

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:

**Monday
14 April 2014
10am**

**Application by
Gary & Claire Eady**

**Commissioner
John Childs**

Index

	Page No
Authorisation Sheet	1
Environment Planner (Consents) Report	3
Recommendation	26
Attachment 1 Proposed Scheme Plan of Subdivision	31
Attachment 2 Application as received on 3 October 2013	34
Attachment 3 Further information Requested (before notification) – Engineering Plans and Peer review	115
Attachment 4 RMA 671/01- Settlement between Ngararatunua Marae Committee and Whangarei District Council.....	138
Attachment 5 Copies of submissions received	147
Attachment 6 District Plan Provisions (Rules, Objectives and Policies)	179
Attachment 7 Further information sought after notification	225
Attachment 8 ‘Origins of the Urban Transition Environment’ – presentation by Nick Williamson to Te Huinga Committee on 15 November 2013.....	262
Attachment 9 Council’s Senior Environmental Engineering Office Dean Murphy report dated 28 November 2013.....	303
Attachment 10 Council’s Park and Recreation report	309

Report to Hearings' Commissioner John Childs on a Resource Consent Application

Gary and Claire Eady seek resource consent to undertake a three lot subdivision of the application site, located within the Urban Transition Environment under the Operative District Plan, in order to create Lot 1 of 6,400m² (6,300m² net), Lot 2 of 2,500m² and Lot 3 of 1ha.

This resource consent application was lodged by Resource Management and Assessment Ltd on behalf of Gary and Claire Eady and was reported on by Council's Senior Specialist (Consents), Ueli Sasagi.



31 March 2014

Ueli Sasagi, Senior Specialist (Consents)

This report was peer reviewed by the following signatory:



31 March 2014

**Alister Hartstone – Resource Consents
Manager**

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 with 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 staffs 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. 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 John Childs of a three lot subdivision proposal by Gary and Claire Eady.

The application site is located at 284 Pipiwai Road, legally described as Lot 1 DP 433894, contained in Computer Freehold Register 528739, and is located within the Urban Transition Environment (UTE) under the Operative District Plan.

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

File Refs: SD1300080 P125115.SD

Dated: 14 April 2014

1.0 The Proposal & Background

1.1 The Proposal

- 1.1.1 The applicant proposes to subdivide the site into three new allotments; Lot 1 of 6,400m², Lot 2 of 2,500m² and Lot 3 of 1ha (Scheme Plan in Attachment 1). The site currently contains a residential unit which will be retained in new Lot 2. The northern boundary of the site is the Waikoropupu Stream. A 20m wide esplanade strip exists where the site adjoins the Waikoropupu Stream. The existing esplanade strip is proposed to be retained on new Lot 1. As such the applicant sought Council's approval to further waive a requirement for an esplanade reserve pursuant to section 405A of the Resource Management Act 1991 (RMA).
- 1.1.2 Access to Lots 1, 2, and 3 will be via an existing right of way ("A") over Lot 2 DP 433894 which will be upgraded and widened. A proposed right of way "B" will provide access to new Lot 3.
- 1.1.3 Designated building platforms are denoted within proposed Lots 1, 2 and 3. The scheme plan also demonstrates 'no build areas', as required under the provisions of the Urban Transition Environment to ensure no less than 50% of the site is indefinitely retained as open space. The 'no build' areas preclude built development from areas including the eastern bank of the Waikoropupu Stream, and areas within 20m setbacks from the boundary of Pipiwai Road and the eastern boundary.
- 1.1.4 The application is supported by a subdivision report (Attachment 3) prepared by Engineering Outcomes Ltd (2 October 2013) which was peer-reviewed by Bill Haigh of Haigh Workman Ltd. The report addresses and provides recommendations with respect to stability/ foundations, wastewater disposal and stormwater attenuation.

1.2 Background

- 1.2.1 The application (Attachment 2) was lodged on 3 October 2013 as a full notified application by virtue of failing the notification rules in the Urban Transitional Environment of the Operative District Plan. The application was subsequently assessed for its completeness before public notification. The application was also assessed by Council's Senior Environmental Engineering Officer (SEEO) for engineering requirements.
- 1.2.2 It was considered that for completeness, the following were required which was sought under s92 of the RMA:
- An amended preliminary plan of subdivision detailing the location of the proposed fire fighting water storage on new Lot 1 including suitable easements in favour of new Lot 2 and 3;

- Clarification on the existing driveway on proposed Lot 1 which was not detailed on the preliminary plan of subdivision. It was unclear whether the situation will remain or be closed/fenced off;
- A signed copy of the submitted engineering report compiled by Engineering Outcome Ltd dated 2 October 2013;
- Clarification on the credentials of the author of the engineering report and a peer review of the report by a qualified geotechnical engineer if the author is not qualified.

1.2.3 The applicant's agent responded to all these requirements on 25 November 2013 and the application proceeded to public notification on 11 December 2013. Notification was closed on 29 January 2014.

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.

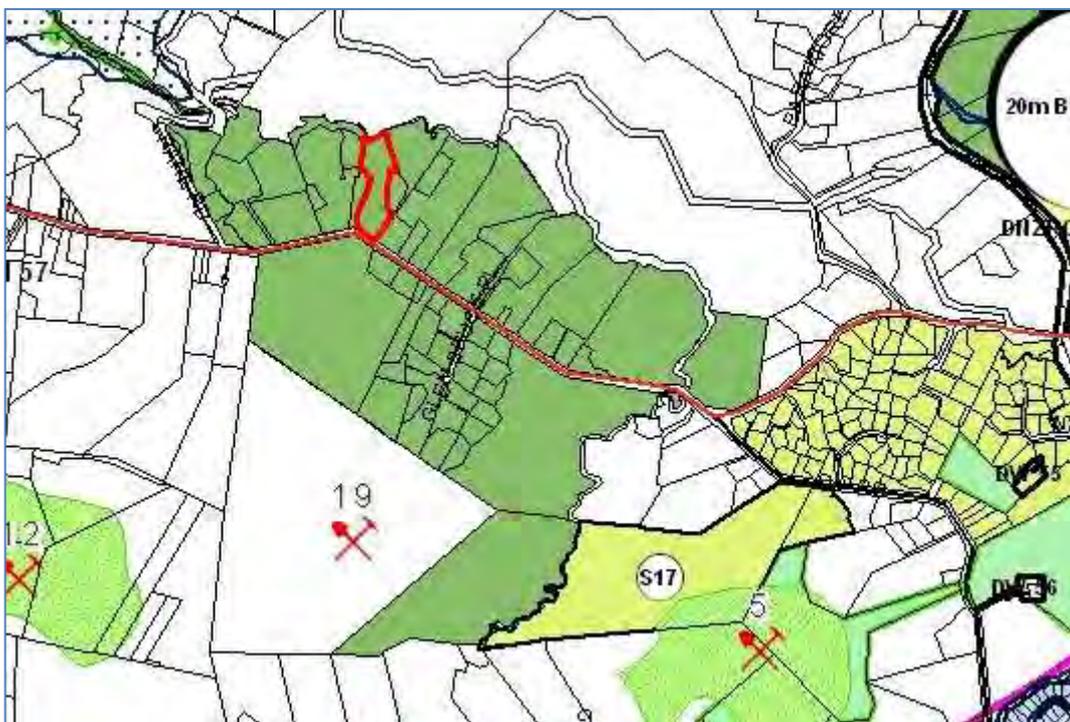


Figure 1: Environment (Zoning) of Application Site

2.1.2 In terms of land stability, Council's Geographic Information System, identifies the site as subject to a low to moderate stability hazard.

2.2 Area of Agreement between the Whangarei District Council and the Ngararatunua Marae (RMA 671/01).

2.2.1 The subject site is entirely located within the Area of Agreement between the Whangarei District Council and the Ngararatunua Marae (RMA 671/01). A copy of that agreement is attached as Attachment 4.

2.2.2 The agreement requires that consultation with the Ngararatunua Marae Committee occurs on all resource consent applications, and that an *archaeological, cultural and historical assessment report* is produced for each application. In this instance, the applicant consulted with the Ngararatunua Marae Committee prior to lodgement, and a copy of the initial correspondence provided by the applicant's agent to Ms Clark on behalf of the Kaumatua for the Ngararatunua Marae Committee is provided within the application as lodged.

2.2.3 After close of submissions in which Richard Shepherd submitted on behalf of Te Kahu O Torongare, the applicant was requested to provide an archaeological, cultural and historical

assessment under the Section 92 request dated 4 February 2014. The applicant refused to provide the assessment report as requested for the following reasons:

- In the earlier subdivision application involving the same site in 2009/2010, the applicant's agent sought an opportunity to meet through Mr Shepherd and Ms Clark, contacts given for the Ngararatunua Marae Committee's behalf. After exchanges of letters, Ms Clark accompanied the applicant and his agent on a site walkover. Ms Clark confirmed there were no sites of significance to iwi. The applicant understands that there are no sites of significance to Ngararatunua Marae Committee in the subdivided property.
- For this application, the applicant's agent met with Richard Shepherd, Takiri Puriri and King George to discuss, amongst other issues, Eady's subdivision proposal. No specific concerns were raised by members of the Ngararatunua Marae Committee.
- The submission by Richard Shepherd relates to wider effects of Plan Change 93 (new UTE provisions).
- The matter was also recently discussed as part of consideration of a subdivision by the Northland Golf Club by Commissioner David Hill.

2.2.4 I will discuss this matter further in section 10.2 of this report.

2.3 Site Description

2.3.1 The site for this proposed subdivision is located at 284 Pipiwai Road Kamo; legally described as Lot 1 DP 433894 held in CFR 528739 and has a total area of 1.8980 hectares.

2.3.2 Proposed Lot 1 will be located adjoining Pipiwai Road in the south. Lot 2 will be in the middle while Lot 3 will be located north at the rear of the property. There is an esplanade strip along the banks of Waikoropupu Stream. The topography of this area is relatively flat along Pipiwai Road and then gradually drops away at the rear of the property towards Waikoropupu Stream.

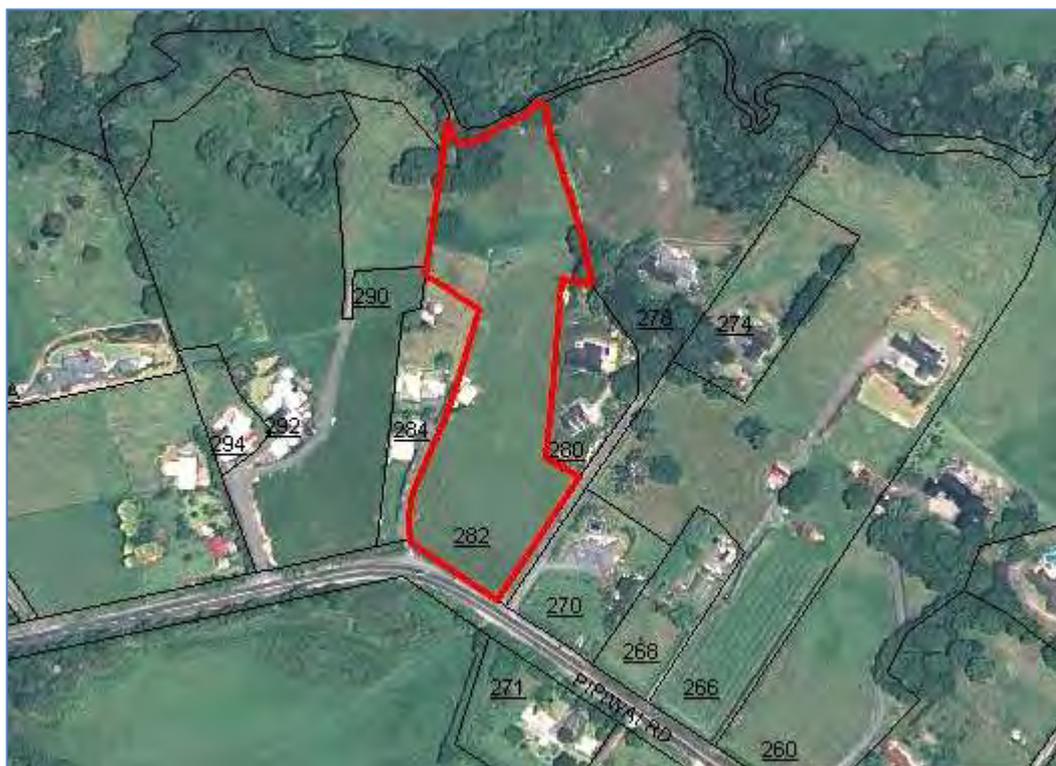


Figure 2: Aerial Photograph of Application Site and Receiving Environment

2.3.3 The property currently contains a residential unit which was legally established under resource consent RC31965 issued on 22 February 2000. The property is presently being used as a lifestyle block.

2.3.4 The subject site (Lot 1 DP 433894) is an allotment created under a two-lot subdivision SD1000024 which Council approved on 6 April 2010. That subdivision is completed and separate certificates of title have been issued for two separate allotments. A prior subdivision

application was made in 1998 (RC 98/686) which was for a two-lot subdivision of 4.7ha. A further subdivision application was made to Council in March 2005 for a further two Lot subdivision (RC38844) creating Lot 2 DP360967 to the east of the subject site. A waiver of the Esplanade Reserve pursuant to Section 405A was granted at the same time.

- 2.3.5 The neighbourhood is predominantly flat in topography with a downward slope towards the Waikoropupu Stream to the north of the site. The surrounding environment consists largely of rural residential lifestyle blocks ranging in size from 4000m² to 20ha. Several recent subdivisions have occurred along Pipiwai Road creating smaller land parcels.

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 two allotments with areas more than 2,500m² (Lot 1 – 6,300m² and Lot 3 – 1 hectare). Neither of these two lots are entirely set aside for a conservation covenant, reserve or similar restriction. Instead parts of both allotments are set aside for building development.
- b) ***Yield of a subdivision exceeding one residential lot per 5000m² of net site area.***
- The net area of the site is 1.88ha; therefore the creation of three 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.***
- All proposed residential building sites are denoted on the proposed scheme plan as being located within 50m of one another and within 50m of any existing dwelling.
- d) ***Indefinite retention of less than 50% of the total site area of the subdivision.***
- As per the proposed scheme plan of subdivision (C2990, 28 February 2014), 'no build areas' across proposed Lots 1-3 serve to ensure that a total area of about 14,000m² is retained indefinitely, which equates to about 70% of the total site area.
- 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.***
- No allotments of less than 2000m² in area will be created.
- f) ***Creation of allotments less than 2000m², where the identification and establishment of access ways in accordance with the Environmental Engineering Standards 2010 cannot be demonstrated.***
- No allotments less than 2000m² are to be created.

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, defined building areas are located at more than 20m from the road boundary.

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, Dean Murphy, and (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 Rule 47.2.11 (Engineering Standards) stipulates that an activity is permitted if it complies with all relevant Standards set out in Whangarei District Council's Environmental Engineering Standards 2010. The proposed access will be upgraded to 5.5m wide instead of the standard 6m wide. It renders the proposal a restricted discretionary activity with Council's discretion restricted to those matters that do not comply with the Council's Environmental Engineering Standards 2010 Edition.

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

4.0 Notification, Submissions and Written Approvals

4.1 Notification

4.1.1 In accordance with the request of the applicant, Whangarei District Council determined the application be publicly notified on 11 December 2013.

4.2 Submissions

4.2.1 The period for submissions opened on 12 December 2013 and closed on 29 January 2014. Copies of the application were served upon parties in the immediate vicinity of the application site, the Ngararatunua Marae Committee, the New Zealand Historic Places Trust and the Northland Regional Council.

4.2.2 Council received a total of six submissions (Attachment 5) within the timeframe. A submission by Mr Riaan Annandale was received on 31 January 2014; two days late. In tracking the mail, it was confirmed that Mr Annandale's submission was posted on 28 January 2014 but did not arrive in time. Although it was late, the applicant had discussed the submission with Mr Annandale.

4.2.3 Included in the six submissions received within the timeframe was a letter from Historic Places Trust (HPT). HPT's letter was not in a submission format but contains procedural information of their duty under the Historic Places Act 1993.

4.2.4 Aside from HPT's letter, of the other six submissions received three of them seek the application be declined, and three presented (conditional) objections to the application.

4.2.5 As of 3 April 2014, no one has withdrawn his/her submission.

Submitter	Issues and Relief Sought
Kathleen May Pope and John Dudley Bench	<p>The following are the issues together with reliefs suggested. The submitters submitted to decline the application but <i>"would approve with suggested modifications"</i>.</p> <ul style="list-style-type: none"> Under the 'UTE' provisions sections are to be a maximum of 2,500m². The proposed Lot 1 of 0.65ha is sufficient to allow 2 sections in this area, thus as three sections are allowed Lot 1 be divided into 2 sections and the remaining land (approximately 1.34ha) which includes the cottage and its effluent field would become the third section. The entry to one of the lots be from the existing right of way and entry to the second new lot could be from the neighboring right of way currently serving DP 360967 Lot 2. If

this second entrance is not appropriate an entrance to be developed from the current ROW then parallel to Pipiwai Road utilizing some of the No Built Area (within the 20m building setback area).

- Accessway – currently 2 properties are serviced by the accessway from Pipiwai Road. The proposed subdivision calls for 4 ROWs. The ROW is within Title to our property – Lot 2 DP 433894. At the time we purchased our property we believed that only 2 properties would use this accessway. Now we are expected to have 4 users of our land. No provisions are apparent for ongoing maintenance?
- The proposed accessway to Proposed Lot 3 borders our buildings. We have a carport which we understand to be bordering the ROW. This building was existing when we purchased our property.
- Fencing - The proposed plan indicates that a fence will be constructed on the NW side of the ROW. This will restrict usage of our land. All buildings were designed and constructed originally to have access from the ROW with sufficient maneuvering space. Fences and gates would dramatically impinge on our freedom of use. We purchased our property on the understanding that we had current access and usage.
- Esplanade Reserve provision – What is implied by the waiver of reserve provisions – (Section 405A of Resource Management Act). No reasoning has been provided for us as to why it is necessary to waiver the provision.

Joye Halford

The submitter submitted that proposal be approved provided *“it is carried out within the ‘UTE’ rules.”*

- Proposed Lot 1 is sufficiently large to allow for 2 x 2,500m² lots as provided for under the ‘UTE’ zoning. Thus remainder of the land including the cottage becomes lot 3 of approximately 1.4ha.
- Run-off from this land once built on – where does the stormwater flow to other than across 284 Pipiwai Road and my property – 292 Pipiwai Road.
- Why the requirement to waiver Esplanade provisions under 405 RM Act.

NZ Fire Service -
 Sarah
 MacCormick of
 BECA

- Proposed subdivision must provide adequate access for fire fighting equipment to access the site at any time.
- It must also provide for adequate water supply in event of fire on the properties and the safe and convenience of access to the storage location.

The submission sought the following reliefs as consent condition is consent is granted:

- (a) That upon construction of the habitable building, an access way with a minimum formed width of 3.0m is required to enable access for emergency vehicles for fire fighting purposes in accordance with *NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008*.
- (b) That upon the construction of the habitable building, sufficient water volume, pressure and flows is provided in accordance with *NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008*.
- (c) That if the water supply is to be provided by way of tank storage, this should be located a safe distance away from any habitable

dwelling in accordance with *NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008*. Any tank used for the storage of fire fighting water supplies is to be fitted with a 100mm female round thread suction hose adapter in accordance with the *NZFS Specification for Firefighting Waterway Equipment SNZ PAS 450:2007*.

Historic Places Trust (HPT)	HPT has no specific concern with the proposed subdivision. However, they suggested a condition to be included if consent is granted addressing any potential archaeological finds i.e. the consent holder must adhere to an Accidental Discovery Protocol (ADP).
Te Kahu O Torongare (TKOT) Richard Shepherd	<p>The relief sought is for the application to be declined because of the following reasons:</p> <ul style="list-style-type: none"> • The proposed subdivision interferes with the area of cultural significance. • The consultation process was not conducted with TKOT mandated representative and therefore the Cultural Impact report provided cannot be considered legal or appropriate.
Riaan Annandale	<p>The relief sought by the submitter is for the application to be declined on the following reasons.</p> <ul style="list-style-type: none"> • Submitted to alter the format of proposed Lot 3 by demarcating an additional no built area and included as condition of any consent for a covenant to be entered between the consent holder and Council. The reason is to protect the rural outlook and maintain the high level of privacy. • The proposed Lot 2 shall not be allowed to be built on – the reason is that, by allowing an additional building platform on Lot 2 it will exceed the maximum yield of subdivision in the Urban Transition Environment to a low level residential density. It will also exceed the 1 residential site per 5000m² of land for the UTE. It will also not maintain the sense of open space, rural outlook and privacy to the location. • Lot 1 DP 433894 should be divided into 2 allotments only, not three. • Opposed the Right of Way.
Barrie & Sheree Pice	<p>The relief sought by the submitters is for the application to be declined. The submitters contented that the proposal does not fall within the UTE for the following reasons:</p> <ul style="list-style-type: none"> • Objective 1.3.1 – the proposal design is not compatible with the existing receiving environment as the cadastral analysis does not show any impact that this proposal will have on our property i.e. as it does not provide safeguards to rural character and ecology and productive values as stated. • 1.3.2 – building sites are required to provide the extent of openness and rural outlook and should be sensitively located to achieve the maximum available privacy. Under this proposal this will provide absolutely no productive outlook and privacy to us. • 1.4.1 – the design of the subdivision does not preserve the character, amenity value, and spaciousness to our property due to the close proximity of the 3 proposed building sites.

5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

5.1.1 Section 104 (1) provides the matters, subject to Part 2 of the Act that Council must have regard to when considering and application for resource consent and any submissions received. These matters are:

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

5.2 Section 104B

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

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

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

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

6.1 Definition of Effect

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

- (a) *any positive or adverse effects; and*
- (b) *any temporary or permanent effect; and*
- (c) *any past, present or future effect; and*
- (d) *any cumulative effect which arises over time or in combination with other effects – regardless of the scale, intensity, duration, or frequency of the effect, and 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 1.9ha of land located within the Urban Transition Environment, a maximum yield of three 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.

6.3 Cultural Effects

6.3.1 The proposed subdivision site is located within the Area of Agreement between Whangarei District Council and the Ngararatunua Marae Committee, who have mana whenua over the locality. The terms of the Environment Court settlement are contained within RMA670/01, a copy of which is contained within Attachment 4 for the consideration of the Hearings Commissioner. The agreement requires that consultation with the Ngararatunua Marae Committee occurs on all resource consent applications, and that an *archaeological, cultural and historical assessment report* is produced for each application.

6.3.2 The applicant argued that:

“The property is not listed as a Site of Significance to Maori in the Whangarei District Plan. No archaeological sites are recorded by the Historic Place Trust. There are no heritage trees or stone walls on the property. The Ngararatunua Marae Committee have previously been contacted with regards to a previous subdivision on the property. Following a site visit and discussion on the proposal with Helen Clark (the representative of the Marae Committee) it was determined that the land associated with the proposal contained no matters of concern to the Committee.”

6.3.3 HPT confirmed in their letter dated 16 January 2014 that the New Zealand Archaeological association’s site record database shows no recorded archaeology identified on the subject site. The letter went on to comment that:

“The current use of the site includes residential and pastoral farming. Given the horticultural use of the land has been subject to modification. Further, NZHPT notes that in relation to a previous subdivision, the Ngararatunua Marae Committee visited the subject site and determined that the land associated with the proposal contained no matters of concern to the Committee.”

6.3.4 In view of the above comments I consider that there are no matters of significance to Maori on the subject site and as such, the proposed subdivision will not create adverse effects on cultural values. However, in view of Mr Shepherd’s submission, I will discuss this matter in detail under the ‘Other Matter’ (s104(1)(c)) in order to determine whether or not there may be wider implications of the proposed subdivision on the values upheld by Ngararatunua Marae Committee.

6.4 Amenity and Character

6.4.1 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 are being preserved for their recreational or conservation potential.

6.4.2 The proposal represents a density and layout of subdivision that is anticipated and provided for within the Urban Transition Environment. The receiving environment is characterised by ‘rural residential’ development and the density set by the proposal is consistent with existing levels of amenity characterising the locality.

6.4.3 Through the clustering of building sites, the restriction of built development to such building sites, and ‘no build areas’ which ensure the ongoing retention of contiguous areas of open space, I consider that the density of development set by the proposal will not compromise the open space character of the locality. Ample building setbacks from the road boundary will further serve to ensure future built development within Lots 1 and 2 do not dominate the Pipiwai road corridor. As such, the proposal will have a less than minor adverse effect on the amenity and character of the wider environment.

6.4.4 I have considered as to whether or not the proposed subdivision is in conflict with the ambience of a resulting environment. The existing environment is characterised by a mixture of rural land uses including agriculture, lifestyle and hobby farming and small rural residential

block, particularly along the eastern end of Pipiwai Road and Crane Road. The applicant provided a cadastral analysis of properties within a 500m radius of the site which shows that there are about 34-54% of properties below one hectare in area. This analysis includes 22 properties with areas less than 5000m² (34.9%).

- 6.4.5 The applicant assessed landscape and visual amenity effects and commented that *“due to the topography of the property, the presence of the existing dwelling, the nature of the receiving environment and the limited viewing audience the landscape and visual effects of the proposal are de minimus”*.
- 6.4.6 I concur with the above assessment by the applicant.
- 6.4.7 Submissions by Riaan Annandale and Barrie & Sheree Pice contend the proposal is at odd with outcomes sought by the provisions of UTE. Mr Annandale argues that *“The proposed Lot 2 shall not be allowed to build on – the reason is that, by allowing an additional building platform on Lot 2 will exceed the maximum yield of subdivision in the Urban Transition Environment to a low level residential density. It will also exceed the 1 residential site per 5000m² of land for the UTE. It will also not maintain the sense of open space, rural outlook and privacy to the location”*.
- 6.4.8 Barrie and Sheree Pice argue that:
- *Objective 1.3.1 – the proposal design is not compatible with the existing receiving environment as the cadastral analysis does not show any impact that this proposal will have on our property i.e. as it does not provide safeguards to rural character and ecology and productive values as stated.*
 - *1.3.2 – building sites are required to provide the extent of openness and rural outlook and should be sensitively located to achieve the maximum available privacy. Under this proposal this will provide absolutely no productive outlook and privacy to us.*
 - *1.4.1 – the design of the subdivision does not preserve the character, amenity value, and spaciousness to our property due to the close proximity of the 3 proposed building sites.*
- 6.4.9 For clarity, the only rule that triggers this proposal to be publicly notified is UTE 3.3.a where it states *“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.”*
- 6.4.10 The proposed subdivision fails this rule because there are two allotments with areas more than 2,500m² (Lot 1 – 6,300m² and Lot 3 – 1 hectare). Neither of these two lots is entirely set aside for a conservation covenant, reserve or similar restriction. Instead parts of both allotments are set aside for building restriction.
- 6.4.11 Consideration of Barrie and Sheree Pice’s existing residential dwelling within the 50m clustering of residential buildings is a legitimate expectation of the zone which states in Rule 3.3.c *“Location of new residential building sites further than 50m from an existing or proposed residential building site, within the Urban Transition Environment”*.

6.5 Ecological Effects

- 6.5.1 The Waikoropupu Stream borders the application site to the north with an existing 20m esplanade strip along the bank of the stream.
- 6.5.2 The majority of the site is in pasture for stock grazing and there are several moderately sized totara trees at the northern end of the site.
- 6.5.3 The applicant seeks Council’s approval to waive the requirement of an esplanade reserve in lieu of an existing esplanade strip on the site as part of this application. Historically, a 20m wide esplanade strip along the Waikoropupu Stream on the northern boundary of the subject site was taken in lieu of an esplanade reserve from the two-lot subdivision of the parent site in 1999.
- 6.5.4 A waiver was again sought and granted for retention of the esplanade strip in lieu of an esplanade reserve for a further subdivision in 2005 (RC38844, 2 lots subdivision).
- 6.5.5 It is worth noting that an esplanade reserve was vested at the subdivision of the neighbouring property at 292 Pipiwai Road in 2006 (RC39410), and is in the ownership of Whangarei District Council.

- 6.5.6 The subject site and surrounding area was rezoned Urban Transition Environment in 2013. UTE contains Policy 15 – Walking and Cycling and 18 – Ecological Corridors promoting the establishment of esplanade reserves rather than esplanade strips.
- 6.5.7 Council's Parks and Recreation division prepared a report (Attachment 10) which requests that the existing esplanade strip be cancelled and a 20m wide esplanade reserve is created along the length of the boundary of the site with Waikoropupu Stream. This therefore rejects the applicant's waiver request.
- 6.5.8 The main reason for the establishment of an esplanade reserve is because of the anticipated densification of the surrounding area under the new UTE zoning. Also given that the adjoining property has an esplanade reserve, changing this to the same category will ensure a network of esplanade reserves that provide public access and allow for the establishment of ecological corridors along the stream.
- 6.5.9 As such, Council's Parks and Recreation division refused to approve waiving of the esplanade reserve in lieu of the existing esplanade strip. A 20m esplanade reserve is to be established together with associated easement for public access over new Lots 1 to 3 to be created.
- 6.5.10 After further discussion with the Team Leader of Parks and Recreation, it is now considered unnecessary to require easement for public access over Lots 1-3 because of the design of three lots. Pedestrian access on the proposed allotments may create adverse effects on privacy and visual amenity of owners and occupiers of these new allotments. The establishment of a reserve addresses the submissions by Joye Halford, Kathleen May Pope and John Dudley Bench.
- 6.5.11 The effects of the proposed subdivision on the ecology of the area are therefore considered to be no more than minor.

6.6 Site Suitability and Servicing

- 6.6.1 The application is supported by a subdivision report prepared by Engineering Outcomes Ltd dated 2 October 2013 which provides an investigation of the stability of the proposed subdivision, and servicing arrangements including wastewater management, water supply and stormwater management.
- 6.6.2 Bill Haigh, a Chartered Professional Engineer with Haigh Workman Civil & Structural Engineers Ltd peer reviewed the report by Engineering Outcomes and confirmed that he generally concurred with the findings of the report.
- 6.6.3 The subdivision report details onsite effluent disposal capability in accordance AS/NZS 1547:2000, including effluent field slope gradient, soil category, overland flow path separation, water table depth, and recommended design options. As detailed in Senior Environmental Engineering Officer, Dean Murphy's report (Attachment 6), a consent notice is recommended to ensure the restrictions and recommendations contained within this report are adhered to on an ongoing basis by way of a consent notice that will be registered on the Computer Freehold Register of the subject lots.
- 6.6.4 Subject to the recommended conditions of consent to ensure on-site servicing does not give rise to externalised effects and proceeds in accordance with the site suitability report and Whangarei District Council Environmental Engineering Standards 2010 Edition, it is considered that the applicant has demonstrated that the site is suitable for the development proposed. Mr Murphy has not identified any issues with respect to achieving compliance with the Northland Regional Water and Soil Plan.
- 6.6.5 As such, concerns raised in Joye Halford and Kathleen Pope & John Bench submissions will be addressed by the conditions of any consent if the Commissioner is of a mind to grant consent.

6.7 Road Safety and Access Effects

- 6.7.1 Senior Environmental Engineering Officer, Dean Murphy has reviewed the proposed access arrangements to Pipiwai Road. Lots 1 to 3 gain access via the existing right of way over Lot 2 DP 433894 which is to be upgraded/widened with a 1.5m wide strip on proposed right of way A. Proposed right of way B will provide vehicle access to Lot 3.

- 6.7.2 Upgrading of the existing right of way access and proposed right of way A is required in accordance with category D of Table 3.7 of Council's Environmental Engineering Standards 2010 Edition (4.0m seal or concrete width and 4.5m carriageway width). The existing metalled vehicle crossing is to be upgraded and sealed in accordance with Sheet 21 Type 1A and Sheet 22 of Council's Environmental Engineering Standards 2010 Edition.
- 6.7.3 On the basis that the vehicle crossing and internal access arrangements will be formed in accordance with the Whangarei District Council Environmental Engineering Standards 2010 Edition and the receiving road network has sufficient capacity to accommodate the proposal, any effects on the safe and efficient operation of the receiving road network are considered to be less than minor.
- 6.7.4 As such, concerns raised in Joye Halford, Kathleen Pope & John Bench, New Zealand Fire Services and Riaan Annandale submissions will be addressed by the conditions of any consent if the Commissioner is of a mind to grant consent.
- 6.7.5 Regarding Kathleen Pope and John Bench's submission on increased users of the right of way, it is noted that the existing right of way on Lot 2 DP 433894 in favour of the subject site was established in the last subdivision (SD1000024 granted on 6 April 2010). The sections 223 and 224 for that subdivision have been completed. Therefore, the assessment of the access on users was addressed at the time. With respect to its location being bordered by their buildings, Kathleen Pope and John Bench submitted that the increased vehicle movements will adversely affect their property.
- 6.7.6 Kathleen Pope and John Bench have a genuine submission given that the proposed access does not meet the Operative District Plan rule. It is therefore crucial that the applicant shall consider possible measures in order to mitigate the effects on Kathleen Pope and John Bench. One measure to consider is re-routing the access away from their dwelling.

6.8 Cumulative Effects

- 6.8.1 *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."

- 6.8.2 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.
- 6.8.3 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 three 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 Lots 1-3, 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.
- 6.8.4 As such, 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.

6.9 Effects summary

- 6.9.1 It is apparent that the Ngararatunua Marae Committee has indicated significant concerns relating to the effects of the proposal on their cultural values, and the Hearing will provide an appropriate forum for Mr Shepherd to elaborate on the nature of these effects. Given that the site does not contain any identified sites of significance to Maori, I do not believe the proposal will have adverse effects on the cultural values of Ngati Kahu O Torongare.

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

7.1.2 The applicant submitted a Preliminary Site Investigation which assessed the activities against the relevant National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011. It states that *"This preliminary site investigation report concludes that it is highly unlikely that there will be risk to human health if the proposed subdivision proceeds"*. 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 the activities therefore meet the permitted legislations of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES Contaminated Soils).

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

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. Whilst the site is currently used for grazing, the opportunity is there for continued grazing across the no-build area of Lot 3.
- 8.2.4 Taking into account the pattern of residential land use within the receiving environment, no concerns relating to reverse sensitivity considerations exist.
- 8.2.5 As the proposal reflects a density and pattern of subdivision which has been developed in accordance with the provisions for subdivision within the Urban Transition Environment, any changes to the locality arising from the proposal have effectively been anticipated and approved in the development of the plan change.
- 8.2.6 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 Council’s Senior Environmental Engineering Officer, Dean Murphy, has considered matters relating to site servicing, 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 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 manner that safeguards rural character and ecological and productive values.	<p>The key outcome sought by this objective is providing opportunities for alternative living choices, close proximity to urban areas, with a rural outlook.</p> <p>The proposal site, located within close proximity to the urban settlement of Kamo, serviced by reticulated water supply and a sealed arterial road, facilitates this opportunity, whilst 'no build' areas across Lots 1-3 will maintain the open space character of the locality.</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>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 Lots 1-3 are clustered to ensure this objective is met.</p>
3. Allotment sizes are no larger than necessary to provide sufficient area for dwellings, accessory buildings and cartilage.	<p>This objective seeks to achieve the outcomes in 2 above.</p> <p>Proposed Lot 2 of 2,500m² is large enough to hold one residential unit. Proposed Lots 1 and 3 are designed to be able to contain designated building sites whilst the balance is preserved to provide the open spaces anticipated in the UTE. The designated building sites are all within the 50m distances from each other where accessory building and curtilage can also be accommodated.</p>
4. The uninhabited spaces between residential clusters are retained indefinitely, whilst providing for flexibility regarding their ownership, ongoing management, and productive uses.	<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>
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>The application site is currently used for pasture grazing. This existing use can be continued and restricted to the bottom part of the site which will not create reverse sensitivity effects on potential residential activities on Lot 1 and 2.</p>
UTE 1.4 Policies	
1. To preserve rural character and amenity	Taking into account the location and scale of the

<p>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 levels; • Dominance of natural features • including landforms, watercourses, and vegetation. 	<p>proposed subdivision, incorporating designated building platforms (requiring minimal landform disturbance), coupled with 'no build' restrictions that serve to ensure adequate separation distance between the watercourse and road corridor, and indefinitely retaining areas of contiguous open space, it is considered that the proposal upholds this policy.</p>
Chapter 5 – Amenity Values	
Objective	Comment
5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.	<p>The application site and the proposed subdivision reflect a pattern and density of subdivision that is generally anticipated and provided for within this zone. As such, I am satisfied that the proposal is consistent, and will not detract from, the characteristic amenity values found within this area.</p>
5.3.5 The actual or potential effects of subdivision use and development is appropriately controlled and those activities located and designed, are to be compatible with existing and identified future patterns of development and levels of amenity in the surrounding environment.	
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.	<p>The consistency of the proposal with the outcomes anticipated within the Urban Transition Environment ensures the application reflects an appropriate development pattern that is not sprawling or sporadic in nature.</p>
Policy	Comment
<p>6.4.2 Consolidated Development</p> <p>To consolidate urban development by:</p> <ol style="list-style-type: none"> i. Further develop within existing built up areas, so as to avoid sporadic or sprawling subdivision and ribbon development patterns, particularly in rural areas and along the coast. ii. Directing rural lifestyle and rural-residential development to appropriate locations adjacent to existing settlements, rather than allowing sporadic development throughout rural and coastal areas. 	<p>The application of the Urban Transition Environment 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.</p>
6.4.10 Policy – Productive Soils	The application site is not currently used in a productive

<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>capacity (the site is identified as having moderate limitations for arable use, but suitable for cultivated crops, pasture or forestry) however the opportunity for pasture grazing can be continued across the balance of Lot 3 if such land use is to be adopted in the future.</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 Ngararatunua Marae Committee have submitted their concerns relating to effects of residential intensification in the broader locality, on their cultural values.</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 tangata whenua are fully represented at every stage of the process, including the preparation and implementation of the District Plan.</p>	<p>The mana whenua of the Ngararatunua Marae Committee over the application site has been recognised in the consideration of this application, and the Whangarei District Council's obligations with respect to RMA671/01 have been followed.</p>
<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>	<p>The Operative District Plan does not identify Sites of Significance to Maori, identified within the application site, nor is there a Hapu Environmental Management Plan relating to the site or locality. The submission of the Ngararatunua Marae Committee does not allude to the presence of any sites of significance within the application site.</p>
<p>7.4.3 Consultation</p> <p>To ensure effective consultation with, and</p>	<p>The application contains a letter by Mr Mortimer to Ngararatunua Marae Committee (care of Ms Helen</p>

<p>participation of tangata whenua in resource management processes by:</p> <ul style="list-style-type: none"> ▪ Fostering partnerships and relationships with the tangata whenua of the area; ▪ Avoiding unnecessary conflict on resource management issues; ▪ Recognising and respecting iwi authority and affiliations; ▪ Acknowledging and providing for historical circumstances and their impacts on resource needs; ▪ Respecting tikanga Maori; ▪ Acknowledging the rights of hapu and whanau to speak and act on matters that affect them; ▪ Allowing tangata whenua time for informed assessments of proposals and to determine their responses, consistent with the time constraints in the Resource Management Act 1991; ▪ Encouraging applicants to consult tangata whenua, where appropriate. 	<p>Clark) which states in the last paragraph that <i>“This letter confirms our discussion and conclusion that there are no matters of concern to Ngararatunua Marae Committee in relation to the subdivision proposal”</i>. The letter was dated 8 February 2010. It was considered inadequate in meeting compliance with the Terms of Settlement between the Council and the Ngararatunua Marae Committee, and as such the applicant was requested to provide the following information under s92 of the RMA that:</p> <p style="padding-left: 40px;"><i>“Cultural effects assessment – Te Kahu O Torongare (TKOT) submitted that the development must consider the cultural effects on its people in a wider sense than just the physical places of significance. It is therefore considered crucial that a full cultural impact assessment be prepared by a qualified social/cultural planner assessing the impact of the proposed subdivision on cultural values of TKOT. In addition to this assessment, an archaeological cultural and historical assessment report in accordance with the Memorandum of Agreement between Ngararatunua Marae Committee and the Whangarei District Council shall be prepared and form part of the Cultural Impact Assessment.</i></p> <p style="padding-left: 40px;"><i>Furthermore, please provide clarification on your consultation with the representatives of the Ngararatunua Marae Committee where you stated that “Following a site visit and discussion on the proposal with Helen Clark (the representative of the Marae Committee) it was determined that the land associated with the proposal contained no matters of concern to the Committee.”</i></p> <p>The applicant responded by confirming that they have consulted Ngararatunua Marae Committee and <i>“they refused to provide the report requested in item 1”</i>.</p> <p>The further information is in Attachment 7 which details the response from the applicant’s agent. I think the Hearing will provide a forum for the Committee to elaborate on the basis for their concerns and seek clarification from the applicant.</p> <p>Consultation will inevitably not always reach consensus or a decision of iwi being provided, however based on the process followed and involvement of the Ngararatunua Marae Committee in the consideration of this application and of this site in particular, I am satisfied the policy requiring consultation with tangata whenua has been upheld, and sufficient evidence exists to ensure an informed decision is reached in the determination of this application.</p>
Chapter 8 – Subdivision and Development	
Objective	Comment
8.3.1 Subdivision and development that	I am satisfied that the proposal is consistent with the

achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.	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 which reflects flexibility in allotment size, and is of a density appropriate to the locality.	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'.
8.4.4 Cumulative Effects To ensure that the cumulative effects of on-going subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible land use activities, the consolidated and orderly development of land and the density of development.	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.
8.4.12 Services and Infrastructure 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: <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.	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.

- 8.4.3 Based on the above assessment, particular 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.
- 8.4.4 With regard to effects on Tangata Whenua, the Ngararatunua Marae Committee's dissent to the proposal has been acknowledged, however I will discuss this further in the following section.
- 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 the development of the application site under Plan Change 93 *Urban Transition Environment*. No further comment in relation to the structure plan is considered necessary.

9.2 Whangarei District Growth Strategy –

- 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.
- 9.2.2 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.
- 9.2.3 Of relevance to this proposal is the ability of the strategy to be implemented without impediment caused by allowing this type of activity to be carried out where it is proposed under the existing regime. With the District Plan being the main statutory mechanism for implementing such strategy, it must contain strong provisions for achieving its main objectives.

9.3 Whangarei Urban Growth Strategy

- 9.3.1 The strategy was adopted 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.
- 9.3.2 The strategy is 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 recently approved Plan Change 93 for the UTE provision in 2013.

9.4 Agreement between Whangarei District Council and the Ngararatunua Marae Committee

- 9.4.1 I consider it necessary for the Terms of Settlement (ToS) between Ngararatunua Marae Committee and Whangarei District Council to be considered under s104(1)(c) – *any other matter the consent authority considers relevant and reasonably necessary to determine the application*. The ToS is an official agreement endorsed by the Environment Court for two parties to adhere to when considering resource consent applications. As such this agreement must not be taken lightly in balancing the determination as to whether the consent is to be granted or not.
- 9.4.2 The particular term in the ToS that is crucial for the assessment of this application is that *"the Respondent undertakes to ensure that consultation with the Ngararatunua Marae will occur on all applications (subdivision and land use) which consultation will include a requirement that*

an archaeological, cultural and historical assessment report be produced for each application”.

- 9.4.3 The two matters needing consideration are:
- Has the Respondent undertaken to ensure consultation with Ngararatunua Marae has occurred?
 - Is an archaeological, cultural and historical assessment report required?
- 9.4.4 Regarding the first matter, the applicant's agent in responding to the request for further information states that after many attempts to meet with Ngararatunua Marae Committee, he finally was able to meet up with representatives including Richard Shepherd, Takiri Puriri and King George Cherrington on 27 November 2013 where discussion on Mr Eady's subdivision proposal was raised. Further, the applicant's agent commented that the site for this subdivision is part of previous subdivisions where he had had various discussions with the Ngararatunua Marae representatives. Therefore, the site is well known to the Ngararatunua Marae representatives. I consider that consultation has been undertaken.
- 9.4.5 In terms of the second matter, the applicant's agent advised that, his client refused to provide an archaeological and cultural effects assessment report. The applicant believes that based on previous discussions and confirmation from Ngararatunua Marae that there are no sites of significant to Maori on this property, it is therefore unnecessary to prepare a report.
- 9.4.6 I am satisfied that the applicant has undertaken all steps towards meeting its obligations under the ToS. However the submission by Richard Shepherd on behalf of Ngati Kahu O Torongare has now raised question as to whether or not Council's obligations under the ToS are adhere to.
- 9.4.7 It has been confirmed that there are no recorded archaeological sites (under the New Zealand Archaeological Association Site Record Files) within the application site, and the New Zealand Historic Places Trust has not indicated any concerns with regard to the proposal. Notwithstanding this, it is apparent that based on the content of Mr Shepherd's submission, the issue of contention does not relate to the potential disturbance of any waahi tapu sites (recorded or otherwise) within proposed building sites across Lot 1-3, but generally relate to broader concerns on cultural values arising from subdivision and development within the locality.
- 9.4.8 This brings us to another important requirement in the ToS which stipulates that a Plan Change is to be introduced when the District Plan has become operative. The anticipated Plan Change will identify matters of significance to Maori such as waahi tabu, sites of significant to Maori, heritage areas of significance to Maori etc. To date, Plan Change 100 - Sites of Significance to Maori addressing these matters has yet to be notified. It is currently in its research and development phase. However, Council has since developed and implement a new UTE zoning in the ODP which is of no relief to Maori who believe that the introduction of this new regime through a new introduced UTE will accelerate the erosion of matters of cultural significance to them.
- 9.4.9 As mentioned above, Mr Shepherd submitted broadly on concerns of Maori on the effects of continuous fragmentation of lands to their cultural values. Therefore I anticipate Mr Shepherd will present oral evidence at the hearing that will assist to provide the Hearing Commissioner with a greater understanding of his concerns relating to the potential effects associated with the residential intensification of the area, and effects on the sustained cultural values of Ngati Kahu O Torongare. It is my understanding that such concerns include, but are not necessarily restricted to, rate increases associated with rising land values, and the potential alienation of Maori from their ancestral land.
- 9.4.10 It is also worth noting for the Commissioner's awareness that there is a Schedule of Sites of Significance to Maori (Part 1 – Appendix 4) in the Operative District Plan.
- 9.4.11 Moreover, Commissioner David Hill in his recent decision on the Northland Golf Club subdivision (SD1000138) commented that *“Whatever the factual situation regarding the ToS and its appropriate observance or otherwise by both parties, the fact of the matter is that sections 6(e) and 8 of the Act (among others) require that the matters generally referred to by Mr Shepherd are brought forward and, once properly identified, given their proper weight. Those sections of the Act do not, however, entitle a party to blight an entire area simply by reference to an overlay of potential or putative significance. ... Furthermore, it would be inappropriate to hold up determining this application based on a ToS whose implementation*

(or lack thereof) – i.e. apparently some sort of cultural plan change – is beyond the control of the applicant party.”

- 9.4.12 It is considered that the Urban Transition Environment now provides for a greater intensity of development than previously enabled under the former Countryside Environment provisions. It is apparent that this zoning therefore presents a potential conflict with the beliefs of the Ngararatunua Marae Committee that such development will compromise their cultural values. However, it is noted that the Ngararatunua Marae Committee were not active participants in Plan Change 93 *Urban Transition Environment*, and have presented concerns to the Waitangi Tribunal relating to this process. As a result of airing this grievance, Whangarei District Council’s Team Leader, Policy, Nick Williamson, gave a presentation to Te Huinga Committee on 15 November 2013 detailing a record of consultation with iwi, including the Ngararatunua Marae Committee throughout the initial structure plan exercise, and the development and notification of Plan Change 93. It is understood that Mr Shepherd attended this meeting. A copy of Mr Williamson’s presentation is provided within Attachment 10.

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 These matters have been recognised and provided for in the consideration of this application.

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 Kaitiakitangi, being the exercise of guardianship by the tangata whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; includes the ethic of stewardship. It is recognised the Ngararatunua Marae Committee have mana whenua over

the application site, and their concerns have been acknowledged in the consideration of this application. The Hearing will provide a forum for their concerns to be elaborated upon for the benefit of the Hearings Commissioner.

- 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. The site has been recently zoned as to accommodate the density and form of subdivision presented under this application. 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; Rangaratanga, Partnership; Active Protection and Hapu and Iwi Resource Development.
- 10.4.2 With respect to the current proposal, the applicant has entered into consultation with the Ngararatunua Marae Committee, who are recognised by the Whangarei District Council as having mana whenua over the application site. The terms of the Environment Court settlement RMA671/01 also provide further guidance as to the involvement of the Marae in the Whangarei District Council's consideration of subdivision applications within the Area of Agreement.
- 10.4.3 Consultation has been recognised by the Courts as not being an end in itself, and inevitably, will not necessarily result in consensus. In this instance, the statement by Richard Shepherd on behalf of the Ngararatunua Marae Committee that the proposal interferes with the areas of cultural significance and consultation was not conducted with TKOT mandated representative reflects their ultimate disagreement to not only this application, but other subdivision applications within the Area of Agreement. This has been duly acknowledged in the consideration of this application, and the Hearing will also provide a forum for Mr Shepherd to expand upon the specific nature of his concerns. As such, I am satisfied that sufficient evidence submitted by the Ngararatunua Marae Committee in the consideration of this application will enable the Hearing Commissioner to make an overall judgement relating to effects on cultural values.
- 10.4.4 However, at this point in time, it is my view that the overarching purpose and principle of the Resource Management Act 1991 will be upheld should the Hearing Commissioner consider granting consent to the application.

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.
- 11.1.2 Having considered the application against the relevant provisions of the Act, it is recommended that:
- This application is granted, subject to conditions relating to on-site infrastructure and servicing requirements, and consent notices on meeting engineering standards for built development which will avoid, remedy or mitigate any adverse effects of the activity on the environment.
 - The applicant needs to consider the relocation of access to new Lots 2 and 3.
 - The application for a reserve waiver is specifically declined and an esplanade reserve is to be created.

11.2 Recommendation

THAT pursuant to sections 104, 104B, 108 and 220 of the Resource Management Act 1991, it is recommended that Commissioner John Childs **grant** consent to G and C Eady to undertake a three lot subdivision of the application site at 284 Pipiwai Road being Lot 1 DP 433894 held in CFR 528739 located within the Urban Transition Environment in order to create Lot 1 of 6,400m² (6,300m² net), Lot 2 of 2,500m² and Lot 3 of 1 hectare subject to the following:

1. That before the survey plan is sealed the following requirements are to have been satisfied:

- a) The survey plan submitted for approval shall be in general accordance with the layout (including designated building areas, and no build areas serving to ensure no less than 50% of the site is indefinitely retained) shown on the subdivision plan 'Proposed Subdivision of Lot 1 DP 433894' prepared by Beasley & Burgess Surveyors, reference C 2990, dated February 2014.
- b) The consent holder must submit a detailed set of engineering plans prepared in accordance with Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Senior Environmental Engineering Officer for approval.

It is to be noted that certain designs may only be carried out by an Independently Qualified Person (IQP) or Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies. IQP's must have been assessed by Council and hold current registration to submit engineering design work.

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

Plans are to include but are not limited to:

- i Design details of the upgrade and sealing of the existing vehicle crossing for the existing right of way over Lot 2 DP 433894 including proposed right of way A in accordance with Sheet 21 Rural Type 1A Crossing also in accordance with sheets 22 & 23. Entrance crossings are to be designed and constructed in such a manner that will control stormwater run-off entering a property from the road, and that likewise prevent stormwater and detritus, including gravel, dirt and other materials, migrating onto the road reserve from a property. Urban accessways and private driveways sloping up from the road shall have a stormwater collection and disposal system at the boundary as detailed on Sheet 18.
 - ii Design details of the upgrading of the existing right of way over Lot 2 DP 433894 including proposed right of way A access accordance with the Table 3.7 Category D requirements including a typical cross section, long section, culverts, drainage flow paths and overland flow. Design details of onsite attenuation are also required in accordance with Section 4.11.
 - iii Design details of the construction of right of way B access accordance with the Table 3.7 Category C requirements including a typical cross section, long section, culverts, drainage flow paths and overland flow. Design details of onsite attenuation are also required in accordance with Section 4.11.
 - iv Design details of sufficient water supply for fire fighting purposes by way of tank storage or other approved means, and that this water supply be accessible by fire fighting appliances in accordance with Council's Environmental Engineering Standards 2010 and more particularly with the 'NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008'. The tanks are to be fitted with approved Fire Service "PSL" round thread adaptors Part number 058900.
- c) The consent holder shall provide written confirmation from power and telecommunications utility service operators of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Senior Environmental Engineering Officer or their delegated representative.
 - d) The consent holder must create easements over services, rights of way & fire fighting water supply tanks to the approval of the Senior Environmental Engineering Officer (SEEO).
 - e) The esplanade strip on the scheme plan shall be shown as Lot 4 esplanade reserve to vest in Whangarei District Council, with width of not less than 20 metres.

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

- a) All work on the approved engineering plans in condition 1(b) is to be carried out to the approval of the Senior Environmental Engineering Officer or their delegated representative.

All work needing design/certification by a Council approved IQP/CPEng will require completion of a producer statement (construction) on form EES-PS4 (or similar approved), to the satisfaction of the Senior Environmental Engineering Officer.

All staged details of construction works (e.g. road construction) shall be accompanied by the necessary test results in accordance with Council's Environmental Engineering Standards 2010 Edition requirements and good engineering practice, to the approval of the Senior Environmental Engineering Officer.

The applicant, following completion of construction, shall provide producer statement(s) (e.g. form EES-PS4, Schedule 1B NZS4404:2010) from the suitably qualified contractors who constructed the individual works certifying that the works have been completed in accordance with the approved engineering plans, Council's Environmental Engineering Standards 2010 Edition and best trade practise to the satisfaction of the Senior Environmental Engineering Officer or their delegated representative. The Applicant shall also provide an overall completion certificate (e.g. EES-PS4, Schedule 1C NZS4404:2010) certifying that all works forming part of the resource consent conditions, have been completed.

In the case of works to remain in private ownership, these may be inspected and approved by a Council approved IQP who has been certified to design/construct such works. A producer statement (construction) on form EES-PS4 is to be provided by Council's approved IQP, along with copies of all test results/photographs etc. The Senior Environmental Engineering Officer is to be advised of any necessary inspections/testing of private works a minimum of 24 hours before they take place in order that the Senior Environmental Engineering Officer may observe the inspection/testing if so desired.

All works that are to be vested in Council require the presence of the Senior Environmental Engineering Officer (or their delegated representative) at all inspections/testing.

Note The Senior Environmental Engineering Officer (or their delegated representative) will not carry out the inspection/testing, this will be the duty of the Applicant's IQP/project manager/contractor. The Senior Environmental Engineering Officer will simply observe the process.

Failure to comply with these requirements may result in the work not being accepted as complying with the Resource Consent conditions/Environmental Engineering Standards 2010 Edition (as applicable).

No construction works are to commence onsite until the engineering plans required in condition 1(c) have been approved and all associated plan inspection fees have been paid.

Note All works within Public Reserve will require written certification from the controlling authority.

- b) The consent holder is to submit a Road Opening Notice or Corridor Access Request application and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the approval of the Senior Environmental Engineering Officer. (refer advisory clauses below).
- c) The consent holder shall notify council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
- i Name and telephone number of the project manager/IQP.
 - ii Site address to which the consent relates.
 - iii Activities to which the consent relates.
 - iv Expected duration of works.

A copy of the approved engineering plans and a copy of the resource consent conditions and the above letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of, and have access to the resource consent and accompanying documentation.

- d) The existing septic tank and effluent field servicing the existing dwelling on Lot 2 is to be decommissioned and removed to the approval of the Subdivision Officer.
- e) The consent holder shall submit written confirmation from power and telecommunications utility services operators that their conditions for this development have been satisfied in accordance with Council's Environmental Engineering Standards 2010 Edition to the approval of the Senior Environmental Engineering Officer or their delegated representative.
- f) The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries.
- g) Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of Lots 1, 2 & 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 Any development shall comply with the Restrictions and recommendations identified in the Engineering Outcomes Ltd engineering report dated 2/10/2013 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
 - ii (Lots 1 & 3 only) At the time of building consent for a residential dwelling or any other building provide suitable evidence/design to illustrate that, stormwater attenuation will be provided for all impervious surfaces to ensure compliance with Chapter 4, and more specifically Section 4.11 of Council's Environmental Engineering Standards 2010, to the satisfaction of the Senior Environmental Engineering Officer.
 - iii The owners of Lots 1, 2 & 3 shall be aware that the tanks located within easement C on the subdivision plan compiled by Beasley & Burgess Surveyors Ref: C2990, Dated 9/10/13 are for the purposes of fire fighting water supply and must be maintained full with a minimum water volume of 45m³ in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509: 2008.
 - iv No buildings shall be located within any area identified as a 'no build area' identified on the subdivision plan prepared by Beasley & Burgess Surveyors, reference C 2990, Rev 'Building Platforms Added 28/02, dated February 2014.
Note: For the purpose of clarity, the 'no build area' denoted within Lot 3 also forms the area subject to a "no residential unit" restriction, and therefore the creation of any additional allotment within this area is a prohibited activity pursuant to UTE 3.1.

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

1. Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to conditions relating to on-site infrastructure and servicing requirements, and consent notices on meeting engineering standards for built development which will avoid, remedy or mitigate any adverse effects of the activity on the environment.
2. The proposal is considered to be consistent with overarching purpose and principle of the Resource Management Act 1991 set out within Part 2 of The Act.
3. The development is regarded as achieving the terms and conditions of the Terms of Settlement for the Ngararatunua Marae. It is also considered achieving the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.
4. 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.
5. The receiving environment, including supporting infrastructure, has sufficient capacity to accommodate the effects presented by the application.

12.0 Advice Notes

1. The applicant shall pay all charges set by Council under Section 36 of the Resource Management Act 1991. The applicant will be advised of the charges as they fall.
2. Section 357B of the Resource Management Act 1991 provides a right of appeal to this decision. Appeals must be in writing, setting out the reasons for the appeal, and lodged with the Environment Court within 15 working days after the decision has been notified to you. Appellants are also required to ensure that a copy of the notice of appeal is served on all other relevant parties.
3. Pursuant to Section 102 of the Local Government Act 2002, Whangarei District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent related is subject to Development Contributions. You will be advised of the assessment of the Development Contributions payable under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding 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.
4. A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by Council and will be phased in. It provides a single application for Traffic Management Plans/Road Opening Notice applications. Enquiries as to its use may be directed to Council's Traffic Management Co-ordinator on 430 4230 ext 8258.
5. The consent holder shall obtain all necessary Building consents which may be required for the proposal.
6. All earthworks are required to comply with Section 32.2 (Environmental Standards for Earthworks) of the Northland Regional Council Regional Water and Soil Plan for Northland noting erosion & sediment control and dust suppression requirements.
7. All works to be carried out pursuant to condition 1(b) above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.
8. The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.
9. All archaeological sites are protected under the provisions of the Historic Places Act 1993. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the New Zealand Historic Places Trust for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
10. The consent holder should recognise that the proposed development is located on an 'at risk' aquifer and to ensure that the development does not result in contamination of the surrounding aquifer or a reduction in groundwater recharge. Mitigation measures may include the return of the collected or diverted treated stormwater to aquifer recharge, the use of low impact stormwater design, and the use of pervious surfaces for roading and drainage

13.0 Attachments

1. Proposed Scheme Plan of Subdivision
2. Application
3. Further Information Request (before notification) - Engineering Plans and Peer review
4. RMA 671/01- Settlement between Ngararatunua Marae Committee and Whangarei District Council.
5. Submissions
6. District Plan Provisions (Rules, Objectives and Policies)
7. Further information sought after notification
8. 'Origins of the Urban Transition Environment' - presentation by Nick Williamson to Te Huinga Committee on 15 November 2013.
9. Council's Senior Environmental Engineering Officer Dean Murphy report dated 28 November 2013.
10. Council's Park and Recreation report