

## Section 95 of the Resource Management Act 1991 Notification Decision – Discretionary Activity

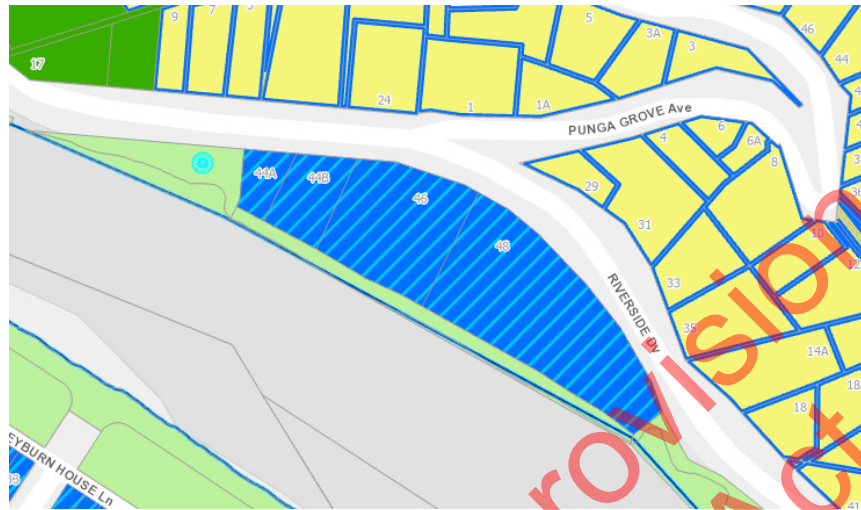
SD2100045 and P51655

### 1 Consent Application

|                          |   |
|--------------------------|---|
| <b>Council Reference</b> | SD2100045 and P51655  |
| <b>Reporting Planner</b> | Phillipa Campbell   |
| <b>Applicant</b>         | Northland Development Corp Ltd  |
| <b>Application</b>       | <p>The proposal is to subdivide NA1549/29 into four lots over three stages and includes a request to double the lapse period to ten years.</p> <ul style="list-style-type: none"> <li>• Stage 1 will create Lots 4 and 5</li> <li>• Stage 2 will create Lots 1, 2 and 3 by subdividing Lot 5</li> <li>• Lots 1 and 2 will be amalgamated in Stage 2 and amalgamation cancelled in Stage 3</li> </ul> <p>The lots sizes proposed:</p> <ul style="list-style-type: none"> <li>• Lot 1 - 1,195 m<sup>2</sup> (1050m<sup>2</sup> net)</li> <li>• Lot 2 - 1,965m<sup>2</sup></li> <li>• Lot 3 - 3540m<sup>2</sup> (3475m<sup>2</sup> net)</li> <li>• Lot 4 - 5760m<sup>2</sup> (540m<sup>2</sup> net)</li> </ul> |
| <b>Property Address</b>  | 44-48 Riverside Drive Whangarei   |
| <b>Legal Description</b> | Lot 1-4 DP 40643 NA1549/29  |
| <b>Date Lodged</b>       | 29 <sup>th</sup> March 2021   |
| <b>Site Visit</b>        | 16 <sup>th</sup> April 2021   |
| <b>Environment/ Zone</b> | Operative District Plan: Town Basin Environment/Riverside Sub Environment   |



Appeals Version District Plan: Waterfront Zone – Mixed Use Area



**Resource Notation** Flood Susceptible, Coastal Area

**Other** Part Priority Rivers 100 Year Flood, Moderate Hazard Land Stability, Hazardous Activities Industry List

**NES** Ground Contamination Assessment undertaken by Tonkin & Taylor

**Distributions**

| <i>Internal</i>   | <i>Date Sent</i>           | <i>Amendments Sent</i>      | <i>Comments Received</i>  |
|---|----------------------------|-----------------------------|---|
| SEEO – Sent to Conal Summers Hawthorn Geddes Consulting Engineers | 1 <sup>st</sup> April 2021 | 20 <sup>th</sup> April 2021 | 28 April 2021   |
| Parks   | 1 <sup>st</sup> April 2021 | 20 <sup>th</sup> April 2021 | 22 <sup>nd</sup> April 2021   |
| <i>External</i>   | <i>Date Sent</i>           | <i>Amendments Sent</i>      | <i>Comments Received</i>  |
| Iwi - Richard Shepherd  | 1 <sup>st</sup> April 2021 |                             | No comments were received, however is noted an extensive Cultural Impact Assessment has been undertaken for the next stage of development involving Mr Shepherd |
| LINZ  | 1 <sup>st</sup> April 2021 |                             | 19 <sup>th</sup> April 2021   |

**2. Further Information**

**Requested**

S92(1) (further information)  
 An informal email dated 6<sup>th</sup> April 2021 and a formal Section 92 request dated 20<sup>th</sup> April 2021

**Information requested:**

SD2100045 P51655  
 Northland Development Corporation Ltd  
 44-48 Riverside Drive

**Received Date and Total Days**

Agent provided information on 6<sup>th</sup> April 2021 and 20<sup>th</sup> April 2021 respectively. Agent provided final clarification on Wednesday 28<sup>th</sup> April 2021.

- Confirmation of status of application under NES- CS regulations
- Confirmation of the location of pohutukawas fronting Riverside Drive.
- Confirmation of proposed condition relating removal of existing buildings.
- On the proposed cancellation of easements removing protection of existing WDC infrastructure.
- Confirmation that pedestrian path standards can be met.
- Flood Assessment Report.
- Relating to the provision of infrastructure to service the subdivision.
- Confirmation future buildings can satisfy S106 of the RMA

All of the above matters are considered to have been adequately addressed in the responses received on the 6<sup>th</sup> April 2021 and 20<sup>th</sup> April 2021 respectively and are considered in the following report.

### 3 Description of Proposal

The application seeks a grant of consent from Whangarei District Council to undertake a four-lot subdivision of an existing title over three stages at 44-48 Riverside Drive, Whangarei. The title subject to the proposed subdivision is shown below.

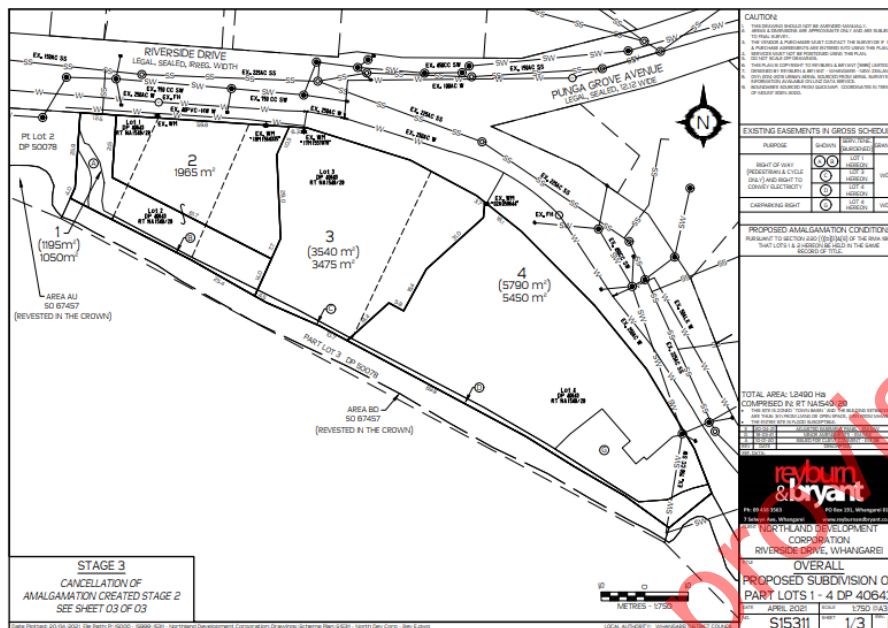


The proposal is to subdivide NA1549/29 into four lots over three stages

- Stage 1 will create Lots 4 and 5
- Stage 2 will create Lots 1, 2 and 3 by subdividing Lot 5
- Lots 1 and 2 will be amalgamated in Stage 2 and amalgamation cancelled in Stage 3

The new lots are shown on the proposed subdivision plans (the overall plan is shown below) and comprises the following areas:

- Lot 1 1,195 m<sup>2</sup> (1050m<sup>2</sup> net)
- Lot 2 1,965m<sup>2</sup>
- Lot 3 3540m<sup>2</sup> (3475m<sup>2</sup> net)
- Lot 4 5760m<sup>2</sup> (540m<sup>2</sup> net)



The proposed subdivision is designed to secure finance for redevelopment of the site and the boundaries will not dissect any of the existing buildings enabling them to remain located within Lots 1 and 2 whilst the development on Lots 3 and 4 can proceed.

Outside the parameters of this consent but of note in terms of the framing of this application is the Oruku Landing Project, proposed on the subject site, which has been submitted under the provisions of the COVID-19 Recovery (Fast-Track Consenting) Act 2020. The application is to establish and operate a comprehensive hotel and entertainment precinct in central Whangarei. It will comprise a multipurpose conference and events centre, a four star hotel, a mixed use building incorporating residential apartments, car parking and retail/commercial tenancies and a 29 berth marina and jetty.

The development of the proposed lots for the subdivision consent is yet to be finalised and at this stage no service connections are proposed. The applicant has offered as mitigation consent notices to attach to the new titles, informing future owners of their responsibilities in relation to this matter. In general terms and given the unique nature of the longer-term development of the site this is considered appropriate.

The applicant has also requested a doubling of lapse period to ten years from the date that the consent is issued. This to enable sufficient time to undertake the staged development of the site.

#### 4 Site and Surroundings

The applicant has provided a full description of the site and surrounds in Section 2 of the application. Having visited the site on 16<sup>th</sup> April I agree with this description.

The Certificate of Title shows pedestrian and cycleway and car parking easements in favour of Whangarei District Council. Initially the applicant proposed cancelling these easements, however after being questioned by councils' infrastructure planners in the Section 92 regarding the lack of protection this would afford council assets the application plan showing these easements was amended ((Overall Proposed Subdivision of Part Lots 1- 4 DP 40643 April 2021 No S15311 Sheets 1/3, 2/3 and 3/3).

There are a number of pohutukawa located in the road reserve adjacent to the Riverside Drive boundary, the applicant has advised:

*"Given the location of the trees in the road reserve there will be 100m<sup>2</sup> on each of the lots for a building platform. No new accessways or services are proposed as part of the subdivision proposal. Other relevant rules will apply at the time of land use development (i.e. NPT.1.7.4) Consent is not required under NPT.1.9.2"*

I agree with this view.

## 5 Reasons for Consent and Activity Status

### Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

The regulation applies when a person wants to do an activity described in any of subclauses (2) to (6) on a piece of land described in subclause (7) or (8); and do not apply on a piece of land described in subclause (9).

The activities are listed in subclauses (2)-(6) as:

- Removing or replacing a fuel storage system
- Sampling soil
- Disturbing soil
- Subdividing land
- Changing the use of the piece of land

The land covered (subclause (7)) is the piece of land where an activity or industry described in the HAIL:

- is being undertaken on it:
- has been undertaken on it:
- it is more likely than not to have been undertaken on it.

If the land that is potentially or actually affected by contaminants is production land, the regulations do not apply to soil sampling or soil disturbance (except on parts of production land being used for residential purposes), nor to subdivision or change of use (except where that would result in production land being used for a different purpose)(reference subclause 8)

The land not covered (subclause (9)) by these regulations is when a detailed site investigation exists that demonstrates contaminants are at, or below, background concentrations.

In this instance the NES does apply to the activity because activities that have occurred or are occurring on the site are listed activity under clause 5(2) to (6) of the NES.

The existing land uses on the site include a variety of land uses that are all included on the HAIL. In addition, the historical uses of the site have involved the manufacturing of pre-stressed concrete products (from approximately 1945-1970's). Office buildings on the site are known to have been constructed with fibrolite roofing (an asbestos containing material), and there have been recorded incidents indicating HAIL activities between 1994 and 2016. Furthermore, the site was reclaimed from the Hatea River before 1942.

With one potential future development option in mind for the site, Tonkin & Taylor (TT) have completed a PSI and DSI and have recorded evidence of various contaminants across the property. The report states that "additional sampling at higher density and for a wider analysis suite would clarify the types and concentrations of contamination"

It is proposed that consent notices be applied to the sites to require further investigation upon clearance of buildings, in terms for both the NES and Asbestos regulations.

The applicant has advised in an email dated 6<sup>th</sup> of April 2020 as follows:

*"The scope of the T+T report was in relation to the future land use development of the site. On that basis the report identifies that the site is a HAIL and remediation will be necessary prior to the physical site development. Upon review, this probably doesn't make the subdivision application permitted in terms of the NES, and a restricted discretionary consent is no doubt required. Nevertheless, as the subdivision will not require any disturbance to the soil, can we suggest that a consent notice be registered on the proposed lots requiring that prior to any site development the recommendations of the T+T report are met? It will probably also be necessary that a 224c condition to the same effect be included in relation to any site work that will be necessary in relation to the removal of any building that is identified in the report as being potentially contaminated".*

## Operative Whangarei District Plan

The proposal requires consent under the following rules of the Operative District Plan.

1. Rule 74.3.1 - Allotment Area - Although the allotment size exceeds the minimum site area requirements new lots are being created - **Discretionary Activity**.
2. Rule 74.3.4 - Existing Buildings - Consideration of the relativity of the existing buildings to the boundaries has not been a consideration due to the nature of the proposal being to provide separate titles for future development - **Restricted Discretionary Activity**
3. Rule 74.3.10 - Water Supply - Connection to reticulated services has not been a consideration due to the nature of the proposal being to provide separate titles for future development **Restricted Discretionary Activity**
4. Rule 74.3.11 - Stormwater - Connection to reticulated services has not been a consideration due to the nature of the proposal being to provide separate titles for future development **Restricted Discretionary Activity**
5. Rule 74.3.12 - Sewerage - Connection to reticulated services has not been a consideration due to the nature of the proposal being to provide separate titles for future development **Restricted Discretionary Activity**

## Decision Version of the Whangarei District Plan

The proposal requires consent under the following rules of the Decision Version Proposed District Plan.

1. Rule SUB-R7- Subdivision Mixed Use Zone - Consideration of the relativity of the existing buildings to the boundaries has not been a consideration due to the nature of the proposal being to provide separate titles for future development - **Restricted Discretionary Activity**.
2. Rule TRA-R13 -Transport Chapter - The infringements relate to the number and location of vehicle crossings to Riverside Drive - **Restricted Discretionary Activity**.
3. Rules TWM-R2, TWM-R3, TWM-R4 -Three Waters Management Chapter - Connection to the reticulated networks is not proposed due to the nature of the proposal being to provide separate titles for future development - **Discretionary Activity**

## Overall activity status

Overall, the application is determined as a **Discretionary Activity**.

## 6 Permitted baseline – Section 95D(b)

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Pursuant to Section 95D(b) of the Act a consent authority *may* disregard an adverse effect of an activity on the environment if the Plan permits an activity with that effect (the 'permitted baseline' test). There are three categories to the permitted baseline test, these being:

1. what lawfully exists on the site at present
2. activities (being non-fanciful activities) which could be conducted on the site as of right; i.e. without having to obtain resource consent
3. activities which could be carried out under a granted, but as yet unexercised, resource consent.

Given the site already contains existing development, there is no relevant permitted baseline for this proposal.

## 7 Notification Assessment (Sections 95A to 95E)

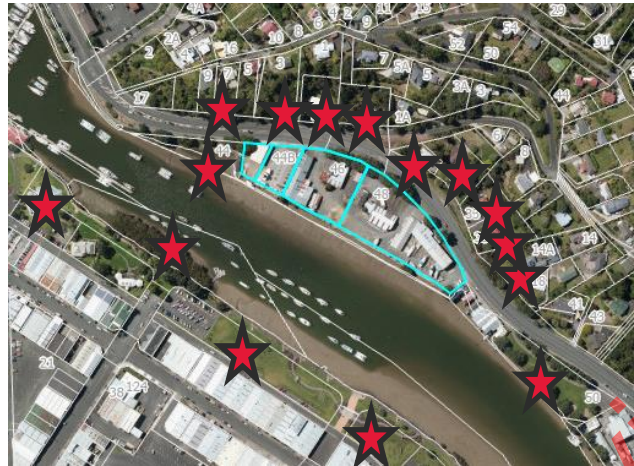
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### Statutory Matters - Notification Sections 95A to 95D

Section 95A of the Resource Management Act 1991 (RMA) details the process steps required to determine public notification. Section 95A(1) states "A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent."

### Public notification

Pursuant to Section 95D(a)(ii) and (e) adverse effects on the following adjacent properties, have been excluded from an assessment of the wider potential and actual effects on the environment required for public notification:



The plan above shows the site location, and the adjacent properties marked with a red star.

It is my recommendation that under Section 95A of the RMA this application shall proceed without public notification because:

1. Under step 1, public notification is not mandatory as:
  - a. the applicant has not requested it;
  - b. there are no outstanding or refused requests for further information; and
  - c. the application does not involve any exchange of recreation reserve land under Section 15AA of the Reserves Act 1977.
2. Under step 2, public notification can be precluded in certain circumstances:
  - a. there is no rule or NES that specifically precludes public notification of the activities (s95A(a)); and
  - b. Section 95A(5)(b) precludes notification if the application is for a resource consent for 1 or more of the following, but no other, activities:
    - A controlled activity;
    - A restricted discretionary, discretionary or non-complying activity, but only if the activity is a boundary activity;

With respect to this application:

- The proposal is not a controlled activity;
- The proposal is the subdivision of land but does not have a non-complying activity status
- The proposal is not a boundary activity
- The proposal is not a prescribed activity.

Therefore I conclude that public notification is not precluded and step 3 applies.

3. Under step 3, if public notification has not been precluded in step 2 then it may be required in certain circumstances.
  - a. With regard to Section 95A(8)(a) the application is for an activity that is not subject to a rule or a national environmental standard that specifically requires notification.
  - b. An assessment with respect to Section 95D, as to whether an activity will have or is likely to have adverse effects on the environment that are more than minor
    - (a) Must disregard any effects on persons who own or occupy the land in, on, or over which the activity will occur; or any land adjacent to that land; and

- (b) May disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and
- (c) In the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and
- (d) Must disregard trade competition and the effects of trade competition; and
- (e) Must disregard any effect on a person who has given written approval to the relevant application.

### Assessment of Effects

#### Amenity and landscape character values

The subject site is located adjacent to the Hatea River and the increasingly popular walkway known as The Loop. At present it accommodates a range of marine based industrial businesses which could be described as being rundown and not in a good state of repair. Overall the site has a modified derelict character. The proposed subdivision will result in four allotments consistent with the controlled activity subdivision standards for the Town Basin Environment in the Operative District Plan and the Water Front Mixed Use Zone and ensures the subdivision is consistent with the planned built environment standards expected in the Whangarei District Plan,

Engineering Matters - Nadia de la Guerre Team Leader – Development Engineering has reported on the proposed subdivision her report is on file. In general terms it is her view the effects can be mitigated by consent notices and are summarised below:

#### Access

The newly established lots will use existing vehicle crossings and no additional vehicle crossings are proposed. As a result, it is considered there will be no adverse effects associated with the access arrangements associated with the access arrangements.

#### Natural Hazards

The site is identified as being Flood Susceptible, however because development is not being proposed as part of this subdivision proposal any adverse effects associated with flooding will be negligible.

#### Servicing arrangements

As previously described the subdivision of the property is essentially to facilitate financial investment to enable the applicant can develop the site in the future. Accordingly, the servicing requirements for each of the lots are yet to be finalised and no service connections are proposed as part of the application. However, consent notices informing future owners of their responsibilities in this regard will attach to the subdivision consent.

#### Adverse Effects Conclusion

Having considered the site and the nature of the proposal and taking into account the permitted baseline and the existing environment it is assessed any adverse effects generated will be less than minor.

4. Under step 4, it is necessary to determine whether special circumstances exist in relation to the application that warrant the application being publicly notified.

Specific to this application there are no special circumstances that warrant the application being publicly notified because there is nothing exceptional or unusual about the application.

### Limited notification

If the application is not publicly notified under Section 95A RMA, it must be decided if there are any affected persons and give limited notification to those persons. Section 95B sets out the steps that must be followed to determine if limited notification is applicable.

1. Under step 1, limited notification is not mandatory as:



- a. there are no protected customary rights groups or customary marine title groups affected by this proposal; and
  - b. no persons to whom a statutory acknowledgement is made is adversely affected by this proposal.
2. Under step 2, limited notification is not precluded as:
- a. there is no rule or NES that specifically precludes limited notification of the activities; and
  - b. the application is for an activity other than those specified in Section 95B(6)(b), being the activity does not have a controlled status and isn't a prescribed activity.
3. Section 95B(7) requires determination as to whether, in accordance with Section 95E, the following persons are affected persons – in the case of a boundary activity, an owner of an allotment with an infringed boundary; and in the case of any activity prescribed under Section 360H(1)(b), a prescribed person in respect of the proposed activity.

Section 95B(8) then requires, in the case of any other activity, determination whether a person is an affected person in accordance with Section 95E.

Section 95B(9) requires each affected person identified in (7) and (8) to be notified.

In deciding is an affected person under Section 95E, a consent authority:

- may disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect (i.e. council may consider the 'permitted baseline')
- must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion
- must have regard to every relevant statutory acknowledgement made in accordance with an Act set out in Schedule 11 of the Act.

Further, and pursuant to Section 95E(3)(a), a council must not consider that a person is affected if they have given their written approval or pursuant to Section 95E(3)(b) it is unreasonable in the circumstances to seek that person's approval.

Specific to this application limited notification is not required as:

- a. this application is not solely for a boundary activity or prescribed activity; and
- b. there are no adversely affected persons. An analysis of the applications' adverse effects on the localised environment, including any proposed mitigation measures, are discussed below.

#### **Assessment of Localised Environmental Effects**

Having regard to the above and after undertaking an analysis of the application, including proposed mitigation (in the form of the offer by the applicant to impose consent notices advising future property owners of their responsibility to undertake connections to reticulated services and comply with HAIL requirements) it is considered the effects of the proposal on the wider environment also covers the localised environment and in this case are assessed as minor.

#### **Adversely Affected Parties**

Based on Sections 95B and 95E and the analysis of actual and potential effects provided above, it is considered that there are no parties adversely affected by the proposal.

## **8 Decision**

Pursuant to Sections 95A - 95F of the Resource Management Act 1991, this application shall proceed on a non-notified basis for the reasons noted in this report and, in summary:

1. The adverse effects on the environment will be no more than minor and there are no affected persons because:
  - i. Any actual and potential effects on the environment in terms of amenity and landscape character associated with the proposed subdivision have been assessed as being consistent with the existing and planned built environment in the vicinity of the subject site.

- ii. No additional vehicle crossings are proposed
  - iii. Although service connections are not proposed as part of the application consent notices informing future owners of their responsibilities in this regard will attach as conditions to the subdivision consent.
  - iv. The granting of the consent with a 10 year consent period is considered reasonable given the long term nature of the proposed development and the current review of the District Plan provisions.
2. There are no special circumstances that warrant public notification.



Phillipa Campbell,  
Planning Specialist (Consents)

4<sup>th</sup> May 2021

Date



Roger Quinton, Team Leader (Consents)

10/5/2021

Date

Released under the Provision of  
the Official Information Act 1982

## Notice of Decision

SD2100045 and P51655

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 by Northland Development Corporation Ltd

## Section 104 of the Resource Management Act 1991

### Decision – Discretionary Activity

#### 1 Application Details

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The proposal is to undertake a four-lot subdivision of an existing title (Lot 1 - 4 DP 40643 NA1549/29) over three stages at 44-48 Riverside Drive, Whangarei. subdivide NA1549/29 into four lots over three stages and includes a request to double the lapse period to ten years.

- Stage 1 will create Lots 4 and 5
- Stage 2 will create Lots 1, 2 and 3 by subdividing Lot 5
- Lots 1 and 2 will be amalgamated in Stage 2 and amalgamation cancelled in Stage 3

The proposal will result in the following allotment areas:

- Proposed Lot 1 - 1,195 m<sup>2</sup> (1050m<sup>2</sup> net)
- Proposed Lot 2 - 1,965m<sup>2</sup>
- Proposed Lot 3 - 3540m<sup>2</sup> (3475m<sup>2</sup> net)
- Proposed Lot 4 - Lot 4 5790m<sup>2</sup> (5450m<sup>2</sup> net)

In addition, the application site and the surrounding environment and the reasons for consent have been referenced in Sections 4 and 5 respectively of the Notification Decision.

#### 2 District Plan Zoning/Environment and other Notations

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The District Plan zoning/environment and other notations affecting the site are as indicated in Section 1 of the Notification Decision.

#### 3 Statutory Context

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Section 104 of the Resource Management Act 1991 sets out those matters that, subject to Part 2, a consent authority must have regard to when considering an application for resource consent. These matters include any actual or potential effects on the environment of allowing the activity, any relevant provisions of a plan or proposed plan and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Pursuant to Section 104B of the Act, after considering the application for resource consent, a consent authority may grant or refuse the application, and if it grants the application, may impose conditions under Section 108 of the Act.

#### 4 Actual or Potential Effects on the Environment (Section 104(1)(a))

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When forming an opinion for the purposes of s104(1)(a) Section 104(2) allows the consent authority to disregard an adverse effect of the activity on the environment if the Plan permits an activity with that effect (i.e. the permitted baseline principle). This matter has been addressed in Section 8 of the Notification Decision and also applies to this consideration.

Section 104(3)(a)(i) of the Act requires that a consent authority must not have regard to trade competition; nor, under Section 104(3)(a)(ii), can any consideration be had of any effect on a person who has provided their written approval to the application. In this instance there are no persons considered to be affected.

Any actual or potential effects on the environment of allowing the activity have been addressed in Section 9 of the Notification Decision. This assessment also applies to this consideration.

For the purpose of Section 104(1)(ab) regard must be had to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. Therefore based on this, and to avoid, remedy or mitigate adverse effects conditions of consent relating to the following matters are recommended:

1. **General Accordance Condition** – in order to ensure the effects considered within this application are consistent with those that result, a condition shall require the proposal to be given effect to in accordance with the information and details provided in support of the application.
2. **Engineering Conditions** – required to ensure all engineering works are carried out in accordance with Councils Environmental Engineering Standards and the standards of the appropriate utility providers. Councils Team Leader – Engineering Development has a full report in on file.
3. **Consent Notice Conditions** – required to advise future owners of their responsibilities in relation to engineering and NES and asbestos regulations.
4. **Amalgamation Condition** – An amalgamation condition is required in Stage 2 to hold Lots 1 and 2 are held in the same title. This will enable the existing building located within proposed Lots 1 and 2 to remain while any future development on Lots 3 and 4. LINZ have confirmed the proposed condition is practicable.
5. **Applicant Offered Conditions** – required to ensure future owners are informed of their responsibility to provide service connections and meet the requirements of the National Environmental Standards for Contaminated Soils and Asbestos regulations.

Overall the effects of the activity are considered to be acceptable and no more than minor.

## 5 Relevant Provisions (Section 104(1)(b)(i)-(v))

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When considering an application, pursuant to Section 104 and subject to Part 2, regard must be had to any relevant provisions of:

- a national environmental standard;
- other regulations;
- a national policy statement;
- a New Zealand coastal policy statement; and
- a regional policy statement (including proposed).

### Northland Regional Policy Statement

The Northland Regional Policy Statement (NRPS) covers the management of natural and physical resources across the Northland Region. The provisions within the NRPS give guidance on significant regional issues. Having reviewed the current operative NRPS I consider there are no significant conflicts between the proposal and the provisions of the RPS.

### New Zealand Coastal Policy Statement

Given the location of the site within the Coastal Environment identified in the NRPS, the New Zealand Coastal Policy Statement (NZCPS) has some relevance to this proposal. Given the hierarchical nature of

these plans, and general alignment with the NRPS, the proposal is one that sits comfortably within the framework of the NZCPS.

## **6 Relevant Provisions of the Operative/Proposed Plan (Section 104(1)(b)(vi))**

### **Weighting**

At present substantial provisions of the Whangarei District Plan are currently undergoing review due to the recent Urban and Services Plan Change. In this case the plan changes propose rezoning the site from:

Town Basin Environment / Riverside Sub Environment

to

Waterfront Zone / Mixed Use Area

Council has released its decisions with respect to the plan changes and appeals have been received. The relevant objectives and policies have largely been transposed from the Operative District Plan and now lie in the Appeals Version District Plan. There have been some changes but generally the intent is the same. There are no appeals on the subject site however appeals have been received relating to the objectives, policies and rules of the Waterfront Zone (WZ), the Transport Chapter (TRA), the Three Waters Management Chapter (TWM) and the Subdivision Chapter (SUB) all of which come into play in the consideration of this application. On this basis, the most weight can be given to the Appeals Version of the District Plan.

### **Operative District Plan**

Given the position, at this point in time, of the recent Urban and Services Plan Change, the objectives and policies of the Town Basin Environment / Riverside Sub Environment have limited relevance, and have not been assessed in any detail suffice to say they are in general alignment with the application.

### **Decision Version District Plan**

The objectives and policies of the Decisions Version of District Plan and their relevance to the proposed subdivision are listed and discussed below:

#### **Waterfront Zone**

##### *Objectives*

*WZ-01 – Pedestrians and Cyclists - Promote a safe, accessible and vibrant waterfront, which prioritises pedestrians and cyclists.*

*WZ-02 – Enabled Development - Enable the development of the Waterfront Zone as a hub for tourism, recreation, arts and cultural activities.*

*WZ-03 – Land Uses - Support a range of land uses that complement the City Centre Zone and are compatible with surrounding Residential and Open Space and Recreation Zones.*

*WZ-04 – Amenity and Character - Protect and enhance the sense of place, amenity, character, cultural, heritage, ecological and recreational values unique to the Waterfront Zone.*

*WZ-05 – Connections - Protect and enhance the Waterfront Zone's physical and visual connections with waterways, the coastal marine area and the City Centre.*

*WZ-06 – Residential Activities - Promote residential activities in the Waterfront Mixed-Use Area This application has been lodged following the release of the decisions version on 17 January 2018, therefore regard must be had to this when this application is considered.*

##### *Policies*

*WZ-P1 – Character and Amenity - To recognise the character and amenity values of the Waterfront Zone including but not limited to:*

- 1. Accessible connections to the waterfront.*
- 2. High levels of access to sunlight.*
- 3. Moderate levels of noise.*
- 4. Minimal exposure to noxious odour or noise associated with marine industrial activities.*

5. Ample opportunities for formal and informal social interactions.
6. Limited off-street parking.
7. Pedestrian and cyclist focused.
8. Historical and cultural significance of the area.
9. Ecological value of the waterbodies (and their margins).

*WZ-P2 – Land Uses - To provide for a range of land use activities that are compatible with the context of the predominant maritime, open space, arts, culture, retail, recreation and tourism themes of the Waterfront Zone.*

*WZ-P3 – Subdivision and Development - To require subdivision and development to be designed, constructed and operated so that it:*

1. Complements the character of the Waterfront Zone.
2. Enhances amenity values.
3. Protects cultural and historic heritage values.
4. Enables opportunities for passive surveillance.
5. Provides direct and safe pedestrian and cyclist routes.
6. Enhances the ecological value within the Waterfront Zone.

*WZ-P4 – View Shafts -To protect view shafts and improve walkability by providing areas for public open space and visual and physical connections (e.g. cycleways, walkways and laneways) within the Waterfront Zone and to adjacent zones.*

*WZ-P5 – Bulk and Location - To manage the bulk and location of major structures to maintain a pedestrian scale of development and an open atmosphere with ample sunlight access.*

*WZ-P6 – Esplanade Areas - To ensure buildings and major structures are sufficiently set back from Mean High Water Springs to safeguard esplanade areas and manage flooding risks.*

*WZ-P7 – Active Frontage -To strengthen the interrelationship between buildings and the public realm by requiring building design to:*

1. Provide active frontage at ground floor level.
2. Orientate entrances towards roads and waterways.

*WZ-P8 – Residential Activities and Visitor Accommodation - To promote a mixed-use environment by enabling appropriately designed residential activities and visitor accommodation within the Waterfront MixedUse Area.*

*WZ-P9 – Subdivision - To enhance walkability and street amenity by requiring sufficient site frontages to*

1. Avoid rear sites.
2. Enable corner sites to be emphasised.
3. Maintain narrow sites frontages.

*WZ-P10 – Safety - To reduce threats to personal safety and security by utilising urban design and CPTED principles in the design of developments in the Waterfront Zone.*

Comment: The overall intent of the Waterfront Mixed Use area is to provide for residential, commercial and community activities and marine activities that are compatible with sensitive activities adjacent to the Hatea River. The proposed subdivision is in alignment with the relevant objectives and policies and will continue to promote a safe, accessible and vibrant waterfront. It will continue to protect and enhance a sense of place, amenity, character, cultural, heritage, ecological and recreational values of the Waterfront Zone and the visual connection with waterways, the coastal marine area and the City Centre.

### **Transport (TRA)**

#### **Objectives**

*TRA-O1 – Transport Network Provide and maintain a safe, efficient, accessible and sustainable transport network while avoiding, remedying or mitigating adverse effects on the environment, adjoining land uses and the surrounding amenity and character*

*TRA-O2 – Integrate Transport and Land Use Planning Integrate land use and transport planning to ensure that land use activities, development and subdivision maintain the safety and efficiency of the transport network.*

*TRA-O3 – Active and Public Transport Encourage and facilitate active transport and public transportation.*

*TRA-O4 – Safety and Efficiency Provide suitable and sufficient vehicle crossings, access, parking, loading and manoeuvring areas that minimise adverse effects on the safe, effective and efficient functioning of the transport network.*

*TRA-O5 – Urban Design Design and locate transport infrastructure in a manner that is consistent with the amenity and urban design outcomes anticipated for the zone.*

*TRA-O6 – Future Growth Ensure that future growth can be supported by appropriate transport infrastructure.*

#### *Policies*

*TRA-P1 – Design, Construction and Maintenance To design, construct and maintain roads, cycleways, walkways, public transport infrastructure, car parks and pedestrian access in a manner that:*

- 1. Provides a safe and efficient transport network.*
- 2. Enables the efficient provision of network utility infrastructure while providing for suitable streetscape amenity including lighting and landscaping.*
- 3. Has regard to the future capacity and growth of the transport network.*
- 4. Is multi-modal and provides for the needs of all users, as appropriate for the surrounding environment and the function of the road within the transport network hierarchy.*
- 5. Avoids no exit roads where through roads and connected networks can be designed, particularly in commercial and industrial areas.*
- 6. Provides pedestrian and cyclist access to connect roads and public spaces where they would offer a shorter route.*
- 7. Ensures access to multiple allotments is constructed to an acceptable standard and vested as a public road where appropriate.*
- 8. Appropriately manages stormwater to ensure the risk of flooding is not increased and water quality is maintained.*

*TRA-P2 – Roads Allow new public roads or major roading upgrades to public roads where the location and design of the road:*

- 1. Provides for the needs of all users, as appropriate for the surrounding environment and the function of the road within the transport network hierarchy.*
- 2. Minimises adverse effects on surrounding sensitive activities, including severance effects and streetscape amenity.*
- 3. Maintains or enhances the safety and efficiency of the transport network.*
- 4. Does not compromise, and where possible provides, connections to surrounding areas, particularly for buses, pedestrians, and cyclists.*
- 5. Provides sufficient area for landscaping and tree planting in appropriate areas while balancing the need to maintain safety and provide underground services and footpaths.*
- 6. Contributes to positive urban design outcomes within the Urban Area.*

Comment The proposed lots will utilise existing vehicle crossings which provide safe and efficient access to the proposed allotments

### **Three Waters Management (TWM)**

#### *Objectives*

*TWM-O1– Connections Ensure that connections to public reticulated three waters networks are provided within Reticulated Stormwater Areas, Reticulated Wastewater Areas, and Reticulated Water Supply Areas. T*

*TWM-O2– Reticulated Networks Maintain the effectiveness, efficiency and sustainability of reticulated three waters networks.*

*TWM-O3– Integrated Infrastructure Plan and provide for three waters infrastructure in an integrated and comprehensive manner. TWM-O4– Private Systems Ensure that private three waters systems are provided where connections are not provided to public reticulated networks.*

*TWM-O5– Adverse Effects Minimise adverse effects from stormwater and wastewater on people, property, infrastructure, the receiving environment and cultural values.*

#### *Policies*

*TWM-P1 Three Waters Infrastructure To ensure that three waters resources are appropriately managed by requiring subdivision and development to provide three waters infrastructure that:*

- 1. Is coordinated, integrated and compatible with the existing infrastructure and capacities.*
- 2. Enables the existing public reticulated network to be expanded or extended to adjacent land where that land is within a Reticulated Stormwater Area, Reticulated Wastewater Area or Reticulated Water Supply Area.*

*TWM-P2 – Reticulated Areas To sustainably and efficiently manage three waters resources by avoiding private three waters systems where connection to the public reticulated network is practicable in a Reticulated Stormwater Area, Reticulated Wastewater Area or Reticulated Water Supply Area.*

*TWM-P3 – Capacity To manage the scale and design of subdivision and development where connection is proposed to public reticulated three waters networks to ensure that there is sufficient capacity in the public reticulated networks, or where necessary require upgrades and/or extensions to the public reticulated networks to enable appropriate subdivision and development.*

*TWM-P4 – Future Development To ensure that three waters infrastructure is designed to accommodate the anticipated servicing requirements of plan enabled development in the locality. [000133]*

*TWM-P5 – Vested Assets To require vested assets, and connections to vested assets, to be designed and constructed in a manner that protects the ongoing operation, maintenance and upgrading of that asset.*

*TWM-P6 – Private Systems To ensure that where connection to a public reticulated three waters network is not available or practicable that provision can be made for:*

- 1. A water supply.*
- 2. The treatment, disposal, and where appropriate attenuation, of stormwater in a way that does not lead to significant adverse effects on or off site.*
- 3. Management of wastewater via:*
  - a. An on-site wastewater treatment system;*
  - or*
  - b. Approval to connect to a private wastewater system.*

*TWM-P7 – Flooding To reduce the risk of flood hazards or increased upstream and downstream flood levels resulting from stormwater discharges. TWM-P8 – Integrated Three Waters Assessments To require Integrated Three Waters Assessments for large scale developments to: 1. Provide three waters infrastructure in an integrated and comprehensive manner. 2. Enable and recognise the benefits of green infrastructure and low impact design*

*TWM-P9 – Infrastructure To require subdividers and developers to meet the fair and reasonable costs of any upgrades or extensions of public reticulated three waters infrastructure which are attributed to the impacts of the subdivision or development.*

Comment Although service connections are not proposed as part of the subdivision a consent notice informing the future owners of their responsibility to provide these in the future will attach as a condition of the consent ensuring the proposal is consistent with the objectives and policies of the TWM chapter

#### **Subdivision (SUB)**

SD2100045 P51655  
Northland Development Corporation Ltd  
44-48 Riverside Drive



## Objectives

*SUB-O1– Zone, Overlay and District Wide Objectives Land is subdivided to achieve the objectives of each relevant zone, overlays and district-wide provisions.*

*SUB-O2– Valued Features and Resources Subdivision provides for the protection and enhancement of the District's:*

- 1. Highly versatile soils.*
- 2. Outstanding Natural Features.*
- 3. Outstanding Natural Landscapes.*
- 4. Coastal Area.*
- 5. Areas of High Natural Character.*
- 6. Outstanding Natural Character.*
- 7. Significant Natural Areas.*
- 8. Sites of Significance to Māori.*
- 9. Historic Heritage.*

*SUB-O3– Community Needs Land is subdivided in a manner that provides for the changing needs of people and communities, and for future generations, while taking into account:*

- 1. Amenity values including good quality urban design.*
- 2. Local character and sense of place.*
- 3. The outcomes anticipated by the relevant zone, overlay and district wide provisions*

*SUB-O4– Infrastructure Subdivision and development provides for the efficient and orderly provision of services and infrastructure.*

*SUB-O5–Managing Adverse Effects Subdivision is designed to avoid, remedy or mitigate any adverse effects on the environment and occurs in a sequenced and coherent manner.*

## Policies

*SUB-P1 – Zone, Overlay and DistrictWide Policies To enable subdivision where it meets the relevant zone, overlay and district wide policies, where subdivision and development is designed to:*

- 1. Reflect patterns of development that are compatible with the role, function, amenity values and predominant character of the zone.*
- 2. Maintain the integrity of the zone with lot sizes sufficient to accommodate intended land uses.*
- 3. Respond positively to and integrate with the surrounding context.*
- 4. Appropriately avoid, remedy or mitigate adverse effects on:*
  - a. Outstanding Natural Features.*
  - b. Outstanding Natural Landscapes.*
  - c. Coastal Areas.*
  - d. Areas of High Natural Character.*
  - e. Areas of Outstanding Natural Character.*
  - f. Sites of Significance to Māori.*
  - g. Historic Heritage.*
  - h. Significant Natural Areas.*
  - i. Highly versatile soils.*

*SUB-P2 – Existing Development To provide for subdivision:*

1. That creates sites to recognise existing development.
2. Where it enables the creation of sites for uses that are expressly allowed by a resource consent.
3. Where there is compliance with district wide, overlay and zone rules.

*SUB-P3 – Boundary Adjustment To provide for minor boundary adjustments which enable a more efficient and effective use of land where there is compliance with district-wide, overlay and zone rules.*

*SUB-P4 – Minor Residential Unit To protect amenity and character by avoiding the subdivision of minor residential units from principal residential units where resultant allotments do not comply with minimum lot size and residential density.*

*SUB-P5 – Infrastructure To achieve efficient and effective provision of services and infrastructure by ensuring new allotments are capable of being provided with adequate services and infrastructure.*

Comment: The four - lot subdivision seeks to minimise adverse effects by occurring sequentially and in a coherent way and with the conditions imposed is considered to be in alignment with the policies and objectives of the Subdivision Chapter, notwithstanding no connection to reticulated service connections.

There are no other planning documents considered to be applicable in the assessment of this proposal.

## **7 Other Relevant Matters (Section 104(1)(c))**

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I find no other matters relevant and reasonably necessary in determining this application.

## **8 Part 2 Matters**

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Part 2 of the RMA 1991 promotes the sustainable management of natural and physical resources while avoiding, remedying or mitigating adverse effects on the environment. As its adverse effects are minor or less the application does not offend the Purpose and Principles of Section 5.

Section 6 of the Act requires recognition and provision for matters of national importance, such matters as preservation of natural character; protection of outstanding natural features, landscapes, and significant indigenous vegetation; relationship of Maori; protection of historic heritage; and management of significant risks from natural hazards. This application is considered to be in alignment with Section 6.

Section 7 of the Act requires, in achieving the purpose of the Act, particular regard be given to various other matters. These other matters include:

- Kaitiakitanga
- Ethic of stewardship
- The efficient use and development of resources, and any finite characteristics
- Maintenance and enhancement of amenity values, and the quality of the environment
- Values of ecosystems
- Effects of climate change
- Benefits from renewable energy

Particular to this application it is considered that there are no apparent conflicts with Section 7 of the Act

## **9 Decision and Reasons**

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Pursuant to Sections 104, 104B of the Resource Management Act 1991, and in accordance with delegated authority under Section 34A, the resource consent application (SD2100045 and P51655) by Northland Development Corporation Ltd to subdivide NA1549/29 into four lots over three stages at 44-48 Riverside Drive (Lot 1 - 4 DP 40643), with a ten year lapse period, is granted subject to the conditions below and for the following summary reasons:

1. Any actual or potential effects on the environment are considered to be minor
2. The proposal is consistent with the relevant provisions of the Operative District Plan and the Appeals Version of the District Plan.

3. The granting of the consent with a 10 year consent period from the date of the grant of consent is considered reasonable given the long term nature of the proposed development and the current review of the District Plan provisions
4. There is no reason under Part 2 of the RMA not to grant consent.
5. There are no other relevant matters relevant to the consideration of this application.

## 10 Conditions

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### Determination 1 – Section 37

Pursuant to Section 37 of the Resource Management Act 1991, Council approves the additional working days to allow the processing of this consent to be completed and the draft conditions to be reviewed by the applicant's agent. The Section 37 has been agreed by the applicant's agent.

### Determination 2 - Subdivision

Pursuant to Section 108 and 220 of the Resource Management Act 1991 resource consent is granted subject to the conditions detailed below.

### Resolution 1 – Section 241(3) Cancellation of Amalgamation

That the amalgamation of Lots 1 and 2 undertaken in Stage II be cancelled upon the completion of Condition 5 in Stage III.

## Conditions

### Stage 1 – Lots 4 & 5

1. **That before the survey plan is certified pursuant to Section 223 of the Act, the following requirements are to be satisfied:**
  - a That the survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Reyburn and Bryant "Northland Development Corporation, Riverside Drive Whangarei Proposed Subdivision of Part Lots 1 - 4 DP 40643, Number S15311, Sheets 1/3 and 2/3 Rev E, April 2021.
  - b The consent holder shall provide written confirmation from the telecommunications and electricity utility service operator of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Councils' Post Approval Officer or delegated representative. Or the consent holder is to confirm that telecommunication connections are not proposed in which case consent notice will be registered on the title of proposed Lot 4 and 5 prior to the issue of the Section 224(c) certificate alerting future owners of this situation.
  - c The consent holder must create easements over existing services to the approval of the Development Engineer or delegated representative.
  - d The consent holder must create easements over any stormwater overland flow paths affected by the development or as directed by the Development Engineer.  
Note: Overland flow paths are to be assessed in accordance with Section 4 of Council's Environmental Engineering Standards 2010 Edition and are to be certified by a CPEng Engineer with relevant qualifications in stormwater design.
2. **Before a certificate is issued pursuant to Section 224(c) of the Act the following requirements are to have been satisfied:**
  - a The consent holder is to submit a Site Inspection and Sampling Plan to the approval of the Development Engineer or delegated representative. The Site Inspection and Sampling Plan is to include details of proposed further site investigations for NES and Asbestos aspects incorporating the recommendations made in the Tonkin & Taylor Report 1100081.v.2 dated January 2020, and including details of additional sampling including analyses and location
  - b The consent holder shall submit written confirmation from the telecommunication and electricity utility services operator that their conditions for this development have been satisfied in accordance with Council's Environmental Engineering Standards 2010 Edition to the approval of

the Councils' Post Approval Officer or their delegated representative. Or if the consent holder has confirmed that telecommunication electricity connections are not proposed as per condition 1(b) then the consent notice condition 2(d) (vi) is applicable.

- c The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services are located within the appropriate easement boundaries to the satisfaction of the Development Engineer or delegated representative.
- d Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of Lots 4 and 5 at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
- i Any development shall comply with the restrictions and recommendations identified in the Tonkin & Taylor Report 1100081.v.2 dated January 2020 and the Site Inspection and Sampling Plan approved under Condition 2(a) unless an alternative report is prepared by a suitably qualified and experienced person (as defined in the Ministry for the Environment Users' Guide: NES for Assessing and Managing Contaminants in Soil to Protect Human Health) is approved in writing by Council.
  - ii The location and foundations of any building shall be certified by a suitably experienced Chartered Professional Engineer prior to the issue of any building consent, noting the location of instability and flood susceptible areas on Council's Geographic Information Systems maps.  
A flood assessment report shall be prepared to assess the flooding hazards on the site.
  - iii If a gravity sewer connection cannot be achieved. At the time of building consent the property owner shall supply and install (at its own cost) a pressure sewer system of an approved make, (including all its constituent components) to the satisfaction of Council by applying for a Public Utility connection. After approval by Council, and connection of the pressure sewer system to the Council's reticulated system, Council shall own and maintain the pressure sewer system in accordance with the WDC Pressure Sewer Policy. The owner shall continue to own and maintain the property's gravity drain to the pump chamber. The owner shall be responsible for paying the power consumption of the pumping unit in accordance with WDC Pressure Sewer Policy.
  - iv Upon construction of any building, sufficient water supply for fire-fighting purposes is to be provided and be accessible by fire-fighting appliances in accordance with Council's Environmental Engineering Standards 2010 and more particularly with the 'FENZ Fire Fighting Code of Practice SNZ PAS 4509:2008'. An alternative means of compliance with this standard will require written approval from Fire and Emergency NZ.
  - v At the time of building consent the owner of Lots 4 and 5 shall apply for a vehicle crossing permit if the existing vehicle crossings are not to be used. The vehicle crossing shall comply with Council's current Environmental Engineering Standards.  
The formation works shall be completed to the satisfaction of Councils' Roading Corridor Coordinator or delegated representative prior to the Code Compliance Certificate being issued by Council for the first new building consent granted for Lot 4 or 5.  
A Traffic Impact Assessment may be required for any redevelopment of the site.
  - vi **(Refer to conditions 1(b) & 2(b) to determine if this condition is applicable)** No conventional telecommunication or electricity connection has been provided to Lots 4 or 5 as part of the subdivision works. Whangarei District Council will not be responsible for ensuring nor providing telecommunication connections to the proposed lots, upon future development of the site, or at the time of further subdivision.
  - vii The registered proprietors of the properties being Lots 4 and 5 on the plan shall be responsible for the installation and/or upgrade of sewer, stormwater and water connections including any necessary fire-fighting facilities at the time of any redevelopment of the site.

In such an instance, the owner shall make all necessary applications to the Council and pay any fees or contributions that may be required at the time.

- viii The registered proprietors of the properties, Lots 4 and 5 shall consider the effects of any future development on the seawall, in the reserve adjacent to the lots.

## Stage 2

### Lots 1 and 2 amalgamated and Lot 3

**3. That before the survey plan is certified pursuant to Section 223 of the Act, the following requirements are to be satisfied:**

- a That the survey plan submitted for approval shall conform with the subdivision consent obtained and the plan of subdivision prepared by Reyburn and Bryant "Northland Development Corporation, Riverside Drive Whangarei, Proposed Subdivision of Part Lots 1 - 4 DP 40643, Number S15311, Sheets 1/3 and 2/3, Rev E, April 2021.
- b The consent holder shall provide written confirmation from the telecommunications and electricity utility service operator of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Councils' Post Approval Officer or delegated representative. Or the consent holder is to confirm that telecommunication connections are not proposed in which case consent notice will be registered on the title of proposed Lots 1, 2 and 3 prior to the issue of the Section 224(c) certificate alerting future owners of this situation.
- c The consent holder must create easements over existing services to the approval of the Development Engineer or delegated representative.
- d The consent holder must create easements over any stormwater overland flow paths affected by the development or as directed by the Development Engineer.

Note: Overland flow paths are to be assessed in accordance with Section 4 of Council's Environmental Engineering Standards 2010 Edition and are to be certified by a CPEng Engineer with relevant qualifications in stormwater design

- e The following amalgamation condition shall be shown on the survey plan submitted for approval;

*"That Lots 1 & 2 hereon be held in the same Record of Title"*

*(Refer LINZ request 1716276)*

**4 That before a certificate is issued pursuant to Section 224(c) of the Act, the following requirements are to be satisfied:**

- a The consent holder is to submit a Site Inspection and Sampling Plan to the approval of the Development Engineer or delegated representative. The Site Inspection and Sampling Plan is to include details of proposed further site investigations for NES and Asbestos aspects incorporating the recommendations made in the Tonkin & Taylor Report 1100081.v.2 dated January 2020, including details of additional sampling including analyses and location.
- b The consent holder shall submit written confirmation from the telecommunication and electricity utility services operator that their conditions for this development have been satisfied in accordance with Council's Environmental Engineering Standards 2010 Edition to the approval of the Councils' Post Approval Officer or their delegated representative. Or if the consent holder has confirmed that telecommunication and/or electricity connections are not proposed as per condition 3(b) then the consent notice condition 4(d)(vi) is applicable.
- c The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services are located within the appropriate easement boundaries to the satisfaction of the Development Engineer or delegated representative.
- d Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of Lots 1, 2 and 3 at the consent

holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:

- i Any development shall comply with the restrictions and recommendations identified in the Tonkin & Taylor Report 1100081.v.2 dated January 2020 and the Site Inspection and Sampling Plan approved under Condition 4(a) unless an alternative report is prepared by a suitably qualified and experienced person (as defined in the Ministry for the Environment Users' Guide: NES for Assessing and Managing Contaminants in Soil to Protect Human Health) is approved in writing by Council.
- ii The location and foundations of any building shall be certified by a suitably experienced Chartered Professional Engineer prior to issue of any building consent, noting the location of instability and flood susceptible areas on Council's Geographic Information Systems maps.  
A flood assessment report shall be prepared to assess the flooding hazards on the site.
- iii If a gravity sewer connection cannot be achieved. At the time of building consent the property owner shall supply and install (at its own cost) a pressure sewer system of an approved make, (including all its constituent components) to the satisfaction of Council by applying for a Public Utility connection. After approval by Council, and connection of the pressure sewer system to the Council's reticulated system, Council shall own and maintain the pressure sewer system in accordance with the WDC Pressure Sewer Policy. The owner shall continue to own and maintain the property's gravity drain to the pump chamber. The owner shall be responsible for paying the power consumption of the pumping unit in accordance with WDC Pressure Sewer Policy.
- iv Upon construction of any building, sufficient water supply for fire-fighting purposes is to be provided and be accessible by fire-fighting appliances in accordance with Council's Environmental Engineering Standards 2010 and more particularly with the 'FENZ Fire Fighting Code of Practice SNZ PAS 4509:2008'. An alternative means of compliance with this standard will require written approval from Fire and Emergency NZ.
- v At the time of building consent the owner of Lots 1, 2 and 3 shall apply for a vehicle crossing permit if the existing crossings are not to be used. The vehicle crossing shall comply with Council's current Environmental Engineering Standards.  
The formation works shall be completed to the satisfaction of Council's Roadway Corridor Coordinator or delegated representative prior to the Code Compliance Certificate being issued by Council for the first new building consent granted for Lots 1, 2 and 3.  
A Traffic Impact Assessment may be required for any redevelopment of the site.
- vi **(Refer to conditions 3(b) & 4(b) to determine if this condition is applicable)** No conventional telecommunication or electricity connection has been provided to Lots 1, 2 and 3 as part of the subdivision works. Whangarei District Council will not be responsible for ensuring nor providing telecommunication connections to the proposed lots, upon future development of the site, or at the time of further subdivision.
- vii The registered proprietors of the properties being Lots 1, 2 and 3 on the plan shall be responsible for the installation and/or upgrade of sewer, stormwater and water connections including any necessary fire-fighting facilities.  
In such an instance, the owner shall make all necessary applications to the Council and pay any fees or contributions that may be required at the time.
- viii The registered proprietors of the properties, Lots 1 and 2 amalgamated and Lot 2 shall consider the effects of any future development on the seawall, in the reserve adjacent to the lots.

### Stage 3

#### Lots 1 and 2

- 5 **That before a resolution is issued pursuant to Section 241(3) of the Act, the following requirements are to be satisfied:**

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

It is to be noted that certain designs may only be carried out by Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies.

All work needing design/certification by a CPEng will require completion of a producer statement (design) (EES-PS1 or similar).

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

Plans are to include but are not limited to:

- i Design details of a water connection for Lot 1 in accordance with Sheet 46 or 47 of Council's Environmental Engineering Standards 2010 Edition including fire-fighting coverage in accordance with Sheet 45 and Section 6.11.
- b The consent holder shall provide written confirmation from the telecommunications and electricity utility service operator of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Councils' Post Approval Officer or delegated representative. Or the consent holder is to confirm that telecommunication connections are not proposed in which case consent notice will be registered on the title of proposed Lots 1 and 2 prior to the issue of the Section 224(c) certificate alerting future owners of this situation.
- c The consent holder must create easements over proposed and existing services to the approval of the Development Engineer or delegated representative.
- d The consent holder must create easements over any stormwater overland flow paths affected by the development or as directed by the Development Engineer.  
Note: Overland flow paths are to be assessed in accordance with Section 4 of Council's Environmental Engineering Standards 2010 Edition and are to be certified by a CPEng Engineer with relevant qualifications in stormwater design.
- e. The consent holder is to submit a Site Inspection and Sampling Plan to the approval of the Development Engineer or delegated representative. The Site Inspection and Sampling Plan is to include details of proposed further site investigations for NES and Asbestos aspects incorporating the recommendations made in the Tonkin & Taylor Report 1100081.v.2 dated January 2020, including details of additional sampling including analyses and location.
- f The consent holder is to submit a Corridor Access Request application to Council's Road Corridor Co-ordinator and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the satisfaction of the Development Engineer or delegated representative (refer to the advisory clause below for the definition of a Corridor Access Request).
- g. The consent holder shall notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Development Engineer and include the following details:
- Name and telephone number of the project manager.
  - Site address to which the consent relates.
  - Activities to which the consent relates.
  - Expected duration of works.

A copy of the approved engineering plans and a copy of the resource consent conditions, Inspection and Test Plan, approved corridor access request and the above letter are to be held

onsite at all times during construction. All personnel working on the site shall be made aware of and have access to the resource consent and accompanying documentation.

- h A pre start meeting is required to be undertaken with the consent holder's representative, contractor(s) or agents for the consent holder and the Development Engineer prior to any works being undertaken on the site to the satisfaction of the Development Engineer or delegated representative.
- i All work on the approved engineering plans in condition 5(b) is to be carried out to the approval of the Development Engineer. Compliance with this condition shall be determined by,
- Site inspections undertaken as agreed in Council's engineering plan approval letter/ Inspection and Test Plan.
- Results of all testing, video inspection records of all wastewater and stormwater reticulation, PE pipeline pressure testing and weld data logging results.
- PS4 and approval of supporting documentation provided by the developer's representative/s including evidence of inspections by those persons, and all other test certificates and statements required to confirm compliance of the works as required by Council's QA/QC Manual and the Council's Environmental Engineering Standards 2010.
- "Certificate of Completion of Development Works" from the Contractor.
- No construction works are to commence onsite until the engineering plans required in condition 5(b) have been approved.
- j. The consent holder must submit a certified and dated 'Asbuilt' plan of completed works and services in accordance with Council's Environmental Engineering Standards 2010 Edition. This condition shall be deemed satisfied once the as built has been approved by Council's Development Engineer or delegated representative.
- k. The consent holder shall submit written confirmation from the telecommunication / power utility services operator that their conditions for this development have been satisfied in accordance with Council's Environmental Engineering Standards 2010 Edition to the approval of the Council's Post Approval Officer or their delegated representative. Or if the consent holder has confirmed that telecommunication / power connections are not proposed as per condition 5(c) then the consent notice condition 6(j)(vi) is applicable.
- l. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries to the satisfaction of the Development Engineer or delegated representative.
- m. The consent holder must reinstate Council's footpath, kerb and channel, road carriageway formation, street berm and urban services where damage has been caused by the demolition and/or construction works associated with the subdivision or land use consent. The assets shall be reinstated in accordance with Council's Environmental Engineering Standards 2010 Edition at the expense of the consent holder and to the satisfaction of the Development Engineer or delegated representative.
- n. The consent holder must provide confirmation that Stage 2 of this subdivision has been completed and the consent notices required as part of that stage have been registered.

That pursuant to s128 of the RMA, the consent authority may at six monthly intervals from the date of the grant of consent until the issue of a s224(c) certificate, serve notice on the consent holder of its intention to review the conditions of this consent to deal with an effect on the environment which arises after the date of the grant of the consent where such effect is contrary to, or is otherwise not in accord with, the engineering/geo-technical assessments provided with the application for the consent.

## Advice Notes

- 1 This resource consent will lapse ten years after the date of commencement of this consent (being the date of this decision) unless:
- It is given effect to before the end of that period; or



- An application is made to Council to extend the period after which the consent lapses, and such application is granted prior to the lapse of consent. The statutory considerations which apply to extensions are set out in Section 125 of the Resource Management Act 1991.
- 2 Section 357A of the Resource Management Act 1991 provides a right of objection to this decision. An objection must be in writing, setting out the reasons for the objection and delivered to Council within 15 working days of the decision being notified to you. A fee may be payable to cover the costs of processing any objection.
- 3 A copy of this consent should be held on site at all times during the establishment and construction phase of the activity.
- 4 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 for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
- 5 The consent holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- 6 To help fund additional assets or assets of increased capacity, the Local Government Act 2002 (LGA) allows a council to require development contributions if the effect of a development requires the council to provide new or upgraded infrastructure. The Whangarei District Council has prepared and adopted a Development Contributions Assessment Policy. Under this policy, the activity to which this consent related is subject to Development Contributions Assessment. You will be advised of the assessment of the Development Contributions payable (if any) under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Plan (LTP) or Council's web page at [www.wdc.govt.nz](http://www.wdc.govt.nz).
- 7 Under section 120 an applicant/consent holder can appeal to the Environment Court against the whole or any part of the decision of a consent authority for a resource consent.
- 8 Please note the normal requirements of Land Information New Zealand in regard to the issuing of amalgamated titles. These include requirements for the land to be held in the same ownership, and for any existing joint family home settlements to be cancelled or extended to include all the land being amalgamated. The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
- 9 Any works carried out within Council's road reserve will require an approved Corridor Access Request.
- 10 A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by Council. It provides a single application for Traffic Management Plans/Road Opening Notice applications. Enquiries as to its use may be directed to Council's Road Corridor Co-ordinator, ph 430 4230 ext. 8231.
- 11 The WDC QA/QC Manual document can be located at the following link:  
<http://www.wdc.govt.nz/BuildingandProperty/GuidelinesandStandards/Pages/default.aspx>
- 12 The discharge across boundaries, particularly with regard to the concentration of flows, shall be managed at all times, to avoid the likelihood of damage or nuisance to other properties in accordance with the Council Stormwater Bylaw.
- 13 Council policy prohibits the building of any structure over an existing water/sewer/stormwater reticulation main.
- 14 All earthworks are required to comply with the Northland Regional Council Regional Water and Soil Plan for Northland noting Erosion & sediment control and dust suppression requirements.
- 16 All works to be carried out pursuant to Condition 1b above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried

out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.

- 17 The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.
- 18 Erosion and Sedimentation Control shall be designed and carried out in accordance with GD05 "Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region"
- 19 Site specific expansivity testing is to be undertaken at the time of building consent to confirm the expansivity potential of the soils at building platform locations to inform suitable foundation design. Testing shall be undertaken by an IANZ accredited laboratory with results reviewed by a suitably qualified Geotechnical Engineer.
- 21 The consent holder shall notify Council, in writing, of their intention to begin works/begin operation, a minimum of seven days prior to commencing works/beginning operation. Such notification shall be sent to the Team Leader RMA Approvals and Compliance and include the following details:
  - Name, telephone number and email
  - Site address to which the consent relates
  - Date activities are to commence



Phillipa Campbell Planning Specialist (Consents)

Date: 5 May 2020



Roger Quinton, Team Leader (Consents)

10/5/2021

Date

Released under the provisions of the Official Information Act 1982