

FAR NORTH DISTRICT COUNCIL

**FAR NORTH OPERATIVE DISTRICT PLAN
DECISION ON RESOURCE CONSENT APPLICATION (COMBINED)**

Resource Consent Number: 2180514-RMACOM

Pursuant to section 104, 104B and 133A of the Resource Management Act 1991 (the Act), the Far North District Council hereby grants resource consent to:

Far North Holdings Limited

To undertake the following activities:

- Subdivision to create 18 residential lots (Lots 1 - 17 and 20), one lot retained as a bush covenant lot (Lot 18), and a balance Lot 23¹. The proposed residential and bush covenant lots will be contained within the Coastal Residential Zone, while balance Lot 23 will contain land subject to Industrial and Recreational Activities Zones. Proposed Lots 14 - 17, 20, and 23 and part of Lot 18 are located within the Maritime Exemption area for Opua Marina. The applicant seeks staging of the subdivision consent such that Stage 1 consists of Lots 17, 18, 20, 23-25 subject to amalgamation conditions. Stage 2 consists of the final subdivision layout. The proposed subdivision requires consideration as a discretionary activity, on the basis that Lot 5 cannot provide the required 14m x 14m building area, infringement of access requirements, and lack of connection to the existing reticulated sewage scheme for Stage 1.
- As part of the subdivision, access is to be provided to Lots 1 - 13 and 18 by way of a right of way easement to be formed from Kellet Street, while access to Lots 14 - 17 will be by way of right-of-way easements from the end of Baffin Street. Lot 18 fronts Kellet Street while Lots 20 and 23 will retain frontage onto Baffin Street. Neither of the proposed rights-of-way, nor the proposed upgrading of the existing access within Baffin Street road reserve, will comply with the Plan requirements for access formation and therefore requires consideration as a discretionary activity.
- Land use consent for various bulk and location infringements associated with the construction of a single residential unit on each of the Lots 1 - 16, noting that no building is proposed on Lots 17 and 20 as part of the application. The infringements generally relate to daylight angles and building setbacks from road and internal boundaries for both the residential buildings and retaining walls in the Coastal Residential Zone. The applicant has advised that the land use consent will not be given effect to until a Section 224 certificate is issued for the subdivision.
- Land use consent for approximately 700m² of indigenous vegetation clearance and 17,965m³ of bulk earthworks across the development site including some earthworks on road reserve. Additional earthworks will be required at the time of constructing each of the residential units, described as a maximum of 500m³ per unit/site. This requires consideration as a discretionary activity
- Land use consent for fire risk to residential units, where the proposed units on Lots 1 - 16 will be within 20 metres of the drip line of protected vegetation.

¹ Lot 19 has been absorbed into Lot 18, and there are no Lots 21 or 22 included on the scheme plan, having been previously deleted from the proposal.

The land use consent components of this consent are granted with a 10 year consent period.

Subject Site Details

Address: Franklin, Baffin and Kellet Streets, Opuā
Legal Description: Lot 1 DP 199965 and Lot 5 DP 516983, with easements required over Lot 4 DP 516983 and Lot 5 DP 367224
Certificate of Title reference: NA-103C/976 and CFR 807141

Pursuant to Section 104, 104B, 108, & 220 of the Act, this consent is issued subject to the following conditions:

General Conditions

1. That the proposed activities provided for under this consent shall be carried out in general accordance with the documentation and plans that form part of the application as follows:
 - Planning Report Resource Consent Application prepared by Bay of Islands Planning Limited dated October 2018
 - Subdivision Scheme Plans prepared by Williams and King Limited referenced 22169, Stage 1 Rev 4th September 2019; Stage 2 Rev 4th September 2019 and Overall Plan (Stages 1 & 2) Rev 4th September 2019;
 - The plans prepared by Plus Architecture referenced as Job No 90120 Sheet nos RC0001 – RC0003, RC100 – RC102, RC200 – RC213, and RC233, inclusive of Sheet RC2020 Revision 2 dated 30 November 2018 as it relates to complying building height for the unit on Lot 6.
 - Geotechnical Investigation for Proposed Residential Subdivision report prepared by Soil and Rock Consultants Limited referenced Job No NL18032 dated 24th October 2018
 - Opuā Hilltop Development Wastewater and Water Supply Report prepared by Cook Costello Limited referenced 14185 dated 28 September 2018
 - Stormwater Management Assessment and Design Report for Proposed Subdivision prepared by Soil and Rock Consultants Limited referenced Job No. NL18028 Revision B dated 17 October 2018
 - Opuā Hilltop Wastewater Servicing Report Addendum prepared by GHD Limited referenced as Job No. 5137951 dated 21 June 2018
 - Traffic Impact Assessment Report prepared by NCC Ltd dated October 2018, subject to amendment by way of the plan prepared by NCC Consulting Engineers Limited, entitled Far North District Council Kellet Street Development, dated 7/02/19, Sheet 1 of 1.
 - Assessment of Landscape, Natural Character and Visual Amenity Effect report prepared by Simon Cocker Landscape Architecture dated 19th October 2018, inclusive of the e-mail from Simon Cocker dated 9th January 2019 addressing the provision of a Vegetation Management Plan

- Assessment of Terrestrial Ecological Effects report prepared by NZ Environmental Ltd dated 17th October 2018
 - Archaeological Survey report prepared by Northern Archaeological Research Ltd dated February 2017
 - Kellet Street Layout and Lower Road Layout Plans prepared by NCC Limited dated 15th October 2018
 - Fire Risk Assessment Report prepared by Formable Fire Safety Design referenced as Job No 18-0957 Rev A dated 30th October 2018
 - Proposed Retaining Walls Location Plans prepared by Soil and Rock Consultants Limited dated 31 October 2018
 - Preliminary Site Investigation Report prepared by 4Sight Limited dated 15 November 2018
2. This subdivision and landuse components of this consent are to be given effect to in the following order:
- a. Stage 1 of the subdivision consent is to be carried out prior to or in conjunction with Stage 2 of the subdivision consent.
 - b. Stage 2 of the subdivision consent is to be carried out subsequent to or in conjunction with Stage 1 of the subdivision consent.
 - c. All earthworks and vegetation clearance approved under the land use consent, except where it is required to be undertaken to give effect to any Stage 1 conditions of the subdivision consent, is to be implemented as part of Stage 2 of the subdivision consent.
 - d. No building consent for one or more of the residential units on Lots 1 - 16 as provided for under the land use consent shall be issued until such time as the Far North District Council has issued a Section 224 certificate for Stage 2 of the subdivision consent.

Decision A - Subdivision:

Stage 1 - Lots 17, 18, 20, 23 - 25, and associated easements and covenant areas

3. The subdivision shall be carried out in accordance with the approved Stage 1 plan of subdivision prepared by Williams and King Limited, referenced 22169, dated 4th September 2019, and attached to this consent with the Council's "Approved Stamp" affixed to it, subject to conditions below.
4. The survey plan submitted for approval pursuant to Section 223 of the Act shall show:
 - a. All easements to be duly granted or reserved, including any/all easements required in gross in favour of the Far North District Council to service the development.

b. Bush covenant areas S, T & T1 on Lot 18 to be subject to protection by way of covenant under Section 77 of the Reserves Act.

c. The following amalgamation conditions:

That Lots 18, 24, and 25 hereon be amalgamated and that one Record of Title be issued to include all parcels.

That Lots 17, 20 and 23 hereon be amalgamated and that one Record of Title be issued to include all parcels

(LINZ ref 1592366)

5. Prior to the approval of the survey plan pursuant to Section 223, the consent holder shall:

a. Provide written confirmation from the power utility service operator of their consent conditions and show necessary easements on the survey plan.

6. Prior to issuing of a section 224 (c) certificate:

a. The consent holder shall submit written confirmation from power and telecommunication utility service operators that their conditions for this development have been satisfied.

b. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries to the satisfaction of the Councils Engineering Officer.

c. Provide suitable documentation, consisting of registration documents and a solicitors undertaking, recording the registration of a conservation covenant under the Reserves Act 1977 on Lot 18. That conservation covenant is to specifically provide for the ongoing implementation of any Weed Management Plan implemented under Stage 2 of this consent, provision for appropriate pruning of existing vegetation, and easement K as necessary.

d. Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of the residential lots at the consent holders expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:

i. For Lots 17, 20, 24 and 25, at the request of the applicant, these lots have not been provided with connection to any reticulated water, stormwater, or sewage

system. At the time of building a residential unit on any of these lots, the owner shall be responsible for ensuring that either suitable on-site servicing is provided, or that suitable connections are provided for such servicing as may be required. The Far North District Council will not be responsible for any costs or physical works required to provide any extension or upgrade of public or private infrastructure in order to provide any such service connections to the lots.

- ii. For Lots 17, 20, 24, and 25, any future building development on the lots shall require specific geotechnical design to address earthworks, foundation design and appropriate servicing, to be prepared by a Chartered Professional Engineer. Such design shall specifically take into account the assessment, findings, and recommendations contained in the geotechnical investigation report prepared by Soil and Rock Consultants Ltd, Job No NL18032 dated 24th October 2018. This condition will not apply where a suitable alternative report prepared by a Chartered Professional Engineer addressing building design and servicing is provided and accepted by the Council.
- iii. For Lot 18 only, the lot has been considered and approved as a bush covenant lot. Therefore, it is not provided with any service connections or formed vehicle access points.
- iv. For Lot 17 only, in the event that a building consent is lodged for a development on Lot 17 prior to Stage 2 RC2180514 obtaining a Section 224(c) certificate, the consent holder shall upgrade the portion of access located within the Baffin Street road reserve to provide a 5 metre wide sealed carriageway from the end of the formation of Baffin Street maintained by the Council to the boundary of Lot 17, inclusive of any retaining wall design (as per Proposed Retaining Walls Location Plans prepared by Soil and Rock Consultants Limited dated 31 October 2018), stormwater management, and vehicle crossing design. Such works are to be completed and certified by a Chartered Professional Engineer, with such certification being provided to the Councils Development Engineer, before any building works commence on Lot 17.

Stage 2 - Lots 1 – 13 (being subdivision of Lot 24 Stage 1), Lots 14 – 16 (being subdivision of Lot 25 Stage 1), Lots 17, 18, 20 and 23.

7. The subdivision shall be carried out in accordance with the approved Stage 2 plan of subdivision prepared by Williams and King Limited, referenced 22169, dated 19th March 4th September 2019 Revision A, and attached to this consent with the Council's "Approved Stamp" affixed to it, subject to conditions below.
8. The survey plan submitted for approval pursuant to Section 223 of the Act shall show:
 - a. All easements to be duly granted or reserved, including any/all easements required in gross in favour of the Far North District Council to service the development.

Note: Where easements are required over Lots 3 and 4 DP 516983 and Lot 5 DP 367224, these may require approval under Section 348 of the Local Government Act.

- b. Bush covenant areas R, W, X, Y, A1, and B1 to be subject to protection by way of covenant under Section 77 of the Reserves Act.
9. Prior to the approval of the survey plan pursuant to Section 223, the consent holder shall:
- a. The consent holder must submit a detailed set of engineering plans for approval by the Council's duly authorised officer prepared in accordance with Council's Engineering Standards and NZS4404:2004, and generally in accordance with the Development Recommendations specified in the engineering report prepared by Soil and Rock Consultants Ltd referenced Job No NL18032 dated 24th October 2018, and other specific documents provided with the application as referenced below.

The plans shall be certified by a Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies.

Plans are to include but are not limited to:

- i. Design details of a low-pressure sewerage reticulation system, inclusive of any manholes, fittings and connections necessary to Lots 1 - 17. This design should specifically address the components of the system that will vest in the Council, and those components that will be required to remain in the ownership of the lot owner.

Note: Advice received indicates that only the sewer mains will vest in the Council. The pump, storage facility, and connections from the dwelling to the sewer main are to remain as private assets.

- ii. Unless the works are designed and completed as part of Stage 1, design details of the upgrading works required to accommodate the Opuia Hilltop Wastewater Servicing, as set out in the Memorandum prepared by GHD Ltd dated 21 June 2018. More particularly, the details are to address the installation of a 15m³ storage facility at the Franklin Street Pump Station, and upgrading of 500 metres of the 80/100 mm diameter PVC downpipe from Oromahoe Road to the Lonely Valley Pump Station to a 125 mm diameter PE pipe.
- iii. Design details of water reticulation and connections for all residential lots in accordance with Section 3 of the Wastewater and Water Supply report prepared by Cook Costello Limited referenced as 14185 Version 1 dated 28 September 2018. Those details shall include a pressure and flow test to model the development and prove supply capability. Test results shall be submitted to Council's Manager for 3 waters for consideration and approval. The design shall provide adequate water supply for firefighting purposes by way of installation of new compliant fire hydrants where required.
- iv. Design details of stormwater reticulation and disposal structures inclusive of any upgrades to the existing reticulation, sumps, manholes, treatment devices, secondary flowpaths and connections necessary to service the development in accordance with the Stormwater Management Assessment and Design Report

prepared by Soil and Rock Consultants Limited referenced as Job No. NL18028 Revision B dated 17th October 2018.

Note: The design is to meet the requirements specified in the consent issued by the Northland Regional Council.

- v. Design details of the private accessways A, AA □ AG and B □ D to service the proposed lots in accordance with the Kellet Street Layout and Lower Road Layout Plans prepared by NCC Limited dated 15th October 2018, inclusive of cul-de-sac head design, pavement design, stormwater drainage, any retaining structures required as defined on the Proposed Retaining Walls Location Plans prepared by Soil and Rock Consultants Limited dated 31 October 2018, passing bays, and vehicle crossing design onto each residential allotment.

Note:

- *An application will be required for a License to Occupy Road reserve associated with any/all retaining wall structures to be located on road reserve.*
 - *Where any retaining wall carries a surcharge, it will require a building consent.*
- vi. Where not already completed in accordance with Stage 1 Condition 6(d) iv., design details of the upgrading required for the portion of access located within the Baffin Street road reserve to service Lots 14 - 17 to provide a 5 metre wide sealed carriageway from the end of the formation of Baffin Street maintained by the Council to the boundary of Lot 17, inclusive of any retaining wall design, stormwater management, and vehicle crossing design.
- b. In conjunction with the above engineering plan requirement, the applicant shall undertake the following works within the road reserve of Kellet Street as depicted on the plan ('the Plan') prepared by NCC Consulting Engineers Limited, entitled Far North District Council Kellet Street Development, dated 7/02/19, Sheet 1 of 1. The works shall involve:
 - The marking of "NEW 'NO PARKING 'LINES' depicted on the Plan;
 - The installation of the "NEW FOOTPATH' and "NEW FOOTPATH WITH HANDRAIL";
 - The installation of a new pedestrian crossing referenced as "RAISED CROSSING LOCATION"; and
 - The formation of three new car parks referenced on the Plan as – "EXISTING 3 ANGLE SPACES REPLACED WITH 3 ROADSIDE SPACES".

Prior to any work being undertaken within the road reserve the applicant shall secure the written approval from Council's authorised officer confirming acceptance of the design as meeting the Far North District Council Engineering Standards and the successful contractor undertaking the work.

The intersection arrangement and road markings shall be undertaken in accordance with that depicted on the Plan.

Note: For avoidance of doubt this condition has been specifically offered by the applicant and accepted by the Councils Roading Department. The Consent Holder should integrate the design plans for this work, and provision of certification of completion of the works, as part of the conditions of this consent.

- c. The consent holder shall provide written confirmation from power utility service operator of their consent conditions in accordance with the EES 2010 and show necessary easements on the survey plan to the approval of the Senior Environmental Engineering Officer or delegated representative.
- d. The consent holder shall submit the following documentation to the Council for approval by the duly authorised officer prior to any site works (including soil disturbance) on the site:
 - i. A Construction Management Plan that shall be adhered to for the duration of all subdivision construction activities taking place on the site. The Construction Management Plan shall include the following information:
 - Site Manager contact details
 - Hours of construction operation, noting that no construction or earthworks activities shall be undertaken on the site between the hours of 1800 pm and 0700 am, Monday to Saturday; and must not be carried out on any Sunday or public holiday (and any following Monday on which that public holiday is observed)
 - The methodology and staging of construction, including location of any storage / site office area.
 - Timeframes for key stages of the works
 - Means of compliance with the permitted Construction Noise standards under Rule 10.8.5.1.14 of the District Plan
 - Dust and soil management measures to avoid any off-site nuisance and tracking of material onto public roads
 - Traffic management plan addressing vehicle movements on and off the site, particularly in terms of managing potential conflicts with the adjacent Opu School during school hours
 - Means of avoiding obstruction of access to public footpaths, berms, private properties, public services/utilities, or public reserves resulting from the construction and/or earthworks activity, noting that all material and equipment shall be stored within the subject sites boundaries.
 - ii. A Vegetation Management Plan to be prepared by a suitably qualified and experienced person to the satisfaction of the Councils duly authorised officer. The purpose of the Vegetation Management Plan is to specify the means of identifying the extent of vegetation to be removed, vegetation to be retained, and areas of enhancement planting. The Plan shall include:

- Identification and location of all trees over 300mm diameter at breast height (DBH) to be retained, except where such trees are to be located within 2 metres of the building footprint of the proposed residential units provided under the land use consent (as defined in the Fire Risk Assessment report prepared by Formable Fire Safety Design Ltd dated 30th October 2018)
 - Specific measures to protect those identified trees and their root zones during construction
 - A detailed planting plan in accordance with the Landscape Proposal contained in Figure 5 of the Assessment of Landscape, Natural Character and Visual Amenity Effect report prepared by Simon Cocker Landscape Architecture dated 19th October 2018, inclusive of planting along the access serving Lots 1 □ 13 to create a skyline of continuous vegetation when viewed from the sea to the north and south east. That plan shall accommodate the recommendation made in the Assessment of Terrestrial Ecological Effects report prepared by NZ Environmental Ltd dated 17th October 2018 requiring the footprints for dwellings and accessways to be defined and finalised so that vegetation outside those areas (and a minimum of 2 metres away from the building footprint) can be retained and enhanced to assist with sediment control and promote regeneration of native species.
 - Specific treatment of cut batters and retaining walls resulting from the construction works, including use of recessive colours for walls and planting regimes.
 - A maintenance and protection mechanism (such as a private covenant) for all planting shown on the detailed planting plan that falls outside the defined covenant areas shown on the approved scheme plan. That mechanism is to accommodate the ability to provide for future pruning of vegetation and weed control on an on-going basis.
- iii. A Weed Management Plan to be prepared by a suitably qualified and experienced person to the satisfaction of the Councils duly authorised officer. The Plan shall integrate the management of all areas of existing vegetation to be retained by way of covenants and areas of enhancement planting to manage all invasive exotic species, and shall include the following:
- A comprehensive control programme for weed management associated with all construction works, including means of avoiding introduction of species onto the site and transport of species off-site via machinery.
 - A schedule of plant species to be targeted, including species that may seek to colonise from adjacent areas
 - A minimum 3 year programme to be implemented across the site on a comprehensive basis commencing from the start of construction works, followed by on-going management to be carried out by the consent holder and/or resulting landowners subject to covenant conditions as provided for in conditions of this consent.

Note: This condition shall include weed management within the existing bush covenant/s imposed on Lot 18 in Stage 1

10. Prior to issuing of a section 224 (c) certificate:

- a. The consent holder is to submit a Corridor Access Request application to Councils Road Corridor Co-ordinator and receive written approval for all works to be carried out within Councils Road Reserve.
- b. All works approved under Conditions 9(a) and 9(b) above shall be carried out to the approval of the Councils Resource Consents Engineer or designate.

Compliance with this condition shall be determined by certification from a Chartered Professional Engineer inclusive of supporting documentation provided by the developers representative/s in support of the constructed works and producer statements including supporting evidence of inspections by those persons, works acceptance certificate, statement of compliance of as built works and as built plans, RAMM data, 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 Council's Engineering Standards and NZS4404:2004.

- c. The consent holder shall notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Senior Environmental Engineering Officer and include the following details:
 - i. Name and telephone number of the project manager/ IQP.
 - ii. Site address to which the consent relates.
 - iii. Activities to which the consent relates.
 - iv. Expected duration of works.
- d. On commencement of site works, the consent holder shall comply in all respects with the Construction Management Plan required under Condition 9(d)(i) above. A copy of the Plan is to be held on site at all times, and all contractors associated with construction works are to be provided with and retain a copy for the duration of construction.
- e. The consent holder shall submit written confirmation from power and telecommunication utility service operators that their conditions for this development have been satisfied.
- f. The consent holder must provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries to the satisfaction of the Council's Engineering Officer.
- g. The consent holder must reinstate any damage caused by construction works to Council's street footpath, stormwater kerb and channel, road carriageway formation,

street berm and urban services at the expense of the consent holder to Council's Engineering Officer.

- h. If filling is to occur on any allotment, the consent holder shall submit certification from a Chartered Professional Engineer including details confirming the location of such fill on the affected titles and adequacy of compaction in accordance with NZS 4431:1989, to the satisfaction of the Council. Any requirements specified in the certification provided will be registered against the relevant titles via a consent notice.
- i. Provide for Councils approval a preferred road name and two alternatives for the new private access serving Lots 1 - 13. The applicant is advised that in accordance with Community Board policy, the road names should reflect the history of the area. Where approval for a road name is obtained, a private road name sign shall be erected at the intersection of the proposed access and Kellet Street.
- j. Provide written confirmation from a suitably qualified and experienced person to confirm that the management measures identified in the approved Vegetation Management Plan under Condition 9(d)(ii) have been successfully implemented and completed, and that all planting identified in the Plan has been undertaken and completed. The confirmation shall include specific advice regarding any on-going maintenance measures to be implemented for areas identified under Condition 10(l) below.
- k. Provide suitable documentation, consisting of registration documents and a solicitors undertaking, recording the proposed registration of a conservation covenant over the areas identified in Condition 8(b), and any identified areas as per Condition 10(l) below, under the Reserves Act. That conservation covenant is to specifically provide for the ongoing implementation of the Weed Management Plan required under Condition 9(d)(iii), and provision for appropriate pruning of existing vegetation.

In addition, the consent holder is to ensure that the existing conservation covenants registered over Lot 18 in Stage 1 provide for the same requirements in terms of ongoing implementation of the Weed Management Plan required under Condition 9(d)(iii), and provision for appropriate pruning of existing vegetation.

- l. Where areas outside the Bush Protection Covenant Areas R, W, X, Y, A1, and B1 are identified as subject to retention of existing vegetation and/or enhancement planting as defined in the planting plan required under Condition 9(d)(ii), the consent holder shall provide suitable documentation, consisting of registration documents and a solicitors undertaking, recording the maintenance and protection mechanism (such as a private covenant) to apply to those defined areas. That mechanism is to specifically provide for the ongoing maintenance measures specified in the documentation provided under Condition 10(j) above, implementation of the Weed Management Plan required under Condition 9(d)(iii), and provision for appropriate pruning of existing vegetation.

NB: For the avoidance of doubt, the consent holder may include these additional areas within the covenants provided for under Condition 8(b) above and amend the scheme plan accordingly, or include them as private land covenants, or may address them as a consent notice condition.

m. Pursuant to Section 221 of the Resource Management Act 1991, a consent notice must be prepared and be registered on the Computer Freehold Register of the residential lots at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:

i. The lot is to be connected to a reticulated low pressure sewer system. At the time of building a residential unit on the lot, the owner shall be responsible for ensuring that the connection is designed and constructed in accordance with the appropriate design standards and will adhere to the on-going obligations to maintain the system as it services the lot.

[Lots 1 – 17]

ii. Any site restrictions as highlighted in the certification submitted in accordance with Condition 10(h) of RC 2180514.

[Lots 1 – 17]

iii. For the purpose of avoiding fire risk to future dwellings on the lots, there is to be no storage of goods, and ground level vegetation is to be kept in a trimmed state, in all areas located between the dwelling and existing vegetation identified as subject to permanent protection under this subdivision consent.

[Lots 1 – 16]

iv. Any future building development on the lots shall require specific geotechnical design to address earthworks, foundation design and appropriate servicing, to be prepared by a prepared by a Chartered Professional Engineer. Such design shall specifically take into account the assessment, findings, and recommendations contained in the Geotechnical Investigation report prepared by Soil and Rock Consultants Ltd, Job No NL18032 dated 24th October 2018 contained within RC 2180514. This condition will not apply where a suitable alternative report prepared by a Chartered Professional Engineer addressing building design and servicing is provided and accepted by the Council.

[Lot 1 – 17 & 20]

v. Each lot owner shall actively manage and protect all areas of vegetation defined in the Vegetation Management Plan on each identified lot, and shall be subject to ongoing management and maintenance measures as defined under Condition 10(j) of RC 2180514, implementation of the Weed Management Plan required under Condition 9(d)(iii) of RC 2180514, and provision for appropriate pruning of existing vegetation.

[Lot 1 – 17 & 20]

- vi. At the request of the applicant, this lot has not been provided with connection to any reticulated water, stormwater, or sewage system. At the time of building a residential unit on this lot, the owner shall be responsible for ensuring that either suitable on-site servicing is provided, or that suitable connections are provided for such servicing as may be required. The Far North District Council will not be responsible for any costs or physical works required to provide any extension or upgrade of public or private infrastructure in order to provide any such service connections to the lots.

[Lot 20]

Decision B - Landuse Consent for Vegetation Clearance, Bulk Earthworks, and Fire Risk to Residential Units.

1. No conditions are imposed as part of this consent as measures to avoid and mitigate adverse effects are addressed under the conditions of the subdivision consent.

For the avoidance of doubt, this landuse consent specifically includes provision for the following activities:

- Land use consent for approximately 700m² of indigenous vegetation clearance as part of the construction works for subdivision
- 17,965m³ of bulk earthworks across the development site including some earthworks on road reserve, as part of construction works for subdivision.
- Additional earthworks of a maximum of 500m³ per lot following completion of the subdivision
- Land use consent for fire risk to residential units, where the proposed units on Lots 1 - 16 will be within 20 metres of the drip line of protected vegetation

Decision C - Landuse Consent for Construction of Residential Units

1. The construction of the residential units shall be carried out in general accordance with the plans and documents provided in support of the application. More particularly, the development shall comply with the following:
 - The plans prepared by Plus Architecture referenced as Job No 90120 Sheet nos RC0001 - RC0003, RC100 - RC102, RC200 - RC213, and RC233, inclusive of Sheet RC2020 Revision 2 dated 30 November 2018 as it relates to complying building height for the unit on Lot 6.
 - The Geotechnical Investigation report prepared by Soil and Rock Consultants Ltd dated 24 October 2018, and more particularly the Foundation Recommendations contained in Section 10.3 of that report.
2. This landuse consent is granted with a ten year consent period as provided for under Section 125 of the Resource Management Act, and as requested by the applicant. For clarity, where any one or more of the residential units approved under this consent have not been constructed and substantially completed within this ten year consent period, the consent will have deemed to have lapsed for any remaining units yet to be constructed.

Advice Notes

1. Archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). A copy of Heritage New Zealand's Archaeological Discovery Protocol (ADP) is attached for your information. This should be made available to all person(s) working on site.
2. Where formally requested by the applicant, the consent notices imposed on Stage 1 of the subdivision that may become redundant on completion of Stage 2 may be cancelled pursuant to Section 221(3).

Section 37 - Extension of time

Pursuant to Section 37, the 20 working day time frame is extended by an additional 88 working days (to Tuesday 20th August 2019) to provide for further amendments made to the application and scheme plans, as agreed by the applicant on the 12th April 2019.

The matters under Section 37A(1)(a)-(c) have been taken into account in granting this extension of time.

Reasons for the Decision

1. The Council has determined (by way of an earlier report and resolution) that the application is precluded from public notification under Section 95A(5). Therefore, an assessment of adverse effects in accordance with Sections 95B and 95E has been undertaken based on the information provided with the application.
2. For the purposes of Section 104(1)(a), the assessment of actual and potential effects provided in the Notification Report is relevant. That assessment constitutes a detailed analysis of the adverse effects, an applicable permitted baseline, and consideration of conditions offered as avoidance and mitigation measures as part of the application.
3. In terms of Section 104(2), the permitted baseline and existing environment assessment provided in the Notification Report sets out those activities that are permitted in the District Plan. The assessment is adopted for the purpose of Section 104(2), noting that noise, traffic, and general activity associated with construction works proposed on the site is either explicitly excluded from the District Plan rules (and is therefore permitted) or specifically provided for and to be complied with in the case of construction noise.
4. Similarly, the intensity, bulk, and location of the proposed units in the absence of the proposed subdivision activity meets the permitted standards in the Coastal Residential

Zone, except for some minor exceptions. It is acknowledged that the site requires significant bulk earthworks and vegetation clearance to accommodate the development.

5. The servicing and access associated with the proposal has been assessed. Subject to conditions addressing provision of servicing and formation of access in accordance with the information provided, there are considered to be no off-site effects that would be considered minor or more than minor in that regard.
6. A number of provisions have been offered in the application to avoid or mitigate effects associated with the existing flora and fauna on the site. It is noted that provision of bush covenants, weed and pest control, and other activities forming part of the application might not be offered or available in the event the site was developed in compliance with the permitted standards in the Coastal Residential Zone. These offered conditions are considered to generate some positive effects, particularly in terms of actively preserving and enhancing areas of indigenous vegetation on the site.
7. Careful consideration has been given to the extent of potential effects associated with the bulk and extent of earthworks and indigenous vegetation clearance proposed across the site. The Northland Regional Council has granted consent for these works and determined that any adverse effects associated with matters within their jurisdiction (particularly in terms of erosion and sediment control) are acceptable. The District Council is required to consider the landscape and visual effects on adjacent persons, and any other effects that fall outside the permitted baseline.
8. The application is supported by an Assessment of Landscape, Natural Character and Visual Amenity Effects report prepared by Simon Cocker Landscape Architecture dated 19th October 2018. That report has been reviewed on behalf of the Council by Littoralis Landscape Architecture Limited. That review has focused on the extent of adverse landscape and visual effects on adjacent property owners, noting that none of the adjacent owners have an extensive view of the subject site and proposed works. The review has taken into account the permitted baseline available for residential development in the Coastal Residential Zone.
9. A number of conditions are required to avoid and mitigate potential adverse effects. Many of these have been offered as part of the application, while other matters such as compliance with the plans provided, construction noise, and provision of servicing are necessary. A condition requiring a Construction Management Plan to be provided prior to any works (including earthworks) commencing on the site will assist in defining the hours of operation, compliance with construction noise standards, traffic management, and potential impacts on road integrity.
10. The application includes a request for a ten year consent period in order to give effect to the landuse consent component for construction of the units on each lot. The subdivision consent will retain the 5 year consent period specified under Section 125. Given that the majority of adverse effects identified are associated with the implementation of the subdivision consent, a ten year consent period to provide for the construction of the proposed units on the site is considered appropriate.

11. Overall, the extent of potential positive and adverse effects on the environment associated with granting the activity, and providing for a 10 year consent period for the construction of residential units, are considered to be acceptable in the receiving environment.
12. In terms of Section 104(1)(b), the application includes an assessment of the relevant provisions of the New Zealand Coastal Policy Statement 2010 ('NZCPS'), the Northland Regional Policy Statement ('RPS'), and the Far North District Plan ('the Plan').
13. In the first instance, it is noted that consent has been obtained from the Northland Regional Council for earthworks and stormwater activities. An assessment of relevant provisions under the NZCPS, RPS, and Operative and proposed Regional Plans formed part of the decision to grant those consents. On that basis, no further consideration of those provisions is considered necessary.
14. In addition, given the Coastal Residential Zone that applies to the site, and the lack of identified resources (such as outstanding landscapes or sites of significance to Maori), an assessment of the high level NZCPS and RPS provisions is not considered to readily assist in determining a decision on the application.
15. The application includes a detailed assessment of the Plan provisions, and addresses the provisions contained in Chapters 10 Coastal Environment, 10.8 Coastal Residential Zone, and 13 Subdivision. The assessment provided and conclusion stated that *'Overall, it is considered the application performs well against and is supported by the relevant objectives and policies and the applicable assessment criteria'* is accepted and adopted for the purpose of this report.
16. The application provides an assessment of the objectives and policies contained in Chapters 12.2 Indigenous Flora and Fauna, 12.3 Soils and Minerals, or 12.4 Natural Hazards. These provisions are relevant given the various identified infringements relating to vegetation clearance, earthworks, and fire hazard for buildings respectively.
17. The provisions contained in Chapter 12.2 Indigenous Flora and Fauna are largely addressed by the Assessment of Terrestrial Ecological Effects report prepared by NZ Environmental Ltd dated 17 October 2018. That report notes the site forms part of P05/058 (Opua Forest) which is identified as a Level 1 site and that this area extends across the southern portion of the site. The report finds that *'Given the property as a whole is too small to support significant numbers of indigenous fauna and is already surrounded by residential and industrial land-uses, effects on fauna due to the proposal are expected to be less than minor.'* The report does recommend some mitigation measures that are incorporated into the application.
18. When reading the objectives and policies in Chapter 12.2 in light of this assessment, the proposal is considered to be an appropriate response to the indigenous flora and fauna on the site, and will be consistent with the Plan provisions. In particular, Objectives 12.2.3.1 and 12.2.3.2, and Policies 12.2.4.1, 12.2.4.3 and 12.2.4.4 are considered to be met by the proposal.

19. Chapter 12.3 Soils and Minerals sets out a number of provisions that are largely focused on minimising adverse effect associated with soil excavation and filling. Notably Objective 12.3.3.1 and Policy 12.3.4.4 are addressed in part by the Northland Regional Council consent that has been obtained for earthworks. The extent of visual effects associated with earthworks has been assessed as part of the application with the effects on adjacent owners considered to be less than minor.
20. Chapter 12.4 Natural Hazards includes Policy 12.4.4.7 which requires that risk to adjoining vegetation and properties arising from fires be avoided. The information provided with the application confirms that the proposed design is appropriate to address and avoid any potential fire risk.
21. Taking into account the assessment provided in the application and the above assessment of relevant provisions contained in Chapter 12 of the Plan, it is considered that the proposal is consistent with the relevant planning provisions.
22. Section 104(1)(c) requires consideration of Other Matters. When considering the extent of potential adverse effects under Section 104(2), a subdivision meeting the controlled activity requirements of the Plan is considered relevant. While not a permitted activity, a complying subdivision could be carried out to establish the proposed lots prior to undertaking land use activities as sought under this consent. This would enable a similar extent of permitted activities to take place on each allotment, as opposed to the two lots that are the subject of this application. This is considered to be a matter that is relevant and reasonably necessary to determine the application.
23. As defined under current case law, an assessment of Part 2 matters is not required unless there are issues of invalidity, incomplete coverage or uncertainty in the planning provisions. The Operative District Plan contains provisions that are relevant to the proposal, and there is no evidence to suggest the relevant provisions are invalid, incomplete or present uncertainty in making any decision. No assessment of the application against Part 2 provisions is therefore required.
24. Section 104B states that *'After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority –*
 - (a) may grant or refuse the application; and*
 - (b) if it grants the application, may impose conditions under section 108.*
25. Taking into account the current Coastal Residential Zone and associated level of permitted development provided for across the site, the conditions offered by the applicant, the existing Northland Regional Council consent for earthworks and stormwater management, and the general consistency of the application with the District Plan provisions, it is considered that the activity is consistent with the sustainable management purpose of the Resource Management Act. Consent can therefore be granted subject to conditions.

Approval

This resource consent has been prepared by A Hartstone, Consultant Planner, and is granted under delegated authority (pursuant to Section 34A of the Resource Management Act 1991) from the Far North District Council by:



Pat Killalea, Principal Planner

Date: 20th August 2019

Right of Objection

If you are dissatisfied with the decision or any part of it, you have the right (pursuant to section 357A of the Resource Management Act 1991) to object to the decision. The objection must be in writing, stating reasons for the objection and must be received by Council within 15 working days of the receipt of this decision.

Lapsing Of Consent

Pursuant to section 125 of the Resource Management Act 1991, the subdivision consent will lapse 5 years after the date of commencement of consent, and the land use consent will lapse 10 years after the date of commencement of consent unless, before the consent lapses;

- a. The consent is given effect to; or
- b. An application is made to the Council to extend the period of consent, and the council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Resource Management Act 1991.