

## Decision on an application for resource consent under the Resource Management Act 1991

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### Proposal

To undertake a subdivision to create two rural-residential lots at 52 Lara Lane, Kaiwaka.

This resource consent, pursuant to sections 104B and 104D of the Resource Management Act 1991, is **GRANTED**. The full decision and reasons are set out below.

<b>Application number</b>	RM180165
<b>Site address:</b>	52 Lara Lane, Kaiwaka (Lot 1 DP500724)
<b>Applicant:</b>	RJ Dunster
<b>Hearing date:</b>	Friday 16 July 2021
<b>Hearing commissioner:</b>	Philip Brown
<b>Appearances:</b>	<p><u>For the Applicant:</u> Adam Booth, Surveyor Kylie McLaughlin-Brown, Landscape Architect/Planner Roxanne Dunster, Applicant</p> <p><u>For the Submitters:</u> Shalisha Blom – 39 Lara Lane Linda and Rod Tysoe – 549 Settlement Road</p> <p><u>For Council:</u> Katrina Roos, Consultant Planner Nikki Honan, Resource Consents Team Leader Prasad Sappa, Development Engineer Simon Cocker, Consultant Landscape Architect Angela Mellsoy, Planning Technical Support Officer</p>
<b>Commissioner's site visit:</b>	16 July 2021
<b>Hearing Closed:</b>	21 July 2021

## Introduction

1. This decision is made on behalf of the Kaipara District Council (“the Council”) by Independent Hearing Commissioner Philip Brown, appointed and acting under delegated authority under section 34A of the Resource Management Act 1991 (“the RMA”).
2. This decision contains the findings from my deliberation on the application for resource consent and has been prepared in accordance with section 113 of the RMA.
3. The application was limited notified on 11 January 2021. Two submissions were received, in opposition, from Shalisha Blom of 39 Lara Lane and from Rod and Linda Tysoe of 549 Settlement Road. Both submitters were served with notice of the application. There were no late submissions.
4. The Blom and Tysoe properties are located with frontage to Lara Lane, opposite and to the south of the application site. The submitters raised concerns related primarily to rural character and amenity, cumulative and precedent effects, the capacity, formation and maintenance of Lara Lane, stormwater effects and noise effects. I address the submitters’ concerns in more detail later in this decision.

## Summary of proposal

5. The applicant proposes to undertake a two-lot subdivision in the Rural Zone, creating lots of 1.353ha (Lot 1) and 0.696ha (Lot 2). Approximately 1.3134ha of land across the two lots would be planted with new indigenous vegetation. Restrictive covenants are proposed for the planted areas of the lots to ensure that the vegetation is protected in perpetuity.
6. Proposed Lot 1 contains the existing dwelling and proposed Lot 2 would provide for the establishment of a new dwelling following subdivision. Access would be provided via Lara Lane, a private access right-of-way generally 5m in width and formed with a gravelled surface. Some repair and maintenance to Lara Lane is proposed to improve the formation to a standard where it will meet Council requirements. A new vehicle crossing would be established to serve Lot 2 and the existing vehicle crossing serving Lot 1 would be upgraded in accordance with Council’s engineering standards.
7. Wastewater disposal for the two lots would be provided on-site, and water supply would be provided through roof collection and storage tanks. A new electricity connection will be established for Lot 2, while telecommunication infrastructure will rely on cellular or satellite coverage.
8. The application was originally lodged on the basis of it being a restricted discretionary activity under the provisions of Rule 12.13.1 (Environmental Benefit), relying on the establishment of indigenous vegetation to satisfy the qualifying criteria for a subdivision under this rule. However, the Council does not accept that the proposed planting of indigenous vegetation would satisfy the environmental benefit criteria.

9. It has assessed the application as a proposal for subdivision under General Rural Subdivision Rule 12.12.1, which requires a minimum area of 12ha for each new lot to be created. Where lots are proposed that are smaller than 12ha, consent is required as a non-complying activity under the District Plan. The applicant has now accepted that this is the correct approach and that the proposed subdivision is a non-complying activity under the Kaipara District Plan.<sup>1</sup>
10. The applicant has accepted a range of restrictions to be confirmed through consent notices, aimed at mitigating the effects of development that would be enabled by the subdivision. The restrictions relate to such matters as building location, screening of water tanks, and the undertaking of commercial activities on the lots.
11. Further details of the proposal were set out in the applicant's Assessment of Environmental Effects report ("AEE"), and at section 3.0 of the Council's comprehensive section 42A report prepared by Ms Roos.

### Site description and existing environment

12. The 2.0494ha site is located on the northern side of Lara Lane, a private right-of-way that provides access from Settlement Road. The site slopes up from Lara Lane towards the north at a moderate gradient, to a high point that is occupied by the existing dwelling. A substantial artificial pond is located towards the western boundary of the site and the balance of the land is comprised largely in pasture.
13. The site was created from a relatively recent two-lot subdivision, with new titles issued in 2016. The site is subject to a consent notice from the original Lara Lane subdivision, which includes a set of design and landscape requirements addressing matters such as building height, roof pitch, building colour and materials, and planting. The application does not seek to cancel the consent notice so it will remain in force and be registered on the new titles.
14. The surrounding environment is characterised by rural-residential development, consisting of clustered lifestyle blocks set amongst larger working farms. Several of the sites that have access to Lara Lane are around 1-2ha in area.

### Planning framework and reasons for consent

15. The site is located in the Rural Zone under the Kaipara District Plan (Operative 2013). It is not subject to any overlays.
16. The proposal requires resource consent for the following reasons:
  - Rule 12.12.1 ('General Rural Subdivision') provides for subdivision as a controlled activity in the Rural Zone where the minimum size of each lot is not less than 12ha. In this instance, both of the lots in the proposed subdivision are less than 12ha in area. Subdivision that does not meet the minimum lot size requirement defaults to be considered as a **non-complying activity**.

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<sup>1</sup> Evidence of Adam Booth, paragraph 4.5

- Rule 12.15.2 ('Vehicle Access and Driveways') requires that a private access shared by more than eight lots should be vested as road. Lara Lane serves more than eight lots and the application does not propose to vest it as road. Consent is required for this reason as a **discretionary activity**.
- Rule 12.15.8 ('Telecommunications') requires that reticulated telecommunications services are provided to each lot. The application proposes to provide telecommunications services via cellphone or satellite coverage. A subdivision that does not comply with Rule 12.15.8, as is the case in this instance, is assessed as a **restricted discretionary activity**.

17. Overall, the subdivision application has been considered as a **non-complying activity** under Rule 13.9.5 of the District Plan. There was no contention amongst the parties as to this being the correct activity status for the application.

### **Procedural matters**

18. There were no late submissions received, and no party raised any procedural issue that was required to be addressed. The applicant provided a number of written approvals from property owners or occupiers in the surrounding area, and I have had no regard to the effects of the proposal on those persons in accordance with the requirements of s104(3)(a)(ii) of the RMA.

### **Relevant statutory provisions considered**

19. In accordance with section 104 of the RMA, I have had regard to the relevant statutory provisions including the relevant sections of Part 2 and sections 104B, 104D, 106, 108, 108AA, and 220.

### **Relevant standards, policy statements and plan provisions considered**

20. In accordance with section 104(1)(b)(i)-(vi) of the RMA, I have had regard to the relevant policy statements and plan provisions of the following documents:

- Kaipara District Plan (Operative 2013)
- Northland Regional Policy Statement (Operative 2016)

21. I also considered the following other matters to be relevant and reasonably necessary to determine the application in accordance with section 104(1)(c) of the RMA:

- The submissions received.

### **Summary of evidence heard**

22. The Council planning officer's section 42A recommendation report (the "**s42A report**") was prepared by Ms Katrina Roos. It was circulated prior to the hearing and taken as read. Ms Roos recommended that consent be granted, subject to a number of conditions.

23. The evidence presented at the hearing responded to the issues and concerns identified in the s42A report, the application itself, and the submissions made on the application. The evidence is summarised below.

### **Applicant**

24. **Adam Booth** is a qualified and experienced surveyor, and familiar with subdivision and development issues in Mangawhai as the majority of his work is undertaken in the Kaipara District. Mr Booth presented written evidence on behalf of the applicant (who attended the hearing but did not present evidence), and also balanced that with introducing and coordinating the applicant's case.
25. Mr Booth stated that he supports the application, and considers that the proposal would result in adverse effects that will be minor overall and that the revegetation proposed will create positive effects. He is of the opinion that the effects from the proposed activity can be appropriately mitigated by conditions of consent. Mr Booth also considers that granting consent to the proposal will be consistent with the relevant objectives and policies of the statutory planning instruments, particularly those that relate to matters such as character, amenity, density, and traffic movement and safety.
26. Mr Booth considers that the receiving environment includes a contained cluster of rural residential development that encompasses Lara Lane, and that the proposal will be compatible with the surrounding neighbourhood for this reason.
27. With regard to s104(2) RMA, Mr Booth set out a permitted baseline scenario of a 2,049m<sup>2</sup> commercial or industrial building. He considers that the physical form of the building, and the operation of the activity it would accommodate, would give rise to effects that would be greater than those that might arise as a result of the proposed subdivision.
28. Mr Booth confirmed that the recommended conditions of consent proposed by Ms Roos were acceptable to the applicant.
29. **Kylie McLaughlin-Brown** is an experienced landscape architect and planner. She presented a written statement of evidence at the hearing addressing landscape and visual effects, and also provided supplementary written comments in response to the submissions and addressing Mr Cocker's review of landscape and visual matters for the Council.
30. Ms McLaughlin-Brown considers that the landscape effects of the subdivision on the wider environment would be less than minor, and reaches the same conclusion with regard to amenity and visual effects on the Tysoe property at 549 Settlement Road.
31. In respect of mitigation of effects, Ms McLaughlin-Brown accepted that the current consent notice requirements would continue to apply. She agreed with the proposed consent conditions recommended by Ms Roos and the proposed additional consent notice requirements related to landscape matters. Ms McLaughlin-Brown confirmed in evidence that the applicant has offered consent notices preventing commercial activities, piggeries, kennels, and use of dirt bikes.

32. Ms McLaughlin-Brown considers that development enabled by the proposed subdivision will be consistent with the surrounding landscape context, because the site sits within a rural-residential development pattern rather than a rural landscape.

### **Submitters**

33. **Shalisha Blom** resides at 39 Lara Lane, which is south of and opposite proposed Lot 2. Ms Blom provided written evidence at the hearing to explain her concerns, together with a series of photographs to assist in illustrating the issues that she raised. Her concerns were focused on loss of privacy and amenity, noise effects, drainage and flooding issues, the potential for an undesirable precedent if consent is granted, and use and maintenance of Lara Lane.
34. Ms Blom considers that the proximity and elevation of the building platform on proposed Lot 2 will compromise her privacy and create noise that will impact on the quiet enjoyment of her home. Several of her photographs illustrated the relationship between the Lot 2 building platform and her house, and the intervening planting and landscaping that is in place on her site. Other images showed flooding on Lara Lane following heavy rainfall, and the current poor condition of the carriageway.
35. Ms Blom considers that consent should not be granted to the proposed subdivision, on the basis of the concerns that she outlined in her submission and evidence. However, in the event that consent is granted, Ms Blom set out several matters that she would want to see addressed through conditions, including ongoing maintenance of Lara Lane, restrictions on use of the sites (prevention of kennels, piggeries, and use of recreational motorbikes), monitoring of planting, and restrictions on house design and appearance.
36. **Rod Tysoe** and **Linda Tysoe** live at 549 Settlement Road, which is located south-west of the site and on the opposite side of Lara Lane. Their property has frontage and legal access to Lara Lane in addition to its main entrance from Settlement Road. Ms Tysoe presented a statement of written evidence on behalf of herself and her husband.
37. Ms Tysoe indicated that she and her husband were not entirely opposed to the proposed subdivision but were not satisfied that there was sufficient information presented to them to assuage their concerns. She summarised their concerns as including the potential for the rural lifestyle of the area to be eroded by more intensive subdivision, uncertainties about the suitability of plants selected for the revegetation aspect of the proposal, impacts on their visual and aural privacy, ongoing maintenance of Lara Lane, and the effectiveness of pest control that would be undertaken on the site.
38. Ms Tysoe noted that her and Mr Tysoe strongly support the draft conditions that were proposed by Ms Roos in the s42A report.

### **Council staff**

39. **Katrina Roos** confirmed her recommendation to grant consent, subject to some minor corrections to the proposed conditions that she described.

40. The Council's development engineer (Mr Sappa) and consultant landscape architect (Mr Cocker) also responded to the evidence that was presented by the applicant's consultants and the submitters.
41. Mr Sappa considered that the proposal would be acceptable subject to those conditions that require upgrading of Lara Lane to Council's engineering standards, the upgrading of the existing Lot 1 vehicle crossing, and the establishment of a new vehicle crossing for Lot 2 that met Council standards.
42. Mr Cocker provided a brief written statement of evidence to supplement his earlier memorandum of 31 March 2021 in respect of the application. He stated that he accepted the evidence of Ms McLaughlin-Brown and considers that the potential adverse amenity effects and cumulative rural character effects will be fully mitigated through the conditions proposed and the revegetation planting.

### **Applicant in reply**

43. The applicant's right of reply was given orally by Mr Booth. He simply confirmed the evidence that the applicant had provided at the hearing and had no additional points to make in response to the submitters' evidence.

### **Principal issues in contention**

44. After having considered the application and evidence (including proposed mitigation measures), undertaken a site visit, reviewed the s42A report, reviewed the submissions and concluded the hearing process, I find that the proposed activity raises a number of issues for consideration. The principal issues in contention are:
  - *Would the effects on the environment, arising as a result of the subdivision, be acceptable?*
  - *Is the proposal consistent with the relevant objectives and policies of the Kaipara District Plan?*
  - *Can the adverse effects of the proposal be appropriately mitigated with conditions of consent and, if so, what should those conditions be?*

45. My main findings on the principal issues that were in contention are set out below.

### ***Would the effects on the environment be acceptable?***

46. My conclusions in relation to the acceptability of environmental effects are partly informed by the context, including the receiving environment and the permitted baseline.
47. Although the site falls within the Rural Zone, it is clear to me from the evidence and from my own observations of the site that the character of the surrounding area is influenced by rural-residential development on smaller lots. A number of the existing lots with frontage to Lara Lane are around 1ha or less in area. In addition, the provisions of the

Kaipara District Plan permit up to 60 vehicle movements per day per site in the Rural Zone.<sup>2</sup>

48. As a result, I am persuaded that the rural character and amenity in this location will not be appreciably undermined or altered as a result of the subdivision. I also consider that the additional vehicle movements on Lara Lane would be acceptable (if limited as proposed through the restriction of commercial activities) given the relatively high permitted baseline of movements otherwise enabled by the District Plan.
49. The impact of traffic movements along Lara Lane would be mitigated to an extent through improvements to the existing condition of the carriageway surface and formation, and drainage provision. Servicing can be provided to both lots in an appropriate manner, including wastewater and stormwater disposal, water supply, on-site access, and provision of telecommunications. In relation to the latter, the applicant's proposal to utilise cellular or satellite communications is acceptable and a reasonable approach on the basis of service limitations for equivalent reticulated services.
50. The location and elevation of a future house on Lot 2 would have the potential to create adverse visual and landscape effects, particularly for Ms Blom's property at 39 Lara Lane. However, I am satisfied on the evidence before me that the effects can be mitigated appropriately through the conditions of consent and the existing requirements in the consent notice. The combination of these restrictions and the existing and proposed planting will result in a development outcome that is acceptable in terms of its effects. Photographs 2 and 3 attached to Mr Cocker's memorandum, and photograph 15A from Ms Blom's evidence, indicate that views of a future house on Lot 2 will be filtered by existing screen planting when observed from the outdoor living areas at 39 Lara Lane. That screening is likely to become more established and therefore more effective in the future.
51. I am satisfied that other potential adverse effects can also be managed appropriately through conditions that will be imposed on the resource consent. The Council's development engineer has confirmed that all engineering matters (such as access, ground stability, flooding, drainage and so on) can be addressed through conditions. Ms Tysoe's concerns about the revegetation and pest control would be alleviated by conditions that specify appropriate plant species, mandate pest control measures, and provide for monitoring and replacement of any plant that dies or fails to thrive.
52. I do not consider that potential precedent effects are a significant concern in this instance, as any successive applications would be assessed on their merits as enabled by the Kaipara District Plan and circumstances are likely to differ between proposals.
53. There are some positive effects that will arise from the proposal. The subdivision will create another site to accommodate a house, which is of benefit in a constrained housing market. In addition, the subdivision involves the revegetation of approximately 1.3134ha of land with indigenous species. While I accept that this does not meet the

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<sup>2</sup> Rule 12.10.18



required threshold to qualify the proposal as an Environmental Benefit subdivision, it will nonetheless deliver some positive ecological effects.

54. For these reasons, I am satisfied that the proposal will not give rise to any unacceptable adverse environmental effects. Subdivision of the land to provide one additional rural-residential lot and an area of revegetation will create some positive effects.

***Is the proposal consistent with the relevant objectives and policies of the Kaipara District Plan?***

55. Ms Roos helpfully set out the key objectives and policies in her s42A report.<sup>3</sup> There are several matters that emerge, which are relevant to consideration of this application.
56. As Ms Roos notes, the objectives and policies of the Rural Zone do not explicitly discourage rural-residential development or non-complying subdivision activities. Rather, the Kaipara District Plan establishes an effects-based planning framework where subdivision proposals are largely assessed on their merits through their ability to align with or satisfy the relevant objectives and policies.
57. In this regard, I am satisfied that the proposal is consistent with the existing rural character of Lara Lane. The relatively small sites in that location also mean that there will be no significant loss of productive rural land through direct removal for other uses or through limitations imposed by reverse sensitivity effects.
58. Although the revegetation and protection measures that are part of the proposal do not meet the normal threshold for subdivision to be encouraged under the Kaipara District Plan, I consider that the proposal would be consistent with Policy 12.6.3c and also generally consistent with Policy 12.6.3a. Furthermore, I was not pointed to any policy that the application would be contrary to within the relevant provisions relating to rural subdivision.
59. For completeness, I have also reviewed the relevant policies of the Northland Regional Policy Statement 2016, as identified by Ms Roos in the s42A report.<sup>4</sup> I find that the proposal is consistent with the Regional Policy Statement.

***Can the adverse effects of the proposal be appropriately mitigated with conditions of consent?***

60. There was agreement between Ms Roos and Mr Booth with regard to the conditions that should be imposed on the consent, if granted.
61. I accept that the recommended conditions are generally appropriate and would provide suitable mitigation for any adverse effects of the proposed subdivision.
62. In particular, I consider that several of the conditions, when combined with the restrictions arising from the existing consent notice, will manage the potential adverse effects of the subdivision and the development that it would enable. Of note is the

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<sup>3</sup> S42A report, paragraphs 81 and 83

<sup>4</sup> S42A report, paragraphs 76 and 77

requirement for use of recessive colours and materials for buildings that might be established on Lot 2, the requirement for upgrading of Lara Lane (including the existing and proposed vehicle crossings for Lots 1 and 2 and the drainage), and the restrictions on commercial activities, piggeries, kennels, and use of dirt bikes. The latter items were offered by the applicant on an *Augier* basis, in response to the concerns about these activities that Ms Blom set out in her submission.

63. I note also that the conditions include strict requirements to manage the revegetation that is proposed, including controls on the selection of suitable plant species, care and maintenance of the planting, pest control, and replacement of any plants that do not become established. These measures are important given that the subdivision is in part predicated on the environmental benefits that will arise from the revegetation.
64. I have not imposed the recommended condition that would require installation of passing bays on the existing driveway on Lot 1, despite that access not meeting current Council standards. That is because this driveway is existing and will not be subject to any additional traffic as a result of the subdivision. Section 108AA sets out an expectation that conditions of consent will relate directly to an adverse effect of the activity, and I cannot identify any such effect in this instance. I have reached a different conclusion with regard to the need to upgrade the existing vehicle crossing serving Lot 1, as this crossing is within the right of way that contains Lara Lane and the subdivision would give rise to an increase in traffic using Lara Lane.
65. I have imposed an additional condition requiring a Construction Management Plan for the works proposed to upgrade Lara Lane. Those works have the potential to create a level of nuisance during the construction period, as noted by Ms Blom, and it is appropriate to put in place some controls to mitigate any potential adverse effects that might arise.

### **Other Statutory Considerations**

66. As a non-complying activity, the application must pass at least one of the limbs set out in s104D of the RMA before consent can be granted. In summary, s104D states that a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either the adverse effects of the activity will be minor or the activity will not be contrary to the objectives and policies of the District Plan.
67. In this case I am satisfied that both limbs are met by the proposal, for the reasons set out previously in this decision. Jurisdiction to grant consent has therefore been established.
68. Consideration of s106 of the RMA is also required. That section states that a consent authority may refuse to grant a subdivision consent if it considers that there is a significant risk from natural hazards or if insufficient provision has been made for access to each lot. I am satisfied that there is no reason to refuse consent under s106, based on the specialist engineering advice provided by the Council's development engineer and the technical reports that were provided in support of the application.
69. I am also satisfied that all the conditions imposed on this consent meet the requirements of s108, 108AA, and 220 of the RMA, and that there are no reasons in this instance to

refer to Part 2 of the RMA in determining the application as the District Plan provisions have been competently prepared and are not uncertain or incomplete.

## Decision

70. In exercising my delegation under section 34A of the RMA and having regard to the foregoing matters, sections 104, 104B, 104D, 106, 108, 108AA, and 220 of the RMA, I determine that resource consent is **granted** to the application by RJ Dunster to undertake a subdivision to create two rural-residential lots at 52 Lara Lane, Kaiwaka (referenced by Council as RM180165) for the reasons set out below and subject to the conditions attached at **Appendix 1**.

## Reasons for the decision

1. In accordance with sections 104(1)(a) and (ab) of the RMA, I find that the actual and potential effects from the proposal would not be significant and are acceptable. All potential effects that might arise through implementation of the consent can be appropriately avoided, remedied or mitigated through the proposed conditions.
2. In accordance with s104(1)(b) of the RMA, I find the proposal to be consistent with the relevant statutory documents. In particular, the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement 2016.
3. There are no matters that I have considered to be relevant under s104(1)(c) of the RMA, other than the submissions received which I have had regard to in making this decision.
4. In respect of s106 of the RMA, there are no known risks to the land being subdivided and adequate access can be provided to each of the proposed lots.
5. In the context of this application, where the relevant District Plan provisions have been competently prepared and are not uncertain or incomplete, there is no need to go beyond the relevant provisions of the planning documents and look to Part 2 in making this decision.



Philip Brown

**Independent Hearing Commissioner (for Kaipara District Council)**

11 August 2021

CONDITIONS OF CONSENT (52 LARA LANE 180165)

**General**

1. *The activity shall be carried out in accordance with the plans and all information submitted with the application formally received by the Kaipara District Council (“Council”) on 30 April 2021:*
  - *Application form, and assessment of environmental effects prepared by Pacific Coast Surveys, dated April 2018.*

<b><i>Plan title and reference</i></b>	<b><i>Author</i></b>	<b><i>Rev</i></b>	<b><i>Dated</i></b>
<i>Scheme Plan reference 1959</i>	<i>Pacific Coast Surveys</i>	<i>1</i>	<i>April 2018</i>
<i>Scheme Plan aerial reference 1959</i>	<i>Pacific Coast Surveys</i>	<i>1</i>	<i>April 2018</i>
<i>Engineering Plans reference 1959 Sheets 1 to 6</i>	<i>Pacific Coast Surveys</i>	<i>2</i>	<i>December 2019</i>
<b><i>Report title and reference</i></b>	<b><i>Author</i></b>	<b><i>Rev</i></b>	<b><i>Dated</i></b>
<i>Geotechnical Investigation Report</i>	<i>Wiley Geotechnical</i>	<i>-</i>	<i>8 April 2017</i>
<i>Ecological Environmental Benefits Report</i>	<i>Rural Design</i>	<i>-</i>	<i>April 2018</i>
<i>Landscape and Visual Assessment</i>	<i>Parallax</i>	<i>-</i>	<i>August 2018</i>
<b><i>Other additional information</i></b>	<b><i>Author</i></b>	<b><i>Rev</i></b>	<b><i>Dated</i></b>
<i>Ecology Peer Review RM180165</i>	<i>Ecology Solutions Ltd</i>	<i>-</i>	<i>31 May 2018</i>
<i>Landscape Review Memorandum</i>	<i>SCLA</i>	<i>-</i>	<i>31 March 2021</i>
<i>Reply to Landscape Review reference 21047</i>	<i>Evolve Landscape Architecture</i>	<i>-</i>	<i>14 June 2021</i>

*Advice Note: Where there is any apparent conflict between the application and the consent conditions, the consent conditions shall prevail.*

**Charges**

2. *The Consent Holder shall pay any subsequent further charges imposed under Section 36 of the Act relating to the receiving, processing, granting and monitoring of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under Section 36(5) of the Act that are subject to challenge, the Consent Holder shall pay*

such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant final invoice.

### **Section 125 - Consent Lapse Date**

3. Under Section 125 of the Act, this consent lapses five years after the date it is granted unless:
  - (a) A survey plan is submitted to Council for approval under Section 223 of the Act before the consent lapses, and that plan is deposited within three years of the approval date in accordance with Section 224 of the Act; or
  - (b) An application under Section 125 of the Act is made to the Council before the consent lapses (five years) to extend the period after which the consent lapses and the Council grants an extension.

### **Pre-Commencement Conditions**

4. Prior to the commencement of any work authorised under this consent, the Consent Holder shall provide written verification that the person responsible for carrying out construction work holds public liability insurance to the value of \$1,000,000.00.
5. Prior to the commencement of any work authorised under this consent, the Consent Holder shall provide written verification that the Consent Holder's engineer responsible for design and supervision of the roading works holds professional indemnity insurance to the value of \$1,000,000.00.

### **Prior to Section 223 Certification**

6. **Prior to the sealing of the Survey Plan pursuant to Section 223 of the Act the following conditions shall be complied with:**

#### **General**

- (a) The survey plan shall be generally in accordance with the plan of subdivision prepared by Pacific Coast Survey Ltd reference 1959 Rev 1 dated April 2018

#### **Easements**

- (b) The survey plan shall show all necessary easements as required for right of way access, right to drain water and sewage, right to convey water and electricity.

- (c) *The Consent Holder / Consent Holder's Surveyor shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity and show the necessary easements on the survey plan to the approval of the Council.*
- (d) *The survey plan shall show the conservation covenant Area A, B and C generally as indicated on the plan of subdivision prepared by Pacific Coast Survey Ltd referenced 1959 Rev 1, dated April 2018 as being land subject to Conservation Covenants pursuant to Section 77 of the Reserves Act or other instrument of similar effect to the approval of Council. The proposed covenant areas shall be submitted to Council for approval.*

#### Engineering Plans

- (e) *A design for the construction of the vehicle crossing and driveway for Lot 2, and upgrade of the vehicle crossing and driveway for proposed Lot 1 shall be submitted to Council for approval. The design shall consider:*
- *In respect of Lot 2 crossing and driveway and Lot 1 crossing – general accordance with drawings S03, S06 and section 5.2.18.2 (locations) of Kaipara District Council Engineering Standards 2011.*  
*Note: The driveway may remain unsealed if the gradient is less than 12.5%. Provision for management of stormwater shall be included in the design.*
  - *Means to achieve a safe sight distance of at least 85m in both directions from the vehicle crossing points as per drawing S10 in the Engineering Standards 2011.*

#### Prior to Section 224(c) Certification

**7. Before a Certificate is issued pursuant to Section 224(c) of the Act, the following conditions are to be complied with:**

- (a) *Electricity connection shall be provided to the boundary of the net site area of Lot 2 and all cabling shall be underground. The Consent Holder shall provide confirmation from the network utility supply authority/authorities of compliance with this condition.*
- (b) *The Consent Holder shall provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.*
- (c) *Written evidence, including a detailed plan layout, prepared by a Licensed Cadastral Surveyor that the existing effluent disposal field for Lot 1 is contained within the allotment boundaries and comply with Northland Regional Council requirements, noting the required separation distances to boundaries, surface water, water bores and the groundwater table, shall be provided to the satisfaction of the Council's Development Engineer, or their delegated representative.*
- (d) *A detailed planting and pest and weed control management plan shall be submitted to Council for approval in support of the report by Rural Design dated April 2018. The planting plan shall, as a minimum, contain or provide for the following:*

- i) *Inclusion of any additional areas for planting to that approved by consent RM180165.*
  - ii) *Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species as detailed in the landscape plan.*
  - iii) *Works undertaken for maintenance should include watering, weed control, cultivation, control of pests and diseases, removal of litter, checking of stakes and ties, trimming, pruning, topping up mulch and other works required to ensure planting maintains healthy growth and form.*
  - iv) *Details for covenant fencing for the exclusion of stock.*
- (e) *Written confirmation shall be provided from a qualified ecologist confirming that the ecological environmental benefit works as described in the report by Rural Design dated April 2018 and the detailed weed, pest and planting plan approved under condition 7(d) have been completed in full.*
- (f) *All works described in the approved ecological environmental benefits report by Rural Design dated April 2018 and the detailed weed, pest and planting plan approved under condition 7(d) shall be implemented to the satisfaction of the Council prior to 224 issue.*
- (g) *Prior to the commencement of any work authorised under this consent, in relation to the ecological amenity planting, the consent holder shall enter into a bond guaranteeing annual maintenance and plant replacement. The bond shall be for the sum of \$17,500 and shall remain in full force and effect for a period of not less than 5 years.*

*The bond shall be prepared by Council or Council's solicitor at the consent holder's expense.*

*The bond will be released when all works associated with the bond are completed to Council's satisfaction and inspections fees are paid, or alternatively the consent holder may request that inspection fees can be deducted from the bond refund.*
- (h) *A conservation covenant in accordance with Section 77 of the Reserves Act 1977 or alternative instrument of similar effect to the approval of Council shall be prepared for registration against the titles of the land depicted on the Survey Plan as being subject to conservation covenants. The conservation covenants shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document.*
- (i) *Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the titles of **Lots 1 to 2** by way of Consent Notices.*
  - i) *Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the geotechnical investigation report prepared by Wiley Geotechnical dated 8 April 2017, and submitted to Council with subdivision consent RM180165.*
  - ii) *The dwelling on Lot 2 shall be located on the mid-slope of the ridge, below the position of the subsurface exploration locations depicted in Figure 1 in the*

*geotechnical investigation report prepared by Wiley Geotechnical dated 8 April 2017, and submitted to Council with subdivision consent RM180165.*

- iii) Future owners of Lot 2 are advised that no physical telecommunication connections are provided. Kaipara District Council will not be responsible for ensuring nor providing telecommunication connections to this lot.*
- iv) Sufficient firefighting water supply shall be provided for any single residential dwelling on Lot 2 with a minimum volume of 10,000 litres and shall remain accessible and available all year round.*
- v) All planting and works on Lot 1 and 2 shall be maintained in accordance with the ecology report prepared by Rural Design dated April 2018 and the detailed weed, pest and planting plan approved under resource consent RM180165 to the satisfaction of the Council.*
- vi) Pest control shall be undertaken on Lot 1 and 2 in accordance with the ecology report prepared by Rural Design dated April 2018 and the detailed weed, pest and planting plan approved under resource consent RM180165 on an ongoing basis.*
- vii) Exterior flood lighting is not permitted on the lots.*
- viii) The driveway and parking area for Lot 2 shall be finished in chip seal or metal with natural swales. If concrete is used a black oxide additive or exposed aggregate finish is required.*
- ix) Where ground conditions allow water tanks shall be situated predominantly underground and screened if not located underground.*
- x) Commercial activities are not permitted on the lots.*
- xi) The use of trail bikes is not permitted on the lots.*
- xii) The keeping of pigs is not permitted on the lots.*
- xiii) The operation of dog kennels for the housing of dogs that do not reside on the property is not permitted on the lots.*

#### *Solicitors undertaking*

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

*All consent notices and covenants to be prepared for registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the Consent Holder's expense.*

#### *Financial Contributions*

- (k) A cash contribution in lieu of reserves shall be paid based on 5% of the assessed value of a "nominal" 4000m<sup>2</sup> dwelling site on Lot 2 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant's expense.*



*At the time of payment of the contribution, the valuation upon which the cash contribution is calculated shall be no more than three (3) months old.*

*Engineering Conditions*

- (l) *All works on the engineering plans approved under this consent prepared by Pacific Coast Surveys reference 1959 Sheets 1 to 6 dated December 2019 and the engineering plans approved under Condition 6(e) are to be completed to the approval of the Council's Development Engineer, or their delegated representative. Compliance with this condition shall be determined by the following:*
- i) *The consent holder shall upgrade the ROW Lara Lane in accordance with the approved engineering plans prepared by Pacific Coast Surveys reference 1959 Sheets 1 to 6 dated December 2019 and Section 5 of Council's Engineering Standards 2011.*
  - ii) *The consent holder shall upgrade and construct the vehicle crossings and driveways for Lot 1 and 2 in accordance with Condition 6(e) and Section 5 of Council's Engineering Standards 2011.*
  - iii) *Provision and approval of supporting documentation provided by the Consent Holder in support of the constructed works, including Producer Statements, completion certificates, works acceptance certificate, statement of compliance of as built works and as built plans, construction management plans, operation and maintenance plans and all other test certificates and statements and supporting information required to confirm compliance of the works as required by Section 3 of the Council's Engineering Standards 2011.*
- (m) *The Consent Holder shall ensure that the following works are constructed to the approval of the Council's Development Engineer, or their delegated representative:*
- i) *Upgrade the right of way Lara Lane in accordance with approved engineering plans prepared by Pacific Coast Surveys reference 1959 Sheets 1 to 6 dated December 2019 reference and the Engineering Standards 2011.*
  - ii) *Upgrade and construct the vehicle crossings and driveways for Lot 1 and 2 in accordance with Condition 6(e) and Section 5 of the Engineering Standards 2011.*  
*Note: The driveway and parking area for Lot 2 shall be finished in chip seal or metal with natural swales. If concrete is used a black oxide additive or exposed aggregate finish is required.*
- (n) *The consent holder shall ensure adequate construction monitoring of all construction works. The consent holder shall notify Council's Monitoring Engineer at key hold points for inspection. Council's engineers undertake suitable inspections during construction at key hold-points to enable them to confirm that the certification provided by the consent holder's engineer matches the design submitted.*
- i) *As a minimum, hold points shall include final inspection and approval of the vehicle crossing.*

- ii) *No work shall proceed beyond the above hold points until specifically approved by Council's engineers. Detailed supervision and certification upon completion as complying with the required standards by the consent holder's engineer shall be submitted to council for approval. The consent holder's engineer shall be a suitably qualified competent engineer, surveyor or contractor with recent and ongoing experience in road design and construction to the specific approval of Council.*
  
- (o) *Prior to the commencement of works on Lara Lane, the consent holder shall prepare and submit a Construction Management Plan (CMP) to Council for certification. No construction activity shall commence until certification of the CMP has been obtained from Council and all measures identified in the CMP as needing to be established prior to commencement of works have been implemented. The CMP shall address the following matters:*
  - i) *Provision of contact details for the contractor's representative (name, mobile phone number and email address), which shall be distributed to all users of Lara Lane;*
  - ii) *Measures for maintaining access to all private properties during the work;*
  - iii) *Measures for minimising removal of vegetation planted in the berm, other than vegetation removal required to accommodate the upgraded carriageway, drainage, passing bays, or where required for safety and access (where plants are required to be removed, the contractor shall investigate options for replanting in conjunction with the owner of the adjoining property);*
  - iv) *Location of parking for contractors' vehicles and machinery/equipment, and location of stockpiles for construction materials;*
  - v) *Hours of operation for the work;*
  - vi) *Measures to be implemented for erosion and sediment control including measures to manage the tracking of mud, dirt and debris on to surrounding roads and to keep roads clean and tidy; and*
  - vii) *Dust mitigation and suppression measures.*

*All work shall be carried out in accordance with the Council certified CMP.*

### **Advice Notes**

1. *The consent holder shall be required to pay to Kaipara District Council a Development Contribution under the Local Government Act 2002 of \$799 plus GST (if any) for each additional lot for roading in Kaipara District.*

*The proposed development will result in 1 additional allotment. The Total Development Contribution will be \$799 plus GST (if any).*

*A copy of Council's policy on Development and Financial Contributions included within the Long-Term Plan 2018/2028 can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website [www.kaipara.govt.nz](http://www.kaipara.govt.nz)*

2. *All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the Heritage New Zealand for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effects cannot be practised.*
3. *If subsurface archaeological evidence (shell, midden, hangi, storage pits, etc) should be unearthed during construction, work should cease in the immediate vicinity of the remains and the Heritage New Zealand should be contacted.*
4. *In the event of koiwi (human remains) being uncovered, work should cease immediately and the tangata whenua of Te Uri O Hau shall be contacted so that appropriate arrangements can be made.*