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 Irvine Cooper & Joanne Cooper
File Reference:	RM250049

Decision on Resource Consent Application

Activity

To undertake 2-lot subdivision on the application site under the Small Lot Development provision as non-complying activity.

Location

Address: 96 Robert Hastie Drive, Mangawhai

Legal Description: Lot 50 DP 404128, RT 781625

Reasons for Consent

Kaipara District Plan (Operative 2013) Rule Assessment

The following apply to the subject property:

Zoning: Rural Zone

Overlays: Mangawhai Harbour

Rules: 12.10.8 'Permeable' – The impermeable surface of the proposed Lot 1 exceeds the 10% District Plan allowance. Therefore, being assessed as Restricted Discretionary Activity.

12.15.8 'Telecommunications' – Wireless telecommunication has been proposed rather than physical connection. Therefore, Resource Consent is sought as a Discretionary Activity.

12.14,1 'Small Lot Development' – The proposed development infringes Clause (a),(b),(c) and (d) of Rule 12.14.1. Therefore, being assessed as Non-Complying Activity.

Activity Status: Non-complying Activity

Determination/s

Pursuant to Section 221(3) of the Resource Management Act 1991, partial variation to consent notice by deleting Clauses 9 and 16 of Consent Notice 8509265.4 applicable to LOT 50 DP 404128; and

Pursuant to Section 104, 104D, 108 and 220 of the Resource Management Act 1991 ("the Act"), the Kaipara District Council grants RM250049, subject to the following conditions:

General

1. The activity shall be carried out in accordance with the plans and all information submitted with the application formally received by the Kaipara District Council ("Council") on 06/03/2025:
   - Application form, and assessment of environmental effects prepared by Envolve Planning, dated March 2025.

Plan title and reference	**Author**	**Rev**	**Dated**
Scheme Plan, FILE: 4152, Page 1 of 3	Pacific Coast Survey	3	April 2025
Scheme Plan, FILE: 4152, Page 2 of 3	Pacific Coast Survey	3	April 2025
Scheme Plan, FILE: 4152, Page 3 of 3	Pacific Coast Survey	3	April 2025
Report title and reference	**Author**	**Rev**	**Dated**
Landscape Plan and ONL Assessment	Envolve Planning	N/A	March 2025
Power Confirmation, Ref: 00072997	Northpower	N/A	30/01/2025
Stormwater Report, Ref: 24163_SW	Wiley Geotechnical	N/A	18/02/2025
Subdivision Suitability Report, Ref: 24163_Subdiv	Wiley Geotechnical	N/A	14/02/2025
Other additional information	**Author**	**Rev**	**Dated**
240263 Pre-application Meeting Minutes	KDC RC team	N/A	16/12/2024

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.

Section 125 – Consent Lapse Date

3. Under Section 125 of the Act, this consent lapses five 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 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.

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 in general accordance with the Proposed Subdivision of Lot 50 DP 404128 (Scheme Plan, Rev.: REV 3, Page: 3 of 3, dated: April. 2025) prepared by Pacific Coast Surveys (PCS) Ltd, submitted in support of the RC application RM250049.

Easements

(b) The survey plan shall show all necessary easements as required for ROW access, electricity, and telecommunication service.

Utility providers

(c) The consent holder / consent holder's surveyor shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity and telecommunications

Vehicle crossing

(d) 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, 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) Appropriate stabilisation, stormwater drainage facilities and scour protection shall be provided.

(ii) Culverts shall be detailed in accordance with the KDC Engineering Standards 2011 drawing S25.

(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 for proposed Lot 2's vehicle crossing in accordance with Section 5.2.18 of the Council's Engineering Standards 2011, drawing S06.

Landscape Planting

(e) The survey plan shall show the proposed amenity screen planting areas on Lots 1 and 2 for the purposes of ongoing compliance with condition 5 (d). of this consent (RM250049).

Wastewater Confirmation

(f) Written evidence, including a detailed plan layout, prepared by a licensed cadastral surveyor that the existing disposal field for Lot 1 is contained within the allotment boundaries and comply with Northland Regional Council requirements, noting the required separation distances to boundaries, surface water, water bores and the groundwater table, shall be provided the satisfaction of the Council's Development Engineer, or their delegated representative.

Building Areas/Restrictive Covenants

(g) The survey plan shall show the identified building areas on Lots 1 and 2 marked 'YE' and 'YF' on the plan of subdivision, titled 'Scheme Plan', 4152, Page 1 of 3, Rev: 3, dated April 2025, and prepared by Pacific Coast Survey. The survey plan is to include dimensions, areas and boundary references for accurate siting for the purposes of ongoing compliance with Conditions 5 (e) vi and 5 (e) iv of this consent (RM250049).

Amalgamation Covenant

(h) Pursuant to Section 220(2)(a) of the Act, an amalgamation covenant shall be prepared for registration against the titles of Lot 2 hereon, Lot 50 DP 404128 (RT 781625) requiring that the owner shall not without the consent of the Kaipara District Council transfer, lease or otherwise dispose of any of these parcels of land or any part thereof except in conjunction with the other (LINZ reference 1946352)

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:**

Utility Connections

a) Electricity and telecommunications connections shall be provided to the boundary of the net site area of Lot 2 and all new cabling shall be underground. The Consent Holder

shall provide confirmation from the network utility supply authority/authorities of compliance with this condition.

Easements

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

b) All works on the engineering plans approved under condition 4 (d) 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 (d) 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.

Landscaping Implementation

c) All works described in Landscape Plan and ONL Assessment prepared by Evolve Planning dated March 2025 shall be implemented prior to the issue of a Section 224(c) Certificate. The planting shall be carried out to the satisfaction of the Council or Council's delegated representative. The planting shall be carried out to the satisfaction of the Council or Council's delegated representative. The planting shall be subject to maintenance and monitoring within the Lots 1 and 2 for a period of three (3) years following written approval from the Council that the planting has been implemented in accordance with the approved Landscape Plan.

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 Lots 1 and 2 by way of Consent Notice(s).

In Regard to Lots 1 and 2

(i) All landscape and amenity planting on site shall be maintained in perpetuity in accordance with the approved 'Landscape Plan and ONL Assessment' dated

March 2025 prepared by Evolve Planning and approved under resource consent RM 250049. Diseased dying or dangerous plants must be removed and replaced in accordance with the approved Landscape Management Plan.

(ii) Evidence of compliance with this requirement shall be provided to Council in writing from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture five (5) years from the date of issue of the Section 224(c) certificate for RM 250049.

(iii) Maintenance of planting will be monitored by Council for a period of five years from the date of issue of the Section 224(c) certificate. There will be a Council charge for this monitoring payable by the lot owner.

In Regard to Lot 1

(iv) All buildings must be located wholly within the identified building areas shown on the survey plan as 'YE' except for the location of the existing dwelling on Lot 1 specified on the titled 'Scheme Plan', 4152, Page 1 of 3, Rev: 3, dated April 2025, and prepared by Pacific Coast Survey, submitted with resource consent RM250049.

In Regard to Lot 2

General

(v) Earthworks, the location of buildings, building foundations, stormwater and wastewater shall be subject to specific engineering design by a suitably 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 Report (Subdivision Suitability Report, Ref.: 24163_Subdiv, dated: 14.02.2025) prepared by Wiley Geotechnical Limited (WGL) submitted to Council with subdivision consent RM250049.

(vi) All buildings must be located wholly within the identified building areas shown on the survey plan as 'YF' except for the location of the existing dwelling on Lot 1 specified on the titled 'Scheme Plan', 4152, Page 1 of 3, Rev: 3, dated April 2025, and prepared by Pacific Coast Survey, submitted with resource consent RM250049.

Servicing

(vii) Future owners of proposed Lot 2 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

(viii) 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.

(ix) 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 2. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509.

Solicitors Undertaking

e) 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.

Consent Notice – Cancellation in Part

f) Clause 9 of Consent Notice number 8509265.4 in respect of LOT 50 DP 404128 shall be cancelled at the time of Section 224(c) certification.

g) A solicitor's undertaking shall be provided to Council confirming that the cancellation of parts of the consent notice under Condition 5(d) of this consent will be lodged in conjunction with the registering of the new consent notices required under Condition 5(d of this consent.

Financial Contributions

h) A cash contribution in lieu of reserves shall be paid based on 5% of the assessed value of a "nominal" 4000m^2 dwelling site on Lot 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.

Advice Notes

i. Under the Local Government Act 2002, the Consent Holder will be required to pay to Council a Development Contribution of $12 600.00 plus GST for each additional lot for roading east, and $1,239.00 plus GST for each additional lot for community in Kaipara District.

ii. The proposed development will result in 1 additional allotment. The total Development Contribution will be $13 839 plus GST.

A copy of Council's policy on Development and Financial Contributions included within the Long Term Plan 2024-2027 and Development Contributions Policy (2024) can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website www.kaipara.govt.nz.

iii. 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.

iv. The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.

v. 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 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.

vi. 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

1) 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.

2) 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.

3) 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 as discussed in this report.

4) In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.

5) It is acknowledged that this application falls within the non-complying activity status. The assessment has demonstrated that the proposal appropriately addresses the relevant effects and policy considerations, and as such, despite its non-complying status, it is considered acceptable in this instance.

6) 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  23 April 2025

Frank Yan

Signed  23 April 2025

JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

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

RM250049

Section 104 of the Resource Management Act 1991 – Assessment Report

Details of Application	
Applicant	Irvine Cooper & Joanne Cooper
Property to which the consent relates	96 Robert Hastie Drive, Mangawhai, Lot 50 DP 404128, RT 781625

1. Description of Proposal

1.1 The application seeks to subdivide the site legally described as Lot 50 DP 404218, RT 781625, thereby creating proposed lot 1 with a net site area of 4005m^2 and proposed lot 2 with a net site area of 7695m^2. Lot 1 contains an existing dwelling, and Lot 2 will be a vacant site for future rural residential development.

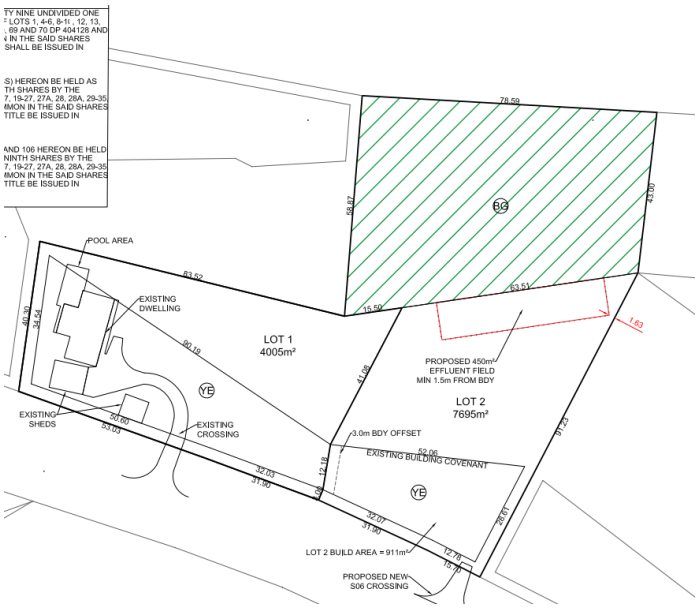


Figure 1: Proposed Subdivision

Table 1: Proposed subdivision.

	Lot Size	Condition
Proposed Lot 1	4005m^2	Existing Dwelling
Proposed Lot 2	7695m^2	Vacant land

1.2 The proposed subdivision has been lodged under Rule 12.14.1 'Small Lot Development' and con not meets the Record of Title date requirements, the average of 1 ha for lot size, compliance of Rules and performance standards in 12.10, 12.15, and within an ONL. therefore, it is assessed as Non-Complying Activity.

1.3 The proposed subdivision does not comply with Rule 12.15.8 'Telecommunications' as proposed Lot 2 will not provide a physical telecommunication connection. Instead, telecommunications will be provided via a wireless network. A consent notice will be registered on the new title of the balance lot to ensure future purchasers are aware that no telecommunication connections are provided.

1.4 The existing dwelling on Lot 1 will be retained. The proposed lot 2 is vacant land with a suitable area available to accommodate a future dwelling.

1.5 Lots will gain access via Robert Hastie Drive. Lot 1 will continue to gain access via the existing crossing and Lot 2 will be serviced by a new vehicle crossing.

1.6 The current water supply is available for Lot 1. The future dwellings on Lot 2 will rely on roof collection and tank storage for water. Sufficient water for firefighting will also be supplied at the time of building consent.

1.7 In terms of the stormwater and wastewater disposal, the proposed Lot 1 is presently serviced with existing connection while the compliance to Rule 12.10.8 'Permeable', regarding the impermeable surface calculation has breached the 10% District Plan allowance by 5.38%. For the proposed Lot 2, the applicant has engaged with the Wiley Geotechnical to prepare a site suitability report (Ref No: 24163_Subdiv, date 15/02/2024), the report confirms that the proposed Lot 2 would be suitable for providing the on-site stormwater and wastewater disposal system.

1.8 Through the course of processing the application, It is noticed that the proposed Lot 2 is inheriting the building platform are 'YE' required by Clause 9 of Consent Notice 8509265.4. As such, as part of this application, the applicant has sought to amend Clauses 9 of Consent Notice 8509265.4 as it relates to proposed Lot 1 to retrospectively enable the location of the dwelling. The building platform has been updated as 'YE' on the Scheme Plan (FILE: 4152, Rev: 3,), prepared by Pacific Coast Survey and dated April 2025.

2. Draft Conditions

2.1 Draft conditions were shared with the applicant/agent on 22/04/2025 The conditions have been agreed by the agent/applicant on 22/04/2025p

3. Site and Consent History

3.1 The Record of Title for the site is subject to numerous interests, which include the following (Table 2) which are of particular relevance to the proposal:

Marked	Instrument Number	Detail
BG	8138731.7	Conservation Covenant
	8138731.8	Conservation Covenant
YE	8509265.4	Consent Notice for building platform

Table 2: Record of Title Interests

3.2 The area marked 'BG' covers the existing vegetation at the rear of the site (which was present at the time of the original subdivision of 'The Sanctuary') and provides legal protection of this area. The area marked 'YE' provides an identified building platform located at the front of the site. The associated consent notice imposes a range of design related criteria which must be complied with for any future buildings on the site. An existing dwelling is located near the road frontage (within area 'YE').

3.3 A pre-application meeting was held with the applicant on 16th of December 2024 (RM240262) discussed the rules and specific features of the application site in relation to the proposed 2-lot subdivision.

4. Site Description and Surrounding Environment

4.1 The site (96 Robert Hastie Drive, Mangawhai, legally described as Lot 50 DP 404128) is a 1.172- hectare lot located within 'The Sanctuary', a rural-residential development located on the edge of Mangawhai Heads township. The site is located in the centre-north of 'The Sanctuary', a gated rural-residential development that was originally enabled by way of subdivision consent (RM040281) which was granted in 2006. 'The Sanctuary' is typified by rural-residential lots which generally range in lot size from ~4,000m^2 to ~15,000m^2 in area.

4.2 The site has an irregular lot shape, the topography of the site is raised from the road by approximately 1-2 metres and from this high point generally falls towards the rear of the site. The majority of the site has no substantial vegetation with the exception of the rear most area of the site which has of predominantly native vegetation. North of the site the topography rises steeply and is also heavily vegetated with predominantly native vegetation. This area is subject to an Outstanding Natura Landscape layer in the District Plan (ONL 14 Bream Tail – Brynderwyn Ranges) which includes the area of native vegetation on the site.

5. Kaipara District Plan (Operative 2013) Rule Assessment

5.1 The following apply to the subject property

Zoning: Rural Zone

Overlays: Mangawhai Harbour

Rules: 12.10.8 'Permeable' – The impermeable surface of the proposed Lot 1 exceeds the 10% District Plan allowance. Therefore, being assessed as Restricted Discretionary Activity.

12.15.8 'Telecommunications' – Wireless telecommunication has been proposed rather than physical connection.Therefore, Resource Consent is sought as a Discretionary Activity.

12.14,1 'Small Lot Development' – The proposed development infringes Clause (a),(b),(c) and (d) of Rule 12.14.1. Therefore, being assessed as Non-Complying Activity.

Activity status: Non-Complying Activity

6. Notification Assessment

6.1 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.

7. Statutory Acknowledgements

7.1 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 authorized to participate in the Resource Management Act 1991 proceedings.

7.2 The application was formally received to Te Roroa/Te Uri o Hau upon receipt by Council on 10 March 2025. Written confirmation from Te Uri o Hau has received on 25th of March 2025 which confirms that Te Uri o Hau has no interests in this application (RM250049). Therefore, it is considered they are not adversely affected by the proposed development.

8. Section 104D – Non-Complying Activities

8.1 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.

8.2 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 no more than minor and, as concluded in this report, 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.

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

Trade Competition

9.1 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

9.2 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 been provided written approval.

Permitted Baseline

9.3 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.

9.4 With respect to the application, there is no permitted baseline as there are no permitted subdivisions. However, residential, rural-production, commercial and industrial activities complying with the performance standards of Section 12.10 of the District Plan and consent notices on the title provide a permitted baseline for development on the lot.

Receiving Environment

9.5 The 'environment' upon which effects are to be assessed comprises the exiting and 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).

9.6 The receiving environment is described in Section 4.0 of this report.

Assessment of Effects

Positive Effects

9.7 The proposal creates one additional rural-residential lot that will provide for the applicants and any future residents well-being.

Access and Traffic

9.8 From a traffic movement perspective, the traffic intensity factor as outlined in Chapter 25F of the District Plan provides a baseline, which states that “Any activity is permitted if the cumulative traffic generated on any road from all activities on site does not exceed 60 daily one-way movements based on the Traffic Intensity Factor Guidelines in Appendix 25F. However, single dwellings, temporary military activities and construction traffic (associated with the establishment of an activity) are exempt from this standard”.

9.9 The Council’s Development Engineer has assessed the proposed subdivision and confirms that the proposed subdivision would add 6 additional vehicle movements per day onto Robert Hastie Drive which can be accommodated by the existing network.

9.10 The Council’s Development Engineer considers that the existing vehicle crossing and driveway servicing the dwelling on proposed Lot 1 is in accordance with Council’s Engineering Standards 2011; and that the new vehicle crossing and driveway to the house site on proposed Lot 2 can be constructed in accordance with Kaipara District Council Engineering Standards 2011, S06 type.

Servicing

9.11 There is no public stormwater or wastewater system available for the site. A Site Suitability Report, prepared by Wiley Geotechnical (Ref No: 24163_Subdiv, date 15/02/2024), has been submitted with the application (referred to as the 'Wiley Report'). The Wiley Report confirms that the site is suitable for secondary wastewater treatment.

9.12 The Council’s Development Engineer has reviewed the application, including the Wiley Report, and determined that the proposed lots are sufficiently large to support on-site stormwater and wastewater treatment and disposal. The engineer also recommends that specific designs be developed to address any potential soil instability or saturation issues that may arise from the development.

9.13 Future homes on the proposed lots will utilize on-site water collection systems. The Council’s Development Engineer has no concerns regarding this arrangement.

9.14 New electricity and wireless telecommunication services can be provided to proposed Lot 2.

9.15 In summary, the subdivision will have access to appropriate and adequate utilities, ensuring that the respective utility networks are not constrained.

Landscape and Visual Effects

9.16 Landscape and visual effects are broadly defined as changes to the physical landscape that may alter its value or character and changes and development on the views available to people and their visual amenity. It is important to note that 'change' in and of itself does not necessarily constitute an adverse landscape and visual effect. Rather it is the nature of any such change within the context of a development which establishes the level of effect.

9.17 The site is located within an established rural-residential landscape. The relief of the surrounding landscape and existing vegetation provide limited opportunities for visual and character effects on the wider environment. Part of the site is subject to an Outstanding Natura Landscape layer in the District Plan (ONL 14 Bream Tail – Brynderwyn Ranges) which includes the area of native vegetation at the rear of the site. The proposal will not impact this area and no future changes to this area will be enabled by the proposal.

9.18 The proposed landscape planting and retainment of the existing native vegetation at the eastern boundary for proposed Lot 1 and along the eastern boundary for proposed Lot 2 will help to screen the site when viewed from surrounding locations, softening the effects of any future building. A Landscape plan prepared by Evolve Planning (Ref 24145) detailed such plantation proposal has been submitted with this application.

9.19 The site has existing controls with regard to built form which are imposed by way of consent notice (8509265.4). These controls will be maintained by the proposal limiting any future changes to the visual landscape.

9.20 The future dwelling will be constructed within the specified building location area 'YF', which inherited the requirement of Clause 9 of Consent Notice 8509265.4. This building location is set back further from the road frontage so will not result in any discernible landscape and visual effects when viewed from the road frontage. The proposed screen planting along the boundaries of the site, once established, will adequately screen the building when viewed from adjacent properties and the wider visual catchment.

9.21 Based on the additional screening provided through proposed amenity planting, preservation of the existing ecological planting and existing built form controls, the proposal will not result in any substantial change to the existing rural-residential landscape, and it is considered that any potential landscape and visual effects on the surrounding environment are less than minor and acceptable.

Character and Amenity Values

9.22 Amenity value is defined in section 2 of the Resource Management Act 1991 as "…those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence and recreational attributes." As such the amenity values of an area can be described as those special attributes, relating particularly to natural and physical characteristics that make an area or neighbourhood unique. Therefore, it is important to consider the effects that development may have on the various characteristics that contribute to the amenity and character of the receiving environment.

9.23 Character and amenity can be interpreted in various ways, encompassing both tangible elements and the more intangible aspects derived from people's perceptions and associations with the rural environment.

9.24 Regarding the receiving environment, the prevailing character of the subject site and its surroundings is rural-residential, with lot sizes predominantly ranging from 4,000m² to 15,000m². Although the subject site is located in the Rural Zone, it is evident that the character and amenity values of the area are significantly influenced by rural-residential development. The proposed subdivision will add one more rural-residential style lot to this locality, along with the potential to construct a dwelling on this lot.

9.25 The proposal includes lot sizes comparable to those in 'The Sanctuary'. Additionally, the existing design guidelines and proposed planting will provide adequate mitigation to ensure that the development remains subordinate and consistent with the surrounding character of the environment.

9.26 The future dwelling will be constructed within the specified building location area 'YE', which inherited the requirement of Clause 9 of Consent Notice 8509265.4. This location is set back from the road frontage, ensuring no noticeable landscape or visual effects when viewed from the road. Furthermore, the proposed screen planting along the site boundaries, once established, will enhance privacy between the site and adjacent properties.

9.27 Overall, I believe the proposal will not result in a density that is out of character for this locality. As the subdivision has been designed sympathetically. Consequently, any future built development will integrate seamlessly into the environment. It is therefore, considered that the adverse effects on the rural character and amenity of the wider environment can be less than minor and acceptable.

Reverse Sensitivity

9.28 Although the application site is located within the rural zone, the character of the locality is heavily influenced by existing rural-residential development. There are no intensive rural activities existing within close proximity to the site and given the existing lot sizes of the surrounding environment, there are unlikely to be any new intensive rural activities established in this area in the future. As the proposal provides for a continuation of the existing land use context, there will be less than minor and acceptable effects on the viability of rural landholdings and activities in the wider environment.

Stormwater

9.29 as a result of the new lot boundaries, the proposed Lot 1 with the all the existing impermeable surface infringes the District Plan allowance as the proposed total impervious area being 15.38%, which exceeded the 10% District Plan allowance by 5.3%. The Wiley Report has undertaken a Stormwater assessment, the Council's Development Engineer, Mr Kavian-Pour, who has undertaken assessment and confirmed that, in this instance, the proposed Lot 1 with dwelling's roof area of 194 m² and two sheds' roof areas of 110m² which total cover area of 304 m², the most suitable solution is to implement stormwater attenuation via the existing two 25,000 litre water tanks in accordance with Stormwater Report. Therefore, it is considered that stormwater effects are adequately addressed and adverse effects arising from stormwater flows on sensitive receiving environments will be less than minor and acceptable.

Cumulative Effects

9.30 Ongoing and future subdivision and development of land can potentially lead to cumulative adverse effects if the volume and nature of development exceed the environment's capacity to absorb these impacts.

9.31 The proposed subdivision may result in the construction of an additional dwelling and associated accessory buildings within the proposed Lot 2.

9.32 It is believed that the surrounding environment can adequately accommodate this level of development without significantly altering the rural character and amenity values. This is because the prevailing character of the subject site and locality is rural-residential, with lifestyle block holdings typically ranging in size from approximately 4,000m² to 15,000m².

9.33 Furthermore, mitigating factors such as ecological and amenity planting, along with existing built form guidelines, will help soften the impact of any future built development within the proposed lot.

9.34 Therefore, it is considered that the proposal is acceptable as the cumulative effects are less than minor.

Conclusion

9.35 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.

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

National Policy Statements

10.1 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 Product Land 2022 (NPS-HPL)
- National Policy Statement on Urban Development 2020 (NPS-UD)
- National Policy Statement for Freshwater Management 2020 (NPS-FW)
- National Policy Statement on Renewable Electricity Generation 2011 (NPS-REG)

- New Zealand Coastal Policy Statement 2010 (NZCPS)
- National Policy Statement on Electricity Transmission 2008 (NPS-ET)

10.2 The National Policy Statement for Highly Productive Land (NPS-HPL) became effective on October 17, 2022, aiming to enhance the management of highly productive land as per the Resource Management Act 1991. The NPS-HPL mandates the identification and regulation of New Zealand's most productive land to prevent unsuitable subdivision, land use, and development. As the implementation of the NPS-HPL is recent, a temporary definition of highly productive land is in place until regional councils finish mapping highly productive land in their respective regions. For the purposes of the NPS-HPL, land zoned as General Rural or Rural Production and classified as Land Use Capability (LUC) 1, 2, or 3 will be considered highly productive land and subject to the NPS-HPL.

10.3 To be eligible for consideration under the NPS-HPL for a subdivision application, the property in question must be zoned General Rural or Rural Production and have LUC 1, 2, or 3 classifications. Although the application site falls within the Rural Zone, it does not contain any LUC 1, 2, or 3 soils. Therefore, no further consideration of the NPS-HPL is necessary.

10.4 None of the other National Environmental Standards are relevant to this application.

National Environmental Standards

10.5 National Environmental Standards are regulations issued under section 43 of the Act. The National Environment Standards of relevance to this application are:

- National Environmental Standards for Air Quality 2004 (NES-AQ)
- National Environmental Standards for Sources of Drinking Water 2007 (NES-DW)
- National Environmental Standards for Telecommunication Facilities 2016 (NES-TF)
- National Environmental Standards for Electricity Transmission Activities 2009 (NES-ET)
- National Environmental Standards for Assessing and Managing Contaminates in Soil to Protect Human Health 2011 (NES-CAS)
- National Environmental Standards for Plantation Forestry 2017 (NES-PF)
- National Environmental Standards for Freshwater 2020 (NES-F)
- National Environmental Standard for Marine Aquaculture 2020 (NES-MA)
- National Environmental Standard for Storing Tyres Outdoors 2021 (NES-ST)

10.6 The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CAS) sets out the standards for assessing and managing contaminants in soil to protect human health. The NES not only protects people and the environment but provides a nationally consistent set of planning controls and soil contaminant values. The NES further ensures that land affected by contaminants in soil is appropriately identified and assessed before it is developed, and where necessary, the land is remediated or the contaminants contained to make the land safe for human use.

10.7 The property is a well-established rural residential site with no known contamination risks on the property or in the surrounding area. A search of the Northland Regional Council Selected Land-use Register does not identify any High Amenity Impact Land (HAIL) activities on the site. It is recognized that all existing land uses are contained within their respective boundaries. Therefore, it is considered that the proposed development complies with the NES-CAS.

10.8 The NES Freshwater is irrelevant as there are no wetlands or streams on the site within 100m of any proposed earthworks or any other triggers of the NPS-FW. The NES Contaminated Soils are not relevant to this proposal as the site has been used for pastoral grazing and is not identified as a HAIL site.

Regional Policy Statement

Regional Water and Soil Plan for Northland 2004

10.9 The proposal does not require consent under the Regional Water and Soil Plan for Northland.

Proposed Regional Plan for Northland

10.10 The proposal does not require consent under the Proposed Regional Plan for Northland.

Kaipara District Plan 2013

Chapter 4: Overlays

Objective 4.4.2 To enable 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 4.4.9 To recognise and provide for the protection of habitats and ecological values.

Objective 4.4.10 To recognise and where appropriate protect cultural, heritage and amenity values, including the special rural character of the Kaipara Harbour hinterland.

Policy 4.5.1 By encouraging consolidation of coastal settlements where it contributes to the avoidance of sprawling or sporadic patterns of development in the coastal environment.

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 4.5.13 By requiring careful management of 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 4.5.14 By managing the scale, location and design of activities in the Kaipara Harbour Overlay.

10.11 In being within proximity to other rural-lifestyle developments, and not directly adjacent to the Coastal Marine Area, the subdivision does not contribute to the sprawling or sporadic patterns of development in the coastal environment.

10.12 No specific viewshaft was identified on a site visit, and the subdivision does not occur on a significant ridgeline of the wider environment. Thus, the location, scale, and design of the subdivision and the future dwelling on the proposed Lots can avoid adverse visual and amenity impacts, and appropriate mitigate any potential adverse effects with appropriate Consent Notice conditions.

10.13 In particular, by ensuring residential dwelling design controls mitigate potential adverse effects on the amenity values and rural character of the wider Kaipara environment, the special rural character of the Kaipara Harbour hinterland is taken account for and protected in the long-term.

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;*
- *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 and mitigate adverse effects on the quality of the rural environment without unduly restricting productive rural activities e.g. farming and forestry.

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 12.6.3b By allowing Small Lot subdivision within an Overlay only where it is consistent with the Overlay Objectives.

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 12.6.6 By promoting the integration of subdivision, use or development with the protection, enhancement or establishment of natural features, vegetation and open space.

Policy 12.6.10 By maintaining opportunities for the diversity of rural land use, without significant interference from adjacent residential, lifestyle or rural – residential activities.

Policy 12.6.11 By requiring activities locating in the Rural Zone to be sited and designed to avoid, remedy or mitigate reverse sensitivity effects on existing adjoining land uses.

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.

10.14 The subdivision creates 1 additional Lot, of which maintains a rural aesthetic for residential use usage. The subdivision will not infringe upon the neighboring productive activities in such a manner that would be deemed inappropriate. The development controls and Consent Notice conditions provide flexibility for the owner, protecting the potential of the soils on-site.

10.15 The subdivision protects the amenity values of the surrounding low density and natural landmass, ensuring future residential development on the subject site is specifically designed by a qualified persons to take account of the values of the rural ambience and low-density character. The subdivision upholds existing land covenants, ensuring that the rural character of adjoining Lots is not adversely affected.

10.16 As noted above, the subdivision, whilst being within an area identified as the Kaipara Harbor Overlay, is consistent with the Objectives and Policies of the Chapter 4: Overlay of the District Plan.

10.17 The subdivision does not interact with any sensitive environments, as there are no specific natural features present on-site. The overland flow path on-site will not be affected, and future residential development will ensure that any wastewater system will be suitably designed to avoid any effects on the ecological values of the watercourse and wider Kaipara harbour.

10.18 The density of the subdivision is not unusual in the Rural Zone. It should be noted that the vacant Lot created will be of a similar size to those lots within the adjoining and adjacent rural character.

Conclusion

10.19 On balance, the proposal is consistent with the identified provisions of the Regional Policy Statement, and the objectives and policies of the Operative District Plan.

11. Section 104(1)(x) – Other Matters

Contributions

Financial Contribution

11.1 Section 22.10.6 of the District Plan sets out the amount of reserve contributions for subdivision of land for principally residential purposes where lots can accommodate a residential dwelling at 5% of the value of a 4000m^2 building site on a rural lot. In this case, one additional undeveloped lot is proposed and therefore a reserves contribution payment is required and will be imposed as a condition of consent.

Development Contribution

11.2 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 one additional undeveloped lot.

Precedent

11.3 A precedent effect is not an effect on the environment but rather it is a consideration of how a decision to allow the proposed activity may subsequently lead to subsequent similar applications being granted (in the sense of like cases being treated alike). The matters of precedent and District Plan integrity are considered relevant for this application.

12. The proposal is consistent with the Small lot rule (Rule 12.14.1) of Chapter 12 for not achieving the time restriction, an average of 1ha, and the application site been subjected to ONL. The proposal does however provide a lot size greater than 4000m^2 minimum lot size, adequate screening of landscape plantation, and a suitable building platform inherited from the parent lot. As such, it is considered that the proposed development will integrate seamlessly into the environment and while this application is for a non-complying activity, there are unique circumstances which differentiate the proposal. Consequently, it is considered that the proposal would not create an undesirable precedent.

Section 106 Assessment

12.1 Pursuant to Section 106(1)(a) Council may refuse subdivision consent if the land is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. The application site has not been identified as being subject to any identified hazard by Kaipara District Council or the Northland Regional Council.

12.2 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. The proposal provides direct access onto Robert Hastie Drive for both lots.

13. Part 2 of the Act

13.1 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

13.2 Section 5tates 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).

13.3 It is considered that the proposal will promote the sustainable management of natural and physical resources of the site in a manner that continues to enable the applicant or current and future landowners to provide for their social and economic wellbeing. The proposal sufficiently avoids, remedies, and mitigates adverse effects on receiving environments, amenity, and rural character of the surrounding environment.

Section 6 – Matters of National Importance

13.4 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 be consistent with the provisions of Section 6, as none of the Lots are located within outstanding natural landscapes and are not within 300m of the Coastal Marine Area. The proposal does not result in the removal of any vegetation.

Section 7 – Other Matters

13.5 Section 7 of the Act sets out other matters a consent authority must have particular regard to. The following matters are considered relevant.

a. Kaitiakitanga
   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.

13.6 Pursuant to Section 7(b), particular regard shall be had to the efficient use and development of natural and physical resources. The proposed subdivision shall create one additional lot, which is consistent with the character of development of the environment. This is considered efficient use of the physical resources.

13.7 Pursuant to Section 7(c), particular regard shall be had to the maintenance and enhancement of amenity values. The proposal maintains the general character and amenity values of the surrounding environment.

Section 8 – Treaty of Waitangi

13.8 Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). In this case, the proposal does not raise any Treaty issues.

14. Reason for Decision

14.1 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.

14.2 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.

14.3 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 as discussed in this report.

14.4 In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.

14.5 It is acknowledged that this application falls within the non-complying activity status. The assessment has demonstrated that the proposal appropriately addresses the relevant effects and policy considerations, and as such, despite its non-complying status, it is considered acceptable in this instance.

14.6 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: _____ 23/04/2025

Frank Yan

Signed: JJ Pienaar 23/04/2025

JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

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