

In the Matter of:

The Resource Management Act 1991

And

In the Matter of:

An application under Section 88 of the  
Resource Management Act 1991 made by  
Collier Properties Limited

File Reference:

RM200150

## Decision on Resource Consent Application

### 1. Activity

The applicant seeks to subdivide the site to create the followings lots in two stages;

#### Stage 1

- Lot 1 – 0.74 hectares
- Lot 2 – 1.00 hectares
- Lot 3 – 1.00 hectares
- Lot 9 – balance lot
- Lot 10 – 2.75 hectares (vested in Council as reserve)

#### Stage 2 (subdivision of Lot 9)

- Lot 4 – 0.89 hectares
- Lot 5 – 0.94 hectares
- Lot 6 – 0.80 hectares
- Lot 7 – 0.93 hectares
- Lot 8 – 1.6 hectares
- Lot 9 (Stage 2) – 3.0 hectares
- Lot 11 – 1.3 hectares (vested in Council as road)
- Lot 12 – 3.15 hectares (vested in Council as reserve)

The proposal includes restoration and protection of 3.6 hectares of onsite wetland and planting of an additional 3.24 hectares.

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## **2. Location**

Address: Sandhill Heights, Mangawhai

Legal Description: LOT 9 DP 511484, RT85378

## **3. Reasons for Consent**

### ***Kaipara District Plan (Operative 2013) Rule Assessment***

The following apply to the subject property:

Zoning: Rural Zone

Overlays: Mangawhai Harbour Overlay

Rules: 12.13.4 – Integrated Development – Consent is sought to establish nine lots, which exceeds the maximum limit for obtainable lots specified under the calculation methodology of Rule 12.13.4(4)(b). Consequently, resource consent is required as a Non-Complying Activity under Rule 12.9.4.

12.10.1a – Excavation and Fill – The proposal does not comply as the proposal is anticipated to require earthworks of approximately 13,900m<sup>2</sup>. Consequently, resource consent is required as a Restricted Discretionary Activity

12.15.8 – Telecommunications – The proposal does not comply as the proposal does not provide for in-ground telecommunications to the boundary of the lots. Instead, wireless telecommunications are proposed. Consequently, resource consent is required as a Restricted Discretionary Activity.

## **4. Determination/s**

### **Determination 1**

Pursuant to Section 104, 104D, 108 and 220 of the Resource Management Act 1991 (“the Act”), the Kaipara District Council **grants** RM200150; subject to the following conditions:

### **Determination 2**

Pursuant to Section 243(e) of the Resource Management Act 1991, the existing easements over Stage 1 Lot 9 are cancelled as part of s223 of Stage 2.

### **Determination 3**

Pursuant to Section 221(3) of the Resource Management Act 1991, the existing consent notices as they relate to Stage 1 Lot 9 are cancelled as part of s224 of Stage 2.

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### 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 12/08/20:
  - Application form, and assessment of environmental effects prepared by Stephanie Kate of Lands and Survey, dated 12/08/20.

Plan title and reference	Author	Rev	Dated
Proposed subdivision of Lot 9 DP 511484 – Stage 1 (Sheet 2 reference 10184/3/2/P)	Lands and Survey		16/05/22
Proposed subdivision of Lot 9 DP 511484 – Stage 2 (Sheet 3 reference 10184/3/2/P)	Lands and Survey		16/05/22
Proposed subdivision of Lot 9 DP 511484 – Overview (Sheet 1 reference 10184/3/2/P)	Lands and Survey		16/05/22
Report title and reference	Author	Rev	Dated
Geotechnical Investigation	Wiley Geotechnical		29 May 2020
Ecological Report	Rural Design		March 2020
Assessment of Landscape, Rural Character and Visual Amenity Effects	Simon Cocker Landscape Architects		18 June 2020
Cultural Effects Assessment	Environ Holdings		July 2020
Other additional information	Author	Rev	Dated

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.

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### 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.

### Road Naming

4. The consent holder shall provide and install road naming signs in accordance with the Council's engineering standards for both public and private road, right of way, or access lots that serve six or more lots within the subdivision. The names shall be as approved by the Council.

Advice Note: Land Information New Zealand (LINZ) requires that proposed roads, private road, right of way or access lot that service six (6) or more lots are to be named. LINZ has indicated that a name for the road or private road should be in place before the survey plan of subdivision is approved by the council under section 223 of the RMA and advises that if no name is in place this could be problematic when titles are later requested. The consent holder should contact [roading@kaipara.govt.nz](mailto:roading@kaipara.govt.nz).

### Pre-Commencement Conditions

5. Prior to the commencement of any work authorised under this consent, a Construction Management Plan ("CMP") in accordance with Section 3.3 of Council's Engineering Standards 2011 shall be provided to Council's Development Engineer, or their delegated representative for certification, and shall include:
  - (i) Details of the site manager including full contact details;
  - (ii) Construction methodology including proposed plant and machinery to be utilised;
  - (iii) Proposed procedures for controlling sediment runoff and dust generation;
  - (iv) Programme of works;
  - (v) Proposed hours of work on the site;
  - (vi) Details of the number and timing of truck movements on the access route to the site;
  - (vii) Details of any proposed materials storage areas;
  - (viii) Traffic management plans;

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- (ix) Proposed communication strategy to advise members of the public of the construction works;
  - (x) For all road construction works, the consent holder shall give Council's Asset Manager at least 10 working days' notice of commencement of any works on any Council Road.
6. Prior to the commencement of any work authorised under this consent, in relation to the road to vest, the consent holder shall enter into a bond guaranteeing that in the event of damage to existing Council assets or abandonment of the work by the consent holder, that all existing Council assets will be returned to a condition at least equal to that which existed prior to the commencement of work.
- (i) The bond shall be for the minimum sum of \$5,000 or any other specific amount and shall remain in full force and effect until such time as all work has been completed and any necessary remedial work completed to the satisfaction of Council.
  - (ii) The bond shall be prepared by Council or Council's solicitor at the consent holder's expense.
  - (iii) 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).
7. Prior to the commencement of any work within the Council's road reserve, the consent holder shall submit a Corridor Access Request ("CAR") application, including a Traffic Management Plan/s, to the Northland Transportation Alliance Corridor Access Manager and obtain approval.
8. A minimum of seven days prior to the commencement of any work authorised under this consent, the consent holder shall notify Council, in writing, of their intention to begin works. Such notification shall be sent to the Council's Development Engineer or their delegated representative and include the following details:
- (i) Name and telephone number of the project manager/Independent Qualified Person (IQP).
  - (ii) Site address to which the consent relates.
  - (iii) Activities to which the consent relates.
  - (iv) Expected duration of works

A copy of the approved engineering plans and a copy of the resource consent conditions, Inspection and Test Plan, approved corridor access request and the engineering plan approval letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of and have access to the resource consent and accompanying documentation.

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9. The consent holder shall provide a copy of this decision and consent conditions to Environs Holding Limited.

Earthworks Conditions

10. Prior to the commencement of earthworks, the consent holder shall submit for approval an Excavation and Fill Management Plan that addresses the following matters;
- (i) Details of the location and form of earthworks proposed on a site, including volume, area affected and height of any excavation or fill;
  - (ii) A plan showing relevant existing and proposed contours and location of any adjacent bush shrub land and wetland areas, water bodies and the Coastal Marine Area;
  - (iii) An assessment of the site's ecological, landscape amenity and heritage values, including details on any recorded archaeological sites and registered historic places, historic areas and waahi tapu and the need for an archaeological-historic places site survey of the area to be developed;
  - (iv) archaeological sites R08/251 and R08/252 shall be marked by an archaeologist and fenced off to prevent accidental damage;
  - (v) Measures directed at mitigating any adverse effects of the activity on the ecological, heritage and landscape values of the site, adjacent watercourses and the Coastal Marine Area;
  - (vi) Details of appropriate methods proposed to manage sediment runoff and prevent erosion such as silt traps and earth bunds;
  - (vii) Where earthworks are within a known area of instability or flood hazard the application will be required to be accompanied by an engineering assessment; and
  - (viii) Details of methods proposed to manage construction traffic.
11. Earthworks, including silt and sediment controls, shall be undertaken in general accordance with the methodology and recommendations of the Geotechnical Investigation prepared by Wiley Geotechnical dated 29 May 2020, the Excavation and Fill Management Plan required by Condition 10 of this consent and having regard to the following documents:
- i. Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region June 2016 Guideline Document 2016/005;
  - ii. BC5850 New Zealand Standard Code of Practice for Earth fill for Residential Development;
  - iii. NZS 4404:2010 - Land development and subdivision infrastructure; and
  - iv. Section 4 of the Kaipara District Council Engineering Standards 2011.
12. Erosion and sediment controls shall be constructed and maintained in accordance with the principles and practices contained within the Auckland Council document entitled "GD05: Erosion

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and Sediment Control Guide for Land Disturbing Activities in the Auckland Region” (GD05) and Section 4, Land Stability and Earthworks of the current Kaipara District Council’s Engineering Standards 2011.

13. Erosion and sediment controls shall be installed prior to the commencement of any earthworks (excluding earthworks required for the construction of erosion and sediment controls). A suitable qualified and experienced person shall supervise the installation of all erosion and sediment controls. The erosion and sediment controls installed shall remain in place for the entire duration of earthworks activities.
14. The consent holder shall implement suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site, and to control or mitigate any potential dust nuisance. All such measures shall be maintained throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.

**STAGE 1 – Lots 1, 2, 3, 9 (balance) and 10 (reserve to vest)**

Prior to Section 223 Certification

15. **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 Stage 1 of the plan of subdivision titled Proposed subdivision of Lot 9 DP 511484 – Stage 1 (Sheet 2 reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey

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 and any other easements as required.

Utility Providers

- 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 to Lots 1, 2, 3 and 9 and show the necessary easements on the survey plan to the approval of the Council.

Building Areas

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- d. The survey plan shall show the identified building platform on Lots 1, 2, 3 and 9 in general accordance with the plan of subdivision titled “Proposed Subdivision of Lot 9 DP 511484 - Stage 1 (Sheet 2 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for accurate siting for the purposes of ongoing compliance with Condition 16(l) of this consent (RM200150).

#### Revegetation Areas

- e. The survey plan shall show the identified landscape revegetation areas on Lots 1, 2, and 3 in general accordance with the plan of subdivision titled “Proposed Subdivision of Lot 9 DP 511484 - Stage 1” (Sheet 2 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for the purposes of ongoing compliance with Condition 16(l) of this consent (RM200150).

#### Drainage Areas

- f. The survey plan shall show the identified drainage areas on Lots 1, 2 and 3 in general accordance with the plan of subdivision titled “Proposed Subdivision of Lot 9 DP 511484 - Stage 1” (Sheet 2 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for the purposes of ongoing compliance with this consent (RM200150).

#### Environmental Benefit / Conservation Covenant

- g. The survey plan shall show the proposed covenant generally as indicated on Lot 10 on the plan of subdivision titled “Proposed Subdivision of Lot 9 DP 511484 - Stage 1 (Sheet 2 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd as being land subject to conservation covenant pursuant to Section 77 of the Reserves Act, or open space covenant pursuant to the Queen Elizabeth the Second National Trust Act 1977.
- h. An Ecological Planting and Weed/Pest Control Management Plan (“EPWCMP”) in accordance with the Ecological Report prepared by Rural Design dated March 2020 shall be prepared for Lot 10 by a suitably qualified ecologist and submitted to the Council for written approval (in a certifying capacity). The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:

- (i) Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species that will enhance ecological values of local habitat.

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(ii) An establishment and maintenance programme which includes recommendations on the frequency of maintenance and monitoring to be undertaken and the anticipated duration to achieve the objectives of the EPWCMP, including (as applicable):

- 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.

(iii) The measures to be adopted to achieve, as far as is practicable:

- 90% survivorship of planted species; and
- 85% canopy cover of indigenous vegetation.

(iv) The control of pests (including but not limited to rats, mustelids, possums and freshwater pests) to ensure, as far as practicable, that the ecological gains achieved via the EPWCMP are not compromised.

(v) All plant material should be eco-sourced from the Rodney Ecological District preferably within close proximity to the site.

- i. A specific fencing plan shall be prepared and submitted to Council for approval. The fencing plan shall detail fencing types to be adopted for the protection of the proposed covenant areas.

Reserve(s) to vest

- j. The survey plan shall show Lot 10 as reserve to vest in the Council.

Landscaping

- k. A detailed Landscape and Management Plan, prepared by a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture, for landscape revegetation on Lots 1, 2,

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and 3. The Landscape and Management Plan shall include an initial monitoring and maintenance programme for a period of three (3) years, and an ongoing maintenance plan detailing maintenance in perpetuity. The Landscape and Management Plan shall be prepared and submitted to the Council for written approval (or Council's delegated representative) in conjunction with the engineering plan approval and prior to the commencement of any works. The Landscape and Management Plan shall include, but may not be limited to the following:

- i) Objectives of the planting
- ii) A plan of the planted areas, detailing proposed plant species, plant sourcing, plant size the time of planting, plant locations, density of planting and timing of planting
- iii) A programme of establishment and post establishment, protection and maintenance including fertilising, removal, spraying, replacement of dead/poorly performance plants, watering to maintain soil moisture, mulch (if required) length of maintenance programme.
- iv) Weed management plan
- v) The siting, materials and finished levels of any paving and hardstanding
- vi) The location, materials, height, and design of fencing and retaining walls
- vii) Details of drainage, soil preparation, tree pits, staking and irrigation
- viii) The construction details of all hard landscape elements including paving, fencing, gates, lighting etc.

#### Engineering Design

- I. The consent holder shall submit a detailed set of engineering plans, specifications and calculations, *prepared* in accordance with the Council's Engineering Standards 2011 to the Council's Development Engineer, or their delegated representative for approval.

The engineering plans, calculations and specifications shall be prepared by a suitably experienced person/s who:

- Have the appropriate experience in the relevant areas; and
- Hold appropriate qualifications and membership of professional bodies; and
- Have professional indemnity insurance to the value of at least \$1,000,000.

The engineering plans, calculations and specifications shall include, but may not be limited to the following:

- Vehicle crossing onto Blackswamp Road in accordance with KDC Engineering Standards 2011
- Vehicle crossing for Lot 1 on Sandhill Heights in accordance with KDC Engineering Standards 2011

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- Vehicle access / Right of Way design for Lots 1, 2, 3, 9 and 10 including stormwater management for discharges from the accessway and details of any structures required in accordance with KDC Engineering Standards 2011

m. Any stream/wetland crossings shall be designed in a manner that does not impede fish passage. Any new or replacement culverts installed within the site(s) shall provide for fish passage in accordance with the New Zealand Fish Passage Guidelines.

Prior to Section 224(c) Certification

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

Utility Connections

- (a) Electricity connections shall be provided to the boundary of the net site area of Lots 1, 2, 3 and 9 and all cabling shall be underground. The consent holder shall provide confirmation from the network utility supply authority/authorities of compliance with this condition.

Easements

- (b) The consent holder shall provide written confirmation from a licensed cadastral surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.

Engineering

- (c) All works on the engineering plans approved under Condition 15(l) of this consent are to be completed to the approval of the Council's Development Engineer, or their delegated representative.

Compliance with this condition shall be determined by the following:

- Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by Condition 15(l) of this consent;
- 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.

Landscaping – Private Land

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- (d) All works described in the approved Landscape and Management Plan, required under Condition 15(k) of this consent, as located on Lots 1, 2, and 3, shall be implemented to the satisfaction of the Council.
- (e) The consent holder shall provide a completion report from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture to the satisfaction of the Council, and the Council will undertake inspections as required to confirm compliance.

Environmental Benefit – reserve to vest

- (f) All planting and pest control works on Lot 10 described in the approved Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") approved by Condition 15(h), shall be implemented to the satisfaction of the Council.
- (g) The consent holder shall provide a completion report from a suitably qualified professional to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.
- (h) The consent holder shall continue to maintain all plantings and weed/pest control within the Reserve to Vest on Lot 10 for a period of three (3) years following certification from the Council that the works has been implemented in accordance with the approved EPWCMP. At the completion of the three (3) year monitoring and maintenance period, the responsibility for the maintenance of the reserve shall revert to the Council.
- (i) A maintenance bond will be payable for all planting established under this consent. The bond shall be held for a period of three (3) years from the issue of the Section 224(c) Certificate. The amount of the bond shall be agreed by Council, shall be assessed on current Council contract rates, and shall include a sum to cover the replacement of plants, trees and other landscape components that are missing at the end of the maintenance period.

Conservation Covenant

- (j) A Conservation covenant(s) in accordance with Section 77 of the Reserves Act 1977 shall be prepared for registration against the titles of Lot 10 depicted on the Survey Plan as being subject to a conservation covenant. A conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document.
  - (i) Provisions of Schedule 2 of the approved Council conservation covenant document shall be amended to allow public access but strictly no new tracks to be formed through any part of the covenanted areas. Existing tracks can be upgraded for walking only.
- (k) The consent holder must erect and maintain fencing in stock proof condition around the boundary of the covenant area as is necessary to prevent entry to the covenant area by grazing animals, but not closer to the bush than the drip-line of the outmost trees. The standard of that fencing is to be a 7-wire fence with posts no more than five metres apart and with a minimum of five battens between

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each post and otherwise is to be as defined in paragraph 6 of the second schedule to the Fencing Act 1978.

Consent Notice/On-going conditions

- (l) Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the Lots 1, 2, 3, 9 and 10 by way of Consent Notice(s).

*In regards to Lots 1, 2 and 3*

**General**

- (ii) 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 report titled "Geotechnical Investigation", dated 20 May 2020, prepared by Wiley Geotechnical, and submitted to Council with subdivision consent RM200150.
- (iii) Use of the lot for industrial activity, as defined in the Kaipara District Plan, is prohibited

**Landscape and Amenity Planting Maintenance**

- (iv) All landscape and amenity planting on site shall be maintained in perpetuity in accordance with the approved Landscape and Management Plan approved under resource consent RM200150. Diseased dying or dangerous plants must be removed and replaced in accordance with the approved Landscape and Management Plan.
- (v) Evidence of compliance with this requirement shall be provided to Council in writing from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture five (5) years from the date of issue of the Section 224(c) certificate for RM200150
- (vi) Maintenance of planting will be monitored by Council for a period of five years from the date of issue of the Section 224(c) certificate. There will be a Council charge for this monitoring payable by the lot owner.

**Ecological Control**

- (vii) The keeping of cats, mustelids and rodents on the lots is prohibited.
- (viii) Dogs shall not be kept on the lot unless the following conditions are complied with:
- Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may include containment in a run, kennel, or equivalent housing, and only allowed out of containment when on a lead or leash.

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2. Disability and assistance dogs may have free access to properties in accordance with allowances under disability legislation, with the exception that they shall not run free or enter protected covenanted areas unattended.
3. Search and Rescue dogs shall have access to protected areas when an emergency requires their use.
4. Pest control and conservation dogs shall be allowed in protected covenanted areas under strict control of handlers when being used for the specific purpose of pest control and/or research.
5. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

#### **Firefighting Water Supply**

- (ix) Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round.
- (x) Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial land use on the lot. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).

#### **Built Development/Design Guidelines**

- (xi) All buildings must be located wholly within the identified building platform shown on the survey plan for Lots 1, 2 and 3.
- (xii) The design guidelines within Appendix 2 of the Assessment of Landscape, Rural Character and Visual Amenity Effects dated 18 June 2020 prepared by Simon Cocker Landscape Architects shall apply to development on the lots and shall be confirmed via a design statement from a suitably qualified and experienced landscape architect in support of a building consent application.

#### **Telecommunications**

- (xiii) Hard wired telecommunications have not been provided to the boundary of the lot. Kaipara District Council will not be responsible for the provision of such services. Wireless telecommunications are available.

*In regards to Lots 2 and 9*

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- (i) Archaeological sites R08/251 and R08/252 are located within or close to this lot, and that any further development outside the areas indicated in the Scheme Plan and any ground disturbance, including planting, around the identified sites shall be subject to further archaeological advice and obtaining an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014
- (ii) Archaeological sites are protected pursuant to the Historic Places Act 1993. The Heritage New Zealand Pouhere Taonga Act 2014 provides protection for all archaeological sites, whether recorded or not. It is unlawful to modify or destroy an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga.

*In regards to Lot 9*

**General**

- (i) Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the report titled "Geotechnical Investigation", dated 20 May 2020, prepared by Wiley Geotechnical, and submitted to Council with subdivision consent RM200150.
- (ii) Use of the lot for industrial activity, as defined in the Kaipara District Plan, is prohibited

**Ecological Control**

- (iii) The keeping of cats, mustelids and rodents on the lots is prohibited.
- (iv) Dogs shall not be kept on the lot unless the following conditions are complied with:
  1. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may include containment in a run, kennel, or equivalent housing, and only allowed out of containment when on a lead or leash.
  2. Disability and assistance dogs may have free access to properties in accordance with allowances under disability legislation, with the exception that they shall not run free or enter protected covenanted areas unattended.
  3. Search and Rescue dogs shall have access to protected areas when an emergency requires their use.
  4. Pest control and conservation dogs shall be allowed in protected covenanted areas under strict control of handlers when being used for the specific purpose of pest control and/or research.

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5. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

#### **Firefighting Water Supply**

- (v) Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round.
- (vi) Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial land use on the lot. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).

#### **Built Development/Design Guidelines**

- (vii) All buildings must be located wholly within the identified building platform shown on the survey plan for Lot 9.
- (viii) The design guidelines within Appendix 2 of the Assessment of Landscape, Rural Character and Visual Amenity Effects dated 18 June 2020 prepared by Simon Cocker Landscape Architects shall apply to development on the lots and shall be confirmed via a design statement from a suitably qualified and experienced landscape architect in support of a building consent application.

#### **Telecommunications**

- (ix) Hard wired telecommunications have not been provided to the boundary of the lot. Kaipara District Council will not be responsible for the provision of such services. Wireless telecommunications are available.

#### *In regards to Lot 10*

- (i) No dwelling shall be constructed on Lot 10
- (ii) No power has been provided to Lot 10.

#### **Ecological Planting Maintenance, Weed and Animal/Pest Control**

- (iii) All ecological planting on site shall be maintained in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM200150.
- (iv) Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM200150.

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- (v) Ongoing weed and animal/pest control shall be undertaken in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM200150.
- (vi) Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM200150.
- (vii) The keeping of dogs, cats, mustelids and rodents on the lots is prohibited.

#### Solicitors Undertaking

- (m) 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.
- (n) All consent notices and covenants to be prepared or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the consent holder's expense.

#### Advice Notes

- i) The consent holder shall be required to pay to Kaipara District Council a Development Contribution under the Local Government Act 2002 of \$799.00 plus GST for each additional lot for roading in Kaipara District.

The proposed development will result in three (3) additional allotments. The total Development Contribution will be \$2,397.00 plus GST.

A copy of Council's policy on Development and Financial Contributions included within the Long Term Plan 2021-2031 can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website [www.kaipara.govt.nz/ltp](http://www.kaipara.govt.nz/ltp)

- ii) The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.
- iii) All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under the 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.

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- iv) 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.
- v) 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.
- vi) Erosion and sediment controls shall be constructed and maintained in accordance with the principles and practices contained within the Auckland Council document entitled "GD05: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region" (GD05) and Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.
- vii) Erosion and sediment controls shall be installed prior to the commencement of any earthworks (excluding earthworks required for the construction of erosion and sediment controls). A suitable qualified and experienced person shall supervise the installation of all erosion and sediment controls. The erosion and sediment controls installed shall remain in place for the entire duration of earthworks activities.
- viii) The consent holder shall implement suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site, and to control or mitigate any potential dust nuisance. All such measures shall be maintained throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.
- ix) If you disagree with any of the above conditions, or additional charges relating to the processing of this application, you have a right of objection pursuant to sections 357A or 357B of the Act. Any objection must be made in writing to Council within 15 working days of notification of decision.

**STAGE 2 – Lots 4, 5, 6, 7, 8, 9, 11 (road to vest) and 12 (reserve to vest)**

**Prior to Section 223 Certification**

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

**General**

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- a. The survey plan shall be generally in accordance with the Stage 2 of the plan of subdivision titled Proposed subdivision of Lot 9 DP 511484 – Stage 2 (Sheet 3 reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey.

#### Easements

- b. The existing easements over Stage 1 Lot 9 are cancelled.
- c. 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 and any other easements as required.

#### Utility Providers

- d. 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 to Lots 4, 5, 6, 7, 8, and 9 and show the necessary easements on the survey plan to the approval of the Council.

#### Building Areas

- e. The survey plan shall show the identified building platform on Lots 4, 5, 6, 7, 8, and 9 in general accordance with the plan of subdivision titled "Proposed Subdivision of Lot 9 DP 511484 - Stage 2 (Sheet 3 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for accurate siting for the purposes of ongoing compliance with Condition 18(p) of this consent (RM200150).

#### Revegetation Areas

- f. The survey plan shall show the identified landscape revegetation areas on Lots 4, 5, 6, 7, 8, and 9 in general accordance with the plan of subdivision titled "Proposed Subdivision of Lot 9 DP 511484 - Stage 2 (Sheet 3 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for the purposes of ongoing compliance with Condition 18(p) of this consent (RM200150).

#### Drainage Areas

- g. The survey plan shall show the identified drainage areas on Lots 4, 5, 6, 7, 8, and 9 in general accordance with the plan of subdivision titled "Proposed Subdivision of Lot 9 DP 511484 - Stage 2 (Sheet 3 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd. The survey plan is to include dimensions, areas and boundary references for the purposes of ongoing compliance with this consent (RM200150).

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Environmental Benefit / Conservation Covenant

- h. The survey plan shall show the proposed covenant generally as indicated on Lot 12 on the plan of subdivision titled "Proposed Subdivision of Lot 9 DP 511484 - Stage 2 (Sheet 3 Reference 10184/3/2/P) dated 16/05/22 prepared by Lands and Survey Ltd as being land subject to conservation covenants pursuant to Section 77 of the Reserves Act, or open space covenants pursuant to the Queen Elizabeth the Second National Trust Act 1977.
- i. An Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") in accordance with the Ecological Report prepared by Rural Design dated March 2020 shall be prepared for Lot 12 by a suitably qualified ecologist and submitted to the Council for written approval (in a certifying capacity). The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:
- (i) Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species that will enhance ecological values of local habitat.
  - (ii) An establishment and maintenance programme which includes recommendations on the frequency of maintenance and monitoring to be undertaken and the anticipated duration to achieve the objectives of the EPWCMP, including (as applicable):
    - 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.
  - (iii) The measures to be adopted to achieve, as far as is practicable:
    - 90% survivorship of planted species; and
    - 85% canopy cover of indigenous vegetation.

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- (iv) The control of pests (including but not limited to rats, mustelids, possums and freshwater pests) to ensure, as far as practicable, that the ecological gains achieved via the EPWCMP are not compromised.
- (v) All plant material should be eco-sourced from the Rodney Ecological District preferably within close proximity to the site.
- j. A specific fencing plan shall be prepared and submitted to Council for approval. The fencing plan shall detail fencing types to be adopted for the protection of the proposed covenant areas.

Reserve(s) to vest

- k. The survey plan shall show Lot 12 as reserve to vest in the Council.

Road to Vest

- l. The survey plan shall show Lot 11 as public road to vest in the Council/

Landscaping

- m. A detailed Landscape and Management Plan, prepared by a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture, for landscape revegetation on Lots 4, 5, 6, 7, 8, and 9. The Landscape and Management Plan shall include an initial monitoring and maintenance programme for a period of three (3) years, and an ongoing maintenance plan detailing maintenance in perpetuity. The Landscape and Management Plan shall be prepared and submitted to the Council for written approval (or Council's delegated representative) in conjunction with the engineering plan approval and prior to the commencement of any works. The Landscape and Management Plan shall include, but may not be limited to the following:
  - i) Objectives of the planting
  - ii) A plan of the planted areas, detailing proposed plant species, plant sourcing, plant size the time of planting, plant locations, density of planting and timing of planting
  - iii) A programme of establishment and post establishment, protection and maintenance including fertilising, removal, spraying, replacement of dead/poorly performance plants, watering to maintain soil moisture, mulch (if required) length of maintenance programme.
  - iv) Weed management plan
  - v) The siting, materials and finished levels of any paving and hardstanding
  - vi) The location, materials, height, and design of fencing and retaining walls
  - vii) Details of drainage, soil preparation, tree pits, staking and irrigation

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- viii) The construction details of all hard landscape elements including paving, fencing, gates, lighting etc. noting that no new tracks to be formed through any part of the covenanted areas. Existing tracks can be upgraded for walking for the benefit of lot owners.

#### Engineering Design

- n. The consent holder shall submit a detailed set of engineering plans, specifications and calculations, *prepared* in accordance with the Council's Engineering Standards 2011 to the Council's Development Engineer, of their delegated representative for approval.

The engineering plans, calculations and specifications shall be prepared by a suitably experienced person/s who:

- Have the appropriate experience in the relevant areas; and
- Hold appropriate qualifications and membership of professional bodies; and
- Have professional indemnity insurance to the value of at least \$1,000,000.

The engineering plans, calculations and specifications shall include, but may not be limited to the following:

- Vehicle access way design for Lot 5, including stormwater management for discharges from the accessway and details of any structures required in accordance with KDC Engineering Standards 2011
  - Design details of the construction of the road to vest in accordance with Section 5 of the Council's Engineering Standards 2011.
- b. Any stream/wetland crossings shall be designed in a manner that does not impede fish passage. Any new or replacement culverts installed within the site(s) shall provide for fish passage in accordance with the New Zealand Fish Passage Guidelines.

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

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

#### Utility Connections

- (a) Electricity connections shall be provided to the boundary of the net site area of Lots 4, 5, 6, 7, 8, and 9 and all cabling shall be underground. The consent holder shall provide confirmation from the network utility supply authority/authorities of compliance with this condition.

#### Easements

- (b) The consent holder shall provide written confirmation from a licensed cadastral surveyor that all services and accesses constructed under this consent are located within the appropriate easement boundaries.
- (c) Existing consent notices as they relate to Stage 1 Lot 9 are cancelled.

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### Engineering

- (d) All works on the engineering plans approved under Condition 17(n) of this consent are to be completed to the approval of the Council's Development Engineer, or their delegated representative.

Compliance with this condition shall be determined by the following:

- iii) Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by Condition 17(n) of this consent;
- iv) 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.

### Remediation of Damages

- (e) In the event of any damage to any of the Council's footpath, stormwater kerb and channel, road carriageway formation, street berm and urban services by the works associated with the subdivision, the consent holder shall reinstate it in accordance with Section 3 of the Council's Engineering Standards 2011.

### As-Built Plans

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

The consent holder/consent holder's contractor shall supply the required As-Built details in hard copy and electronic (AUTOCAD) format. Co-ordinates shall be in New Zealand Transverse Mercator NZTM2000.

### RAMM Data

- (g) The consent holder shall submit certified Road Asset Maintenance Management (RAMM) data for all new/upgraded or extended vehicle crossing culverts prepared by a suitably qualified person in accordance with the Council's Engineering Standards 2011 to the satisfaction of the Council's Development Engineer, or their delegated representative.

### Landscaping – Private Land

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- (h) All works described in the approved Landscape and Management Plan, required under Condition 17(m) of this consent, as located on Lots 4, 5, 6, 7, 8 and 9, shall be implemented to the satisfaction of the Council.
- (i) The consent holder shall provide a completion report from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture to the satisfaction of the Council, and the Council will undertake inspections as required to confirm compliance.

Environmental Benefit

- (j) All animal pest control works described in the approved Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP") approved by Condition 17(i), shall be implemented to the satisfaction of the Council.
- (k) The consent holder shall provide a completion report from a suitably qualified animal pest control professional to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.
- (l) The consent holder shall continue to maintain all plantings and weed/pest control within the Reserve to Vest on Lot 12 for a period of three (3) years following certification from the Council that the works has been implemented in accordance with the approved EPWCMP. At the completion of the three (3) year monitoring and maintenance period, the responsibility for the maintenance of the reserve shall revert to the Council.
- (m) A maintenance bond will be payable for all planting established under this consent. The bond shall be held for a period of three (3) years from the issue of the Section 224(c) Certificate. The amount of the bond shall be agreed by Council, shall be assessed on current Council contract rates, and shall include a sum to cover the replacement of plants, trees and other landscape components that are missing at the end of the maintenance period.

Conservation Covenant

- (n) A Conservation covenant(s) in accordance with Section 77 of the Reserves Act 1977 shall be prepared for registration against the titles of the land depicted on the Survey Plan as being subject to a conservation covenant. A conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document.
  - (i) Provisions of Schedule 2 of the approved Council conservation covenant document shall be amended to allow public access but strictly no new tracks to be formed through any part of the covenanted areas. Existing tracks can be upgraded for walking only.
- (o) The consent holder must erect and maintain fencing in stock proof condition around the boundary of the covenant area as is necessary to prevent entry to the covenant area by grazing animals, but not closer to the bush than the drip-line of the outmost tress. The standard of that fencing is to be a 7-wire fence with posts no more than five metres apart and with a minimum of five battens

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between each post and otherwise is to be as defined in paragraph 6 of the second schedule to the Fencing Act 1978.

Consent Notice/On-going conditions

- (p) Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity and shall be registered on the Lots 4, 5, 6, 7, 8, 9, and 12 by way of Consent Notice(s).

*In regards to Lots 4, 5, 6, 7, 8 and 9*

**General**

- (i) Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the report titled "Geotechnical Investigation", dated 29 May 2020, prepared by Wiley Geotechnical, and submitted to Council with subdivision consent RM200150.
- (ii) Use of the lot for industrial activity, as defined in the Kaipara District Plan, is prohibited.

**Landscape and Amenity Planting Maintenance**

- (iii) All landscape and amenity planting on site shall be maintained in perpetuity in accordance with the approved Landscape and Management Plan approved under resource consent RM200150. Diseased dying or dangerous plants must be removed and replaced in accordance with the approved Landscape and Management Plan.
- (iv) Evidence of compliance with this requirement shall be provided to Council in writing from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture five (5) years from the date of issue of the Section 224(c) certificate for RM200150
- (v) Maintenance of planting will be monitored by Council for a period of five years from the date of issue of the Section 224(c) certificate. There will be a Council charge for this monitoring payable by the lot owner.

**Ecological Control**

- (vi) The keeping of cats, mustelids and rodents on the lots is prohibited.
- (vii) Dogs shall not be kept on the lot unless the following conditions are complied with:
  - 1. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may include

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containment in a run, kennel, or equivalent housing, and only allowed out of containment when on a lead or leash.

2. Disability and assistance dogs may have free access to properties in accordance with allowances under disability legislation, with the exception that they shall not run free or enter protected covenanted areas unattended.
3. Search and Rescue dogs shall have access to protected areas when an emergency requires their use.
4. Pest control and conservation dogs shall be allowed in protected covenanted areas under strict control of handlers when being used for the specific purpose of pest control and/or research.
5. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

#### **Firefighting Water Supply**

- (viii) Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round.
- (ix) Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial land use on the lot. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).

#### **Built Development/Design Guidelines**

- (x) All buildings must be located wholly within the identified building platform shown on the survey plan.
- (xi) The design guidelines within Appendix 2 of the Assessment of Landscape, Rural Character and Visual Amenity Effects dated 18 June 2020 prepared by Simon Cocker Landscape Architects shall apply to development on the lots and shall be confirmed via a design statement from a suitably qualified and experienced landscape architect in support of a building consent application.

#### **Vehicle access**

- (xii) At the time of lodging a building consent on the lot and before issuing a Code of Compliance for that building, evidence of a driveway must be provided to the Council which meets the requirements of the Kaipara District Council Engineering Standards 2011.

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- (xiii) At the time of building consent, the owner of any lot obtaining access directly from a vested road, shall construct the vehicle entrance crossing and the associated stormwater infrastructure in accordance with Council's Engineering Standards 2011. Entrance crossings are to be designed and constructed in such a manner that will control stormwater run-off entering a property from the road, and that likewise prevent stormwater and detritus, including gravel, dirt and other materials, migrating onto the road reserve from a property.

A vehicle crossing permit shall be sought and granted prior to the construction of any vehicle crossing onto a vested road.

#### **Telecommunications**

- (xiv) Hard wired telecommunications have not been provided to the boundary of the lot. Kaipara District Council will not be responsible for the provision of such services. Wireless telecommunications are available.

#### *In regards to Lot 8*

- (i) Archaeological sites R08/251 and R08/252 are located within or close to this lot, and that any further development outside the areas indicated in the Scheme Plan and any ground disturbance, including planting, around the identified sites shall be subject to further archaeological advice and obtaining an archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014
- (ii) Archaeological sites are protected pursuant to the Historic Places Act 1993. The Heritage New Zealand Pouhere Taonga Act 2014 provides protection for all archaeological sites, whether recorded or not. It is unlawful to modify or destroy an archaeological site without the prior authority of Heritage New Zealand Pouhere Taonga.

#### *In regards to Lot 12*

- (i) No dwelling shall be constructed on Lot 12.
- (ii) Use of the lot for industrial activity, as defined in the Kaipara District Plan, is prohibited
- (iii) No power has been provided to Lot 12.

#### **Ecological Planting Maintenance, Weed and Animal/Pest Control**

- (iv) All ecological planting on site shall be maintained in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM200150.

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- (v) Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM200150.
- (vi) Ongoing weed and animal/pest control shall be undertaken in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM200150.
- (vii) Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM200150.
- (viii) The keeping of dogs, cats, mustelids and rodents on Lot 12 is prohibited.

Solicitors Undertaking

- (q) A solicitor's undertaking shall be provided to Council confirming that all consent notices, cancellation of consent notice, 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 or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the consent holder's expense.

*Advice note: The required cancellation of consent notice and new consent notice registration must occur concurrently.*

Construction Maintenance Bond

- (r) The consent holder shall enter into a bond as security against any defect in performance of the roading works within Lot 11 Road to Vest completed under this consent. The value of the bond shall be for 25% of the total cost of the roading works based on actual construction costs.
  - (i) The bond shall remain in force for at least one year after completion of the work and until any defects have been remedied to the satisfaction of the Council.
  - (ii) The bond shall be prepared by Council or Council's solicitor at the consent holder's expense.
  - (iii) 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)

(Note: for the avoidance of doubt the works will be considered to be defective until the Falling Weight Deflectometer (FWD) or Benkelman Beam (BB) testing of the completed pavement in the Spring following completion of the construction works demonstrates a residual life of at least 25 years (FWD) or the minimum deflections (BB).

Advice Notes

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- i) The consent holder shall be required to pay to Kaipara District Council a Development Contribution under the Local Government Act 2002 of \$799.00 plus GST for each additional lot for roading in Kaipara District.

The proposed development will result in five (5) additional allotments. The total Development Contribution will be \$3,995.00 plus GST.

A copy of Council's policy on Development and Financial Contributions included within the Long Term Plan 2021-2031 can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website [www.kaipara.govt.nz/ltp](http://www.kaipara.govt.nz/ltp)

- ii) The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.
- iii) All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under the 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.
- iv) 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.
- v) 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.
- vi) Erosion and sediment controls shall be constructed and maintained in accordance with the principles and practices contained within the Auckland Council document entitled "GD05: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region" (GD05) and Section 4, Land Stability and Earthworks of the current Kaipara District Council's Engineering Standards 2011.
- vii) Erosion and sediment controls shall be installed prior to the commencement of any earthworks (excluding earthworks required for the construction of erosion and sediment controls). A suitable qualified and experienced person shall supervise the installation of all erosion and sediment controls. The erosion and sediment controls installed shall remain in place for the entire duration of earthworks activities.
- viii) The consent holder shall implement suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site, and to control or mitigate any potential dust nuisance. All such measures shall be maintained

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throughout the entire duration of the construction period. The council reserves the right at all times to stop the works in and during periods of high winds.

- ix) If you disagree with any of the above conditions, or additional charges relating to the processing of this application, you have a right of objection pursuant to sections 357A or 357B of the Act. Any objection must be made in writing to Council within 15 working days of notification of decision.

### **5. Reasons for the Decision**

1. A decision was made under delegated authority to process the consent on a limited notified basis as per the Council's accompanying Notification Assessment Report dated 20 December 2021
2. In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
3. In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal consistent with the relevant objectives and policies of Kaipara District Plan 2013 and the Northland Regional Policy Statement.
4. In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
5. The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in the Section 5.

Reporting Planner



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18/03/2022

Dwayne Daly

Date

Signed



-----

23/05/2022

Wendy Robinson

Date

Resource Consents Manager

**Kaipara District Council**

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

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**RM200150**

**Section 104 of the Resource Management Act 1991 - Assessment Report**

Details of Application	
<b>Applicant</b>	Collier Properties Limited
<b>Property to which the consent relates</b>	Sandhill Heights, Mangawhai, LOT 9 DP 511484, RT85378

**1.0 Description of proposal, site and locality**

The Site

1. The site is an 18.1315-hectare lot on the outskirts of Mangawhai that is zoned Rural (Mangawhai Harbour Overlay). The site has a varied topography being higher and undulating to the south and generally flat and lower to the north. The site is currently a rural production lot and is primarily pasture with scattered exotic trees. There are no dwellings or other buildings on site. The central portion of the site also contains a degraded wetland. There is vehicle access to the site from both Black Swamp Road and Sandhill Heights. The site also contains two registered archaeological sites being R08/251 and R08/252, which are gum-digging holes.
2. The surrounding area to the west along Coal Hill Road is predominantly rural-lifestyle in nature. Land to the south and east (within Auckland district) is characterised by rural-production lots. Land to the north is a mixture of land uses but retains a predominantly rural character.
3. Lands and Survey has provided an AEE in support of the application that provides a description of the site and the surrounding area. The application also includes the following specialist documents;
  - Ecological Report prepared by Rural Design dated March 2020
  - Assessment of Landscape, Rural Character and Visual Amenity Effects prepared by Simon Cocker Landscape Architecture dated 18 June 2020
  - Archaeological Survey and Assessment prepared by Horizon Archaeology dated 13 July 2020
  - Cultural Effects Assessment prepared by Te Uri o Hau / Environs Ltd dated July 2020
  - Geotechnical Report prepared by Wiley Geotechnical dated 20 May 2020

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4. These documents provided a detailed description of the site with respect to their areas of specialisation. Having undertaken a site visit on 30 August 2020 and 15 September 2020, I concur with that description of the site and have no further comment.

#### The Proposal

5. The application as lodged sought to subdivide the site to create the followings lots in two stages;

##### Stage One

- Lot 1 – 3.17 hectares
- Lot 2 – 1.48 hectares
- Lot 3 – 1.07 hectares
- Lot 9 – balance lot

##### Stage 2 (Subdivision of Lot 9)

- Lot 4 – 0.89 hectares
- Lot 5 – 0.944 hectares
- Lot 6 – 0.807 hectares
- Lot 7 – 0.93 hectares
- Lot 8 – 1.7 hectares
- Lot 9 – 7.13 hectares

6. The proposal includes restoration and protection of 3.6 hectares of onsite wetland and planting of an additional 3.24 hectares. The proposal also included a series of conditions of consent / consent notices (p9 – 12 of the AEE) relating to the following matters;

- Staging
- Vesting of reserves
- Earthworks
- Engineering
- Ecology / Environmental Benefit
- Landscape Planting
- Archaeology
- Utilities and onsite services
- Fire-fighting

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Figure 1. Proposed Stage 1 at lodgement.



Figure 2. Proposed Stage 2 at lodgement.

7. Council requested further information pursuant to Section 92 of the Act in a letter dated 31 August 2020. The matter sought further information/clarification relating to the following matters;

- Earthworks

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- Engineering details relating to stormwater, wastewater and vehicle access
- Additional consents required, including Northland Regional Council consents
- Availability of wireless telecommunications
- Contamination / HAIL assessment
- Provision of a CEA
- Provision of a draft Integrated Development Management Plan
- Provision of connectivity and shared spaces
- Ecological matters
- Consideration of the Mangawhai Design Guidelines
- Consideration of non-residential activities (e.g., commercial and industrial)
- Reverse sensitivity
- Missing title documents and typographical errors

8. The applicant provided a series of responses as follows;

- AEE Addendum and supporting documents - 6 October 2020
- AEE Addendum and supporting documents – 27 October 2020
- AEE Addendum – 23 December 2020
- AEE Addendum and supporting documents – 8 July 2021 / 10 July 2021

9. The responses addressed the matters raised in Council's request for information and included a revised proposal (Figures 3 and 4) including vesting of road and the vesting of the ecological feature in Council. The proposal also included amended and additional conditions of consent (detailed in the AEE addendum dated 8 July 2021).

10. The applicant seeks to subdivide the site to create the followings lots in two stages;

#### Stage One

- Lot 1 – 0.74 hectares
- Lot 2 – 1.00 hectares
- Lot 3 – 1.00 hectares
- Lot 9 – balance lot
- Lot 10 – 2.75 hectares (vested in Council as reserve)

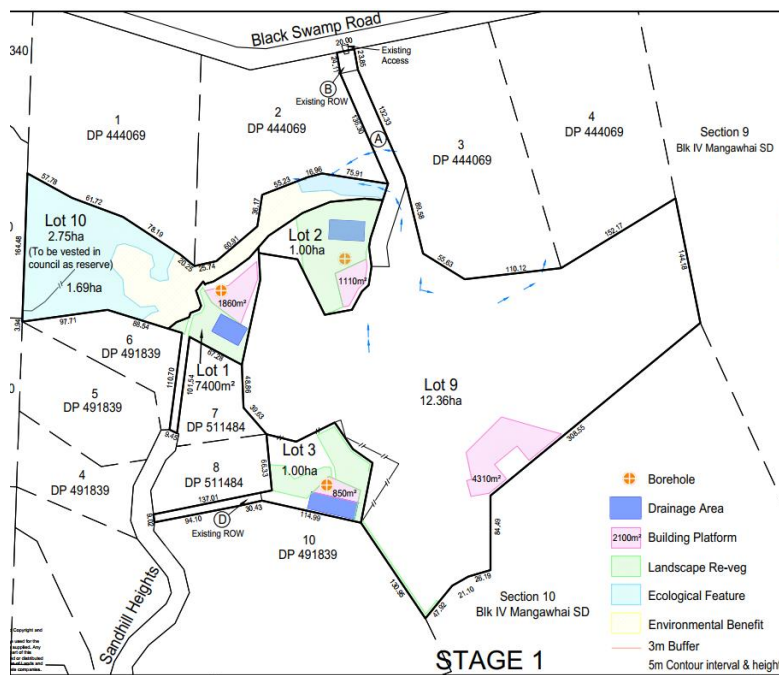
#### Stage 2 (subdivision of Lot 9)

- Lot 4 – 0.89 hectares
- Lot 5 – 0.94 hectares

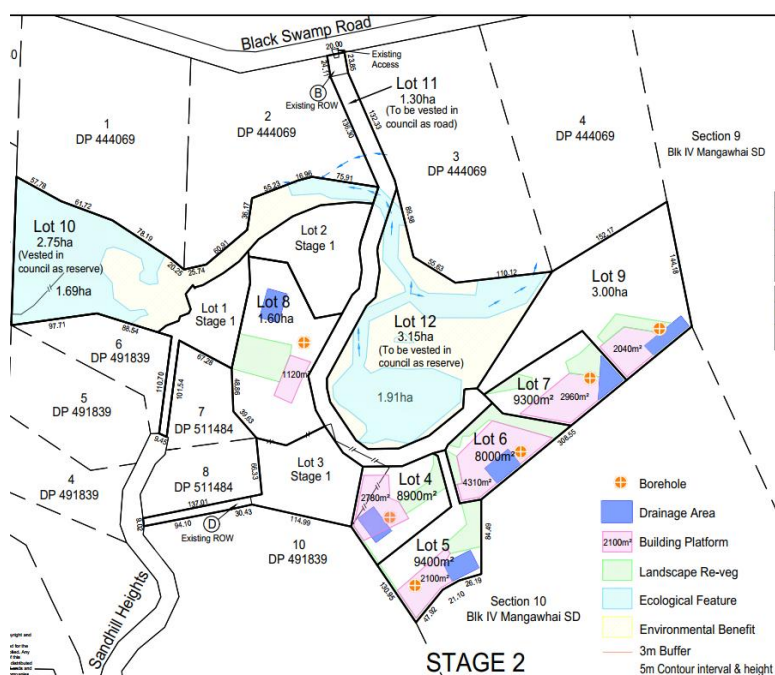
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- Lot 6 – 0.80 hectares
- Lot 7 – 0.93 hectares
- Lot 8 – 1.6 hectares
- Lot 9 (Stage 2) – 3.0 hectares
- Lot 11 – 1.3 hectares (vested in Council as road)
- Lot 12 – 3.15 hectares (vested in Council as reserve)



**Figure 3. Amended Stage 1**



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Figure 4. Amended Staged 2

## 2.0 Consent History

11. Consent Notices 8550963.1, 9592388.2 and 9592388.2 are registered against the title. These consent notices are proposed to be removed from the titles and achieved through replacement consent notices which tidy up the titles and remove duplication.

## 3.0 Kaipara District Plan (Operative 2013) Rule Assessment

12. The following apply to the subject property

Zoning: Rural Zone

Overlays: Mangawhai Harbour Overlay

Rules: 12.13.4 – Integrated Development – Consent is sought to establish nine lots, which exceeds the maximum obtainable lots limit specified under the calculation methodology of Rule 12.13.4(4)(b). Consequently, resource consent is required as a Non-Complying Activity under Rule 12.9.4.

12.10.1a – Excavation and Fill – The proposal does not comply as the proposal is anticipated to require earthworks of approximately 13,900m<sup>2</sup>. Consequently, resource consent is required as a Restricted Discretionary Activity

12.15.8 – Telecommunications – The proposal does not comply as the proposal does not provide for in-ground telecommunications to the boundary of the lots. Instead, wireless telecommunications are proposed. Consequently, resource consent is required as a Restricted Discretionary Activity.

Activity Status: Non-Complying Activity

## 5.0 Notification Assessment

13. A decision was made under delegated authority to process the consent on a limited-notified basis as per the Council's accompanying Notification Assessment Report.
14. It was considered that the owners / occupiers of the following two properties would be adversely affected by the proposal to at least a minor degree:

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- Lot 1 DP 444069
- Lot 2 DP 444069

15. The applicant deferred the application on 27 July 2021 to obtain written approval from the owners and occupiers of the lots. Written approval from the owner and occupier of Lot 1 DP 444069 was obtained by the applicant. Consequently, adverse effects on this person were disregarded accordingly.
16. The proposal was notified to the owners / occupiers of Lot 2 DP 444069 on 12 January 2022. A submission was received from David Medland-Slater, the owner / occupier of Lot 2 DP 444069, seeking the application be declined unless his concerns relating to planting along their boundary and traffic movements generated by the proposal were addressed. The submitter indicated that they wished to be heard at a hearing regarding these matters.
17. In response, the applicant stated that they wished to negotiate with the submitter to address their concerns and defer the application under Section 37 of the Act to do so.
18. The applicant provided written confirmation to Council via email that their submission was withdrawn on 23 February 2022.

## **6.0 Statutory Acknowledgements**

19. Relevant to this application, any statutory acknowledgement within the meaning of the Act specified in Schedule 11 would be contained within the Te Uri o Hau Claims Settlement Act 2002. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) authorised to participate in the Resource Management Act 1991 proceedings.
20. Environs Holdings Ltd (on behalf of Te Uri o Hau) submitted a Cultural Effects Assessment in support of the proposal, subject to several recommendations, which the applicant has adopted.

## **7.0 Section 104D – Non-Complying Activities**

21. Pursuant to Section 104D of the Act if a proposal is a non-complying activity then it must pass at least one of the tests of either Section 104D(1)(a) or Section 104D(1)(b) before an application can be assessed to make a decision under Section 104B of the Act. If the application fails both tests of Section 104D then the application must be declined
22. It is considered that, subject to appropriate conditions of consent, the proposal satisfies the threshold test of Section 104D because, as demonstrated in this report. The adverse effects on the environment would be no more than minor and, as concluded in this report, the proposal would not be contrary to the Objectives and Policies of the Kaipara District Plan 2013. It is therefore concluded that the application meets both of the

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tests of Section 104D of the Act. The application can be assessed against the provisions of Section 104B of the Act and a substantive decision made.

## **8.0 Section 104(1)(a) – Actual & Potential Effects on the Environment**

### Trade Competition

23. With regard to Section 104(3)(a)(i), there are no known issues in the consent application or as a result of the submission process that raise questions of trade competition or the effects of trade competition.

### Written Approvals

24. With regard to Section 104(3)(a)(ii), the Council must not have regard to the effects on those persons who have given written approval to the application. The following persons/parties have provided written approval:

- Keith Paterson – Lot 1 DP 444069 (120 Black Swamp Road)

### Permitted Baseline

25. In accordance with Section 104(2), the Council may disregard an adverse effect of an activity on the environment if the Plan or a National Environmental Standard permits an activity on the site with that effect (commonly referred to as the 'permitted baseline' test). The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the Plan or NES irrelevant. The baseline has been defined by case law as comprising non-fanciful (credible) activities that would be permitted as of right by the plan in question.
26. In this case, there is no permitted baseline for subdivision as no subdivision is permitted by the Kaipara District Plan. However, for the application site, the following land-use activities with comparable effects are permitted.
- A single residential dwelling, complying with the relevant performance standards of the District Plan.
  - A commercial or industrial activity, complying with the relevant performance standards of the District Plan.
  - A rural-production activity complying with the relevant performance standards of the District Plan.

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### Receiving Environment

27. The 'environment' upon which effects are to be assessed comprises the exiting and reasonably foreseeable future environment. In identifying the environment, it is necessary to consider the environment as it is at the time of application, and the likelihood of change to that environment in the future, based upon the activities that could be carried out as a right or with respect to resource consents that have been granted (where it is likely that they will be given effect to).

### Existing Environment

28. The existing environment is described in Section 1 of this report and in the various specialist reports submitted in support of the application.

### Future Environment as anticipated under the Operative District Plan

29. The future environment anticipated under the Operative District Plan would consist of the following activities;
- Rural production activities complying with the relevant performance standards of the District Plan.
  - Residential activities complying with the relevant performance standards of the District Plan.
  - Commercial or industrial activities complying with the relevant performance standards of the District Plan.
  - Infrastructure complying with the relevant performance standards of the District Plan.

### Unimplemented Resource Consents

30. There are no unimplemented resource consents that are likely to be implemented either on the site or in the surrounding environment that require specific consideration with respect to the proposal.
31. As a non-complying activity, the Council is unrestricted in its consideration of adverse effects on the environment from the proposal. Taking into account the details of the proposal, including relevant technical reports provided, and having undertaken a site visit to verify the site conditions and receiving environment, an assessment of potential adverse effects of the activity on the environment is provided below.

### Assessment of Effects

#### Landscape and Visual Effects

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32. The report from Simon Cocker Landscape Architecture (SCLA) submitted in support of the application drew the following conclusions about the proposal;

“It will result in a low adverse landscape and rural character effect, although it will create a change in the character of the landscape. The site will, on completion of the subdivision and associated plantings, exhibit a rural residential character, with built development contained within a vegetative structure which reflects the hydrological patterns of the site. This will reflect the existing character of adjoining landscapes, and it is the opinion of the author that the development will display a comprehensive structure that is present in development within the contextual landscape. Once the mitigation plantings have become established, the proposal will generate a maximum of low (less than minor) adverse visual amenity effects for all potential viewers”

33. Council engaged Evolve Planning and Landscape Architecture (Evolve) to undertake a peer review of the report from SCLA. Evolve concluded that;

“It is my opinion that the general intent of the proposed development and mitigation proposed is generally appropriate aside from building platforms situated on Lots 2, 5 and 8. It is my opinion that the proposed building platforms within Lots 2 and 8 which are situated on the ridge and a predominant landform are not appropriate and cannot be adequately mitigated to a level of less than minor by the level of migration proposed.”

34. Discussions between Council and the applicant’s specialists centred around this matter. The applicant proposed various iterations to address this concern. Building platforms on Lot 2 and 8 were reduced in size, the location was amended, and planting was increased to address the landscape and visual effects. Evolve concluded that based on the amended proposal, effects on the wider landscape would not be more than minor.

#### Ecology

35. The report From Rural Design submitted in support of the application drew the following conclusion about the proposal;

“It is considered that the proposed restoration and enhancement plantings within the body of this report (and as shown on the Proposed Revegetation and Protection Areas Plan (Appendix 1) along with separate and robust Ecological Planting and Pest Management Plan following recommendations in this report will achieve the function of ecological restoration and improve existing and provide extensions, corridors, buffers and linkages with surrounding significant natural

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areas and enhance the overall biodiversity values and therefore constitutes an ecological benefit in accordance with Appendix 25G.”

36. Council engaged Ecology Solutions Ltd to undertake a peer review of the report from Rural Design. Ecology Solutions concurred with the conclusions of the Rural Design but proposed additional conditions of consent, which the applicant subsequently adopted. Consequently, any adverse ecological effects on the wider environment are considered less than minor.

#### Cultural Heritage and Heritage

37. The report from Horizon Archaeology submitted in support of the application drew the following conclusion about the proposal;

“The subdivision proposal will result in the creation of additional lots and a change from dry stock grazing to more intensive rural residential use. The proposed areas of earthworks, building and drainage in Lot 8 have a low potential for impact on the newly recorded archaeological features.”

38. However, to address potential adverse effects on any unidentified sites, the report recommends a series of conditions of consent, which form part of the application.
39. Heritage New Zealand Pouhere Taonga (HNZ) were consulted regarding the proposal. HNZ supported the conclusions and recommendations of the Horizons Archaeology report but suggested amendments to the conditions (email dated 23 February). The applicant confirmed that they were happy to adopt the suggested changes.
40. Environs Holdings Ltd (on behalf of Te Uri o Hau) submitted a Cultural Effects Assessment in support of the proposal, subject to several recommendations, which the applicant has adopted. Consequently, any adverse effects on the wider environment are considered less than minor.

#### Site Suitability & Geotechnical Matters

41. The report from Wiley Geotechnical submitted in support of the application concluded that;

“It is our opinion that the proposed development is feasible from a geotechnical point of view, provided the recommendations presented in this report and standard development practices are incorporated in the design and construction of the project.”

42. The recommendations include specific recommendations for on-site services (e.g., wastewater) as well as geotechnical matters. Council's Development Engineer, Prasad Sappa, has reviewed the application and has raised no concerns regarding the finalised proposal, subject to the recommendations of the Wiley

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Geotechnical report, which form part of the proposal. Consequently, any adverse effects on the wider environment are considered less than minor.

#### Utilities

43. The applicant has confirmed that electricity can be provided to the boundary and that wireless telecommunications are proposed. A consent notice is also offered so that future owners are alerted the absence of in-ground telecommunications. Consequently, any adverse effects are considered less than minor.

#### Traffic & Rooding

44. The applicant has proposed to construct a road from Black Swamp Road to service the new subdivision. The road would be constructed in accordance with Council's Engineering Standards 2011 and vested in Council. The Northland Transport Alliance, on behalf of Council, have reviewed and accepted the proposal. The proposal has also been reviewed by Council's Development Engineer, who has no concerns regarding the proposal.
45. The lots would be provided with suitable vehicle access to the vested road. The applicant has also offered a condition of consent restricting any commercial or industrial activity on the proposed lots so that any such activity must be ancillary to a residential dwelling. The proposal therefore also adequately addresses potential cumulative effects of increased traffic to and from the lots. Consequently, any adverse effects on the wider traffic network are considered less than minor.

#### Reverse sensitivity

46. The site is situated within an area that already contains rural-lifestyle development. However, to address any potential reverse sensitivity conflicts with surrounding rural-production activities, the applicant has offered a consent notice drawing future owners' attention to existing land-use activities and prohibiting formal complaints against any such activity that is lawfully established. Consequently, any reverse sensitivity effects on the wider environment are considered less than minor.

#### Cumulative Effects

47. As discussed above, the proposal adequately avoids, remedies or mitigates any adverse effects on the wider environment and there any cumulative effects that arise on the wider environment are considered less than minor.

#### Conclusion

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48. In summary having assessed the effects of the activity, subject to compliance with conditions it is considered that the activity will result in no more than minor and acceptable, adverse effects on the environment.

## **9.0 Section 104(1)(b) – Provisions of Standards, Policy Statements and Plan**

### **National Environmental Standards**

*National environmental standards (NESs) are regulations issued under section 43 of the Resource Management Act 1991.*

49. The National Environment Standards in effect are;

- National Environmental Standards for Air Quality
- National Environmental Standards for Sources of Drinking Water
- National Environmental Standards for Telecommunication Facilities
- National Environmental Standards for Electricity Transmission Activities
- National Environmental Standards for Assessing and Managing Contaminates in Soil to Protect Human Health
- National Environmental Standards for Plantation Forestry
- National Environmental Standards for Freshwater
- National Environmental Standards for Marine Aquaculture

50. The applicant has confirmed via email dated 20 May 2021 that resource consent under the NES-Freshwater is required as a Non-Complying Activity for earthworks within 10m of a wetland. The applicant is required to seek and obtain resource consent from the Northland Regional Council prior to any works commencing. There are no other National Environmental Standards that directly relate to the proposal.

### **National Policy Statements**

*National policy statements (NPSs) are instruments issued under section 52(2) of the Resource Management Act 1991.*

- National Policy Statement on Urban Development
- National Policy Statement for Freshwater Management
- National Policy Statement for Renewable Electricity Generation
- New Zealand Coastal Policy Statement

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51. Subject to granting of consent under the NES-Freshwater by the Northland Regional Council and compliance with any conditions, the proposal can be considered to adequately address the relevant objectives and policies of the NPS-Freshwater Management. No other National Policy Statements are relevant to the proposal.

**Regional Policy Statement**

***Northland Regional Policy Statement 2016***

52. The following objectives and associated policies are considered relevant;

- 3.1 Integrated catchment management
- 3.2 Region-wide water quality
- 3.4 Indigenous ecosystems and biodiversity
- 3.5 Enabling economic wellbeing
- 3.6 Economic Activities – reverse sensitivity and sterilisation
- 3.11 Regional Form
- 3.12 Tangata Whenua role in decision making
- 3.14 Natural Character, outstanding natural landscapes and historic heritage

53. The proposal is considered to be consistent with the objectives and policies as adequate measures will be in place to address earthworks, and future development on the lots will be required to provide on-site stormwater and on-site wastewater management. The proposal also provides a suitable environment benefit that provides for the restoration of a degraded wetland. Suitable design controls are proposed to manage future built-form on the lots. Also, Te Uri o Hau have been consulted and are supportive of the proposal.

**Regional Plans**

***Proposed Regional Plan for Northland***

54. The applicant has confirmed that resource consent is required under the Proposed Regional Plan for Northland. The applicant is seeking the appropriate consents and works cannot commence until resource consent is granted by the Northland Regional Council.

**Kaipara District Plan 2013**

55. The following objectives and associated policies are considered relevant to the proposal:

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- Chapter 3: Land Use and Development Strategy – 3.4.1 / 3.4.2 / 3.4.3 / 3.4.4
- Chapter 3A: Mangawhai Growth Area - 3A.4.2
- Chapter 4: Overlays – 4.4.1 / 4.4.2 / 4.4.11 / 4.4.12 / 4.4.13
- Chapter 12: Rural Zone - 12.5.2 / 12.5.3 / 12.5.4 / 12.5.6 / 12.5.8 / 12.5.10

### Conclusion

56. The proposal is considered to be consistent with the objectives and policies as the proposal is generally in alignment with the pattern of development anticipated under the Integrated Development Rule (albeit with one additional lot). The proposal provides adequate measures to address earthworks, future development on the lots will be required to provide on-site stormwater and on-site wastewater management, appropriate vehicle access is provided, and suitable design controls are proposed to manage future built form on the lots. The proposal also provides a suitable environment benefit that provides for the restoration of a degraded wetland. Consequently, the proposal would maintain the rural amenity and character while enhancing the ecological values of the environment.

## **10.0 Section 104(1)(c) - Other Matters**

### Contributions

#### *Reserves Contribution*

57. Section 22.10.6 of the District Plan sets out the amount of reserves contributions for subdivision of land for principally residential purposes where lots can accommodate a residential dwelling at 5% of the value of a 4000m<sup>2</sup> building site on a rural lot. In this case, Lots 10 and 12 (at Stage 1 and 2 respectively) will be vested to Council as reserves and it is considered that contribution meets Chapter 22 of the District Plan.

#### *Development Contribution*

58. The Local Government Act 2002 provides the Council with the ability to charge development contributions for increased capacity on existing Council assets in accordance with Council policy. The consent holder would be required to pay development contributions for the eight additional undeveloped lots.

### *Spatial Plans*

59. The Mangawhai Spatial Plan is a non-statutory document that is intended to inform development of the next Kaipara District Plan. Although, little weight can be given to this non-statutory document, it is noted that

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granting of the proposal would not create development that would be contrary to the use of the land anticipated by the Mangawhai Spatial Plan.

### **Precedent**

60. A precedent effect is not an effect on the environment but rather it is a consideration of how a decision to allow the proposed activity may subsequently lead to subsequent similar applications being granted (in the sense of like cases being treated alike). The matters of precedent and District Plan integrity are considered relevant for this application.
61. Although the proposal is non-complying due to the proposed creation of 9 rather than 8 lots, the proposal provides for an Ecological Environmental Benefit that is substantially larger than the minimum requirements under the rule. Consequently, the proposal is not considered to set an undesirable precedent.

## **11.0 Section 37 Extension**

62. Section 37 of the Act provides for a consent authority to extend a time period specified in the Act. Under Section 37A(4)(b) of the Act, a consent authority may extend the time period (up to no more than twice the maximum specified in the Act), where either
- (i) Special circumstances apply (including special circumstances existing by reason of the scale of complexity of the matter) or
  - (ii) The applicant agrees to the extension, and the authority has taken into account –
    - a) The interests of any person who in its opinion, may be directly affected by the extension or waiver, and
    - b) The interests of the community in achieving adequate assessment of the effects of a proposal, policy statement, or plan, and
    - c) Its duty under Section 21 to avoid unreasonable delay.

63. As discussed previously in this report, the applicant sought deferral of the application under Section 37 to negotiate with a submitter opposed to the application.

## **12.0 Section 106 Assessment**

64. Pursuant to Section 106(1)(a) Council may refuse subdivision consent if the land is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. The site is

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not located in area identified as susceptible to flooding or other hazard in the Kaipara District Plan, nor does it contain any geological features.

65. Pursuant to Section 106(1) (c) Council may refuse subdivision consent if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision. The proposed development provides for each proposed Lot to gain access via a road to vest and suitable vehicle access within each lot would be provided at the time of building consent for habitable buildings and dwellings on the lots.

### **13.0 Part 2 of the Act**

66. Whilst it is accepted that the relevant plans as detailed in the above assessment have been competently prepared in accordance with Part 2 of the Act, for completeness an assessment of Part 2 matters is included below.

#### **Section 5 – Sustainable Management Purpose of the Act**

67. Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources, with sustainable management defined in Section 5(2).
68. It is considered that the proposal will promote the sustainable management of natural and physical resources as the proposal provides for the economic and social wellbeing of the community by providing additional lots for residential development, while providing suitable measures to address adverse effects and provides for the enhancement of a wetland ecosystem.

#### **Section 6 – Matters of National Importance**

69. Section 6 of the Act sets out matters of national importance that a consent authority must recognise and provide for. The following matters of national importance are relevant to the proposal.
- (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:
70. The proposal also provides a suitable environment benefit that provides for the restoration of a degraded wetland.

#### **Section 7 – Other Matters**

71. Section 7 of the Act sets out other matters a consent authority must have particular regard to. The following matters are considered relevant:

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- b) the efficient use and development of natural and physical resources:
- c) the maintenance and enhancement of amenity values:
- d) intrinsic values of ecosystems:
- f) maintenance and enhancement of the quality of the environment:
- g) any finite characteristics of natural and physical resources:

72. The proposal provides an ecological benefit, suitable development and design controls, and a pattern of development that is generally consistent with the area. The proposal therefore has adequate regard for the above matters.

### **Section 8 – Treaty of Waitangi**

73. Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Environs Holdings Ltd (on behalf of Te Uri o Hau) submitted a Cultural Effects Assessment in support of the proposal, subject to several recommendations, which the applicant has adopted.

## **14.0 Reasons for the Decision**

1. A decision was made under delegated authority to process the consent on a limited notified basis as per the Council's accompanying Notification Assessment Report dated 20 December 2021
2. In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the activity on the environment are considered to be acceptable.
3. In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal consistent with the relevant objectives and policies of Kaipara District Plan 2013 and the Northland Regional Policy Statement.
4. In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application.
5. The Council has taken into account the relevant principles outlined in Sections 6,7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in the Section 5.

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Reporting Planner



-----  
Dwayne Daly

18/03/2022

Date

Signed



-----  
Wendy Robinson  
Resource Consents Manager

**Kaipara District Council**

23/05/2022

Date

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

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