

Hearings Commissioner

Notice of Meeting

A meeting of the Hearings Commissioner will be held in Council Chambers, Whangarei District Council, Forum North, Rust Avenue, Whangarei on:

**Tuesday
15 April 2014
9am**

**Application by
Joy Panoho**

**Commissioner
Les Simmons**

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Report to Hearings Commissioner Les Simmons on a Resource Consent Application

Joy Panoho seeks resource consent to undertake a three lot subdivision of the application site, located within the Coastal Countryside Environment under the Operative District Plan, in order to create Lot 1 with a net site area of 6.05 hectares, Lot 2 with a net site area of 11.38 hectares, and Lot 3 with a net site area of 0.39 hectare. Lot 3 is to become road to vest with Council.

Additionally, a retrospective land use consent is required for the clearance of indigenous vegetation within an area identified as part of the Department of Conservation's Protected Natural Area Programme (PNAP) Q07046. The clearance exceeds the amount allowed for as a permitted activity under the relevant District Plan rule, and was undertaken for the purposes of constructing the road to vest, clearing of accessways to the proposed lots, clearing of proposed house sites and establishing the eastern boundary fence.

This resource consent application was lodged by VK Consulting Environmental Engineers Ltd on behalf of Joy Panoho, and was reported on by Council's Environmental Planner (Consents), Carine Andries.

**Carine Andries, Environmental Planner
(Consents)**

This report was peer reviewed by the following signatories:

Alister Hartstone, Resource Consents Manager

Statement of staff qualification and experience

Carine Andries – Council Environmental Planner (Consents)

I hold the qualification of a Bachelor of Business (Management and Communications) from Manukau Institute of Technology and a Master of Resource and Environmental Planning (Honours) from Massey University. I am a Grad-3 member of the New Zealand Planning Institute. I have been employed as an Environmental Planner (Consents) with the Whangarei District Council since 1 August 2011, and prior to this held the role of Policy Planner (Urban) with the same organisation. Previous to working for the Whangarei District Council, I was employed by Duffill Watts and King as a Consents Planner assessing applications for the Kaipara District Council. Overall, my work experience has included reporting on a broad range of subdivision and land use consents, undertaking research and consultation for plan changes, preparing submissions on proposed higher level regulation and undertaking work for Whangarei's growth strategy.

Dean Murphy – Council Senior Environmental Engineering Officer

I hold the role of a Senior Environmental Engineering Officer for the Whangarei District Council. I am a civil engineer, having qualified with a NZCE (Civil) and am a graduate member of the Institute of Professional Engineers New Zealand Inc (GIPENZ). I have 5 years experience in civil construction site engineering and project management, including earthworks, drainage, roading, water treatment plant, sewer scheme & roading maintenance. I have been employed with the Whangarei District Council for the last 7.5 years as a Senior Environmental Engineering Officer.

My position within the Resource Consents department requires me to assess all engineering aspects of resource consent applications based on the evidence provided by the applicant, and to provide a report as to the viability of the proposal in relation to engineering matters.

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

Section 42A Hearing Report

Hearing By: Hearings' Commissioner Les Simmons of a three lot subdivision proposal and retrospective land use consent for indigenous vegetation clearance by Joy Panoho.

The application site is located at McGill Road, Portland, legally described as Maungakaramea 2B4 Block, contained in Computer Freehold Register NA10D/1244, and is located within the Coastal Countryside Environment under the Operative District Plan.

Evidence By: Carine Andries, Environmental Planner (Consents). MRP (Hons), BBus(Mgmt & Comms), MNZPI (Grad 3).

File Refs: SD1100115 P041472

Dated: 27 March 2014

1.0 The Proposal & Background

1.1 The Proposal

- 1.1.1 It is proposed to subdivide a 17.8239 hectare site in the Coastal Countryside Environment into three lots, where one lot will be a road to vest in Council. This road has already been constructed as part of an earlier agreement between the applicant and Council's Infrastructure Department. Proposed Lots 1 and 2 are to be located on either side of Lot 3, road to vest from where access will be obtained. A copy of the scheme plan is enclosed as Attachment 1.
- 1.1.2 A potential building platform has been identified within proposed Lot 1, and two potential building platforms have been identified within proposed Lot 2 (refer Attachment 2).
- 1.1.3 Additionally, a retrospective land use consent is required for the clearance of indigenous vegetation within an area identified as part of the Department of Conservation's (DOC) Protected Natural Area Programme (PNAP) Q07046. The clearance exceeds the amount allowed for as a permitted activity under the relevant District Plan rule, and was undertaken for the purposes of constructing the road to vest, clearing of accessways to the proposed lots, clearing of proposed house sites and establishing the eastern boundary fence.

1.2 Background

- 1.2.1 The initial application was lodged on 14 December 2011 and was for a subdivision proposal only. The application was made further to an agreement between Council's Infrastructure and Services Department and the landowner, Ms Joy Panoho, where it was agreed that the Infrastructure Department would assist Ms Panoho in applying for a subdivision consent for her land, and would construct a public road providing access to the application site as well as a number of other landlocked properties, many of which are Maori land. In return, Ms Panoho would agree to Council developing the Puwera landfill.
- 1.2.2 Having received the application, a site visit was undertaken during which it was noted that a substantial amount of vegetation clearance had been carried out on the site. Council's Geographic Information System indicated the vegetation to be part of ecological feature Q07046, identified by DOC as part of their PNA Programme.
- 1.2.3 A request for further information was sent on 12 January 2012 asking for an assessment against rule 38.3.18 'Indigenous Vegetation Clearance and Indigenous Wetland Disturbance' to determine whether the clearance was in accordance with the permitted activities. Should

the assessment find the clearance not to be permitted, the applicant was requested to amend the application to include the land use component. If any further clearance was proposed to be undertaken in the future, similarly, the applicant was requested to amend the application accordingly.

- 1.2.4 In addition, the request for further information asked for an ecological report to consider the effects of the proposed subdivision, as well as any effects associated with the vegetation clearance, should it be determined it is not a permitted activity. Comment was also requested in relation to bush protection on the site, so that this could be considered as mitigation for the proposal, given that the application did not make mention of any protection mechanisms.
- 1.2.5 On 24 February 2012, Council received the requested information, including a breakdown of the amounts and purposes of the vegetation clearance, a map showing the various locations of the vegetation clearance (Figure 2 below) and an ecological report prepared by Mr Mark Poynter. It also made clear that the applicant was not willing to enter into any formal indigenous vegetation protection mechanisms.

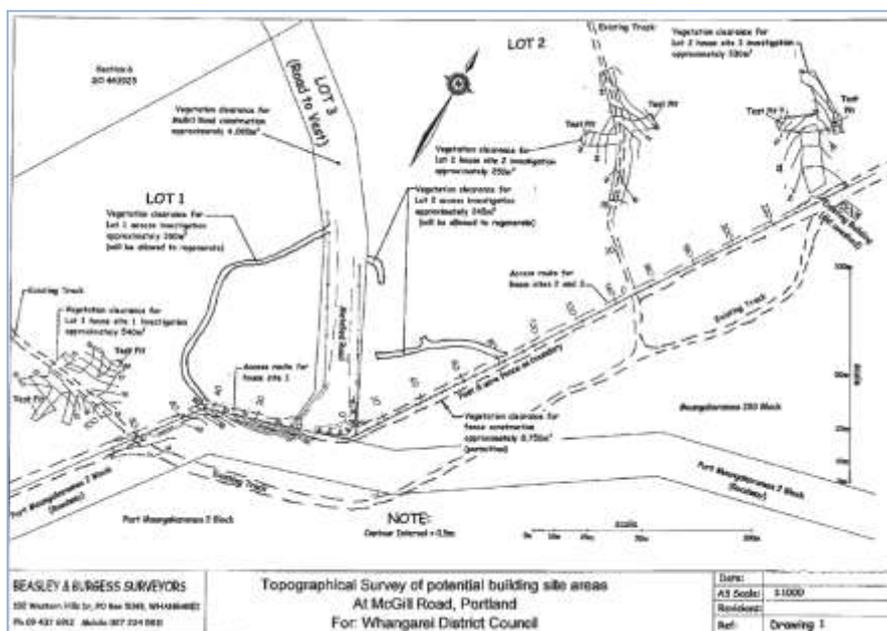


Figure 1 – areas of vegetation clearance

- 1.2.6 Mr Poynter’s report was assessed by Council’s Consultant Ecologist, Mrs Nan Pullman. Having conducted a site visit, Mrs Pullman had a number of differing opinions to the ones expressed by Mr Poynter, at which point Council made known to the applicant its intention to publicly notify the application. The applicant was not taken with this idea and requested that a meeting be convened to discuss the matter. This meeting was held on 3 May 2012. The meeting concluded with the understanding that the applicant would consider the alternatives and get back to Council within 2 to 3 weeks.
- 1.2.7 On 6 June 2012, Council received a request to defer the application until mid-September as the applicant had commitments to see to, which were beyond her control. Council agreed. The following meeting with the applicant was held on 10 September 2012. Notification was again discussed, and Council stressed that there were no guarantees that notification could be avoided even if a separate application was lodged for the retrospective consent for vegetation clearance.
- 1.2.8 A short time after this meeting, it was decided by the Resource Consents Manager, Alister Hartstone, in conjunction with the applicant’s agent, that the ecologists should meet to produce a joint caucusing statement in order to progress the application. This was received by Council on 18 October 2012. In brief, the ecologists agreed that the effects of the subdivision and vegetation clearance were more than minor, and suggested a number of mitigation measures.

- 1.2.9 Another meeting was held on 31 October 2012 to explore a way forward in light of the ecologists' report. On 5 December 2012, Council received an update from the applicant's agent stating that the application was being amended to include retrospective consent for vegetation clearance and ecological mitigation packages. A cultural history/impact assessment was also being prepared for inclusion.
- 1.2.10 The amended application was lodged with Council on 4 July 2013 (full copy enclosed as Attachment 3). A meeting was convened for the purposes of lodging this consent. During this meeting, Council's papakainga provisions were also discussed.
- 1.2.11 Despite the ecologists' report, the amended application contended that the vegetation clearance was largely a permitted activity and that, where it was not permitted, any effects were no more than minor, taking into account the newly proposed covenanting of the coastal wetland. Having reviewed the amended application, Mrs Pullman was still of the opinion that the effects were more than minor, and it was decided to notify the application on 28 August 2013.
- 1.2.12 On Friday 27 September 2012, the reporting planner had a meeting with Mr and Mrs Anderson. Mr Anderson is Joy Panoho's brother and representative for this application. The Andersons made it clear that they were keen to avoid a hearing if at all possible, even though Mr Anderson had indicated on his submission form that he wanted to be heard. It was their preference to come to some kind of compromise on the application. A discussion was had on the type of conditions that were likely to be imposed if the decision was to grant consent, keeping in mind the effects on native vegetation. It seemed unlikely that Ms Panoho would be agreeable to such conditions. Nevertheless, it was agreed that the reporting planner would discuss the matter with the Resource Consents Manager and get back to Mr and Mrs Anderson.
- 1.2.13 In discussion with the Resource Consents Manager, it was decided that a list of bottom lines would be established for consideration by the applicant and that the hearing report would be put on hold until such time as an agreement had been reached or all other options had been exhausted. The list of bottom lines was made available to the Andersons on 4 October 2013 (refer Attachment 4). Another meeting was had with all parties involved, including Ms Panoho, on 18 October 2013. Papakainga provisions were again discussed.
- 1.2.14 On 23 October 2013, Council received a request from Ms Panoho's Barrister, Katharine Taurau, to defer the progress of the application to 31 March 2014, pursuant to Section 37 of the RMA. Council agreed to the proposed extension of time.
- 1.2.15 On 19 February 2014, Council was advised by Barrister Katharine Taurau that Ms Panoho was prepared to proceed with the application before an independent hearings commissioner, but was not going to make any further concessions with regard to the conditions sought in the reporting planner's bottom lines.

2.0 Site and Surrounds Description

2.1 Zoning, Resource areas and Other Notations

- 2.1.1 Whangarei District Council Operative Planning Map 15 (provided within Attachment 5) demonstrates the application site is located within the Coastal Countryside Environment.

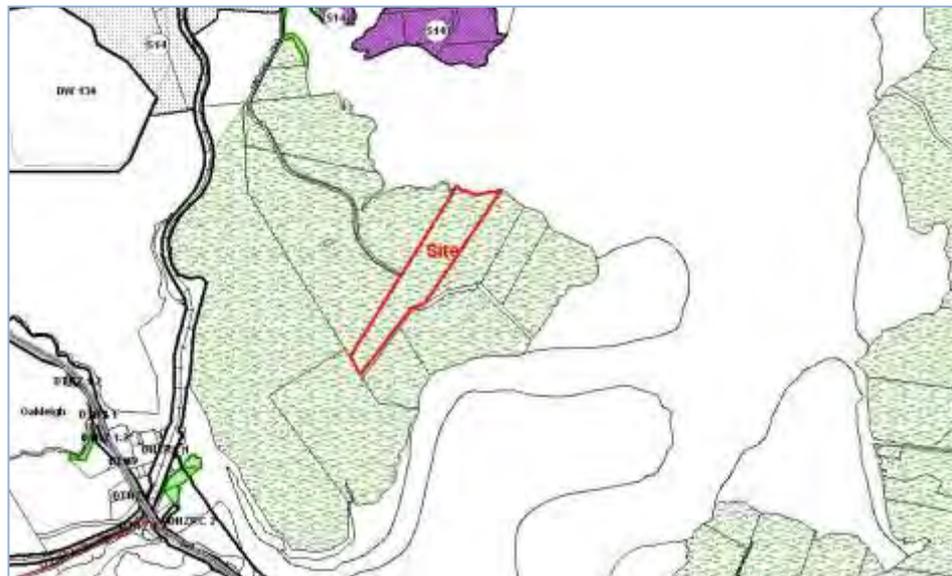


Figure 2: Environment (Zoning) of Application Site

2.1.2 Council's Geographic Information System reveals the southern half of the site as being part of ecological area Q07046, which denotes an area identified by the Department of Conservation for the significance of specific ecological values.

2.2 Site Description

2.2.1 The application site comprises a total area of 17.82ha, has a long and narrow shape and generally runs in a north-east to south-west direction. The site slopes at between 5-15% in a south-east to north-west direction, and is devoid of any built development.

2.2.2 The northern boundary adjoins the coast and features a terraced wetland on the edge of the harbour. The south-eastern boundary adjoins an unformed road.

2.2.3 To the west, the site adjoins a large dairy farm, whereas to the east, the site neighbours onto Maori land currently covered in native regenerating bush..

2.2.4 The southern portion of the site has been identified as a Level 1 ecological area under the Department of Conservation's PNAP (Q07046). This ecological area covers approximately 50% of the subject site and consists of a mosaic of habitat types that are considered rare within the ecological district.

2.2.5 In recent times, a road has been constructed through the middle of this ecological area to provide access to the (landlocked) site and neighbouring Maori land; and vehicle crossings to both proposed lots have been established.

2.2.6 The site enjoys views of the wider landscape incorporating the coast and nearby rural, commercial and industrial activities, including the Portland Quarry and Cement Works.

3.0 District Plan Assessment

3.1 Reasons for Consent

3.1.1 The subdivision proposal requires consent as a non-complying activity pursuant to rule 73.3.1 'Allotment Area' as the minimum average net site area of all proposed allotments is less than 10ha. Vehicle access will not be shared, thereby requiring consent as a restricted discretionary activity pursuant to rule 73.3.7 'Property Access'. The application also does not provide for the supply of electricity or telecommunications, and as such, requires to be assessed as a restricted discretionary activity pursuant to rule 73.3.15 'Electricity' and rule 73.3.16 'Telecommunications'.

- 3.1.2 The subdivision proposal meets the relevant standards and terms under additional rules of relevance including rule 73.3.6 'Sites of Significance to Maori' (no sites have been identified), rule 73.3.8 'Vehicle Crossings', rule 73.3.10 'Provision for Extension of Services', rule 73.3.11 'Water Supply', rule 73.3.12 'Stormwater', rule 73.3.14 'Sewage' and rule 73.3.17 'Earthworks'.
- 3.1.3 The indigenous vegetation clearance requires retrospective resource consent as a discretionary activity pursuant to rule 38.3.18 'Indigenous Vegetation Clearance and Indigenous Wetland Disturbance'. The amended application states that a total of 14,675m² of indigenous vegetation has been cleared from the site, but that only 4,925m² of this total amount is in excess of the threshold allowed under rule 38.3.18.
- 3.1.4 The application contends that the 4,000m² clearance undertaken for the construction of the road to vest was not permitted, and that 925m² of the 1925m² total clearance for the house sites was not permitted. All other clearance i.e. 9,750m² is said to be permitted as it was undertaken for the purposes as outlined under rule 38.3.18, including clearance for house sites and new fences (rule 38.3.18 has been reproduced and is enclosed as Attachment 6).
- 3.1.5 The reporting planner's interpretation of rule 38.3.18 differs to the interpretation presented in the application insofar as the purposes for which vegetation clearance is permitted, are largely not considered to be applicable in this instance.
- 3.1.6 One of the purposes for which vegetation clearance is permitted (rule 38.3.18v) states that the clearance is permitted if "The removal is for a new fence where the purpose of the fence is to exclude stock and/or pests from the area". The fences erected on the Panoho property are boundary fences and have not been constructed with the purpose of excluding stock from the property. This assertion is based on the fact that, over the course of many meetings, it has continually been made clear to the reporting planner that Ms Panoho does not wish for any stock to be excluded from the property and that it is very much the intention to keep stock on the property. Ms Panoho has also refused to agree to a stock exclusion covenant on any part of the property in order to protect the ecological values that still remain. Indeed, the joint ecological statement remarks that signs of recent stock grazing were found on the property during Mr Poynter and Mrs Pullman's joint site visit.
- 3.1.7 Additionally, rule 38.3.18 ii) provides for vegetation clearance as a permitted activity if "The total clearance of indigenous vegetation within a site is no more than 500.0m² where the clearance is for the express purpose of providing a house site and/or access to a house site; or is to provide access to existing farming or forestry activities". Given that there has been no subdivision of the application site to date, nor any consent for subdivision granted, the application site in its entirety constitutes one (1) site, as per the definition of a 'site' in the Operative District Plan (the definition has been reproduced in Attachment 7). As such, a total of 500m² was allowed to be cleared as a permitted activity. The application outlines a total of 1,925m² vegetation clearance of which 1,000m² is said to have been permitted based, it would seem, on the interpretation that 500m² is allowed per 'proposed' lot.
- 3.1.8 It is agreed that the vegetation clearance for the road to vest does not find support in the permitted activities outlined within rule 38.3.18. However, there is some dispute as to how much exactly has been cleared for the purposes of the road. The joint ecological statement has estimated that approximately 8,000m² has been cleared rather than the 4,000m² contended in the application. The ecologists have based their assertion on the fact that an additional 10m strip has been cleared on either side of the road, where the road itself covers an area of approximately 4,000m². It is unclear whether the additional 4,000m² has perhaps been incorporated into the figure provided for the fence clearances. Regardless, it is the reporting planner's assessment that, based on the figures provided in the amended application, in the vicinity of 14,175m² to 18,175m² of indigenous vegetation has been cleared over and above the permitted threshold.
- 3.1.9 Overall, the application is considered to be for a Non-Complying Activity.

4.0 Notification, Submissions and Written Approvals

4.1 Written Approvals

4.1.1 Section 104(3)(a)(ii) of the Act requires that no consideration may be had of any effect on a person who has provided their written approval to the application. The amended application, as lodged, contained two written approvals from the following parties:

Te Rae Trust – Maungakaramea 2B1-2B3, 2B7 and Part Lot 2

M.A & S.K. Owen – Maungakaramea 2B5 Block – 218 McGill Road, Portland

4.2 Notification

4.2.1 Having undertaken an assessment of the proposal's effects on the wider environment, it was determined that the adverse effects were more than minor resulting in the proposal being publicly notified on 28 August 2013.

4.3 Submissions

4.3.1 The period for submissions opened on 28 August 2013 and closed on 24 September 2013. Copies of the application were served upon parties in the immediate vicinity of the application, the Patuharakeke Te Iwi Trust Board, Te Parawhau Ki Toetoe Otaika (Hauauru Trust), the Department of Conservation, the New Zealand Historic Places Trust and the Northland Regional Council.

4.3.2 Council received a total of five submissions within the timeframe, one of which was subsequently withdrawn. Two of the submissions present support for the application, while one presents conditional support and one submission neither supports nor opposes the application.

4.3.3 The individual submissions are summarised as follows (a full copy of the individual submissions can be viewed in Attachment 8), including confirmation relating to the withdrawal of the submission by Mr Stephen A Panoho.

Submitter	Issues and Relief Sought
Portland Farms Ltd	<ul style="list-style-type: none"> • No issues raised Relief sought: The application be approved. Submitter does not wish to be heard.
Peter Anderson	<ul style="list-style-type: none"> • The submitter states that this proposal is a trade-off for the development of the Puwera landfill, and that rates have been paid since the early 1980s whilst the land has been land locked with no legal access. • The proposed covenanting of the coastal wetland is sufficient compensation for the bush clearance undertaken to construct the road. • This proposal will provide access to other land locked blocks, urupa and other tribal areas which will off-set any adverse effects in terms of benefits. Relief sought: The application be approved. Submitter wishes to be heard.

Submitter	Issues and Relief Sought
The Department of Conservation	<ul style="list-style-type: none"> • The submitter does not oppose the subdivision but opposes the retrospective land use consent for indigenous vegetation clearance unless conditions are imposed. • The submitter notes that there has been no assessment of the significance of the indigenous vegetation in terms of section 6(c) of the Act, given that the survey date of the PNA was 1996 and current ecological values have changed in the intervening 17 years. • Given that this application is for retrospective consent, there is no opportunity to avoid adverse effects, and response now is limited to mitigation. • Mitigation must include weed management and control of pest species with particular concern for gorse given the areas of low fertility present on the site. • Protection of the significant coastal wetland through covenanting and fencing is also considered important to ensure its long term protection from grazing and modification. • Subdivision and building site locations as indicated in the Landscape and Visual Impact Assessment are considered appropriate to avoid significant further effects by excessive indigenous vegetation removal and effects on landscape and natural character. <p>Relief sought: The application be granted only if certain conditions are imposed.</p> <p>Submitter does not wish to be heard.</p>
The New Zealand Historic Places Trust	<ul style="list-style-type: none"> • The submitter notes main issue of concern to be archaeological sites, of which a large number have been recorded on the site, but recognises the applicant's efforts having engaged an archaeologist and having acted upon the recommendations made. <p>Relief sought: Not stated.</p> <p>Submitter did not state whether they wanted to be heard or not.</p>
Stephen Arthur Panoho	<p><i>Refer full submission within Attachment 8. Submission withdrawn 30 September 2013.</i></p>

5.0 Resource Management Act 1991- Statutory Considerations

5.1 Section 104

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

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

5.2 Section 104B

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

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

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

5.3 Section 104D

- 5.3.1 Being a non-complying activity, the proposal is subject to the thresholds outlined in section 104D of the Act, 'Particular restrictions for non-complying activities'. Section 104D states

- (1) *Despite any decision made for the purpose of [section 95A\(2\)\(a\)](#) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
 - (a) *the adverse effects of the activity on the environment (other than any effect to which [section 104\(3\)\(a\)\(ii\)](#) applies) will be minor; or*
 - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- (2) *To avoid doubt, [section 104\(2\)](#) applies to the determination of an application for a non-complying activity*

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 Coastal Countryside Environment and a minimum lot size of 20ha is required under the controlled activity provisions. As such, it is appropriate to take guidance from the development controls for land use activities. In the Coastal Countryside Environment, development controls do not provide for the construction of a residential unit as a permitted activity pursuant to rule 38.4.1 'Residential Units', but rather a restricted discretionary activity, and then only if: a) the residential unit, after completion, will be the only residential unit on the site; or b) the residential unit will be an additional residential unit on the site; and there is at least 20.0ha of net site area associated with each residential unit. The construction of a minor residential unit on a property with minimum net site area of 1.2 ha, on the other hand, is a permitted activity, as are multiple farm buildings, as long as they adhere to the relevant bulk and location restrictions.

6.2.3 With a total land area of 17.8239ha the application site could, as a maximum, accommodate one residential unit, provided resource consent is obtained, and one minor residential unit, plus farm buildings.

6.2.4 In terms of indigenous vegetation clearance, section 3 of this report has highlighted differences of opinion between the reporting planner's interpretation and the interpretation presented in the amended application regarding what constitutes a permitted activity. For the purposes of this report, the reporting planner's interpretation will be used in order to determine and assess the effects of the proposal. It is the reporting planner's opinion that only 500m² of indigenous vegetation was allowed to be cleared as a permitted activity. Therefore, the proposal to clear a total of between 14,175m² to 18,175m² significantly exceeds the permitted baseline.

6.3 Development Patterns and Density

6.3.1 The Coastal Countryside Environment is largely an area where agricultural activities dominate. However, low-intensity residential development is provided for at a density of one residential unit per 20ha. In certain areas, where adverse effects of subdivision and development can be avoided, mitigated or remedied, a higher density with an average net site area of 10ha can be provided for, although restrictions on the number and size of allotments below 5ha apply. In some instances, a higher density than 10ha average net site area may be considered appropriate, particularly where it can be shown that the proposed density is in keeping with the density of the immediate surrounding area.

6.3.2 The current application is for a subdivision at a higher density than 10ha average net site area. In this instance, the application site finds itself lodged between rural lifestyle lots of

approximately 7ha to 18ha toward the east, albeit landlocked Maori land, and larger rural production lots of 36 ha to 102 ha towards the west and south-west. Within this context, it is considered that the proposed subdivision with lot sizes of 6ha and 11ha is not necessarily out of place, and will not increase the density pattern of the existing environment.

- 6.3.3 Although a residential unit cannot be constructed as a permitted activity within this Environment, the proposed subdivision, if granted, would provide the opportunity to double residential development, both in terms of a residential and minor residential unit, when compared to the existing situation. The site, however, has been assessed as having high visual absorption capability, and as such is considered able to cope with the limited additional built development proposed.

6.4 Visual amenity, rural/coastal character and landscape

- 6.4.1 The property is located on a headland which bounds the Whangarei Harbour to the north and east, and borders farmland to the west and south. As such, views from the property are both rural and coastal, with views to the east and south slightly impeded by the mix of scrub and regenerating native bush that inhabits the headland as a whole. In the main, the wider landscape consists of a range of highly modified to more natural character areas.

- 6.4.2 The applicant has provided a landscape and visual impact assessment as part of the application, prepared by Ms Christine Hawthorn. Ms Hawthorn concludes in her assessment that, provided the scrub and bush outside of the building development zones are to be retained, and with some landscape planting to be established around the house sites, visual and amenity values and rural landscape character of the area will be maintained. She furthermore contends that the property and receiving environment have a high visual absorption capability, and that, provided development follows the recommended design guidelines, any potential adverse landscape and visual effects will be less than, or no more than minor, depending upon how close the viewing audience is to the site.

- 6.4.3 It is considered that Ms Hawthorn's report is quite comprehensive and, provided the recommended mitigation measures are included as conditions of consent, the proposal is thought not to create any adverse effects with regard visual amenity, rural and coastal character and surrounding landscape.

- 6.4.4 It is noted, however, that during the processing of this consent, various discussions had between the reporting planner and Ms Panoho and/or her representatives, Mr and Mrs Anderson, have highlighted that Ms Panoho is not taken with these conditions as they require for the bulk of vegetation on the site to remain. Indeed, the effects of the proposal have been assessed with this backdrop in mind. The Maori cultural report, on the other hand, sheds some light on Ms Panoho's concerns relating to 'living in the bush' (refer to statements reproduced in section 6.5 below). It is considered, nonetheless, that the conditions proposed in Ms Hawthorn's report are necessary as mitigation measures for the subdivision proposal. The application specifically does not include a land use component for a future dwelling. Therefore, based on the current District Plan rules, a land use application to build a dwelling will need to be made at a later date.

6.5 Cultural Values

- 6.5.1 A Maori cultural report was provided in support of the amended application. The site is not identified on Council's GIS system as being a site of significance, or being within an area significant to Maori. The cultural report provides the history of how this ancestral Maori land was obtained, how it was landlocked until now with the creation of the road to vest, and how it was passed down to the current owner.

- 6.5.2 As the road to vest will provide easy access to the subject site and adjacent properties, it will facilitate the owners' use of the land, thereby enhancing their ability to enjoy the land and take care of their urupa and pa site, in accordance with customary practices. As such, the proposal is considered to assist in creating positive effects for the cultural use of this ancestral land.

6.5.3 It is noted however that the applicant's 'issues of concern' outlined on pages 18 and 19 of the Maori Cultural Report can be interpreted as being at odds with the ecological values and the landscape mitigation measures identified by the ecologists and the landscape architect. The following statements in particular are of concern:

"I like the bush to look at from a distance, not to live in. Too many kehua. Our old people never lived in the middle of the bush-they cleared the area of trees before they built their houses."

"You mean our ancestral land is important for its ecological values. What about our values. The values we attach to our urupa and pa site become insignificant."

"Look at the houses and people in Australia caught by forest fires. Why do they allow people to build in the middle of gum trees, those trees are flammable. Dry ti tree is a fire risk. What insurance company would insure a house built in the middle of ti tree. What about the risk of forest fires. Look at what happened in the far north last summer. And the forest fires that are happening this summer."

"PNA's protect public interest over Maori values."

6.5.4 It is unclear, in all of this, where the concept of 'kaitiakitanga' fits into this proposal, and what values are attributed to the natural resources of this particular property, given that the intention seems to be to clear all bush cover. It becomes difficult to determine where a balance can be achieved between the role of kaitiaki versus the ability to use/develop the land.

6.6 Archaeological Values

6.6.1 The application was submitted with an archaeological report, given the area, in general, has a high presence of recorded archaeological sites. As part of undertaking the vegetation clearance on site, the applicant engaged a professional archaeologist to assess any potential impact of the clearance on both known and unknown sites. During the field work, additional sites were discovered and recorded, and it was decided to change the intended route of the fence to ensure a number of the sites were avoided. All sites are located along the subject site's periphery and future works are unlikely to result in any disturbance.

6.6.2 The applicant has made it clear that the urupa and pa site are of great significance to them, and as such, it is considered that the values of these treasures will be maintained.

6.6.3 The New Zealand Historic Places Trust (NZHPT) has made a submission to the application, and commends the applicant for making amendments to the fence line. NZHPT recommends the use of an advice note as part of any resource consent highlighting the Accidental Discovery Protocol, in the event of any future discoveries.

6.6.4 Overall, it is considered that the archaeological values of the site have received comprehensive assessment and attention which has enabled any adverse effects of the proposal to be avoided or sufficiently mitigated.

6.7 Ecological Effects

6.7.1 A considerable part of the subject property is classified as a Level 1 ecological area (Q07046) under the Protected Natural Area Programme (PNAP) established by the Department of Conservation. This site is considered significant because the recorded vegetation types (shrubland and coastal forest) are rare within the Whangarei Ecological District (ED), and this is the only recorded site within this ED.

6.7.2 The joint statement produced by the applicant's ecologist and Council's consultant ecologist provides a summary of issues of agreement and disagreement between the two parties. It also offers various suggestions for mitigating the adverse ecological effects as far as possible, given that the vegetation clearance has already been undertaken. A copy of the joint statement is included as Attachment 9.

6.7.3 The main conclusions from the joint statement are as follows:

- 1) Stock exclusion is of paramount importance if the values of the ecological area Q07046 are to be maintained. All other effects associated with the road and the proposed subdivision will fade into insignificance if stock is to be kept within the PNAP identified ecological feature.
- 2) Confirmed presence and agreed high ecological significance of areas of manuka shrubland wetland within proposed Lot 1, and a coastal terrace wetland in proposed Lot 2. It was also agreed that uncommon plant assemblages are present, and that these are related to the occurrence of poorly drained, low fertility podzolised soils.
- 3) The vegetation clearance undertaken for the road, which is in the vicinity of 0.8ha, has a more than minor effect ecologically, *“given that it has resulted in the further loss from an already remnant area of regenerating native vegetation, of a vegetation type which is rare in the ecological district. This loss is exacerbated by the fragmentation of the remaining contiguous feature and the creation of undesirable influences from increased desiccation and increased risk of weed encroachment into the remaining feature.”*
- 4) While the estimated 360m² of native vegetation clearance for ‘access investigation’ and the 540m² of clearance for ‘house site investigations’ on proposed Lot 1, and the vegetation clearance for the eastern boundary fenceline, are individually considered minor, their cumulative effect warrants mitigation.

6.7.4 The joint statement furthermore provided a number of suggestions for mitigation, as follows:

- 1) Preparation of a weed management plan as a condition of consent to control weed issues and encourage the recovery of indigenous vegetation within the 10m cleared strips on either side of the new road fencelines.
- 2) In respect of the road creation, weed control alone is considered insufficient to mitigate adverse effects, and environmental compensation is considered appropriate in this instance by way of formally covenanting and fencing the coastal wetland.
- 3) An alternative subdivision design i.e. where both house sites are located toward the northern end of the property, would be preferable; or an alternative house site location on proposed Lot 1, closer to the western boundary fence.
- 4) Conditions of consent restricting the location of wastewater and stormwater run-off within proposed Lot 1, so it is directed south of the proposed house site and not into the catchment of the identified manuka shrubland wetland.
- 5) Protective covenants over the indigenous vegetation in: a) proposed Lot 1 that falls within the PNA feature, including stock exclusion; and b) in that part of the PNA feature which now lies to the north side of the road, including stock exclusion; plus an overall weed management programme for the covenanted areas.

6.7.5 When the amended application was lodged on 4 July 2013, it provided for the covenanting of the coastal wetland, and for establishing a program for weed control as mitigation for the road clearance. It is unclear from the application, however, exactly what is proposed as part of the weed control program given that the wording used is as follows: “weed control programme for the road corridor (refer Appendix B)” (p18 of application). Appendix B (reproduced as Attachment 10) consist of two maps and an aerial photograph of the application property. The aerial photograph identifies the coastal wetland for protection and also highlights the road corridor for weed control purposes.

6.7.6 The joint ecological statement clearly identifies the need for weed control within the additional 10m cleared strips on either side of the new road. It is unclear what exactly is intended by the words ‘road corridor’ as expressed in the application, but in the first instance it would seem to exclude the 10m strips. It is the reporting planner’s understanding that the weed control programme for the road corridor is proposed to be undertaken by Council’s Infrastructure and Services Department, and as such, the specific method of weed control is queried. It is thought that a general spraying regime along the road side is not quite what the ecologists would have in mind in relation to weed control for the purposes of encouraging the recovery of the indigenous vegetation. However, a comprehensive weed control programme, in conjunction with the protection of the coastal wetland would constitute appropriate compensation and mitigation for the road clearance.

6.7.7 The application dismisses the cumulative effects created as a result of the clearance undertaken for access and house site investigations on proposed Lot 1 and clearance for the eastern boundary fenceline, noted in the joint ecological statement as warranting mitigation.

- 6.7.8 Additionally, the majority of mitigation measures suggested in the joint statement have been set aside, and as such, no mitigation is proposed to counter any adverse effects associated with the subdivision and location of proposed house sites and effluent disposal fields.
- 6.7.9 As such, particular concerns remain with regard the remaining ecological values of the site, which have been described as being very vulnerable to inputs of nutrients either through effluent disposal fields or by stock grazing (and urinating). A condition of consent can be included, as recommended in the joint ecological statement, to ensure any future effluent disposal field, particularly on proposed Lot 1, is located away from the vulnerable areas. Additionally, the house site on proposed Lot 1 is to be relocated closer to the western boundary fence to avoid certain ecologically significant areas. A condition of consent to this effect can also be included, ensuring that any new proposal is to the satisfaction of the ecologists and landscape architect.
- 6.7.10 The joint ecological statement clearly stresses that stock exclusion is paramount if the ecological values are to endure, and that *“All other effects associated with the road and the proposed subdivision will fade into insignificance if stock is to be kept within the PNAP identified ecological feature.”* In light of this statement, it is considered that a condition for a conservation covenant or stock exclusion is vital to address any adverse effects associated with the subdivision proposal. It is noted, however, that the applicant has previously refused to agree to exclude stock from this allotment. Nevertheless, such a condition would be required if adverse effects are to be sufficiently mitigated.
- 6.7.11 In this instance, a conservation covenant would be considered the more suitable mechanism, as opposed to stock exclusion only. Bottom lines previously outlined by the reporting planner to the applicant had proposed stock exclusion if, and only if, the subdivision was designed so that both house sites would be located to the north of the new road. This approach had been reached in consultation with Mrs Pullman. However, the design of the subdivision has not been altered, and it is therefore considered appropriate to ensure additional protection of the ecological values in light of future residential activities.
- 6.7.12 In summary, it is concluded that any adverse effects resulting from the current vegetation clearance can be compensated for and sufficiently mitigated by covenanting the coastal wetland and by undertaking a comprehensive weed control programme. Similarly, any adverse effects from the subdivision in relation to the ecological values can be sufficiently mitigated through appropriate conditions of consent. These will include restrictions to the location of effluent disposal fields, a conservation covenant on proposed Lot 1, and in that part of the PNA feature which now lies to the north side of the road, plus an overall weed management programme for the covenanted areas, as recommended in the joint ecological statement.

6.8 Site Suitability, Servicing and Access

- 6.8.1 The application is supported by a geotechnical report prepared by Hawthorn Geddes Engineers and Architects Ltd (reference 8374, dated 28 November 2011) which provides an investigation of the stability of the proposed subdivision, and servicing arrangements including access, wastewater and stormwater management.
- 6.8.2 The report highlights that stable house sites have been identified on both proposed lots, but extensive, and in the case of proposed Lot 2, very expensive, retaining will be required in order to form appropriate access. This will involve significant further engineering, particularly at building consent stage.
- 6.8.3 In the absence of reticulated wastewater services, on-site wastewater disposal arrangements are required. The geotechnical report includes an onsite soil assessment and a general assessment of on-site effluent disposal capability for lots 1 & 2 in accordance **AS/NZS 1547: 2000**, including effluent field slope gradient, soil category, overland flow path separation, water table depth, and recommended design options. It also includes recommendations on how compliance with the Regional Water and Soil Plan (RWSP) can be achieved.
- 6.8.4 As detailed in Senior Environmental Engineering Officer, Dean Murphy's report (Attachment 11), a consent notice is recommended to be registered on the Computer Freehold Register of

the subject lots to ensure the restrictions and recommendations contained within this report are adhered to on an ongoing basis. Mr Murphy notes Council's GIS notation on the site indicating a high unsuitability for on-site effluent disposal.

- 6.8.5 Additionally, requirements for a fire-fighting water supply and a maintenance contract for the on-site wastewater system to be in place at all times, are also to be noted on the titles, as are the 'no electricity' and 'no telecommunication supply'.
- 6.8.6 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, it is considered that the applicant has demonstrated that the site is suitable for the development proposed.

6.9 Cumulative Effects

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

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

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

- 6.9.2 Having regard to the above, the following assessment considers whether the residual effects of the proposed activity (after mitigation by conditions) will give rise to an unacceptable increase in cumulative adverse effects that are beyond the carrying capacity of the receiving environment, including amenity, character, landscape and ecological values that define the locality.
- 6.9.3 For a cumulative effect to be significant, it must breach a threshold or 'tip the balance'. In this instance, the proposal facilitates the opportunity for one additional residential unit and one additional minor residential unit to be constructed within semi-defined building sites. The majority of vegetation is to be retained, with large parts to be covenanted. Any future dwellings will require resource consent as per the current Operative District Plan rules, while design guidelines have been offered as part of this proposal. Similarly, any vegetation clearance within this area will require resource consent, as per current rule, unless the clearance is associated with any of the currently listed permitted activities. The road, having recently been constructed to Council standards, provides ample access to the newly proposed sites.
- 6.9.4 As such, it is considered the proposal will not give rise to effects that are beyond the supporting capacity of the receiving environment, at this particular moment in time.

6.10 Effects summary

- 6.10.1 Overall, taking into account recommended conditions of consent, it is considered that the adverse effects on the environment arising from the proposal will be minor, and that in some respects, positive effects will result. As such, the effects associated with the proposal are considered to be acceptable.

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

- 7.1.1 Section 104D(b) directs that Council consider whether the proposed activity will not be 'contrary' to the objectives and policies of the relevant plans. The meaning of 'contrary' was considered in the decision of *Monowai Properties Ltd v Rodney District Council (A215/03)* where it was established:

“A non-complying activity will rarely, if ever, find direct support in the objectives and policies of a Plan but an absence of support does not equate to the activity being contrary to those provisions. Contrary to in this context means... repugnant to... or opposed to... the objectives and policies considered as a whole”.

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

7.2 New Zealand Coastal Policy Statement

7.2.1 Due to the site’s coastal location and its identification in the Operative District Plan as being within the Coastal Countryside Environment, the objectives and policies of the New Zealand Coastal Policy Statement (NZCPS) are considered to be applicable. This said, it is noted that the Proposed Regional Policy Statement (PRPS) for Northland identifies only the northern half of the property as being coastal. The Operative Regional Policy Statement (RPS) does not identify coastal areas.

7.2.2 Advice from Northland Regional Council Policy staff is that considerable weighting can be given to the coastal identification line in the Proposed RPS as it has been through some robust testing as part of the Schedule 1 process. Even though there are a number of unresolved appeals, including a challenge on the ‘principle’ of mapping for the purposes of the RPS, staff had a high degree of confidence that the coastal line would not change to any significant degree, particularly where there is no appeal from the landowner opposing the coastal line at a site specific level. As such, the objectives and policies of the NZCPS are considered to apply only in relation to the northern half of the application site.

7.2.3 In relation to policy 2 ‘The Treaty of Waitangi, tangata whenua and Maori heritage’ the following comments are made:

- It is recognised that the application site is ancestral Maori land, and that the owner has an on-going cultural relationship with the land in question.
- Many discussions have taken place between Council and the applicant to try and resolve the matters of conflict.
- The Environmental Plan of the Patuharakeke Te Iwi Trust Board has been considered as part of this decision.
- Throughout the decision-making process, the concept of ‘kaitiakitanga’ and its application to this proposal has remained unclear.
- There has been wide recognition of the areas of special value, such as archaeological sites, urupa and pa site.

7.2.4 Additionally, Mr Poyter and Mrs Pullman, as part of their joint ecological statement, have undertaken an analysis of the objectives and policies of the NZCPS, while taking into account the draft RPS, as it was, at the time of preparing the joint statement. The coastal line outlined in the draft RPS was in the same location then, as it is now in the PRPS.

7.2.5 Having read the comments and conclusions reached around the NZCPS objectives and policies in the joint ecological statement, it is considered that the assessment is thorough, and that based on the mitigation measures suggested in the report, which have translated into recommended conditions of consent, the proposal is not contrary to the objectives and policies of the NZCPS. A copy of Mr Poynter and Mrs Pullman’s analysis is enclosed as Attachment 12.

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

7.3.1 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. 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.

7.3.2 On 17 September 2013 the Northland Regional Council formally adopted the independent Hearings Commissioners' recommendations on provisions and matters raised in submissions on the PRPS as a decision. The document has not been declared as operative at this point in time as appeals are still pending. So, full weighting cannot be given to the provisions at this time. However, PRPS is considered to reflect more accurately the current issues relating to subdivision and development, indigenous ecosystems and biodiversity and historic heritage than the RPS which was prepared in 2002. Therefore, in terms of controlling the effects of the proposal before us, the following comments are provided with regard relevant objectives and policies:

Objectives	Comments
<p>3.4 Indigenous ecosystems and biodiversity</p> <p><i>Safeguard Northland's ecological integrity by:</i></p> <p>a) <i>Protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna;</i></p> <p>b) <i>Maintaining the extent and diversity of indigenous ecosystems and habitats in the region; and</i></p> <p>c) <i>Where practicable, enhancing indigenous ecosystems and habitats, particularly where this contributes to the reduction in the overall threat status of regionally and nationally threatened species.</i></p>	<p>Taking into account conditions of consent which will require the areas of special ecological value, including regionally threatened and significant species, to be protected by way of conservation covenants, it is considered that the proposal will maintain and enhance the indigenous ecosystems and habitats.</p>
<p>3.12 Tangata Whenua role in decision-making</p> <p><i>Tangata whenua kaitiaki role is recognised and provided for in decision-making over natural and physical resources.</i></p>	<p>Although the site is in the ownership of Tangata Whenua, the proposal has highlighted significant differences of opinion with regard the natural resources of the site. It is agreed that the newly constructed road provides access to previously landlocked land, this has been at the expense of the ecological values of the site. The Maori Cultural Report provided in support of the application does not comment on the kaitiaki role of Tangata Whenua. However, the required protective covenants will ensure the natural values of the site are maintained and will be enhanced.</p>
<p>3.14 Natural character, outstanding natural features, outstanding natural landscapes and historic heritage</p> <p><i>Identify and protect the integrity of:</i></p> <p>(a) <i>The natural character of the coastal environment, and the natural character of freshwater bodies and their margins;</i></p> <p>(b) <i>Outstanding natural features and outstanding natural landscapes;</i></p> <p>(c) <i>Historic heritage.</i></p>	<p>The landscape and visual impact assessment provided as part of the application has identified the site as exhibiting little natural character due to the process of cultural modification that has occurred over a long period; however the site is said to exhibit a sense of naturalness by the virtue of its vegetated nature and its presence next to other bush areas. Proposed conditions of consent will ensure that these values will remain.</p> <p>With regard to historic heritage, the proposal has had due regard to any matters of archaeological significance, and for the most part, has identified and avoided any impact upon these values.</p>

Policies	Comments
<p>4.2.1 Policy - Improving overall water quality</p> <p><i>Improve the overall quality of Northland's water resources by:</i></p> <p><i>(a) Reducing loads of sediment, nutrients, and faecal matter to water from the use and development of land and from poorly treated and untreated discharges of wastewater; and</i></p> <p><i>(b) Promoting and supporting the active management, enhancement and creation of vegetated riparian margins and wetlands.</i></p>	<p>The proposed conservation covenant, including fencing, of the coastal wetland feature will contribute toward the maintenance of the coastal water quality.</p>
<p>4.4.1 Policy – Maintaining and protecting significant ecological areas and habitats</p> <p><i>(1) In the coastal environment, avoid adverse effects, and outside the coastal environment avoid, remedy or mitigate adverse effects of subdivision, use and development so they are no more than minor on:</i></p> <p><i>(a) Indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;</i></p> <p><i>(b) Areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5;</i></p> <p><i>(c) Areas set aside for full or partial protection of indigenous biodiversity under other legislation.</i></p> <p><i>(2) In all environments, avoid significant adverse effects and avoid, remedy, or mitigate other adverse effects of subdivision, use and development on:</i></p> <p><i>(a) Areas of predominantly indigenous vegetation; and</i></p> <p><i>(b) Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes.</i></p>	<p>Although the ecological reports and joint ecological statement do not specifically identify indigenous taxa or areas of indigenous vegetation and habitats of indigenous fauna, that are significant using the assessment criteria in Appendix 5, it is considered that the conservation covenants to be imposed will ensure the ecological values and habitats on this site are maintained and protected.</p>
<p>4.5.1 Policy – Identification of the coastal environment, outstanding natural features and outstanding natural landscapes and high and outstanding natural character</p> <p><i>The areas identified in the Regional Policy Statement - Maps will form Northland's:</i></p> <p><i>(a) Coastal environment;</i></p> <p><i>(b) High and outstanding natural character areas within the coastal environment (except where the coastal marine area beyond harbours / estuaries remain unclassified); and</i></p> <p><i>(c) Outstanding natural features and outstanding natural landscapes.</i></p> <p><i>Where an area in the Regional Policy Statement – Maps has been amended in accordance with Method 4.5.4(a), and the amended area is operative in the relevant district or regional plan, it shall supersede the relevant area in the Regional Policy Statement – Maps.</i></p>	<p>The northern half of the subject site has been identified as part of the coastal environment.</p>
<p>4.7.3 Policy – Improving natural character</p> <p><i>Except where in conflict with established uses or the areas or circumstances in Policy 4.6.1(3) promote rehabilitation and restoration of natural character in the manner described in Policy 4.7.1 in the following areas:</i></p> <p><i>(a) Wetlands, rivers, lakes, estuaries, and their margins;</i></p> <p><i>(b) Undeveloped or largely undeveloped natural landforms between settlements, such as coastal headlands,</i></p>	<p>The conditions of consent will ensure the coastal wetland and other remnant areas of important ecological values are improved over time while the natural landform on this part of the headland will not be unduly affected by the proposal, given appropriate conditions.</p>

<p><i>peninsulas, ridgelines, dune systems;</i></p> <p><i>(c) Areas of high natural character;</i></p> <p><i>(d) Land adjacent to outstanding natural character areas, outstanding natural features, and outstanding natural landscapes;</i></p> <p><i>(e) Remnants of indigenous coastal vegetation particularly where these are adjacent to water or can be linked to establish or enhance ecological corridors; and</i></p> <p><i>(f) The areas or values identified in Policy 4.4.1 (protecting significant areas and species).</i></p>	
<p>5.1.1 Policy – Planned and coordinated development</p> <p><i>Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:</i></p> <p><i>(a) Is guided by the ‘Regional Form and Development Guidelines’ in Appendix 2;</i></p> <p><i>(b) Is guided by the ‘Regional Urban Design Guidelines’ in Appendix 2 when it is urban in nature;</i></p> <p><i>(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;</i></p> <p><i>(d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;</i></p> <p><i>(e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;</i></p> <p><i>(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</i></p> <p><i>(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.</i></p> <p><i>Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.</i></p>	<p>The proposal is considered generally in line with the guidelines of Appendix 2, is not thought to have potential for reverse sensitivity issues, and will maintain the character of the surrounding environment.</p>
<p>5.1.2 Policy – Development in the coastal environment</p> <p><i>Enable people and communities to provide for their wellbeing through appropriate subdivision, use, and development that:</i></p> <p><i>(a) Consolidates urban development within or adjacent to existing coastal settlements and avoids sprawling or sporadic patterns of development;</i></p> <p><i>(b) Avoids increasing the risk of harm to people and property from coastal hazards;</i></p> <p><i>(c) Ensures sufficient development setbacks from the coastal</i></p>	<p>Although the proposal does not constitute consolidated development within an existing coastal settlement, the subdivision is not considered to be sporadic and will not increase the risk of harm to people or property. The conservation covenant to be imposed on the coastal wetland will ensure the natural functioning of associated coastal processes and ecosystems are retained. The proposal also provides for adequate road access.</p>

<p><i>marine area to; (i) maintain and enhance public access, open space, and amenity values; and (ii) allow for natural functioning of coastal processes and ecosystems;</i></p> <p><i>(d) Takes into account the values of adjoining or adjacent land and established activities (both within the coastal marine area and on land);</i></p> <p><i>(e) Ensures adequate infrastructure services will be provided for the development; and</i></p> <p><i>(f) Avoids adverse effects on access to, use and enjoyment of surf breaks of national significance for surfing.</i></p> <p><i>Note: in determining the appropriateness of subdivision, use and development, all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.</i></p>	
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7.3.3 Based on the comments above, it is considered the proposal is consistent with the PRPS; and no apparent conflicts have been identified between the RPS and the proposal.

7.4 Regional Soil and Water Plan for Northland

7.4.1 The Regional Water and Soil Plan for Northland (RWSP), which is administered by the Northland Regional Council, covers the land and water resources of the Northland region, it controls discharges and land disturbance activities. The Plan aims to prevent activities occurring which would result in unacceptable adverse effects.

7.4.2 The application was lodged with the support of a Geotechnical Report prepared by Hawthorn Geddes Engineers and Architects Ltd. The assessment undertaken includes recommendations on how compliance with the RWSP can be achieved. Council's Senior Environmental Engineering Officer, Dean Murphy, has considered the matters assessed within the Hawthorn Geddes Report, including site servicing recommendations, and concludes that, provided the suggested conditions of consent are adopted, the proposal will achieve the environmental results anticipated by the RWSP.

7.5 Operative Whangarei District Plan

7.5.1 Those objectives and policies of relevance to the proposal are included within Chapter 5 'Amenity Values', Chapter 7 'Tangata Whenua', Chapter 8 'Subdivision and Development', Chapter 10 'The Coast', Chapter 13 'Heritage Buildings, Sites and Objects', and Chapter 17 'Indigenous Vegetation and Habitat'.

7.5.2 The following table assesses the proposal against the relevant objectives and policies within these chapters:

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

Chapter 5 – Amenity Values	
Objective	Comment
5.3.1 The characteristic amenity values of each Environment are maintained and, where appropriate enhanced.	Proposed landscape conditions, in conjunction with the areas to be covenanted are considered sufficient to retain current amenity levels when taking into account the subdivision is for two lots only and will retain a density that is in keeping with the density and development pattern of the surrounding area. The conservation covenants and weed control programme will ensure the natural character of the site is enhanced over time, thereby contributing positively to the local amenity, part of which is coastal.
5.3.4 The amenity values of the coast and open space are maintained and enhanced.	
5.3.5 The actual or potential effects of	

<p>subdivision use and development is appropriately controlled and those activities located and designed, are to be compatible with existing and identified future patterns of development and levels of amenity in the surrounding environment.</p>	
<p>Policy</p>	<p>Comment</p>
<p>5.4.4 Countryside Environments</p> <p>To encourage development in the Coastal-Countryside Environment not to have adverse effects on the amenity values of the environment. The visual amenity and natural character, in particular, has to be protected from subdivisions, use or development that is sporadic or otherwise inappropriate in character, intensity, scale or location.</p>	<p>As per comment above, the proposed subdivision is not considered to be inappropriate for this particular location while appropriate conditions of consent will ensure the visual amenity and natural character of the area will be protected.</p>
<p>5.4.7 Intensity and Design of Subdivision and Development</p> <p>To ensure that subdivision and development do not unduly compromise the outlook and privacy of adjoining properties, and should be compatible with the character and amenity of the surrounding environment. Particular regard should be given to:</p> <p>The layout and intensity of subdivision;</p> <p>The location, design and siting of buildings and structures except, where such buildings and structures provide a specific service for the surrounding environment. In the latter case, any building or structure shall be designed, laid out and located, so as to avoid, remedy or mitigate any adverse effects on the environment.</p> <p>Restrictions on density of development and subdivision size may be required to ensure new development does not increase population concentration in noise-sensitive areas.</p>	<p>It is considered the proposal will not compromise the outlook or privacy of any adjoining properties, and is generally compatible with the character and amenity of the surrounding environment, as outlined above. However, it is noted that the subdivision design and proposed building site, particularly on Lot 1, is not ideal with regard to the ecological values identified. As such, a conservation covenant over the remainder of Lot 1 is required in order to safeguard these values, which form part of the wider natural character and amenity of the locality. Subject to these conditions, the subdivision design is not considered to create any adverse effects that are unacceptable.</p>

<p>5.4.10 Trees and Vegetation</p> <p>To retain trees and vegetation (other than trees or vegetation grown for commercial production purposes) that contribute to the amenity values of an environment, unless the effects of removal are adequately remedied or mitigated.</p>	<p>Although significant vegetation clearance has been undertaken to date, conditions of consent to create conservation covenants and implement a weed control programme, in time, will largely mitigate any adverse effects. The landscape report submitted with the application considered the proposal in light of the current vegetation on the site, which led to the conclusion that the site has the ability to absorb the proposed subdivision and future built structures. This also suggests the vegetation should be retained by way of appropriate conditions of consent.</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>The application site is acknowledged to be ancestral maori land, still in the ownership of Tangata Whenua. As the proposal now provides unimpeded access to the application site and adjoining properties, it will enable the owners, being Tangata Whenua, to exercise rangatiratanga and kaitiakitanga over their ancestral land and look after and protect their taonga. The application has afforded particular care to the archaeological sites, which have all been identified and recorded, and where necessary, the proposal was altered to avoid adverse effects on these sites.</p>
<p>7.3.2 To enable tangata whenua to exercise rangatiratanga and kaitiakitanga over their ancestral lands, waters, sites, waahi tapu and other taonga in the District.</p>	
<p>7.3.3 In the implementation of this Plan no action will be taken which will knowingly exacerbate registered treaty claims.</p>	<p>Council has been made aware that the applicant has recently registered a claim with the Treaty of Waitangi Tribunal in relation to Council processes and the implementation of Crown law by the Council. As such, the claim is, in part, related to the processes associated with determining this consent. It is considered, however, that the recommendations included within this report will not exacerbate the claim, as Council's position in relation to the application has remained the same throughout the process.</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>Given the application site is owned by Tangata Whenua, their views and interests were represented throughout the resource consent process.</p>
<p>7.4.2 Sites of Significance to Maori</p>	<p>The Operative District Plan does not identify any Sites</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>of Significance to Maori within the application site. A number of archaeological sites are identified, and these have been well recognised and provided for within the application. The site is considered to fall within the area of influence of the Patuharakeke Te Iwi Trust, who have an Environmental Plan lodged with Council. This plan identifies estuaries and indigenous flora and fauna within their rohe and the wider Whangarei District to be a taonga. As such, the protection of these values on the application site is considered appropriate mitigation for the adverse effects resulting from the proposal, and consistent with this policy.</p>
<p>7.4.3 Waterbodies</p> <p>To ensure that indigenous wetlands, estuaries, coastal areas and waterbodies, of significance to tangata whenua, are maintained and enhanced, and that access for tangata whenua to those water bodies is provided.</p>	<p>The coastal wetland to the north of the application site will be protected by way of a conservation covenant, thereby ensuring that these values are maintained or enhanced, while the site will remain in the ownership of Tangata Whenua.</p>
<p>7.4.4 Consultation</p> <p>To ensure effective consultation with, and 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>Throughout the processing of this application there has been on-going dialogue between Council and the applicant, affording the applicant ample time to reflect on issues and formulate considered responses. Although consensus, particularly with regard to the ecological values of the site, could not be reached, considerable effort has been expended to try and come to a solution that would be satisfactory to all parties, and as such, it is considered that the intent of this policy has been upheld.</p>
<p>7.4.5 Use of Maori Land</p> <p>To enable tangata whenua to use, develop and protect their lands in accordance with their cultural preferences, consistent with the purpose of the Resource Management Act 1991.</p>	<p>The application, if granted, will enable the owners unimpeded legal access to the site which will allow the site to be used more fully and more easily. However, comments made in the Maori Cultural Report with regard the indigenous vegetation on the site, and numerous discussions had with the applicant, would indicate that the intended use of the application site may not be consistent with the purpose of the RMA</p>

	<p>insofar as it relates to the ecological values associated with the existing native vegetation. This said, the requirement for conditions of consent, including conservation covenants and weed control programme, should consent be granted, will ensure the proposal remains consistent with the purpose of the RMA, and on this basis, it is considered that this proposal can be taken to be consistent with this policy.</p>
Chapter 8 – Subdivision and Development	
Objective	Comment
<p>8.3.1 Subdivision and development that achieves the sustainable management of natural and physical resources whilst avoiding, remedying or mitigating adverse effects on the environment.</p>	<p>It is considered that, given recommended conditions of consent, the proposal is consistent with the purpose and principles of sustainable management, and will incorporate sufficient and appropriate means to mitigate adverse effects on the environment.</p>
<p>8.3.2 Subdivision and development that does not detract from the character of the locality and avoids conflicts between incompatible land use activities.</p>	<p>As previously discussed, taking into account the landscape conditions offered as part of the application, the proposal will not detract from the character of the locality, and no conflicts between incompatible land use activities have been identified.</p>
<p>8.3.4 Subdivision and development that provides for the protection of, and where appropriate enhances, the District's:</p> <ul style="list-style-type: none"> • versatile soils; • mineral resources; • water quality; • nature features; • landscapes (including coastal landscapes); • open spaces; • significant ecological areas; • biodiversity; • public access to coast, lakes and rivers; • historic, cultural and amenity values, including the cultural values of tangata whenua. 	<p>Bearing in mind the recommended conditions of consent for conservation covenants, a weed control program and landscape mitigation measures, the proposal will protect the remaining biodiversity and ecological values, and retain the existing landscape and amenity values, while contributing to the enhancement of the coastal water quality within the locality. The application dealt thoroughly with the archaeological sites on the property, which have been identified and upon which any adverse effects have been avoided, while other cultural values are considered to be protected by virtue of the applicant being tangata whenua.</p>
<p>8.3.7 Subdivision and development that provides for comprehensive development of land with a range of allotment sizes and is appropriate to the character of the Environment in which it is located.</p>	<p>Although the proposal cannot be said to be 'comprehensive' given the limited number of lots proposed, it is considered appropriate to the character of the Environment in which it is located, keeping in mind recommended conditions of consent and surrounding density of land parcels</p>
<p>8.3.8 To ensure that the design of</p>	<p>It is considered that the proposed subdivision design</p>

<p>subdivision and development minimises potential risk to people and property from fire hazards.</p>	<p>does not minimise the potential for risk to people and property given that proposed Lot 1 identifies a building site in the middle of indigenous vegetation containing flammable manuka. A revised subdivision design was recommended to the applicant on several occasions, albeit more in relation to ecological matters, but could have also addressed any fire risk. The Department of Conservation, in their initial feedback on the proposal, also expressed concern about fire risk, and the potential for it to negatively impact upon the surrounding native vegetation. However, no changes to the design have been forthcoming, and as such, the proposal is not considered to be consistent with this policy. It is recognised that other fire fighting measures can be implemented in order to address fire risk.</p>
<p>8.3.10 Subdivision and development that avoids, remedies or mitigates adverse effects on tangata whenua values.</p>	<p>The proposal provides for access to a considerable amount of landlocked Maori land, and as such, remedies a historical adverse effect. The application has made considerable effort to identify and protect any archaeological sites on the property, and taking into account conditions of consent for conservation covenants and a weed control programme, it is considered that adverse effects on Tangata Whenua values are sufficiently mitigated or remedied.</p>
<p>Policy</p>	<p>Comment</p>
<p>8.4.3 Density of Development</p> <p>To ensure that subdivision and development results in a pattern and density of land use which reflects flexibility in allotment size, and is of a density appropriate to the locality.</p>	<p>As the proposal is for two lots only, there would appear to be little point in commenting on the flexibility in allotment size. However, the proposal is considered to be of a density appropriate to the locality given the existing pattern, allotment sizes and density of the surrounding area.</p>
<p>8.4.4 Cumulative Effects</p> <p>To ensure that the cumulative effects of on-going subdivision and development do not compromise the objectives and policies of this Plan, in particular those objectives and policies relating to reducing conflicts between incompatible land use activities, the consolidated and orderly development of land and the density of development.</p>	<p>Although the proposal cannot be said to represent consolidated development of land, it will not create any conflicts between incompatible land use activities, nor will it increase the density of development in the locality.</p>
<p>8.4.7 Design and Location</p> <p>To ensure subdivision and development is designed and located so as to avoid, remedy or mitigate adverse effects on, and where appropriate, enhance:</p> <ul style="list-style-type: none"> • Natural character of the coastal environment, indigenous wetlands, lakes and rivers and their margins; • Landscape values; • Ecological values; • Amenity values and sense of place; 	<p>Although it is considered that the subdivision could have been designed to take better account of the ecological values of the site, recommended conditions of consent will ensure remaining values will be protected through the conservation covenants and the weed control programme. The design has, on the other hand, taken into account the archaeological values of the site and any adverse effects on these values have been avoided. Additional conditions suggested in the landscape report submitted with the application will ensure the natural character and landscape values are maintained. The District Plan does not identify any Sites of Significance to Maori on the application site, although the application does make mention of the</p>

<ul style="list-style-type: none"> • Archaeological, cultural (including tangata whenua) and heritage features; • Sites of Significance to Maori; • Heritage areas of significance to Maori; • The relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga; • Infrastructure, particularly roads and the Airport; • Water and soil quality; • Versatile soils; • Mineral resources; • Business growth and development opportunities within defined Business Environments; • Cross boundary coordination; • Human health and safety. 	<p>presence of a pa site and urupa. The proposal will establish legal access to the landlocked site, thereby facilitating an enhanced relationship between tangata whenua and their ancestral land.</p> <p>On the whole, the application cannot be said to be contrary to this objective.</p>
<p>8.4.8 Riparian Management</p> <p>To ensure that adverse effects of subdivision and development on riparian areas and adjacent water bodies and freshwater fish habitats are avoided, remedied or mitigated by appropriate riparian management and protection, which may include co-management with tangata whenua and the provision of esplanade reserves or strips where necessary.</p>	<p>The application provides for the protection of the coastal wetland by way of a conservation covenant. As such, any adverse effects upon this riparian area are being avoided.</p>
<p>8.4.10 Indigenous Vegetation</p> <p>To ensure that adverse effects of subdivision and development on indigenous vegetation and habitats of indigenous fauna that contribute to the natural character of the rural and coastal environment, the values of Outstanding Natural Features, Outstanding and Notable Landscape Areas and Significant Ecological Areas are avoided, remedied or mitigated.</p>	<p>Given the recommended conditions of consent, it is considered that any adverse effects from the proposal are able to be sufficiently mitigated.</p>
<p>8.4.12 Services and Infrastructure</p> <p>To ensure that all subdivision and development is capable of being provided, by the subdivider or developer, with adequate services and infrastructure having regard to Whangarei District Council's Environmental Engineering Standards 2010 (except where the subdivision or development is for specific protection purposes), including:</p> <ul style="list-style-type: none"> • Vehicle access, including emergency 	<p>No constraints have been identified in terms of the on-site servicing arrangements proposed; and suitable conditions of consent pursuant to Section 108 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 and the relevant standards of utility providers. The applicant does consider it to be uneconomic to provide electricity and telecommunications connections to the boundaries of the sites, and as such, have proposed 'no electricity supply and no telecommunications supply'</p>

<p>service vehicle access;</p> <ul style="list-style-type: none"> • Water supply, (including for fire fighting purposes), storm water and sewage disposal; • Energy and telecommunication connections; • Useable open space in urban areas; • During the design and construction of the subdivision, measures to reduce storm water run off. 	<p>encumbrances. Relevant consent notices have been recommended for the proposed lots, should consent be granted.</p>
<p>8.4.14 Fire Safety</p> <p>To ensure that subdivision and development provides for fire safety matters (including appropriate design to ensure access for emergency service vehicles and an appropriate water supply for fire fighting purposes), in order to ensure the safety and well-being of the community.</p>	<p>As previously commented on, it is considered the proposed subdivision design is not ideal in relation to fire risk. However, conditions of consent can require that appropriate water supply and access for emergency service vehicles is provided as part of any future built development. A consent notice to this effect has been recommended.</p>
<p>8.4.20 Natural and Heritage Resources</p> <p>To identify and protect resources and areas of high amenity value, environmental quality and heritage value that contribute to a diverse sense of place (including notable view shafts, notable trees, heritage buildings, areas of wilderness and sites and resources).</p>	<p>It is considered that the archaeological investigations carried out as part of the application, in conjunction with the recommended conservation covenants as conditions of consent, will ensure that remaining natural and heritage resources are protected.</p>
<p>8.4.21 Natural Character</p> <p>To maintain, and where appropriate, restore or rehabilitate, the natural character of the coastal environment by avoiding inappropriate building development:</p> <ul style="list-style-type: none"> • Adjoining Mean High Water Springs ; • On notable ridgelines; or • That which is incompatible in scale and character with the surrounding coastal landscape values. 	<p>No built development is proposed near Mean High Water Springs; while appropriate conditions of consent have been recommended for the built development on the higher reaches of the site. Taking this into account, it is considered that the natural character, as it exists currently, will be largely maintained by the proposal.</p>
<p>8.4.22 Development Practice</p> <p>To ensure that best environmental practice is followed, including the selection of location, when undertaking:</p> <ul style="list-style-type: none"> • Earthworks; • Land clearance; • Subdivision; or • Site development. 	<p>It is evident from the application that a number of site restrictions and limitations (i.e. ecological values) were not identified prior to deciding where to locate the road. Subsequently, the road location was then used as the guideline for the subsequent subdivision design. It is considered that this approach to decision making cannot be deemed 'best' environmental practice, and as such, is inconsistent with the intent of this policy.</p> <p>It is thought outside of the reporting planner's area of expertise to comment on the actual practices used to carry out the physical works, other than to remark that it would seem unwise to clearfell this amount of native vegetation without obtaining ecological advice.</p>
<p>8.4.23 Design and Location</p>	<p>Although Council's GIS identifies the southern half of the application site to be part of PNA, the Operative</p>

<p>To ensure that subdivision and development does not detract from, or compromise, identified landscape features (including the natural character of the feature(s) when viewed from the sea), or significant ecological features identified in the Plan or through assessment against Appendix 3 of the Regional Policy Statement.</p>	<p>District Plan does not identify any ecological features. It is also unclear whether the ecological features identified on the application site can be considered 'significant' as assessed by the criteria outlined in Appendix 3 of the Regional Policy Statement, as this assessment has not been carried out.</p> <p>This said, it is considered that recommended conditions of consent will ensure these features will not be compromised any further than what they may have been through the vegetation clearance.</p>
Chapter 10 – The Coast	
Objective	Comment
<p>10.3.1 Preservation and protection of the natural character of the coastal environment from inappropriate subdivision, use or development.</p>	<p>Conditions of consent identified in the landscape report in conjunction with the proposal to covenant the coastal wetland will ensure the natural character of this locality is maintained.</p>
<p>10.3.2 The maintenance or, where appropriate, enhancement of the amenity, landscape, cultural, intrinsic and ecological values of the coastal environment by taking account of the cumulative effects of subdivision development.</p>	<p>It is considered the proposal does not give rise to any cumulative effects. Additionally, recommended conditions of consent will also ensure the maintenance of these values.</p>
<p>10.3.3 Maintain and enhance public access, where appropriate, to and along coastal areas.</p>	<p>In this instance, it is considered that public access to the coast is not required or desirable in this location.</p>
Policy	Comment

<p>10.4.1 Natural Character</p> <p>To ensure that subdivision, use and development is managed in a manner that seeks to preserve, enhance and restore (where appropriate) the natural character of the coastal environment. Particular consideration should be given to:</p> <ul style="list-style-type: none"> • Landscapes, seascapes and landforms; • Significant indigenous vegetation and significant habitats of indigenous fauna; • Intrinsic values of ecosystems; • Sites of Significance to Maori; • Significant places or areas of historic or cultural significance; • Heritage values, including cultural, historical, spiritual and intrinsic values; • Amenity values. 	<p>As per comments made above, recommended conditions of consent will ensure the natural character of this locality is maintained.</p>
<p>10.4.2 Natural Character</p> <p>To recognise, in assessing the actual and potential effects of an activity, that most parts of Whangarei District's coastal environment have some degree of character which requires protection from inappropriate subdivision, use and development.</p>	<p>The proposed subdivision is not considered inappropriate within this particular locality.</p>
<p>10.4.4 Services and Infrastructure</p> <p>To avoid adverse effects on the natural character, amenity, landscape, cultural, intrinsic and ecological values and functioning of an area by ensuring that subdivision, use and development occur where there is adequate infrastructure, services and on-site mitigation measures.</p>	<p>It is considered that the proposal is contrary to the intention of this policy, given that the area did not have adequate roading infrastructure, and considerable native vegetation clearance had to be undertaken to provide for the road construction in this particular location. It is unclear why this particular location was decided upon, as it would seem that other options were available where the adverse effects upon ecological values could have been largely avoided.</p> <p>Recommended conditions of consent will ensure that any adverse effects of proposed on-site services are adequately mitigated.</p>
<p>10.4.7 Future Development</p> <p>To ensure that subdivision, use and development in the coastal environment for business and residential use is located within existing coastal settlements. Subdivision, use or development should only occur in other areas where there will be no more than minor adverse effects, taking into</p>	<p>The proposal is not located within an existing settlement, but recommended conditions of consent will ensure adverse effects will be no more than minor.</p>

<p>account:</p> <ul style="list-style-type: none"> • The objectives and policies in this chapter (Chapter 10); • Landscape values, landform and scenic values; • Indigenous flora and habitats of indigenous fauna; • Heritage values including archaeological sites and sites of significance to Maori; • Amenity values; • The degree of modification from the natural state; • Infrastructure and services, particularly roads; • Water and soil quality; • Cross boundary conflicts; • Human health and safety. 	
<p>10.4.9 Tangata Whenua</p> <p>To ensure that the relationship of tangata whenua and their cultural and tradition with their ancestral lands, water, sites, waahi tapu and other taonga is recognised and provided for when undertaking subdivision, use and development in the coastal environment.</p>	<p>The application site is owned by Tangata Whenua and discussions with regard to the specific values of the site have been on-going throughout the whole process.</p>
Chapter 13 – Heritage Buildings, Sites and Objects	
Objective	Comment
<p>13.3.1 The protection and enhancement of buildings, sites and objects that make a significant contribution to heritage and amenity values.</p>	<p>The application has had thorough regard to the value of the numerous archaeological sites on the property.</p>
Policy	Comment
<p>13.4.4 Subdivision, Use and Development</p> <p>To avoid, where practicable, the potential of adverse effects of subdivision, use and development on the heritage values of Historic Buildings, Sites and Objects, including archaeological sites. Where such use or development can not avoid the damage, destruction or modification of any known archaeological site, the authority of the New Zealand Historic Places Trust shall be obtained. Should archaeological remains or features be uncovered, the activity shall cease and the New Zealand Historic Places</p>	<p>The application has had thorough regard to the value of the numerous archaeological sites on the property by enlisting a suitably qualified archaeologist and adhering to processes prescribed by the New Zealand Historic Places Trust. Where applicable, the proposal was amended to avoid identified sites. Future built development is proposed to be located in areas not affected by the identified sites.</p>

<p>Trust shall be notified as soon as is practicable. The activity shall not be recommenced without the approval of the New Zealand Historic Places Trust.</p>	
<p>13.4.7 Protection of Archaeological Sites</p> <p>To monitor and control subdivision and new land use activities, including associated earthworks, which may adversely affect archaeological sites (whether recorded or not) in order to enable any adverse effects or modification to be assessed.</p>	
<p>13.4.8 Protection of Significant Heritage Values</p> <p>To ensure that where areas have significant heritage values, those values are not compromised by inappropriate subdivision use and development.</p>	
Chapter 17 – Indigenous Vegetation and Habitat	
Objective	Comment
<p>17.3.1 Maintenance and enhancement of the life-supporting capacity of ecosystems, and the biodiversity of the District.</p>	<p>Recommended conditions of consent relating to conservation covenants and a weed control programme will ensure remaining biodiversity and ecological values of the site are maintained and enhanced over time.</p>
<p>17.3.2 Protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna from inappropriate subdivision, use and development.</p>	
Policy	Comment
<p>17.4.1 Significant Indigenous Vegetation and Significant Habitats of Indigenous Fauna</p> <p>To recognise as significant, and provide protection for, indigenous vegetation and habitats of indigenous fauna, including indigenous wetlands, which are of Moderate, Moderate-High, High and Outstanding value using the criteria set out in Schedule 17A.</p>	<p>An assessment of the ecological values in relation to Schedule 17A has not been specifically carried out. Noting the comments in the joint ecological statement, it cannot be ruled out that such significance exists. It is considered, therefore, that recommended conditions of consent will ensure ecological values are protected whatever the level of significance, and that this will lead to enhanced indigenous vegetation over time..</p>
<p>17.4.2 Significant Ecological Areas</p> <p>To maintain the ecological values of significant indigenous vegetation and the significant habitats of indigenous fauna in the Living 3, Countryside, Coastal Countryside and Open Space</p>	

Environments.	
17.4.3 Enhancement To promote the enhancement of areas of significant indigenous vegetation and significant habitats of indigenous fauna that have been, or may be, degraded by inappropriate subdivision, use and development.	
17.4.4 Effects To avoid, remedy or mitigate the adverse effects of land use activities on areas of indigenous vegetation and significant habitats of indigenous fauna, including areas of value to tangata whenua, as determined by Schedule 17A, so as to maintain its ecological values.	Recommended conditions of consent for conservation covenants will contribute to mitigating adverse effects of land use activities.
17.4.5 Environmental Pests 17.4.5B: To encourage programmes for plant and animal pest control in areas of ecological value	Recommended conditions of consent include a weed control program.

7.5.3 Based on the above assessment which found the proposal to be contrary to only one policy while inconsistent with another, it is considered the proposal, overall, finds support in the District Plan provisions which seek to ensure subdivision is appropriately located, reflects a density of development appropriate to the locality and maintains or enhances amenity, landscape, ecological and heritage values.

7.5.4 Accordingly, the subdivision may be considered for approval.

8.0 Other Matters

8.1 Non-statutory Planning Documents & Plan Changes

8.2 Whangarei Coastal Management Strategy

8.2.1 The Whangarei Coastal Management Strategy (CMS) was adopted in September 2002 with a view to 'establish a strategic, integrated framework for managing the protection, use and development of the coastal environment within the Whangarei District'. As such, it outlines a vision of what the coastal environment should be like in the future having particular regard to four areas: 'live', 'work', 'play' and 'protect'.

8.2.2 The document emphasises the importance of residential growth within existing settlements, with some flexibility around other living choices, while heritage resources are sought to be recognised and preserved, as are natural resources such as indigenous flora and fauna. The document furthermore stresses the importance of relationships with Tangata Whenua and their ties to ancestral land and cultural practices.

8.2.3 In relation to this application, it is considered that, when taking into account the recommended conditions of consent, the proposal is in line with the provisions of the CMS as it provides access to ancestral Maori land, where previously there was none, it allows for low-intensity residential development in a rural area, and protects the values of the coastal wetland and native bush present on the site.

8.3 Patuharakeke Te Iwi Trust Board Environmental Plan

- 8.3.1 This plan outlines a number of purposes that the Board is wanting to achieve, including widespread community awareness and concern for the land and water-based resources and taonga such as estuaries and indigenous flora and fauna within Te rohe o Patuahakeke Hapu and in the wider Whangarei District. The intention is also to promote what should be the heritage of Whanau, Hapu and Iwi, and of all people, under the Treaty of Waitangi, although no specific details are provided as to what constitutes this 'heritage'. It is clear, however, from the document in general, that the Board has serious concerns about the degradation of the natural resources within their area of influence, and further afield.
- 8.3.2 Although the Board was notified of the application, Council received no submission. In the absence of such a submission, it is considered that the proposal for subdivision and retrospective indigenous vegetation clearance would, subject to recommended conditions of consent, be deemed to be consistent with the intent and purpose of the Board's Environmental Plan, given the indigenous vegetation, including the coastal wetland, will be maintained and enhanced while the natural character will also be largely retained.

8.4 Precedent

- 8.4.1 Case law has established that the precedent of granting a resource consent is a relevant factor for a consent authority in considering whether to grant a non-complying resource consent. A precedent effect is likely to arise in situations where consent is granted to a non-complying activity that lacks the evident unique, unusual or distinguishing qualities that serve to take the application outside of the generality of cases or similar sites in the vicinity.
- 8.4.2 Although in this instance, the site is not thought to have any single unique feature, there is a series of issues which, in combination, make for a unique set of circumstances that is thought to take the proposal outside of the generality of cases. The matters involved are as follows:
- There is an agreement between the Whangarei District Council and the applicant to construct a road providing access to landlocked properties and to assist the applicant in seeking a resource consent for a three lot subdivision, with one lot being road to vest.
 - The site and adjacent properties were landlocked prior to the road being constructed.
 - The site has significant ecological values i.e. coastal wetland and native bush.
- 8.4.3 Individually, the above matters do not represent any unique features of the site or proposal, however, together they represent a unique situation that is unlikely to be replicated anywhere else at any significant level. As such, it is considered the proposal will not set a precedent for the subdivision of other sites within the locality that are zoned Coastal Countryside Environment.

9.0 Part 2 Matters

9.1 Section 5 – Purpose

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

“managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural 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.”

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

9.2 Section 6 – Matters of National Importance

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

9.2.2 Taking into account the steps taken to identify and avoid archaeological sites, the provision of legal access to landlocked Maori land, and recommended conditions of consent, particularly for the establishment of conservation covenants and a weed control programme, it is considered that the proposal will preserve, protect or provide for these matters of national significance.

9.3 Section 7 – Other Matters

9.3.1 Section 7 of the Act identifies eleven other matters to be had regard to in achieving the purposes of the Act. The following are 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;

9.3.2 Kaitiakitanga, being the exercise of guardianship by the Tangata Whenua of an area in accordance with tikanga Maori in relation to natural and physical resources; includes the ethic of stewardship. Being Tangata Whenua, it is considered that the proposal does not demonstrate how the practice of kaitiakitanga has been applied in this instance given the values of the natural resources of the site. This said, the recommended conditions of consent will ensure the remaining ecosystem values will be retained.

9.3.3 In general, it is considered that, overall, intensity, scale and location of the proposal will maintain the characteristic amenity values of the locality, and there is no evidence to suggest the proposal will compromise the quality of the environment, subject to conditions of consent. As such, it is considered the proposal upholds the matters outlined under Section 7.

9.4 Section 8 – Treaty of Waitangi

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

9.4.2 With respect to the current proposal, Council's Infrastructure and Services Department has already constructed a public road which provides access to a number of sites that were previously landlocked. The proposal before us, if granted, will formally vest the road which would afford landowners unimpeded legal access to their land, and will better facilitate the management of their urupa and pa site. This is considered to be in line with the intent of the Treaty of Waitangi principles.

9.4.3 Conflict has arisen, however, where the desire of the applicant to develop the site has met the requirement to protect the significant ecological values of the site to offset the adverse effects

resulting from the proposed subdivision and indigenous vegetation clearance. It is unclear where the applicant's aspirations to develop the site fit within the wider Maori cultural customs and practices, and how this translates into hapu or iwi resource development.

- 9.4.4 Numerous meetings and discussions between Council staff and the applicant and her representatives have failed to come to any resolution of this matter. The length of time it has taken to finally hold a hearing is testimony to the fact that many genuine attempts have been made to solve this matter, and ample time provided to the applicant to consider alternatives.
- 9.4.5 It is considered that the hearing in front of an independent commissioner will provide another forum for the applicant to outline her views on the cultural matters at play. At this point in time, however, it is considered that the principles of the Treaty of Waitangi have been upheld should the hearing commissioner be mindful of granting consent.

10.0 Conclusion & Recommendation

10.1 Conclusion

- 10.1.1 In order for Council to consider granting consent, the application must pass one of the thresholds under section 104(D) of the Resource Management Act 1991 given its non-complying activity status. The two limbs of section 104(D) require Council to assess whether the effects of the proposal will be no more than minor, or whether the proposal will not be contrary to the relevant objectives and policies of the operative Whangarei District Plan. It is considered that the application satisfies each of these limbs and that, therefore, Council can consider granting consent to the proposal.
- 10.1.2 Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, on the basis that conditions of consent will be included relating to weed management, conservation covenants, and consent notices pertaining to landscape and design restrictions for built development and on-going maintenance of indigenous vegetation, which will remedy or mitigate any adverse effects of the activity on the environment.

10.2 Recommendation

THAT pursuant to sections 104, 104B and 104D of the Resource Management Act 1991, it is recommended that Commissioner Simmons **grant** consent to Joy Panoho to undertake a three lot subdivision of the application site, located within the Coastal Countryside Environment, in order to create Lot 1 of 6.05ha, Lot-2 of 11.38ha and Lot 3 of 0.39ha which is to serve as road to vest in Council, and retrospective landuse consent for vegetation clearance, subject to the following conditions:

Subdivision

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

- a) Subject to incorporating any changes necessitated by the following conditions of consent, the survey plan submitted for approval shall be in general accordance with the layout shown on the subdivision plan 'Lots 1-3 being a proposed subdivision of Maungakaramea 2B4 at McGill Road, Portland' prepared by Beasley & Burgess Surveyors, reference C 2763, dated Wed 16 Feb 2011, and shall define building sites and internal access for proposed Lots 1 and 2 which have been agreed to by a suitably qualified landscape architect and ecologist, taking into account the recommendations made in the joint ecological statement prepared by M Poynter and N Pullman, dated 18 October 2012 and the recommendations in the Landscape and Visual Impact Assessment prepared by Christine Hawthorn, dated November 2011.

Note: For clarity, the building site and access to be defined for Lot 1 shall need to be located away from the significant ecological values identified in the joint ecological statement.

- b) The area of significant native bush and wetland areas on proposed Lots 1 and 2, including the part of the PNA feature that lies just to the north of the road (i.e. Lot 3), shall be shown on the plan of subdivision as being subject to a conservation covenant under the Reserves Act 1977 or as a Queen Elizabeth II National Trust Open Space Covenant. The boundaries of these areas shall be established in conjunction with a suitably qualified ecologists, taking into account the values identified in the Poynter and Pullman joint ecological statement, and shall be to the satisfaction of Council's Resource Consents Manager or delegated representative.
- c) The consent holder shall provide, to the satisfaction of the Resource Consents Manager or delegated representative, a comprehensive weed management plan prepared by a suitably qualified and experienced ecologist, in relation to the conservation covenant on Lots 1 and 2, the area cleared for house site and access investigations on Lot 1, and the excess clearance for the eastern boundary fence line on proposed Lot 1, taking into account the comments made in the joint ecological statement prepared by M Poynter and N Pullman, dated 18 October 2012. The weed management plan shall outline the existing threats to the native bush, explain the control methodology to be used and provide a monitoring programme. The plan is to make reference to the Northland Plant Pest Management Strategy and National Pest Plant Accord to ensure species on these lists are excluded from the whole subdivision, not just the covenanted areas. The weed management plan shall also include specific targets and timeframes for implementation, including the specifying of the extent of weed removal and/or control required prior to s224 being issued.

Note: It is recognised that a similar condition is proposed for the landuse consent. It is expected that a consistent rationale and approach will be taken to address the covenant requirements and weed management across all areas of the subject site.

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

- a) The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that the formed road to vest, and any drainage associated with it, is wholly located within the Lot 3 boundaries.
- b) The consent holder shall submit a statement prepared by a suitably qualified and experienced ecologist verifying that the weed management plan under Condition 1 c) has commenced.
- c) A conservation covenant pursuant to Section 77 of the Reserves Act or a Queen Elizabeth II

National Trust Open Space Covenant in respect of Lots 1 and 2 is to be prepared and registered at the applicant's expense. The covenant is to specifically include reference to and on-going compliance with the weed management plan approved under Condition 1 c) above.

- d) Provide written confirmation that the boundaries of the covenant area on Lots 1 and 2 have been fenced to a standard equivalent to one of the specimen types of rural fence (excluding electric fences) as provided for in the Second Schedule to the Fencing Act 1978.
- e) 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 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 is to be carried out in accordance with the restrictions and recommendations identified in the Hawthorne Geddes Engineers & Architects Ltd engineering report dated 28/11/2011 unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Whangarei District Council.
- ii Upon construction of any habitable dwelling, sufficient water supply for fire fighting purposes is to be provided by way of tank storage or other approved means, and that this water supply be accessible by fire fighting appliances in accordance with the Whangarei District Council's Environmental Engineering Standards 2010 and more particularly with the 'NZFS Fire Fighting Code of Practice SNZ PAS 4509:2008'.
- iii Future owners of the site are advised that there is neither telecommunications nor power connections provided to the allotments. Whangarei District Council will not be responsible for ensuring nor providing telecommunication and/or power connections to the proposed lots, upon future development of the site, or at the time of further subdivision.
- iv The owner shall be responsible for ensuring that any further development of the site including building sites, earthworks, drainage works, effluent disposal fields & vehicle access formations will be undertaken in such a manner that will not result in the obstruction or diversion of any existing overland flow path unless a specific design has been done by an IQP or Chartered Professional Engineer which mitigates potential adverse flooding effects on any neighbouring properties created by the obstruction or diversion and is approved in writing by the Senior Environmental Engineering Officer.

Note: Overland flow paths are to be assessed in accordance with Section 4.9 of Whangarei District Council's Environmental Engineering Standards 2010 Edition and are to be certified by an IQP/CPEng.

- v. The owner shall ensure that any future built development on the site shall be located within the defined building sites identified on the approved survey plan, as per condition 1 a) of this consent, and shall adhere to the 'Mitigation and Enhancement Measures' and the 'Landscape Enhancement Plan' outlined in the Landscape and Visual Impact Assessment report prepared by Hawthorn Landscape Architects Ltd, dated November 2011, as attached to this document. Compliance with these measures shall be demonstrated at building consent or resource consent stage (whichever is applicable first, at the time), and shall be to the satisfaction of Council's Resource Consents Manager or delegated representative.

Note: The District Plan currently requires resource consent for the construction of a residential unit in the Coastal Countryside Environment. Where such a resource consent application is lodged under this rule, the 'Mitigation and Enhancement Measures' and the 'Landscape Enhancement Plan' contained in this condition will be relevant to the consideration of that application.

- f) Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of Lot 1 at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:

- i. The weed management plan approved under Condition 1 c) of this consent and attached to this consent, is required to be adhered to by the property owner for all areas outside the covenanted area on Lot 1.

Land Use

1. Within 3 months of the commencement date of this consent, the consent holder shall prepare, to the satisfaction of the Team Leader Compliance or delegated representative, a comprehensive weed management plan prepared by a suitably qualified person, in relation to the 10m strips on either side of the road, the coastal wetland covenant on Lot 2, and the excess clearance for the eastern boundary fence line on proposed Lot 2, taking into account the comments made in the joint ecological statement prepared by M Poynter and N Pullman, dated 18 October 2012. The weed management plan shall outline the existing threats to the native bush and wetland, explain the control methodology to be used, any fencing required along the wetland covenant boundaries, and provide a monitoring programme. The plan is to make reference to the Northland Plant Pest Management Strategy and National Pest Plant Accord to ensure species on these lists are excluded from the whole subdivision, not just the covenanted areas. The weed management plan shall also include specific targets and timeframes for implementation for a minimum period of 5 years.
2. Within 6 months of the approval of the plan required under condition 1 above, the consent holder shall provide evidence to the Team Leader Compliance to show that a conservation covenant pursuant to Section 77 of the Reserves Act, or a Queen Elizabeth II National Trust Open Space Covenant, in respect of the coastal wetland on Lot 2 has been registered on the relevant title at the consent holder's expense. The covenant is to specifically include reference to the weed management plan approved under Condition 1 above. The boundaries of the coastal wetland are to be defined as per the joint ecological statement prepared by M Poynter and N Pullman, dated 18 October 2012.

Such evidence shall include confirmation that the boundaries of the coastal wetland covenant area have been fenced to a standard equivalent to one of the specimen types of rural fence (excluding electric fences) as provided for in the Second Schedule to the Fencing Act 1978.

3. The weed management plan approved as per condition 1 above shall be implemented immediately upon the approval of the plan, and maintained from that point onwards on an on-going basis for a minimum period of 5 years.
4. The consent holder shall, on an annual basis for the 5 year period, submit a monitoring report prepared by a suitably qualified ecologist, reporting on the state of the regenerating bush in those areas identified in the approved weed management plan, to the satisfaction of the Council's Team Leader Compliance or delegated representative. Any recommendations made for ongoing weed control beyond 5 years, to be stated in the report provided at the end of the 5th year, are to be followed and implemented on an on-going basis, unless further advice is received from a suitably qualified ecologist that no such further measures are required.

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

1. Given its non-complying activity status, in order for Council to consider granting consent, the application must pass one of the thresholds under section 104(D) of the Resource Management Act 1991. The two limbs of section 104(D) require Council to assess whether the effects of the proposal will be no more than minor, or whether the proposal will not be contrary to the relevant objectives and policies of the operative Whangarei District Plan. It is considered that the application satisfies each of these limbs and therefore Council can consider granting consent to the proposal.
2. Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to conditions relating to weed management, conservation covenants and consent notices pertaining to maintenance of indigenous

vegetation and design criteria for built development which will mitigate any adverse effects of the activity on the environment.

3. 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.
4. The proposal is generally considered to be consistent with the relevant objectives and policies of the New Zealand Coastal Policy Statement.
5. The development is regarded as achieving the relevant issues, objectives and policies of the Operative and Proposed Regional Policy Statement for Northland.
6. The proposal reflects a density of subdivision that is in keeping with the surrounding density pattern.
7. The receiving environment, subject to weed control and covenanting measures, has sufficient absorbing capability to integrate the effects presented by the application.

11.0 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. Building Consents may be required for retaining structures.
7. 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.

12.0 Attachments

1. Proposed Scheme Plan of Subdivision
2. Plan identifying building platforms
3. Amended Application- received by Whangarei District Council on 4 July 2013
4. Bottom lines for granting consent as presented to the applicant
5. Operative District Planning Environment and Resource Area Maps, and additional property information contained within Whangarei District Council's Geographic Information System.
6. Operative District Plan Rule 38.3.18 Indigenous Vegetation Clearance and Indigenous Wetland Disturbance
7. Operative District Plan Definition of 'Site'
8. A copy of submissions received, including written confirmation of the withdrawal of Mr Stephen Panoho
9. Joint Ecological Statement prepared by Mr M Poynter and Mrs N Pullman
10. Copy of Appendix B of the amended application
11. Council's Senior Environmental Engineering Officer Dean Murphy's report dated 17 January 2012
12. Analysis of the New Zealand Coastal Policy Statement's Objectives and Policies prepared by Mr M Poynter and Mrs N Pullman