



Resource Management Act

Resource Consent Granted by Hearings Commissioner Alan Withy

Application for Subdivision and Associated Activities by Hurupaki Holdings Limited at Three Mile Bush Road, Kamo

Council References: SL2100046 & NRC043180.01.01

Dated 17 June 2022

Application: A residential seventy-three Lot subdivision including: recreation and drainage reserves, roading and servicing, a café, building infringements, earthworks and stormwater, stone-wall relocations, and landscape and ecological rehabilitation and enhancement.

Applicant: Hurupaki Holdings Limited.

Location: 131 and 189 Three Mile Bush Road, Kamo

Hearing: 12 May 2022 by 'Teams' Electronic Communications

RMA Commissioner: Alan Withy

Hearing Administrator: Mary Willson, Team Leader – RMA Support

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1. Hearing Attendees:

Applicant: FM Lupis – Counsel

M Holland – Director of the Applicant Company
M Farrow – Landscape Architect, Littoralis
M Vilde – Ecologist, Rural Design
J Carpenter – Archeologist, Geometria
D Scanlen – Transport Engineer, Engineering Outcomes
A Holland – 3 Waters/Geotechnical Engineer, Land Development &

Engineering

C Nijssen – Surveyor, Blue Wallace Surveyors
M McGrath – Planner, Barker & Associates

S42A Reporting Officer (RO): A Hartstone, Planner, Set Consulting

Advised by:

P Kensington, Landscape Architect, KPLC
P Sugrue, Development Engineer, Council

Submitter:

Ms S Henderson

2. Abbreviations used in this Document:

NRC Northland Regional Council
WDC Whangarei District Council
RMA Resource Management Act 1991
RPS Operative Regional Policy Statement for Northland
RWSP Operative Regional Water and Soil Plan for Northland
PRP Proposed Regional Plan for Northland
WDP Whangarei District Plan
NTA Northland Transport Alliance
KPLC Kensington Planning and Landscape Consultants Limited
JOAL Jointly Owned Access Lot
CEL Critical Electricity Line
NPS-UD National Policy Statement on Urban Development 2020
RO s42A reporting officer

3. The Proposal:

The RO described the Proposal as follows (and the Commissioner accepts it for the purposes of this Report and the Decision – s42A Report, Paragraphs 10 - 16):

10. The Proposal as lodged is described in Section 4 of the application prepared

by Barker and Associates Limited 1st October 2021 ('the application') attached to this report. The application as lodged consisted of 76 residential lots, with roads to vest, six (6) local purpose reserves for drainage and recreation purposes, and JOAL for internal access. A land use consent was included to address bulk and location infringements associated with future buildings located on identified lots within the Rural Production Zone portion of the subdivision. In addition, land use consent is sought for the construction and operation of a café on proposed Lot 22, being located within the General Residential Zone. The application as lodged requested public notification as per Section 95A(3)(a).

11. The subdivision component includes interconnecting walkways running through the proposed reserves and linking to an existing subdivision adjacent to the south of the site ('the James subdivision'). The Waitaua Stream running through the site is to be encompassed by reserve with a walkway extending from the subdivision up the adjacent volcanic cone ('Hurupaki'). Ecological restoration is proposed on the lower southern flank of Hurupaki within the site boundary with the area of restoration to be vested to WDC as Local Purpose (Recreation) Reserve.

12. Earthworks are proposed across various parts of the site. This work is described in the granted NRC consent as being for 'Bulk earthworks and associated diversion and discharge of stormwater during the works over an area of approximately 55,700 square metres (m²). The proposal involves approximately 55,985 cubic metres (m³) of earthworks (33,317 m³ cut and 22,668 m³ fill), with a maximum cut depth of 3 m and a maximum fill height of 4.3 m. Approximately 400 m² of the excavation area will occur within 10 m of the Waitaua Stream to enable the construction of a culvert crossing and stormwater pond outlets.'

13. The proposed café is intended to occupy proposed Lot 22 located on a corner site as illustrated on the subdivision scheme plan. Some preliminary concept plans for the café were provided under cover of the Section 92 response dated 16th November 2021. The advice provided with the plans advises that the proposed café will comply in all respects with the relevant building bulk and location rules, noise, signs, and transport rules.¹

¹ Noting that there are no minimum on-site carparking requirements stated in the District Plan. These have been removed as per Policy 3.38 of the NPS-UD.

14. A summary of the information provided that is considered to form part of the application and supporting information at the time of public notification is set out below (inclusive of the Section 92 responses received):

- a) 'Assessment Of Environmental Effects And Statutory Analysis' prepared by Barker and Associates dated 1st October 2021
- b) Scheme Plan prepared by Blue Wallace Surveyors Limited referenced as 20183-00-PL-102 Rev 1 dated May 2021
- c) Engineering Plans prepared by Blue Wallace Surveyors Limited forming part of Appendix 5 of the application as lodged
- d) 'Integrated Traffic Assessment' prepared by Engineering Outcomes Limited dated 1 October 2021, and subsequent letter in response to Section 92 request dated 11 November 2021 prepared by Engineering Outcomes Limited
- e) 'Three Waters Design Report' prepared by LDE Limited dated 13 September 2021 (updated report)
- f) 'Response to Wastewater RFI' prepared by LDE Limited dated 5th November 2021
- g) 'Geotechnical Investigation Report' prepared by LDE Limited dated 5

November 2021 (updated report)

h) Plan entitled 'Gully Setback' prepared by Blue Wallace Surveyors Limited reference as 20183- 00-PL-103 Rev 1 dated May 2021.

i) 'Assessment Of Landscape and Neighbourhood Amenity Effects' prepared by Littoralis Landscape Architecture Limited dated September 2021, including subsequent Biophysical Analysis provided under cover of email response dated 19th November 2021

j) 'Ecological Assessment Pertaining to A Proposed Subdivision' prepared by Rural Design Limited dated September 2021

k) 'Archaeological Assessment – The James Subdivision' prepared by Geometria Limited dated 8 April 2021

l) 'Neighbourhood Café – Preliminary Concept Idea' prepared by Littoralis Landscape Architecture Limited provided under cover of email response dated 19th November 2021

m) Letter from Northpower Limited dated 4th October 2021 addressing telecommunication and electricity supply requirements.

15. Prior to public notification proceeding, the applicant was advised that KPLCL had reviewed the application, undertaken a site visit, and prepared a memo. That memo recorded concerns following a review of the assessment of rural landscape, character, and amenity effects provided with the proposal. Following the close of notification, the applicant and Council staff agreed to discussions between the respective landscape architects regarding the extent of adverse rural landscape, character and amenity effects. As a result of these discussions, the applicant provided advice and information in support of an amended application under cover of email dated 2nd April 2022. The amended proposal reduced the number of allotments by deleting three lots from the original proposal as notified, and recommended some additional controls associated with buildings in the area zoned Rural Production. A Landscape Concept and Visual Simulation document supporting this amended proposal was provided under cover of email dated 5th April 2022.

16. The proposal that is considered and assessed as part of this report is that illustrated on the amended scheme plan prepared by Blue Wallace Limited referenced as 20183-00-PL-100 Rev. 20 dated 30 March 2022.

4. Site and surroundings:

The RO described the site and surroundings as follows. The Commissioner explained to the parties that he is familiar with the site and vicinity from previous involvements. It was accepted by all that no specific site visit was required in the circumstances. Accordingly, the Commissioner accepts the below description for the purposes of this Report and the Decision – as the RO did for his analysis - s42A Report, Paragraph 22:

Section 3.3 of the application provides a description of the surrounding locality. A more detailed description of the existing environment is provided in the 'Assessment Of Landscape And Neighbourhood Amenity Effects' report prepared by Littoralis Landscape Architecture as Appendix 10 of the application. Sections B and C of that Assessment detail the landscape context and application site features. That description is accepted and adopted for the purpose of this report.

5. Notification and hearing:

The RO described the notification and submissions process as follows (Paras 23-27):

- a) The application as lodged requested public notification and ... *“Following receipt of all information sought by way of the Section 92 request, the application was subject to joint notification between the WDC and NRC, with WDC as lead agency. Public notification commenced on the 10th December 2021 and closed on the 1st February 2022.”*
- b) He provided a table in Para 24 which summarises the submissions received and accepted within the submission period. It indicates the names, relief sought and whether they wish to be heard. He said: *“... Several submissions were struck out pursuant to Section 41D and two late submissions were received and accepted. A decision on these submissions was determined and signed by the Commissioner on 17 March 2022.”*
- c) The submissions included several signed by Ms S Henderson, who was the only submitter that attended the hearing. Other submissions were received from: Fire and Emergency NZ, WDC Parks and Recreation and Waste and Drainage Departments, and the Ministry of Education. All have been considered during analysis of all the submissions and evidence received.
- d) He provided full copies of all submissions and advised none of the ... *“... submissions received have any technical information or reports attached.”*
- e) He summarised in Para 26 the issues raised in the submissions as follows:
 - *Traffic effects on Three Mile Bush Road, including associated safety and amenity concerns*
 - *Heritage and cultural effects regarding removal and relocation of the stonewalls*
 - *Maintaining integrity of Hurupaki mountain and effects on Hurupaki as sacred site to tangata whenua*
 - *Loss of free-draining volcanic soils as productive soil resource*
 - *Proposed café generating adverse effects in residential area*
 - *Effects associated with construction activities on surrounding properties and the Hurupaki School*
 - *Provision of adequate water supply for firefighting and access for fire appliances*

The Hearing was conducted on 12 May 2022 by TEAMS electronic communications. There was no objection raised to use of this medium and the Commissioner was able to hear and consider all submissions and evidence the parties offered.

At the conclusion of proceedings on that day, the Hearing was adjourned, and a timetable agreed for a written Right-of-Reply on behalf of the Applicant, consideration and issuing a “decision in principle” from the Commissioner. In the event of an indication

of consent in principle it was agreed that a suite of conditions would be presented by the RO in consultation with Ms McGrath the planner called by the Applicant.

That timetable was followed, and the Commissioner formally closed the Hearing on Monday 13 June 2022, after having indicated he proposed to consent the Proposal. He indicated a final decision would be issued within 15 working days – ie by Friday 1 July 2022.

6. Statutory provisions:

The RO set out the statutory framework for consideration of the proposal in Paras 28-30. He described a detailed analysis of the effects on the environment and relevant provisions of plans. The Commissioner notes that Ms McGrath (planner called by the Applicant) generally agrees with that analysis, and he adopts it for the purposes of his own analysis.

In summary, reference to the following sections of the Act are required: 104, 104D, 106, 108, 108AA and Part 2. Section 104 provides the framework for decision-making and 104D the provisions for non-complying activities; it was common ground that the Proposal constitutes a non-complying activity. Section 106 provides grounds for refusing consent and the Commissioner is satisfied those grounds do not apply to this Proposal. Section 108 authorises conditions to be imposed on consent.

All the above is subject to reference to Part 2 of the Act. However, Counsel and both planners agreed the Proposal could be assessed without recourse to Part 2. The RO after considering the matter put it this way ... *“No assessment of the Part 2 provisions is therefore required.”*

Particular reference is necessary in the circumstances to Section 104(1)(c), which allows the decision-maker to consider any relevant and reasonably necessary matters in order to determine the application. Two such relevant matters were identified by the RO in Paragraphs 112-117: ... *“precedent effects associated with a non-complying activity”,* and *“consideration of activities as part of the receiving environment that may be subject to consent and therefore do not fall strictly within the permitted baseline assessment.”*

The Commissioner accepts those two matters as relevant and adds another: *“the relevant environmental, ecological and financial costs and benefits of granting or on the other hand declining consent”*.

The RO opined in Paragraph 113 that: ... *“Case law has established that the precedent of granting resource consent is a relevant factor for a consent authority in considering whether to grant non-complying resource consent ...”* ... and the consideration turns on ... *“how likely it is that the granted subdivision can be replicated and what the implications of such replication may be.”*

The Commissioner now considers the Proposal in terms of the above framework and concludes that it passes the *“gateway test”*, and on balance is worthy of consent.

7. Actual and potential effects on the environment:

The RO indicated in his Paragraphs 80-85 (Conclusion regarding Environmental Effects) that after careful consideration ... *“... the portion of the development within the General Residential Zone, inclusive of the proposed café, will generate minor adverse effects, subject to suitable conditions of consent, and is the type of development generally anticipated by the WDP provisions. ... However, the extent of effects associated with the proposed residential development in the Rural Production Zone is considered to be difficult to quantify. The application proposes a net environment benefit, balancing ecological benefits against adverse landscape, rural character, and amenity effects. There is no exact science to be applied to place values or weighting on these components. It is a matter of professional assessment and judgement as to what the relative weighting should be and ultimately what is an appropriate level of effects. ... Based on the advice from KPLCL, it is considered that a net environmental benefit as defined in the WDP above cannot be achieved. The adverse rural landscape, character and amenity effects resulting from a residential scale development within the Rural Production Zone in this location will result in more than minor adverse effects. The proposed benefits identified in the application are not sufficient to achieve any net environmental benefit.”*

The Commissioner considers the RO analysis and his above conclusion that the Proposal has more than minor effects, is dependent upon:

- a) the present zonings applying to the land, and
- b) the Landscape Architect opinion.

Ms McGrath (planner for the Applicant) opined in Paragraphs 7.51 and 9.5: ... *“Overall, I consider, any actual and potential adverse effects on the environment are no more than minor and are acceptable. ... the evidence demonstrates that the effects of the Proposal, including Proposed Consent Conditions, to avoid, remedy and mitigate adverse effects, will be no more than minor.”*

On balance the Commissioner prefers the analysis of Ms McGrath to that of the RO whose analysis depends heavily on the present zoning and evidence of Mr Kensington. In answer to questions Mr Kensington properly made considerable concessions regarding landscape and ecological effects in answers to questions. He appeared to base his evidence-in-chief squarely within the present zoning provisions whereas the Commissioner considers a more holistic and less technical approach appropriate.

After hearing and pondering the evidence of the landscape architects and planners for the Applicant and Council; and particularly their answers to questions; and taking into account the likely future zoning of the land; it is concluded a wider assessment than lead Mr Hartstone to his conclusions is appropriate. That leads to a conclusion when taking a wide view, that the environmental effects of the Proposal will be minor or less. That inevitably leads to a conclusion that the first limb of Section 104D(1)(a) is satisfied and opens the *“gateway test”* for the Proposal.

8. Relevant policy statements and plans:

The RO analysed the Proposal against the various relevant provisions of the appropriate planning instruments. He concluded in summary in Paragraphs 110-111 that: ... *“the portion of development proposed within the General Residential Zone is generally anticipated by the relevant planning provisions ...”* However he opined that ... *“Careful consideration has been given to the relevant provisions as they relate to the portion of the proposed residential subdivision within the Rural Production Zone. ... the proposal is considered to be directly contrary to the objectives and policies contained in the Subdivision and Rural Production Zone Chapters of the District Plan.”*

Ms McGrath on the other hand (a planner with considerable experience working in the past for Council including on zoning in the vicinity of the Proposal) opined that: ... *“... the objectives and policies in the PDP/ODP have been assessed in detail in the AEE92 ... analysis confirms that the Proposal is not contrary to the objectives and policies of the relevant plans, being the ODP and the PDP and is consistent with: ... the purpose and intent of the GRZ to accommodate a variety of residential activities; and ... the objectives and policies of the relevant Overlay Chapters. ...”*

She also correctly pointed out that ... *“... the Proposal does not need to be supported by the objectives and policies or be entirely consistent with them. The issue is whether the Proposal is contrary to the objectives and policies, which indicates that it is different to or opposite to what the objectives and policies are seeking. ... In my opinion the Proposal will not be contrary to the objectives and policies. I have comprehensively and holistically considered the RPROZ objectives and policies, with respect to the Site and Proposal. The RPROZ objectives and policies seek to protect and enhance significant ecology, biodiversity, landscapes and historic heritage in addition to maintaining and where appropriate protecting rural character and amenity and providing for rural production. The sole purpose of those objectives and policies is not to avoid residential development and I consider that the s42A Report has adopted an unduly narrow interpretation of the RPROZ. ... When considering this particular Site in the RPROZ, taking into the specific characteristics of the Site and surrounding environment these do not lend themselves to typical RPROZ outcomes and characteristics. Instead, I consider the most appropriate way to implement the RPROZ is to respond to and be consistent with the policies in the zone which seek to emphasise ecological and landscape enhancement and protection.”*

Faced with contrasting evidence from two highly experienced planners with previous employment in senior positions with Council, the Commissioner must make a call. He chooses after careful consideration in the circumstances to prefer the evidence of Ms McGrath over that of Mr Hartstone. That leads to a conclusion that the second limb of s104D(1)(b) is satisfied and also opens the “gateway test” for the Proposal.

9. Other matters:

Section 104(1)(c) allows the decision-maker to consider any *“other relevant and reasonably necessary matters”* in order to determine the application. The RO identified in Paragraph 112 two matters for consideration under this Section. The *“precedent effects associated with a non-complying activity”* and *“consideration of activities as part of the receiving environment that may be subject to consent and therefore do not fall*

strictly within the permitted baseline assessment”.

The RO opined in Paragraph 113 that ... *“Case law has established that the precedent of granting resource consent is a relevant factor for a consent authority in considering whether to grant non-complying resource consent. A precedent effect is likely to arise in situations where consent is granted to a non-complying activity that lacks any evident unique, unusual or distinguishing qualities that serve to take the application outside of the generality of cases or similar sites in the vicinity. In stating this, careful consideration is required in determining whether any precedent effect may arise from the granting of consent. Any potential effect must be significant enough to be unacceptable in order to justify declining any application. That turns on how likely it is that the granted subdivision can be replicated and what the implications of such replication may be.”*

He quotes in his Paragraph 114, Section 12.1 of the Application: ... *“It is considered that the distinguishing feature that could be adopted to set aside such a precedent effect would be a complying net environmental benefit proposal.”* However in Paragraph 115 he says: *“... the proposal does not achieve a net environmental benefit as defined in the WDP, and is a form of urban development to be avoided in the Rural Production Zone. To grant consent to the proposal could ...”* result in *“... granting of future consents for development of an urban form in the Rural Production Zone, where positive ecological effects are provided for but a net environmental benefit as defined in the WDP is not met.”*

The RO further discusses other matters in Paragraphs 116 and 117 and concedes: *“... the land immediately west of the site is zoned Future Urban and Low Density Residential Zone. Notably, the Low Density Residential Zone abuts the area of the site within the Rural Production Zone. Development of this land in accordance with the District Plan, albeit not as a permitted activity, could result in a level of built development that has some effect on the receiving environment. Subdivision in the Low Density Residential Zone requires a minimum lot size of 2000m² as a controlled activity, while subdivision in the Future Urban Zone may result in minimum 1ha lot sizes, although could conceivably result in 500m² residential lots where connection to reticulated services are or become available. It is therefore reasonable to expect that future development in this location will likely reflect a more rural residential or potentially residential character, with associated built form, access, and services. The potential nature of such development is considered to be a relevant and reasonably necessary matter to consider when assessing the receiving environment.”*

The Commissioner considers on the basis of this and all the other evidence that such dangers as described are outweighed by the fact that the Proposal passes the “gateway tests” and should lead to better outcomes than would result from refusing consent. This is in light of a consideration of the environmental and ecological benefits of offered by the Proposal and the financial implications of them and the alternatives.

10. Consideration:

The Commissioner has arrived at a position that the Proposal meets at least one and probably two of the “gateway tests” required by Section 104D(1) (a) and (b). That is

supported by the evidence of Ms McGrath and is in spite of the erudite arguments of the RO supported by the evidence of Mr Kensington.

As an aside the Commissioner speculates that the RO may have reached a different conclusion if Mr Kensington had felt free to assess the landscape and ecological issues without being constrained by reference to the provisions of the planning instruments.

In any event the Proposal is considered to be worthy of consent for the reasons given above. This is primarily because of the conclusions that:

- (a) the effects of the Proposal are likely to be minor or less; and
- (b) it is not directly contrary to the provisions of the District Plan; and
- (c) the other matters allowed by s104D(c) provide a platform for consent; and
- (d) consent is likely to allow good development and environment outcomes; and
- (e) if consent were denied less acceptable outcomes would likely eventuate.

11. Conditions:

The RO has developed a suite of conditions in consultation with Ms McGrath the planner for the Applicant. Both planners are agreed except as below. Ms McGrath said:

"I accept the attached version of conditions of consent and agree to all conditions apart from subdivision condition 2bi bullet point two:

- *Road 1 long-section and layout 20183-00-RC-301 revision 2 dated July 2021, including replacement and upgrading to minimum of 1.8m width of the existing footpath on the southern side of Three Mile Bush Road, and the construction of a new footpath to a minimum width of 1.8m width from the proposed development entrance of Hurupaki Holdings eastward to the entrance of The James development.*

I recommend that the condition read as follows:

- *Road 1 long-section and layout 20183-00-RC-301 revision 2 dated July 2021.*

Reasons for this recommendation have been detailed in the hearing evidence, particularly that of Mr Scanlen and addressed in section 5 of the Reply submissions of Counsel on behalf of Hurupaki Holdings Limited."

The Commissioner has considered the differing positions of the two planners and concludes:

- a) the footpath connection to the James development on the same side of Three Mile Bush Road is a reasonable condition for the Proposal; but
- b) a requirement for construction of a footpath on the opposite (southern) side of Three Mile Bush Road is not a reasonable condition on the Proposal which is entirely on the northern side of that road.

The following decision and conditions below reflect that determination.

12: DECISION:

Pursuant to Sections 104, 104D, 106,108 and 108AA of the Resource Management Act Commissioner Alan Withy grants consent under delegated authority from the Whangarei District Council, for a residential seventy-three lot subdivision including: recreation and drainage reserves, roading and servicing, a café, building infringements, earthworks and stormwater, stone-wall relocations, and landscape and ecological rehabilitation and enhancement (referenced SL2100046) subject to the following conditions:

LAND USE CONSENT – Proposed Cafe

Under s 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. This resource consent shall be carried out in general accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the Council as resource consent number SL2100046:
2. Application Form and Assessment of Environmental Effects prepared by Barker and Associates dated 1 October 2021 Revision 1; and,
3. Section 92 Further Information Response prepared by Barkers and Associates dated 10 November 2021, including plans prepared by Felicity Christian Architect and Littoralis referenced 1304 entitled 'Neighbourhood Café – Preliminary Concept Ideas'.
4. The Food and Beverage Activity shall be established within Lot 22 as approved under the subdivision consent forming part of this decision.
5. As offered by the consent holder, the proposed building and associated café activity shall comply with the following permitted activity rules of the Proposed District Plan (appeals version as at the date of this decision) unless separate resource consent approval is obtained:
 - a. GRZ-R3 Building and Major Structure Height;
 - b. GRZ-R4 Building and Major Structure Setbacks;
 - c. GRZ-R5 Building and Major Structure Height in Relation to Boundary;
 - d. GRZ-R7 Impervious Areas;

- e. GRZ-R8 Building and Major Structure Coverage;
 - f. GRZ-R18 Food and Beverage Activity rules .3, .4, 8 and 9;
 - g. NAV.6.1. Noise Arising from Activities within Environments (GRZ noise limits); and
 - h. SIGN-R3 Any Sign in Residential Zone.
6. Confirmation of compliance with the rules identified under Condition 5. above shall be provided at the time of lodgement of any building consent for the building that will house the café activity.

Note: Any consent holder may be required to illustrate compliance with the NAV.6.1 operational noise limits and Clauses 3, 4, 8, and 9 of Rule GRZ-R18 once the café activity is operational. Any costs of illustrating whether the café operation complies shall be borne by the consent holder.

7. At the time of lodging a building consent for the construction of the building on Lot 22 to accommodate the café activity, the consent holder shall provide to the Council's Manager RMA Consents or delegated representative, a landscaping plan prepared by a suitably qualified and experienced landscape architect for certification. That plan shall include the following (as a minimum):
- a) Identification of all on-site parking located at least 2m from the adjacent legal road boundary.
 - b) Any boundary treatment such as timber fencing to reduce or minimise noise nuisance on neighbouring residential properties.
 - c) Vegetative screening to minimise visual or privacy effects on adjacent properties.
 - d) Location and design of any outdoor lighting.
 - e) Location and design of any signage (either freestanding or located on the proposed building).
8. Prior to the opening and operation of the café, the consent holder shall provide written evidence from a suitably qualified and experience landscape architect to confirm that all works identified on the certified plan have been completed. All works on the certified plan following completion are to be maintained by the consent holder.

Note: This land use consent cannot be given effect to until such time as a record of title has been issued for Lot 22 as part of the subdivision consent below.

LANDUSE CONSENT – Future Buildings on Lots 48 – 73

Under s 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. Any buildings constructed on Lots 48 – 73 shall comply with the following standards:
 - a) All building and major structures are setback at least 1.5m from any side boundary and 3m from any road boundary.
 - b) The impervious area within the site does not exceed 60% of the net site area and the impervious area is set back at least 5m from Mean High Water Springs and the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).

Note:

- *These conditions are imposed on the basis that all other rules within the Rural Production Zone apply to development on part of or all of each Lot.*
- *This land use consent is to be read in conjunction with the subdivision consent below and is deemed to be given effect to on depositing of the subdivision survey plan or plans that create Lots 48 – 73.*

LANDUSE CONSENT - Stonewall Removal and Relocation

Under s 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. The proposed stonewall removal and replacement shall be undertaken and located in accordance with the recommendations set out in the archaeological assessment prepared by Geometria dated 8 April 2021 and shall relate to the stonewalls as identified on the plan prepared by Blue Wallace Limited referenced as 20183-01-RC-203 Rev 2 dated 31 March 2022.
2. Prior to any works being undertaken on any existing stonewall on the site, the consent holder shall provide the following to the Council's Manager RMA Consents or delegated representative:
 - a) Provide evidence that an Authority has been obtained from Heritage New Zealand Pouhere Taonga for all proposed works
 - b) The name of an experienced stone mason who shall be undertaking all works

3. All existing stonewall rock shall remain onsite and be reused in the stonewall construction.
4. Where, during earthworks on the site, any archaeological feature, artefact or human remains are accidentally discovered or are suspected to have been discovered, the following protocol shall be followed:
 - a) All works within 20m of the discovery site will cease immediately. The contractor/works supervisor shall shut down all equipment and activity.
 - b) The area shall be secured and the consent holder or proponent and the Council must be advised of the discovery.
 - c) Heritage New Zealand Pouhere Taonga shall be notified by the consent holder or proponent so that the appropriate consent procedure can be initiated.
 - d) The consent holder or proponent shall consult with a representative of the appropriate iwi to determine what further actions are appropriate to safeguard the site and its contents.
5. In the case where human remains have accidentally been discovered or are suspected to have been discovered, the following will also be required:
 - a) The area shall be immediately secured by the contractor in a way which ensure human remains are not further disturbed. The consent holder or proponent shall be advised of the steps taken.
 - b) The Police shall be notified of the suspected human remains as soon as practicably possible after the remains have been disturbed. The consent holder or proponent shall notify the appropriate iwi and Heritage New Zealand Pouhere Taonga and the Council within 12 hours of the suspected human remains being disturbed, or otherwise as soon as practically possible.
 - c) Excavation of the site shall not resume until the Police, Heritage New Zealand Pouhere Taonga and the relevant iwi have each given the necessary approvals for excavation to proceed.

Note: If any land use activity (such as earthworks, fencing or landscaping is likely to modify, damage or destroy any archaeological site (whether recorded or unrecorded) an "authority" consent from Heritage New Zealand Pouhere Taonga must also be obtained for the work to lawfully proceed.

LANDUSE CONSENT – Earthworks

Under s 108 and 108AA of the RMA, this consent is subject to the following conditions:

1. All earthworks to be undertaken on the site shall be carried out in general accordance with the information provided with the application and Assessment of Effects prepared by Barker and Associates dated 1st October 2021, and the plans prepared by Blue Wallace Limited referenced as 20183-01-EN-201 Rev 1 and 20183-01-EN-202 Rev 2, both plans dated 10th May 2022.

2. Prepare and provide a Construction Management Plan in accordance with Section 1.9 of the Council's Environmental Engineering Standards 2010 ('EES 2010') for certification by the Councils Team Leader RMA Approvals and Compliance or delegated representative. In addition to the matters listed under Section 1.9 of the EES 2010, the following matters are to be specifically addressed:
 - a) Heavy construction vehicles will avoid travelling along Three Mile Bush Road during school pick-up and drop-off times (between 8-9am and 3-4pm) during term time.
 - b) Details of how truck drivers will be briefed on the importance of slowing down and adhering to established speed limits when driving past Hurupaki School, and to look out for school children and reversing vehicles at all times.
 - c) The contact details of the Site Manager will be provided to Hurupaki School prior to the commencement of any earthworks to allow the school to raise any safety concerns with the site manager for the duration of the activity.

3. The consent holder shall notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Council's Development Engineer and include the following details:
 - a) Name and telephone number of the project manager/ CPEng.
 - b) Site address to which the consent relates.
 - c) Activities to which the consent relates.
 - d) Expected duration of works.

4. No works are to commence until the Construction Management Plan required under Condition 2. above has been certified, and all work shall be carried out in accordance with the Construction Management Plan certified in condition 2 above.

5. At least 10 working days prior to commencement of earthworks, the consent holder shall invite in writing, and provide the opportunity for, Mana Whenua to perform site blessings, karakia and cultural inductions. The consent holder shall provide written evidence to the Council's Manager RMA Consents or delegated representative to illustrate that an invitation has been made.

Note:

- *The consent holder shall comply with all conditions specified in the Northland Regional Council consent for earthworks.*
- *The consent holder can commence bulk earthworks on the site in accordance with this land use consent prior to compliance with conditions of the subdivision consent below. However, approval of the Construction Management Plan is not to be read as approval of any engineering plans required under the subdivision consent conditions. The Council will not be liable for any earthworks undertaken by the consent holder that requires redesign and/or (re)consenting to accommodate engineering works approved as part of the subdivision consent.*

SUBDIVISION CONSENT

Under ss 108, 108AA and 220 of the RMA, this consent is subject to the following conditions:

1. This resource consent shall be carried out in general accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the Council as resource consent number SL2100046, unless a condition of consent specifies otherwise:
 - a) Application Form and Assessment of Environmental Effects prepared by Barker and Associates dated 1 October 2021 Revision 1;
 - b) Section 92 Further Information Responses prepared by Barkers and Associates, including:

19 October 2021

 - Gully Setback prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-103; and
 - Scheme Plan showing boundary extents prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-102 revision 20 dated May 2021.

- 10 November 2021
- Stream Crossing Plan, prepared by LDE, reference 18733-C01 revision 1 dated 26 October 2021;
- Geotechnical Investigation Report prepared by LDE, reference 18733 Revision A Response to S92 amendments dated 5 November 2021;
- Three Waters Design Report prepared by LDE, reference 18733 dated 13 September 2021 and RFI responses for stormwater prepared by LDE dated 4 November 2021;
- Response to Wastewater RFI prepared by LDE dated 5 November 2021;

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- Response to the transport related items, prepared by Engineering Outcomes dated 11 November 2021;
 - Biophysical analysis Hurupaki Heights, prepared by Littoralis; and
 - Cross sections of proposed walking track Hurupaki Heights prepared by Littoralis.
- c) Scheme Plan prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-100 revision 20 dated May 2021;
- d) Scheme Plan showing boundary extents prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-100 revision 18 dated May 2021.
- e) Engineering Plans prepared by Blue Wallace Surveyors Limited:
- Existing site reference 20183-00-EN-200 revision 1 dated May 2021;
 - Design contours site reference 20183-00-EN-201 revision 1 dated May 2021;
 - Cut/fill reference 20183-00-EN-202 revision 1 dated May 2021;
 - Erosion and sediment control 20183-00-EN-250 revision Draft dated September 2021;
 - Roading overall layout 20183-00-RC-300 revision 2 dated July 2021;
 - Road 1 long-section and layout 20183-00-RC-301 revision 2 dated July 2021;
 - Road 2 long-section and layout 20183-00-RC-302, 303 and 304 revision 2 dated July 2021;
 - Road 3 long-section and layout 20183-00-RC-305 and 306 revision 2 dated July 2021;

- Access lot 302 long-section and layout 20183-00-RC-307 revision 2 dated July 2021;
 - Turing circles 20183-00-RC-308 revision 2 dated July 2021;
 - Roading typical cross sections 20183-00-EN-350, 351, 352, 353, 354, 355, 356, 357, 358, 359 and 360 revision 4 dated April 2022;
 - Sanitary sewer 20183-00-RC-400 and 401 revision 2 dated May 2021;
 - Stormwater plans 20183-00-RC-500 and 501 revision 2 dated May 2021;
 - Water reticulation 20183-00-RC-600, 601, 602 and 603 revision 2 dated May 2021;
 - Combined services 20183-00-RC- 700, 701, 702 and 703 revision 2 dated May 2021; and
 - Lighting and planting plan 20183-00-EN – 801 revision 2 dated May 2021.
- f) Integrated Traffic Assessment prepared by Engineering Outcomes Ltd dated 1 October 2021;
- g) Three Waters Design Report reference 18733 prepared by LDE dated 24 August 2021;
- h) Geotechnical Investigation referenced 18733 prepared by LDE dated 24 June 2021;
- i) Assessment of Landscape and Neighbourhood Amenity Effects prepared by Littoralis dated September 2021;
- j) Ecological Assessment Pertaining to Proposed Subdivision prepared by Rural Design dated September 2021; and
- k) Archaeological Assessment prepared by Geometria Limited dated 8 April 2021.
2. That before the survey plan is certified pursuant to s 223 of the RMA, the following requirements are to be satisfied:
- a) The survey plan submitted for approval shall be in general accordance with the Scheme Plan prepared by Blue Wallace Surveyors Limited, entitled “Scheme Plan, Proposed Subdivision of Lots 2 & 3 DP 99045” reference as 20183-00-PL-100 Rev. 20 dated 30 March 2022 as attached to this consent. The survey plan submitted shall show:
- i. Lot 100 as road to vest to Whangārei District Council;

- ii. Lots 200 - 204 as drainage reserve to vest to Whangārei District Council;
- iii. Lot 205 as recreation reserve to vest to Whangārei District Council;
- iv. Lot 300 (Legal Access) is to be held as three undivided one-third shares by the owners of Lots 12 - 14, and individual Records of Title are to be issued in accordance therewith (See LINZ Request 1753110);
- v. Lot 301 (Legal Access) is to be held as three undivided one-third shares by the owners of Lots 33, 36 & 37, and individual Records of Title are to be issued in accordance therewith (See LINZ Request 1753110);
- vi. Lot 302 (Legal Access) is to be held as nine undivided one-ninth shares by the owners of Lots 65 - 71, and individual Records of Title are to be issued in accordance therewith. (See LINZ Request 1753110);
- vii. All easements required for existing and proposed internal servicing, access, and any stormwater overland flow paths affected by the development to the approval of the Council's Development Engineer or delegated representative.

General Engineering

- b) The consent holder must submit a detailed set of engineering plans prepared in accordance with Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Council's Development Engineer for approval.

It is to be noted that certain designs may only be carried out by Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies. All work needing design/certification by a Council approved CPEng will require completion of a producer statement (design) (EES-PS1 or similar).

The Consent holder is to submit all documentation as required by Council "Quality Assurance/Quality Control Manual – Vested Assets". This will include nomination of an CPEng and an "Inspection and Test Plan" for approval by the Council's Development Engineer before any works commence.

Plans are to include but are not limited to:

- i. Design details of the construction of road to vest (Lot 100) in general accordance with:

- Roding overall layout 20183-00-RC-300 revision 2 dated July 2021;
 - Road 1 long-section and layout 20183-00-RC-301 revision 2 dated July 2021, plus the construction of a new footpath to a minimum width of 1.8m width from the proposed development entrance of Hurupaki Holdings eastward to the entrance of The James development.
 - Road 2 long-section and layout 20183-00-RC-302, 303 and 304 revision 2 dated July 2021;
 - Road 3 long-section and layout 20183-00-RC-305 and 306 revision 2 dated July 2021, inclusive of stream crossings over the Waitaua Stream shall be completed in accordance with Whangārei District Council and Northland Regional Council Environmental Engineering Standards, New Zealand Fish Passage Guidelines; and Stream Crossing Plan, prepared by LED, dated 28 October 2021 reference C01 revision 01; to ensure that fish passage on site is maintained and unimpeded fish passage is provided throughout the Site as per best practice described under New Zealand Fish Passage Guidelines (NIWA 2018) as detailed in the Stream Crossing Plan;
 - Turing circles 20183-00-RC-308 revision 2 dated July 2021; and
 - Roding typical cross sections 20183-00-EN-350, 351, 352 and 353 revision 1 dated July 2021.
- ii. Design details of the construction of access lots 300 and 301 in accordance with District Plan Appendix 2 – Table TRA 9, and access lot 302 in general accordance with the Roding overall layout 20183-00-RC-300 revision 2 dated July 2021 and long-section and layout plan 20183-00-RC-307 revision 2 dated July 2021.
- iii. Design details of the new intersection with Three Mile Bush Road in general accordance with:
- Figure 2 of the Integrated Transport Assessment by Engineering Outcomes Ltd; and
 - Road 1 long-section and layout plan 20183-00-RC-301 revision 2 dated July 2021.
- iv. Design details of vehicle crossings for lots 1, 6, 12 – 14, 16, 17, 32, 34, 36, 37, 42, 43, 47 – 49, 60 – 62, 64 and 75 in general accordance with Scheme Plan

prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-100 revision 18 dated May 2021.

- v. Design details of connection and reticulation of sanitary sewer, stormwater and water services in general accordance with:
- Sanitary sewer 20183-00-RC-400 and 401 revision 2 dated May 2021;
 - Stormwater plans 20183-00-RC-500 and 501 revision 2 dated May 2021;
 - Water reticulation 20183-00-RC-600, 601, 602 and 603 revision 2 dated May 2021;
 - Combined services 20183-00-RC- 700, 701, 702 and 703 revision 2 dated May 2021.
- vi. Design details of a common stormwater treatment/attenuation pond systems within proposed Lots 200, 202, & 204 prepared in general accordance with Land Development & Exploration Ltd (LDE Ltd) “Three Waters Design Report” reference 18733 dated 13 September 2022, plus all other additional information and plans, inclusive of all calculations, provided in support of the proposal.

Operation and maintenance manuals shall be provided with the attenuation pond designs.

Suitable vehicle access is to be provided for the maintenance of attenuation ponds, noting that access to Lot 204 is currently formed and legally provided via Lot 201 DP 561757.

Note:

- *Any stormwater discharges across Public Reserve will require specific approval in writing from the controlling authority prior to submission of engineering plans.*
 - *The pedestrian access through Lot 205 is to be designed in a way that ensures that it is not subject to any inundation associated with stormwater management on Lot 204.*
- vii. Design details of street lighting and planting in general accordance with plan 20183-00-EN – 801 revision 2 dated May 2021.

- viii. Design details of all retaining walls in general accordance with the Cut and Fill Plan reference 20183-00-EN-202 revision 27 dated January 2022 undertaken in general accordance with the LDE Geotechnical Investigation dated 24 June 2021.
- c) The consent holder shall provide written confirmation from the telecommunications and power utility service operator of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Council's Post Approval Officer or delegated representative.
- d) The consent holder must provide Council with three proposed street/road/access names in writing for the proposed road to vest (Lot 100) and private road (Lot 302) in accordance with Council's Road Naming Policy, and in order of preference, giving reasons for each proposed name, for approval by Council. A clear plan detailing the route of the proposed street/road/access should also be submitted and any evidence of consultation relating to the proposed names.

Note:

Please refer to the road naming policy and guidelines available on Council's website

<http://www.wdc.govt.nz/PlansPoliciesandBylaws/Policies/Pages/Road-Naming-Policy.aspx>. This condition will not be deemed to be satisfied unless Council has approved the submitted names in writing.

- e) The consent holder shall provide certification that the reticulated water supply to all lots will achieve sufficient pressure/flow to comply with the firefighting water supply requirements of SNZ/PAS4509:2008 or that an easement in gross has been provided over Lot 58 to the Fire Emergency New Zealand to provide on-going rights to access a suitable water supply to be provided on that lot.

Note: The consent holder and FENZ have agreed that an easement in gross over Lot 58 for the purpose of additional water supply for firefighting can be provided as an interim measure to meet the supply requirements of SNZ/PAS4509:2008. This is only required where the Council has not completed additional water supply capacity works to achieve sufficient pressure/flow to service the development.

Ecological Restoration Works, Landscape Works, and Landscaping

- f) A detailed Landscape Integration and Ecological Restoration Strategy is to be prepared by a suitably qualified Landscape Architect and suitably qualified Ecologist for certification by the Council's Manager RMA Consents or delegated representative. The Strategy shall be for the purposed restoration and enhancement of the Waitaua Stream Corridor Enhancement Area and the Hurupaki Cone Enhancement Area and landscape improvement of proposed reserves (lots 200 – 205). The Strategy shall be generally in accordance with the Assessment of Landscape and Neighbourhood Amenity Effects prepared by Littoralis dated September 2021 and Ecological Assessment Pertaining to Proposed Subdivision prepared by Rural Design dated September 2021. Certification of the Landscape Integration and Ecological Restoration Strategy shall be on the basis that the following information at a minimum being provided:
- i. Detailed plans for integration and rehabilitation of Lot 205 recreation reserve to vest, including at least:
 - playground design;
 - planting plan for the Hurupaki Cone Enhancement Area;
 - public walking tracks to meet SNZ HB 8630:2004 'Tracks and Outdoor Visitor Structures'; and
 - planting plan for the Waitaua Stream Corridor Enhancement Area where it crosses Lot 205
 - ii. Detailed plans for remediation and planting of Lots 203 and 204 drainage reserve to vest, including at least:
 - planting plan for the Waitaua Stream Corridor Enhancement Area;
 - integration of the stonewall; and
 - public walking tracks to meet SNZ HB 8630:2004 'Tracks and Outdoor Visitor Structures'.
 - iii. Details of landscape design and planting within Lots 200 - 202, including integration of the stonewall and planting around the stormwater pond.

- iv. Planting plan/s shall schedule all species involved, their numbers, grades and the centres at which they are to be installed. Planting shall be configured with a goal of achieving 90% canopy closure within three years for all landscape planting areas and within five years for the Waitaua Stream Corridor and Hurupaki Cone Enhancement Areas.
 - v. Any/all proposed signage to be located on reserves to vest for the purpose of education within the Ecological Enhancement Areas, and for dog control.
 - vi. An Ecological Pest and Weed Control Management Plan (EPWCMP) The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall be for the purpose of achieving the recommendations of the Ecological Assessment Pertaining to Proposed Subdivision prepared by Rural Design dated September 2021. The EPWCMP shall specify the pest and weed control required as part of the establishment of the landscape and ecological rehabilitation measures, as well as the on-going replacement planting and weed and pest controls following establishment works (to be given effect to post s224(c) certification).
 - vii. A monitoring programme of protection and ongoing maintenance being no less than five years from establishment including details on weed control, cultivation, control of plant pests and diseases, inspection of plants for losses and replacement planting during the planting season, removal of litter, checking of stakes and ties, trimming, pruning, topping up mulch as it may have been applied to amenity planting areas and other works required to ensure plantings maintain healthy growth and form.
3. Before a certificate is issued pursuant to s 224(c) of the RMA the following requirements are to have been satisfied:

General Engineering

- a) Where required, and not already addressed by the Construction Management Plan required under the land use consent for earthworks, the consent holder is to submit a Corridor Access Request application to Council's Road Corridor Co-ordinator and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the

satisfaction of the Development Engineer or delegated representative (refer to the advisory clause below for the definition of a Corridor Access Request).

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

- c) A pre-start meeting is required to be undertaken with the consent holder's representative, contractor(s) and all other CPEng's or agents for consent holder and the Council's Development Engineer prior to any works approved under Condition 2 b) being undertaken on the site to the satisfaction of the Council's Development Engineer or delegated representative.

- d) All work on the approved engineering plans in condition 2 b) is to be carried out to the approval of the Council's Development Engineer. Compliance with this condition shall be determined by site inspections undertaken as agreed in Council's engineering plan approval letter/ Inspection and Test Plan, and provision of the following:
 - i. Results of all testing, video inspection records of all wastewater and stormwater reticulation, PE pipeline pressure testing and weld data logging results.
 - ii. PS4 and approval of supporting documentation provided by the consent holder's representative/s including evidence of inspections by those persons, and all other test certificates and statements required to confirm compliance of the works as required by Council's QA/QC Manual and the Council's Environmental Engineering Standards 2010.
 - iii. PS3 "Certificate of Completion of Development Works" from the Contractor.
 - iv. Code of Compliance Certification under the Building Act for all retaining walls.

- e) In conjunction with Condition 3 d) above, the consent holder shall provide water pressure testing and certification to confirm whether the minimum 300kPa is available at all proposed lot connections for reticulated water supply. Where testing and certification confirms that minimum pressure is achieved, the consent notice condition 3 n) ii. specified below in this decision shall not apply.

- f) Where reticulated water supply cannot achieve compliance with firefighting water pressure/flow requirements of SNZ/PAS4509:2008, the consent holder shall install an additional firefighting supply consisting of water tanks containing at least 50,000 litres located within Lot 58 with suitable hydrant connections to an additional water supply to the hydrants that will be installed. Water tanks shall:
- i. Be in part buried with a maximum exposed being 1500mm.
 - ii. Be marked with signage to denote 'firefighting water supply only'.
 - iii. Have lid padlocks to be able to be opened with a 133 or similar fire alarm key.
 - iv. Be installed so that lids are as close to roadway as possible.

Note: This condition reflects an agreement between the consent holder and FENZ regarding provision of suitable fire-fighting water supply to be provided as an interim measure to meet the supply requirements of SNZ/PAS4509:2008. This is only required where the Council has not completed additional water supply capacity works to achieve sufficient pressure/flow to service the development.

- g) The consent holder shall reinstate Council's footpath, kerb and channel, road carriageway formation, street berm and urban services where damage has been caused by the demolition and/or construction works associated with the subdivision or land use consent/s. The assets shall be reinstated in accordance with Council's Environmental Engineering Standards 2010 Edition at the expense of the consent holder and to the satisfaction of the Council's Development Engineer or delegated representative.
- h) The consent holder shall provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries for the certification of the Council's Development Engineer or delegated representative.
- i) The consent holder must supply and erect the road signs displaying the public road and private access names approved under Condition 2 d) above in accordance with Sheet 25 of Council's Environmental Engineering Standards 2010 Edition. The sign shall be in a position where it is most visible for road users to the satisfaction of the Council's Development Engineer or delegated representative.

- j) The consent holder must submit for approval a completed 'statement of professional opinion as to suitability of land for building development' (form EES-P01) including a detailed site plan of any areas of or ground stabilisation, cut or fill, from a Chartered Professional Engineer. Any site restrictions shall be included and confirmation that the land is suitable for building development, to the satisfaction of the Council's Development Engineer or delegated representative. This Form EES PO1 (and associated reports, plans and similar) will be registered against the relevant titles via a consent notice.

Ecological and Landscape Planting

- k) All landscape and ecological planting, all plant and animal pest and weed management within Lots 200 – 205, and construction of all access, walking tracks, and signage, shall be implemented in accordance with the certified Landscape and Ecological Enhancement Strategy required by condition 2 f). Evidence of compliance with this condition shall be provided to Council in writing from a suitably qualified and experienced landscape architect and suitably qualified and experience ecologist prior to the issue of the s224(c) certificate. The evidence in writing shall include an itemised estimate of maintenance costs associated with replacement planting and weed and pest controls for a period of five years plus 50% contingency required for bond purposes under Condition 3 l) below. That cost estimate shall be subject to approval by the RMA Manager Consents or delegated representative.

Bond

- l) Pursuant to s 108(2)(b) and 108A of the RMA, a bond shall be entered into with respect to the Landscape Integration and Ecological Enhancement Strategy certified by Council under condition 2 f). Costing for the bond shall be based on the advice provided in Condition 3 k) above.

The bond shall be prepared by the Council's solicitor at the expense of the consent holder and shall be drawn if required by the Council in a form enabling it to be registered pursuant to s 109 of the RMA against the title or titles to the land to which this bond relates. Performance of the bond shall be with a cash bond or other suitable

financial instruments to the satisfaction of the Council, with provision for release of a portion of bond once every year for the five year period of the bond. The bond, prepared at that new registered proprietor's expense and to the reasonable satisfaction of the Council's solicitor, shall include the same terms and conditions as are included in the bond presently securing performance of the maintenance works for the subject Lot.

The maximum amount of the bond registered in that can be released in any one year is one fifth of the total bond amount and will only be released on receipt of suitable evidence that maintenance and failed plant replacement has been suitably carried out in accordance with condition 2. f). Upon satisfactory proof of transfer of the title by the consent holder to a new owner of any one or more of the lots, the Council shall accept from the new registered proprietor a bond in substitution of the existing bond.

Consent Notices

- m) Pursuant to s 221 of the RMA, the consent holder is to ensure that a consent notice must be prepared and be registered on the Computer Freehold Register on Lot 58 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 water tanks installed in accordance with condition 3 f) shall remain in place and be maintained to comply with SNZ/PAS4509:2008 until such time as reticulated water supply can achieve sufficient pressure/flow requirements of SNZ/PAS4509:2008, FW2. The water tanks shall only be removed once the consent holder has provided hydrant flow testing proving that the firefighting water supply requirements of SNZ/PAS4509:2008, FW2 have been met. The approval of the Council's Water Services Manager or delegated representative shall be obtained as part of this process.
 - ii. No residential activity shall occur onsite until such time as Council's Water Services Manager is satisfied that suitable fire-fighting water supply and pressures are available by way of the reticulated water supply system.

Note: Consent notice conditions i. and ii. above are only required to be registered where reticulated water supply cannot achieve compliance with firefighting water pressure/flow requirements of SNZ/PAS4509:2008. Where evidence of

compliance is provided as per Condition 3 f) above, these conditions are not required.

- n) Pursuant to s 221 of the RMA, the consent holder shall ensure that a consent notice must be prepared and be registered on the Computer Freehold Register on the specified lots 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. For **Lots 1 – 73**, any development shall comply with the restrictions and recommendations (foundation, stormwater and access) of the Geotechnical Assessment prepared by LDE dated 24 June 2022 above and earthworks completion report EES-PO1 provided on completion of this development provided under condition 3 j) above, unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
 - ii. For **Lots 1 – 5 and 55 – 73**, prior to occupation of any principal residential unit, if the water pressure testing shows that less than the minimum 300kPa is available at the properties water connection then the land owner shall install either a small 5000 litre water tank with a pump for each principle residential unit which is trickle fed off the public water main or install larger rain supply water tanks in accordance with the recommendations of the LDE Three Waters Design Report dated 24 August 2021 to boost water pressure. This lot will be affected until the Council upgrades the Three Mile Bush Road water reservoir, but once the upgrade occurs the tanks will no longer be required.
 - iii. For **Lots 16 – 18, 20,21, and 68-73**, all buildings and major structures within the lot shall comply with the gully setback specified from the top of the bank line at the head of the gully, unless specific engineered foundation design is provided from a suitably qualified geotechnical engineer, in accordance with Geotechnical Assessment prepared by LDE dated 24 June 2022.
 - iii. For **Lots 55 – 73**, any future building or major structure shall be finished in external materials (including roofing) with a light reflectance value not exceeding 30% and using hues that relate to (but not necessarily mimic) those created by remaining and recovering indigenous vegetation. Mirrored glazing is not

- permitted. Such reflectance levels shall be established by comparison with recognised colour swatches such as the Resene BS 5252 chart.
- iv. For **Lots 55 – 73**, residential development shall be limited to one principal residential unit. Construction of a minor residential unit is prohibited.
- v. For **Lots 55 – 59, and 67 - 73**, any future building or major structure development shall comply with the following:
- The maximum building height and major structure height is 8m above ground level.
 - All building and major structures are setback at least 1.5m from any side boundary and 3m from any road boundary.
 - All buildings and major structures do not exceed a height equal to 3m above ground level plus the shortest horizontal distance between that part of the building or major structure and any boundary that is not adjoining a road.
 - Any impervious area within the site shall not exceed 60% of the net site area and the impervious area shall be set back at least 5m from Mean High Water Springs and the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).
 - Any fences:
 1. Shall not exceed a maximum height of 2m above ground level;
 2. Shall not be fortified with any form of electrification or barbed wire except for stock exclusion purposes; and
 3. Within 3m of a road boundary, is at least 50% visually permeable for any portion above 1m high.
- vi. For **Lots 60 – 67**, any future building or major structure shall be finished in external materials (including roofing) with a light reflectance value not exceeding 30% and using hues that relate to (but not necessarily mimic) those created by remaining and recovering indigenous vegetation. Mirrored glazed is not permitted. Such reflectance levels shall be established by comparison with recognised colour swatches such as the Resene BS 5252 chart.
- vii. For **Lots 60 – 67**, residential development shall be limited to one principal residential unit. Construction of a minor residential unit is prohibited.
- viii. For **Lots 60 – 67**, no building shall exceed a height of 5.5m , where the vertical distance between the natural ground level (prior to earthworks being undertaken)

at any point and the highest part of the building immediately above shall be less than 5.5m.

Note: For the purpose of calculating height, a) Chimneys (not exceeding 1.1m in width) are excluded.

- ix. For **Lots 60 – 67**, any future building or major structure development shall comply with the following:
- All building and major structures are setback at least 1.5m from any side boundary and 3m from any road boundary.
 - All buildings and major structures do not exceed a height equal to 3m above ground level plus the shortest horizontal distance between that part of the building or major structure and any boundary that is not adjoining a road.
- x. For **Lots 60 – 67**, any impervious area within the site shall not exceed 60% of the net site area and the impervious area shall be set back at least 5m from Mean High Water Springs and the top of the bank of any river that has a width exceeding 3m (excluding bridges, culverts and fences).
- xi. For **Lots 60 – 67**, any fences:
- Shall not exceed a maximum height of 1.5m above ground level;
 - Shall not be fortified with any form of electrification or barbed wire except for stock exclusion purposes; and
 - Shall be visually permeable (with the fence surface being at least 75% visually permeable) and recessive in colour.
- xii. For **Lots 60 – 67**, all buildings, major structures and earthworks shall be setback 5m from the northern site boundary.
- o) A solicitor's undertaking shall be provided to Council confirming that the consent notices prepared for registration under the relevant conditions of this resource consent will be duly registered against the new titles to be issued for the subdivision. The solicitor must provide a post registration title and instruments.

Review Condition

- p) That pursuant to s128 of the RMA, the consent authority may at six monthly intervals from the date of the grant of consent until the issue of a s 224(c) certificate, serve notice on the consent holder of its intention to review the conditions of this consent to deal with an effect on the environment which arises after the date of the grant of the

consent where such effect is contrary to, or is otherwise not in accord with, the engineering/geotechnical assessments provided with the application for the consent.

Duration of Consent

- q) Under s 125 of the RMA, this consent lapses five years after the date it is granted unless:
 - i. The consent is given effect to; or
 - ii. The Council extends the period after which the consent lapses.

Advisory Clauses

1. The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.
2. The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
3. Any works carried out within Council's road reserve will require an approved Corridor Access Request.
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. It provides a single application for Traffic Management Plans/Road Opening Notice applications. Enquiries as to its use may be directed to Council's Road Corridor Co-ordinator, ph 430 4230 ext. 8231.
5. The WDC QA/QC Manual document can be located at the following link: <http://www.wdc.govt.nz/BuildingandProperty/GuidelinesandStandards/Pages/default.aspx>
6. Permits are required for drilling any bores in Northland. Therefore, resource consent will need to be gained from the Northland Regional Council if water is obtained in this way. If

- a bore is to be constructed, all areas used for sewage effluent disposal and reserve effluent disposal areas must be at least 20 metres away from any groundwater bore.
7. Building Consents may be required for retaining structures.
 8. The consent holder should recognise that the proposed development is located on an “at risk” aquifer and to ensure that the development does not result in contamination of the surrounding aquifer or a reduction in groundwater recharge. Mitigation measures may include the return of the collected or diverted treated stormwater to aquifer recharge, the use of low impact stormwater design, and the use of pervious surfaces for roading and drainage.
 9. The discharge across boundaries, particularly with regard to the concentration of flows, shall be managed at all times, to avoid the likelihood of damage or nuisance to other properties in accordance with the Council Stormwater Bylaw.
 10. Council policy prohibits the building of any structure over an existing water/sewer/stormwater reticulation main.
 11. All earthworks are required to comply with the Northland Regional Council Regional Water and Soil Plan for Northland noting erosion & sediment control and dust suppression requirements.
 12. All works to be carried out pursuant to Condition 2b) above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.
 13. The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.
 14. Erosion and Sedimentation Control shall be designed and carried out in accordance with GD05 “Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region”.
 15. To help fund additional assets or assets of increased capacity, the Local Government Act 2002 (LGA) allows a council to require development contributions if the effect of a development requires the council to provide new or upgraded infrastructure. The Whangarei District Council has prepared and adopted a Development Contributions Assessment Policy. Under this policy, the activity to which this consent related is subject to Development Contributions Assessment. You will be advised of the assessment of the

Development Contributions payable (if any) 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 Councils Development Contributions Policy may be obtained from the Long Term Plan (LTP) or Council's web page at www.wdc.govt.nz.

16. A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.
17. The consent holder shall notify Council, in writing, of their intention to begin works/begin operation, a minimum of seven days prior to commencing works/beginning operation. Such notification shall be sent to the Team Leader RMA Approvals and Compliance and include the following details:
 - Name, telephone number and email
 - Site address to which the consent relates
 - Date activities are to commence



Alan Withy
Independent Commissioner
17 June 2022