

In the Matter of: The Resource Management Act 1991

And

In the Matter of: An application under Section 88 of the Resource Management Act 1991 made by Nicola Chapman and Peter Barry Chapman

File Reference: RM230094

Decision on Resource Consent Application

Activity

Subdivision

To undertake a two-stage subdivision of the site (Lot 35 DP 313877) resulting in a total of four allotments made up of the following net site areas: Lot 1 of 1.35ha; Lot 2 of 0.55ha; Lot 3 of 0.81ha and Lot 4 of 0.51.

A total of 5618m², shown as areas 'B', and 'C' is proposed to be enhanced and subjected to a land covenant, this will protect the existing vegetation on the site.

The proposed staging is summarised as follows:

Stage 1: To undertake a three-lot subdivision under Rule 12.14.1 'Small Lot Development' creating proposed Lot 1 (1.35m²), Lot 2 (0.55ha) and Lot 3 (0.81ha). All proposed lots will be vacant and telecommunications will be provided by a wireless service. Access to proposed lots 1, 2 and 3 will be via a proposed new ROW (ROW A) which extends off the existing ROW off Barrier View Road, to be constructed at the time of stage 1.

Stage 2: To undertake a two-lot subdivision under Rule 12.13.1 'Environmental Benefit' subdivision creating proposed Lot 1 (0.27ha net area with a 2195m² covenant area) and Lot 4 (0.51ha net area with a 3423m² covenant area). Proposed Lot 1 and 4 will be vacant and telecommunications will be provided by a wireless service, and will be accessed via the existing ROW (ROW A) that is established at the time of stage 1.

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Consent notice variation

To cancel consent notice 5506874.5 where it relates to Lot 35 DP 313877 pursuant to s221 of the RMA to reflect the latest engineering and geotechnical assessment. It is noted that these requirements will be replaced with new consent notices as part of this application.

Location

Address: 576C Barrier View Road, Mangawhai

Legal Description: Lot 35 DP 313877 identified in RT54870

Reasons for Consent

Kaipara District Plan (Operative 2013) Rule Assessment

The following apply to the subject property:

Zoning:	Rural Zone
Overlays:	Mangawhai Harbour Overlay
Rules:	Rule 12.9.4 'Non-complying activities'
	Rule 12.14.1 'Small Lot Development Subdivision'
	Rule 12.13.1 'Environmental Benefit'
	Rule 12.15.2 'Road, Private Way Formation and Access'
	Rule 12.15.8 'Telecommunications.'
Activity Status:	Non-complying Activity

Variation of Consent Notice Condition – s221(3)

In addition to the above, the applicant has applied to cancel consent notice 5506874.5 where it relates to Lot 35 DP 313877 pursuant to s221 of the RMA to reflect the latest engineering and geotechnical assessment. It is noted that these requirements will be replaced with new consent notices as part of this application. Discretionary Consent is required pursuant to Section 221(3) RMA.

Overall Activity Status: Non-complying Activity

Determinations

Determination 1:

Pursuant to Section 221(3) of the Resource Management Act 1991, consent notice 5506874.5 as it relates to Lot 35 DP 313877 shall be cancelled at the time of Section 224(c) certification of RM230094.

Determination 2:

Pursuant to Section 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991 ("the Act"), the Kaipara District Council **grants** RM230094; subject to the following conditions:

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General

1. The activity shall be carried out in general accordance with the plans and all information submitted with the application formally received by the Kaipara District Council ("Council") on 4 May 2023 and the further information received on 14 June 2023, 3 August 2023, 12 August 2023, 12 September 2023 and 1 November 2023:
 - Application form, and assessment of environmental effects prepared by Pacific Coast Surveys Limited, dated April 2023.
 - Additional information provided under S92 received by the Kaipara District Council ("Council") on 14 June 2023 (general response to multiple queries); 3 August 2023 (Revised Scheme plan and access clarifications); 12 August 2023 (access clarifications) and 12 September 2023 (request for infringement with ROW users).

Plan title and reference	Author	Rev	Dated
Proposed Subdivision of Lot 35 DP 313877; Stage 1.	Pacific Coast Surveys	6	August 2023
Proposed Subdivision of Lot 1 RM230094.	Pacific Coast Surveys	7	August 2023
Report title and reference	Author	Rev	Dated
Geotechnical Investigation for Proposed Subdivision at 576C Barrier View Road, Mangawhai Job no NL22262	Wiley Geotechnical		March 2023
Ecology Report titled 'Proposed subdivision of 576C Barrier View Road, Mangawhai	Wild Ecology		March 2023

Advice Note: Where there is any apparent conflict between the application and the consent conditions, the consent conditions shall prevail.

Charges

2. The Consent Holder shall pay any subsequent further charges imposed under Section 36 of the Act relating to the receiving, processing, granting and monitoring of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under Section 36(5) of the Act that are subject to challenge, the Consent Holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant final invoice.

Consent Lapse Date

3. Under Section 125 of the Act, this consent lapses seven years after the date it is granted unless:
 - a) A survey plan is submitted to Council for approval under Section 223 of the Act before the consent lapses, and that plan is deposited within three years of the approval date in

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accordance with Section 224 of the Act; or

- b) An application under Section 125 of the Act is made to the Council before the consent lapses (five years) to extend the period after which the consent lapses and the Council grants an extension.

Stage 1: Proposed Lot 1, 2 and 3

Prior to Section 223 Certification

4. **Prior to the sealing of the Survey Plan pursuant to Section 223 of the Act the following conditions shall be complied with:**

General

- (a) The survey plan shall be generally in accordance with the plan of subdivision titled 'Proposed Subdivision of Lot 35 DP 313877, file ref 3849, Stage 1, Rev 6, dated August 2023 and prepared by Pacific Coast Surveys.

Amalgamation

- (b) Pursuant to Section 220(1)(b)(iv) of the Act, the survey plan shall show an amalgamation condition that Lot 104 shall be held as to three undivided one ninth shares by the owners of Lots 1, 2 & 3 as tenants in common in the said shares and individual Records of Title issued in accordance therewith. (LINZ reference 1878210).

Easements

- (c) The survey plan shall show all necessary easements as required for ROW access, and right to convey telecommunications, computer media and electricity.
- (d) The Consent Holder / Consent Holder's Agent shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity services to Lot 1, 2 and 3 and show the necessary easements on the survey plan to the approval of the Council. Up until the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024), it is not required to live the electricity infrastructure connected to the Northpower network.

Engineering Design

- (e) The Consent Holder shall submit a detailed set of engineering plans, specifications and calculations, prepared in accordance with the Council's Engineering Standards 2011 to the Council's Development Engineer, of their delegated representative for approval,

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Approval shall be obtained prior to work commencing day.

The engineering plans, calculations and specifications shall be prepared by a suitably experienced Chartered Professional Engineer (CPEng).

OR

The engineering plans, calculations and specifications shall be prepared by a suitably experienced person/s who:

- (i) Have the appropriate experience in the relevant areas; and
- (ii) Hold appropriate qualifications and membership of professional bodies; and
- (iii) Have professional indemnity insurance to the value of at least \$1,000,000.

The engineering plans, calculations and specifications shall include, but may not be limited to the following:

- (i) Culverts shall be detailed in accordance with the KDC Engineering Standards 2011 drawing S29.
- (ii) Appropriate stabilisation, stormwater drainage facilities and scour protection shall be provided.
- (iii) All design shall be certified as meeting the specified standards by a suitably qualified and experienced engineer to the approval of Council.
- (iv) Design details of the construction of the Right of Way, easement "A" servicing proposed Lot 1 - 3 in general accordance with Section 5 of the Council's Engineering Standards 2011, with 3.0m width of carriageway and 12m legal width
- (v) Design/ upgrade details of the construction for the accessway from easement "A" to Barrier View Road (Lot 104 DP313877) in accordance with Section 5 of the Council's Engineering Standards 2011 with 5.5m width of carriageway.
- (vi) Design details of the construction for proposed vehicle crossings on the Right of Way, easement "A" servicing proposed Lot 1 - 3 in accordance with drawing S05 of the Council's Engineering Standards 2011.

Prior to Section 224(c) Certification

5. **Before a Certification is issued pursuant to Section 224(c) of the Act, the following conditions are to be complied with:**

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Utility Connections

- a) Electricity connections shall be provided to the boundary of the net site area of the lots and all cabling shall be underground. The Consent Holder shall provide confirmation from the network utility supply authority/authorities of compliance with this condition. Should a 224(c) certificate be sought prior to the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024), it is not required to live the electricity infrastructure connected to the Northpower network.

Easements

- b) The Consent Holder shall provide written confirmation from a licensed cadastral surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.

Engineering

- c) All works on the engineering plans approved under Condition 4(e) of this consent are to be completed to the approval of the Council's Development Engineer, or their delegated representative.

Compliance with this condition shall be determined by the following:

- (i) Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by Condition 4(e) of this consent;
- (ii) Provision and approval of supporting documentation provided by the Consent Holder in support of the constructed works, including Producer Statements, completion certificates, works acceptance certificate, statement of compliance of as built works and as built plans, construction management plans, operation and maintenance plans and all other test certificates and statements and supporting information required to confirm compliance of the works as required by Section 3 of the Council's Engineering Standards 2011.

Consent Notice/On-going conditions

- d) Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the titles of 1 – 3 by way of Consent Notice(s).

General

- (i) Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably

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qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the report titled Geotechnical Investigation (Appendix 5, Ref. No.: 22262, dated: 2/03/2023) prepared by Wiley Geotechnical Limited submitted to Council with subdivision consent RM220094.

Servicing

- (ii) Future owners of each lot are advised that no physical telecommunication connections are provided. Kaipara District Council will not be responsible for ensuring nor providing telecommunication connections to this lot.

Firefighting Water Supply

- (iii) Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round.
- (iv) Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial or industrial land use on Lot 1. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).

North Power Consent Notice

- (v) Should a 224(c) certificate be sought prior to the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024), pursuant to Section 221 of the Act, the following condition shall be complied with in perpetuity and shall be registered on the titles of all lots by way of Consent Notice(s).
- (vi) The owners of each lot are advised that due to a capacity restriction in Northpower's electricity network serving the wider Mangawhai area, live power may not be available until a substation is commissioned in 2024. Kaipara District Council will not be responsible for providing live power to this lot. Should the lot owner wish to build on the lot(s) prior to the substation being commissioned the lot owner must satisfy themselves that sufficient power is available to serve the building(s) and associated infrastructure for its intended use.

Advice note: This clause is only required to be registered in the event that 224(c) is sought prior to the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024). If

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the 224(c) is sought following the commissioning of the new substation this condition/consent notice is not applicable and does not need to be registered.

Advice note: Included in this consent is a determination pursuant to Section 221(3) of the Resource Management Act that this consent notice is cancelled upon commissioning of the new substation in Mangawhai by Northpower and/or any “no supply covenant” between Northpower and the developer/lot owner being cancelled.

Consent Notice – Cancellation in Part

- e) Consent notice 5506874.5 on Lot 35 DP 313877 shall be cancelled at the time of Section 224(c) certification.
- f) A Solicitor’s undertaking shall be provided to Council confirming that the cancellation of the consent notice under Condition 5(e) of this consent will be lodged in conjunction with the registering of the new consent notices required under Condition 5(d) of this consent reference RM230094.

Solicitors Undertaking

- g) A solicitor’s undertaking shall be provided to Council confirming that all consent notices and covenants 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.

All consent notices and covenants to be prepared or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the Consent Holder’s expense.

Financial Contributions

- h) A cash contribution in lieu of reserves shall be paid based on 5 % of the assessed value of Lot 1 and 2 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant’s expense.

At the time of payment of the contribution, the valuation upon which the cash contribution is calculated shall be no more than three (3) months old.

Final Charges

- i) The Consent Holder shall pay all final charges imposed by Council under Section 36 of the Act relating to the monitoring, certification and completion of the conditions of this resource consent.

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Stage 2: Proposed Lot 1 and 4

Prior to Section 223 Certification

6. **Prior to the sealing of the Survey Plan pursuant to Section 223 of the Act the following conditions shall be complied with:**

General

- (a) The survey plan shall be generally in accordance with the plan of subdivision titled 'Proposed Subdivision of Lot 1 of RM230094, file ref 3849, Stage 2, Rev 7, dated August 2023 and prepared by Pacific Coast Surveys.

Amalgamation conditions

- (b) Pursuant to Section 220(1)(b)(iv) of the Act, the survey plan shall show an amalgamation condition that Lot 104 shall be held as to two one eighteenths shares by the owners of lots 1 and 4 hereon as tenants in common in the said shares and individual Records of Title issued in accordance therewith. (LINZ reference 1878210).

Easements

- (c) The survey plan shall show all necessary easements as required for ROW access, and right to convey telecommunications, computer media and electricity.
- (d) The Consent Holder / Consent Holder's Agent shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity services to Lot 4 and show the necessary easements on the survey plan to the approval of the Council. Up until the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024), it is not required to live the electricity infrastructure connected to the Northpower network.

Environmental Benefits/Conservation Covenants

- (e) The survey plan shall show the proposed covenanted areas generally indicated as Area "B" and "C" on the plan of subdivision titled, "Proposed Subdivision of Lot 1 of RM230094, file ref 3849, Stage 2, Rev 6, dated August 2023 and prepared by Pacific Coast Surveys, as being land subject to Conservation Covenants pursuant to Section 77 of the Reserves Act 1977 or other instrument of similar effect to the approval of Council. The proposed covenanted areas shall be submitted to Council for approval.
- (f) A final Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") generally in accordance with the recommendations of the report titled 'Ecology Report,

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proposed subdivision of 576C Barrier View Road, Mangawhai, prepared by Wild Ecology, dated March 2023 shall be prepared by a suitably qualified ecologist and submitted to the Council for written approval. The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:

- (i) A description of the purpose and objectives of the EPWCMP.
- (ii) A plan of the planted areas detailing proposed plant species, plant sourcing (eco-sourced species from close proximity to the site), plant sizes at the time of planting, plant locations, density of planting and timing of planting, and height and density expectations upon maturity. The planting sizes for the balance of the plants shall be chosen such that maturity is reached and their intended purpose (e.g. conservation through the preservation and protection of natural resources for the purpose of maintaining their intrinsic values and safeguarding these for future generations) is achieved within a 5-year period following initial planting.
- (iii) Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species that will enhance ecological values of local habitat.
- (iv) An establishment and maintenance programme which includes recommendations on planting method, fertilising, the frequency of maintenance and monitoring to be undertaken and the anticipated duration to achieve the objectives of the EPWCMP, including (as applicable):
 - Watering,
 - Weed control,
 - Cultivation,
 - Control of pests and diseases,
 - Removal of litter,
 - Checking of stakes and ties,
 - Trimming, pruning,
 - Topping up mulch
 - And other works required to ensure planting maintains healthy growth and form.
- (v) The measures to be adopted to achieve, as far as is practicable:
 - 90% survivorship of planted species; and
 - 85% canopy cover of indigenous vegetation.

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- (vi) The control of pests (including but not limited to rats, mustelids, possums and freshwater pests) to ensure, as far as practicable, that the ecological gains achieved via the EPWCMP are not compromised.
- (vii) All plant material should be eco-sourced from the Kaipara Ecological District preferably within close proximity to the site.

Prior to Section 224(c) Certification

7. **Before a Certification is issued pursuant to Section 224(c) of the Act, the following conditions are to be complied with:**

Utility Connections

- a) Electricity connections shall be provided to the boundary of the net site area of lot 4 and all cabling shall be underground. The Consent Holder shall provide confirmation from the network utility supply authority/authorities of compliance with this condition. Should a 224(c) certificate be sought prior to the commissioning of a new substation to increase the capacity of Northpower's electricity network in the wider Mangawhai area (expected in 2024), it is not required to live the electricity infrastructure connected to the Northpower network.

Easements

- b) The Consent Holder shall provide written confirmation from a licensed cadastral surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.

Environmental Benefit

- c) All animal pest, plant pest and weed control works described in the certified Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") under condition 6(e) shall be implemented to the satisfaction of the Council.

The Consent Holder shall provide a completion report from a suitably qualified animal pest control professional to the satisfaction of Council.

- d) All planting described in the approved Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") under condition 6(e), shall be implemented to the satisfaction of the Council.

The Consent Holder shall provide a completion report from a suitably qualified ecologist to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.

- e) The Consent Holder must erect and maintain fencing in stock proof condition around the boundary of the covenant area as is necessary to prevent entry to the covenant area by grazing animals, but not closer to the bush than the dripline of the outmost tress. The

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standard of that fencing is to be a 7-wire fence with posts no more than five metres apart and with a minimum of five battens between each post and otherwise is to be as defined in paragraph 6 of the second schedule to the Fencing Act 1978.

Conservation Covenant

- f) A Conservation covenant(s) in accordance with Section 77 of the Reserves Act 1977, or an open space covenant under the Queen Elizabeth the Second National Trust Act 1977, shall be prepared for registration against the titles of the land depicted on the Survey Plan as being subject to a conservation/open space covenant. A conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document, or an open space covenant shall require compliance with the QEII Trust.

Consent Notice/On-going conditions

- g) Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the title of lot 1 and 4 by way of Consent Notice(s).

Ecological Planting Maintenance, Weed and Animal/Pest Control

- (i) All ecological planting on site shall be maintained in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan, approved under condition 6(e) of resource consent reference RM230094. Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM230094.
- (ii) Ongoing weed and animal/pest control shall be undertaken in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan, approved under condition 6(e) of resource consent reference RM230094.

Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM 230094

- (iii) The keeping of cats, mustelids and rodents on the lots is prohibited.
- (iv) Dogs shall not be kept on the lot unless the following conditions are complied with:
1. Prior to the keeping of a dog on the lot, the owner shall provide details of the dog, including registration number, to the Council's Team Leader Monitoring and Compliance for ongoing monitoring purposes; and
 2. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader

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Monitoring and Compliance and may be in the form of an “electronic pet containment fence” means a system installed or attached to the perimeter of a defined area (or wireless equivalent) which is designed to prevent dogs escaping by transmitting a digital or electronic signal to a receiver collar worn by the dog.

3. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

North Power Consent Notice

- (v) Should a 224(c) certificate be sought prior to the commissioning of a new substation to increase the capacity of Northpower’s electricity network in the wider Mangawhai area (expected in 2024), pursuant to Section 221 of the Act, the following condition shall be complied with in perpetuity and shall be registered on the titles of all lots by way of Consent Notice(s).
- (vi) The owners of each lot are advised that due to a capacity restriction in Northpower’s electricity network serving the wider Mangawhai area, live power may not be available until a substation is commissioned in 2024. Kaipara District Council will not be responsible for providing live power to this lot. Should the lot owner wish to build on the lot(s) prior to the substation being commissioned the lot owner must satisfy themselves that sufficient power is available to serve the building(s) and associated infrastructure for its intended use.

Advice note: This clause is only required to be registered in the event that 224(c) is sought prior to the commissioning of a new substation to increase the capacity of Northpower’s electricity network in the wider Mangawhai area (expected in 2024). If the 224(c) is sought following the commissioning of the new substation this condition/consent notice is not applicable and does not need to be registered.

Advice note: Included in this consent is a determination pursuant to Section 221(3) of the Resource Management Act that this consent notice is cancelled upon commissioning of the new substation in Mangawhai by Northpower and/or any “no supply covenant” between Northpower and the developer/lot owner being cancelled.

Solicitors Undertaking

- h) A solicitor’s undertaking shall be provided to Council confirming that all consent notices and covenants 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.

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All consent notices and covenants to be prepared or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the Consent Holder's expense.

Financial Contributions

- i) A cash contribution in lieu of reserves shall be paid based on 5 % of the assessed value of Lot 4 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant's expense.

At the time of payment of the contribution, the valuation upon which the cash contribution is calculated shall be no more than three (3) months old.

Final Charges

- j) The Consent Holder shall pay all final charges imposed by Council under Section 36 of the Act relating to the monitoring, certification and completion of the conditions of this resource consent.

Advice Notes

- i. Under the Local Government Act 2002, the Consent Holder will be required to pay to Council a Development Contribution of \$3,405 plus GST for each additional lot for roading and \$496 for communities in the Kaipara District.

The proposed development will result in 2 additional allotments as part of stage 1. The total Development Contribution at stage 1 will be \$7,802 plus GST.

The proposed development will result in 1 additional allotment at time of stage 2. The total Development Contribution at stage 1 will be \$3,405 plus GST.

A copy of Council's policy on Development and Financial Contributions included within the Long-Term Plan 2021-2031 and Development Contributions Policy (2020) can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website www.kaipara.govt.nz.

- ii. Under the Council Engineering Standards 2011, the Consent Holder will be required to ensure the person responsible for carrying out construction work holds public liability insurance to the value of at least \$2,000,000.00, and professional indemnity insurance to the value of at least \$1,000,000.00.
- iii. The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.
- iv. All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to

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Heritage New Zealand Pouhere Taonga (HNZPT) for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effects cannot be practised.

- v. If you disagree with any of the above conditions, or additional charges relating to the processing of this application, you have a right of objection pursuant to sections 357A or 357B of the Act. Any objection must be made in writing to Council within 15 working days of notification of decision.

Reasons for the Decision

- i) A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.
- ii) In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
- iii) In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement 2016.
- iv) In terms of Section 105(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
- v) The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in Section 5.

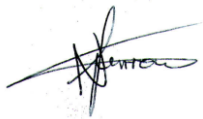


Reporting Planner

Alisa Neal

1 November 2023

Peer Review



Nicki Farrow

26 October 2023

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Signed



6 November 2023

JJ Pienaar

Resource Consents Team Leader

Kaipara District Council

Signed under delegated authority pursuant to Section 34A of the Resource Management Act 1991.

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RM230094

Section 104 of the Resource Management Act 1991 – Assessment Report

Details of Application	
Applicant	Nicola Chapman and Peter Barry Chapman
Property to which the consent relates	576C Barrier View Road, Mangawhai (Lot 35 DP 313877 identified in RT54870)

Description of Proposal

- 1.1 Pacific Coast Surveys Ltd have provided a description of the proposal on pages 1 to 4 of the Assessment of Environment Effects (AEE) titled: "Subdivision Consent Application" dated April 2023.
- 1.2 The AEE describes the proposal as a two-staged subdivision, involving the following:
- Stage 1: To undertake a three-lot subdivision under Rule 12.14.1 'Small Lot Development' creating proposed Lot 1 (1.35m²), Lot 2 (0.55ha) and Lot 3 (0.81ha). All proposed lots will be vacant and telecommunications will be provided by a wireless service. Access to proposed lots 1, 2 and 3 will be via a proposed new ROW (ROW A) which extends off the existing ROW off Barrier View Road, to be constructed at the time of stage 1.
- Stage 2: To undertake a two-lot subdivision under Rule 12.13.1 'Environmental Benefit' subdivision creating proposed Lot 1 (0.27ha net area with a proposed 2195m² covenant area, an existing 3401m² covenant area and an existing ROW (ROW A)) and Lot 4 (0.51ha net area with a 3423m² covenant area). Proposed Lot 1 and 4 will be vacant and telecommunications will be provided by a wireless service, and will be accessed via the existing ROW (ROW A) that is established at the time of stage 1.
- 1.3 It is noted that although the net areas above have been shown on the scheme plan to exclude areas of covenants (existing and proposed), the District Plan definition of net site area includes the gross area minus an entrance strip. Therefore, the areas of covenants that have been excluded in the net site areas shown on the scheme plan can be included for the purposes of calculating the net site areas under the District Plan. Taking this into account, the proposed net site areas when interpreted under the District Plan Are as follows:
- Stage one: Lot 1 (1.87ha – 1830m² entrance strip = 1.687ha net site area); Lot 2 (8212m² net site area); and Lot 3 (8052m² net site area).
 - Stage two: Lot 1 (1.025ha – 1830m² entrance strip = 8145m² net site area) and lot 4 (8524m²).

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- 1.4 A Geotechnical Investigation Report for the site has been prepared by Wiley Geotechnical dated 2 March 2023. Wiley Geotechnical confirmed suitable building locations for the future dwellings within the lots which will not increase the risk of erosion, subsidence, falling debris, slippage or inundation by soil or rock. There were no obvious areas of concern witnessed on site, with the exception of an area of potential soil instability on proposed lot 4, in which the proposed building platform has been located away from. Overall the development is assessed as being feasible from a geotechnical standpoint.
- 1.5 Each allotment is proposed to be serviced by electricity, wireless telecommunications, and onsite wastewater, water and stormwater management.
- 1.6 The applicant has offered consent notices on proposed Lot 1, 2, 3 and 4 advising of telecommunication arrangements to ensure future land owners are aware that no physical telecommunications supply is available to the respective sites. Further, the applicant has offered a comprehensive set of ecological conditions with an ongoing protection consent notice to be included as a condition to assist with mitigating potential ecological and landscape effects.
- 1.7 Minimal earthworks are proposed as part of the application, including a volume less than 1000m³ to create access, building platforms and servicing. There are no known areas of flood hazard or instability within the site.

Site Description and Surrounding Environment

- 1.8 Pacific Coast Surveys Ltd have provided a description of the subject site on pages 4 and 5 of the Assessment of Environment Effects (AEE) titled: "Subdivision Consent Application dated April 2023.
- 1.9 The site is irregular in shape, is 3.5ha in area, and is currently vacant of buildings, being a large grassed area that has a gentle slope towards the east and south. The site is surrounded predominantly by rural-residential allotments ranging in area from 4000m² to 5ha, with larger rural allotments further to the west, and smaller residential allotments further to the east.
- 1.10 The site is accessed via an existing shared JOAL off Barrier View Road, which is a sealed, two laned road.
- 1.11 The site is bounded by mature vegetation on all adjoining boundaries, and contains existing vegetation along the parts of the site that adjoin the southern and eastern boundaries.
- 1.12 The surrounding area has a rural zoning and contains a mixture of rural-residential/'lifestyle' allotments and land for grazing and agricultural activities in the wider catchment.

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Kaipara District Plan (Operative 2013) Rule Assessment

1.13 The following applies to the subject property

Zoning: Rural Zone

Overlays: Mangawhai Harbour Overlay

Rules:

Rule 12.9.4 Non-complying activities. Due to the staged nature of the application, the subdivision is not in accordance with the Controlled, Restricted Discretionary or Discretionary Performance Standards listed in Sections 12.12, 12.13 and 12.14 of the Rural Chapter. This is outlined as follows:

Stage 1: Rule 12.14.1 provides for Small Lot Development subdivision if the site is within an overlay area, as a Discretionary Activity, provided the following terms for subdivision are met:

- a. *The parent site must be five hectares or less and held in a separate Certificate of Title as of the date of notification of this District Plan (21 October 2009);*
- b. *The minimum net site area of 4,000m² can be obtained, provided the minimum average lot size of one hectare can be achieved for the overall subdivision;*
- c. *The proposed subdivision complies with the relevant Performance Standards in Section 12.10 and 12.15 of this Chapter;*
- d. *No more than 2 additional lots are created per site in perpetuity;*
- e. *The site is not within an Outstanding Natural Landscape, as identified in Map Series 2.*

Stage 1 involves a three-lot subdivision under this Rule which meets all requirements of Rule 12.14.1 above, with the exception of Rule 12.14.1(c) – compliance with relevant performance standards in Section 12.10 and 12.15. These infringements are detailed as follows:

- Rule 12.15.8 Telecommunications – Proposed Lots 1, 2 and 3 will not be provided with a connection to a wired telecommunications system at the boundary of the net site area. Restricted Discretionary Activity pursuant to Rule 12.9.2
- Rule 12.15.2 Road, Private Way Formation and Property Access – the proposed subdivision will infringe Rule 12.15.2(d) which restricts the number of allotments served by a private shared access to seven. The existing JOAL serves six users. Two additional allotments will access this ROW as part of Stage 1 of this subdivision.

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Stage 2: Rule 12.13.1 Environmental Benefit subdivision provides for subdivision as a restricted discretionary activity if it meets the following terms for subdivision:

- a) Permanent physical and legal protection of an ecological, public access, landscape or riparian margin Environmental Benefit(s) within the site shall be achieved; and*
- b) The entire feature shall be protected; and*
- c) The Environmental Benefit meets the minimum size requirements relevant to the type of Environmental Benefit proposed listed below: i. An 'Ecological' Environmental Benefit shall be a minimum of 0.5ha; or ii. A 'Landscape' Environmental Benefit shall result in the whole of the portion of the identified landscape located on the parent lot; iii. Where the total land of the Landscape to be protected is 9.0 hectares being physically and legally protected; and or more, two Environmental Benefits lots can be obtained; and*
- d) No more than three Environmental Benefit Lots can be created per site in perpetuity (these can be created by either one subdivision consent or up to three consecutive consents), and*
- e) Each Environmental Benefit Lot shall have a minimum net site area of 4,000m² with an area of at least 2,500m² exclusive of the area being permanently protected, to accommodate a dwelling and associated wastewater treatment and disposal system; and*
- f) Any balance lot created shall be a minimum net site area of 4,000m²; and*
- g) The proposed subdivision complies with the relevant Performance Standards in Section 12.10 and 12.15 of this Chapter; and*
- h) Only one Consent for a Restricted Discretionary (subdivision) Activity in terms of an Environmental Benefit subdivision can be granted in respect of a site or any specified portion of a site and the provisions contained within this rule can be used only once for each specified portion of the site (noting that as provided for by d) above, the maximum number of Environmental Benefits Lots per 'site' shall remain a maximum of three overall).*

The proposed subdivision meets all requirements of Rule 12.13.1 above, with the exception of Rule 12.13.1(g) – compliance with relevant performance standards in Section 12.10 and 12.15. These infringements are detailed as follows:

Rule 12.15.8 Telecommunications – Proposed Lots 1 and 4 will not be provided with a connection to a wired telecommunications system at the boundary of the net site area.
Restricted Discretionary Activity pursuant to Rule 12.9.2

Rule 12.15.2 Road, Private Way Formation and Property Access – the proposed subdivision will infringe Rule 12.15.2(d) which restricts the number of allotments served

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by a private shared access to seven. The existing ROW off Barrier View Road is a private access which serves 6 users, with 3 additional users proposed as part of stage 1. An additional allotment will access this ROW as part of Stage 2 of this subdivision.

- 1.14 The proposal is considered overall as a non-complying activity because, although the proposal meets the density requirements of both the 'Small Lot Development' and 'Environmental Benefit' rules at each stage, more than 3 lots will be created in perpetuity, therefore, stage two results in the terms of subdivision in stage one not being met.

Variation of Consent Notice Condition – s221(3)

- 1.15 In addition to the above, the applicant has applied to cancel consent notice 5506874.5 where it relates to Lot 35 DP 313877 pursuant to s221 of the RMA to reflect the latest engineering and geotechnical assessment. It is noted that these requirements will be replaced with new consent notices as part of this application. Discretionary Consent is required pursuant to Section 221(3) RMA.

Overall Activity Status: Non-complying Activity

Notification Assessment

- 1.16 A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.

Statutory Acknowledgements

- 1.17 Relevant to this application, any statutory acknowledgement within the meaning of the Act specified in Schedule 11 would be contained within the Te Uri o Hau Claims Settlement Act 2002. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) authorized to participate in the Resource Management Act 1991 proceedings.
- 1.18 The application was circulated for comment, at the time of writing this report no concerns have been raised by Te Uri o Hau and therefore it is considered they are not adversely affected by the proposed development.

Section 104D – Non-Complying Activities

- 1.19 Pursuant to Section 104D of the Act if a proposal is a non-complying activity, then it must pass at least one of the tests of either Section 104D(1)(a) or Section 104D(1)(b) before an application can be assessed to make a decision under Section 104B of the Act. If the application fails, both tests of Section 104D then the application must be declined.
- 1.20 It is considered that, subject to appropriate conditions of consent, the proposal satisfies the threshold test of Section 104D because, as demonstrated in this report the adverse effects on the environment would be less than minor and, as concluded in this report,

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the proposal would not be contrary to the Objectives and Policies of the Kaipara District Plan 2013. It is therefore concluded that the application meets both of the tests of Section 104D of the Act. The application can be assessed against the provisions of Section 104B of the Act and a substantive decision made.

Section 104(1)(a) – Actual & Potential Effects on the Environment

Trade Competition

- 1.21 With regard to Section 104(3)(a)(i), there are no known issues in the consent application or as a result of the submission process that raise questions of trade competition or the effects of trade competition.

Written Approvals

- 1.22 With regard to Section 104(3)(a)(ii), the Council must not have regard to the effects on those persons who have given written approval to the application. No persons/parties have provided their written approval.

Permitted Baseline

- 1.23 In accordance with Section 104(2), the Council may disregard an adverse effect of an activity on the environment if the Plan or a National Environmental Standard permits an activity on the site with that effect (commonly referred to as the 'permitted baseline' test). The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the Plan or NES irrelevant. The baseline has been defined by case law as compromising non-fanciful (credible) activities that would be permitted as of right by the plan in question.
- 1.24 For the application site, subdivision cannot be undertaken without a resource consent, and in this regard, there is no relevant permitted 'subdivision' baseline. However, in regards to land use, the following activities with comparable effects are permitted:
- One single residential dwelling per allotment, complying with the relevant performance standards.
 - A commercial/industrial activity, complying with the relevant performance standards.
- 1.25 With respect to the proposed subdivision, all subdivision in the Rural Zone requires resource consent. However, it is acknowledged that given the site is made up of one allotment, it is reasonable to expect one residential dwelling in total over the entire site, as well as a commercial/industrial building with a GFA of up to 5000m² on the site. Given the site has an established residential dwelling, the amenity, traffic and servicing effects associated with the abovementioned activities establish the permitted baseline with regards to the subject site at present.

Receiving Environment

- 1.26 The 'environment' upon which effects are to be assessed comprises the exiting and

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reasonably foreseeable future environment. In identifying the environment, it is necessary to consider the environment as it is at the time of application, and the likelihood of change to that environment in the future, based upon the activities that could be carried out as a right or with respect to resource consents that have been granted (where it is likely that they will be given effect to).

- 1.27 The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed. In this case, the receiving environment includes the surrounding rural-residential and rural environment.
- 1.28 There are no known approved resource consents that may affect the assessment of this application.

Assessment of Effects

- 1.29 Section 104(1)(a) of the Act requires the Council to have regard to any actual and potential effects on the environment of allowing the activity. This includes both the positive and the adverse effects.
- 1.30 The adverse effects of the proposed subdivision are identified and discussed in the notification report with regards to access and traffic, servicing, character and amenity values, ecological effects, cultural and archaeological values, reverse sensitivity and cumulative effects. The assessment and conclusions of the notification assessment report are applicable here and adopted in full for the purposes of this report.
- 1.31 It is appropriate at this stage to consider the positive effects that the development will have. It is considered that the proposed development will have the following positive effects:
- The proposed subdivision involves the protection and enhancement of an existing areas of vegetation, and revegetation and infill planting and protection of an area of 5618m² by way of conservation covenant. The proposed revegetation enhancement will enhance the overall ecological integrity of the regenerating vegetation and enhance ecological processes to support a diverse community of organisms.
 - Additionally, the proposed weed and pest control and any revegetation associated with this application will strengthen the wider ecological integrity of the site and adjacent ecosystems.
 - The proposal will provide for additional living opportunities that benefits the

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landowner in meeting their economic and social outcomes.

- The enhancement and protection of vegetated areas on the site in a manner that is consistent with the Kaipara District Plan provisions related to “Environmental Benefits”.

1.32 For the purpose of Section 104(1) (ab) regard must be had to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.

1.33 To Avoid, remedy or mitigate adverse effects, conditions of consent relating to the following matters are recommended:

(i) General Accordance Condition – in order to ensure the effects considered within this application are consistent with those that result, a condition shall require the proposal to be given effect to in accordance with the information and details provided in support of the application.

(ii) Consent Notice Conditions – required to ensure all engineering requirements and ecological establishment and ongoing management are required on an ongoing basis following the issuing of titles.

(iii) Ecological conditions – required to ensure that all potential ecological effects are mitigated and that the proposed environmental benefit is achieved.

1.34 Overall, the effects of the activity are considered to be less than minor and able to be adequately mitigated though the suite of conditions. It is considered that when taking into account both the potential adverse and positive effects, the effects on the environment of allowing the activity will be acceptable in this instance.

Conclusion

1.35 In summary having assessed the effects of the activity, subject to compliance with conditions it is considered that the activity will result in less than minor and acceptable, adverse effects on the environment.

Section 104(1)(b) – Provisions of Standards, Policy Statements and Plan

National Policy Statements

1.36 National Policy statements are instruments issued under section 52(2) of the Act. The National Policy Statements of relevance to this application are:

- National Policy Statement on Highly Productive Land 2022 (NPS-HPL)
- National Policy Statement for Indigenous Biodiversity (NPS-IB)
- National Policy Statement for Freshwater Management 2020 (NPS-FW)

1.37 The National Policy Statement for Highly Productive Land is not relevant to this

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resource consent as the site is not comprised of mapped Land Use Capability (LUC) 1-3 and is therefore not defined as being 'highly productive'.

- 1.38 The National Policy Statement for Freshwater Management is not relevant to this resource consent as the site and surrounding areas does not contain any natural wetlands, therefore the provisions of the NPS-FM do not apply.
- 1.39 The National Policy Statement for Indigenous Biodiversity seeks to maintain indigenous biodiversity across Aotearoa so that there is at least no overall loss in indigenous biodiversity. This seeks to be achieved by protecting and restoring indigenous biodiversity while providing for social, economic and cultural wellbeing of people and communities now and in the future. The site is not currently mapped as a Significant Natural Area and therefore Clause 3.16 of the NPS-IB is relevant. This clause requires that where new subdivision, use or development is outside of an SNA or Māori Land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy. The proposed subdivision has identified all indigenous biodiversity within the site, and proposes to restore and protect these features through a comprehensive set of conditions requiring planting, ongoing weed and pest control and ongoing maintenance and protection measures. The proposed subdivision is considered to avoid adverse impacts on the indigenous biodiversity through the positioning of the proposed allotments, and is considered to remedy and mitigate potential ecological effects through the establishment of the above measures. Overall, it is considered that the subdivision achieves consistency with the objectives and policies of the NPS-IB.
- 1.40 There are no other National Policy Statements relevant to the consideration of this application.

National Environmental Standards

- 1.41 National Environmental Standards are regulations issued under section 43 of the Act. The National Environment Standards of relevance to this application are limited to the National Environmental Standards for Assessing and Managing Contaminates in Soil to Protect Human Health 2011 (NES-CAS).
- 1.42 The site is not identified as being a contaminated site within the Northland Regional Council's Register of contaminated sites, nor has it previously been used for activities listed on the HAIL Register produced by the Ministry for the Environment. Therefore, consent is not required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

Regional Policy Statement

Regional Plan for Northland

- 1.43 The proposal does not require any consent under the Proposed Regional Water and

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Soil Plan for Northland.

Kaipara District Plan 2013

Chapter 4: Mangawhai Harbour Overlay

Objective 4.4.1 To promote the preservation, restoration, rehabilitation and enhancement of the natural character of the coastal environment.

Objective 4.4.2 To enable the subdivision, land use and development in the Overlays, where it recognises and provides for:

The protection of natural character; and

Maintenance or enhancement of the water quality of receiving environments; and

Maintenance or enhancement of amenity values; and

Any other specific values identified in an Overlay.

Objective 4.4.3 To maintain and enhance public access to and along the Coastal Marine Area in the Overlays.

Policy 4.5.2 By managing the location, scale and design of subdivision, use and development to minimise the potential adverse effects on the natural character of the coastal environment.

Policy 4.5.16 By requiring careful management of subdivision, land use activities including their location, design and operational arrangements (including wastewater and stormwater systems) so as to avoid, remedy or mitigate adverse effects (including discharges) arising from these activities on sensitive receiving environments.

Policy 4.5.17 By managing the scale, location and design of activities in the Mangawhai Harbour Overlay.

Policy 4.5.18 By identifying areas where public access to and along the Mangawhai Harbour needs to be improved, cognisant of the on-going development and population pressure in this area.

- 1.44 The proposal is consistent with these objectives and policies as the proposed development is in keeping with the scale and character of the surrounding area and has been designed to avoid any potential adverse effects on natural character and amenity values with the Mangawhai Harbour overlay. In particular, the proposed subdivision will maintain the rural-residential amenity of the subject site and surrounding environment and would not generate any additional development beyond that is reasonably expected with regard to density and infrastructure capacity, and these are measured with the level of actual and potential adverse effects of the proposal. Any future development would also be subject to the performance standards in the District Plan.
- 1.45 Suitable vehicle access is proposed to all allotments and the proposed lots are of sufficient sizes for provision of onsite outdoor recreation spaces. Conditions for stormwater and wastewater disposal will ensure these will not create adverse effects to the proposed and existing developments. Power will be provided to the proposed

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lots and wireless telecommunications are available. Therefore, it is considered that the proposed subdivision can be adequately serviced without adversely affecting any sensitive receiving environments.

1.46 Chapter 12: Rural Zone

Objective 12.5.2 To maintain the rural character and amenity, including the:

- *Sense of openness;*
- *Low dominance of built form;*
- *Pasture and Commercial Forest Areas;*
- *Areas of indigenous vegetation and significant fauna; and*
- *Unmodified natural landforms.*

Objective 12.5.4 To ensure that the servicing of new subdivision and development does not adversely affect the environment, in particular sensitive receiving environments.

Objective 12.5.5 To avoid, remedy or mitigate adverse effects on the quality of the rural environment without unduly restricting productive rural activities e.g., farming and forestry.

Objective 12.5.6 To provide for a range of activities in the Rural Zone which are located, designed and operated in such a way as to avoid, remedy or mitigate reverse sensitivity effects on existing land uses in the vicinity.

Objective 12.5.8 To provide for development of land with a range of allotment sizes that is appropriate to the character of the surrounding rural environment.

Policy 12.6.3c By providing for more intensive and innovative site-specific subdivision and development where this results in better environmental outcomes.

Policy 12.6.4 By requiring all subdivision to contribute to the retention of rural character and amenity.

Policy 12.6.5 By avoiding, remedying or mitigating the adverse effects of subdivision and development (including ribbon development) on the natural environment values of the rural area.

Policy 12.6.12 By requiring subdivision and development to demonstrate adequate service provision (including maintenance), and ensure the costs of any service upgrades are borne by the development.

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Policy 12.6.14 By providing flexibility for subdivision and development density, as well as for a range of activities (industrial, commercial and residential etc.) that can be appropriately located in the Rural Zone and meet the environmental conditions appropriate to that Zone.

Policy 12.6.17 By requiring the provision of safe and practicable vehicular access from a public road to each site.

- 1.47 The above objectives and policies also seek to manage, protect and enhance rural character, high amenity values and biodiversity values by limiting rural subdivision and development. This requires subdivision to result in the reinstatement and formal protection of the natural sequence of plant species that would have historically inhabited the riparian margin within the application site prior to human settlement, which will enhance the rural character of the area, while creating ecological benefits, which will provide sufficient mitigation for any adverse effects.
- 1.48 No clearance of native vegetation is required to facilitate earthworks for the subdivision and the proposal has been designed to be hydrologically neutral.
- 1.49 While the subdivision provides for a greater level of built development compared to the permitted baseline in the rural zone, the proposed density of development will result in a subdivision which is of a density that is not inconsistent with the development outcomes sought within this location, which is undergoing change in accordance with the rural zoning provisions. It is therefore considered that the density of development will not compromise amenity values and is considered to be generally consistent with the density and pattern of development existing within the immediate surrounding environment.
- 1.50 The subdivision layout has been designed to avoid adverse effects as much as possible. When completely avoiding adverse effects has not been possible, remedying or mitigating effects has been the approach taken. It is considered that the ecological protection and subsequent environmental gains, mitigates the adverse effects of the potential for three additional dwellings and residential activity in the rural environment.
- 1.51 The proposed subdivision would create three additional lots, and the site sizes of the proposed lots are consistent with that provided for under the Small Lot subdivision Rule (12.14.1) and the Environmental Benefit Rule (12.13.1) and would further consolidate development within an established cluster of smaller landholdings located along Barrier View Road and beyond.
- 1.52 The proposed development will not restrict the use of the surrounding properties for farming purposes. There will be land available for continued rural use and the resulting development will not adversely affect any existing rural practices on neighbouring sites.
- 1.53 The disposal of stormwater and wastewater can be adequately contained within the respective lot boundaries and an adequate supply of water for drinking and fire-fighting

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can be provided for on-site. The proposal will therefore avoid adverse effects on sensitive receiving environments and will protect the health and safety of residents.

- 1.54 Council's Engineer has assessed the proposed development and considers that taking into account the existing access arrangements and the proposed new ROW, safe and practicable vehicular access can be provided to each lot, and the additional users can be appropriately accommodated subject to the recommended conditions of consent.

Conclusion

- 1.55 With respect to the above points, the proposal is consistent with the relevant objectives and policies of the Operative Kaipara District Plan 2013.

Section 221(3) – Variation of Consent Notice Condition

- 1.56 In addition to the above, the applicant has applied to cancel consent notice 5506874.5 where it relates to Lot 35 DP 313877 pursuant to s221 of the RMA to reflect the latest engineering and geotechnical assessment. It is noted that these requirements will be replaced with new consent notices as part of this application.
- 1.57 It is considered that the proposal to delete and vary the consent notice conditions as they relate to the subject site is necessary to avoid unnecessary duplications, and to ensure consistency with the restrictions and recommendations of the most recent engineering report and building platform design recommendations consented to under the most recent subdivision consent. No adverse environmental effects are anticipated as a result of the amendment of the consent notice conditions.

Section 104(1)(c) – Other Matters

Contributions

Financial Contribution

- 1.58 Section 22.10.6 of the District Plan sets out the amount of reserves contributions for subdivision of land for principally residential purposes where lots can accommodate a residential dwelling at 5% of the value of a 4000m² building site on a rural lot. In this case, three additional undeveloped lots are proposed and therefore a reserves contribution is required and will be imposed as a condition of consent.

Development Contribution

- 1.59 The Local Government Act 2002 provides the Council with the ability to charge development contributions for increased capacity on existing Council assets in accordance with Council policy. The Consent Holder would be required to pay development contributions for the three additional undeveloped lots.

Section 106 Assessment

- 1.60 Pursuant to Section 106(1)(a) Council may refuse to grant a subdivision consent, or

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may grant a subdivision consent subject to conditions if it considers that there is a significant risk from natural hazards.

- 1.61 The site is not situated within any known flood or instability hazard area. This is with the exception of proposed Lot 4 which contains identified saturated soils, within a small portion of the site, The geotechnical report confirms that the proposed building platform within lot 4 has been situated away from this area of instability and therefore does not pose a significant risk from natural hazards.
- 1.62 Pursuant to Section 106(1)(c) Council may refuse subdivision consent if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
- 1.63 The existing vehicular accesses to the proposed Lots will be retained and a new ROW is proposed to service the new proposed lots. Council's Development Engineer has confirmed that the access arrangements are adequate. Therefore, it is considered that sufficient provision will be made for legal and physical access to each allotment to be created by the subdivision.

Part 2 of the Act

- 1.64 Whilst it is accepted that the relevant plans as detailed in the above assessment have been competently prepared in accordance with Part 2 of the Act, for completeness an assessment of Part 2 matters is now included.

Section 5 – Sustainable Management Purposes of the Act

- 1.65 Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources with sustainable management defined in Section 5 (2).
- 1.66 It is considered that the proposal will promote the sustainable management of natural and physical resources as its adverse effects are less than minor and the proposal will provide for the wellbeing of the applicant,

Section 6 – Matters of National Importance

- 1.67 Section 6 of the Act sets out matters of national importance that a consent authority must recognise and provide for. The proposal is considered to accord with Section 6 of the Act, as the site is not subject to outstanding natural features or landscapes overlays and does not contain known sites of significance to Mana Whenua.

Section 7 – Other Matters

- 1.68 Section 7 of the Act sets out other matters a consent authority must have particular regard to. These include the following:

- a. Kaitiakitanga

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- i. The ethnic stewardship
- b. The efficient use and development of natural and physical resources
 - i. The efficient of the end use of energy
- c. The maintenance and enhancement of amenity values
- d. Intrinsic values of ecosystems
- e. *Repealed*
- f. Maintenance and enhancement of the quality of environment
- g. Any finite characteristics of natural and physical resources
- h. The protection of the habitat of trout and salmon
- i. The effects of climate change
- j. The benefits to be delivered from the use and development of renewable energy.

1.69 For the reasons stated previously, it is not considered that the proposal will undermine existing amenity values, nor compromise the quality of the environment.

Section 8 – Treaty of Waitangi

1.70 Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti O Waitangi). No section 8 matters are considered relevant to the proposal.

Reason for Decision

- 1.71 A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's accompanying Notification Assessment Report.
- 1.72 In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
- 1.73 In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement 2016.
- 1.74 In terms of Section 105(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
- 1.75 The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in Section 5.

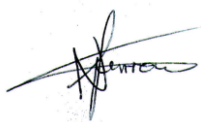
Reporting Planner:



Alisa Neal

11/10/2023

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Peer Review: _____

Nicki Farrow

26 October 2023

Signed: _____



JJ Pienaar

6 November 2023

Resource Consents Team Leader

Kaipara District Council

Signed under delegated authority pursuant to Section 34A of the Resource Management Act 1991

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