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 Hamish Townshend
File Reference:	RM240025

Decision on Resource Consent Application

Activities

Activity 1: The applicant seeks to subdivide the application site legally described as LOT 2 DP 347150, RT 193722 via a 2-lot General Residential subdivision consent to create an additional residential allotment. The proposed Lot 1 contains an existing dwelling and connection to the service and has a total site area of 1730m² and a net of 1369m². The proposed Lot 2 will be a vacant site for future residential development and has a total site area of 2270m² and 2254m² net area.

Activity 2: The application involves earthworks for a new vehicle crossing for the proposed Lot 2, which Rule 13.10.1a is thought as the proposed earthworks volume and area would be 125m³ over an area of 340m², which exceeded the District Plan allowance of 200m² with a volume of 100m³, Additionally, the application site sits is wholly within the Flood Hazard Zone as per the Northland Regional Council Natural Hazard Map.

Activity 3: The application requests the cancellation of Consent Notice6694939.2 Conditions 2(a) (b) and (c).

Location

Address: 3 Sunrise Lane, Mangawhai

Legal Description: LOT 2 DP 347150, RT 193722

Reasons for Consent

Kaipara District Plan (Operative 2013) Rule Assessment

The following apply to the subject property:

Zoning: Residential Zone

Overlays: Mangawhai Harbour

Rules: 13.10.1a 'Excavation and Fill' – The proposed earthworks volume and area would be 125m3 over an area of 340m^2, which exceeded the District Plan allowance of 200m^2 with a volume of 100m^3, Additionally, the application site sits are wholly within the Flood Hazard Zone as per the Northland Regional Council Natural Hazard Map. Therefore, being assessed as a Restricted Discretionary Activity.

13.11.1 'General Residential Subdivisions' - provides for subdivision as a Controlled activity in the Residential Zone (Overlay) where the minimum lot size is at least 1000m^2. All of the proposed lots would be at least 1000m^2 in area and the proposal meets Rule 13.10.1a as outlined above, Therefore, being assessed as a Restricted Discretionary Activity.

To cancel the Consent Notice 6694939.2 Clause 2 (a) (b) and (c) pursuant to section 221(3) of the Act to allow for the new Geotechnical Assessment to supersede the previous engineering report and removed the outdated condition as the site has the connection to the reticulate wastewater connection. Therefore, resource consent is required as a discretionary activity.

Activity Status: Discretionary Activity

Proposed Kaipara District Plan: Notified 28 April 2025 - Rule Assessment

On 28 April 2025, the Council notified the Proposed Kaipara District Plan ("**PDP**"). The submission period is currently open and closes on 30 May 2025.

Some rules in the PDP have immediate legal effect upon notification in accordance with section 86B(3) of the RMA. Rules in the PDP with immediate legal effect are identified with an orange gavel next to the rule. Rules with legal effect must be complied with.

Pursuant to section 86B(1), all other rules in the PDP, including rules relating to subdivision, have legal effect only once decisions on submissions relating to rules are made and publicly notified. If a rule is not subject to any submissions in opposition, it can be treated as operative under section 86F of the RMA. Rules that do not have legal effect (or are not operative under section 86F) do not trigger the need for a resource consent under the PDP.

As the submission period is still open, and the further submission period has not commenced, it is not possible for Council to determine if any rules in the PDP, including rules relating to subdivision, can be treated as operative under section 86F. Therefore, currently only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.

Outcome of rule assessment under the PDP:

Subdivision consent is not required under the PDP, as rules in the PDP relating to subdivision do not currently have legal effect.

Determination/s

Determination 1

1. Pursuant to Section 221(3) of the Resource Management Act 1991, clause 2 (a) (b) and (c) of Consent Notice 6694939.2 as it relates to LOT 2 DP 347150 is cancelled; and

Determination 2

2. Pursuant to Section 104, 104A, 104B, 108 and 220 of the Resource Management Act 1991 ("the Act"), the Kaipara District Council **grants** RM240025; 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 date:20/03/24

- Application form, and assessment of environmental effects prepared by Envolve Planning, dated date February 2024.
- All the correspondence emails during the S92 consultation of this application.

Plan title and reference	**Author**	**Rev**	**Dated**
Lot 1 & 2 being a Subdivision of lot 2 DP 347150, Drawing Number 23029-04	224c Service Ltd	N/a	March 2025
Lot 1 & 2 being a Subdivision of lot 2 DP 347150, Drawing Number 23029-04 (Black and white version)	224c Service Ltd	N/a	March 2025
Report title and reference	**Author**	**Rev**	**Dated**
Geotechnical Investigation for Proposed Subdivision at 3 Sunrise Lane, Mangawhai Heads, Ref: 24003	Wiley Geotechnical	N/A	09/02/2024
Northpower Confirmation, Reference: 00053057	Northpower	N/A	09/11/2023
Infrastructure Report, Job No. 3120	SPL Consultants	N/A	January 2024
Overland Flow Path Report, Job No. 3120	SPL Consultants	N/A	February 2025
Other additional information	**Author**	**Rev**	**Dated**

Capacity confirmation for wastewater connection from the Council's Asset Manager	Melissa Parlane	N/A	31/05/2024
RM240025 Engineering Assessment Report - Stormwater. W-REF: P24-525	David Usmar - WOODS	N/A	22/04/2025

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.

Accidental Discovery Protocol

4. In the event of an 'accidental discovery' of sub-surface archaeological material (shell, midden, hangi, storage pits, etc), work must cease in the immediate vicinity of the remains and immediate steps must be taken to secure the site (tape it off). The Consent Holder must notify Council, Heritage New Zealand Pouhere Taonga and representative tangata whenua of the relevant iwi so that appropriate actions can be taken.

Pre-Commencement Conditions

5. Prior to the commencement of any physical work authorised under this consent, a Construction Management Plan ("CMP") in accordance with Section 3.3 of Council's Engineering Standards 2011 shall be provided to Council's Development Engineer, or their delegated representative for certification, and shall include:

(i) Details of the site manager including full contact details;

(ii) Construction methodology including proposed plant and machinery to be utilised;

(iii) Proposed procedures for controlling sediment runoff and dust generation; (iv) Programme of works;

(iv) Proposed hours of work on the site;

(v) Details of the number and timing of truck movements on the access route to the site;

(vi) Details of any proposed materials storage areas;

(vii) Traffic management plans;

(viii) Proposed communication strategy to advise members of the public of the construction works;

(ix) For all road construction works, the Consent Holder shall give Council's Asset Manager at least 10 working days' notice of commencement of any works on any Council Road.

Land Use Conditions

6. Prior to the commencement of any work authorised under this consent, an Erosion and Sediment control Plan in accordance with Section 3.3 of Council's Engineering Standards 2011 shall be provided to Council's Development Engineer, or their delegated representative for approval.

7. The erosion and sediment control measures shall be implemented in accordance with approved Erosion and Sediment Control Plan submitted as a requirement under Condition 1 of this consent, Section 4 KDC Engineering Standards 2011, and Auckland Region GD05 guidelines. Erosion and sediment control devices be inspected with monitoring after heavy rainfall by the site supervisor, site engineer, or council representative.

8. The consent holder shall employ a suitably qualified Engineer acceptable to Council to investigate, direct and supervise all construction works and the cut and fill, compaction process, to ensure that an appropriate design and construction methodology is carried out to maintain the short- and long-term stability of the site and surrounds.

9. The consent holder shall implement, to the satisfaction of the Council's Monitoring officer, suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site. In the event that any material is deposited on the street, the consent holder shall take immediate action, at their expenses, to clean the street. The loading of earth fill and other materials shall be confined to the subject site.

10. All earthworks shall comply with Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.

Prior to Section 223 Certification

11. **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 'Lot 1 & 2 being a Subdivision of lot 2 DP 347150', Drawing Number 23029-04 , dated March 2025, and prepared by 224c Service Ltd.

Easements

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

(c) The survey plan shall show easements in gross in favour of the Kaipara District Council for the purpose of providing overland flow of stormwater over parts of Lots 1 and 2. All easements shall be included in a memorandum of easements endorsed on the survey plan and be granted or reserved. The Consent Holder shall meet the costs for the preparation, review and registration of the easement instruments on the relevant records of title.

Engineering Design

(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.

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, reports, calculations and specifications shall include, but may not be limited to the following:

I. Design details for stormwater drainage to serve Lot 2 in accordance with Section 6 of the Council's Engineering Standards 2011. This will include culvert (new culvert and replacement culvert) pipe sizing calculations, flood levels and longitudinal sections of the access way where that access crosses over the two Right to Drain Water Easements (as shown on Overland Flow Path Assessment Report -revised 2025) to ensure that the overland flow paths operate as intended in 10% and 1% AEP scenarios.

II. Lots 1 and 2 ground contour levels and cross-sections (within the two Right to Drain Water easements through the site) as well as ground contour levels over the balance of the site.

III. A Flood Hazard Risk Assessment covering proposed vehicle crossing and driveway, and any material damage that would result from that hazard.

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.

V. Design details for the connection/upgrades of Wastewater system to serve Lot 2 in accordance with Section 7 of the Council's Engineering Standards 2011. The following design details must be provided:

The low-pressure pump station must be sealed unit to prevent the ingress of floodwater. A vent must be provided and maintained which allows the unit to vent at a level above the 1:100-year flood level.

Prior to Section 224(c) Certification

12. **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

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 except the driveway on the engineering plans approved under Condition 11(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 11(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.

As-Built Plans

d) The Consent Holder shall submit certified and dated 'As-Built' plan/s of completed works and services in accordance with Council's Engineering Standards 2011 to the satisfaction of the Council's Development Engineer, or their delegated representative.

The Consent Holder/Consent Holder's contractor shall supply the required As-Built details in hard copy and electronic (AUTOCAD) format. For pdf files different assets should be marked using following colours:

Water Assets – Blue

Wastewater Assets – Red

Stormwater Assets – Green

New, Disposed and Abandoned assets should be clearly indicated.
Private and Public assets should be clearly indicated.
Co-ordinates in New Zealand Transverse Mercator NZTM2000.
Levels in New Zealand Vertical Datum 2016 (NZVD2016)

Additional sink facility

e) The existing sink facility within the cabin on the proposed Lot 1 shall be decommissioned, and the water connection shall be sealed. Evidence of compliance must be sent to and confirmed by the Council's Monitoring Officer before the S224 certification is granted for this application.

Consent Notice/On-going conditions

f) 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 Regards to Lots 1 and 2

General

(i) Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation and flood hazard 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 Report", dated 9 February 2024, prepared by Wiley Geotechnical, and submitted to Council with subdivision consent RM240025

as well as the 'Engineering Design' report submitted as part of the Section 223 Certification with subdivision consent RM240025.

Right to Drain Water Easements

(ii) No structures whatsoever (apart from access crossings detailed in the 'Engineering Design' submitted as part of the Section 223 Certification with subdivision consent RM240025) are permitted within the Right to Drain Water easements, including fences. Fences can be constructed along the boundary of the easement but will be designed to allow water to pass freely through.

(iii) The Right to Drain Water easements areas are not to be built on or over for any purpose and are to be maintained clear of debris and any material or objects that may, in the opinion of Council, restrict or hinder the overland flow path.

(iv) The Right to Drain Water easements area ground contour levels, profile and access crossings level and profile over those easements will remain as detailed in the 'Engineering Design' report submitted as part of the Section 223 Certification with subdivision consent RM240025. The easement area outside the formed access way will be maintained in grass, preferably Kikuyu or similar, to prevent erosion.

Earthworks

(v) Ground contours, level and profile of the site should remain generally as shown in 'Engineering Design report' submitted as part of the Section 223 Certification with subdivision consent RM240025. No earthworks or retaining wall construction is to take place on the site that may in any way, in the opinion of Council, negatively impact on the function of the overland flow paths. For clarity, the overland flow paths could extend outside the boundary of the Right to Drain Water easements.

In Regards to Lot 2:

Flooding

(vi) The site has been identified as being susceptible to inundation in a 100-year Annual Average Recurrence Interval (ARI) flood event. To provide for a 500mm freeboard above the 100-year ARI flood level, taking into account the effects of climate change, the following minimum finished floor levels are required for any dwelling within the lot:

- 4.00m NZVD2016

Foundations

(vii) Any new dwelling shall use timber foundation piles in general accordance with the report titled "Geotechnical Report", dated 9 February 2024, prepared by Wiley Geotechnical, and submitted to Council with subdivision consent RM240025. Foundation design will take into account the 'Flood Hazard Risk Assessment' report submitted as part of the Section 223 Certification with subdivision consent RM240025.

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.

Suitable Driveway

(x) At the time of the building consent for the future residential development, a suitable driveway shall be constructed to the satisfaction of the Council's Development Engineer and in accordance with the approved engineering design at the Section 223 certification with subdivision consent RM240025. The Council will undertake inspections as required to confirm compliance and there will be a Council charge for the inspections payable by the lot owner/applicant of the building consent.

Solicitors Undertaking

g) A solicitor's undertaking shall be provided to Council confirming that all consent notices prepared for registration under the relevant conditions of this resource consent will be duly registered against the new titles to be issued for the subdivision. The solicitor must provide a post registration title and instruments.

All consent notices 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

h) Clause 2 (a), (b) and (c) of Consent Notice 6694939.2 respect of the property at 3 Sunrise Lane, Mangawhai being legally described as LOT 2 DP 347150 shall be cancelled at the time of Section 224(c) certification.

i) A solicitor's undertaking shall be provided to Council confirming that the cancellation of parts of the consent notice under Condition 12 (h) of this consent will be lodged in conjunction with the registering of the new consent notices required under Condition 12 (f) of this consent.

Financial Contributions

j) A cash contribution in lieu of reserves shall be paid based on 5 % of the assessed value of 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

k) 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 *$24 797* plus GST for each additional lot for Wastewater treatment, *$3 315.00* plus GST for each additional lot for roading east, and $496.00 plus GST for each additional lot for community in the Kaipara District.

The proposed development will result in 1 additional allotment. The estimated total Development Contribution will be *$28 608* 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 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

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) Having considered the professional reports from both sides regarding the flood hazard mitigation measures and Consent conditions have been adopted accordingly with the specialist's recommendations.
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.
7) On 28 April 2025, Council notified the Proposed Kaipara District Plan ("PDP"). The submission period is currently open and closes on 30 May 2025.
8) As the submission period is still open, only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.
9) There are no rules in the PDP with immediate legal effect in accordance with section 86B(3) of the RMA that are applicable to this proposal
10) The proposal has been assessed against the objectives and policies in the PDP that have immediate legal effect and are relevant to the proposal.

Reporting Planner _____ 29 May 2025

Frank Yan

Signed  29 May 2025

JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

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

RM240025

Section 104 of the Resource Management Act 1991 – Assessment Report

Details of Application	
Applicant	Hamish Townshend
Property to which the consent relates	3 Sunrise Lane, Mangawhai, Lot 2 DP 347150, RT 193722

1. Description of Proposal

1.1 The applicant seeks to subdivide the application site legally described as LOT 2 DP 347150, RT 193722 via a 2-lot General Residential subdivision consent to create an additional residential allotment. The proposed Lot 1 contains an existing dwelling and connection to the service and has a total site area of 1730m² and a net of 1369m². The proposed Lot 2 will be a vacant site for future residential development and has a total site area of 2270m² and 2254m² net area.

Table 1: Proposed subdivision.

	Lot Size	Condition
Proposed Lot 1	1730m²	Existing Dwelling
Proposed Lot 2	2270m²	Vacant

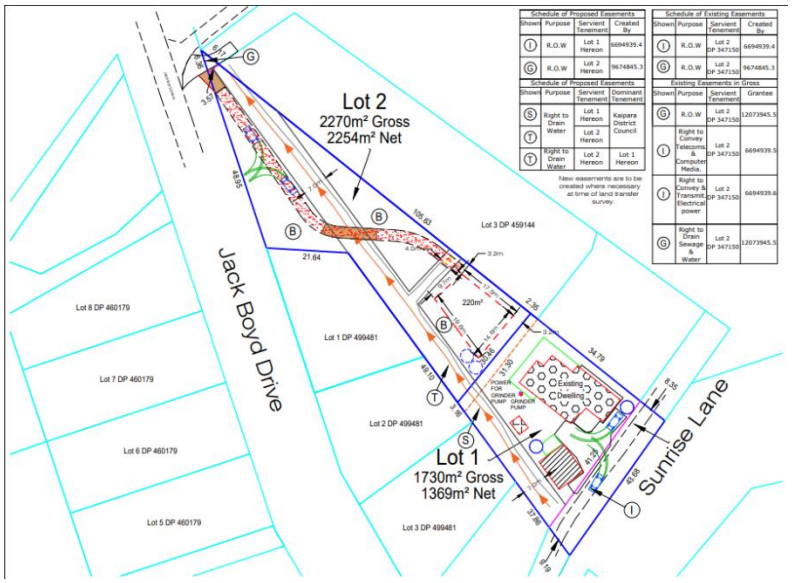


Figure 1: Proposed Subdivision

1.2 The application involves earthworks for a new vehicle crossing for the proposed Lot 2, which Rule 13.10.1a is thought as the proposed earthworks volume and area would be 125m^3 over an area of 340m^2, which exceeded the District Plan allowance of 200m^2 with a volume of 100m^3, Additionally, the application site sits is wholly within the Flood Hazard Zone as per the Northland Regional Council Natural Hazard Map.

1.3 The application requests the cancellation of Consent Notice 6694939.2 Conditions 2(a) (b) and (c). Consequently, this application will be assessed as a Discretionary Activity.

1.4 The application site is located at 3 Sunrise Lane, Mangawhai. The access for the proposed Lot 1 would remain as the existing access through Sunrise Lane and for Lot 2, it will be from Jack Boyd Drive via a newly created vehicle crossing to be formed.

1.5 Electricity connections would be available for the proposed Lot 2 and Lot 1 is serviced with the existing connection.

1.6 The proposed Lot 1 will be serviced with existing connection in terms of the three-water supply, and for Lot 2, the site will be eligible for the Council's reticulate wastewater system, such connection has been confirmed with capacity by the Council's Asset Manager, Ms. Melissa Parlane (31/05/2024), and for the water supple and stormwater collection, the applicant has provide an Infrastructure Report prepared by SPL CONSULTANT (Dated February 2025) which confirms that these services can be supplied to the Lot 2 via roof-collection and tank storage at the time when detailed design shall be provided at the building consent stage and will be included as Consent Notice condition for this application.

1.7 During the consultation of this application, A Section 92 Further Information Request has been sent out with the following queries:

Site Plan

1. *Please provide an updated site plan showing the contours information. Please note that the contours information shall be in accordance with The New Zealand Vertical Datum 2016 (NZVD2016).*
2. *Please provide the black-and-white version of the updated scheme plan.*
3. *Please outline the proposed earthworks calculations on the proposed scheme plan.*

Impermeable Surface Calculations

4. *Please comment on the impermeable surface calculation for the proposed Lot 1 in relation to the proposed new lot size. Please note that if the impermeable surface calculation exceeds 40% of the District Plan allowance, Rule 13.10.8 'Permeable' shall be included with the application, and relevant AEE shall be provided.*

Dwellings

5. *During the site visit, a kitchen facility within the existing shed building was noticed. Please note that the extra sink facilities raise concerns as the existing barn building can functionally operate as a self-contained residence. Hence, the proposed development will be a 'second*

dwelling'. Please confirm if the sink facilities will be removed or included in the proposal for this resource consent.

Infrastructure

6. *Please provide written approval of the Council's Asset Manager, which certifies the capacity of the Council water supply can be extended to serve the additional lot.*

AEE

7. *Please update your AEE to include a limited notification assessment.*

Engineering

8. *The existing Overland Flow Path would be used for stormwater disposal at the application site. An easement shall be established and proposed for future maintenance purposes.*

The relevant response from the applicant has been received until 31/05/2024, which confirms the following matters:

- An updated Scheme plan with sufficient information regarding queries 1-4 are satisfied.
- Confirm that the existing sink facility will be decommissioned and sealed followed by a consent condition which satisfies query 5.
- Written confirmation from the Council's Asset Manager, Ms. Melissa Parlane, which satisfied query 6.

1.8 However, after discussion with the council's engineering team and further understanding of the application site's unique location and surrounding environment, further questions regarding the proposed Infrastructure Report prepared by SPL Consultants (Job No: 3120, Date: January. 2024) has been raised in which a detailed stormwater report that evaluates the impact of on-site stormwater disposal and the effects on the surrounding environment and infrastructure has been requested. The Report needs to address the following matters:

- *The Council's Utility Service Map indicates that there are two open drain type stormwater lines connected within the subject site. The stormwater line on the northeast side (Asset ID: 20190802142023) has been utilized as the disposal line for the Council's Flood Protection Pond down Anchorage Road. According to the elevation data on our GIS map, both stormwater lines are situated at a low position and collect stormwater from higher ground. A future driveway is planned to be built on top of the stormwater line, and most of the subject site, especially the proposed building location for Lot 2, falls within the 10-year flood zone. It is important to note that the proposed Infrastructure Report did not assess the stormwater effects on the wider and surrounding environment.*
- *The Council has been working to improve flooding in the Jack Boyd Drive area, including the Stormwater Culvert in the northwest corner of the site. Because the stormwater line on the site is connected to the Council's Stormwater Culvert, the AEE and the proposed Infrastructure Report did not assess the effects on the Council's infrastructure in relation to the proposed development.*

Note: The stormwater report will need to be peer-reviewed by the Council's appointed stormwater engineers to confirm that the proposed development would have a less than minor effect on the stormwater effects. The S92 queries will not be satisfied until the peer-reviewed report is received.

1.9 Mr. Damian Crampton from SPL Consultants has provided the further assessment named 'Overland Flow Path Assessment Report (Dated June 2024). This report was subsequently forwarded to the Council's appointed Stormwater Consultant, Mr. David Usmar from Woods Ltd, for peer review. The initial peer review outcome, received on 30/07/2024, included the following queries:

1. *It is critical that the realistic future extent of the overland flow path is estimated. What tidal scenario was considered when calculating the extent of the overland flow paths?*
2. *As per section 6.4.1 of the KDC Engineering Standards please clarify how the overland flow path is kept to a defined channel.*
3. *OLFP B does not include the flow from Northcoast Pond. Please explain.*
4. *Flow calculations use 10% and 90% for Impervious/Pervious areas. This is unlikely to represent the future residential ground coverage. Please explain.*
5. *Flow calculations appear to use 24-hour rainfall depths based on HIRDS historical data. It is expected practice to use climate change adjusted figures to the best available current guidance. Please explain.*
6. *Lot 2 is in the NRC Coastal Hazard Flood Zone and the minimum required floor level is calculated as 4m from NRCs CFHZ2 flood data. Please comment on, if the combined effect of coastal and pluvial flooding has been considered in estimating the safe future minimum floor level.*
7. *Scheme Plan (April 2024) indicates required easement over OLFP from catchment A. Please also indicate the required stormwater easement over the OLFP from catchment B on the Scheme Plan.*
8. *Please indicate the vertical datum used.*
9. *As the property is close to the bottom of the catchment it is generally accepted that detention of stormwater flow is not advisable for mitigation of flooding. Please comment.*

1.10 In terms of the queries above, Mr. Damian Crampton from SPL Consultants has provided the further assessment named 'Overland Flow Path Assessment Report (Dated February 2025). The updated assessment has been reviewed by Mr. David Usmar and generally agreed with, the final peer review report has been received on 22/04/2025 hence all the S92 queries have been satisfied.

2. Draft Conditions

2.1 Draft conditions were shared with the applicant/agent on 9/05/2025 The conditions have been agreed by the agent/applicant on 28/05/2025.

3. Site Consent History and Proposed Consent Notice Cancellation

3.1 The application site, legally been described as Lot 2 DP 347150 (RT193722), was created by a 7-lot rural residential subdivision development RM030218. Consent Notice 6694939.2 has been registered on the Record of Title (ROT) as result of the development.

3.2 The Consent Notice contains several interests that are considered relevant to the proposed development as follows:

- Clause 2(a) that stipulates future development shall consider the recommendation of John Hawley Consulting (Job No. 362, dated 11 November 2003) submitted at time for the subdivision, which classified the area 'B' on Lot 2 DP 347150 not suitable for building.
- Clause 2 (b) that requires only one residential dwelling shall be erected on the site until connection to the Council's reticulate sewerage system ('Ecocare Project') been available on site.
- Clause 2 (c) requires an individual effluent disposal system and communal effluent disposal shall be used until the Council's Ecocare project is available and with all the relevant payment applied. It is agreed to cancel certain old Consent Notice requirements that can be repeated as they relate to previous lots to avoid additional interest in the new titles and unnecessary confusion for future lot owners.

4. Site Description and Surrounding Environment

4.1 The subject site is accessed through a private road, Sunrise Lane, to the public road, Jack Boyed Drive. It is currently vacant in a well-established residential area of Mangawhai Heads. The surrounding area is primarily residential, with lot sizes ranging from 600m^2 to 45ha but typically falling between 1000m^2 and 2000m^2. The primary land use in the area is for residential purposes.

4.2 As shown in the application documents (Infrastructure Report, 2.2) the site is located within the Coastal Flood Zone 3 (CFHZ3) 1% AEP flood extent. This results in a flood RL 3.5m and a proposed FFL of 4.00m which has been assessed as adequate. The site is also located within the CFHZ2 and Regional River Flood Hazard Zone (10%AEP) flood extents.

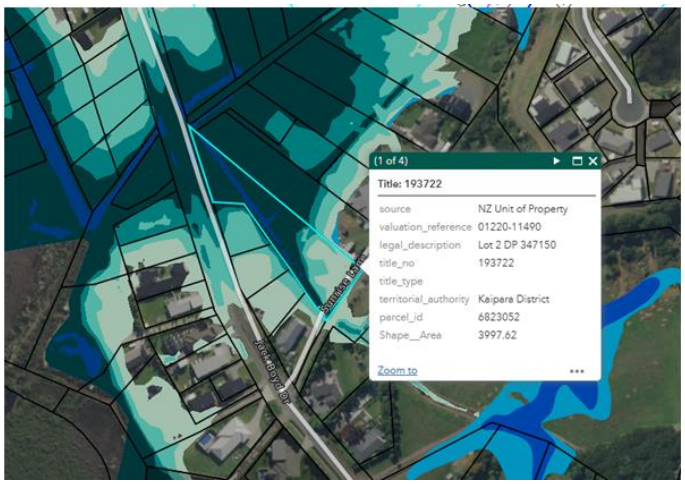


Figure 2: The Flood Hazard Zone Appeared on The Subject Site

4.3 There are two open drain type overland flow path connected within the subject site. The stormwater line on the northeast side (Asset ID: 20190802142023) has been utilized as the disposal line for the Council's Flood Protection Pond down Anchorage Road. According to the elevation data on our GIS map, both stormwater lines are situated at a low position and collect stormwater from higher ground.



Figure 3: The Subject Site's Existing OLFP

5. Kaipara District Plan (Operative 2013) Rule Assessment

5.1 The following apply to the subject property

Zoning: Residential Zone

Overlays: Mangawhai Harbour

Rules: 13.10.1a 'Excavation and Fill' – The proposed earthworks volume and area would be 125m^3 over an area of 340m^2, which exceeded the District Plan allowance of 200m^2 with a volume of 100m^3, Additionally, the application site sits are wholly within the Flood Hazard Zone as per the Northland Regional Council Natural Hazard Map. Therefore, being assessed as a Restricted Discretionary Activity.

13.11.1 'General Residential Subdivisions' - provides for subdivision as a Controlled activity in the Residential Zone (Overlay) where the minimum lot size is at least 1000m^2. All of the proposed lots would be at least 1000m^2 in area and the proposal does not meet Rule 13.10.1a as outlined above, Therefore, being assessed as a Restricted Discretionary Activity.

To cancel the Consent Notice 6694939.2 Clause 2 (a) (b) and (c) pursuant to section 221(3) of the Act to allow for the new Geotechnical Assessment to supersede the previous engineering report and removed the outdated condition as the site has the connection to the reticulate wastewater connection. Therefore, resource consent is required as a discretionary activity.

Activity status: Discretionary Activity

Proposed Kaipara District Plan: Notified 28 April 2025 - Rule Assessment

*On 28 April 2025, the Council notified the Proposed Kaipara District Plan ("**PDP**"). The submission period is currently open and closes on 30 May 2025.*

Some rules in the PDP have immediate legal effect upon notification in accordance with section 86B(3) of the RMA. Rules in the PDP with immediate legal effect are identified with an orange gavel next to the rule. Rules with legal effect must be complied with.

Pursuant to section 86B(1), all other rules in the PDP, including rules relating to subdivision, have legal effect only once decisions on submissions relating to rules are made and publicly notified. If a rule is not subject to any submissions in opposition, it can be treated as operative under section 86F of the RMA. Rules that do not have legal effect (or are

not operative under section 86F) do not trigger the need for a resource consent under the PDP.

As the submission period is still open, and the further submission period has not commenced, it is not possible for Council to determine if any rules in the PDP, including rules relating to subdivision, can be treated as operative under section 86F. Therefore, currently only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.

***Outcome of rule assessment under the PDP**:*

Subdivision consent is not required under the PDP, as rules in the PDP relating to subdivision do not currently have legal effect.

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 Uri o Hau upon receipt by the Council on 20/03/2024. At the time of writing this report no concerns were raised by Te Uri o Hau and it is considered they are not adversely affected by the proposed development.

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

Trade Competition

8.1 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.

Written Approvals

8.2 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

8.3 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.

8.4 With respect to the application, there is no permitted baseline as there are no permitted subdivisions and Consent Notice variation. However, residential, rural-production, commercial and industrial activities complying with the performance standards of Section 13.10 of the District Plan and consent notices on the title provide a permitted baseline for development on the lot.

Receiving Environment

8.5 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).

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

Assessment of Effects

Positive Effects

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

Access and Traffic

8.8 The proposed Lot 1 will be accessed via the existing vehicle crossing the private road, Sunrise Lane and eventually to Jack Boyd Drive.

8.9 The proposed Lot 2 will be accessed separately and directly from Jack Boyd Drive via a new vehicle crossing. Although no details of the new vehicle crossing have been provided for this application, the applicant has offered a Consent Notice condition to be imposed on Lot 2, stating that an up-to-standard vehicle crossing will be provided at the time of building consent for future residential development.

8.10 It is noted that the entire application site is subject to a flood hazard zone. As shown in Figure 1 above, the proposed building platform and vehicle crossing location will be connected via a culvert that crosses through the proposed easement. A discussion has been held between the Council's Principal Development Engineer, Mr. Prasad Sappa, and the Council's appointed Stormwater Consultant, Mr. David Usmar from Woods Ltd.

8.11 They concluded that a specific engineering design for the driveway and design details for stormwater drainage to serve Lot 2 shall be provided at the S223 stage to the satisfaction of the Council. These engineering designs shall take into account the application site's flood hazard risk, including any material that would result from a flood event. As this specific condition has been imposed by this report, it is considered that the adverse effects of flood hazards and stormwater factors to the vehicular access on the proposed Lot 2 can be adequately addressed by the proposed development and have less than minor and acceptable effects.

Servicing

8.12 In relation to water supply, drinking water for any future dwelling on the proposed Lot 2 would be provided by roof catchment collecting rainwater into storage tanks at the time of development. Reticulated water supply is not available for the proposed lots. The allotment will require onsite water tanks that will collect and store rainwater. The tanks must be design adequately in order to provide the storage required for the new dwelling and reserve water for fire safety use. Specific details of water tanks shall be provided to the council for approval during the building consent stage.

8.13 The new lot will be connected to Mangawhai's public wastewater system with a public sewer connection available along Jack Boyed Drive. The existing piped asset is to be removed. New assets and disposed assets are to be indicated on the as-built plan required as a condition of consent. The connection is subject to council approval and the design and construction shall be carried out in accordance with the Kaipara District Council Engineering Standards.

8.14 Full details to be provided in the Building Consent application. Lot 1 is already connected to the wastewater reticulation network.

8.15 Given the above, it is considered that any adverse effects resulting from the wastewater treatment proposed would be adequately addressed and acceptable.

8.16 Power and telecommunications are available to the boundary of the parent lot and the provision of this service can be extended to the proposed lot boundaries.

8.17 Overall, it is considered that the proposal is able to be appropriately serviced without constrain the respective utility networks and will result in less than minor effects and therefore acceptable.

Landscape, Character and Amenity Values

1. The application site is located within an established residential area in close proximity to the Mangawhai Estuary. Existing residential lots in the surrounding area along Jack Boyd Drive, and Sunrise Lane range in size from 800m2 to 3ha. The proposed lots meet the minimum lot size of 1000m2 required for the zone as per Rule 13.11.1 'General Residential Subdivision'.

8.18 As mentioned above, the location of the proposed building platform on Lot 2 would be well separated from the road reserve area of Jack Boyd Drive and as shown in Figure 4 and 5 below, the existing vegetation provides a soft and integrated landscape edge to the existing residential properties surrounding the site and a structured landscape response and planting pattern proposed for the street.



Figure 4: The site's Existing Landscaping



Figure 5: The Existing Vegetation Along the OLFP

8.19 The site is not located within an Outstanding Natural Landscape, nor does it influence views of any Outstanding Natural Landscapes.

8.20 Overall, any effects from this proposal on the residential character and amenity values of the surrounding area are considered appropriate.

Reverse Sensitivity

8.21 The surrounding area is characterized by small to large residential land holdings and respective residential activities.

8.22 The new lots are generally consistent with the intentions of the residential density planned for by the District Plan (Rule 13.10.3a) and will provide two residential lots to provide for continued residential use of the land which is not considered to have adverse effects on the viability of surrounding landholdings and residential activities. The surrounding land uses are generally similar in nature to the proposed lots. Therefore, it is considered that no reverse sensitivity effects are anticipated as a result of the proposed development; and the development is considered acceptable overall.

Flood Hazards

8.23 As previously mentioned in the traffic assessment, there are two existing OLFP that merge on the application site. Given the topography of the surrounding area, both OLFPs are at a lower stream while merging on the site and are utilized as stormwater discharge drains for the neighboring properties at higher elevations during rain events.

8.24 At the northern corner of the application site, where the OLFP passes through, it joins the Council's stormwater discharge drainage network for the Jack Boyd Drive area, as shown in Figure 3 above. Since culverts were proposed to provide vehicular access to the proposed building platform, concerns regarding stormwater management and the potential risk of increased water flow density were raised during the S92 consultation.

8.25 A detailed assessment of stormwater management risks has been made in Mr. David Usmar's engineering report (Woods, Dated 22/04/2025) page 3 – 4. In short, he has made recommendations as follows:

> *The proposed private infrastructure will be generally in accordance with KDC Engineering Standards. The site poses some significant challenges with converging overland flow paths from two large catchments external to the site and most of the site lying within both the NRC Coastal Flood Hazard Zone and Regional River Flood Zone. The major OLFP is proposed to be protected by a 7m wide easement, and this is expected to contain the majority of the 1%AEP flood extent.*
>
> *The flow path is not contained within a defined channel, but this is considered the best option to prevent any further issues with neighbouring properties. The minor OLFP is proposed to be protected by a 4m wide easement.*

Access crossings over the OLFPs and culverts require specific design to ensure that the overland flow path operates as expected.

As the proposed building platform and access is located within the NRC Coastal Flood Hazard Zone specific geotechnical design and hazard assessment will be required.

8.26 This report generally agrees with Mr. Usmar's assessment and has adopted the recommended consent conditions from Mr. Usmar's Engineering Report. It is considered that the adverse effects of flood hazards and stormwater factors on the proposed development on Lot 2 can be adequately addressed. Therefore, the effects on the overall environment are deemed to be less than minor and acceptable.

8.27 In regarding the earthworks, the applicant has offered a pre-commencement condition of a Construction Management Plan to be imposed by this consent to ensure that the earthworks proposed by this consent will be carried out in best practice and in accordance with the District Plan requirements. Therefore, it is considered that the adverse effects on the proposed earthworks to be less than minor and acceptable.

Conclusion

8.28 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.

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

National Policy Statements

9.1 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)

9.2 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. The proposal does not require consideration under any other NPS.

National Environmental Standards

9.3 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)

9.4 The proposal does not require any consent under any NES.

Regional Policy Statement

Regional Plan for Northland

9.5 The proposal does not require any consent under the Regional Plan for Northland.

Kaipara District Plan 2013

Chapter 4: Overlays

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 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 4.4.12 To recognise and where appropriate protect cultural, heritage and amenity values, including the special sense of place of land within the Mangawhai Harbour Overlay.

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

Chapter 13: Residential Zone

Objective 13.5.1 To maintain and where appropriate enhance the amenity values of the residential environment.

Objective 13.5.4 By managing the effects of those activities which have the potential to adversely affect residential amenity (e.g. building location, earthworks and vegetation clearance).

Objective 13.5.2 To ensure that the servicing of new subdivision and development does not adversely affect the environment, particularly sensitive receiving environments.

Objective 13.5.7 To recognise business and economic activity that enables people and communities of the District to provide for their social, economic and cultural wellbeing, while avoiding adverse effects (including reverse sensitivity effects) on the environment.

Policy 13.6.1 By requiring subdivision and development to avoid adverse effects on the outlook and privacy of adjoining properties, while being compatible with the character and amenity of the surrounding environment.

Policy 13.6.2 By requiring activities in residential areas to be sited, designed and operated in such a way that avoids, remedies or mitigates adverse noise and traffic effects on health, safety and amenity values.

Policy 13.6.3 By requiring subdivision and development to demonstrate adequate service provision (including maintenance), and ensure the costs of any service provision or upgrades are borne by the development.

Policy 13.6.12 By ensuring that where sites are not connected to a public water supply, wastewater disposal or stormwater disposal system, suitable provision can be made on each site for an alternative water supply or method of wastewater disposal or stormwater disposal, which can protect the health and safety of residents and can avoid any significant adverse effects on sensitive receiving environments.

Policy 13.6.13 By requiring the provision of safe and practicable vehicular access from a public road to each site

9.6 The application site is located in a highly modified environment and the proposed development would further consolidate built development within this existing settlement, therefore in the immediate context the natural character values of the surrounding area would be maintained and not degraded.

9.7 The proposal seeks consent to undertake a two-lot subdivision of a residential allotment located within the Residential Zone and surrounded by residential development, with lots in the surrounding area ranging in size from 800m2 to 3ha.

9.8 Any further development on the proposed lot would be positioned consistently with surrounding development patterns and making use of the current infrastructure within the Residential Zone. It is considered that both wastewater and stormwater disposal can be managed in an acceptable manner to ensure there will be no impact on sensitive receiving environments and meets the objectives and policies of the District Plan.

9.9 Minimal additional traffic movements will result from the proposed development. Council's Development Engineer has reviewed the application material and considers that due to compliance with the Kaipara District Council Engineering Standards, the proposal will result in less than minor adverse effects on traffic safety.

Proposed Kaipara District Plan

9.10 As outlined above, subdivision consent for this proposal is only required under the Operative Kaipara District Plan. While the Proposed Kaipara District Plan has been publicly notified, rules relating to subdivision in the Proposed Kaipara District Plan do not currently have legal effect. However, the objectives and policies of the Proposed Kaipara District Plan (notified version 28 April 2025) have legal effect and are relevant to the assessment of the application for subdivision consent under section104(1)(b) of the RMA.

9.11 Identify objectives and policies in the PDP relevant to the proposal and assess them.

9.12 Conclude whether the proposal is consistent with, inconsistent, or contrary to the proposed objectives and policies of the PDP.

9.13 There is support for this proposal in the relevant provisions of the Regional Policy Statement and the majority of objectives and policies contained within the District Plan and the Proposed District Plan, however the above assessment identifies that the application will be inconsistent with a number of objectives and policies that relate to public open space and esplanade reserve considerations.

Conclusion

9.14 On balance, the proposal is considered to be consistent with the relevant provisions of the Regional Policy Statement and the objectives and policies contained within Chapters 4, and 13 of the District Plan.

10. Section 104(1)(x) – Other Matters

Contributions

Financial Contribution

10.1 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, one additional undeveloped lot is proposed and therefore a reserves contribution is required and will be imposed as a condition of consent.

Development Contribution

10.2 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

10.3 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.

10.4 The proposal is for a Discretionary activity subdivision in accordance with the main criteria of Rule 13.11.1 'General Residential Subdivision'. For these reasons, it is considered acceptable and does not set an adverse precedent, as any future subdivision proposals of this nature would likely be approved given compliance with the District Plan and lack of adverse effects. Consequently, the application is not considered to set an undesirable precedent.

Status of Proposed Kaipara District Plan

10.5 On 28 April 2025, Council notified the Proposed Kaipara District Plan ("PDP"). The submission period is currently open and closes on 30 May 2025.

10.6 Some rules in the PDP have immediate legal effect upon notification in accordance with section 86B(3) of the RMA. Rules in the PDP with immediate legal effect are identified with an orange gavel next to the rule. Rules with legal effect must be complied with.

10.7 Pursuant to section 86B(1), all other rules in the PDP have legal effect only once decisions on submissions relating to rules are made and publicly notified. If a rule is not subject to any submissions in opposition, it can be treated as operative under section 86F of the RMA. Rules that do not have legal effect (or are not operative under section 86F) do not trigger the need for a resource consent under the PDP.

10.8 As the submission period is still open, and the further submission period has not commenced, it is not possible for Council to determine if any rules in the PDP can be treated as operative under section 86F. Therefore, currently only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.

Reasons for consent under the PDP

10.9 The proposal has been assessed against the rules in the PDP that have immediate legal effect upon notification. The proposal does not engage any of the rules with immediate legal effect. Therefore, no consideration has been given to any of those rules in this consent.

11. Section 37 Extension

11.1 Section 37 of the Act provides for a consent authority to extend a time period specified in the Act. Under section 37A(4)(b) of the Act, a consent authority may extend the time period (up to no more than twice the maximum specified in the Act), where either:

(i) Special circumstances apply (including special circumstances existing by reason of the scale of complexity of the matter) or

(ii) The applicant agrees to the extension, and the authority has taken into account –

a. The interests of any person who in its opinion, may be directly affected by the extension or

b. The interest of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan and

c. Its duty under Section 21 to avoid unreasonable delay.

11.2 An extension of 15 working days is required to the time limit for notification of this decision (as specified under Section 115 of the Act). The applicant has agreed to the extension and it is considered that community interests are not negatively affected by the extension. The extension of 5 working days is not considered to be an unreasonable delay.

12. Section 106 Assessment

12.1 Pursuant to Section 106(1)(a) Council may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions if it considers that there is a significant risk from natural hazards.

12.2 As mentioned in the detailed flood hazard assessment, with the recommended condition been imposed by this decision, it is considered the flood hazard will be mitigated.

12.3 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.

12.4 The proposed new vehicle access is to be provided at the time of building consent and will be compliant with the KDC Engineering Standards.

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 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).

13.3 It is considered that the proposal will promote the sustainable management of natural and physical resources as the proposal will enable the use and development of the physical resources of the site in a manner that would continue to enable the applicant and current and future landowners to provide for their future social and economic wellbeing. At the same time the proposal sufficiently avoids, remedies or mitigates adverse effects on receiving environments, amenity and residential 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 it does not detract from the natural character of the coastal environment and is not located within any outstanding natural landscape. The proposal does not result in the removal of any indigenous vegetation and does not restrict access to the coastal environment.

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 proposal involves the creation of one additional residential lot which is unlikely to generate adverse effects. This is considered efficient use of the physical resources.

13.7 Pursuant to 7(c) particular regard shall be had to the maintenance and enhancement of amenity values. In this case, the proposal is consistent with the site's residential character and would maintain the character and amenity values of the surrounding environment.

13.8 Pursuant to 7(g) particular regard shall be had to maintenance and enhancement of the environment. In this case, wastewater will be disposed of via Council's reticulated public network and stormwater will be disposed of appropriately onsite and therefore the health of the surrounding environment would be maintained.

Section 8 – Treaty of Waitangi

13.9 Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti 0 Waitangi). 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 Having considered the professional reports from both sides regarding the flood hazard mitigation measures and Consent conditions have been adopted accordingly with the specialist's recommendations.

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.

14.7 On 28 April 2025, Council notified the Proposed Kaipara District Plan ("PDP"). The submission period is currently open and closes on 30 May 2025.

14.8 As the submission period is still open, only those rules that qualify under section 86B(3) have immediate legal effect from the date of notification of the PDP.

14.9 There are no rules in the PDP with immediate legal effect in accordance with section 86B(3) of the RMA that are applicable to this proposal

14.10 The proposal has been assessed against the objectives and policies in the PDP that have immediate legal effect and are relevant to the proposal.

Reporting Planner: _____ 29/05/2025

Frank Yan

Signed: JJ Pienaar 29/05/2025

JJ Pienaar

Team Manager Resource Consents

Kaipara District Council

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