

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



Restricted discretionary activity for a subdivision consent

Application number: SUB60373884 (s11 subdivision consent)
Applicant: Hanna Rosemarie Kendal
Site address: 33 Constable Road Waiuku Auckland
Legal description: Lot 2 DP 114774

Proposal:

To subdivide the subject residential site into two-lot fee simple subdivision. Proposed Lot 1 will have a net area of 946m² (gross area 1193m²) and will contain the existing dwelling. Proposed Lot 2 will be vacant and have a net site area of 453m².

Resource consent is required for the following reasons:

Subdivision consent (s11) – SUB60373884

Auckland Unitary Plan (Operative in part)

Subdivision (operative plan provisions)

Subdivision – Urban

- **Restricted Discretionary Activity** for subdivision around existing building and development complying with Standard E38.8.2.2 pursuant to E38.4.2(A15).
- **Restricted Discretionary Activity** for a vacant site subdivision involving parent site of less than 1ha complying with Standard E38.8.2.3 pursuant to E38.4.2(A16).

Decision

I have read the application, supporting documents, and the report and recommendations on the application for resource consent. I am satisfied that I have adequate information to consider the matters required by the Resource Management Act 1991 (RMA) and make a decision under delegated authority on the application.

Acting under delegated authority, under sections 104, 104C, 106 and Part 2 of the RMA, the resource consent is **GRANTED**.

Reasons

The reasons for this decision are:

1. The application is for restricted discretionary resource consent, and as such under s104C only those matters over which council has restricted its discretion have been considered. Those matters are:

- E38.12.1(6)(a)
 - E38.12.1(7)(a)
2. In accordance with an assessment under ss104(1)(a) and (ab) of the RMA the actual and potential effects from the proposal will be acceptable as:
 - a. The proposed shape and size of Lot 2 is such it ensures a dwelling can appropriately be placed on the site to meet all relevant rules and standards under the AUP(OP). The shape and size of Lot 1 is also created to ensure there is adequate amenity on the site and all relevant AUP(OP) standards are able to be met.
 - b. In terms of site access, it is noted that the legal width of the Right of Way is at 4.3m and the carriageway will be upgraded to 3m as to Council's standard. The width of the carriageway can adequately serve up to 9 car parking spaces; while the anticipated traffic movement within the subject site is expected to be identical to the current situation. Therefore, the adverse effects derived in terms of traffic to any adjacent properties and persons will be less than minor.
 - c. There is sufficient capacity in the public systems to serve the site, therefore the proposal is adequately serviced with water supply, wastewater and stormwater drainage. The design of the proposed utilities is appropriate and will not cause risk to human health or the environment. Conditions of consent have been imposed that the proposed engineering works are subject to Engineering Plan Approval (EPA) to ensure the works will be constructed in accordance with the Council's Engineering Standards.
 - d. The development will not increase the existing flooding issues within the site and surrounding area. The floodplain is located within the front portion of the driveway and a complying building platform is provided within the lot. Therefore, any adverse effects in relation to flood hazard are less than minor and stormwater management will not be required.
 - e. The implementation of the subdivision will result in less than minor effects on the environment and the immediate neighbours because the subdivision involves no physical changes and basically facilitates the creation of separate titles to those areas established.
 - f. With reference to s104(1)(ab), there are no specific offsetting or environmental compensation measures proposed or agreed to by the applicant to ensure positive effects on the environment.
 3. In accordance with an assessment under s104(1)(b) of the RMA the proposal is consistent with the relevant statutory documents, insofar as they relate to the matters over which discretion is restricted. In particular:
 - a. The proposal is consistent with the relevant matters of discretion, as outlined above, and policies under Chapter E38 Subdivision – Urban, being policies E38.3(1) & E38.3(6). Appropriate measures have been offered ensuring that supporting infrastructure is in place to service the proposed Lots. Conditions have been offered, and accepted, to ensure that this is completed prior to the issuing of the titles.

4. As a restricted discretionary activity, the other matters that can be considered under s104(1)(c) of the RMA must relate to the matters of discretion restricted under the plan. In this case, no other matters have been considered.
5. In terms of s106 of the RMA, the proposal is not considered to give rise to a significant risk from natural hazards, and sufficient provision has been made for legal and physical access to the proposed allotments. Accordingly, council is able to grant this subdivision consent subject to the conditions below.
6. In the context of this restricted discretionary activity subdivision application, where the relevant objectives and policies and other relevant provisions in the relevant statutory documents were prepared having regard to Part 2 of the RMA, they capture all relevant planning considerations and contain a coherent set of policies designed to achieve clear environmental outcomes. They also provide a clear framework for assessing all relevant potential effects and there is no need to go beyond these provisions and look to Part 2 in making this decision as an assessment against Part 2 would not add anything to the evaluative exercise.
7. Overall, the proposal is an acceptable development in this locality, resulting in less than minor adverse effects upon people and the wider environment.

Conditions

All conditions contained in this decision must be complied with at time of s224(c). The conditions have been separated into 'General', 'section 223' and 'section 224(c)' conditions in order to assist the consent holder in identifying the conditions that must be completed at the respective stages of implementing the resource consent for subdivision.

Under sections 108, 108AA and 220 of the RMA, this consent is subject to the following conditions:

General conditions

1. The two (2) residential lot subdivision] must be as described in the application form and assessment of environmental effects prepared by John Henderson dated 8 March 2021, and must be carried out in accordance with the plans and information detailed below, and all referenced by the council as consent number - SUB60373884.

Report title and reference	Author	Rev	Dated
Stormwater Management and Effluent Disposal Report	Tilsley Engineering Ltd		10 February 2021
Drawing title and reference	Author	Rev	Dated
Scheme Plan of Subdivision Lot 2 DP 114774 33 Constable Road, Waiuku (2839)	John Henderson Surveyor Ltd		April 2021
Other additional information	Author	Rev	Dated

Advice Note:

- *This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lot(s) can be appropriately serviced (infrastructure and access).*
 - *Details and specifications for the provision of infrastructure (e.g. public/ private drainage, location, and types of connections) and access (including drainage of accessways, construction standards etc) are subject to a separate EPA and/or Building Consent approval process.*
 - *Should it become apparent during the EPA and/or Building Consent process that a component of the granted resource consent cannot be implemented (e.g. detailed tests for soakage fail to achieve sufficient soakage rates, or sufficient gradients for drainage cannot be achieved in accordance with engineering standards/ bylaws etc), changes to the proposal will be required. This may require either a variation to this subdivision consent or a new consent.*
 - *Similarly, should the detailed design stage demonstrate that additional reasons for consent under the AUP are triggered (e.g. after detailed survey the access gradient increases to now infringe or increase an approved infringement to a standard in the plan), a new or varied resource consent is required.*
 - *It is the responsibility of the consent holder to ensure that all information submitted and assessed as part of the subdivision consent is correct and can be implemented as per the subdivision consent (without requiring additional reasons for consent). Any subsequent approval processes (such as the EPA) do not override the necessity to comply with the conditions of this resource consent.*
2. Under section 125 of the RMA, 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 RMA before the consent lapses, and that plan is deposited within three years of the approval date in accordance with section 224 of the RMA; or
 - b. An application under section 125 of the RMA 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.

Survey plan approval (s223) conditions

3. The consent holder must submit a survey plan in accordance with the approved resource consent subdivision scheme plan(s) titled '*Scheme Plan of Subdivision Lot 2 DP 114774 33 Constable Road, Waiuku (2839)*', prepared by John Henderson Surveyor Ltd, dated April 2021. The survey plan must show all easements required by this subdivision consent.
4. The right(s)-of-way and any services easements must be included in a memorandum of easements endorsed on the survey plan and must be created, granted or reserved as

necessary. The consent holder must meet the costs for the preparation, review, and registration of the easement instruments on the relevant computer registers (records of title).

Section 224(c) compliance conditions

Wastewater- Connection to Public Network

5. The consent holder must design and construct connections to the public wastewater reticulation network to serve Lots 1 & 2 in accordance with the requirements of the wastewater utility provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

Advice Note:

- *Acceptable forms of Evidence from the Utility Providers include a Certificate of Acceptance.*
- *Alterations to the public wastewater reticulation network require Engineering Plan Approval. Additional approval is required from Watercare as part of the Engineering Plan Approval Process.*
- *Public connections are to be constructed in accordance with the Water and Wastewater Code of Practice.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval.*

Water Supply - Connections to Public Network

6. The consent holder must design and construct connections to the public water reticulation network to serve Lots 1 and 2 in accordance with the requirements of the water utility provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under the section 224(c) of the RMA.

Advice Note:

- *Acceptable forms of evidence from the Utility Providers include a Certificate of Acceptance.*
- *Alterations to the public water reticulation network require Engineering Plan Approval. Additional approval is required from Watercare/ Veolia as part of the Engineering Plan Approval Process.*
- *Public water supply is required to ensure an acceptable water supply for each lot, including for fire-fighting purposes.*
- *Public connections are to be constructed in accordance with the Water and Wastewater Code of Practice.*

- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval.*

Utilities

7. The consent holder must make provision for telecommunications and electricity to the Lots 1 & 2 in accordance with the requirements of the respective utility operators. These utilities must be underground. Certification from the utility providers that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

Advice Note:

- *The consent holder may also provide gas servicing to the lot, but this is not a requirement of the AUP(OP) and no proof is required at time of section 224(c). Any gas lines are required to be installed underground.*

Stormwater - Connections to Public Network

8. The consent holder must design and construct connections to the public stormwater reticulation network to serve Lots in accordance with the requirements of the stormwater utility service provider. Certification from the utility provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

Advice Note:

- *Acceptable forms of evidence include Engineering Approval Completion Certificates.*
- *Stormwater utility provider is Auckland Council Healthy Waters.*
- *Public connections are to be constructed in accordance with the Stormwater Code of Practice.*
- *Alterations to the public stormwater reticulation network require Engineering Plan Approval.*
- *Plans approved under Resource Consent do not constitute an Engineering Plan Approval and should not be used for the purposes of constructing public reticulation works in the absence of that approval.*

Stormwater System

9. Lot 2 shall have a minimum of 2000 litre stormwater detention tank for the roof runoff mitigation prior to discharge to the public stormwater infrastructure. Detail design of the tank and calculations shall be provided at building consent stage. As-built plan or certification from the provider that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

Vehicle Access

10. The consent holder must design and construct a vehicle accessway (easement area over "A") to serve Lots 1 and 2 in accordance with the approved plans noted in Condition 1 – SUB60373884 and with the requirements of Auckland Council. Certification from a suitably qualified and experienced engineer that works have been satisfactorily undertaken must be provided when applying for a certificate under section 224(c) of the RMA.

Advice Note:

- *Right of ways, Commonly Owned Access Lots and common access ways require a Common Access Way Plan Approval prior to construction.*
 - *Please contact Auckland Council to obtain the current engineering requirements for the construction of the type of vehicle accessway proposed.*
11. The application for a certificate under section 224(c) of the RMA must be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of subdivision consent - SUB60373884 have been complied with.

Advice notes

1. *Any reference to number of days within this decision refers to working days as defined in s2 of the RMA.*
2. *For more information on the resource consent process with Auckland Council see the council's website: www.aucklandcouncil.govt.nz. General information on resource consents, including making an application to vary or cancel consent conditions can be found on the Ministry for the Environment's website: www.mfe.govt.nz.*
3. *If you disagree with any of the above conditions, and/or disagree with the additional charges relating to the processing of the application(s), you have a right of objection pursuant to sections 357A and/or 357B of the Resource Management Act 1991. Any objection must be made in writing to the council within 15 working days of your receipt of this decision (for s357A) or receipt of the council invoice (for s357B).*
4. *The consent holder is responsible for obtaining all other necessary consents, permits, and licences, including those under the Building Act 2004, and the Heritage New Zealand Pouhere Taonga Act 2014. This consent does not remove the need to comply with all other applicable Acts (including the Property Law Act 2007 and the Health and Safety at Work Act 2015), regulations, relevant Bylaws, and rules of law. This consent does not constitute building consent approval. Please check whether a building consent is required under the Building Act 2004.*

Delegated decision maker:

Name: Tommy Lai
Title: Team Leader, Resource Consents

Signed:

Bunny Car

Date:

5 May 2021