

Online Further Submission

FS152

Further Submitters Name	Brian Allan Jones
Further Submitter Number	FS152
Wish to be heard	Yes
FS qualifier	a person who has an interest in the proposal that is greater than the interest the general public has (e.g. land owner, resource user)
FS qualifier reason	I am a neighbour to part of the land in the submission.
Joint presentation	Yes
Attention:	Mr. Brian Jones
Contact organisation	
Address for service	2 Poseidon Way Ahipara, 0481
Telephone	021 255 6282
Mobile	
Email	brian@jonesengineering.co.nz
Online further submitter?	Yes
Date raw FS lodged	30/08/2023 10:30am

Further submission points

Raw FS number	Original submitter	Related Submission Point	Plan section	Provision	OS Decision Requested	SupportOppose	FS Decision requested	Reasons
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FS152.1	Per Lugnet	S321.001	Planning maps	Rural Lifestyle Zone	Amend by rezoning the area consisting of Albatross Alley, Poseidon Way and the end of Weka Street in Ahipara to Residential so existing residential infrastructure can be utilised.	Oppose	Disallow	FS152.001
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1.0 My submission relates to the land at the end of Weka St, opposite Poseidon Way. The legal description is Lot 1 DP 474635. I am a neighbour at 2 Poseidon Way.

2.0 Mr Lugnet recently applied for a Resource Consent (number 2300507-RMACOM) to subdivide this land into small lots for housing. A hearing was held on 27 October 2022.

The Resource Consent was refused for this land. A copy of the Decision is attached. The reasons stated in the Decision were the "unavailability of a

wastewater service and incompatibility with the existing rural based activity adjacent to it.”

Mr Lugnet’s current submission to have this land zoned residential is essentially the same proposal as his recent Resource Consent application. The decision made then should stand and this land should not be zoned residential.

3.0 I oppose rezoning this land residential due to the effect on my visual amenity. My outlook would change from semi-rural to high intensity housing.

4.0 I also

to also
oppose due to
the effect on
my amenity
values. I would
suffer loss of
privacy and
inferior living
conditions.
The increased
traffic intensity
would cause
noise issues.
Unsealed
driveways and
parking areas
would cause a
dust nuisance.

Decision following the hearing of an application for resource consent under the Resource Management Act 1991

Proposal

To subdivide land at Ahipara into 19 lots, to breach land use rules relating to visual amenity, stormwater management and traffic intensity, and to amend two consent notices in the Coastal Living zone. The various activities are bundled and considered as a non-complying activity.

Resource consent is **GRANTED in part (Stage 2) and REFUSED in part (Stage 1)**. That part that is granted is subject to conditions. The reasons are set out below.

Application number:	2300507-RMACOM
Site address:	Albatross Alley, Ahipara. Legally described as Lot 1 DP 474635 and Lot 11 DP 380768 both lots held in Record of Title 652404. Site area 1.6593ha.
Applicant:	Taipa View Limited
Hearing commenced:	9.30am on 27 October 2022 at the Te Ahu Community Centre, Kaitaia. The hearing was also available via audio visual means.
Hearing Commissioner:	Alan Watson
Appearances:	<p><u>Applicant</u> Per Lugnet Steve Sanson, Planning Consultant</p> <p><u>Submitters</u> Brian Jones Georgina Peters Lance and Annalee Wakeman Ahipara Takiwa – Tui Qauqau</p> <p><u>For Far North District Council</u> Trish Routley, Reporting Planning Consultant Rinku Mishra, Resource Consents Engineer Pat Killalea, Principal Planner Sujeet Tikaram, Development Engineer (remotely) Didi Paraore, Hearing Administrator Ashleigh Gibson, Administration Assistant</p>
Commissioner's site visit:	26 October 2022
Hearing closed:	27 October 2022.

Executive summary

1. This decision is to grant resource consent to Stage 2 of the proposal being for that part of the site that has frontage to Albatross Alley and is situated behind existing residential development along Takahe Road. The reasons relate to this part being contiguous with existing residential development and having wastewater service available to it.
2. The decision is to refuse resource consent to Stage 1 of the proposal being for that part of the site that is further along Weka Street, on its south side and opposite Poseidon Way. The reasons relate to the unavailability of a wastewater service and incompatibility with the existing rural based activity adjacent to it.
3. The decision describes and discusses these reasons in detail as below.

Introduction

4. This decision is made on behalf of the Far North District Council (**FNDC or the Council**) by independent hearing commissioner Alan Watson appointed by the Council and acting under delegated authority in accordance with ss 34 and 34A of the Resource Management Act 1991 (**the RMA or the Act**).
5. This decision contains the findings from my deliberations on the application for resource consent and has been prepared in accordance with s 113 of the RMA.
6. The application was subject to limited notification to 23 parties following which the Council received 9 submissions. One submission was ruled invalid by the Council because it came from a party outside the area notified. The 8 valid submissions received were all in opposition.

The site and locality

7. The site for the proposal is situated off Weka Street at Ahipara. It is in two parts that are legally described as Lot 1 DP 474635 and Lot 11 DP 380768, being a total area of 1.6593ha.
8. The site lies behind existing residential development along Takahe Road with the northern part that is sought to be developed as Stage 2 being immediately behind that existing development. It has frontage to Albatross Alley. The southern part that is sought to be developed as Stage 1 is further along Weka Street, on its south side and opposite Poseidon Way. Both parts of the site are in pasture and vacant of built development.
9. The site lies in the Coastal Living zone of the District Plan, that zone applying to the band of land lying behind the existing residential development along Takahe Road at Ahipara. The sites to the rear (east) of the site are zoned Rural Production. The site is not within the Coastal Environment as mapped by the Northland Regional Policy Statement and is not affected by any special features or sites in the District Plan.
10. The site is currently utilised for low intensity rural production purposes such as grazing and rearing stock, and for outdoor storage of farm vehicles and machinery.

The proposal

11. The proposal is to subdivide the two parts that comprise the site into 19 lots for residential use. Stage 1 is for 11 lots ranging from 513m² to 1,220m² and Stage 2 is for 8 lots ranging from 687m² to 1,106m². It is also to breach rules in the Far North District Plan (**District Plan**) that relate to visual amenity, stormwater management and traffic intensity. These are detailed below.
12. It is also to amend two consent notices that firstly, protect overland flow paths on existing allotments. Secondly, that require maintenance of ponds and open drains, provide protection to the existing Sandhills Drain and set minimum floor levels for buildings, and limit any dwellings close to the Ahipara Sewerage Treatment Facility.
13. **The submissions**
14. The 8 submissions in opposition raise concerns that include:
 - An earlier subdivision providing a buffer area between any new housing and existing residences along Takahe Road that the proposal does not.
 - The ability of the existing wastewater system to manage the loading from extra housing.
 - The change from rural to residential activities.
 - Impacts on water and wastewater services.
 - Effects on visual amenity values and the pleasantness and attractive visual setting of the current site.
 - Lack of mitigation for negative effects on visual amenity and amenity values.
 - Proposed lot sizes less than provided for by the Council with a consequential visual impact.
 - Increased traffic intensity.
 - Larger lots or buffers needed alongside existing residential development.
 - A ban on dogs and fireworks.
 - Cultural considerations.
 - Impacts on stormwater infrastructure and on the environment.
15. The details are covered in the Council's s 42A RMA recommendation report (**s 42A report**) but the above is provided to give an account of the concerns raised in the submissions.

The application

16. Taipa View Limited lodged a combined resource consent application to:

Activity A: Subdivision

Subdivide Lot 1 DP 474635 and Lot 11 DP 380768 into 19 lots (including one jointly owned access lot) in two stages being:

Stage 1: Lots 1-11 ranging from 513m² to 1220m²; and

Stage 2: Lots 12-19 ranging from 687m² to 1106m².

This activity is a **Non-Complying Activity** in the Coastal Living Zone.

Activity B: Land Use

Breach Rules 10.7.5.1.1 Visual Amenity, 10.7.5.1.6 Stormwater Management, and 15.1.6A.5 Traffic Intensity of the Operative Far North District Plan

This activity is a **Discretionary Activity** in the Coastal Living Zone.

Activity C: Consent Notice Conditions

Amendment of consent notice 7360323.2 and D628917.3.

This activity is a **Discretionary Activity** in accordance with s 127 of the Act.

17. Overall, Activity A, B, and C (“activities”) as a bundle are considered as a **Non-Complying Activity**.

18. The rules of the District Plan that are breached by the proposed activities are as follows:

Table 1 - Rule Breaches

Rule # & Name	Non Compliance Aspect	Activity Status
10.7.5.1.1 Visual Amenity	The applicant is seeking that each residential allotment proposed be exempt from the Visual Amenity provisions.	Discretionary Activity
10.7.5.1.6 Stormwater Management	Up to 340m ² coverage on each site.	Discretionary Activity
15.1.6A.5 Traffic Intensity	The proposal is said to generate 180 traffic movements.	Discretionary Activity
13.7.2.1.1 Minimum Lot Sizes	The proposed allotments are below the 5,000m ² minimum allotment size as a Discretionary Activity.	Non-Complying Activity
13.7.2.2 Allotment Dimensions	The proposal contains building envelopes of 14mx14m and not the 30m x 30m envelopes required.	Discretionary Activity
13.7.2.6 Access, Utilities, Roads and Reserves	A JOAL is proposed for Stage 1	Controlled Activity
Section 127 Change of Consent Conditions	The proposal includes amendments to existing consent notices	Discretionary Activity

Relevant statutory provisions considered

19. In accordance with s 104 of the RMA, I have had regard to the relevant statutory provisions including Part 2 and ss 104, 104B and 104D.

Relevant standards, policy statements and plan provisions considered

20. In accordance with s 104(1)(b)(i)-(vi) of the RMA, I have had regard to the relevant standards, policy statements and plan provisions of the following documents:
- Far North District Plan 2009, as updated in 2019 (**District Plan**)
 - Regional Policy Statement for Northland, 2016 (**RPS**)
 - Proposed Regional Plan for Northland, Appeals Version 2022 (**PRP**).
21. There were no other matters that were raised or that I considered to be relevant and reasonably necessary to determine the application in accordance with s 104(1)(c) of the RMA.

Summary of evidence at the hearing

22. The Council consultant planner's s 42A report by Trish Routley had been circulated prior to the hearing and was taken as read. In that report Ms Routley recommended refusing for reasons relating to there having been insufficient information provided with the application relating to potential cultural effects and the ability to connect to the public wastewater reticulation network in Ahipara. If, however, these matters were satisfied at the hearing, Ms Routley helpfully provided a set of recommended conditions of consent.
23. The evidence presented at the hearing responded to the issues and concerns identified in the s 42A report, the application and in the submissions made on the application.
24. I provide below a summary account of the evidence presented at the hearing. The summary does not purport to be an all-embracing account of the hearing proceeding but rather is a summary of what was presented. The key evidence used in making the decision is referenced in the Findings section below.
25. In the usual manner, the evidence of expert witnesses had been circulated prior to the hearing. At the hearing I advised the parties that they should present a summary or read their executive summaries in their evidence. My objective was to ensure they all had the opportunity to say what they wanted and to assist me with the decision I was to make regarding the application.

Applicant

26. **Per Lugnet** introduced the application with a statement in which he described the proposal as an in-fill development in the residential area which one would assume if the site was visited. He stated that as part of an earlier consent, they had paid development contributions to the Council that were to cover all infrastructure, including wastewater, that would cover the land the subject of this application. He referred to the shortage of sections in Ahipara, the lack of affordable housing and how the proposed sections had earlier been sold.
27. **Steven Sanson** provided a written summary of his pre circulated planning evidence in which he focussed on the key aspects of the proposal. He referred to additional information that had

been received from the Council regarding connections to the Council's wastewater system at Ahipara which he said *"signals the ability for both stages of the proposed development to connect to Council wastewater, with some further discussions ... between Council and my client"*. He referred to conditions of consent providing for these discussions to take place post approval and the ability to connect, albeit with some likely caveats and further discussions, would allow the proposal to continue without this shroud of doubt overhanging it.

28. Mr Sanson provided reasons why the proposal, as a non-complying activity, was unique from other Coastal Living zone sites. He then provided commentary on the range of potential effects of the proposal, referring to the Landscape Assessment that had been provided with the application and whilst being of the view that potential cultural effects can be avoided, remedied or mitigated, said that he would hear what other submitters had to say in this respect. Mr Sanson saw that the proposal can be approved subject to appropriate conditions.

Submitters

29. **Tui Qauqau** spoke to the opposing submission from Ahipara Takiwa, that representing the three local Marae. Her verbal presentation included the potential effects on cultural matters identified in the Ahipara Takiwa Management Plan, those being effects on Wai (Wairoa River and Wharo Bay); on Taonga Tuku Iho (accidental discovery of cultural artifacts); on Wahi Tapu; and on Papatuanuku (subdivision and development of the land). As stated in the submission, no Cultural Impact Assessment had been provided. These were all matters that needed to be addressed.
30. Ms Qauqau's group opposed the proposal in relation to the density proposed pointing out their opposition was a community issue and not just an issue of their own and referred to the cultural report referred to by the applicant as relating to earlier development from some 10 years ago. She provided a copy of the Ahipara Water & Quality Assessment for information.
31. **Te Runanga o Te Rarawa** did not appear at the hearing but had a letter presented supporting their opposing submission. In their submission they had concerns with the number of lots in the Coastal Living zone, with stormwater management and the nature of conditions, if consent is granted. In the letter they identified their concerns and stated they had no objection to the granting of consent subject to a series of recommendations they set out. These largely related to the provision of information and cultural monitoring which could be conditions of consent.
32. **Brian Jones** spoke to his opposing submission stating that he occupied an elevated site at the corner of Poseidon Way which looked across the application site. He had relied on the District Plan in buying and developing the site, the District Plan providing a significantly lesser form of development than proposed by the application. He referred to expectations and the right to rely on the current zoning and the lot sizes it provided for and pointed out that in the new District Plan that has only just been notified for submissions, that the zoning remained as providing for large lot sizes as opposed to the some 500m² in the application.
33. Mr Jones addressed the associated effects of an increased density of development covering trees, amenity values and precedent and referred to the lack of consultation. He had provided a pre circulated statement, further to his submission that reinforced his original submission and the concerns he had expressed in it.
34. **Lance Wakeman** spoke to his opposing submission as the owner/operator of the farming activity on the adjacent land to the east. He saw the proposal as impacting on legitimately established activities such as his and evidenced some examples. There was no buffer to

provide some separation. He was concerned, as were other submitters, regarding the lack of any consultation and the limited notification of the proposal to neighbours. Mr Wakeman read letters from three other neighbours who had not been notified, expressing their concerns.

35. **Lesley Kovacevich** a neighbour who had not been included in the limited notification of the application sought to speak and I allowed for that to be the case. She expressed concerns for the provision of satisfactory wastewater services and for the policing of conditions of any consent granted.
36. **Georgina Peters** spoke to her opposing submission. Her main concern was with the amount of development, and she submitted that less was better for the environment. She supported the other submitters with cultural concerns and also concerns for the effects of the proposal on the local community.
37. **Warren Davies** spoke on behalf of his Mother, Marie Davies, who is the owner/occupier of 16 Weka Street. There had been concerns regarding receiving her submission at Council, but it was apparent it had been lodged and inadvertently misplaced at Council. Mr Davies opposed the proposal and expressed concerns for conditions of consent and with who it is that effectively enforces compliance; with trees; with traffic at the road intersection; with the ability to provide an effective wastewater service; and with stormwater, pointing out the open drain along the rear of properties fronting Takahe Road was not being maintained.
38. **Haydn Lloyd** of Opaeam Limited was not in attendance but had sought his submission be read to the hearing, supporting his submission in opposition. That was read to the hearing by Ms Paraore. Mr Lloyd opposed the density of the subdivision and development and the size of the allotments. His concerns included the earlier identification of a reserve behind the houses fronting Takahe Road; the ability of the wastewater system to accommodate the proposal; and the effective rezoning of the site if the proposal was to be permitted.

Council

39. **Rinku Mishra** advised the engineering details had been covered in her report appended to the s 42A report and that a video was available to hear remotely from Sujeet Tikaram the Council's wastewater engineer. Her report indicated engineering matters, including the provision of utility services could be dealt with as consent conditions. She left the matter of wastewater to **Mr Tikaram** who addressed the hearing remotely and responded to questions from me. He referred to constraints in the existing pump station situated along Weka Steet, its storage capacity being limited and similarly with the wastewater treatment plant. He advised the Council was looking to improve the quality of the current wastewater discharge by introducing ultraviolet treatment and in order to comply with conditions of the Northland Regional Council consent for the discharge.
40. There was also some discussion around the email dated 18 October 2022 from Andy Finch to other officers at the Council relating to the proposal, the existing wastewater arrangements and Council's plans for it. That email advises that Stage 1 is outside the current area of benefit and that to connect to the Weka Street pump station the pump station would need to be upgraded along with two sections of the reticulation and the treatment plant. That work has not been costed. Mr Finch advised that there had been discussions with the developer, and it was understood that only Stage 2 would proceed but it now appeared that it was both Stages 1 and 2 that were proposed, as in the application.

Right of reply

41. **Mr Lugnet** provided an oral right of reply that included reference to the dated nature of the District Plan, his desire to provide affordable housing and his proposal being a logical expansion of residential development at Ahipara. When asked about the wastewater system he stated it was not a capacity problem but more a maintenance problem. The capacity had he said, been addressed by his contribution as part of approval to the earlier stages of the development some years earlier.

Hearing closed

42. The hearing was closed following the above presentations.

Principal issues in contention

43. I have considered the application; reviewed the submissions; reviewed the Council's s 42A report; considered the evidence from the applicant and from the submitters at the hearing; carried out a visit to the neighbourhood/locality; and concluded the hearing process. I find the principal issues in contention in making the decision on the application are:

- The effects of the proposal on the neighbourhood, especially with respect to the provision of wastewater services.
- Cultural effects.
- The impact of the proposal on the neighbourhood in terms of what is sought to be achieved by the District Plan, that is, with the District Plan having the site zoned for a lower density of residential development than that proposed by the application.

Main findings on the principal issues in contention

The effects of the proposal on the neighbourhood, especially with respect to the provision of wastewater services

Wastewater

44. The provision of infrastructure including water supply, stormwater management and wastewater management is fundamental to a proposal for subdivision. It needs to be demonstrated that such services are available and have the required capacity to manage the increased demands that a subdivision and future development will make upon these services. It needs to be shown too, that the provision of these services will not result in adverse effects on existing residents and activities in the immediate locality of the application site.
45. This was an issue that was highlighted in the reporting on the application by the Council's officers and by the submitters to the application.
46. The applicant relied on having made an earlier financial contribution that he claimed was to provide for additional wastewater infrastructure and provided no expert evidence regarding how this would be provided or managed. Further reliance was placed on the email of 18 October 2022 from Mr Finch at Council as satisfying any concerns in this respect. Mr Sanson

quite reasonably, relies on the email too, whilst acknowledging that the ability for both stages of the development to connect to the Council's wastewater reticulation requires further discussions with the Council which he considers can be undertaken post approval and dealt with as consent conditions.

47. I cannot find agreement with the approach of the applicant in this respect and agree with concerns raised by submitters regarding whether satisfactory wastewater arrangements can be made for the proposal. Whilst the email from Mr Finch is useful to the hearing proceeding it is however, a statement of the current situation rather than confirmation that the wastewater arrangements can satisfactorily be arranged for the proposal. In the absence of evidence on wastewater, the email information is the most current information available for the decision to be made on the application.
48. From that email, Stage 2 for 8 lots on that part of the site along Albatross Alley, is within the current area of benefit and therefore can connect to the wastewater system. It will require the Weka Street pump station to be upgraded and Mr Finch, as General Manager-Infrastructure and Asset Management for the Council, suggests in his email that Council delivers this at no cost to the developer. I find no impediment then, from a wastewater perspective, to Stage 2 of the proposal.
49. For Stage 1, that being that part of the site that is situated further along Weka Street and opposite Poseidon Way, Mr Finch notes in his email that the 10 lots proposed are outside the area of benefit. That aside, to connect would also require an upgrade of the Weka Street pump station but in addition, two sections of reticulation and the upgrade of the wastewater treatment plant. I find, from a wastewater perspective, that connection is not available and even if it was, additional upgrading of the lines and of the wastewater treatment plant would be required and on that basis, I cannot see how approval could be granted to this part of the proposal. Further, I do not consider from the information provided to me, that this important, if not critical, aspect of the proposal could be left to be dealt with by conditions of resource consent. The provision of a wastewater service is fundamental to the proposal.

Other effects

50. I find other effects of the proposal, as it relates to Stage 2 of it, can be suitably managed. This part of the application site has existing residential development on three sides of it and the appropriate range of urban services available to it. Submitters raised concerns for the existing drain at the western side of the Stage 2 area not being maintained and being in an overgrown state. That was evident from my site visit too. It is a matter that the Council can require the applicant/landowner to deal with in order to manage stormwater disposal and that would also see an improvement to the appearance of the site. It is addressed by a consent condition. I address the zoning of this Stage 2 part of the site below.

Cultural effects

51. The submissions from Ahipara Takiwa, represented at the hearing by Tui Qauqau, and from Te Runanga o Te Rarawa raise concerns and particularly for the absence of a Cultural Impact Assessment report with the application. Such a report was sought by the Council's reporting officer Ms Routley too, but not provided. The applicant appeared to be relying on an earlier letter from Te Rarawa, dating to some years ago, regarding earlier subdivision rather than arranging for a more up to date report prepared.
52. Te Rarawa did not attend the hearing but provided a letter to be presented at it. Ms Qauqau appeared at the hearing. Both elaborated on concerns raised in their earlier submissions in

opposition. Te Rarawa also stated, further to their submission, that they had no objection to the granting of consent subject to conditions they recommended.

53. I largely find agreement with those conditions relating to meeting and monitoring but, given the consent from this decision is limited to 10 new sites within an area of existing development, I do not find any additional reporting is necessary in having the interests of the two groups being recognised. I do however, caution the applicant that should he propose further subdivision beyond that approved by this decision, he can expect to be required to provide a cultural impact assessment as accepted best practice to rightly recognise mana whenua and cultural considerations.
54. The conditions of the consent granted include the conditions sought by Te Rarawa to the extent that is practicable and provide the opportunity for their involvement with the proposal as it proceeds. I have added specific reference to Te Rarawa and to Ahipara Takiwa kaitiaki in the consent conditions and the advice notes.

The impact of the proposal on the neighbourhood in terms of what is sought to be achieved by the District Plan, that is, with the District Plan having the site zoned for a lower density of residential development than that proposed by the application

55. The Coastal Living zoning of the site clearly anticipates a less dense pattern of development than is proposed by the application. That is, lots of 5,000m² rather than the 500m² that are proposed. That approach is readily understood and partly recognises the limitations of available infrastructure. The lot sizes proposed are however, consistent with what has more recently been provided in this location and further, consistent with other existing residential development. That situation is to be balanced against the reasonable expectation that the zone provisions will be upheld by the Council, as pointed out by Mr Jones and by other submitters.
56. To depart from the existing zone pattern by consenting to a resource consent application, requires there to be circumstances supporting change, not necessarily establishing uniqueness, but sufficiently distinguishing circumstances to support the proposed change. Mr Sanson for the applicant described circumstances in his evidence that he considered support the proposal in this respect. I find agreement with him but not in relation to the whole of the application site. It became apparent during the presentations at the hearing that the two stages of the proposal were different when considered in the context of their relationship to existing development, utility services and the manner in which each stage should be developed.
57. Stage 2 of the proposal is situated behind existing residential development along Takahe Road where it is contiguous with residential development with a similar density to that proposed and is within the area of benefit to provide for wastewater service. Mr Sanson provided additional commentary regarding the proposal being consistent with the residential density already developed; the subdivision design and character being more urban and residential as opposed to coastal or rural; it not being within the coastal environment as it is mapped by the Regional Policy Statement; and the amenity effects associated with subdivision and development all being consistent with the existing adjacent development, those effects being traffic, noise, dust and visual amenity. In these respects, I find the zoning can reasonably be questioned and importantly, the proposal is consistent with what is existing and largely surrounding the Stage 2 area of the site.
58. For those reasons then, the evidence supports consent being granted to the application, as it relates to the Stage 2 area.

59. Those reasons do not however follow through to the Stage 1 area of the site. This area is, from the evidence, outside the area of benefit for the provision of wastewater and there was no explicit evidence that such a service can or will be provided for this area. More particularly though, in terms of the zoning for this area, the proposal is for subdivided lots that are incompatible with the existing residential and rural based activities adjacent to it. There is no buffer proposed between the residential lots sought and the existing rural based activities nor any recognition of the adjacent rural activities by way of larger lot sizes to perhaps provide for some transition from urban to rural in this location. This was highlighted particularly in the evidence at the hearing from Mr Wakeman.
60. The District Plan provides for larger lot sizes which the proposal seeks to reduce without providing any cognisance of the rural area adjoining the Stage 1 area of the site which could be achieved through larger lot sizes and/or buffer areas or other methods. I heard little regarding the review of the District Plan, but it was commented at the hearing that the Proposed District Plan was maintaining larger lots in this locality. That of course is for submissions to that review and future decisions but nonetheless shows the locality still being considered appropriately zoned for larger lot sizes than are proposed by the current application.
61. For those reasons then, the evidence supports consent being refused to the application, as it relates to the Stage 1 area.

Findings on other issues, not being the principal issues in contention

The breaches of the rules relating to Visual amenity, Stormwater management and Traffic intensity

62. These various breaches of the rules relate to the Council being able to more closely consider these matters when they are at a level that may impact upon the local environment. The matters are addressed in the Assessment of Effects on the Environment with the application and at the hearing by the planning evidence for the applicant and by the Council's reporting officer.
63. The application includes specialist reports from a consulting Engineer and from a consulting Landscape Architect that address the matters of relevance and reference to these reports is included in the consent conditions. I do not find, from the evidence and from a visit to the location of the site, that any express measures are needed in relation to traffic effects.

The consent notices sought to be amended

64. The consent notices are sought to be amended largely on the basis that the conditions of subdivision consent address the matters potentially of concern. I find agreement with that but have added an additional part to the consent conditions to address concerns for the drainage channel along the boundary of the Stage 2 area with the existing residential development along Takahe Road. That channel needs to be maintained clear of any blockages to the passage of stormwater.
65. The consent notices are then amended to the extent necessary to be able to implement that part of the application that is granted consent.

The positive effects of the proposal

66. The proposal would have positive effects, as described in the application, in evidence for the applicant and in the s 42A report. These are regarding the provision of additional opportunities for residential development for residents Ahipara. There would be social and economic benefits from additional development and activity in the local area.

Northland Regional Policy Statement 2016 (RPS)

67. The relevant provisions of the RPS are addressed in the application, referenced in the s 42A report, and are covered by the provisions in the District Plan without requiring a detailed commentary as part of this decision. Suffice to say the provision of “Effective and Efficient Infrastructure” is an important consideration to be addressed and requires the provision of a wastewater service to all the proposed allotments.
68. I find, to the extent that the proposal does not provide for a wastewater service to all the proposed allotments, that it is not consistent with the RPS.

Part 2 RMA

69. I find that my considerations above of the District Plan have had due regard to the purpose and principles of the RMA.

Decision

That the application by Taipa View Limited to subdivide land at Ahipara into 19 lots, to breach land use rules relating to visual amenity, stormwater management and traffic intensity, and to amend two consent notices in the Coastal Living zone of the Far North District Plan be **granted consent in part, subject to conditions, and refused in part, that part being granted consent being Stage 2 of it** and being in accordance with sections 104, 104B and 104D of the Resource Management Act 1991 (**RMA or the Act**), for the reasons also below. The site is at Ahipara and is legally described as Lot 1 DP 474635 and Lot 11 DP 380768, both lots being held in Record of Title 652404 and having a site area 1.6593ha.

Reasons for the decision

The reasons for this decision are as provided above in this decision report and can be summarised as being, **for Stage 2 that is granted consent:**

- a) The proposed lots are situated behind existing residential development along Takahe Road where they are contiguous with existing residential development and have wastewater service available. The effects, from subdivision and development as proposed, especially with respect to the site earthworks, traffic and transportation, the provision of utility services (water supply, wastewater arrangements and stormwater management) and loss of rural character have all been found to be acceptable and are particularly addressed in the conditions included as part of the consent. The conditions will assist in ensuring that all aspects of the proposal are satisfactorily managed. In these respects, any potential for adverse effects that

may arise are able to be sufficiently avoided or mitigated to the extent of being minor. There are also positive effects in providing for additional residential development at Ahipara.

- b) The relevant provisions of the Far North District Plan, including objectives and policies and rules, have been considered and are met, by way of details included in the proposal or by the conditions of consent.
- c) The concerns expressed by the submitters have been closely considered and to the extent that is reasonable and practicable, have been suitably addressed as part of the consent granted and in the conditions of consent.
- d) The proposal has been found to be consistent with other relevant statutory documents including the regional policy statement.
- e) The proposal is in accord with the purpose and the principles of the RMA.

The reasons for this decision are as provided above in this decision report and can be summarised as being, **for Stage 1 that is refused consent:**

- a) The proposed lots are that part of the site that is further along Weka Street, on its south side and opposite Poseidon Way. The reasons for refusing consent relate to the unavailability of a wastewater service for this part of the site and the incompatibility of the proposed lots with the existing and adjacent rural based activity.
- b) The effects, from subdivision and development as proposed, especially with respect to the provision of wastewater services and the loss of rural character have been found to be unacceptable. The potential adverse effects that would arise are not able to be avoided or sufficiently mitigated.
- c) The relevant provisions of the Far North District Plan, including objectives and policies and rules, have been considered and are not met for the other reasons above.
- d) The concerns expressed by submitters have been closely considered and are largely agreed.
- e) The proposal has been found to be inconsistent with other relevant statutory documents including the regional policy statement.
- f) The proposal is not in accord with the purpose and the principles of the RMA.

Conditions

Decision A – Subdivision

Stage 2

1. Stage 2 of the subdivision shall be carried out in accordance with the approved plan of subdivision prepared by Von Sturmers, being '*Lots 1-19 Being a Proposed Subdivision of Lot 1 DP 474635 & Lot 11 DP 380768 STAGE 2*', reference 13278, revised 01 May 2019, as attached to this consent, and marked 'approved plan'.

2. Prior to approval of the survey plan pursuant to section 223 of the Act, the consent holder shall:

- a) Submit to council's Resource Consents Engineer or designate for approval, detailed designs, drawings, specifications, calculations & construction details of works associated with access, wastewater, and stormwater for Stage 2 of the development for the approval of Council prior to commencing construction.

Such works shall be designed by a suitably qualified engineer and approved by a Chartered Professional Engineer in general accordance with the Council's District Plan and FNDC Engineering Standards and Guidelines 2004-Revised 2009.

In particular, the documentation shall include:

Access:

- (i) Show vehicle crossings from public roads to the proposed Stage 2 lots being constructed in accordance with the requirements of the FNDC Engineering Standards. In particular, the vehicle crossing for Lot 12 Access must be clear of the intersection of Weka Street / Albatross Alley and should be located within 10m from either internal property boundary (i.e., not located in the middle of the property).

Wastewater:

- (ii) Include detailed designs, drawings, specifications and calculations for the wastewater system and connections to the proposed allotments in Stage 2.
- (iii) Show wastewater assets to be vested in Council or to remain in private ownership for Stage 2.

Stormwater:

- (iv) Include a Flood Assessment Report that considers the effects of the flood risk on site and establishes appropriate minimum floor levels, referencing OTP datum, for the proposed dwellings for Stage 2.
- (v) Include design details which consider attenuation for both the 10 and 100-year events, considering the assessment required for Condition 2(vii) – Stage 2 of RC 2300507. If required, update the proposed stormwater mitigation measures accordingly for Stage 2.
- (vi) Use the 10 min duration to ensure attenuation is designed to handle the highest peak flows. If required, update the proposed stormwater mitigation measures accordingly for Stage 2.
- (vii) Provide design details of the tanks, soakage trench, swale drain and connections to the Council stormwater system for Stage 2. The designs are to include details of new connections to the Council stormwater system and provision for overland flow paths capable of accommodating flows for the 1% AEP storm event.
- (viii) Show provision for any sedimentation and erosion control at the intersection between the connections to the Council stormwater system and private system for Stage 2.
- (ix) Provide details of secondary flow paths and how stormwater will be collected from properties that experience flooding for Stage 2. Existing overland flow paths and drains are to be shown to be unobstructed by new buildings, other structures, or landscaping.

- (x) Show stormwater assets to be vested in Council or to remain in private ownership for Stage 2.
 - (xi) Show details regarding the manner in which the passage of stormwater across the rear of proposed Lots 12 to 17, as currently provided by a drainage channel, will be maintained.
- b) Following approval of the plans and selection of the contractor, provide to Council for Stage 2:
- (i) Details of the successful contractor;
 - (ii) Details of the planned date and duration of the contract;
 - (iii) Details of the supervising engineer; and
 - (iv) A traffic management plan.
- c) Prior to commencing any physical site works, a Construction Management Plan for Stage 2 shall be submitted to and approved by the Council's Resource Consent Engineer or designate. The Plan shall contain information on, and site management procedures, for the following:
- (i) The timing of construction works, including hours of work, key project, and site management personnel.
 - (ii) Control of dust and noise on-site and any necessary avoidance or remedial measures.
 - (iii) Control measures for working adjacent to a tidal area
 - (iv) Prevention of earth and other material being deposited on surrounding roads from vehicles and remedial actions should it occur.
 - (v) Publicity measures and safety measures, including signage, to inform adjacent landowners and occupiers, pedestrians, and other users of the adjacent roads.
 - (vi) Bulk earthworks prior to construction, and Erosion and Sediment Control Plan and measures to be in place for the duration of the works.

All construction works on the site are to be undertaken in accordance with the approved Construction Management Plan and in accordance with Construction Noise thresholds.

- d) Provide for the approval of Council, a Detailed Landscape Plan prepared by a suitably qualified Landscape Architect.

The Plan shall:

- (i) Confirm whether screening by way of landscaped planting and / or fencing is required for Lots 17 & 19 to ensure the reduction of effects between residential uses and surrounding rural uses and the timing of when such landscape planting or fencing is required.
- (ii) Confirm whether the BS5252 colour palette and 30% reflectivity requirements remain appropriate in the application context.
- (iii) Confirm whether water tanks need to be buried, oxidation of accessways need to occur, and whether each allotment requires a landscape or planting plan at time of building consent application to mitigate potential visual effects.

- e) Provide for Council's approval, a legal document which apportions future maintenance of the private stormwater storage for Stage 2 amongst the relevant owners (Operations and Maintenance Agreement) and provide a Solicitor's undertaking to register the document against the titles of the affected allotments.

In particular, the Operation & Maintenance Agreement shall address and include:

- (i) For the reticulated network, overland flow path, soakage trenches, and communal mitigation devices, the removal of debris, sediment, and decaying vegetation matter. Any planting must not impede the function of the attenuation devices / system.
 - (ii) A Maintenance Plan for proposed assets to ensure that they can service the new residents as intended. This could include a report with maps, schedule of assets, and maintenance required for each.
 - (iii) Operation and maintenance of the devices as detailed in the subsequent sections together with schedules. These schedules are intended to form part of the stormwater management system records and if required to be included in the easement and consent conditions.
 - (iv) The duties of the stormwater management system owner including maintenance work and operational duties, undertaken as outlined in the above documents, a record of inspections and maintenance carried out, and appropriate and shared funding arrangements to ensure a consistent and regular maintenance program.
- f) Provide for Council's approval, a legal document that details a no complaints encumbrance in favour of the Far North District Council which prohibits the registered proprietors and owners of Stage 2 of the proposed subdivision objecting to the existing Ahipara Oxidation Ponds use and any associated effects of such activity and provide a Solicitor's undertaking to register the legal document against the titles for the proposed allotments.

3. Prior to the issuing of a certificate pursuant to section 224(c) of the Act, the consent holder shall:

Construction Management

- a) Prior to works commencing, mark the position of all public services and continue to protect these services during construction works on the site. Should any damage be done, it shall be repaired to the satisfaction of the Council and at the cost of the consent holder.
- b) Prior to earthworks commencing, install the mitigation measures proposed through Condition 2(c)(vi) – Stage 2 of RC 2300507. The erosion and sediment control measures shall be maintained until non-erodible cover has been established over the site. Any debris deposited on the public road as a result of the earthworks shall be removed by or at the expense of the consent holder.

Engineering Certification

- c) Upon completion of all subdivision works pertaining to Stage 2 (private and vested) and approved in Condition 2(a) – Stage 2 of RC 2300507, provide certification from a Chartered Professional Engineer (PS4) and/or certification from contractors (PS3) that all work has been completed in accordance with the approved plans.
- d) Provide to Council As-built plans for Stage 2 complying with Schedule 1D of NZS 4404:2004 and Section 1.5.2.5 of Council's Engineering Standards and Guidelines.

Telecoms & Electricity

- e) Provide evidence that each lot has a connection to an electrical utility system and telecommunications system at the boundary and provide documentation that the service

providers of electric power and telecommunications to Stage 2 are satisfied with the arrangements made for the provision of these services.

Roading

- f) Provide formed and concreted entrances to Lots 12-19 which comply with the Council's Engineering Standard FNDC/S/2 and Section 3.3.7.1 of the Engineering Standards and NZS4404:2004.
- g) Provide to Council written confirmation from a Licensed Cadastral Surveyor that stormwater drainage is fully contained within the respective easements.

Landscaping

- h) If required as a result of the Landscape Report required in relation to Condition 2(d) – Stage 2, provide evidence that the required works have been completed to the satisfaction of Council.

Consent Notice Conditions

- i) 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.

Lots 12-19

- (i) In conjunction with the construction of any building on the lot requiring a building consent the lot owner shall submit for the approval of Council alongside a Building Consent application, details of the on-site stormwater attenuation designed in general accordance with the 'Engineering Suitability Report' prepared by Hawthorn Geddes Engineers and Architects Ltd, Job no 12372, revision 1, and dated 22/03/21, any further revisions required by Condition 2(a) – Stage 2 of RC 2300507.

Should the impermeable area proposed exceed 340m² on any lot then an additional report shall be provided on stormwater disposal with the application for Building Consent. The system shall be designed such that the total stormwater discharged from the site, after development, is no greater than the predevelopment flow from the site for rainfall events up to a 10% and 1 % AEP plus allowance for climate change. The design of the onsite retention storage and flow attenuation shall be prepared by a Chartered Professional Engineer or a suitably qualified and experienced practitioner.

- (ii) The owners of the lots shall maintain on an ongoing basis the private stormwater system for the subdivision to a reasonable and operational standard as per the legal document approved under consent Condition 2(e) – Stage 2 of RC 2300507. If maintenance of the stormwater system is not maintained to a reasonable and operational standard, works can be completed by Council and costs recovered from the individual lot owners respectively.

The Council assumes no responsibility including costs towards the ongoing maintenance of private assets that service the development. Until such time as the Council of its own volition decides to assume responsibility, the lot owners or occupier of the land will not request the Council to undertake such maintenance.

- (iii) In conjunction with the construction of any dwelling, and in addition to a potable water supply, a water collection system with sufficient supply for firefighting purposes is to be provided by way of tank or other approved means and is to be positioned so that it is safely accessible for this purpose. These provisions will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS 4509.

- (iv) In conjunction with the construction of any building on the lot requiring a building consent the lot owner shall submit for the approval of Council alongside a Building Consent application, details of how the proposed development is consistent with the recommendations and requirements of the Landscape Report prepared for Condition 2(d) – Stage 2 of RC 2300507.

Lots 12-17

- (v) Lots 12-17 contain areas which are identified by Council as likely to be flood susceptible. All new habitable buildings shall be constructed with a minimum floor level of **XXXm** OTP datum as specified in the Flood Assessment Report required by Condition 2(a)(iv) of RC 2300507. Any other buildings may require assessment from a Chartered Professional Engineer if below the habitable floor level datum, to determine a suitable flood protection level. Assessment shall reference the Flood Assessment Report required to satisfy Condition 2(a)(vii) – Stage 2 of RC 2300507.
- (vi) Rule 10.7.5.2.2 Visual Amenity shall not apply to the development of the lots [Lots 12 -19] provided that it is undertaken in accordance with the approved recommendations found in the Landscape Report approved in terms of Condition 2(d)(ii) and (iii).
- (vii) Landscaping shall be undertaken in accordance with the approved recommendations found in the Landscape Report(s) approved in Condition 2(d)(i) of RC 2300507 [Lots 17 & 19].

Decision B – Land use

1. The total impervious surfaces on each site within Stage 2 of the subdivision shall not exceed 340m².
2. Development on Lots 17 and 19 shall be undertaken in accordance with the approved Landscaping Report prepared under Condition 2(d), including any requirements.

Decisions A and B – Subdivision and land use

Cultural

1. Copies of the conditions of the subdivision and land use consents are to be provided by the consent holder to Te Runanga o Te Rarawa at admin@terarawa.co.nz
The contact for the Cultural conditions is this email or the offices of Te Rarawa at 16 Matthews Avenue, Kaitaia, telephone 09 929 6879.
2. The consent holder shall notify Ahipara Takiwa kaitiaki to attend a council requested site meeting(s) with the consent holder, consent holder's contractors, and council assigned monitoring officer, prior to different phases or stages of works commencing.
3. The consent holder shall give notice to the Te Runanga office in writing (letter or email) 10 working days prior to the commencement date for general works associated with the consents.
4. An Ahipara Takiwa kaitiaki is to be present to undertake monitoring for different stages of work undertaken at the site, and reasonable remuneration for their time is to be considered by the consent holder for that time.

Advice Notes

1. Archaeological sites are protected pursuant to the Heritage NZ Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an

archaeological authority obtained from the Heritage New Zealand Pouhere Taonga (**HNZPT**). Should any site be inadvertently uncovered, the procedure is that work should cease, with the HNZPT and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). In all these respects notification is to be to Te Runanga o Te Rarawa and Ahipara kaitiaki. A copy of the HNZPT's Accidental Discovery Protocol (**ADP**) is attached for your information. This should be made available to all person(s) working on site.

2. The Consent holder, to meet Council's requirements, when conducting works in or close to Weka Street to and Albatross Alley, need to submit a Corridor Access Request (**CAR**) and subsequently obtain a Work Access Permit (**WAP**) prior to any works commencing.
3. The conditions of this consent will be monitored by Council's Resource Consents Monitoring Officers. Any documentation relating to compliance with the above conditions of consent should be sent to rcmonitoring@fndc.govt.nz



Alan R Watson

RMA Hearing Commissioner

15 November 2022