



<b>Office Use Only</b> Application Number:
---

**APPLICATION FOR RESOURCE CONSENT OR FAST-TRACK RESOURCE CONSENT**

**(Or Associated Consent Pursuant to the Resource Management Act 1991 (RMA))**

**(If applying for a Resource Consent pursuant to Section 87AAC or 88 of the RMA, this form can be used to satisfy the requirements of Form 9)**

*Prior to, and during, completion of this application form, please refer to Resource Consent Guidance Notes and Schedule of Fees and Charges – both available on the Council’s web page.*

**1. Pre-Lodgement Meeting**

Have you met with a Council Resource Consent representative to discuss this application prior to lodgement? Yes / No

**2. Type of Consent being applied for (more than one circle can be ticked):**

- Land Use
- Fast Track Land Use\*
- Subdivision
- Discharge
- Extension of time (s.125)
- Change of conditions (s.127)
- Change of Consent Notice (s.221(3))
- Consent under National Environmental Standard (e.g. Assessing and Managing Contaminants in Soil)
- Other (please specify) \_\_\_\_\_

**\*The fast track for simple land use consents is restricted to consents with a controlled activity status and requires you provide an electronic address for service.**

**3. Would you like to opt out of the Fast Track Process? Yes / No**

**4. Applicant Details:**

Name/s: Waikuku Estate Limited

Electronic Address for Service (E-mail): \_\_\_\_\_

Phone Numbers: \_\_\_\_\_

Postal Address: \_\_\_\_\_  
(or alternative method of service under section 352 of the Act)

Post Code: 0472

**5. Address for Correspondence: Name and address for service and correspondence (if using an Agent write their details here).**

Name/s: Williams & King, Attention: Natalie Watson

Electronic Address for Service (E-mail): \_\_\_\_\_

Phone Numbers: \_\_\_\_\_ Home: \_\_\_\_\_

Postal Address: \_\_\_\_\_  
(or alternative method of service under section 352 of the Act)

Post Code: 0245

**All correspondence will be sent by email in the first instance. Please advise us if you would prefer an alternative means of communication.**

**6. Details of Property Owner/s and Occupier/s: Name and Address of the Owner/Occupiers of the land to which this application relates (where there are multiple owners or occupiers please list on a separate sheet if required)**

Name/s: Waikuku Estate Limited

Property Address/  
Location: 82 Waikuku Road, Waimate North

**7. Application Site Details:**

Location and/or Property Street Address of the proposed activity:

Site Address/  
Location: 82 Waikuku Road, Waimate North

Legal Description: Lot 3 DP 589598 Val Number: 00527-06303

Certificate of Title: 1124164  
Please remember to attach a copy of your Certificate of Title to the application, along with relevant consent notices and/or easements and encumbrances (search copy must be less than 6 months old)

Site Visit Requirements:

Is there a locked gate or security system restricting access by Council staff? Yes / No

Is there a dog on the property? Yes / No

Please provide details of any other entry restrictions that Council staff should be aware of, e.g. health and safety, caretaker's details. **This is important to avoid a wasted trip and having to re-arrange a second visit.**

Please phone Chris Purdie on 021407991 to arrange a site visit.

**8. Description of the Proposal:**

Please enter a brief description of the proposal here. Attach a detailed description of the proposed activity and drawings (to a recognized scale, e.g. 1:100) to illustrate your proposal. Please refer to Chapter 4 of the District Plan, and Guidance Notes, for further details of information requirements.

Proposed subdivision to create one additional Record of Title as a discretionary activity in the Rural Production Zone.

If this is an application for an Extension of Time (s.125); Change of Consent Conditions (s.127) or Change or Cancellation of Consent Notice conditions (s.221(3)), please quote relevant existing Resource Consents and Consent Notice identifiers and provide details of the change(s) or extension being sought, with reasons for requesting them.

**9. Would you like to request Public Notification**

Yes/No

**10. Other Consent required/being applied for under different legislation (more than one circle can be ticked):**

- Building Consent (BC ref # if known)                       Regional Council Consent (ref # if known)
- National Environmental Standard consent                       Other (please specify)

**11. National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health:**

The site and proposal may be subject to the above NES. In order to determine whether regard needs to be had to the NES please answer the following (further information in regard to this NES is available on the Council's planning web pages):

Is the piece of land currently being used or has it historically ever been used for an activity or industry on the Hazardous Industries and Activities List (HAIL)  yes  no  don't know

Is the proposed activity an activity covered by the NES? (If the activity is any of the activities listed below, then you need to tick the 'yes' circle).  yes  no  don't know

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

**12. Assessment of Environmental Effects:**

Every application for resource consent must be accompanied by an Assessment of Environmental Effects (AEE). This is a requirement of Schedule 4 of the Resource Management Act 1991 and an application can be rejected if an adequate AEE is not provided. The information in an AEE must be specified in sufficient detail to satisfy the purpose for which it is required. Your AEE may include additional information such as Written Approvals from adjoining property owners, or affected parties.

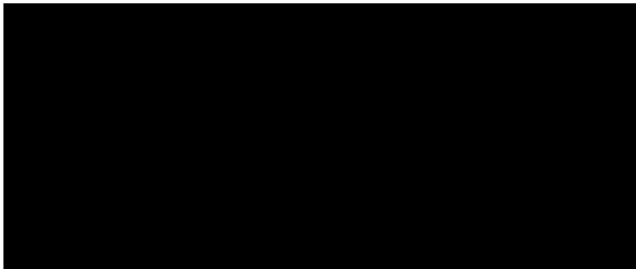
**Please attach your AEE to this application.**

**13. Billing Details:**

This identifies the person or entity that will be responsible for paying any invoices or receiving any refunds associated with processing this resource consent. Please also refer to Council's Fees and Charges Schedule.

Name/s: (please write all names in full) Waikuku Estate Limited

Email: 

Postal Address: 

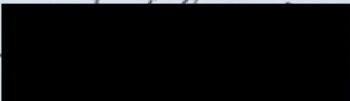
Post Code: 0472

Phone Numbers: \_\_\_\_\_ Fax: \_\_\_\_\_

**Fees Information:** An instalment fee for processing this application is payable at the time of lodgement and must accompany your application in order for it to be lodged. Please note that if the instalment fee is insufficient to cover the actual and reasonable costs of work undertaken to process the application you will be required to pay any additional costs. Invoiced amounts are payable by the 20<sup>th</sup> of the month following invoice date. You may also be required to make additional payments if your application requires notification.

**Declaration concerning Payment of Fees:** I/we understand that the Council may charge me/us for all costs actually and reasonably incurred in processing this application. Subject to my/our rights under Sections 357B and 358 of the RMA, to object to any costs, I/we undertake to pay all and future processing costs incurred by the Council. Without limiting the Far North District Council's legal rights if any steps (including the use of debt collection agencies) are necessary to recover unpaid processing costs I/we agree to pay all costs of recovering those processing costs. If this application is made on behalf of a trust (private or family), a society (incorporated or unincorporated) or a company in signing this application I/we are binding the trust, society or company to pay all the above costs and guaranteeing to pay all the above costs in my/our personal capacity.

Name: Christopher John Purdie (please print)

Signature:  (signature of bill payer – mandatory) Date: 4/7/2024



## 14. Important Information:

### Note to applicant

You must include all information required by this form. The information must be specified in sufficient detail to satisfy the purpose for which it is required.

You may apply for 2 or more resource consents that are needed for the same activity on the same form.

You must pay the charge payable to the consent authority for the resource consent application under the Resource Management Act 1991.

### Fast-track application

Under the fast-track resource consent process, notice of the decision must be given within 10 working days after the date the application was first lodged with the authority, unless the applicant opts out of that process at the time of lodgement. A fast-track application may cease to be a fast-track application under section 87AAC(2) of the RMA.

### Privacy Information:

Once this application is lodged with the Council it becomes public information. Please advise Council if there is sensitive information in the proposal. The information you have provided on this form is required so that your application for consent pursuant to the Resource Management Act 1991 can be processed under that Act. The information will be stored on a public register and held by the Far North District Council. The details of your application may also be made available to the public on the Council's website, [www.fndc.govt.nz](http://www.fndc.govt.nz). These details are collected to inform the general public and community groups about all consents which have been issued through the Far North District Council.

**Declaration:** The information I have supplied with this application is true and complete to the best of my knowledge.

Name: Natalie Watson (please print)

Signature:  (signature)

Date: 5 July 2024

(A signature is not required if the application is made by electronic means)

### Checklist (please tick if information is provided)

- Payment (cheques payable to Far North District Council)
- A current Certificate of Title (Search Copy not more than 6 months old)
- Copies of any listed encumbrances, easements and/or consent notices relevant to the application
- Applicant / Agent / Property Owner / Bill Payer details provided
- Location of property and description of proposal
- Assessment of Environmental Effects
- Written Approvals / correspondence from consulted parties
- Reports from technical experts (if required)
- Copies of other relevant consents associated with this application
- Location and Site plans (land use) AND/OR
- Location and Scheme Plan (subdivision)
- Elevations / Floor plans
- Topographical / contour plans

*Please refer to Chapter 4 of the District Plan for details of the information that must be provided with an application. Please also refer to the RC Checklist available on the Council's website. This contains more helpful hints as to what information needs to be shown on plans.*

**Only one copy of an application is required, but please note for copying and scanning purposes, documentation should be:**

**UNBOUND**

**SINGLE SIDED**

**NO LARGER THAN A3 in SIZE**



# Waikuku Estate Limited

## Proposed Subdivision

### 82 Waikuku Road, Waimate North

Williams & King, Kerikeri<sup>1</sup>  
4 July 2024

---



---

<sup>1</sup> Williams & King - a Division of Survey & Planning Solutions (2010) Ltd  
Surveyors, Planners, Resource Managers - Kerikeri and Kaitia  
PO Box 937 Kerikeri Phone (09) 407 6030 Email: nat@saps.co.nz

## 1.0 Overview

Waikuku Estate Limited is seeking resource consent to subdivide their property, located at Waikuku Road in Waimate North, to create two Records of Title (one additional) with areas of 9.8977ha (Lot 1) and 68.3566ha (Lot 2). Lot 2 contains existing sheds, while Lot 1 is vacant. The subject site is the balance lot of RC 2220808, of which Stage 1 has been completed, and Stage 2 is the subject of a current variation application.

Vehicle access to each lot from Waikuku Road is already established via an existing metalled driveway and vehicle crossing within proposed easement A, which also serves the existing dwelling on the proposed varied Lot 1 RC 2220808. These are adequately formed to serve three allotments. A condition of Stage 2 RC 2220808 requires sight distances at the vehicle crossing location to “comply with the requirements of the FNDC Engineering Standards including the clearance of the vegetation .... 15m either side of the vehicle crossing centreline”. This has been completed via removal of vegetation along the edge of the road formation.

No earthworks are necessary for the proposed subdivision.

An engineering site suitability report prepared for RC 2220808 reported on the suitability of a building site within what is now proposed Lot 1, and confirmed that a suitable building site exists subject to detailed design of onsite wastewater disposal, stormwater management, avoiding the obstruction of an overland flow path, and provision of on-site water supply. Stage 2 RC 2220808 approved a building site within what is now proposed Lot 1.

The subject site is zoned Rural Production in the Operative Far North District Plan, and the proposed subdivision is a discretionary activity.

Under the Proposed Far North District Plan, the site is also zoned Rural Production and the proposed activity would have a discretionary activity status.

This assessment accompanies the Resource Consent application made by the Applicant and is provided in accordance with Schedule 4 of the Resource Management Act 1991. It is intended to provide the necessary information, in sufficient detail, to provide an understanding of the proposal and any actual or potential effects the proposed activity may have on the environment.

## 2.0 Description of Proposal

### 2.1 Proposed Subdivision

The overarching purpose of the proposal is to enable the creation of one additional Record of Title, resulting in a managed change to the property without detriment to the surrounding environment.

The proposed subdivision creates Lots 1 and 2 as follows.

Lot Number	Area (Subject to Final Survey)	Existing / Anticipated Future Use
Lot 1	9.8977ha	Rural site. A future residential dwelling may be located on the site and the remainder will remain as grazing. Currently vacant.
Lot 2	68.3566ha	Rural site with continued grazing. Existing storage buildings near southern boundary. Area of bush subject to existing protection (shown as 'X' on the Scheme Plan).

Table 1: Summary of lot sizes and existing and proposed land use.

The Scheme Plan is attached in **Appendix 1** and in **Figure 1**. All areas and dimensions are subject to final survey.

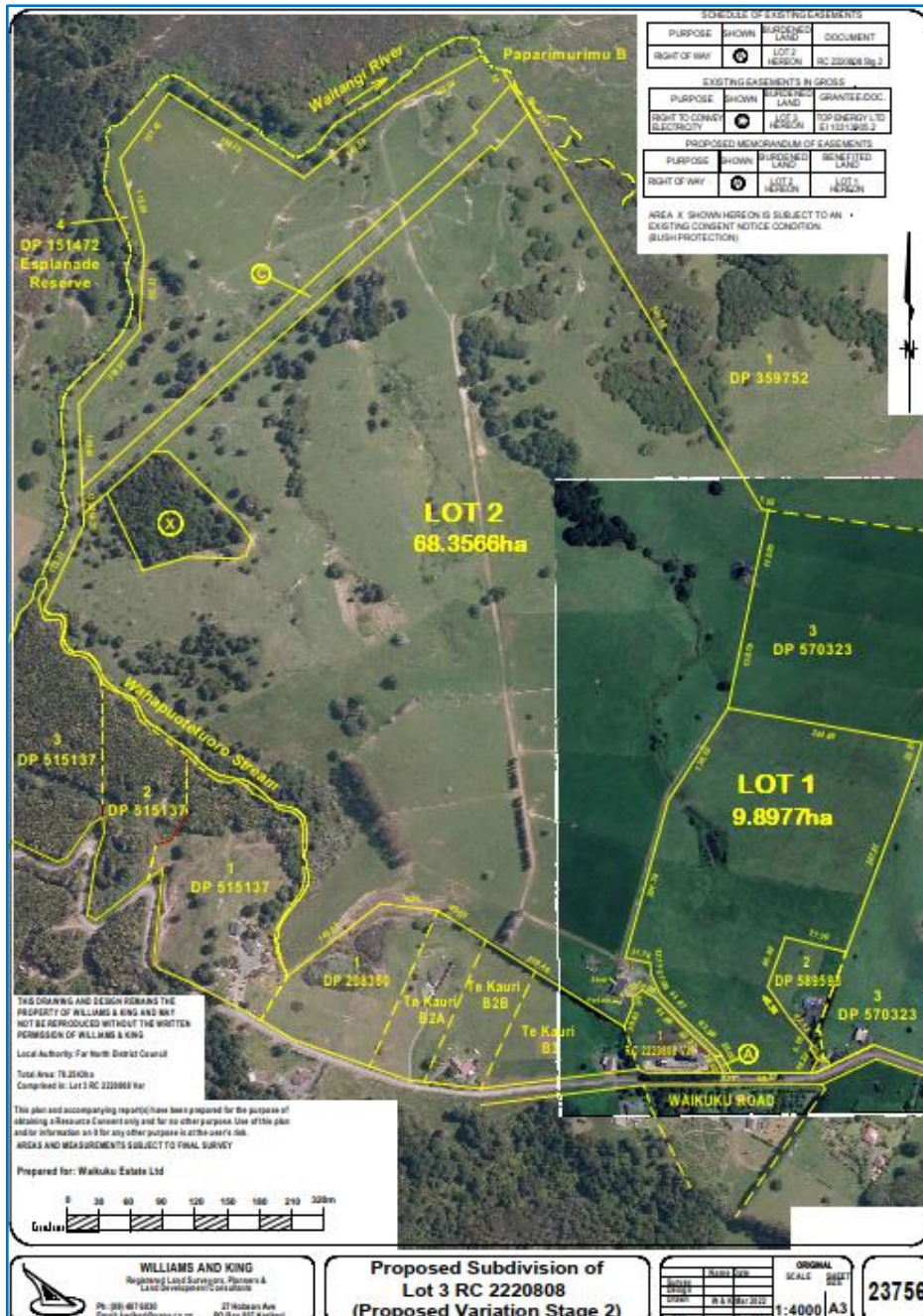


Figure 1: Scheme Plan of Proposed Subdivision.



## 2.2 Vehicle Access

Lots 1 and 2 will use the existing metalled entrance at 82 Waikuku Road and the existing metalled driveway, which will be shared for the first ~22m. Condition 3(b) of Stage 2 RC 2220808 (subject to current variation application) requires the existing entrance to be formed to a double width and condition 3(d) requires formation of the shared portion of metalled access to a 3m finished metalled carriageway width, including stormwater management. The conditions have been completed but not yet certified by way of a section 224(c) certificate. RC 2220808 is attached in **Appendix 2**.

Right of way easement A over Lot 2 and in favour of Lot 1 is required to facilitate the proposed vehicle access arrangements.

## 2.3 Wastewater and Stormwater Management

Future residential land use on Lot 1 will require the detailed design of a wastewater treatment and effluent disposal system and building consent will need to be obtained. There is ample area available for this purpose.

Anticipated future impermeable surfaces on Lot 1 are unlikely to exceed the permitted activity standard under the Rural Production Zone 'Stormwater Management' rule. Condition 4(d) of RC 2220808 Stage 2 requires the avoidance of flow obstructions within the secondary overland flow path that travels through Lot 1, taking the culvert road discharge from Waikuku Road. This consent notice condition will be applied through the completion of Stage 2 RC 2220808.

# 3.0 Application Site Details and Description

## 3.1 Location

The subject site is located at 82 Waikuku Road, in Waimate North. The property has direct frontage to Waikuku Road along its southern boundary, and is located approximately 750m west of the intersection between Te Ahu Ahu Road and Waikuku Road.

The northern boundary of the site adjoins Esplanade Reserve Lot 4 DDP 151472, which separates the site from Waitangi River. The western boundary of the site is a natural boundary formed by Wahapuotetuoro Stream.

Refer to the maps in **Figures 2** and **3**.

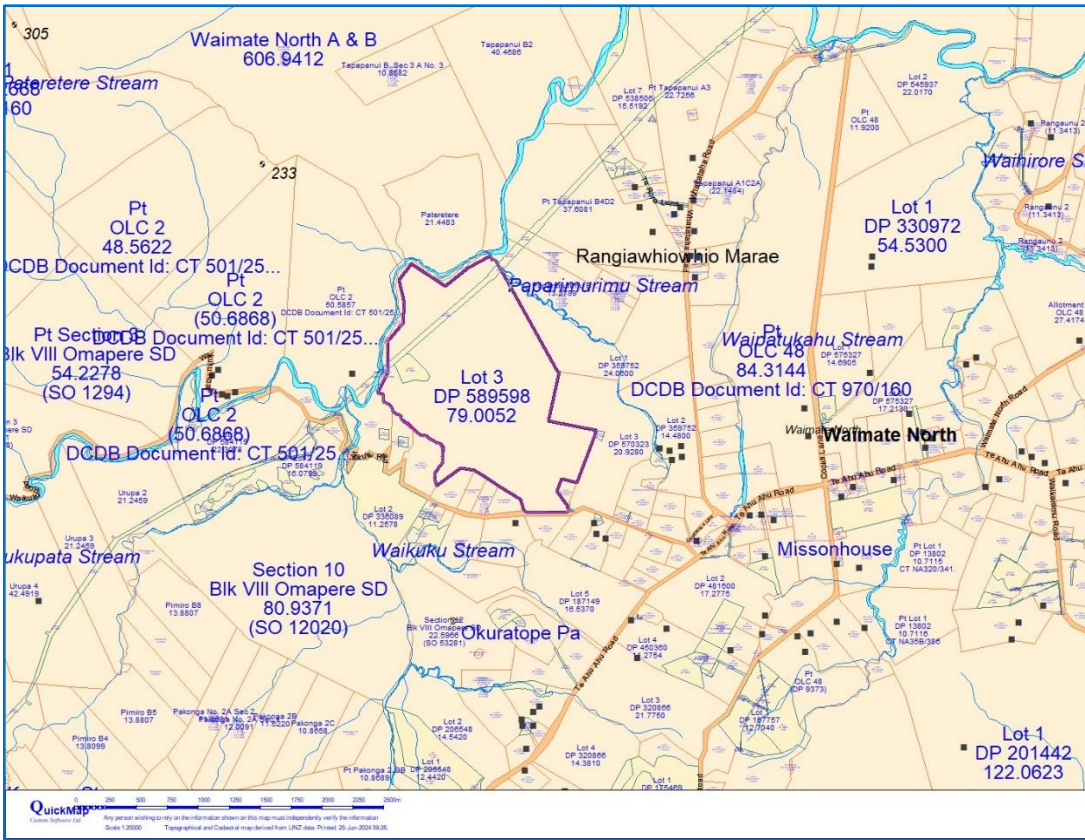


Figure 2: Location Map (Source: QuickMap)

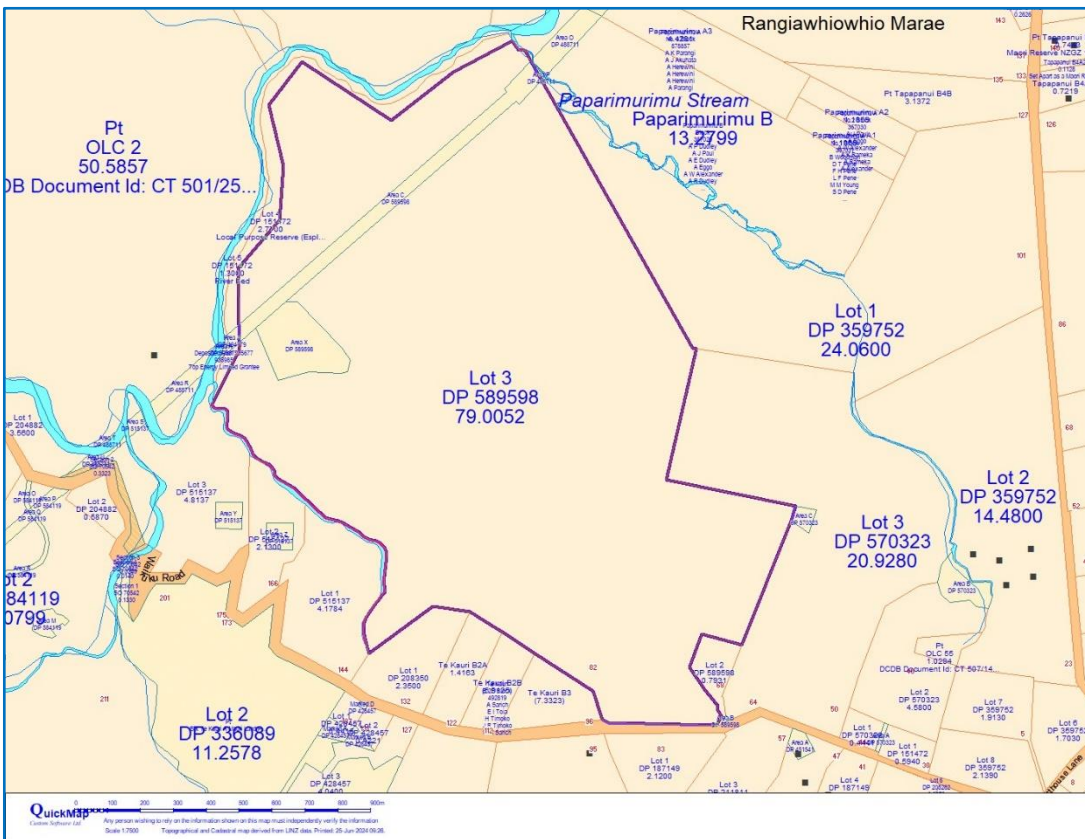


Figure 3: Cadastral Map (Source: QuickMap)



### 3.2 Legal Details

The subject site is the balance allotment of the second stage subdivision of RC 2220808, which is the subject of a current variation application. The varied scheme plan for Stage 2 RC 2220808 is copied in **Figure 4** below, with proposed Lot 3 (78.2870ha subject to final survey) being the land subject to this application.

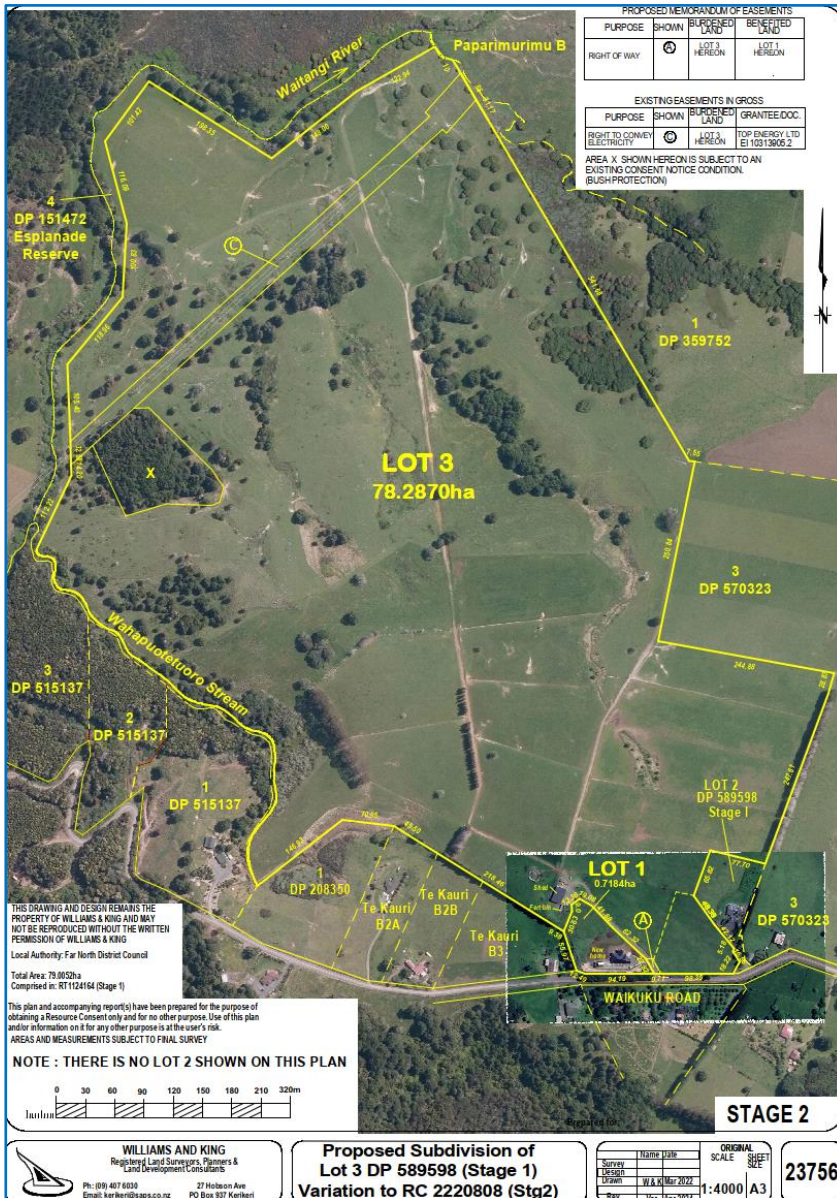


Figure 4: Varied Scheme Plan – Stage 2 RC 2220808

The underlying property (being the balance of the Stage 1 RC 2220808) is legally described as Lot 3 DP 589598 and held in Record of Title 1124164, comprising 79.0052 ha more or less in area – refer to **Appendix 3**. Relevant interests / encumbrances on the underlying title are summarised below:

- Appurtenant easement created by Transfer C478545.1 – subject to Section 243(a) RMA 1991.
- Appurtenant water supply right created by Transfer D420416.2 – subject to Section 243(a) RMA 1991.



- Subject to a right (in gross) to convey electricity, telecommunications and computer media over part marked C on DP 589598 in favour of Top Energy Limited created by Easement Instrument 10313905.2.
- 12710086.3 Consent Notice pursuant to Section 221 RMA 1991. The relevant condition is (d):  
*The owner shall preserve the indigenous trees and bush as indicated on the survey plan as Area X and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage or destroy any of such trees or bush. The owner shall be deemed to be not in breach of this prohibition if any of such trees or bush shall die from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.*

### 3.3 Site Conditions

The subject site is predominantly rural land in grazed pasture with various paddock and waterway protection fencing in place. Existing storage buildings are located near the southern boundary of Lot 2, including a utility storage building and a fertiliser bin, now used for storage. The existing buildings are accessed by a metalled double width entrance and private access carriageway off Waikuku Road.

Area 'X' on Lot 2 is an area of approximately 1.7ha comprising predominantly indigenous bush, which is protected by an existing consent notice condition (refer to Section 3.2 and **Appendix 3**).

The southern part of the site, including Lot 2, is rolling farm land with slopes descending off a plateau to form gully features. Further north, the topography becomes steeper as the site slopes down to the north west towards Waitangi River.

Refer to **Photographs 1 – 5**.



*Photograph 1: Southern end of Lot 1 adjacent to Waikuku Road.*



*Photograph 2: View over Lot 2 from existing metalled driveway.*



*Photograph 3: Metalled Carriageway within ROW A – view south towards Waikuku Road.*



*Photograph 4: View north along ROW and beyond, towards existing buildings on Lot 2.*





*Photograph 5: Fenced dam area within Lot 1, remaining overland flow within Lot 2 is visible beyond.*

### 3.4 Character of the Site and Surrounding Environment

The character of the subject land and its surrounding environment is based on the existing characteristics of the rural, built, modified and natural environment, which is predominantly made up of pastoral farm land, interspersed with existing dwellings, accessory and farm buildings, which are typically located near to Waikuku Road.

### 3.5 Recorded Natural Features

The subject site is not part of the coastal environment and does not include any areas of high or outstanding natural character, or outstanding natural landscapes or features as recorded in the Regional Policy Statement.

The site is not part of any ecological unit recorded in the Department of Conservation Protected Natural Area mapping. An area of bush is subject to an existing consent notice condition requiring its protection – this is shown as area 'X' on the Scheme Plan.

The site is mapped as being located within a 'high density' kiwi habitat (indicated by five or more kiwi calls per hour) in Far North Maps "Species Distribution (DoC)" Map.<sup>2</sup>

The mapping related to kiwi habitat and Protected Natural Areas are non-statutory documents.

The site is mapped as comprising four Land Use Capability ("LUC") units, being 2s1, 3w1, 6s1, 6s2. Unit 2s1 applies to the southern half of the property. Units 6s1 and 6s2 cover the majority of the northern half of the property, while 3w1 is located along the northern boundary adjacent to the Esplanade Reserve that separates the site from Waitangi River. Refer to **Figure 5**.

---

<sup>2</sup> A map showing the distribution of Northland Brown Kiwi and Northland Mudfish in the Far North District. Kiwi habitat distribution based on call count monitoring in 2019 by Department of Conservation: Craig, E. (2020): Call count monitoring of Northland brown kiwi 2019. Department of Conservation, Whangarei, New Zealand.



LUC Unit 2s1 meets the definition of ‘highly versatile soils’ provided in the Regional Policy Statement, while the remaining Units do not. LUC Units 2s1 and 3w1 are defined as ‘highly productive land’ in the National Policy Statement for Highly Productive Land.

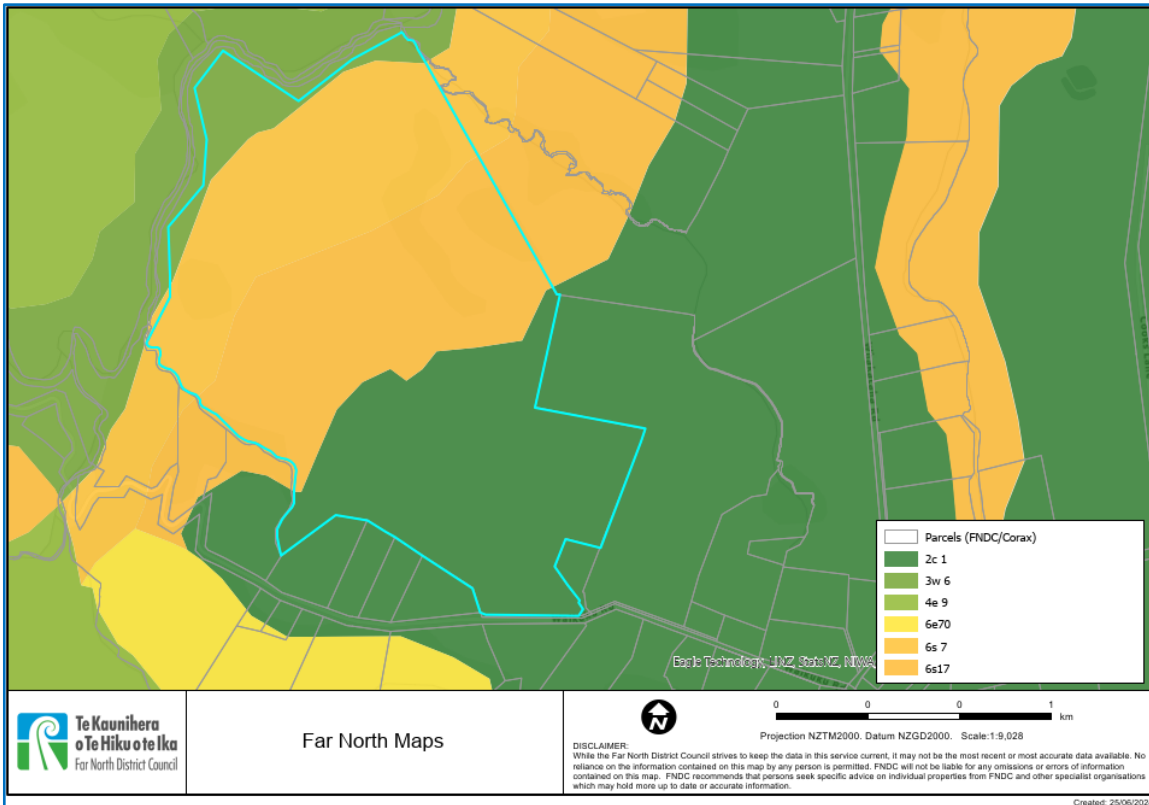


Figure 5: Far North Maps Land cover and land use map.

## 4.0 District Plan Assessment

### 4.1 Far North District Operative District Plan

The application site is zoned Rural Production and is not subject to any Resource Features. The proposal is assessed against the relevant rules of the Operative District Plan as follows.

#### 4.1.1 Rural Production Zone

Existing built development is present on proposed Lot 2. This, along with future proposed development on Lot 1, is assessed against the relevant Rural Production zone standards below.

Rule	Discussion	Compliance
<b>8.6.5.1 PERMITTED ACTIVITIES</b>		
8.6.5.1.1 Residential Intensity	No existing residential units. Following the subdivision, residential intensity will not exceed a single residential unit for a single household on each lot.	Complies

8.6.5.1.2 Sunlight	No issues in terms of the proposed new boundaries to be created by the subdivision.	Complies
8.6.5.1.3 Stormwater management	Existing and anticipated future coverage on Lots 1 and 2 will be less than 15%.	Complies
8.6.5.1.4 Setback from Boundaries	No issues in terms of the proposed new boundaries to be created by the subdivision.	Complies

#### 4.1.2 Natural & Physical Resources

Clearance of indigenous vegetation and earthworks are not required to complete the subdivision. The proposal therefore has no implications in terms of the permitted activity rules of Sections 12.2 and 12.3.

#### 4.1.3 Subdivision

Rule	Discussion	Compliance
<b>13.6 GENERAL RULES</b>		
13.6.5 Legal Frontage	Each lot has frontage to Waikuku Road (Lot 1 via ROW A).	Complies
13.6.8 Subdivision Consent Before Work Commences	No earthworks or vegetation clearance are required.	Complies
13.6.12 Suitability for Proposed Land Use	The land is considered suitable for the proposal, namely future residential development on part of Lot 1.	Complies.
<b>13.7 CONTROLLED ACTIVITIES</b>		
13.7.2.1 Minimum Area for Vacant New Lots .....	The area of Lot 1 does not comply with the controlled activity minimum lot size. Lot 2 complies.	Does not comply
13.7.2.2 Allotment Dimensions	Lots 1 and 2 include a dimension of 30 x 30m, plus 10m boundary setbacks.	Complies
<b>13.9 DISCRETIONARY ACTIVITIES</b>		
13.9.1 Discretionary (Subdivision) Activities	Lot 1 complies with the discretionary activity standard as it exceeds 4ha.	Complies

#### 4.1.4 Financial Contributions

The proposal has no implications in terms of Chapter 14.

#### 4.1.5 Transportation

The proposal has no implication in terms of District Plan rules relating to traffic or car parking (car parking on Lot 1 will need to be designed at the time of building design).

Rule	Discussion	Compliance
<b>15.1.6C.1 PERMITTED ACTIVITIES</b>		
15.1.6C.1.1 Private Accessway in all Zones	The increase of one H.E. to ROW A will result in a total of three sites.	Complies

	A 3m carriageway width is already achieved, and passing bays are not required as ROW A is less than 100m long with clear visibility.	
15.1.6C.1.3 Passing Bays on Private Accessways in all Zones	Passing bays are not required over ROW A as it is less than 100m in length with no obstructed visibility.	Complies
15.1.6C.1.5 Vehicle crossing standards in Rural ... Zones	No new vehicle crossings are proposed. The existing crossing to ROW is formed to double width standard.	Complies
15.1.6C.1.7 General Access Standards	Access to the boundary of each lots meets this standard, with adequate area for future onsite manoeuvring available.	Complies
15.1.6C.1.8 Frontage to Existing Roads	Waikuku Road is less than 20m legal width along the frontage of the subject site. Rural Type B standard of road is not met.	Does not comply
<b>15.1.6C.1 DISCRETIONARY ACTIVITIES</b>		
15.15.6C.2 Discretionary Activities	As compliance with Rule 15.1.6C.1.8 is not met, the proposal is a discretionary activity in terms of property access.	Complies

#### 4.1.6 Summary of Activity Status under the Far North Operative District Plan

Overall, the proposal has been assessed as a discretionary activity.

## 4.2 Far North Proposed District Plan

The application site is zoned Rural Production in the Far North Proposed District Plan, and is not subject to any Overlays. The proposal is assessed against the relevant rules of the Proposed District Plan as follows.

### 4.2.1 Area-Specific Matters - Rural Production Zone

Rule	Discussion	Compliance
RPROZ-R2 Impermeable Surface Coverage	Existing and anticipated future coverage on Lots 1 and 2 will be less than 15%.	Complies
RPROZ-R3 Residential Activity	A single residential unit per lot is intended.	Complies.
RPROZ-S2 Height in Relation to Boundary	No issues in terms of the proposed new boundaries to be created by the subdivision.	Complies
RPROZ-S3 Setback	No issues in terms of the proposed new boundaries to be created by the subdivision.	Complies
RPROZ-S5 Building or Structure Coverage	Existing and anticipated future coverage on Lots 1 and 2 will be less than 12.5%.	Complies



#### 4.2.2 District-Wide Matters – General District-Wide Matters – Energy, Infrastructure, & Transport - Transport

Rule	Discussion	Compliance
TRAN-R1 Parking	Parking spaces on vacant Lot 1 will be designed at building consent stage, and there is sufficient area to meet the permitted standard.	Complies
TRAN-R2 Vehicle crossings and access, including private accessways	<p>Shared private access will serve less than 8 household equivalents and is not off the road types listed in PER-3.</p> <p>Access widths will be sufficient width for fire fighting, manoeuvring will be available within the lots where they are more than 90m from Waikuku Road.</p> <p>There will be no unused vehicle crossings.</p> <p>The private accessway will meet TRAN-Table 9 for 3 residential units in a rural setting (6m minimum legal width and minimum carriageway surfacing width 3m). Passing bays are not required.</p> <p>No new vehicle crossings are required.</p>	Complies

#### 4.2.3 District Wide Matters – Subdivision

Rule	Discussion	Compliance
SUB-R3 Subdivision of land to create a new allotment.	<p>CON-1</p> <ul style="list-style-type: none"> <li>• Lots 1 and 2 include 30 x 30m dimension, plus 10m boundary setbacks.</li> <li>• Onsite water storage, including supply or fire-fighting is proposed.</li> <li>• Stormwater management can be achieved on site.</li> <li>• Onsite wastewater treatment and disposal is feasible.</li> <li>• Power and telecommunications connections can be supplied at BC stage if required.</li> <li>• ROW A proposed.</li> </ul> <p>CON-2</p> <ul style="list-style-type: none"> <li>• Controlled activity minimum allotment size is achieved by Lot 2. Discretionary activity minimum allotment size is achieved by Lot 1.</li> <li>• No esplanade reserve requirements.</li> </ul>	Discretionary activity

#### 4.2.4 Summary of Activity Status under the Far North Proposed District Plan

Overall, the proposal has been assessed as a discretionary activity under the Proposed District Plan.

## 5.0 Assessment of Environmental Effects

*Section 104(1)(a) and (ab) require the consent authority, subject to Part 2 of the Act, to have regard to any actual and potential effects on the environment of allowing the activity and 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.*

*Section 104(2) indicates that a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard of the plan permits an activity with that effect and Section 104(3)(a)(ii) requires a consent authority to not, when considering an application, have regard to any effect on a person who has given written approval to the application (unless that person has withdrawn the written approval before the date of a hearing or before the application is determined, as set out in 104(4)).*

*Clauses 6 and 7 of Schedule 4 of the RMA indicate the information requirements and matters that must be addressed in or by an assessment of environmental effects, both of which are subject to the provisions of any policy statement or plan. The relevant criteria listed under Rules 13.10 (Assessment Criteria – Subdivision of the Operative Far North District Plan are addressed in the following assessment.*

### 5.1 Allotment Sizes and Dimensions & Building Locations

The dimensions of the proposed lots meet the controlled activity standard for subdivision in the Rural Production Zone and are of a size to support both a future residential dwelling on Lot 1 with associated onsite servicing and continued pastoral grazing on its balance. There is an available north-facing building site which will be able to take advantage of passive solar gain. Lot 2 is a large rural lot with numerous building site locations. The proposed lots have sufficient area to manage stormwater without generating adverse effects on downstream properties.

The lots will use shared access over an existing private accessway, which is already formed to the boundary of the lots.

The subject site is located within a rural area which contains a combination of rural pasture, areas of bush, rural lifestyle and rural residential sites. Land use activities reflect the subdivision pattern. The area of Lot 1 meets the discretionary activity standard of the Operative District Plan, while Lot 2 complies with the controlled activity standard. Both lots will fit within the range of existing development in the surrounding environment, and will retain the open pasture and patches of existing indigenous vegetation cover that is a characteristic of the area. Overall, it is considered that the proposed subdivision is in context with the wider existing settlement pattern and that the proposed lots will share characteristics with the receiving environment. As a result, the character of the subject land following the development will be compatible with the present rural and settlement pattern found surrounding the site within the Rural Production Zone, in order to retain the overall character of the existing natural and built environment.

Overall, any direct or cumulative adverse effects on the wider rural environment generated by the proposal are considered to be less than minor, with the size of the lots being suitable for their intended purpose.

### 5.2 Natural and Other Hazards

The Stage 2 RC 2220808 subdivision approved a rural residential site within what is now proposed Lot 1, and states “*In terms of s106 of the RMA the proposal is not considered to give rise to a significant risk from natural hazards*” as one of the reasons for the decision.

A future dwelling on Lot 1 will not be located within 20m of any significant areas of vegetation so will not be at undue risk from fire hazard. Water supply for fire-fighting purposes on Lot 1 can be configured at the time of development as per the typical consent notice condition. For a single family home without a sprinkler system in a non-reticulated supply area, the New Zealand Fire Service (NZFS) Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 recommends a firefighting supply a minimum water storage capacity of 45 m<sup>3</sup> within 90 m of the dwelling, fitted with an adequate means for extracting the water from the tank. However, they will usually accept 10,000 litres of storage for a dwelling less than 200m<sup>2</sup> in floor area.

As discussed above, consent notice conditions can be applied to Lot 1 to require the provision of onsite water supply that is suitable for fire-fighting, in order to ensure that adverse effects related to natural hazards and fire hazard are avoided and mitigated.

### **5.3 Water Supply**

The property is not within the area of benefit for water reticulation. Water supply for the lots is or will be provided by way of on-site collection and storage of rainwater. No adverse effects with respect to water supply are anticipated. Water supply for fire fighting purposes is discussed above.

### **5.4 Stormwater Disposal**

Given their large areas, both lots continue to comply with the permitted activity standard for impermeable surfaces.

Future residential development is not generally considered to create a long-term impact on water quality. For this development, a building area on Lot 1 will be surrounded by grass surfaces providing a buffer to runoff, trapping contaminants and sediments. Stormwater from any future residential building will be collected and diverted in a controlled manner towards the natural waterway, and at the required setback from any wastewater disposal fields. An appropriately designed energy dissipation device can be used at the outlet to prevent scour and erosion.

Condition 4(d) of RC 2220808 Stage 2 requires the avoidance of flow obstructions within the secondary overland flow path that travels through Lot 1, taking the culvert road discharge from Waikuku Road. This consent notice condition will be applied through the completion of RC 2220808 Stage 2 and will come down on the proposed lots so as to continue to be a requirement.

Overall, it is considered that the effect of the proposal with respect to stormwater runoff quantity and quality will be less than minor.

### **5.5 Sanitary Sewage Disposal**

The Stage 2 RC 2220808 subdivision approved a rural residential site within what is now proposed Lot 1, indicating that this lot is suitable for the onsite disposal of treated wastewater. The typical consent condition can be applied to Lot 1, requiring that a building consent be obtained, and onsite wastewater treatment and effluent disposal system be installed on the lot in conjunction with the construction of a future dwelling. The final design will need to take into account setbacks from surface water. Overall, it is considered that onsite sanitary sewage disposal can be achieved in such a way that avoids adverse environmental effects, such that they will be less than minor.



## 5.6 Energy & Telecommunications Supply

Given that the site is not within an urban environment, it is not proposed to supply additional connections to power and telecommunications as part of the subdivision, and the typical consent notice advising that connections were not a condition of consent can be applied to Lot 1.

Top Energy has been contacted for their comment, and they have advised that they have nil requirements. Refer to **Appendix 4**. Costs to supply power to proposed Lot 1 could be provided at the development stage for the lot, following application and on-site survey.

## 5.7 Access

Property access from Waikuku Road to the boundary of each lot is already formed as previously described. The existing vehicle crossing and access to ROW A is sufficiently formed to cater for the number of lots proposed and the additional traffic generated by the proposed subdivision (which will be in the vicinity of ten daily one-way traffic movements). Sight distances at the vehicle crossing have been improved to satisfy conditions of RC 2220808 and are deemed to now be acceptable.

The existing legal width of Waikuku Road is less than 20m and does not meet the requirements of the FNDC Engineering Standards and Guidelines; likewise, the formation width does not match Rural Type B standard. Via Stage 1 of RC 2220808, an area of land was vested as road to increase the legal width of Waikuku Road by a minimum of 5m and tapering wider at the western end to match the adjacent width. This is shown on the Title Plan DP 589598 (refer to **Appendix 3**). As a result, the minimum legal road width of Waikuku Road adjacent to the subdivision is 15m. This is considered to be sufficient in terms of the current proposal, as it matches the legal road width east of the site, towards the Te Ahu Ahu Road intersection.

The proposal uses existing shared vehicle crossing and access formations to avoid a proliferation of vehicle crossings, and to avoid the need for earthworks and additional impermeable surfaces associated with vehicle access, and associated environmental effects.

Overall, it is considered that the additional traffic generated by the proposal can be accommodated by existing property access to the lots, and that the effects of the proposal on existing roading and traffic safety will be less than minor.

## 5.8 Earthworks

Earthworks are not required to complete the subdivision. Future earthworks which may be required to form new internal access, building areas and infrastructure on Lot 1 are unknown in terms of the layout and type of structure at this stage.

## 5.9 Heritage Resources

The site does not contain any known or mapped heritage resources, archaeological sites or sites of cultural significance. No earthworks or other land disturbance is proposed as part of the subdivision. Nevertheless, the standard Accidental Discovery Protocol advice note can be applied to the consent, outlining the procedures to be followed should any archaeological site be inadvertently uncovered, in order to avoid adverse effects on heritage resources.

## 5.10 Ecological Resources

As noted, the site is not part of any protected natural area that has been mapped by the Department of Conservation, but is part of a wider high density North Island brown kiwi habitat.

Existing protection of an area of indigenous bush within Lot 2 is afforded by way of the existing consent notice condition, which applies to area 'X' on the Scheme Plan. Lot 1 is in pasture, and a future building site will not require the disturbance of any existing indigenous vegetation. The dammed pond at the base of the gully is fenced for livestock protection and will not be disturbed by any subdivision works.

A consent notice condition of Stage 2 RC 2220808 will be registered on the subject land once that consent is implemented. This condition will come down on Lots 1 and 2 of the current proposal, in order to continue to provide adequate protection against this risk of predation of North Island brown kiwi and other indigenous birdlife. The condition is transcribed below.

*(e) The property is identified as being within a kiwi high density zone. No occupier of, or visitor to the site, shall keep or introduce to the site carnivorous or omnivorous animals (such as cats, dogs or mustelids). On Lot 3, working farm dogs as defined in the Dog Control Act 1996 are excluded from this condition if they are:*

- i. micro-chipped,*
- ii. within a dog proof fence area, on a lead or under effective control at all times when outside the fenced area,*
- iii. kept in a kennel or tied up at night.*
- iv. For any dog written confirmation that the dog has current kiwi aversion training certification along with the expiry date for the certification*

*Prior to the keeping of introduction of any working dog to the site the occupier must provide the following to the Councils Resource Consent Monitoring Officer:-*

- I. A photograph of the dog;*
- II. Written confirmation that the dog(s) have been micro-chipped;*
- III. A plan showing the extent of the dog proof fenced area;*

## 5.11 Soil

The site contains highly versatile soils and highly productive land, which will be encompassed by Lot 1 the southern part of Lot 2 and the northern edge of Lot 2 near Waitangi River. In terms of potential adverse effects on the life supporting capacity of soils within the site, with particular regard to the Class III soils mapped over Lot 1 and parts of Lot 2, it is considered that the lots are of a size which will allow them to be used for grazing as per the current situation.

The area of Lot 1 was originally proposed as achieving a 12ha minimum lot size in order to meet the restricted discretionary activity subdivision standard for the Rural Production Zone in the Operative District Plan. However, it included land to the north west of an existing farm race to produce an irregular shaped piece of land incorporating the eastern side of the fenced waterway, which the applicant considered impractical to use for grazing as part of Lot 1. It was therefore considered to be more appropriate to retain this land within Lot 2 where it can continue to be grazed in conjunction with the remainder of this lot. The potential adverse effects of the proposed subdivision on the productive potential and capability of soils are therefore considered to be materially no different, or less than if a 12ha lot was proposed.

Therefore, it is considered that the proposed subdivision and future development of part of Lot 1 for rural lifestyle use will have a negligible effect, or nil effect compared to a 12ha minimum restricted discretionary activity subdivision, on soil resources and the availability of suitable land for primary production.

Soil erosion resulting from the future development of Lot 1 can be avoided, provided that stormwater is managed appropriately, in particular the treatment of stormwater collection and discharge points to avoid scour and erosion.

### 5.12 Land Use Incompatibility

A future building site on Lot 1 will not be in close proximity with any incompatible land uses. It's likely building site is located nearer to Waikuku Road, and there are existing rural residential uses to the east and west (Stage 2 RC 2220808 – subject to variation application - and Lot 2 DP 589598), and is consistent with those uses. Future development of Lot 1 is unlikely to suffer any effects associated with land use incompatibility, nor is likely to generate any adverse reverse sensitivity effects.

Dust nuisance from the proximity to the unsealed formation of Waikuku Road may arise, and an advice note or can be included to suggest using setback, planting or other measures to minimise the effect on future residential uses. The advice note applied to RC 2220808 states that:

*“The site is accessed off an unsealed road. Unsealed roads have been shown to create a dust nuisance from vehicle usage. It is advised that the dwelling is either located as far as possible or at least 80m from the road, and/or boundary planting within the site is utilised to assist with this nuisance. Alternatively, the applicant may consider sealing their road frontage to remove the issue.”*

Through its location, the proposal is therefore considered to generally avoid adverse effects associated with incompatible land use and reverse sensitivity, while there will be opportunity to mitigate dust nuisance, such that the existing and proposed uses of the lots and surrounding land can be accommodated.

### 5.13 Visual Amenity and Rural / Natural Character

A future building site on Lot 1 will be located between existing dwellings to the east and west. Existing roadside vegetation is retained and there is ample area available for private open space and additional landscaping surrounding future buildings to provide screening and privacy between a building site and other nearby properties.

The land within Lot 1 slopes away from Waikuku Road and future buildings may be dug into the slope to prepare a level platform. The new house site is likely to be briefly visible from travellers along Waikuku Road; however, with the density of residential development proposed, the momentary view of built development on Lot 1 will not be a dominating visual element. The existing hedging within Waikuku Road provides a vegetated setting for future built development to be set within, or alternatively, the lot owner may choose to complete further planting parallel with the road boundary to reduce dust and increase privacy. This will allow the existing level of rural amenity values to be retained.

The site is not within an Outstanding Landscape, and does not have high or outstanding natural character. The features of the site that contribute to the rural and natural character, namely the areas of open pasture and the scattered areas of bush within Lot 2 will be retained as the predominant cover of the site, and a low level of widely spaced residential buildings will result to match the existing intermittent pattern of such built development. This will allow the existing level of rural and natural character to be retained and adverse effects on the visual values of the environment to be less than minor.



## 6.0 Statutory Assessment

Section 104(1)(b) of the Resource Management Act 1991 requires the consent authority, subject to Part 2 of the Act, to have regard to any relevant provisions of a national environmental standard, other regulations, a national policy statement, a New Zealand coastal policy statement, a regional policy statement, a plan or proposed plan, and any other matter the consent authority considers relevant and reasonably necessary to determine the application. Of relevance to the proposed activity are the following documents, which are commented on in the proceeding Sections 6.1 – 6.6 of this Report. This is followed by an assessment of Part 2 of the Act in Section 6.7.

- Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
- Resource Management (National Environmental Standards for Freshwater) Regulations 2020
- National Policy Statement for Highly Productive Land
- National Policy Statement for Indigenous Biodiversity
- Regional Policy Statement for Northland
- Operative Far North District Plan
- Proposed Far North District Plan
- Proposed Regional Plan for Northland

### 6.1 National Environmental Standards

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

The subject land is not recorded on the Northland Regional Council Selected Land-use Register as a site that has been used for any activity included in the Ministry for the Environment’s Hazardous Activities and Industries List.<sup>3</sup>

The site is predominantly in pasture. There is a fertiliser bin present on Lot 2; however, this lot will remain as production land and is not being subdivided in a way that causes it to stop being production land. As such, the subject site is not considered to be a ‘piece of land’ in terms of the above regulations.

#### 6.1.2 Resource Management (National Environmental Standard for Freshwater) Regulations 2020

The proposed subdivision does not involve any vegetation clearance, earthworks or taking, use, damming, diversion or discharge of water.

The Northland Regional Council Biodiversity Wetlands mapping does not record any wetlands on or within 100m of the subject site.

The likely building site on Lot 1 does not directly affect any natural freshwater features. Depending on the final location of a buildings site on Lot 1, it is able to achieve a 100m setback from the fenced off base of the gully within Lots 1 and 2. Therefore, at this stage, the proposal is not considered to have any implications in terms of the above regulations.

---

<sup>3</sup> Northland Regional Council (n.d.): *Selected Land-use Register Map*. Retrieved 9 August 2023 from <https://localmaps.nrc.govt.nz/localmapsviewer/?map=65b660a9454142d88f0c77b258a05f21>

## 6.2 National Policy Statements

### 6.2.1 National Policy Statement for Highly Productive Land (“NPSHPL”)

The subject site is zoned Rural Production under the Operative and Proposed District Plans. The site is mapped as comprising multiple Land Use Capability (“LUC”) units including areas of highly productive land over the southern part of the site, encompassed by Lot 1, the southern part of Lot 2, and the northern area of Lot 1.

It is considered that the proposal is compliant with the relevant policies of the NPSHPL, particularly:

***Policy 7: The subdivision of highly productive land is avoided, except as provided in this National Policy Statement.***

**Comment:** Refer to assessment of policy 3.8 below.

***Policy 8: Highly productive land is protected from inappropriate use and development.***

**Comment:** Refer to assessment of policy 3.9 below.

The implementation of the above policies is guided by Sections 3.8 and 3.9 of the NPSHPL, which are commented on below.

#### **3.8 Avoiding subdivision of highly productive land**

*(1) Territorial authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause (2) are applied:*

*(a) the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term:*

*(2) Territorial authorities must take measures to ensure that any subdivision of highly productive land:*

*(a) avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*

*(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.*

**Comment:** Lots 1 and 2 will continue to support pastoral grazing. Refer to Section 5.11 of this report which explains the alternative subdivision option that was considered. The area of land that was removed from the earlier 12ha Lot 1 scheme plan design is more practically used for grazing in conjunction with Lot 2, therefore it is considered that the current proposal results in a superior outcome in terms of the productive capacity of the subject land. In terms of the future use of the lots, a residential unit within Lot 1 would be anticipated for either the current subdivision layout, or the earlier 12ha Lot 1 layout. In this respect, the overall productive capacity of the land following the subdivision is equivalent to the outcome of a restricted discretionary activity subdivision, and can be retained in the long term.

Potential cumulative loss of the availability and productive capacity of highly productive land can be mitigated by retaining as much area as possible for primary production, which would be achieved by limiting the extent of residential use within the lots. Use of shared vehicle access off Waikuku Road limits the amount of land used for this purpose, and the length of ROW A has been limited to approximately 23m, which will encourage a building site to be located nearer to Waikuku Road, where it will reduce occupation of the remaining paddocks.

Lot 1 is situated between existing rural residential land use activities in order to avoid potential reverse sensitivity effects.

### **3.9 Protecting highly productive land from inappropriate use and development**

*(1) Territorial authorities must avoid the inappropriate use or development of highly productive land that is not land-based primary production.*

*(2) A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:*

*(3) Territorial authorities must take measures to ensure that any use or development on highly productive land:*

*(a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*

*(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.*

**Comment:** As described above, the future residential use of part of Lot 1 is an appropriate activity and potential cumulative loss of the availability and productive capacity of highly productive land can be mitigated through the location of residential buildings. Lot 1 is situated between existing rural residential land use activities in order to avoid potential reverse sensitivity effects.

## **6.2.2 National Policy Statement for Indigenous Biodiversity (“NPSIB”)**

The objective of the above policy statement is set out in 2.1, as copied below:

*(1) The objective of this National Policy Statement is:*

*(a) to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*

*(b) to achieve this:*

*(i) through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*

*(ii) by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*

*(iii) by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*

*(iv) while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

There is no SNA included in the district plan, or as identified in a policy statement of plan.

The 17 listed policies set out to achieve this objective, and of most relevant to this proposal is Policy 8:

*Policy 8: The importance of maintaining indigenous biodiversity outside SNAs is recognised and provided for.*

Part 3 guides the implementation of the NPSIB. Of relevance is the following approach to implementing the NPSIB.

### **3.16 Indigenous biodiversity outside SNAs**

*(1) If a new subdivision, use, or development is outside an SNA and not on specified Māori land, any significant adverse effects of the new subdivision, use, or development on indigenous biodiversity outside the SNA must be managed by applying the effects management hierarchy.*



Effects Management Hierarchy is defined as follows:

*effects management hierarchy means an approach to managing the adverse effects of an activity on indigenous biodiversity that requires that:*

*(a) adverse effects are avoided where practicable; then*

*(b) where adverse effects cannot be avoided, they are minimised where practicable; then*

*(c) where adverse effects cannot be minimised, they are remedied where practicable; then*

*(d) where more than minor residual adverse effects cannot be avoided, minimised, or remedied, biodiversity offsetting is provided where possible; then*

*(e) where biodiversity offsetting of more than minor residual adverse effects is not possible, biodiversity compensation is provided; then*

*(f) if biodiversity compensation is not appropriate, the activity itself is avoided.*

Ecological effects are avoided through the location of a building site on Lot 1 on existing pasture, continued preservation of indigenous bush with area X and continued protection of kiwi habitat through consent notice conditions. It is therefore considered that the proposal is consistent with the above National Policy Statement.

### **6.3 Regional Policy Statement for Northland (“RPS”)**

The RPS provides an overview of resource management issues and gives objectives, policies, and methods to achieve integrated management of natural and physical resources of the region.

The subject site is not in the coastal environment, does not include any outstanding natural landscapes or features and does not include any areas of high or outstanding natural character.

Relevant policies from the RPS are addressed beneath the applicable heading below.

In terms of Policy 4.4.1 – Maintaining and protecting significant ecological areas and habitats – the relevant policy requires adverse effects of subdivision, use and development to be avoided, remedied or mitigated so that they are no more than minor, on threatened or at risk indigenous taxa, significant areas of indigenous fauna, amongst other listed natural areas and habitats. The site is recorded as a high-density kiwi habitat; however existing consent conditions contain measures relating to the keeping of pets that have the potential to be kiwi predators. These conditions will come down on the proposed new Records of Title. With these measures, the risk of predation of North Island brown kiwi can be mitigated to a suitable level. The habitat and other ecological values of the vegetation on Lot 2 are protected through the existing consent notice condition. The proposal therefore avoids adverse effects on natural areas and habitats.

Policy 5.1.1 – Planned and coordinated development, requires co-ordinated location, design and building or subdivision, use and development. Relevant matters are listed under (a), (c), (e), (g) and (h). These matters have been considered in preceding sections of this report. In particular:

- Servicing with the necessary infrastructure is viable, with onsite storage of potable water and onsite wastewater disposal being feasible. Power and telecommunication connections are not expected to be made a condition of consent as they will be supplied at the time that the lot is developed, if required by the property owner.
- The site is not near any significant mineral resources.
- Lot 1 is not close to any incompatible land use activities and avoids reverse sensitivity.

- The proposal does not affect any landscape or natural character values, historic or cultural heritage values, or transport corridors.
- Significant ecological areas or species are protected by an existing consent notice condition (protection of indigenous vegetation within area X) and by a condition of Stage 2 RC 2220808 (banning cats and dogs, other than working dogs).
- Adverse effects associated with natural hazards and downstream flooding are avoided. Existing and future impermeable surface coverage will be a low percentage of the lot areas.
- Part of the site contains highly versatile soils, which will be retained within Lots 1 and 2. As previously described, the effects on the productive capacity and availability of highly versatile soils are equivalent to those that would arise from a restricted discretionary activity subdivision.
- The subdivision meets the discretionary activity lot size for subdivision in the Rural Production Zone and is within the range of land use and subdivision development in the surrounding environment. The character of the surrounding environment can be retained.
- Matters such as renewable energy, sustainable design technologies can be further addressed at the time of building development.

## 6.4 Objectives and Policies – Far North Operative District Plan

The objectives and policies of the Rural Environment, Rural Production Zone and Subdivision Sections of the District Plan are relevant to this proposal. Comments on the objectives and policies of the Rural Environment and Rural Production Zone have been grouped together as they have many overlapping themes. As discussed below, it has been concluded that the proposal is not contrary to the overall objectives and policies of the District Plan.

### **RURAL ENVIRONMENT**

#### **8.3 OBJECTIVES**

- 8.3.1 To promote the sustainable management of natural and physical resources of the rural environment.*
- 8.3.2 To ensure that the life supporting capacity of soils is not compromised by inappropriate subdivision, use or development.*
- 8.3.3 To avoid, remedy or mitigate the adverse and cumulative effects of activities on the rural environment.*
- 8.3.4 To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.*
- 8.3.6 To avoid actual and potential conflicts between land use activities in the rural environment*
- 8.3.7 To promote the maintenance and enhancement of amenity values of the rural environment to a level that is consistent with the productive intent of the zone.*
- 8.3.10 To enable the activities compatible with the amenity values of rural areas and rural production activities to establish in the rural environment.*

#### **8.4 POLICIES**

- 8.4.1 That activities which will contribute to the sustainable management of the natural and physical resources of the rural environment are enabled to locate in that environment.*
- 8.4.2 That activities be allowed to establish within the rural environment to the extent that any adverse effects of these activities are able to be avoided, remedied or mitigated and as a result the life supporting capacity of soils and ecosystems is safeguarded and rural productive activities are able to continue.*
- 8.4.3 That any new infrastructure for development in rural areas be designed and operated in a way that safeguards the life supporting capacity of air, water, soil and ecosystems while protecting areas of significant indigenous vegetation and significant habitats of indigenous fauna, outstanding natural features and landscapes.*
- 8.4.4 That development which will maintain or enhance the amenity value of the rural environment and outstanding natural features and outstanding landscapes be enabled to locate in the rural environment.*
- 8.4.5 That plan provisions encourage the avoidance of adverse effects from incompatible land uses, particularly new developments adversely affecting existing land-uses (including by constraining the existing land-uses on account of sensitivity by the new use to adverse affects from the existing use – i.e. reverse sensitivity).*

8.4.6 That areas of significant indigenous vegetation and significant habitats of indigenous fauna habitat be protected as an integral part of managing the use, development and protection of the natural and physical resources of the rural environment.

8.4.7 That Plan provisions encourage the efficient use and development of natural and physical resources, including consideration of demands upon infrastructure.

8.4.8 That, when considering subdivision, use and development in the rural environment, the Council will have particular regard to ensuring that its intensity, scale and type is controlled to ensure that adverse effects on habitats (including freshwater habitats), outstanding natural features and landscapes on the amenity value of the rural environment, and where appropriate on natural character of the coastal environment, are avoided, remedied or mitigated. Consideration will further be given to the functional need for the activity to be within rural environment and the potential cumulative effects of non-farming activities.

## **RURAL PRODUCTION ZONE**

### **8.6.3 OBJECTIVES**

8.6.3.1 To promote the sustainable management of natural and physical resources in the Rural Production Zone.

8.6.3.2 To enable the efficient use and development of the Rural Production Zone in a way that enables people and communities to provide for their social, economic, and cultural well being and for their health and safety.

8.6.3.3 To promote the maintenance and enhancement of the amenity values of the Rural Production Zone to a level that is consistent with the productive intent of the zone.

8.6.3.4 To promote the protection of significant natural values of the Rural Production Zone. 8.6.3.6 To avoid, remedy or mitigate the actual and potential conflicts between new land use activities and existing lawfully established activities (reverse sensitivity) within the Rural Production Zone and on land use activities in neighbouring zones.

8.6.3.7 To avoid remedy or mitigate the adverse effects of incompatible use or development on natural and physical resources.

8.6.3.8 To enable the efficient establishment and operation of activities and services that have a functional need to be located in rural environments.

8.6.3.9 To enable rural production activities to be undertaken in the zone.

### **8.6.4 POLICIES**

8.6.4.1 That the Rural Production Zone enables farming and rural production activities, as well as a wide range of activities, subject to the need to ensure that any adverse effects on the environment, including any reverse sensitivity effects, resulting from these activities are avoided, remedied or mitigated and are not to the detriment of rural productivity.

8.6.4.2 That standards be imposed to ensure that the off site effects of activities in the Rural Production Zone are avoided, remedied or mitigated.

8.6.4.3 That land management practices that avoid, remedy or mitigate adverse effects on natural and physical resources be encouraged.

8.6.4.4 That the type, scale and intensity of development allowed shall have regard to the maintenance and enhancement of the amenity values of the Rural Production Zone to a level that is consistent with the productive intent of the zone.

8.6.4.5 That the efficient use and development of physical and natural resources be taken into account in the implementation of the Plan.

8.6.4.7 That although a wide range of activities that promote rural productivity are appropriate in the Rural Production Zone, an underlying goal is to avoid the actual and potential adverse effects of conflicting land use activities.

8.6.4.8 That activities whose adverse effects, including reverse sensitivity effects, cannot be avoided remedied or mitigated are given separation from other activities

8.6.4.9 That activities be discouraged from locating where they are sensitive to the effects of or may compromise the continued operation of lawfully established existing activities in the Rural Production zone and in neighbouring zones.

The objectives and policies of the Rural Environment, Rural Production Zone and Subdivision Sections of the District Plan are commented on below under the relevant heading.

#### **Promote sustainable management.**

The proposed subdivision is considered to represent sustainable management, resulting in negligible adverse effects on natural and physical resources.

#### **Ensure that the life supporting capacity of soils is not compromised by inappropriate subdivision, use or development.**

Lot 1, and parts of Lot 2 include highly versatile soils (LUC Class III). The proposal is a discretionary activity due to the size of Lot 1 being less than 12ha. An earlier scheme plan design included the area northeast of the existing farm race being included within Lot 1 in order to achieve a 12ha minimum lot size. It was considered to be more appropriate to retain this land with Lot 2 where it can continue to be grazed in conjunction with the remainder of this lot. The potential adverse effects of the proposed subdivision on the productive potential and capability of soils are considered to be equivalent or less than if a 12ha lot was proposed. It is therefore considered that the proposal is an appropriate subdivision.



***Avoid, remedy or mitigate adverse effects.***

Adverse effects are predominantly avoided through the location and size of the lots, use of suitably formed private access, avoidance of direct or indirect adverse effects on flora and fauna, and the compatibility of the subdivision design with surrounding subdivision and land use patterns.

***Protect areas of significant indigenous vegetation and significant habitats of indigenous fauna / promote protection of significant natural values.***

The proposal provides for the protection of indigenous vegetation and habitats through existing land covenant 'X' and existing conditions relating to the keeping of cats and dogs.

***Avoid conflicts between land use activities / reverse sensitivity.***

The proposal is not considered to result in any incompatible land uses in close proximity. Dust nuisance from the proximity to the unsealed portion of Waikuku Road may arise, and an advice note can be included to suggest using setback, planting or other measures to minimise the effect on future residential uses.

***Promote maintenance and enhancement of amenity values.***

The current level of amenity values can be maintained, as the proposed subdivision density is not greater than what already exists in the existing surrounding environment. There is ample area on Lot 1 for additional landscape planting to be implemented by a future owner. A low density of residential buildings which are generally located along Waikuku Road set within a wider pastoral landscape will remain as the overall dominant land use and subdivision pattern.

***Enable efficient use and development of the Rural Production Zone, enable people and communities to provide for their social, economic and cultural well being and for their health and safety.***

The proposal is an efficient use of the land, allowing an additional Record of Title to be created with continued primary production over the majority of the site. Combined vehicle access is considered to be an efficient design.

**SUBDIVISION**

**13.3 OBJECTIVES**

13.3.1 *To provide for the subdivision of land in such a way as will be consistent with the purpose of the various zones in the Plan, and will promote the sustainable management of the natural and physical resources of the District, including airports and roads and the social, economic and cultural well being of people and communities.*

13.3.2 *To ensure that subdivision of land is appropriate and is carried out in a manner that does not compromise the life-supporting capacity of air, water, soil or ecosystems, and that any actual or potential adverse effects on the environment which result directly from subdivision, including reverse sensitivity effects and the creation or acceleration of natural hazards, are avoided, remedied or mitigated.*

13.3.5 *To ensure that all new subdivisions provide ... on-site water storage and include storm water management sufficient to meet the needs of the activities that will establish all year round.*

13.3.7 *To ensure the relationship between Maori and their ancestral lands, water, sites, wahi tapu and other taonga is recognised and provided for.*

13.3.8 *To ensure that all new subdivision provides an electricity supply sufficient to meet the needs of the activities that will establish on the new lots created.*

13.3.9 *To ensure, to the greatest extent possible, that all new subdivision supports energy efficient design through appropriate site layout and orientation in order to maximise the ability to provide light, heating, ventilation and cooling through passive design strategies for any buildings developed on the site(s).*

13.3.10 *To ensure that the design of all new subdivision promotes efficient provision of infrastructure, including access to alternative transport options, communications and local services.*

**13.4 POLICIES**

13.4.1 *That the sizes, dimensions and distribution of allotments created through the subdivision process be determined with regard to the potential effects including cumulative effects, of the use of those allotments on:*

- (a) natural character, particularly of the coastal environment;*
- (b) ecological values;*
- (d) amenity values;*

(g) existing land uses.

13.4.2 That standards be imposed upon the subdivision of land to require safe and effective vehicular and pedestrian access to new properties.

13.4.3 That natural and other hazards be taken into account in the design and location of any subdivision.

13.4.4 That in any subdivision where provision is made for connection to utility services, the potential adverse visual impacts of these services are avoided.

13.4.5 That access to, and servicing of, the new allotments be provided for in such a way as will avoid, remedy or mitigate any adverse effects on neighbouring property, public roads (including State Highways), and the natural and physical resources of the site caused by silt runoff, traffic, excavation and filling and removal of vegetation.

13.4.6 That any subdivision proposal provides for the protection, restoration and enhancement of ... significant habitats of indigenous fauna, threatened species, the natural character of ... riparian margins ... where appropriate.

13.4.8 That the provision of water storage be taken into account in the design of any subdivision.

13.4.11 That subdivision recognises and provides for the relationship of Maori and their culture and traditions, with their ancestral lands, water, sites, waahi tapu and other taonga and shall take into account the principles of the Treaty of Waitangi.

13.4.13 Subdivision, use and development shall preserve and where possible enhance, restore and rehabilitate the character of the applicable zone in regards to s6 matters. In addition subdivision, use and development shall avoid adverse effects as far as practicable by using techniques including:

(a) clustering or grouping development within areas where there is the least impact on natural character and its elements such as indigenous vegetation, landforms, rivers, streams and wetlands, and coherent natural patterns;

(b) minimising the visual impact of buildings, development, and associated vegetation clearance and earthworks, particularly as seen from public land ...

(e) providing planting of indigenous vegetation in a way that links existing habitats of indigenous fauna and provides the opportunity for the extension, enhancement or creation of habitats for indigenous fauna, including mechanisms to exclude pests;

(g) achieving hydraulic neutrality and ensuring that natural hazards will not be exacerbated or induced through the siting and design of buildings and development.

13.4.14 That the objectives and policies of the applicable environment and zone and relevant parts of Part 3 of the Plan will be taken into account when considering the intensity, design and layout of any subdivision.

**Provide for subdivision so as to be consistent with the purpose of the various zones and promote sustainable management of natural and physical resources.**

As detailed previously, the proposed activity is consistent with the Rural Production zone objectives and policies.

**Ensure subdivision is appropriate and does not compromise the life supporting capacity of air, water, soil or ecosystems. Avoid, remedy and mitigate adverse effects.**

The proposed subdivision does not adversely affect air or water resources. The proposed subdivision is partly located upon highly versatile or productive soil / land. However, with the area of lots proposed, and the alternative subdivision layouts available, it is considered that the proposal will not materially reduce the life supporting capacity of soil. The proposal avoids any direct disturbance to ecosystems.

**Provide sufficient water storage.**

**Provide electricity supply sufficient to meet the needs of activities that will establish on the lots created.**

**Support energy efficient design.**

**Promote efficient provision of infrastructure.**

The proposal has no implications in terms of these matters – onsite water storage will be used, and electricity supply can be provided at building development stage.

**Take into account natural and other hazards.**

The Stage 2 RC 2220808 subdivision approved a rural residential site within what is now proposed Lot 1, and states “In terms of s106 of the RMA the proposal is not considered to give rise to a significant risk from natural hazards” as one of the reasons for the decision. Lot 2 has multiple building sites that are not subject to any mapped natural hazards.

**Require safe and effective vehicular and pedestrian access. Provide in such a way as will avoid, remedy or mitigate adverse effects.**

The proposal uses existing vehicle access formations. Existing public and private access formations are considered sufficient to support the proposed subdivision. Due to the more remote rural location, there is no existing infrastructure for pedestrian access, and the proposed subdivision does necessitate this.

**Provide for the protection, restoration and enhancement of significant habitats of indigenous fauna, significant indigenous vegetation, natural character of riparian margins where appropriate.**

**Preserve, and where possible enhance, restore and rehabilitate the character of the zone in regards to s6 matters.**

Existing conditions of the previous consent provide for the protection of the indigenous vegetation within an area of bush, along with conditions banning the keeping of pets so as to avoid adverse effects on kiwi habitat.

## 6.5 Objectives and Policies - Far North Proposed District Plan

Relevant objectives and policies are set out under the chapters 'Rural Production Zone' and 'Subdivision', and are commented on below, and it is concluded that the proposal is generally with the relevant strategies.

### **Rural Production Zone**

#### **Objectives**

*RPROZ-O1 The Rural Production zone is managed to ensure its availability for primary production activities and its long-term protection for current and future generations.*

*RPROZ-O3 Land use and subdivision in the Rural Production zone:*

- a. *protects highly productive land from sterilisation and enables it to be used for more productive forms of primary production;*
- b. *protects primary production activities from reverse sensitivity effects that may constrain their effective and efficient operation;*
- c. *does not compromise the use of land for farming activities, particularly on highly productive land;*
- d. *does not exacerbate any natural hazards; and*
- e. *is able to be serviced by on-site infrastructure.*

*RPROZ-O4 The rural character and amenity associated with a rural working environment is maintained.*

#### **Policies**

*RPROZ-P3 Manage the establishment, design and location of new sensitive activities and other non-productive activities in the Rural Production Zone to avoid where possible, or otherwise mitigate, reverse sensitivity effects on primary production activities.*

*RPROZ-P4 Land use and subdivision activities are undertaken in a manner that maintains or enhances the rural character and amenity of the Rural Production zone, which includes:*

- a. *a predominance of primary production activities;*
- b. *low density development with generally low site coverage of buildings or structures;*
- c. *typical adverse effects such as odour, noise and dust associated with a rural working environment; and*
- d. *a diverse range of rural environments, rural character and amenity values throughout the District.*

*RPROZ-P6 Avoid subdivision that:*

- a. *results in the loss of highly productive land for use by farming activities;*
- b. *fragments land into parcel sizes that are no longer able to support farming activities, taking into account:*
  1. *the type of farming proposed; and*
  2. *whether smaller land parcels can support more productive forms of farming due to the presence of highly productive land.*
- c. *provides for rural lifestyle living unless there is an environmental benefit.*

*RPROZ-P7 Manage land use and subdivision to address the effects of the activity requiring resource consent, including (but not limited to) consideration of the following matters where relevant to the application:*

- a. *whether the proposal will increase production potential in the zone;*
- b. *whether the activity relies on the productive nature of the soil;*
- c. *consistency with the scale and character of the rural environment;*
- d. *location, scale and design of buildings or structures;*
- e. *for subdivision or non-primary production activities:*
  - i. *scale and compatibility with rural activities;*
  - ii. *potential reverse sensitivity effects on primary production activities and existing infrastructure;*
  - iii. *the potential for loss of highly productive land, land sterilisation or fragmentation*
- f. *at zone interfaces:*
  - i. *any setbacks, fencing, screening or landscaping required to address potential conflicts;*
  - ii. *the extent to which adverse effects on adjoining or surrounding sites are mitigated and internalised within the site as far as practicable;*
- g. *the capacity of the site to cater for on-site infrastructure associated with the proposed activity, including whether*



- the site has access to a water source such as an irrigation network supply, dam or aquifer;*
- h. the adequacy of roading infrastructure to service the proposed activity;*
- i. Any adverse effects on historic heritage and cultural values, natural features and landscapes or indigenous biodiversity;*
- j. Any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.*

The above strategies are similar in nature to those for the Rural Production Zone of the Operative District Plan; however, give more emphasis to the protection of primary production activities and highly productive land. The proposed subdivision achieves a discretionary activity status for the Rural Production Zone, and is of a size that is able to continue to support grazing of stock. The lot sizes are not considered to be a rural lifestyle subdivision, and primary production will remain as the predominant land use over the subject site with a low density of built development. The overall average density of the subdivision is one lot per 39.17ha, only marginally less than the controlled activity subdivision standard. Overall, the potential loss of highly productive land arising from the construction of a residential building within part of Lot 1 is considered to be negligible.

The proposed subdivision is not considered to generate reverse sensitivity effects that would constrain any primary production activities.

The proposal does not give rise to any significant risk from natural hazards.

On site servicing on Lot 1 is feasible, as a smaller lot in this location has previously been approved via RC 2220808. Rural character and amenity values can be preserved, with the overall combination of open pasture, and buildings being maintained.

### **Subdivision**

#### **Objectives**

*SUB-O1 Subdivision results in the efficient use of land, which:*

- a. achieves the objectives of each relevant zone, overlays and district wide provisions;*
- b. contributes to the local character and sense of place;*
- c. avoids reverse sensitivity issues that would prevent or adversely affect activities already established on land from continuing to operate;*
- d. avoids land use patterns which would prevent land from achieving the objectives and policies of the zone in which it is located;*
- e. does not increase risk from natural hazards or risks are mitigates and existing risks reduced; and*
- f. manages adverse effects on the environment.*

*SUB-O2 Subdivision provides for the:*

- a. Protection of highly productive land; and*
- b. Protection, restoration or enhancement of Outstanding Natural Features, Outstanding Natural Landscapes, Natural Character of the Coastal Environment, Areas of High Natural Character, Outstanding Natural Character, wetland, lake and river margins, Significant Natural Areas, Sites and Areas of Significance to Māori, and Historic Heritage.*

*SUB-O3 Infrastructure is planned to service the proposed subdivision and development where:*

- a. there is existing infrastructure connection, infrastructure should provided in an integrated, efficient, coordinated and future-proofed manner at the time of subdivision; and*
- b. where no existing connection is available infrastructure should be planned and consideration be given to connections with the wider infrastructure network.*

#### **Policies**

*SUB-P3 Provide for subdivision where it results in allotments that:*

- a. are consistent with the purpose, characteristics and qualities of the zone;*
- b. comply with the minimum allotment sizes for each zone;*
- c. have an adequate size and appropriate shape to contain a building platform; and*
- d. have legal and physical access.*

*SUB-P4 Manage subdivision of land as detailed in the district wide, natural environment values, historical and cultural values and hazard and risks sections of the plan*

*SUB-P6 Require infrastructure to be provided in an integrated and comprehensive manner by:*

- a. demonstrating that the subdivision will be appropriately serviced and integrated with existing and planned infrastructure if available; and*
- b. ensuring that the infrastructure is provided is in accordance the purpose, characteristics and qualities of the zone.*

*SUB-P8 Avoid rural lifestyle subdivision in the Rural Production zone unless the subdivision:*

- a. will protect a qualifying SNA in perpetuity and result in the SNA being added to the District Plan SNA schedule; and*
- b. will not result in the loss of versatile soils for primary production activities.*

*SUB-P11 Manage subdivision to address the effects of the activity requiring resource consent including ( but not limited to) consideration of the following matters where relevant to the application:*

- a. consistency with the scale, density, design and character of the environment and purpose of the zone;*
- b. the location, scale and design of buildings and structures;*
- c. the adequacy and capacity of available or programmed development infrastructure to accommodate the proposed activity; or the capacity of the site to cater for on-site infrastructure associated with the proposed activity;*
- d. managing natural hazards;*
- e. Any adverse effects on areas with historic heritage and cultural values, natural features and landscapes, natural character or indigenous biodiversity values; and*
- f. any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.*

The proposed subdivision is an efficient use of land and generally in accordance with the Rural Production Zone objectives. The proposed subdivision can proceed without generating any significant adverse impact on character, amenity values, heritage or cultural values, highly productive land, land use compatibility, legal and physical property access, supply of services and infrastructure, and does not increase natural hazard risk.

The proposal is not considered to be a rural lifestyle subdivision and does not offend Policy P8.

## 6.6 Regional Plans

### 6.6.1 Proposed Regional Plan for Northland (February 2024)

Future onsite stormwater management will need to be collected and diverted in a controlled manner, and at the required setback from any wastewater disposal fields. Stormwater disposal will require careful consideration, including energy dissipation, so that it does not lead to erosion and scour at the outlet. Flow obstruction of the existing overland flow path through Lot 1 will need to be avoided, as required by Stage 2 RC 2220808. Future stormwater management proposals for the site will be based on the Proposed Regional Plan for Northland Rule C.6.4.2.

The discharge to sewage effluent on to land is controlled by the permitted activity rules C.6.1.3 of the Regional Plan for Northland. A feasible design that complies with that standard has been previously assessed via Stage 2 RC 2220808 for Lot 1, therefore an effluent field and reserve area can be located on Lot 1 in compliance with the current rules.

Earthworks are not required to complete the subdivision.

No consents are considered necessary for the proposed subdivision under the Proposed Regional Plan for this proposal, although careful design of the onsite wastewater system and earthworks will be required at building consent stage.

## 6.7 Part 2 of the Resource Management Act 1991

An assessment of the proposal in relation to the relevant purpose and principles of Part 2 of the Resource Management Act 1991 is given below.

### **PART 2 PURPOSE AND PRINCIPLES**

#### **5 Purpose**

- (1) *The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while-*
  - (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - (b) *Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
  - (c) *Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

#### **6 Matters of national importance**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall recognise and provide for the following matters of national importance:*

- (c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;*
- (h) *the management of significant risks from natural hazards.*

#### **7 Other matters**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development and protection of natural and physical resources, shall have particular regard to-*

- (b) *The efficient use and development of natural and physical resources;*
- (c) *The maintenance and enhancement of amenity values;*
- (f) *Maintenance and enhancement of the quality of the environment;*

#### **8 Treaty of Waitangi**

*In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).*

The proposal is considered to promote sustainable management as per the purpose of the Act (Section 5) by creating one additional allotment at a suitable density while continuing to provide for the protection of indigenous vegetation and habitats. Lot 1 has been assessed as suitable in terms of onsite servicing. The effects of additional traffic on Waikuku Road are considered to be negligible.

There is provision for protection of indigenous vegetation and habitat in accordance with matter 6(c), via existing consent notice conditions for vegetation protection, and by a condition banning cats and dogs (other than working dogs) imposed on Stage 2 RC 2220808. The Stage 2 RC 2220808 subdivision approved a rural residential site within what is now proposed Lot 1, and states "*In terms of s106 of the RMA the proposal is not considered to give rise to a significant risk from natural hazards*" as one of the reasons for the decision. As such, the proposal is considered to be consistent with Matter 6(h).

The proposed subdivision is considered to be an efficient use of this land, which creates large rural sites which will continue to support stock grazing. A future building site on Lot 1 can be developed without affecting overall amenity values, and the predominant pastoral cover of the subject site will be retained. The proposal will maintain amenity values and the overall quality of the environment in terms of section 7.

The proposal has no known implications in terms of the Treaty of Waitangi.

The proposal is considered to be consistent with the purpose and principles of the Resource Management Act 1991.



## 7.0 Consultation & Notification Assessment

### 7.1 Public Notification

**Step 1:** Public notification is not required in terms of the criteria listed in 95A(3).

**Step 2:** Public notification is not precluded in terms of 95A(5).

**Step 3:** There are no relevant rules that require public notification. Section 95A(8)(b) requires Council to assess, in accordance with section 95D, whether the activity will have or is likely to have adverse effects on the environment that are more than minor. Section 95D directs Council, among other things, to disregard any effects on persons who own or occupy the application site and any adjacent land; and allows adverse effects of activities permitted by a rule or national environmental standard to be disregarded.

As outlined in Section 5 of this report, it is submitted that the adverse effects associated with the proposed subdivision will be avoided, remedied, and mitigated so that they are not more than minor. The application can therefore proceed without being publicly notified.

**Step 4:** No special circumstances are considered to exist that warrant the application being publicly notified in terms of 95A(9).

### 7.2 Limited Notification

**Step 1:** There are no affected customary rights groups in terms of Section 95B(2)(a). The proposed activity is not on or adjacent to, and is not considered to affect, land that is the subject of a statutory acknowledgement in terms of Section 95B(3)(a).

**Step 2:** Limited notification is not precluded in terms of Section 95B(6).

**Step 3:** In terms of 95B(8) an assessment has been undertaken in accordance with section 95E. Section 95E(1) specifies that a person is an affected person if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor). Section 95E(2) provides further guidance as to how a consent authority should assess an activity's adverse effects on a person for the purposes of Section 95E, including clause (a), where they may disregard an adverse effect of the activity on a person if a rule or national environmental standard permits an activity with that effect. There is no permitted baseline for subdivision that needs to be considered as part of this assessment.

The physical changes to the site resulting from the subdivision will be in relation to the future development on part of Lot 1, which is assumed to be a residential dwelling and possible accessory buildings, with associated increase in impermeable surfaces and traffic. A residential dwelling to the east (variation of Stage 2 RC 2220808) is owned by the applicant. The dwelling to the east (within Lot 2 DP 589598, created by Stage 1 RC 2220808) has screening vegetation located along its western boundary. Likewise, existing roadside vegetation will screen Lot 1 from the property to the south on the opposite side of Waikuku Road. A future building on Lot 1 will be surrounded by existing buildings allowing integration into this existing environment and the existing level of rural and natural character to be retained and no person is expected to suffer adverse visual impacts that exceed a less than minor level.

No incompatible land use activities are proposed, and no person is considered to be affected by land use incompatibility or reverse sensitivity.

The subject site is within 500m of land that is managed by the Department of Conservation, with the nearest DOC public conservation land being the Okuratope Pa Historic Reserve, approximately 380m to the south, of Te Ahu Ahu Road. The proposal will not result in any adverse impacts on the ability of the Department of Conservation to manage this land. Despite not being part of a mapped PNA, the subject site includes an area of protected indigenous vegetation, which continues to be adequately protected by an existing consent notice condition.

Additional traffic that will be generated by the proposal will be minor in volume and will use existing vehicle crossing and private accessway formations.

Sanitary sewage disposal and stormwater management can be managed on site without affecting any adjacent property owner.

As summarised above, it is considered that no person will be an adversely affected person, and that limited notification is not required.

**Step 4:** There are no special circumstances that warrant notification of the application to any other person.

### 7.3 Summary of Notification Assessment

As outlined above, it is considered that the proposal achieves the statutory criteria to be processed on a non-notified basis.

## 8.0 Conclusion

In terms of section 104 and 104B of the Resource Management Act 1991, we consider that:

- The actual and potential adverse effects of the activity on the environment resulting from the proposed activity will not be more than minor.
- The proposal is considered to be generally consistent with the objectives and policies of the District Plan and Proposed District Plan.
- The proposal is in accordance with the Purpose and Principles of the Resource Management Act 1991.
- The proposal is not contrary to the Regional Policy Statement for Northland, the National Policy Statement for Highly Productive Land or the National Policy Statement for Indigenous Biodiversity.

We also note that:

- Written approvals have not been obtained. The proposal has been assessed as satisfying the statutory requirements to proceed without notification.



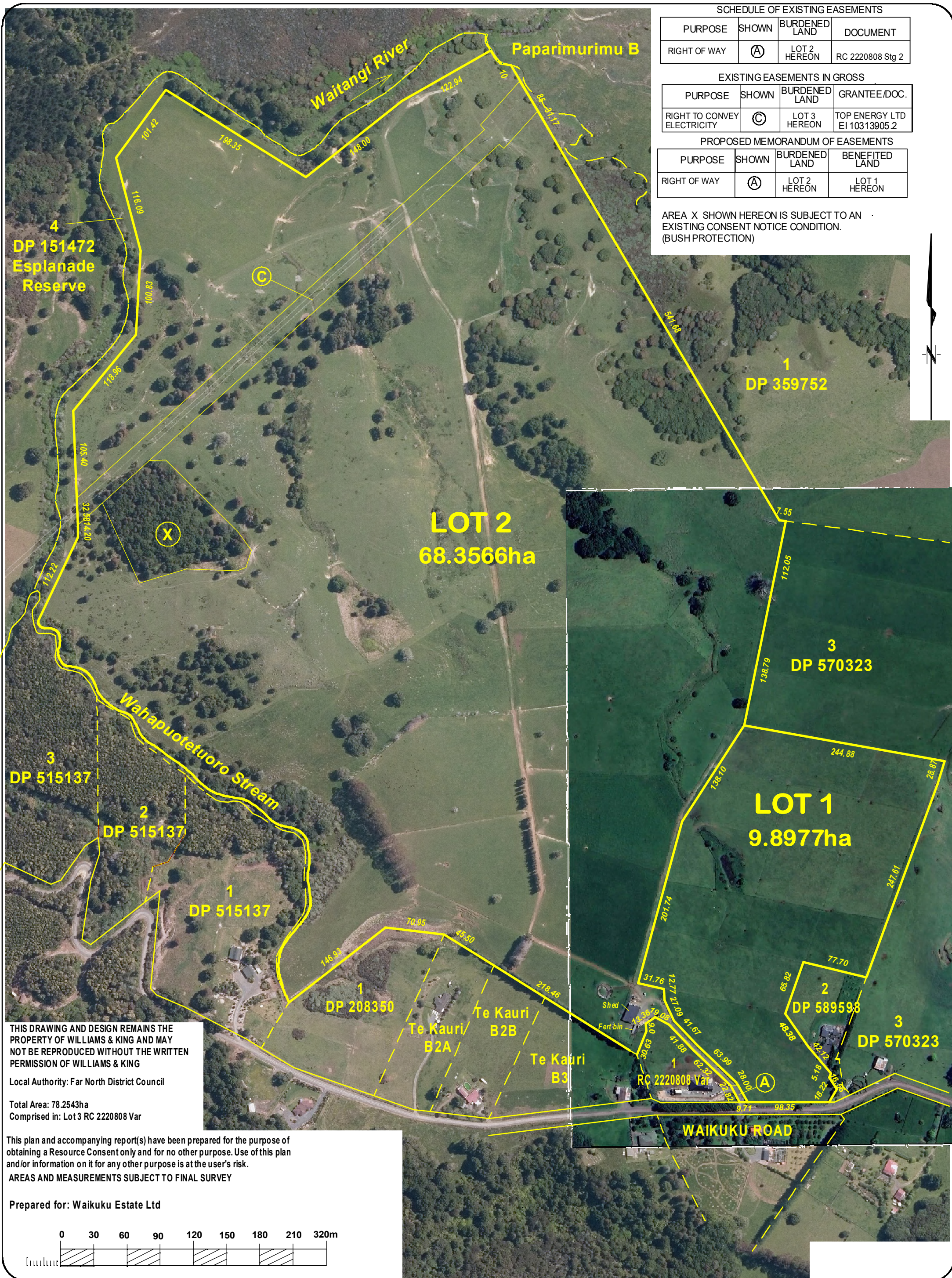
Signed .....  
Natalie Watson,  
Resource Planner

Date 5 July 2024 .....  
WILLIAMS & KING  
Kerikeri

## 9.0 Appendices

- Appendix 1** Scheme Plan
- Appendix 2** RC 2220808
- Appendix 3** Record of Title
- Appendix 4** Top Energy Correspondence





SCHEDULE OF EXISTING EASEMENTS

PURPOSE	SHOWN	BURDENED LAND	DOCUMENT
RIGHT OF WAY	(A)	LOT 2 HEREON	RC 2220808 Stg 2

EXISTING EASEMENTS IN GROSS

PURPOSE	SHOWN	BURDENED LAND	GRANTEE/DOC.
RIGHT TO CONVEY ELECTRICITY	(C)	LOT 3 HEREON	TOP ENERGY LTD EI 10313905.2

PROPOSED MEMORANDUM OF EASEMENTS

PURPOSE	SHOWN	BURDENED LAND	BENEFITED LAND
RIGHT OF WAY	(A)	LOT 2 HEREON	LOT 1 HEREON

AREA X SHOWN HEREON IS SUBJECT TO AN EXISTING CONSENT NOTICE CONDITION. (BUSH PROTECTION)

4  
DP 151472  
Esplanade Reserve

1  
DP 359752

LOT 2  
68.3566ha

3  
DP 515137

2  
DP 515137

1  
DP 515137

3  
DP 570323

LOT 1  
9.8977ha

1  
DP 208350

Te Kauri B2A

Te Kauri B2B

Te Kauri B3

2  
DP 589598

3  
DP 570323

WAIKUKU ROAD

THIS DRAWING AND DESIGN REMAINS THE PROPERTY OF WILLIAMS & KING AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF WILLIAMS & KING

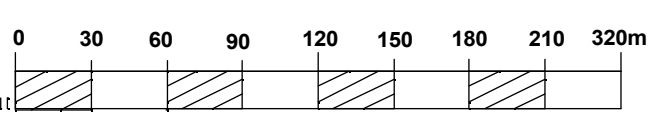
Local Authority: Far North District Council

Total Area: 78.2543ha  
Comprised in: Lot 3 RC 2220808 Var

This plan and accompanying report(s) have been prepared for the purpose of obtaining a Resource Consent only and for no other purpose. Use of this plan and/or information on it for any other purpose is at the user's risk.

AREAS AND MEASUREMENTS SUBJECT TO FINAL SURVEY

Prepared for: Waikuku Estate Ltd



**WILLIAMS AND KING**  
Registered Land Surveyors, Planners & Land Development Consultants  
Ph: (09) 407 6030 27 Hobson Ave  
Email: kerikeri@saps.co.nz PO Box 937 Kerikeri

**Proposed Subdivision of Lot 3 RC 2220808 (Proposed Variation Stage 2)**

Name	Date	Rev
Survey		
Design		
Drawn	W & K Mar 2022	
Rev	May 2024	

ORIGINAL SCALE: 1:4000  
SHEET SIZE: A3

**23756**



## DECISION ON SUBDIVISION CONSENT APPLICATION UNDER THE RESOURCE MANAGEMENT ACT 1991

### Decision

Pursuant to section 34(1) and sections 104, 104C, 106, 240(4), 243(e) and Part 2 of the Resource Management Act 1991 (the Act), the Far North District Council **grants** subdivision resource consent for a Restricted Discretionary activity, subject to the conditions listed below, to:

<b>Council Reference:</b>	2220808-RMASUB
<b>Applicant:</b>	Waikuku Estate Limited
<b>Property Address:</b>	68 Waikuku Road, Waimate North 0472
<b>Legal Description:</b>	Lot 1 DP 185433 & Lot 1 DP 198391
<b>Description of Application:</b>	Staged subdivision to create three additional allotments in the rural production zone as a restricted discretionary activity.

### Conditions – Stage 1

Pursuant to sections 108 and 220 of the Act, this consent is granted subject to the following conditions:

1. The subdivision shall be carried out in accordance with the approved plan of subdivision, entitled – Stage 1 - Proposed Subdivision of Lot 1 DP 198391 and Lot 1 DP 185433, prepared by Williams & King referenced 23756, dated February 2023, and attached to this consent with the Council's "Approved Stamp" affixed to it.

#### Survey plan approval (s223) conditions

2. The survey plan, submitted for approval pursuant to Section 223 of the Act shall show:
  - (a) All easements in the memorandum to be duly granted or reserved.
  - (b) Area marked 'X' that contains vegetation shall be identified as being subject to a bush protection covenant (Area to be referred to in Consent Condition 4(c)).
  - (c) Lot 4 to vest in Far North District Council as a road.

#### Section 224(c) compliance conditions

3. Prior to the issuing of a certificate pursuant to section 224(c) of the Act, the consent holder shall:
  - (a) Provide formed and metalled access on ROW easement B to 3m finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.

- (b) Provide evidence that the existing effluent disposal area and reserve situated within Lot 2 is contained within the surveyed boundaries, to the satisfaction of Council.
4. Secure the conditions below by way of a Consent Notice issued under section 221 of the Act, to be registered against the titles of the affected allotment. The costs of preparing, checking and executing the Notice shall be met by the consent holder:
- (a) The consent holder and or any future titleholder shall not increase or further increase the impermeable surfaces over the permitted threshold of the net site area, without implementing stormwater management and mitigating measures in accordance with Council's current Engineering Standards. The design shall accommodate for storm events up to and including the 1% annual exceedance probability plus an allowance for climate change and shall be prepared by a Chartered Professional Engineer or suitably qualified person, to the satisfaction of Councils' Development Engineer or delegated representative. **[Lot 2]**
- (b) Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary / overland (Q<sub>100</sub>) flow path (labelled as "relic gully" in Lands and Survey Ltd Site Suitability Report (Rev 4) dated 26/05/2022). **[Lot 2]**
- (c) The owner shall preserve the indigenous trees and bush as indicated on the survey plan as Area X and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage or destroy any of such trees or bush. The owner shall be deemed to be not in breach of this prohibition if any of such trees or bush shall die from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.
- [Lot 3]**
- (d) The property is identified as being within a kiwi high density zone. No occupier of, or visitor to the site, shall keep or introduce to the site carnivorous or omnivorous animals (such as cats, dogs or mustelids). **[Lot 2]**

#### Further Resolutions

1. That pursuant to section 240(4) of the Resource Management Act 1991 (the Act), the Far North District Council resolves to cancel the amalgamation instrument that requires Lot 1 DP 198391 and Lot 1 DP 185433 to be held together.
2. That pursuant to section 243(e) of the Resource Management Act 1991 (the Act), the Far North District Council hereby further resolves to cancel easement 'B' for the purpose of a right of way created by Transfer D420416.2 over Lot 1 DP 185433.

## **Advice Notes – Stage 1**

### **Lapsing of Consent**

1. *Pursuant to section 125 of the Act, this resource consent will lapse 5 years after the date of commencement of consent unless, before the consent lapses;*
  - a) *A survey plan is submitted to Council for approval under section 223 of the RMA before the lapse date, and that plan is deposited within three years of the date of approval of the survey plan in accordance with section 224(h) of the RMA; or*
  - b) *An application is made to the Council to extend the period of consent, and the council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Act.*

## **Right of Objection**

2. *If you are dissatisfied with the decision or any part of it, you have the right (pursuant to section 357A of the Act) to object to the decision. The objection must be in writing, stating reasons for the objection and must be received by Council within 15 working days of the receipt of this decision.*

## **Archaeological Sites**

3. *Archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). A copy of Heritage New Zealand's Archaeological Discovery Protocol (ADP) is attached for your information. This should be made available to all person(s) working on site.*

## **General Advice Notes**

4. *This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lot(s) can be appropriately serviced (infrastructure and access).*
5. *The site is accessed off to an unsealed road. Unsealed roads have been shown to create a dust nuisance from vehicle usage. It is advised that the dwelling is either located as far as possible or at least 80m from the road, and/or boundary planting within the site is utilised to assist with this nuisance. Alternatively, the applicant may consider sealing their road frontage to remove the issue.*
6. *The consent holder shall obtain all necessary building consents which may be required for any building works proposed.*
7. *Rule ER-R13 of the Proposed Far North District Plan has immediate legal effect and requires that earthworks must, for their duration, be controlled in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Guideline Document GD2016/005). Failure to comply with this rule may result in enforcement action and will require additional consents.*

## **Conditions – Stage 2**

Pursuant to sections 108 and 220 of the Act, this consent is granted subject to the following conditions:

1. The subdivision shall be carried out in accordance with the approved plan of subdivision, entitled – Stage 2 - Proposed Subdivision of Lot 1 DP 198391 and Lot 1 DP 185433, prepared by Williams & King referenced 23756, dated February 2023, and attached to this consent with the Council's "Approved Stamp" affixed to it.

### **Survey plan approval (s223) conditions**

2. The survey plan, submitted for approval pursuant to Section 223 of the Act shall show:
  - (a) All easements in the memorandum to be duly granted or reserved.

- (b) Easements in gross in favour of the Council for the purpose of providing for the overland flow of stormwater, must be created over parts of Lot 1 and must be included in a memorandum of easements endorsed on the survey plan and be granted or reserved. The consent holder must meet the costs of the preparation, review, and registration of the easement instruments on the relevant records of title.

### Section 224(c) compliance conditions

- 3. Prior to the issuing of a certificate pursuant to section 224(c) of the Act, the consent holder shall:
  - (a) Upgrade Waikuku Road from the western end of the road frontage for Lot 3 to the vehicle entrance of Lot 2 as per the Rural Type A standards in Appendix 3B-2 of the Operative Far North District Plan. Provide certification from a Chartered Professional Engineer that the work has been completed in accordance with the FNDC Engineering Standards.
  - (b) Provide a formed double-width entrance to Lots 1 and 3 which complies with the Councils Engineering Standard FNDC/S/6, 6B and 6D, section 3.3.7.1 of the Engineering Standards and NZS 4404:2004. Sight distances at the crossing locations are to comply with the requirements of the FNDC Engineering Standards including the clearance of the vegetation along the front boundary of Lots 1 & 3 for 15m either side of the vehicle crossing centerline.
  - (c) The consent holder will construct and shall provide suitable evidence by way of as-built plans and/or producer statement from a Suitably Qualified Engineer an Independent Qualified Person (IQP) or FNDC Development Engineer or authorised representative, to illustrate that the vehicle crossing has been completed in accordance with Condition 3(b) to the satisfaction of the council.
  - (d) Provide formed and metalled access on ROW easement A to 3m finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- 4. Secure the conditions below by way of a Consent Notice issued under section 221 of the Act, to be registered against the titles of the affected allotment. The costs of preparing, checking and executing the Notice shall be met by the consent holder:
  - (a) In conjunction with the construction of a future dwelling on proposed Lots 1 and 3, the Lot owner shall obtain a Building Consent and install a wastewater treatment and effluent disposal system on the Lot. The system shall be designed by a Chartered Professional Engineer or registered drainlayer in accordance with ARC TP 58 requirements and shall reference the recommendations of the Lands and Survey Ltd Site Suitability Report (Rev 4) dated 26/05/2022 and submitted with the application. **[Lots 1 and 3]**
  - (b) In conjunction with the construction of any building requiring a potable water supply on proposed Lots 1 and 3, a water collection system with sufficient supply for firefighting purposes is to be provided by way of tanks or other approved means and are to be positioned so that it is safely accessible for this purpose within the Lot. These provisions will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS 4509:2008. Alternative firefighting water supplies shall be specifically approved by an authorized representative of Fire and Emergency NZ prior to works commencing. **[Lots 1 and 3]**



- (c) The consent holder and or any future titleholder shall not increase or further increase the impermeable surfaces over the permitted threshold of the net site area, without implementing stormwater management and mitigating measures in accordance with Council's current Engineering Standards. The design shall accommodate for storm events up to and including the 1% annual exceedance probability plus an allowance for climate change and shall be prepared by a Chartered Professional Engineer or suitably qualified person, to the satisfaction of Councils' Development Engineer or delegated representative. **[Lot 1]**
- (d) Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary / overland (Q<sub>100</sub>) flow path (labelled as "relic gully" in Lands and Survey Ltd Site Suitability Report (Rev 4) dated 26/05/2022). **[Lots 1 and 3]**
- (e) The property is identified as being within a kiwi high density zone. No occupier of, or visitor to the site, shall keep or introduce to the site carnivorous or omnivorous animals (such as cats, dogs or mustelids). On Lot 3, working farm dogs as defined in the Dog Control Act 1996 are excluded from this condition if they are:
- i. micro-chipped,
  - ii. within a dog proof fence area, on a lead or under effective control at all times when outside the fenced area,
  - iii. kept in a kennel or tied up at night.
  - iv. For any dog written confirmation that the dog has current kiwi aversion training certification along with the expiry date for the certification

Prior to the keeping of introduction of any working dog to the site the occupier must provide the following to the Councils Resource Consent Monitoring Officer:-

- I. A photograph of the dog;
- II. Written confirmation that the dog(s) have been micro-chipped;
- III. A plan showing the extent of the dog proof fenced area;

**[Lots 1 and 3]**

## **Advice Notes – Stage 2**

### **Lapsing of Consent**

1. Pursuant to section 125 of the Act, this resource consent will lapse 5 years after the date of commencement of consent unless, before the consent lapses;
  - a) A survey plan is submitted to Council for approval under section 223 of the RMA before the lapse date, and that plan is deposited within three years of the date of approval of the survey plan in accordance with section 224(h) of the RMA; or
  - b) An application is made to the Council to extend the period of consent, and the council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Act.

### **Right of Objection**

2. If you are dissatisfied with the decision or any part of it, you have the right (pursuant to section 357A of the Act) to object to the decision. The objection must be in writing, stating

*reasons for the objection and must be received by Council within 15 working days of the receipt of this decision.*

### **Archaeological Sites**

- 3. Archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). A copy of Heritage New Zealand's Archaeological Discovery Protocol (ADP) is attached for your information. This should be made available to all person(s) working on site.*

### **General Advice Notes**

- 4. This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lot(s) can be appropriately serviced (infrastructure and access).*
- 5. The consent holder shall obtain all necessary building consents which may be required for any building works proposed.*
- 6. Rule ER-R13 of the Proposed Far North District Plan has immediate legal effect and requires that earthworks must, for their duration, be controlled in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Guideline Document GD2016/005). Failure to comply with this rule may result in enforcement action and will require additional consents.*
- 7. Prior to any vehicle crossings being constructed or upgraded and any works being undertaken within the road corridor, a Traffic Management Plan (TMR) must be approved by Council's Corridor Access Engineer and a Corridor Access Request (CAR) must be obtained.*

### **Reasons for the Decision**

1. By way of an earlier report that is contained within the electronic file of this consent, it was determined that pursuant to sections 95A and 95B of the Act the proposed activity will not have, and is not likely to have, adverse effects on the environment that are more than minor, there are also no affected persons and no special circumstances exist. Therefore, under delegated authority, it was determined that the application be processed without notification.
2. The application is for a Restricted Discretionary resource consent, as such under section 104C only those matters over which council has restricted its discretion have been considered, these matters are found in section 13.7.3 and 13.8(ii) of the Operative District Plan.
3. In regard to section 104(1)(a) of the Act the actual and potential effects of the proposal will be acceptable as:

- a. It is considered that the relevant and potential effects have been addressed within the assessment of effects in the notification assessment and it has been concluded that the adverse effects will be less than minor.
  - b. The cancellation of the amalgamation condition requiring Lot 1 DP 198391 and Lot 1 DP 185433 to be held within the same record of title will not generate any adverse effects as the proposal encompasses the amalgamated area.
  - c. The cancellation of easement 'B' for the purpose of a right of way created by Transfer D420416.2 over Lot 1 DP 185433 will not generate any adverse effects as Stage 1 includes an appropriate additional easement.
  - d. The proposal will also result in positive effects, including:
    - i. Allowing for the sustainable use of land as the balance lot will remain in production.
    - ii. Protects indigenous vegetation on Lot 3 through bush protection covenants.
    - iii. Helps reduce the risk of predation of North Island brown kiwi through domestic animal restrictions.
    - iv. Improves the quality of Waikuku Road by requiring it to be upgraded to the current Council standard.
4. In regard to section 104(1)(ab) of the Act there are no offsetting or environmental compensation measures proposed or agreed to by the applicant for the activity.
5. In regard to section 104(1)(b) of the Act the following statutory documents are considered to be relevant to the application:
- a. National Policy Statement for Highly Productive Land 2022
  - b. Northland Regional Policy Statement 2016
  - c. Operative Far North District Plan 2009
  - d. Proposed Far North District Plan 2022

*National Policy Statement for Highly Productive Land 2022*

The National Policy Statement for Highly Productive Land 2022 (*NPS-HPL*) was introduced on 17 October 2022. The policy statement aims to protect highly productive land for use in land-based primary production, both now and for future generations. The proposal does cause some tension as a rural residential subdivision activity is contrary to some of the objectives and policies in the *NPS-HPL* because it subdivides highly productive land and is therefore considered to be inappropriate development of highly productive land. However, as the proposed activity is a restricted discretionary activity, the matters of discretion are limited to 13.7.3 and 13.8.1(b)(ii) of the Operative Plan and therefore only Policy 9 (reverse sensitivity effects) can be considered. As that is the case, the proposed rural residential allotments are considered large enough to allow sufficient separation to the adjacent working productive land to ensure reverse sensitivity effects will not arise.

*Regional Policy Statement for Northland 2016*

The applicant has provided an assessment of the Regional Policy Statement for Northland (RPS) in page 17 of the AEE titled "Assessment of Environmental Effects – 68 Waikuku Road, Waimate North" dated 26 May 2022. I adopt this assessment as the subdivision is not otherwise inconsistent with any of the objectives and policies within the RPS.

*Operative Far North District Plan*

The activity is consistent with the relevant objectives, policies and assessment criteria of the Operative District Plan because the subdivision allows for rural land to remain in production whilst also enabling other activities to be established. It provides for the efficient use and development of the Rural Production zone and will not generate actual and potential adverse effects of conflicting land use activities.

#### Proposed Far North District Plan

The activity is not consistent with the relevant objectives, policies and assessment criteria of the Proposed District Plan because it allows for rural lifestyle subdivision in the Rural Production Zone which ultimately allows for the loss of highly productive land and fragments land into parcel sizes that are no longer able to support farming activities.

In this case, there is not considered to be a notable environmental benefit of providing for a new rural lifestyle living activity on proposed Lot 1-2.

The proposal is considered to be contrary to Policy RPROZ-P6 as the proposal will result in allotments likely to be utilised for rural lifestyle activities and are more limited in the type of farming activities that could be supported on allotments on 0.7955ha and 0.8460ha. Given the PDP provides for only 40ha allotments (as a controlled activity) and minimum allotment sizes of 8 hectares (as a discretionary activity) it is considered that the proposed allotments are inconsistent with policy direction outlined in RPROZ-P6 and it is unlikely that this allotment could support farming activities in this regard.

#### Weighting

For this resource consent application, the relevant provisions of both an operative and any proposed plan must be considered and it is noted that the application was lodged in advance of the PDP being notified (May 27, 2022), and therefore the applicant had an expectation of an outcome under the operative District Plan prior to the notification of the proposed plan. Weighting is relevant if different outcomes arise from assessments of objectives and policies under both the operative and proposed plans.

As assessed above the outcomes sought are different under the operative and proposed plan frameworks. Therefore, it is necessary to consider the weight to be given to each framework and which outcome should prevail.

The PDP has only been recently notified and as such there is potential for change as the plan goes through the statutory process. As such, despite the different outcomes anticipated by the PDP, little weight is given to these provisions.

6. In regard to section 104(1)(c) of the Act there are no other matters relevant to the application.
7. In terms of s106 of the RMA the proposal is not considered to give rise to a significant risk from natural hazards, and sufficient provision has been made for legal and physical access to the proposed allotments. Accordingly, council is able to grant this subdivision consent subject to the conditions above.
8. Based on the assessment above the activity will be consistent with Part 2 of the Act.

The activity will avoid, remedy or mitigate any potential adverse effects on the environment while providing for the sustainable management of natural and physical resources and is therefore in keeping with the Purpose and Principles of the Act. There are no matters under section 6 that are relevant to the application. The proposal is an



efficient use and development of the site that will maintain existing amenity values without compromising the quality of the environment. The activity is not considered to raise any issues in regard to Te Tiriti o Waitangi.

9. Overall, for the reasons above it is appropriate for consent to be granted subject to the imposed conditions.

## Approval

This resource consent has been prepared by Oliver Doherty-Ramsey, consultant planner. I have reviewed this and the associated information (including the application and electronic file material) and for the reasons and subject to the conditions above, and under delegated authority, grant this resource consent.



**Name: Pat Killalea**

Date: 24<sup>th</sup> February 2023

**Title: Principal Planner**



PROPOSED MEMORANDUM OF EASEMENTS

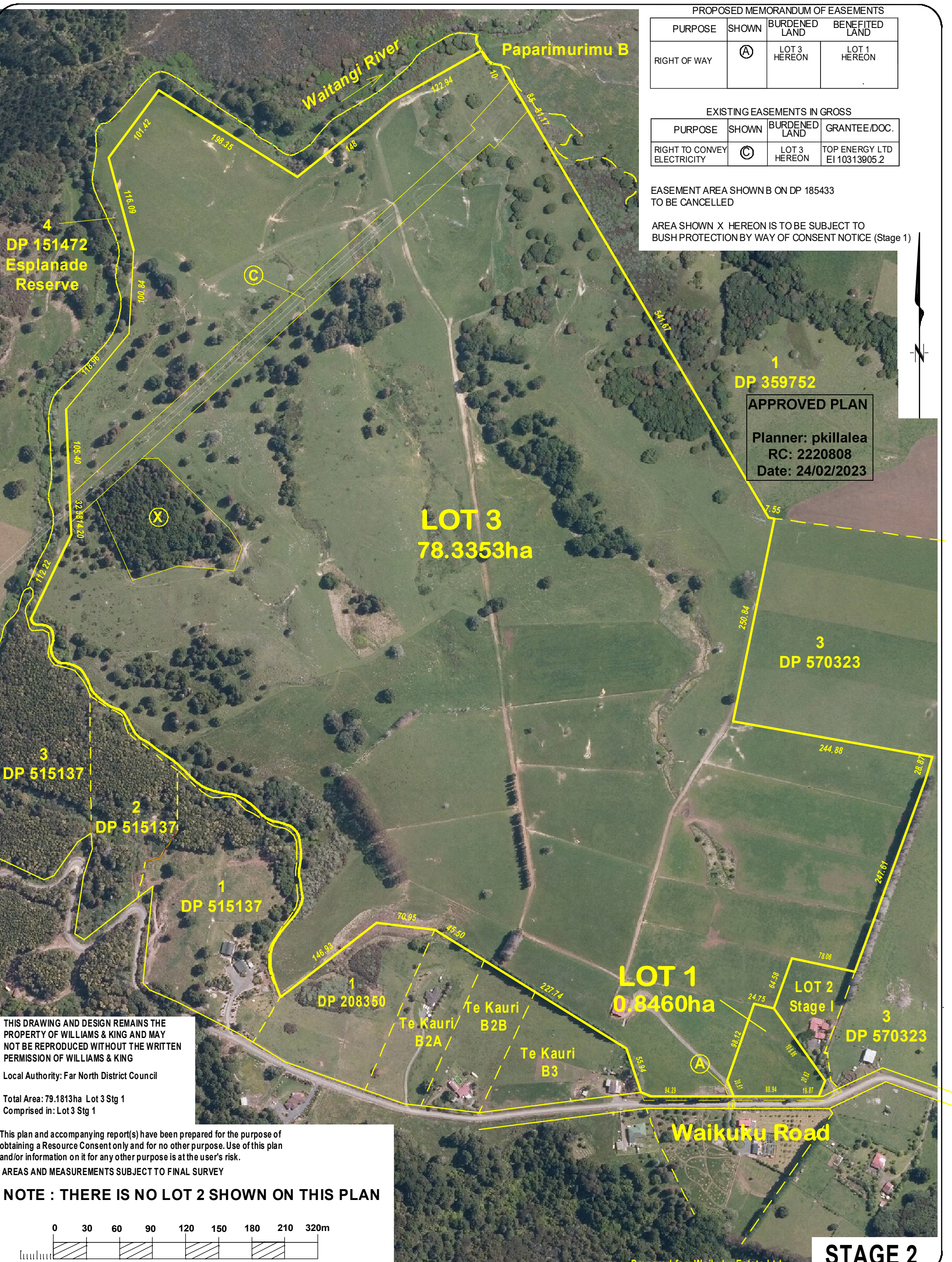
PURPOSE	SHOWN	BURDENED LAND	BENEFITED LAND
RIGHT OF WAY	(A)	LOT 3 HEREON	LOT 1 HEREON

EXISTING EASEMENTS IN GROSS

PURPOSE	SHOWN	BURDENED LAND	GRANTEE/DOC.
RIGHT TO CONVEY ELECTRICITY	(C)	LOT 3 HEREON	TOP ENERGY LTD EI 10313905.2

EASEMENT AREA SHOWN B ON DP 185433 TO BE CANCELLED

AREA SHOWN X HEREON IS TO BE SUBJECT TO BUSH PROTECTION BY WAY OF CONSENT NOTICE (Stage 1)

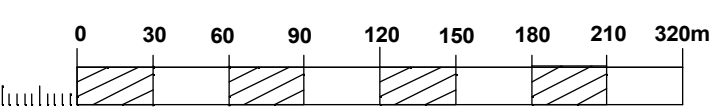


**APPROVED PLAN**  
 Planner: pkillalea  
 RC: 2220808  
 Date: 24/02/2023

THIS DRAWING AND DESIGN REMAINS THE PROPERTY OF WILLIAMS & KING AND MAY NOT BE REPRODUCED WITHOUT THE WRITTEN PERMISSION OF WILLIAMS & KING  
 Local Authority: Far North District Council  
 Total Area: 79.1813ha Lot 3 Stg 1  
 Comprised in: Lot 3 Stg 1

This plan and accompanying report(s) have been prepared for the purpose of obtaining a Resource Consent only and for no other purpose. Use of this plan and/or information on it for any other purpose is at the user's risk.  
 AREAS AND MEASUREMENTS SUBJECT TO FINAL SURVEY

**NOTE : THERE IS NO LOT 2 SHOWN ON THIS PLAN**



Prepared for: Waikuku Estate Ltd

**STAGE 2**

**WILLIAMS AND KING**  
 Registered Land Surveyors, Planners & Land Development Consultants  
 Ph: (09) 407 6030 27 Hobson Ave  
 Email: kerikeri@saps.co.nz PO Box 937 Kerikeri

**Proposed Subdivision of Lot 3 Stage 1**

Survey	Name	Date	ORIGINAL SCALE	SHEET SIZE
Design			1:4000	A3
Drawn	CW	Mar 2022		
Rev	B	Feb/2023		

**23756**





**RECORD OF TITLE  
UNDER LAND TRANSFER ACT 2017  
FREEHOLD  
Search Copy**



*R. W. Muir*  
Registrar-General  
of Land

**Identifier** 1124164  
**Land Registration District** North Auckland  
**Date Issued** 28 April 2023

**Prior References**

NA116A/44

---

<b>Estate</b>	Fee Simple
<b>Area</b>	79.0052 hectares more or less
<b>Legal Description</b>	Lot 3 Deposited Plan 589598

**Registered Owners**

Waikuku Estate Limited

---

**Interests**

Appurtenant to part formerly Lot 1 DP 198391 is a right to convey water created by Transfer C478545.1 - 7.5.1993 at 2.41 pm

The easements created by Transfer C478545.1 are subject to Section 243 (a) Resource Management Act 1991

Appurtenant to part formerly Lot 1 DP 198391 is a water supply right created by Transfer D420416.2 - 16.8.1999 at 9.01 am

The easements created by Transfer D420416.2 are subject to Section 243 (a) Resource Management Act 1991

Subject to a right (in gross) to convey electricity, telecommunications and computer media over part marked C on DP 589598 in favour of Top Energy Limited created by Easement Instrument 10313905.2 - 5.5.2017 at 11:08 am  
12710086.3 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 28.4.2023 at 4:41 pm





4288-  
C478545.1 TE

Under the Land Transfer Act 1952

## Memorandum of Transfer

WHEREAS:

R.W. HOULT & COMPANY LIMITED a duly incorporated company having its registered office at Auckland (hereinafter referred to as "the Transferor")

being registered as proprietor

of estates in fee simple

subject however to such encumbrances, liens and interests as are notified by memoranda underwritten or endorsed hereon in those piece<sup>s</sup> of land situated in the Land District of North Auckland containing FIRST: 26.0320 hectares more or less being Lot 2 on Deposited Plan 151472 and being part Block VIII Omapere Survey District being all of the land comprised and described in Certificate of Title Volume 90B Folio 234

~~more or less being~~

SUBJECT TO: Section 243(c) Resource Management Act 1991 (hereinafter called the Dominant Tenement).

AND SECONDLY: 80.1400 hectares more or less being Lot 3 Deposited Plan 151472 and being part Block VIII Omapere Survey District being all of the land comprised and described in Certificate of Title volume 90B Folio 235

SUBJECT TO: Section 243(c) Resource Management Act 1991 (hereinafter called the Servient Tenement)

NEW ZEALAND STAMP DUTY AK1  
22/03/9300100001 TERM \*4288.00

In consideration of the sum of TWO HUNDRED AND TWENTY THREE THOUSAND EIGHT HUNDRED AND FIFTY TWO DOLLARS (\$223,852.00) paid to the Transferor by KENNETH LESLIE CATHCART of Pakaraka, Market Gardener and JUDITH BARBARA CATHCART his wife (hereinafter referred to as "the Transferees") (the receipt of which sum is hereby acknowledged) the Transferor DOETH HEREBY TRANSFER to the said Transferees as tenants in common in equal shares all the Transferor's interest in the said land secondly above described, first reserving nevertheless unto the Transferor with its successors and assigns (hereinafter referred to as "the Transferors") rights to convey water over that part of the Servient Tenement shown marked (A) on Deposited Plan 151472 on the terms and conditions set out below to the end and intent that the said Easement hereby reserved shall be forever appurtenant to the Dominant Tenement.

TERMS AND CONDITIONS:

1. The rights and powers to convey water are the same rights and powers as those set out in Clauses 2 and 5 of the Seventh Schedule to the Land Transfer Act 1952.
2. The rights and powers herein shall be restricted to the supply of water for domestic and stock purposes.

**ORDER OF LAND VALUATION TRIBUNAL**

Land Valuation Tribunal  
At WHANGAREI

No. 151/92

IN THE MATTER of an application  
under the Land Settlement Promotion and Land  
Acquisition Act 1952 for consent to a sale  
of land

Between R W HOULT & COMPANY LIMITED  
at Auckland

Vendor/~~Lesser~~

and KENNETH LESLIE CATHCART market gardener Purchaser/~~Lessee~~  
JUDITH BARBARA CATHCART clerk, both of Pakaraka

BEFORE THE NORTH AUCKLAND LAND VALUATION TRIBUNAL

On the application of R W Hoult & Company Limited  
for consent to the sale and purchase

In respect of the land described in the schedule hereto

~~AND WHEREAS~~

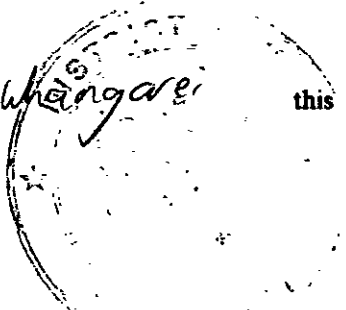
IT IS ORDERED that the consent of the North Auckland Land Valuation Tribunal be granted pursuant to Part II of the Land Settlement Promotion and Land Acquisition Act 1952

~~upon the following grounds:~~

SCHEDULE

ALL THAT land containing an area of 86.08 hectares more or less being Lot 3 of a proposed subdivision of Part Old Land Claim No. 52 and Morakerake Block and outlined in green on the attached plan and being part of the land contained and described in Certificate of Title Volumes 500, 588 & 33A Folio 195, 211 & 638 (NORTH AUCKLAND REGISTRY)

Dated at



this

14 day of

May

19 92

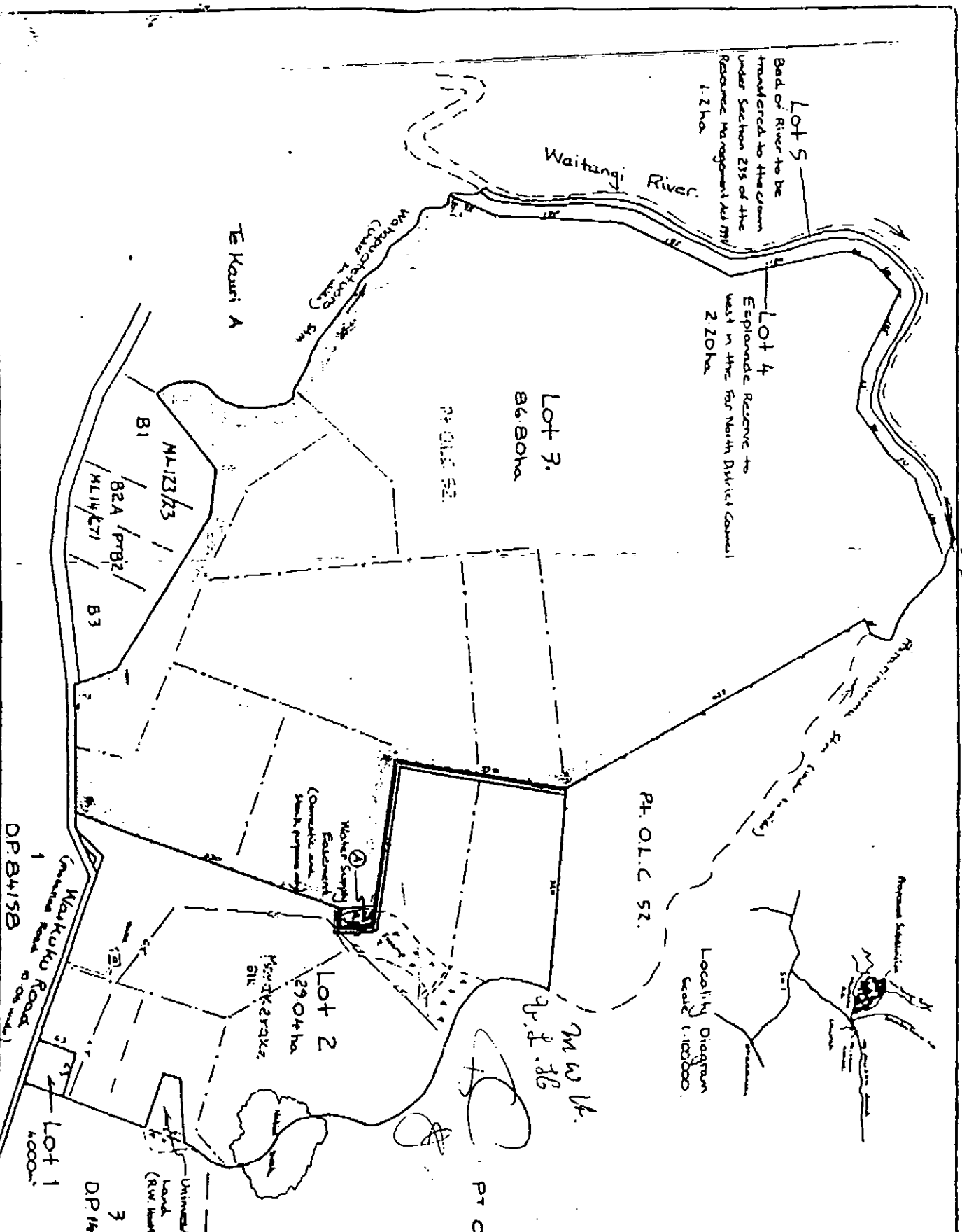
*W. Dean*  
(Deputy) Registrar.

Solicitors for the applicant: LAW NORTH PARTNERS  
P O BOX 633, DX 10403,  
KAIKŌHE  
Attention Mr Litchfield

YON STURMER GILKISON & HEWITT  
REGISTERED SURVEYORS

Lots 1-5 Being a proposed Subdivision of Pt OLC 52 and  
Matakakeke Block.

Prepared for  
R.W. Hout Company Ltd.



Proposed Easements

Proposed Easement	Benefit	Diagram
Water Supply	Lot 2	Lot 2
Retention Basin	Lot 2	Lot 2

**Notes:**  
Areas and measurements are approximate only and subject to final survey.

3  
DP 145977  
Registrars Office



~~Consideration of~~

~~(the receipt of which sum is hereby acknowledged)~~

~~Do hereby Transfer to the said~~

~~att~~

~~estate and interest in the~~

~~said land above described~~

In witness whereof these presents have been executed this  
day of October 1992

30<sup>th</sup>

SIGNED by the abovenamed )  
KENNETH LESLIE CATHCART )  
in the presence of: )

*[Handwritten signature]*

*[Handwritten signature]*  
*[Handwritten signature]*  
*[Handwritten signature]*

SIGNED by the abovenamed )  
JUDITH BARBARA CATHCART )  
in the presence of: )

*[Handwritten signature]*

*[Handwritten signature]*  
*[Handwritten signature]*

~~In witness whereof these presents have been executed this~~

30<sup>th</sup>

~~day~~

~~of~~ October

~~1992~~

Signed by the above named

R.W. HOULT & COMPANY LIMITED

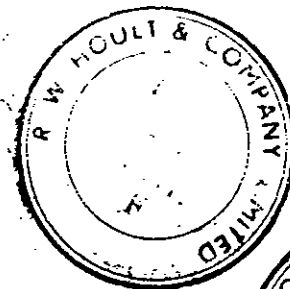
~~XXXXXXXXXXXX~~

by the affixing of its Common Seal  
in the presence of:

per pro R. W. HOULT & COMPANY LTD.

B. L. Hoult ..... Director

M. W. Hoult ..... Director/Secretary



No.

TRANSFER OF

Correct for the purposes of the Land Transfer Act

*[Handwritten Signature]*

SOLICITOR FOR THE TRANSFEREE

R.W. HOULT & CO. LTD

Transferor

I hereby certify that this transaction does not contravene the provisions of Part IIA of the Land Settlement Promotion and Land Acquisition Act 1952.

*[Handwritten Signature]*

SOLICITOR FOR THE TRANSFEREE

K.L. & J.B. CATHCART

Transferee

I hereby certify for the purposes of the Stamp and Cheque Duties Act 1971 that no conveyance duty is payable on this instrument by reason of the application of Section 24(1) of the Act and that the provisions of subsection (2) of that section do not apply.

Particulars entered in the Register as shown herein on the date and at the time endorsed below.

SOLICITOR FOR THE TRANSFEREE

Assistant / District Land Registrar

of the District of

MARSDEN WOODS INSKIP & SMITH  
BARRISTERS & SOLICITORS  
WHANGAREI

Solicitors for the Transferee

2.41 07.MAY 93 C 478545  
PARTICULARS ENTERED IN THE  
LAND REGISTRY AUCKLAND  
ASST LAND REGISTRAR



*TRC*  
*908/235*  
*908/234*



**TRANSFER**

**Land Transfer Act 1952**

**This page does not form part of the Transfer.**

**TRANSFER**  
Land Transfer Act 1952

NL  
—

If there is not enough space in any of the panels below, cross-reference to and use the approved Annexure Schedule: no other format will be received.

Land Registration District

North Auckland

Certificate of Title No. All or Part? Area and legal description — Insert only when part or Stratum, CT

(i) 90B	234	Part	1082 s.m. Lot 1 DP 185433	10GKJ1 15/10/1998 44174 NZ Stamp Duty - DENOTING FEE Self assessed duty \$0.00
(ii) 90B	235	Part	1484 s.m. Lot 2 DP 185433	

Transferor Surnames must be underlined

**Maurice William HOULT (as to the land first described) and Robert William BROWN and Susan Eleanor BROWN (as to the land secondly described)**

Transferee Surnames must be underlined

**Robert William BROWN and Susan Eleanor BROWN (as to the land first described) and Maurice William HOULT (as to the land secondly described)**

Estate or Interest or Easement to be created: Insert e.g. Fee simple; Leasehold in Lease No. ....; Right of way etc.

**(i) Fee simple reserving a right of way (continued on page 2 Annexure Schedule)  
(ii) Fee simple reserving a water supply easement (continued on page 2 Annexure Schedule)**

Consideration

**In consideration of equality of exchange the parties have agreed to exchange their respective lands**

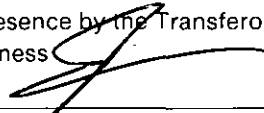
Operative Clause

For the above consideration (receipt of which is acknowledged) the TRANSFEROR TRANSFERS to the TRANSFEEE all the transferor's estate and interest described above in the land in the above Certificate(s) of Title and if an easement is described above such is granted or created.

Dated this 3<sup>rd</sup> day of October 1998

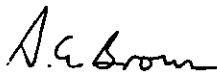
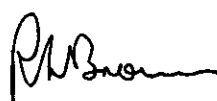
Attestation

Signed in my presence by the Transferor Robert William BROWN and Susan Eleanor BROWN as Transferor and Transferee

Signature of Witness 

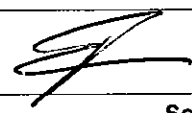
**Witness to complete in BLOCK letters (unless typewritten or legibly stamped)**

Witness name Doreen Duncan Beer  
Occupation Solicitor  
Address Kaikohe

Signature, or common seal of Transferor   


Certified correct for the purposes of the Land Transfer Act 1952

~~Certified correct for the purposes of the Land Transfer Act 1952 by virtue of Section 24(1) of the Stamp and Cheques Duties Act 1974 (DELETE IN APPLICABLE CERTIFICATE)~~



Solicitor for the Transferee

Annexure Schedule

TRANSFER

Dated

13<sup>th</sup> October 1998

Page

2

of

2

Pages

Continuation of "Estate or Interest or Easement to be created"

(i) The transferor of the land first described shall have a right of way over that part of the land transferred herein being the part marked "B" on Deposited Plan 185433 being forever appurtenant to the land of the transferor contained in Certificate of Title 90B/234.

(ii) The transferor of the land secondly described shall have the Right to Convey Water through that part of the land transferred herein being the part marked "A" on Deposited Plan 185433 to be forever appurtenant to the land of the transferor contained in Certificate of Title 90B/235.

Continuation of "Attestation"

Signed in my presence by the said ~~Robert William BROWN and Susan Eleanor BROWN~~ Maurice William HOULT as Transferor and Transferee

Signature: *M W Houlth*

Signature of Witness: *[Signature]*

Witness name: Doreen Duncan Beer  
Occupation: Solicitor  
Address: Kaikohe

If this Annexure Schedule is used as an expansion of an instrument, all signing parties and either their witnesses or their solicitors must put their signatures or initials here.

*DS* *RWB* *[Signature]* *MWK*



# TRANSFER

## Land Transfer Act 1952

The above/within easements ~~when created will~~  
~~be~~ subject to Section 243(a) Resource  
Management Act 1991

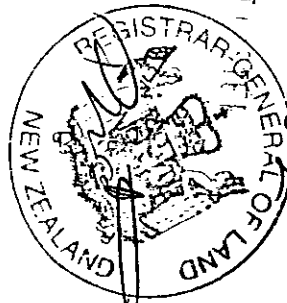
  
for DLZ.

Law Firm Acting
DOREEN BEER SOLICITOR KAIKOHE

*(Handwritten circled '2')*

Auckland District Law Society  
REF 4135

9.01 16.AUG99 D 420416.2  
PARTICULARS ENTERED  
LAND REGISTRY  
9.01.99  
909/234-235





**Instrument No.** 10313905.2  
**Status** Registered  
**Date & Time Lodged** 05 May 2017 11:08  
**Lodged By** O'Reilly, Frances Mary  
**Instrument Type** Easement Instrument



**Affected Computer Registers**    **Land District**  
 NA116A/44                              North Auckland

**Annexure Schedule:** Contains 11 Pages.

### Grantor Certifications

- I certify that I have the authority to act for the Grantor and that the party has the legal capacity to authorise me to lodge this instrument
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period
- I certify that the Mortgagee under Mortgage D187335.2 has consented to this transaction and I hold that consent

### Signature

Signed by Graeme Leslie McLelland as Grantor Representative on 04/05/2017 03:53 PM

### Grantee Certifications

- I certify that I have the authority to act for the Grantee and that the party has the legal capacity to authorise me to lodge this instrument
- I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument
- I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply
- I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

### Signature

Signed by Hadleigh Morton Yonge as Grantee Representative on 03/05/2017 05:56 PM

**\*\*\* End of Report \*\*\***

**Easement instrument to grant easement or profit à prendre,  
or create land covenant**  
(Sections 90A and 90F Land Transfer Act 1952)

Land Registration District  
North Auckland

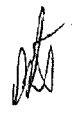
**Grantor**

**ROBERT WILLIAM BROWN and SUSAN ELEANOR BROWN at Kaitiaki**



**Grantee**

**TOP ENERGY LIMITED at Kaitiaki**



**Grant of Easement or Profit à prendre or Creation of Covenant**

The Grantor being the registered proprietor of the servient tenement(s) set out in Schedule A grants to the Grantee (and, if so stated, in gross) the easement(s) or profit(s) à prendre set out in Schedule A, or creates the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

**Schedule A**

*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; profit or covenant	Shown (plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Right to Convey electricity, telecommunications and computer media	Marked "Q" on Deposited Plan 488711	NA116A/44	In gross



**Annexure Schedule 1**

Page of Pages

*Insert instrument type*

Easement Instrument

**Easements or profits à prendre rights and powers (including terms, covenants and conditions)**

*Delete phrases in [ ] and insert memorandum number as required; continue in additional Annexure Schedule, if required*

Unless otherwise provided below, the rights and powers implied in specified classes of easement are those prescribed by the Land Transfer Regulations 2002 and/or Schedule Five of the Property Law Act 2007

The implied rights and powers are hereby ~~varied~~ ~~negated~~ ~~added to~~ or ~~substituted~~ by:

~~[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]~~

the provisions set out in the attached memorandum.

**Covenant provisions**

*Delete phrases in [ ] and insert Memorandum number as require; continue in additional Annexure Schedule, if required*

~~The provisions applying to the specified covenants are those set out in:~~

~~[Memorandum number \_\_\_\_\_, registered under section 155A of the Land Transfer Act 1952]~~

~~[Annexure Schedule \_\_\_\_\_]~~

**FORM OF REGISTRABLE MEMORANDUM  
SECTION 155A, LAND TRANSFER ACT 1952**

**Class of instrument in which provisions intended to be included**

Easement

**Easement rights and powers (including terms, covenants and conditions)**

**1. Grantee's Rights**

**1.1 The Grantee shall have the following rights and powers:**

1.1.1 to Construct the Works and to remove, inspect, use, operate, repair, maintain, renew, alter, replace, upgrade, add to and modify the Works or any part of the Works on the Easement Area;

1.1.2 to convey, conduct, send, distribute, pass, convert, transport, transmit and receive electricity and telecommunications signals and computer media by means of the Works;

1.1.3 to undertake all tests, inspections, investigations and surveys that are reasonably necessary for the Grantee to exercise its rights under this Easement Instrument and in so doing the Grantee may:

1.1.3.1 drill for core samples and dig test pits;

1.1.3.2 install and maintain testing and monitoring equipment;

1.1.3.3 take away samples from the Land for analysis;

1.1.4 to enter and remain on the Easement Area and such other part of the Land as is reasonably necessary in the circumstances with or without Vehicles, machinery and/or Equipment and with such personnel (including its employees, agents, contractors and/or consultants) for the purposes of exercising the Grantee's rights under this Easement Instrument and/or for accessing other adjoining land on which the Grantee has similar rights as those set out in this Easement Instrument;

1.1.5 to Construct, inspect, use, repair, maintain, renew, alter, remove and modify roads and access tracks on the Land, to modify adjacent fences (including boundary fences) on the Land and to remove or trim vegetation on the access tracks at the cost of the Grantee to the extent that is reasonably necessary for the Grantee to exercise its rights under this Easement Instrument with these rights to be exercised on the following terms:

1.1.5.1 where any new roads and/or access tracks on the Land are to be constructed such will be constructed by the Grantee as far as is practicably possible to enhance the land use operations on the Land by the Grantor;



1.1.5.2 if during the course of the construction of the Works on the Land the Grantee uses any existing roads and/or access tracks on the Land then these will be repaired and/or maintained as is necessary by the Grantee so that at the conclusion of the construction of the Works such roads and/or access tracks are left in as nearly as possible the same condition as they were in at the time of first entry onto the land by the Grantee;

1.1.5.3 if the Grantee in the exercise of access to the Land for the purposes of inspection, use, repair, maintenance, renewal, alteration, replacement, upgrading, addition to or modification of the Works uses roads and/or access tracks on the Land it shall at the conclusion of such period of access repair and/or maintain those roads and/or access tracks to ensure that the same are left in as nearly as possible the same condition as they were in at the time of the commencement of the exercise of the Grantee's rights hereunder.

1.1.6 to Construct gates within fences (including boundary fences) located on the Land and to inspect, use, repair, maintain, renew, alter, remove and modify those gates at the cost of the Grantee to the extent that is reasonably necessary for the Grantee to exercise its rights under this Easement Instrument;

1.1.7 to clear and keep the Easement Area clear of trees, shrubs, vegetation, structures (including fences), earth, gravel and stone, and to clear and keep such other part of the Land as is reasonably necessary in the circumstances clear of any trees, shrubs, vegetation, structures (including fences), soil, earth, gravel and stone which is or is likely to be or become, in the reasonable opinion of the Grantee, a danger or hazard to the safety or operation of the Works, will impede the Grantee's access to the Works or will otherwise interfere with the Grantee's rights under this Easement Instrument;

1.1.8 to open up the soil of the Easement Area and excavate or remove timber, vegetation, soil, earth, gravel and stone from the Easement Area to the extent necessary for the Grantee to exercise its rights under this Easement Instrument; and

1.1.9 to temporarily occupy any part of the Land that is reasonably necessary in the circumstances in order for the Grantee to exercise any of its rights under this Easement Instrument including the right to Construct the Works and in doing so the Grantee may fence off such part or parts of the occupied area as is reasonably necessary for a Temporary Period or Temporary Periods for health and safety purposes (subject to clause 2.1 of this Easement Instrument).

1.2 In undertaking any one or more of the rights and powers hereby granted the Grantee:

1.2.1 May use its nominated employees, agents, consultants or contractors to perform the Works;

1.2.2 Will meet the full costs of the Works it undertakes;

1.2.3 For the avoidance of doubt the Grantee may enter on to the Land and undertake the Works on any day of the year including days which are not Working Days subject to the provisions of the Entry Notice given by the Grantee under clauses 5.1 and 5.2 of this Easement Instrument.

## **2 Grantee's obligations**

- 2.1 The Grantee will use its reasonable efforts to cause as little interference as practical to the Grantor, any crops or livestock and any farming activities on the Land. The Grantee shall at its expense in all things make good and reinstate the Land as and when same shall require reinstatement to ensure that the Land is left in as nearly as possible the same condition as it was at the time of the commencement of the Grantee's rights hereunder.
- 2.2 Where any disturbance, damage or loss is incurred or suffered by the Grantor or the Land during any entry onto the Land by the Grantee to construct, repair, maintain, modify, replace, renew or remove the Works or any part of the Works, which is not remedied by the Grantee under clause 2.1, for example but without limitation, a business loss in respect of a business located on the Land, the Grantee shall compensate the Grantor for such disturbance, damage or loss.
- 2.3 The Grantee will bear the costs of managing vegetation on the Easement Area (excluding pasture land) including removing trees and other vegetation but will not be responsible for the cost of controlling weeds or removing any vegetation which is planted by the Grantor in breach of this Easement Instrument.
- 2.4 The Grantee will bear the whole cost of maintaining the Works, apart from any Works which the Grantor and Grantee have agreed are to become the property of the Grantor, and any additional costs resulting from the Grantor's breach of this Easement Instrument for which the Grantee can recover the costs under this Easement Instrument.
- 2.5 The Grantee will upon request provide to the Grantor copies of the Grantee's plans indicating the agreed access routes over the Land used by the Grantee in accessing the Works.
- 2.6 The Grantee has no obligation to construct the Works or to convey electrical energy and power or telecommunications through them, after construction, continuously or at all.
- 2.7 In the event that the Grantee shall clear the Easement Area and/or any other part of the Land or open up the soil of same as contemplated by clauses 1.1.7 and/or 1.1.8 hereof, the resulting material shall be removed by the Grantee from the Land and deposited off-site at the expense in all things of the Grantee unless the Grantor and the Grantee shall otherwise agree.

## **3 Grantor's Rights**

- 3.1 Subject to the restrictions set out in this Easement Instrument the Grantor may use, occupy and enjoy that part of the surface of the Easement Area which is not occupied by the Works for normal farming operations including cropping to a maximum height of 2.5 metres and grazing.

**4 Grantor's obligations**

4.1 The Grantor will not, without the prior written consent of the Grantee (which will not be unreasonably withheld or delayed), do, procure, assist or allow the following to be done:

4.1.1 alter or disturb the present grades and contours of the surface of the Easement Area except in the course of normal farming and grazing operations (but subject to the restrictions set out in this Easement Instrument);

4.1.2 erect any building or other structure (including fences) on the Easement Area;

4.1.3 plant any vegetation on the Easement Area (excluding pasture);

4.1.4 operate any Equipment or Vehicles on the Easement Area within a minimum clearance distance of 4 metres from any electricity transmission line conductor;

4.1.5 excavate or deposit material on the Easement Area;

4.1.6 impede the Grantee's access over the Easement Area and any agreed access routes over the Land or damage the surface of the agreed access routes;

4.1.7 knowingly cause or permit flooding of the Easement Area except where such flooding occurs naturally and is beyond the control of the Grantor;

4.1.8 light any fires or burn off vegetation within the Easement Area;

4.1.9 object to, advocate against, oppose or impede any consent, approval or right sought, or any action taken, by the Grantee pursuant to the Grantee's rights under clause 1.1;

4.1.10 do any other thing on the Land which may cause damage to the Works or endanger the continuity or safety of the supply and distribution of electricity or otherwise impede, interfere with or prejudice any right of the Grantee set out in clause 1.1.

**5 Access**

5.1 Where the Grantee together with or through its engineers, consultants, employees, contractors, workmen and anyone else authorised by the Grantee intends to enter upon the Land to exercise and give effect to the rights of the Grantee as listed in clauses 1.1.1 through 1.1.9 of this Easement Instrument the Grantee must give at least 10 Working Days notice ("the Entry Notice") to the Grantor except in an Emergency Situation, when prior notice is not required and the provisions of clause 5.6 of this Easement Instrument apply.

5.2 An Entry Notice is to identify the Works the Grantee intends to carry out with the Entry Notice to specify:

5.2.1 the location of the proposed entry;

5.2.2 the area on which the Works will be undertaken by the Grantee;

- 5.2.3 the nature of the Works to be undertaken;
- 5.2.4 the date and time of initial entry;
- 5.2.5 the length of time that the Grantee expects to be on the Land; and
- 5.2.6 the nature of all other works that are to be undertaken on the Land in accordance with the rights granted pursuant to clause 1.1.
- 5.3 Upon receipt of an Entry Notice from the Grantee of its intention to exercise the right of entry provided for in clause 5.1 the Grantor may set reasonable conditions relating to the timing of entry and the access route and as to the other matters set out in the Entry Notice but those conditions may not:
- 5.3.1 Delay the exercise of entry by the Grantee by more than 15 Working Days; or
- 5.3.2 Require monetary or other consideration; or
- 5.3.3 Otherwise defeat the ability of the Grantee to exercise effectively the rights granted under this Easement Instrument
- 5.4 Any dispute between the Grantor and the Grantee in relation to the terms of the Entry Notice or of the conditions set by the Grantor pursuant to this clause shall constitute a dispute which is to be resolved using the dispute resolution procedure set out in clause 11 of this Easement Instrument.
- 5.5 The Grantee, in entering the Land, will take all reasonable steps to minimise inconvenience to the Grantor, including (but without limitation);
- 5.5.1 The time of entry (unless this is not possible due to an Emergency Situation);
- 5.5.2 Leaving gates as they are found;
- 5.5.3 Driving in a safe manner and taking reasonable steps not to disturb stock; and
- 5.5.4 Avoiding access through any specific areas within the Land which have been identified by the Grantor to the Grantee unless necessary to access the Works,
- but without limiting the rights of the Grantor to claim under clause 2.2 of this Instrument.
- 5.6 Where entry is effected by the Grantee due to an Emergency Situation the Grantee shall as soon thereafter as is reasonable give an Entry Notice to the Land Owner or the Land Occupier such Entry Notice to be in terms of clause 5.2 of this Instrument.
- 6 Breach of respective obligations**
- 6.1 If the Grantor wilfully or with wilful disregard causes or permits any breach of the obligations set out in this Easement Instrument, the Grantee shall be entitled to take all reasonable steps to remedy the breach, with the direct costs of remedying the breach recoverable by the Grantee from the Grantor as a debt. Where the Grantee considers it

reasonable in the circumstances, prior to remedying the breach, the Grantee will give notice of the breach to the Grantor and allow the Grantor a reasonable period to remedy the breach.

- 6.2 If the Grantee wilfully or with wilful disregard causes or permits any breach of the obligations set out in this Easement Instrument, the Grantor shall be entitled to take all reasonable steps to remedy the breach, with the direct costs of remedying the breach recoverable by the Grantor from the Grantee as a debt, provided that in no circumstances shall the Grantor interfere with the Works in any way whatsoever. Where the Grantor considers it reasonable in the circumstances, prior to remedying the breach, the Grantor will give notice of the breach to the Grantee and allow the Grantee a reasonable period to remedy the breach.

## **7 Health and safety**

- 7.1 The Grantee will comply with all obligations imposed on the Grantee at law as the person in charge of a place of work and will be responsible for the health and safety of any person who enters on the Land at the request of the Grantee.
- 7.2 The Grantor will comply with all obligations imposed on the Grantor at law as owner of the Land relating to the health and safety of persons on the Land.
- 7.3 The Grantee will comply with any reasonable obligations imposed by the Grantor regarding the identification and mitigation of hazards and the health and safety of persons on the Land.

## **8 Ownership**

- 8.1 The Works and Vehicles or any other property of the Grantee will not, for any reason, become the property of the Grantor and will at all times remain the property of the Grantee, except in relation to any Works which the Grantee and the Grantor have agreed are to become the property of the Grantor.
- 8.2 The Grantee may transfer, assign, sublet, lease or licence all of its rights created by this Easement Instrument provided that the assignee, sublessee, transferee, lessee or licensee is financially solvent and has the financial resources to meet the Grantee's commitments under this Easement Instrument.

## **9 No power to terminate**

- 9.1 There is no power in this Easement Instrument for the Grantor to terminate any of the Grantee's rights due to the Grantee breaching any term of this Easement Instrument or for any reason, it being the intention of the parties that the rights in this Easement instrument will continue forever unless surrendered.

## **10 Compliance with laws**

- 10.1 Both parties will at all times comply with all statutes, bylaws, regulations and legally binding codes of practice and other lawful requirements relating to this Easement Instrument, the Land and the Works which place an obligation on the relevant party and with all notices, orders, consents, conditions or requirements which may be validly given or required by any competent authority.



**11 Dispute resolution**

- 11.1 If any dispute arises between the Grantor and the Grantee concerning the rights and obligations contained within this Easement Instrument, the parties will enter into negotiations in good faith to resolve the dispute themselves or through any informal dispute process they agree upon.
- 11.2 If the dispute is not resolved within 10 Working Days then any party may at any time serve a mediation notice on the other party requiring the dispute be referred to mediation. The mediation notice shall set out the nature of the dispute. The parties shall in good faith endeavour to agree upon a mediator within 5 Working Days of the date of service of the mediation notice. If the parties cannot agree on the mediator, the President for the time being of the New Zealand Law Society (or any successor organisation) or the President's nominee will appoint an independent mediator. The mediator's costs are to be borne equally by the parties.
- 11.3 If the dispute is not resolved within 20 Working Days of the date on which the mediation notice is served, the parties will submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties cannot agree on the arbitrator within a further 10 Working Days the President for the time being of the New Zealand Law Society (or any successor organisation) or the President's nominee will appoint an independent arbitrator.
- 11.4 Any arbitration proceedings will be conducted in accordance with the Arbitration Act 1996 and the substantive law of New Zealand.

**12 Severability**

- 12.1 If any part of this Easement Instrument is held by any court or administrative body of competent jurisdiction to be illegal, void or unenforceable, such determination shall not impair the enforceability of the remaining parts of this Easement Instrument.

**13 Governing law**

- 13.1 This Easement Instrument shall be construed in accordance with New Zealand law.

**14 No waiver**

- 14.1 A waiver of any provision of this Easement Instrument shall not be effective unless given in writing and then it shall be effective only to the extent that it is expressly stated to be given.
- 14.2 A failure, delay or indulgence by any party in exercising any power or right shall not operate as a waiver of that power or right. A single exercise or partial exercise of any power or right shall not preclude further exercises of that power or right or the exercise of any other power or right.

**15 Definitions**

- 15.1 In this Easement Instrument unless the context requires otherwise:

- 15.1.1 "Construct" means to build, construct, erect, install or lay the Works, access tracks, roads, gates and/or fences contemplated by this Easement Instrument and includes anything that is reasonably necessary to give full effect to this Easement Instrument including removing soil and water from the Easement Area subject always to the provisions of clause 2.7 of this Easement Instrument;
- 15.1.2 "Easement Area" means that part of the Land shown in Schedule A of this Easement Instrument;
- 15.1.3 "Emergency Situation" means, a situation in which there is a probable danger to life or property or immediate risk to the continuity or safety of supply or distribution of electricity;
- 15.1.4 "Entry Notice" means the notice to be given pursuant to clause 5.1 of this Easement Instrument;
- 15.1.5 "Equipment" means cables, lines, wires, cranes, drilling rigs, Vehicles, plant, tools and machinery and all material and items required for the purpose of exercising any of the rights under this Easement Instrument;
- 15.1.6 "Land" means the Servient Tenement identified in Schedule A of this Easement Instrument;
- 15.1.9 "Temporary Period" or "Temporary Periods" means such period or periods of time as are reasonable for the sole purpose or purposes of the Grantee occupying such part or parts of the Land as it requires for the purposes set out in clauses 1.1.1 through 1.1.9 and as detailed in the Entry Notice;
- 15.1.10 "Vehicles" means four wheel drives, motorbikes, cars and trucks, tractors, trailers, graders, pile drivers, drilling rigs, cranes, helicopters, aircraft, excavation and earthmoving equipment, whether wheeled or tracked;
- 15.1.11 "Working Day" means any day of the week other than:
- (a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Northland Anniversary Day and Labour Day; and
  - (b) A day in the period commencing on the 24<sup>th</sup> day of December in any year and ending on the 5<sup>th</sup> day of January in the following year, both days inclusive.
- 15.1.12 "Works" means electrical and telecommunications works and computer media and includes all or any part of any cables (including fibre optic cables), wires, earthwires, conductors, poles, pole structures, insulators, foundations, tunnels, buildings, repeaters, pipes, bridges, ground stays, supports, casings, devices, appliances, antennae, metering devices and other apparatus, structures, fixtures and Equipment as are reasonably necessary to give effect to the Grantee's rights under this Easement Instrument to install and operate an electricity transmission network.

## 16 Interpretation

16.1 In this Easement Instrument, unless inconsistent with the context:

- 16.1.1 singular includes plural and vice versa;
- 16.1.2 references to "persons" includes references to companies, corporations, partnerships, joint ventures, associations, trusts, government departments or agencies and territorial local authorities;
- 16.1.3 references to the Grantor and Grantee include their subsidiary or related companies, their permitted assigns and, where appropriate, their employees, contractors, surveyors, invitees and inspectors;
- 16.1.4 references to any statute, regulation or other statutory instrument or bylaw shall be deemed to be references to the statute, regulation or instrument or bylaw as from time to time amended and includes substitution provisions that substantially correspond to those to which reference is made;
- 16.1.5 the headings and subheadings appear as a matter of convenience and shall not affect the interpretation of this Easement Instrument.





# View Instrument Details

**Instrument No.** 12710086.3  
**Status** Registered  
**Date & Time Lodged** 28 Apr 2023 16:41  
**Lodged By** Scully, Simone Marie  
**Instrument Type** Consent Notice under s221(4)(a) Resource Management Act 1991



---

Affected Records of Title	Land District
1124163	North Auckland
1124164	North Auckland

---

**Annexure Schedule** Contains 2 Pages.

---

## Signature

Signed by Danielle Meddings as Territorial Authority Representative on 23/05/2023 11:28 AM

**\*\*\* End of Report \*\*\***

## THE RESOURCE MANAGEMENT ACT 1991

### SECTION 221: CONSENT NOTICE

#### REGARDING RC-2220808-Stage 1

Being the Subdivision of Lot 1 DP 198391 & Lot 1 DP 185433  
North Auckland Registry

PURSUANT to Section 221 and for the purpose of Section 224 (c) (ii) of the Resource Management Act 1991, this Consent Notice is issued by the **FAR NORTH DISTRICT COUNCIL** to the effect that conditions described in the schedule below are to be complied with on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and these are to be registered on the titles of the allotments specified below.

### SCHEDULE

#### Lot 2 DP 589598

- (a) The consent holder and or any future titleholder shall not increase or further increase the impermeable surfaces over the permitted threshold of the net site area, without implementing stormwater management and mitigating measures in accordance with Council's current Engineering Standards. The design shall accommodate for storm events up to and including the 1% annual exceedance probability plus an allowance for climate change and shall be prepared by a Chartered Professional Engineer or suitably qualified person, to the satisfaction of Councils' Development Engineer or delegated representative.
- (b) Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary / overland (Q<sub>100</sub>) flow path (labelled as "relic gully" in Lands and Survey Ltd Site Suitability Report (Rev 4) dated 26/05/2022).
- (c) The property is identified as being within a kiwi high density zone. No occupier of, or visitor to the site, shall keep or introduce to the site carnivorous or omnivorous animals (such as cats, dogs or mustelids).



**Lot 3 DP 589598**

- (d) The owner shall preserve the indigenous trees and bush as indicated on the survey plan as Area X and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage or destroy any of such trees or bush. The owner shall be deemed to be not in breach of this prohibition if any of such trees or bush shall die from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.

SIGNED:



Mr Simeon Alistair McLean - Authorised Officer

By the FAR NORTH DISTRICT COUNCIL

Under delegated authority:

TEAM LEADER – RESOURCE CONSENTS

DATED at **KERIKERI** this 28<sup>th</sup> day of April 2023



*Top Energy Limited*

Level 2, John Butler Centre  
60 Kerikeri Road  
P O Box 43  
Kerikeri 0245  
New Zealand  
PH +64 (0)9 401 5440  
FAX +64 (0)9 407 0611

2 July 2024

Natalie Watson  
Williams & King  
PO Box 937  
KERIKERI 0230

Email: [nat@saps.co.nz](mailto:nat@saps.co.nz)

To Whom It May Concern:

**RE: PROPOSED SUBDIVISION (SUBD 01543)  
Waiuku Estate Ltd – 82 Waiuku Road Road, Waimate North. Lot 3 RC 2220808.**

Thank you for your recent correspondence with attached proposed subdivision scheme plans.

Top Energy's requirement for this subdivision is nil. Costs to make power available could be provided after application and an on-site survey have been completed.

Link to application: [Top Energy | Top Energy](#)

In order to get a letter from Top Energy upon completion of the subdivision, a copy of the resource consent decision must be provided.

Yours sincerely

**Aaron Birt**  
Planning and Design  
T: 09 407 0685  
E: [aaron.birt@topenergy.co.nz](mailto:aaron.birt@topenergy.co.nz)