

Subdivision that created this lot.
- Consent Notice registered on titles -

DECISION OF THE JOINT HEARINGS COMMITTEE

IN THE MATTER of the Resource Management Act 1991:

AND

IN THE MATTER of an application under the aforesaid Act, 1991 by McBreen Jenkins Construction Limited



APPLICATION NUMBER RC 2051164

Hearings application to subdivide to create 89 residential and rural residential sites.

The property in respect of which the application is made, is situated at Cable Bay, Mangonui and is legally described as Lot 4 DP312738.

HEARING

Before the FNDC / NRC Joint Hearings Committee, on the 14th and 15th of November 2005.

FAR NORTH DISTRICT COUNCIL
DECISION

That pursuant to S.104, s.104B, S.104D and S.220 of the Resource Management Act 1991, Council grant consent to the application (being RC20501164) by McBreen Jenkins Construction limited to subdivide, creating 89 residential and rural residential sites on the property located at Cable Bay, being legally described as Lot 4 DP 312738 subject to the following conditions:

SUBDIVISION CONDITIONS:

(1)

(1) ✓ That the subdivision shall be carried out in accordance with the approved plan of subdivision prepared by Wood and Partners dated 03/12/04 and attached to this consent with the Council's "Approved Plan" stamp affixed to it (dated 2 December 2005) as well as the approved management plan, which shall in addition to other matters set out in the management plan reflect all of the conditions of this consent.

(2) N/A This consent may be given effect to on a staged basis. Should this occur the applicant shall provide adequate information at the time of submitting the survey plan or requesting a certificate pursuant to Section 224 (c) of the Act demonstrating that all relevant and necessary conditions have been satisfied.

It is noted that all bush protection shall be undertaken as part of the first stage.

(2) That, prior to approval under Section 223 of the Act, the title plan shall show:

(1) Areas 201 and 203 and all areas outside of the defined building platforms on allotments 28, 29, 30, 31, allotments 49 to 79 inclusive and allotments 81, 82, 83, 84, 86, 87 and 88 as areas to be subject to a land covenant (bush protection).

(2) Defined building areas not exceeding 400m² in area on all rural residential sized sites within the subdivision.

(3) The endorsement of the following conditional amalgamations, pursuant to Section 220 (1) (b) (iv) of the Resource Management Act 1991;

402 missing

✓ That Lot 403 on the subdivision plan [legal access] be held as to four undivided one- quarter shares by the owners of Lots 77, 78, 79 and 201 thereon as Tenants in Common in the said shares and that individual certificates of title be issued in accordance therewith. [LINZ ref: A634864]

Not Required ✓ That Lot 401 on the subdivision plan [legal access] be held as to four undivided one- quarter shares by the owners of Lots 27, 28, 29 and 30 thereon as Tenants in Common in the said shares and that individual certificates of title be issued in accordance therewith. [LINZ ref: A634864]

404..
That Lot 402 on the subdivision plan [legal access] be held as to two undivided one- half shares by the owners of Lots 51 and 52 thereon as Tenants in Common in the said shares and that individual certificates of title be issued in accordance therewith. [LINZ ref: A634864]

(4) ✓ Lot 301 to vest in the Far North District Council as road.

(5) Show all easements in a Memorandum of Easements subject to the satisfaction of the Far North District Council.

(6) ✓ Provide for Council's approval a preferred road name and two alternatives for the Road to Vest. The applicant is advised that in accordance with Community Board policy, that the road names should reflect the history of the area.

(7) ✓ Submit the detailed designs, drawings, specifications and calculations for the following works, in accordance with the Standards, for the approval of Council; and no work is to commence until the plans signed by the Council have been returned to the consent holder or their agent:

(3) That before a certificate is issued pursuant to Section 224 of the Act, the consent holder shall:

General:

(1) Five working days before the commencement of any physical work on the site, provide a construction management plan from a suitably qualified project manager for approval by the Council. The plan is to contain information on, and site management procedures for, the following matters:

- The timing of civil engineering, building construction and any demolition works, including hours of operation and key project and site management personnel and their contact details;
- The transportation of demolition, construction and waste materials to and from the site, the loading and unloading of materials and the associated controls on vehicles through sign-posted site entrances and exits;
- The excavation and filling works, including any retaining structures and any necessary de-watering requirements/methods, to be prepared by a Chartered Professional Engineer with suitable geotechnical qualifications and expertise;
- Control of dust and on-site noise (including compliance with construction noise standards) and any appropriate avoidance or remedial measures;
- Prevention of earth, mud, gravel or other material being deposited on adjoining roads by vehicles exiting the site, and proposing remedial measures should that occur;
- Identification measures, including signage, to inform adjacent landowners, occupiers, pedestrians and other users of Stratford Road and Dudley Crescent.

The Project Manager shall be the contact person for any complaints and shall be responsible for resolving issues resulting in complaints to the satisfaction of the Resource Consents Manager.

(2) Pay, as may be required, the Council's actual and reasonable monitoring and administration fees for assessing compliance with these conditions, and for any additional site visits that may be necessary.

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 (3) Appoint an Owner's Representative (Independent Qualified Person) acceptable to the Council, in accordance with Appendix E of the Council's Engineering Standards and guidelines 2004, who shall be responsible for such design, plans, provision of information (including as-built drawings and a digital copy thereof), applications (including to the Regional Council as appropriate), producer statements and fees as may apply to the works being considered.

(4) An Incorporated Society (or other legal entity) shall be formed to the satisfaction of the Chief Executive or delegate of the Far North District Council to be responsible for the ongoing maintenance of the common areas, and the stormwater and waste water systems. The owner of each residential and rural residential allotment within the subdivision will be required to be a member of the approved entity.

This condition shall be secured by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of all of the residential and rural residential allotments within the subdivision. The costs of preparing, checking, executing and registering the Notice shall be met by the Consent Holder.

(5) Submit an amended Management Plan to the satisfaction of the

~~2017~~ Resource Consents Manager reflecting the draft Management Plan submitted with the application and amended as required to reflect all of the conditions of this consent and the following particular matters:

- (i) No building shall exceed a height of 6 metres as measured by the rolling height method set out in the District Plan.
- (ii) The colours of all buildings are to comply with British Standard specification BS5252 Colour Range and have a reflective value of 30 % or less.

The requirements of the approved management plan shall be complied with at all times.

This condition shall be secured by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of all of the residential and rural residential allotments within the subdivision. The costs of preparing, checking, executing and registering the Notice shall be met by the Consent Holder.

(5) Provide three copies of as-built plans which are to include the following information:

- (i) Drawings showing the location of all underground services, including co-ordinates of hydrants, valves and manhole lids and levels of manhole inverts and lids to DOSLI datum. This information is also to be provided in a digital format to enable it to be added to Councils GIS date base
- (ii) Stormwater overland flow paths including the extent and level of the 1:100 year ARI
- (iii) The area and extent of any fill material placed on the site
- (iv) A schedule of assets, which are to vest in the Council, listing the quantity, the unit rate, and the value of the components (this information is required for valuation purposes).
- (v) Information for RAMM database:
 - i. Subgrade depth, aggregate type and source
 - ii. Base course depth, aggregate type and source
 - iii. Lime or cement stabilisation details
 - iv. Seal coat details including binder type/grade and residual application rate
 - v. Details of asphaltic concrete (where used)

Stormwater:

- (7) Prior to any site works commencing submit to Council a storm water management report prepared by a Registered Engineer or approved Independent Qualified Person. This plan shall be in accordance with the Far North District Councils Engineering Standards and Guidelines and shall address the means of controlling and disposing of storm water from the development site, including any water received from upstream catchments. Recommendations made in the report are to be adhered to by the applicant (including any on-going recommendations); with works certification and as-built plans to be submitted on completion of the necessary works, to the satisfaction of the Council.
- (8) Complete all of the physical works, to the Council's satisfaction, required to construct the appropriate stormwater management measures as recommended in the report required by condition 3(i).
- (9) Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary/overland (Q_{100}) flow path [on the stormwater management plan prepared previously], and as shown on the as-built drawing (attached).

Roading:

- (10) Prior to the commencement of the road/civil construction the applicant is to submit to Council for its approval:
- (i) Plans and details of all work to be carried out on public land;
 - (ii) A traffic management plan;
 - (iii) Details of the successful roading contractor;
 - (iv) Details of the planned start date and duration of contract;
 - (v) Details of the supervising Engineer or Independent Qualified Person.
- (11) Provide and complete the proposed new road to a full 20 metre legal width, formed, surfaced and provided with adequate stormwater control in accordance with the FNDC Engineering Standards and Guidelines 2004 and NZS4400 2004 to the satisfaction of Council. Prior approval by the Council of engineering drawings for the construction of such road, in accordance with the aforementioned Standards, is a prerequisite of any construction commencing.
- (12) Provide certification from a Chartered Professional Engineer (or MIPENZ) that all work has been completed in accordance with the approved plans [Condition (3)(11)], including the Producer Statements for Engineering Services and Earthworks and the Construction Checklist documentation as set out in Appendix C of the Standards.
- Provide 3 hard copies and an electronic copy [in Drawing (.dwg) or Digital Exchange (.dxf) format] of the as-built plans, including locations

and levels of underground services, in accordance with the checklist requirements of Appendix C in the Standards.

The plans are to indicate all stormwater overland flow paths within the site and across adjacent lower properties. These as-built plans are also to show the area and extent of any fill material which is placed on any of the lots within the subdivision.

- (13) Provide and complete the private access ways indicated on the subdivision plan, formed, surfaced and provided with adequate stormwater control, to the standard specified in Rule 14.1.6.1.2, and the Table forming Appendix 7B, of the Proposed District Plan (July 2003), to the satisfaction of the Council. Prior approval by the Council of engineering drawings of such works is required before any construction begins.
- (14) Pursuant to Rule 14.1.6.1.2 (q) of the Proposed District Plan (July 2003), provide, for the Council's approval, a legal document which apportions future maintenance and upgrading costs of the private access ways amongst the benefiting owners. Such an approved document is to be given effect by a separate registrable instrument.
- (15) Construct a right turn bay on State Highway 10 into Stratford Drive to the satisfaction of Transit New Zealand. Plans of these works shall be submitted to Transit New Zealand for their approval.
- (16) Pay to the Far North District Council the costs of preparing and installing one road sign.
- (17) Street lighting, reticulated by underground means, in accordance with Clause 3.3 of the Standards. The locations and number of street lights to be installed shall be determined by the Roading Manager Far North District Council.

Waste Water:

- (18) That the wastewater treatment and disposal system shall be designed by a Registered Engineer in accordance with the Auckland Regional Council Technical Publication N^o 58 and to the satisfaction of the Far North District Council.
- (19) The wastewater treatment and disposal system shall be regularly maintained and upgraded and / or replaced as necessary to ensure that it continues to operate properly.

This condition shall be secured by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of all of the residential and rural residential allotments within the subdivision. The costs of preparing, checking, executing and registering the Notice shall be met by the Consent Holder.

Water Supply:

- (20) All sites shall be connected by underground reticulated means to the Doubtless Bay water supply.

- (21) All rural residential sites shall install a water tank in accordance with the requirements of any approved stormwater management plan and as required by the provisions of the Approved Management Plan.
- (22) Provide a fire fighting water supply [Part 6 and Clause 6.5 of the Standards], including evidence of consultation with / approval of the NZ Fire Service.

Earthworks:

Consent
Notice

- (23) No building shall be erected on the proposed lots without the prior approval of the Council to specific designs for foundations, prepared by a Registered Engineer with geotechnical expertise.
- (24) All earthworks to be undertaken on the site are to be supervised by a Registered Engineer, to be engaged by the consent holder. Council is to be advised in writing of the appointment of the engineer, and notified when work is to commence, and when it has been completed.
- (25) The consent holder is to ensure that stormwater diversion and erosion and sediment control measures are in place prior to the commencement of bulk earthworks. These measures shall be maintained to ensure they continue to operate to the appropriate standard.
- (26) Earthworks [Part 2 of the Standards] with a separate Producer Statement (works design) which also describes the testing / inspection regime and including retaining structures where required

Utilities:

- (28) All power and telephone services shall be provided by underground means.

Building Sites:

- (29) The defined building sites shall be pegged and temporary fencing constructed around the perimeter of the building site to ensure that bush clearance and construction works do not extend outside of these defined areas.

Bush / Habitat Protection:

- (30) The owner shall preserve the indigenous trees and bush on allotments 201 and 203 and all bush areas outside of the identified building platforms on allotments 28, 29, 30, 31, allotments 49 to 79 inclusive and allotments 81, 82, 83, 84, 86, 87 and 88 and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage or destroy any of such trees or bush or suffer or permit the cutting down

damaging or destruction of any such trees or bush. The owner shall be deemed to be not in breach of this prohibition if any of such trees or bush shall die from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.

- (31) The parent site shall be boundary fenced where there is bush to be protected as required by conditions (2) (1) and (3) (29) above to ensure that stock from a neighbouring site cannot access the bush protection areas.
- (32) No occupier of the land shall keep or introduce on to the site carnivorous or omnivorous exotic animals (such as ferrets, cats or dogs) which have the potential to be kiwi predators.
- (33) Exotic vegetation which could adversely affect natural regeneration or local forest health is not to be introduced on the site. *This includes the introduction of invasive plant species, including those currently listed on the nationally-banned-for-sale list (see Northland regional Pest Management Strategy). Planting of other exotic species should be confined to the immediate vicinity of dwellings. And species with berry-type fruits are to be grown within netting to prevent seed spread by birds.*
- (34) An animal pest and weed eradication programme shall be provided to the satisfaction of the Far North District Council detailing the methodology for animal pest and weed eradication within the bush covenant areas. Animal pest and weed eradication shall have been commenced to the satisfaction of the Far North District Council prior to the issue of the section 224 (c) Certificate and shall be ongoing.
- (35) Any predator / pest control work carried out is to be done in a manner which will not endanger kiwi.
- (36) Conditions (3) (29) to (3) (33) shall be secured by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of all of the residential and rural residential allotments within the subdivision. The costs of preparing, checking, executing and registering the Notice shall be met by the Consent Holder.

Revegetation and Landscape Planting:

- (37) A landscaping plan from a suitably-qualified person shall be provided to the Council's satisfaction, which indicates the means to lessen the visual impact of buildings, access ways and any earthworks. This plan shall be submitted with the resource consent application for the construction of a dwelling or accessory building on sites within the subdivision. On approval of this plan, the landscaping specified is to be provided within six months and adequately maintained thereafter. Plants requiring removal due to damage, disease or other cause shall be replaced with a similar specimen before the end of the next following planting season.

This condition shall be secured by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of all of the residential and rural residential allotments within the

subdivision. The costs of preparing, checking, executing and registering the Notice shall be met by the Consent Holder.

(38) A planting plan shall be submitted to the satisfaction of the Far North District Council providing for the revegetation of cut and fill batters and retaining walls with native species. Planting of these areas shall occur in accordance with the approved plan and within the first planting season following completion of the works to which the plan relates.

(39) A riparian planting and maintenance plan shall be submitted to the satisfaction of the Far North District Council detailing the proposed revegetation planting for the right bank of the Owhetu Creek and the bare areas within native bush on bush block 201. This revegetation planting shall also extend onto lots 87 and 88 outside of the identified building platforms.

The riparian planting plan shall be implemented within the first planting season following commencement of construction works for the subdivision. Regular maintenance and necessary replacement planting shall be undertaken on an ongoing basis to ensure the establishment of this area of planting to a level where it will continue to grow and establish of its own accord.

Note: This is likely to involve a minimum of 3 planting seasons.

(40) To ensure the performance of Condition (3) (39) herein, the consent holder shall arrange for a bond of \$ 150,000 in favour of the Council, to be undertaken according to the following conditions:

- (a) The bond shall be arranged prior to the commencement of work on the site and shall be either paid in cash or secured by a guarantee, in accordance with the Council's "Bonds and Undertakings" Policy (# 3102);
- (b) The bond is to be held for a minimum of 2 years from the date that the revegetation planting is initially completed, and shall be released when (in the opinion of the Council's Monitoring Officer) the planting can be determined to have been established without the need for further replacement planting or regular maintenance;
- (c) Any costs incurred in the preparation, checking, monitoring and release of the bond are to be met by the consent holder.

ADVICE NOTE: The current scheduled fee for the preparation and/or release of bonds /covenants is a *Fixed Fee* of \$250.00.

STATUTORY INFORMATION / ADVICE

The following matters are noted as being relevant to the land, and possibly requiring additional action for statutory or code compliance. The applicant and any prospective purchasers should be aware of these matters; and hence the information will be placed on the property file and will be cited in any related Project or Land Information Memorandum that may be issued by the Council.

- Pursuant to Section 102 of the Local Government Act 2002, the Far North District Council has prepared and adopted a Development Contributions Policy. Under this policy, the activity to which this consent relates is subject to Development Contributions.

You will be advised of the assessment of the Development Contributions payable under separate cover in the near future.

It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which this consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate.

Further information regarding the Council's Development Contributions Policy may be obtained from the Long Term Council Community Plan (LTCCP) or the Council's web-site at www.fndc.govt.nz.

- The Consent Holder, and subsequent owners of the land, should notify the New Zealand Historic Places Trust prior to commencing any work involving building, ground disturbance or tree planting, with regard to the historic (archaeological) site registered on the property, and should comply with the requirements and provisions of the Historic Places Act 1993.

If during the course of undertaking the site works there is a discovery made of any archaeological find, or suspected find, the work on that portion of the site should cease immediately and the NZ Historic Places Trust and a representative of the relevant local iwi contacted. Comply in all respects with the requirements and provisions of the Historic Places Act 1993.

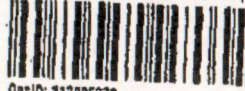
- That the applicants be informed of the service requirements of Telecom Auckland Limited and Top Energy. Copies of these requirements are enclosed with the consent.
- The registered proprietor of the land is advised that any earthworks (excavation or filling) which alters existing land contours and is undertaken within 20 metres of any road or other property boundary requires permission for the control of earthworks, pursuant to chapter 22 of the Far North District Council general bylaws, November 1990.
- Any prospective purchaser should be informed that any buildings greater than 50m² in area intended to be erected on the new allotments will be subject to [at least] a Restricted Discretionary Activity resource consent application because of restrictions contained in the zoning of the subdivision site.
- Prior to constructing a new or an additional vehicle access point to any site, the owner is to obtain a permit from the Council as to the siting (from a traffic safety point-of-view), earthworks, formation and drainage of such access in terms of the Council's Control of Vehicle Crossings Bylaw 2004.



Far North
District Council

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THE RESOURCE MANAGEMENT ACT 1991

SECTION 221 : CONSENT NOTICE

REGARDING RC 2051164
the Subdivision of Lot 4 DP 312738
North Auckland Registry

PURSUANT to Section 221 and for the purpose of Section 224(c)(ii) of the Resource Management Act 1991, this Consent Notice is issued by the **FAR NORTH DISTRICT COUNCIL** to the effect that conditions described in the schedule below are to be complied with on a continuing basis by the subdividing owner and the subsequent owners after the deposit of the survey plan, and these are to be registered on the appropriate titles of Lots on DP 384236.

SCHEDULE

LOTS 66 AND 67

1. Prior to the construction of any building on the lot the property owner shall provide a report prepared by a suitably qualified Chartered Professional Engineer which identifies the 100 year AFI Flood level for the site and specifies a safe minimum floor level above the identified flood level.

LOTS 56 - 67, 201 AND 203

2. The parent site boundary shall be fenced where there is bush to be protected as required by conditions (2) (1) and (3) (29) to ensure that stock from a neighbouring site cannot access the bush protection areas.

LOTS 28 - 31 AND 49 - 86

3. The defined building sites shall be pegged and temporary fencing constructed around the perimeter of the building site to ensure that bush clearance and construction works do not extend outside of these defined areas.
4. That the wastewater treatment and disposal system shall be designed by a Registered Engineer in accordance with the Auckland Regional Council Technical Publication N^o 58 and to the satisfaction of the Far North District Council.
5. The wastewater treatment and disposal system shall be regularly maintained and upgraded and / or replaced as necessary to ensure that it continues to operate properly.

LOTS 29 – 31, 49 – 86, 201 AND 203

6. The owner shall preserve the indigenous trees and bush on allotments 201 and 203 and all bush areas outside of the identified building platforms on allotments 28, 29, 30, 31, allotments 49 to 86 inclusive and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage or destroy any of such trees or bush or suffer or permit the cutting down damaging or destruction of any such trees or bush. The owner shall be deemed to be not in breach of this prohibition if any of such trees or bush shall die from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.

LOTS 51, 52, 60 – 63, 67 – 69, 72, 73, 75, 81, AND 82

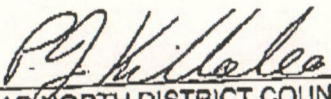
7. Without the prior approval of the Council, no building shall be erected, nor any works which increase impermeable surfaces be undertaken, nor any planting or structure placed which may create a flow obstruction, on any area of the site which has been proposed as a secondary/overland (Q₁₀₀) flow. [Refer to easements G, H, I, J, K, L, N, O, Q, R, T, U, V, W, X, Y, and AA]

ALL LOTS:

8. The Incorporated Body or other legal entity requested to be formed pursuant to Condition (3) (4) shall be responsible for the ongoing maintenance of the common areas, and the stormwater and waste water systems. The owner of each residential and rural residential allotment within the subdivision will be required to be a member of the approved entity.
9. The requirements of the approved management plan shall be complied with at all times and in particular the following matters shall be observed at all times:
 - No building shall exceed a height of 6 metres as measured by the rolling height method set out in the District Plan.
 - The colours of all buildings are to comply with British Standard specification BS5252 Colour Range and have a reflective value of 30 % or less.
10. Any new residential building erected on site, shall have installed domestic sprinkler systems in accordance with the requirements of the New Zealand Fire Service.
11. No building shall be erected on the proposed lots without the prior approval of the council to specific designs for foundations, prepared by a registered engineer with geotechnical expertise.
12. No occupier of the land shall keep or introduce on to the site carnivorous or omnivorous exotic animals (such as ferrets, cats or dogs) which have the potential to be kiwi predators.
13. Exotic vegetation which could adversely affect natural regeneration or local forest health is not to be introduced on the site. This includes the introduction of invasive plant species, including those currently listed on the nationally-banned-for-sale list (see Northland regional Pest Management Strategy). Planting of other exotic species should be confined to the immediate vicinity of dwellings. And species with berry-type fruits are to be grown within netting to prevent seed spread by birds.

14. Animal pest and weed eradication shall be ongoing in accordance with the animal pest and weed eradication programme approved by Far North District Council detailing the methodology for animal pest and weed eradication within the bush covenant areas. Any predator / pest control work carried out is to be done in a manner which will not endanger kiwi.
15. A landscaping plan from a suitably-qualified person shall be provided to the Council's satisfaction, which indicates the means to lessen the visual impact of buildings, access ways and any earthworks. This plan shall be submitted with the resource consent application for the construction of a dwelling or accessory building on sites within the subdivision. On approval of this plan, the landscaping specified is to be provided within six months and adequately maintained thereafter. Plants requiring removal due to damage, disease or other cause shall be replaced with a similar specimen before the end of the next following planting season.

SIGNED:


By the FAR NORTH DISTRICT COUNCIL
Under delegated authority:
RESOURCE CONSENTS MANAGER

DATED at KAIKOHE this

17th day of May

2007