cumulative effects of on-going subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible land use activities, the consolidated and orderly development of land and the density of development.</p>	<p>The proposal represents the consolidated development of an area of land located within the Urban Transition Environment. The site and locality has sufficient capacity to accommodate the density of development proposed, and the proposal is considered to be compatible with adjacent land use activities.</p>
<p>8.4.12 Services and Infrastructure</p> <p>To ensure that all subdivision and development is capable of being provided, by the subdivider or developer, with adequate services and infrastructure having regard to Whangarei District Council's Environmental Engineering Standards 2010 (except where the subdivision or development is for specific protection purposes), including:</p> <ul style="list-style-type: none"> • Vehicle access, including emergency service vehicle access; • Water supply, (including for fire fighting purposes), storm water and sewage disposal; • Energy and telecommunication connections; • Useable open space in urban areas; • During the design and construction of the subdivision, measures to reduce storm water run off. 	<p>No constraints in terms of the on-site servicing arrangements proposed have been identified, and suitable conditions of consent pursuant to Sections 108 and 220 of the Resource Management Act 1991 have been recommended to ensure the development is undertaken in accordance with Whangarei District Council Environmental Engineering Standards 2010 Edition and the relevant standards of utility providers.</p>
Chapter 17 – Indigenous Vegetation and Habitat	
Objective	Comment
<p>To promote the enhancement of areas of significant indigenous vegetation and significant habitats of indigenous fauna that have been, or may be, degraded by inappropriate subdivision, use and development.</p>	<p>The proposal includes conditions aiming to satisfy the requirement for this objective. It is noted that the nearby Pukenui Forest contains significant fauna and flora and need protection. Recommended conditions requiring the limitation of cats and dogs plus education materials with a dog proof fence are considered adequate provisions addressing this objective.</p>

To recognise that dogs, cats and mustelids are a significant threat to kiwi.	Dogs and cats are recognised as a threat in this proposal and mitigation measures are included to ensure this policy is met.
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- 8.4.4 Based on the above assessment, particularly noting the proposal's consistency with the objectives and policies for the Urban Transition Environment, I consider the proposal finds clear support in District Plan provisions which seek to ensure subdivision is appropriately located and reflects a density of development appropriate to the locality.
- 8.4.5 For the above reasons it is concluded that the proposed subdivision is generally consistent with the overarching intent of the aforementioned relevant objectives and policies of the Operative District Plan.
- 8.4.6 Accordingly, the subdivision may be considered for approval.

9.0 Other Matters – Non-statutory Planning Documents & Plan Changes

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

- 9.1.1 Whangarei District Council adopted the 'Kamo, Springs Flat, Three Mile Bush and Whau Valley Structure Plan' in February 2009. Since the adoption of the above structure plan, Whangarei District Council has given effect to Plan Change 93 *Urban Transition Environment*. The application site was part of that Plan Change and as such, no further comment in relation to the structure plan is considered necessary.

9.2 Growth Strategies –

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

10.0 Part 2 Matters

10.1 Section 5 – Purpose

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

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

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

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

10.2 Section 6 – Matters of National Importance

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

10.2.2 Pukenui Forest is a relevant matter to be considered. I am satisfied that careful consideration has been given to it.

10.3 Section 7 – Other Matters

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

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

10.3.2 Kaitiakitanga, being the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; includes the ethic of stewardship. It is recognised the Te Kahu O Torongare have mana whenua over the subject site, and consultation has been satisfactorily undertaken.

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

10.4 Section 8 – Treaty of Waitangi

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

10.4.2 With respect to the current proposal, the Te Kahu O Torongare was identified as a local iwi affected by the proposal. Consultation has been satisfactorily undertaken.

11.0 Conclusion & Recommendation

11.1 Conclusion

11.1.1 Pursuant to Section 104B of the Act, after considering an application for resource consent, a consent authority may grant or refuse the application, and if it grants the application, may impose conditions under section 108 and 220 of the Act. It is concluded that:

- The receiving environment, including supporting infrastructure, has sufficient capacity to accommodate the effects presented by the application.

- The proposal reflects a density and layout of subdivision that is generally anticipated and provided for under the provisions relating to subdivision and development within the Urban Transition Environment.
 - The development is regarded as achieving the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.
 - The proposal is considered to be consistent with overarching purpose and principle of the Resource Management Act 1991 set out within Part 2 of The Act.
- 11.1.2 While the conclusion favours the proposal in granting consent, there are few matters remained to be satisfactorily assessed and clarified which include:
- Peer review of stormwater design.
 - Clarity on the legal responsibility for maintaining assets.
 - Soil and landuse report.
- 11.1.3 These matters can be addressed during the hearing.
- 11.1.4 Having considered the application against the relevant provisions of the Act, it is recommended that this application is granted, subject to conditions addressing the following:
- On-site infrastructure and servicing requirements to ensure they are in accordance with Council's EES
 - Land management including the vesting of reserves, roads, etc;
 - Ecology including controls for dogs and cats, invasive plants etc;
 - Public amenity including landscape planting, fencing, etc;
 - Legal responsibilities including consent notices and private covenants, and bonds.
- 11.1.5 A set of conditions has not been finalised at the time of completing this report. It is intended that a full draft set of conditions will be able to be tabled at the hearing.

12.0 Attachments

- 1. The Scheme Plans (including staged plans) – latest version**
- 2. Concept Plans for the Subdivision – latest version**
- 3. The Application as Lodged**
- 4. Section 92 Information**
- 5. Submissions**
- 6. Relevant District Plan Chapters**