

**PROPOSED TWO
LOT RESIDENTIAL
SUBDIVISION - 60
POHUTU STREET
WHAKATANE**

Resource Consent Application and
Assessment of Environmental Effects

Barry Raynes



DOCUMENT CONTROL RECORD



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1.0

THE APPLICANT AND PROPERTY DETAILS

APPLICANT	Barry Raynes
SITE ADDRESS	60 Pohutu Street, Whakatane
ADDRESS FOR SERVICE	C/- Harrison Grierson Whakatane PO Box 336 Whakatane 3158
LEGAL DESCRIPTION	Lot 25 DPS 3057
SITE AREA	943m ²
DISTRICT PLAN	Whakatane District Plan
ZONING	Residential

LOCALITY DIAGRAM



2.0 THE PROPOSAL

Barry Raynes is seeking resource consent to undertake a two-lot residential subdivision of a property at 60 Pohutu Street, Whakatane. The subject site currently contains a single dwelling and an assortment of accessory buildings. The proposal will create a front lot of 475m² around the existing dwelling, proposed Lot 1. The second lot, Lot 2 is a rear lot of 468m².

It is proposed that a new vehicle crossing and Right of Way (ROW) will be constructed along the eastern boundary. The new vehicle crossing and ROW will provide access to both Lots 1 and 2. The existing vehicle crossing will be permanently closed. The existing dwelling has connections to Council services for water, wastewater and stormwater. Proposed Lot 2 will require new connections to these services and additional on-site stormwater management, through soak holes.

Overall the proposed residential subdivision will create Lot 1 of 475m² and Lot 2 of 468m², resulting in one additional Certificate of Title (*Figure 1*).

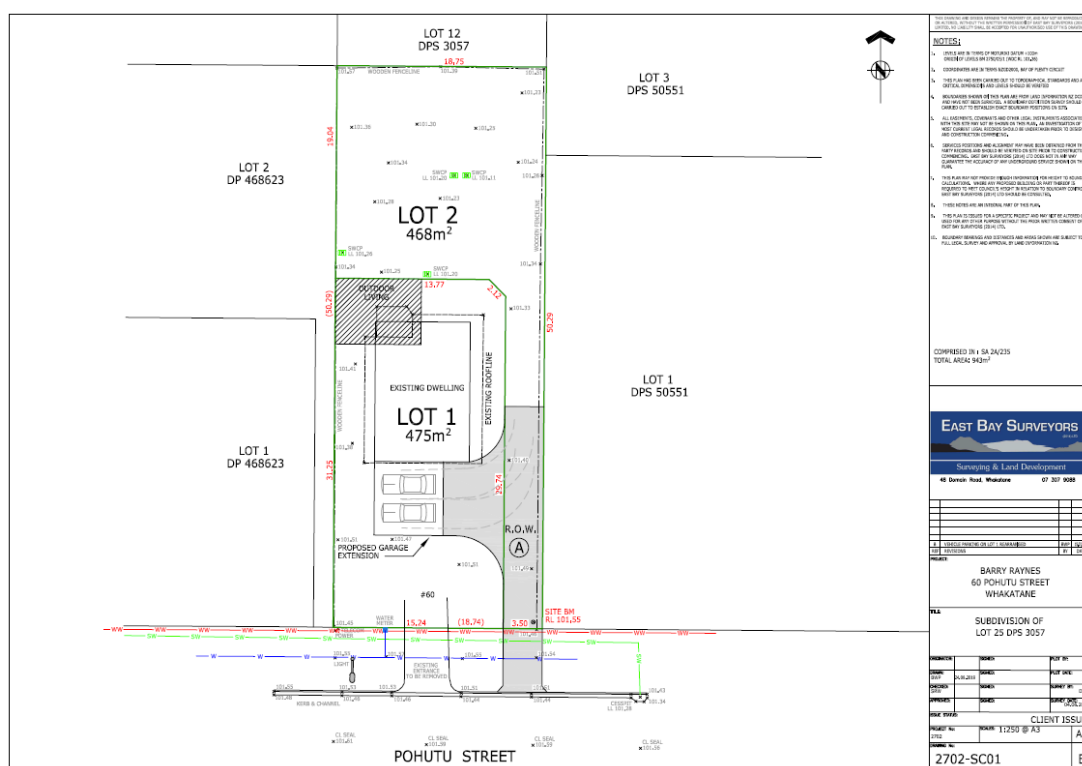


FIGURE 1: Proposed Scheme Plan of Subdivision (**Appendix 2**).

3.0 THE SUBJECT SITE AND ITS IMMEDIATE SURROUNDS

The property is located at 60 Pohutu Street, Whakatane. The area is a well-developed residential area near the Whakatane CBD. There have in the past been several similar residential infill subdivisions in and around this area. The property directly to the east contains the Golden Pond Home and Hospital, which is a medium sized retirement village and

elderly care facility. To the west is a developed residential infill subdivision and the property directly to the north is a full-sized residential property (Figure 2)



FIGURE 2: Subject site and surrounds

The subject site contains a single dwelling and a number of sheds in the rear yard area. There is an existing vehicle entrance which is located in the centre of the front boundary, this provides access to the garage in the rear yard and a parking space in front of the dwelling (Figure 3). This vehicle crossing will be permanently closed as part of this proposal.



FIGURE 3: Subject site

The existing dwelling is serviced by Council reticulated stormwater, water and wastewater.

The property is identified as being within the Residential Zone on the District Planning Maps (Planning Maps). The Planning Maps do not identify any significant features which may constrain development (Figure 4).



FIGURE 4: District Planning Maps

4.0 REASONS FOR THE APPLICATION

A resource consent pursuant to the provisions of the Operative Whakatane District Plan (District Plan) is required for the following reasons:

4.1 ACTIVITY

The proposal seeks to subdivide Lot 25 DPS 3057 into two new allotments. The resulting lots will be 475m² (Lot 1) and 468m² (Lot 2).

All subdivision in the Whakatane District requires resource consent under the provisions of the District Plan.

4.2 DEVELOPMENT CONTROLS/PERFORMANCE STANDARDS

Rule 12.4.1.1 sets the minimum lot size for subdivision within the Residential Zone as being 350m². Both the proposed lots are well in excess of the 350m² minimum lot size requirement.

The proposal will meet all relevant development controls in the District Plan with the exception of the following provisions –

- **Rule 13.2.4.1 – Restricted Discretionary Activity** – the proposed ROW access will be 3.5 metres wide, less than the 4 metres required

- **Rule 4.2.7 – Restricted Discretionary Activity** – the proposed outdoor living space does not have direct access from a living area

4.3 STATUS OF THE APPLICATION

The District Plan provides for residential subdivision meeting the minimum lot size requirement as a controlled activity under Rule 12.2.1.1.1.

Overall, the proposal requires assessment under the District Plan as a **restricted discretionary activity**.

5.0 STATUTORY REQUIREMENTS

Section 88(2)(b) of the Resource Management Act 1991 (the “Act”) stipulates that an application shall include an assessment of environmental effects prepared in accordance with the Fourth Schedule and be in such detail as corresponds with the scale and significance of the effects that the activity may have on the environment. This assessment can be found in Section 6.1 of this report.

Section 77D of the Act allows a local authority to make a rule that states whether an application for resource consent may be decided without notification under sections 95A-95E.

The District Plan does not specify state that a subdivision within the Residential Zone should be processed without public notification. As such, a notification assessment has been undertaken in the following section 6 of this report.

6.0 NOTIFICATION ASSESSMENT

6.1 PUBLIC NOTIFICATION UNDER SECTION 95A OF THE ACT

Section 95A of the Act provides Council with the steps to determine whether to publicly notify an application for resource consent. This section provides our opinion as to whether Council should or should not publicly notify this application.

6.1.1 MANDATORY PUBLIC NOTIFICATION

The three instances when an application for resource consent must be notified by Council are contained in section 95A(3) of the Act. These are:

- a) the applicant requests public notification of the application; or
- b) public notification is required after a s.92 request for further information as stipulated in section 95C; or
- c) an application is being jointly made to exchange recreational reserve land under section 15AA.

The applicant is not requesting the resource consent application be publicly notified. Section 95A(3)(b) does not apply at this stage of the process and the application is not being jointly made to exchange recreational reserve land under section 15AA.

6.1.2 PUBLIC NOTIFICATION IS PRECLUDED

S95A(5) contains the circumstances where public notification of an application is precluded. These are:

- a) The activity or activities are subject to a rule or national environmental standard which precludes public notification.
- b) The application is a one of the following –
 - (i) a controlled activity, or
 - (ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or residential activity
 - (iii) a restricted discretionary, discretionary activity, or non-complying activity, but only if the activity is a boundary activity
 - (iv) a prescribed activity

This proposal is for a restricted discretionary activity subdivision, accordingly, public notification of the application is precluded pursuant to section 95A(5), unless special circumstances exist. Accordingly the application is not required to be assessed against the criteria in Section 95A(8).

6.1.3 SPECIAL CIRCUMSTANCES

Section 95A(9) states that an application for resource consent must be notified if it considers that special circumstances exist.

In this case, it is not considered that this application will give rise to any special circumstances. Residential infill subdivision in this location is anticipated by the District Plan. The proposal is of a similar scale and intensity to that of several other developments in and around the area.

6.1.4 SECTION 95A ASSESSMENT SUMMARY

This application does not warrant public notification under section 95A(2) of the Act as:

- The applicant is not requesting public notification; and
- There are no rules or standards that require public notification; and
- The activity has been specifically precluded from public notification unless special circumstances exist; and
- No special circumstances exist.

6.2 LIMITED NOTIFICATION UNDER SECTION 95B

Having formed a view that public notification is not required, we now provide our opinion on whether Council should limited notify this application under section 95B of the Act. Section 95B provides the following steps, in order to determine if limited notification of a resource consent is required.

6.2.1 AFFECTED GROUPS/PERSONS

Limited notification of an application can occur if a consent authority determines under sections 95B(2) & (3) that:

- There is an affected person, affected protected customary rights group, or affected customary marine title group; or
- Whether the land is adjacent to, or may affect, land that is subject of a statutory acknowledgement

The proposal will not adversely affect a protected customary rights group or affected customary marine title group. The land is not adjacent to any area over which a statutory acknowledgement has been identified.

It is our opinion that limited notification under section 95B(2) is not required.

6.2.2 LIMITED NOTIFICATION IS PRECLUDED

Section 95B(6) contains the circumstances where limited notification of an application is precluded. These are:

- a) The activity or activities are subject to a rule or a national environmental standard which precludes limited notification
- b) The application is for –
 - (i) A controlled activity under a District Plan (excluding subdivision); or
 - (ii) A prescribed activity

In this case, there are no rules or national environmental standards which preclude limited notification. The activity proposed is a restricted discretionary activity subdivision under the District Plan. Accordingly, the application is not precluded from limited notification.

6.2.3 CERTAIN OTHER AFFECTED PERSONS

Section 95B requires an application undergo limited notification if there are 'certain other affected persons'. As the proposal is not a prescribed activity nor a boundary activity, Council must determine if a person is affected in accordance with section 95E of the RMA. A person is considered to be affected if the adverse effects of the activity on that person are minor or more than minor (but not less than minor).

When making this determination, Council:

- a) *May disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and*
- b) *In the case of a controlled or restricted discretionary activity, must disregard an adverse effect of the activity on the person that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*
- c) *Must have regard to every statutory acknowledgement made in accordance with an Act specified in Schedule 11.*

Despite the above, a person cannot be considered as an affected person under this section of the Act if they have provided their written approval to the application. No written approvals have been sought in relation to this proposal.

The District Plan provides matters of control in Rule 12.7.1 for all controlled activity subdivision. Although the proposal is a restricted discretionary activity regarding access and the accessibility of the outdoor living space the relevant matters in Rule 12.7.1 should still also be addressed. The matters of discretion for non-complying outdoor living spaces are listed in 4.4.5 and the matters for discretion for the non-compliance for accessways are listed in 13.4.7.

The relevant matters contained in Rules 12.7.1, 4.4.5 and 13.4.7 have been addressed below -

AMENITY – OUTDOOR LIVING SPACE

The proposed outdoor living court has been identified in on the proposed scheme plan of subdivision. It has been identified in this area as this is the backyard of the site and therefore provides an increased level of privacy. Furthermore, this is the northern aspect of the site. It is also away from the carparking and garage area, providing a safer environment for supervising children and keeping them away from moving cars and the road.

Overall the identified location of the outdoor living space is considered to be appropriate for this dwelling.

REDUCED ACCESSWAY WIDTH

The proposed accessway width has been reduced to ensure that proposed Lot 1 is afforded a larger lot size. The shared accessway has been designed to ensure there is only one accessway to and from the site, rather than two separate accessways to serve each dwelling. This provides for safe entering and exiting the site for onsite vehicles and any off-site pedestrians and cyclists.

The access is for two dwellings and only a minimal length of the accessway is required to serve two dwellings. Overall the proposed reduce width will not give rise to any adverse effects with regard to the matters listed in Rule 13.4.7.

STORMWATER MANAGEMENT

The site contains poor-draining soils. On this basis, a stormwater disposal system will be installed within Lot 2 comprising of a series of shallow soak rings to collect stormwater from the car parking and manoeuvring areas as well as the proposed dwelling. An overflow connection from the soak rings to Council's reticulated stormwater system will be provided.

Overall there will be no adverse effect on the increase in stormwater on any other person, given that the stormwater can be entirely managed within the site and via connecting to Council reticulation.

SUBDIVISION DESIGN AND LAYOUT

The design of the proposed subdivision has been undertaken to ensure that Lot 1 can retain the existing dwelling and Lot 2 can contain a dwelling, outdoor living, parking and manoeuvring areas as required by the Residential Zone Standards. The subdivision design and layout is typical of general residential infill subdivision. The design also ensures that there are no additional vehicle crossings onto Pohutu Street.

Given that Lot 2 can contain a dwelling which can comply with the Residential Zone Standards, the subdivision design and layout is considered appropriate. Overall the design of the subdivision ensures that none of the adjoining properties will be adversely affected by the proposal.

RESIDENTIAL CHARACTER AND AMENITY

There will be very little change visually from the road frontage. The existing building will be retained, and the rear section is intended for a residential dwelling. The proposed additional allotment will be consistent with the level of residential density in and around the surrounding area. For these reasons it is considered that the proposed subdivision will not adversely affect any persons existing level of residential character or amenity.

NUISANCE EFFECTS

During construction of the associated vehicle crossing, accessway, infrastructure and the future dwelling there may be a rise in nuisance effects on the adjoining properties. Construction activities and the associated nuisance effects are provided for as a permitted activity under the District Plan. It is not considered that these construction effects will exceed the limits provided for by the District Plan. The nuisance effects will therefore not result in any person being adversely affected.

ACCESS AND TRANSPORTATION

The subdivision will require the construction of a new vehicle crossing onto Pohutu Street. The new vehicle crossing will be constructed to meet Council Standard Drawing R08 for residential vehicle crossings. The existing vehicle crossing which provides access to the existing dwelling will be permanently closed and the roadside berm and gutter etc will be reinstated to be consistent with the surrounds.

The new vehicle crossing will lead onto a new shared ROW. The ROW will be constructed to Council Standard Drawing R 13 – Standard Urban Accessway, except that a reduce width of 3.5m is proposed.

In terms of additional traffic generation Pohutu Street is a wide residential street. Both Pohutu Street and the wider transportation network have capacity to absorb the additional traffic volumes.

Overall it is not considered that any person will be adversely affected by the proposed new vehicle crossing and accessway and increase in traffic movements generated by the proposal.

6.2.4 SECTION 95B ASSESSMENT SUMMARY

This application does not warrant limit notification under section 95B of the Act as:

- limited notification under section 95B(2) is not required;
- The activity will not have minor or more than minor adverse effects on any person;
- No special circumstances exist.

7.0 SECTION 104 ASSESSMENT

Subject to Part 2 of the Act, when considering an application for resource consent in accordance with section 104(1) of the Act, regard must be given to; any actual and potential effects on the environment of allowing the activity; any relevant provisions of a national policy statement, a New Zealand coastal policy statement; a national environmental standard; a regional policy statement or proposed regional policy statement; a plan or proposed plan; and any other matter relevant and reasonably necessary to determine the application.

7.1 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT

Section 104(1)(a) of the Act requires that regard is given to any actual and potential effects on the environment of allowing the activity. The site is suitable for subdivision, there are no known natural hazards which the site is at risk from and both lots have legal access.

In terms of future planning for potential future flood risk, any future dwelling on proposed Lot 2 will be required to meet the minimum building platform requirement, as per Rule 18.2.3.2.

It is not considered that the proposal will give rise to any actual or potential effects over and above those which were assessed above in section 6.2.3. The actual and potential effects on the environment resulting from the proposal are considered acceptable.

7.2 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH (2012)

The National Environmental Standards (‘NES’) for Assessing and Managing Contaminants in Soil to Protect Human Health came into force on 1 January 2012. This standard applies to any subdivision of land that has or has had an activity or industry described in the Hazardous Activities and Industries List (‘HAIL’) undertaken on it.

The site is a well-established residential area. The site has only been used solely for residential purposes since the time it was originally developed and has no history of an activity or industry on the HAIL having been undertaken on it. The proposal does not therefore require assessment under the NES.

7.3 OPERATIVE BAY OF PLENTY REGIONAL POLICY STATEMENT (‘RPS’)

Sections 104(1)(b)(v)-(vi) of the Act states that consideration must be given to any relevant provisions of a regional policy statement, plan or proposed plan. The RPS provides higher level policy direction on the Bay of Plenty regions resource management issues. It is therefore important as part of this application to undertake an assessment of the relevant objectives and policies in the RPS. Section 2.8 of the RPS outlines the issues, objectives and policies relevant to urban and rural growth management in the Bay of Plenty.

The proposal provides an additional allotment within the existing developed residential area of the Whakatane Township. The proposal is entirely consistent with Objective 23, Policies UG 9B and UG 11B.

7.4 DISTRICT PLAN OBJECTIVES AND POLICIES

The following objectives and policies of the District Plan require assessment –

7.4.1 CHAPTER 4: RESIDENTIAL AND URBAN LIVING ZONES

Objective Res1 *The maintenance and enhancement of the character and amenity for dwellings and residential activities within Residential and Urban Living Zoned areas.*

Policy 1 *To ensure a site is large enough for a proposed use, development or subdivision to ensure residents on-site or in the neighbourhood retain or will have a high level of residential amenity.*

Policy 5 *To enable changes in land use, including greater density of residential development in urban areas, without compromising the existing level of amenity.*

Comment:

The proposal is entirely consistent with Objective Res1, Policies 1 and 5. The design and layout of the subdivision has ensured that the resulting lots are of a sufficient size for the intended residential use. Furthermore, the proposed increase in density across the site will not adversely affect the existing level of amenity within the surrounding residential area.

7.4.2 CHAPTER 12: SUBDIVISION AND ESPLANADE RESERVES

Objective Sub3 *The adverse effects of subdivision on natural and physical resources, are avoided, remedied or mitigated*

- Policy 1 *To ensure that the dimensions and areas of new lots sustain the District's rural and urban land resource and are designed to avoid, remedy or mitigate the adverse effects, including reverse sensitivity effects, of anticipated activities on new lots and within the locality.*
- Policy 2 *To ensure that infill housing and houses in identified urban growth areas are able to dispose of stormwater, sewage and wastewater into Council's systems to avoid, remedy or mitigate adverse effects on the environment.*

Comment:

As discussed above in 6.2.3 and 7.4.1 the site is of a sufficient size to support the proposed level of development. The proposed site is also capable of either connecting to Council reticulation for stormwater, wastewater and water. The site is also capable of onsite stormwater management to comply with Rule 13.2.28.

Overall, it is considered that the proposal will not be contrary to the objectives and policies of the District Plan.

7.5 DISTRICT PLAN ASSESSMENT CRITERIA

The activity is assessed under the District Plan as being a restricted discretionary activity. The District Plan lists matters which Council have restricted discretion in assessing the application. These matters have been listed above in Sections 6.1 and 6.2 of this report. It is considered that the matter which are relevant have been addressed through the assessments contained in Sections 6.1 and 7.1 of this report.

7.6 DISTRICT PLAN DEVELOPMENT CONTROLS

TABLE 1: GENERAL SUBDIVISION STANDARDS & TRANSPORTATION AND SERVICES		
RULE	PROPOSAL	COMPLIANCE
12.3.1 Building Platform a. b. Stable to support building foundations c. Free of topographical constraints d. Located to avoid natural hazards e. f. Clear of stormwater and effluent disposal systems	Lot 1 has an existing dwelling and proposed Lot 2 is of a sufficient size to contain a complying dwelling	Complies

g.		
h. Located to comply with the rules of the Plan		
12.3.2 Frontage Lots shall incorporate as a minimum a; a. 20m diameter circle b. Frontage to a legal road of 20m	Both lots will have a new complying vehicle crossing and accessway	Complies
12.3.3 Easements All easements provided by the subdivider shall be of a size to enable a telephone line, electricity and gas link to be provided to each lot.	Lot 1 will be provided with access over the proposed new ROW. Any additional easements will be identified at the time of 223c.	Complies
12.2.4 Balance Area A balance area shall comply with the minimum (and/or average) lot size for the respective zone	Both lots meet the minimum 350m ² lot size.	Complies
12.3.5 Existing Buildings In relation to proposed boundaries, existing and proposed buildings and building sites must comply with the bulk and location rules relevant to the zone.	The existing dwelling on proposed Lot 1 will meet all relevant standards for development with the Residential Zone.	Complies
12.4.1.1 Lot Size 350m ² min	Both Lots exceed the 350m ² minimum lot size.	Complies
13.2.2 Roads and Property Access Any new road or accessway shall be designed, constructed and located to accommodate the volume and type of traffic likely to use it in a safe and efficient manner.	The proposed vehicle entrance will be constructed to comply with Council's Code of Practise. As discussed earlier the width of the accessway will not comply with required width	Complies / Does not comply

13.2.4 Accessways 2 or 3 Lots - 4m width - 60m length - 3m carriageway	As discussed above in section 6.2.3 the accessway will be 3.5 metres wide not the required 4 metres	Does not comply
13.2.5 Vehicle Crossings	The proposed vehicle crossing will meet the required standards	Will comply
13.2.9 On-Site Parking 2 Spaces per dwelling	Each site can contain on-site parking and manoeuvring for two vehicles	Can comply
13.2.27.1 Wastewater All new lots or development within any of the Council's wastewater scheme boundary shall be provided with an individual connection to the Council's scheme	Proposed Lot 2 will be provided with a connection to Council's wastewater scheme Lot 1 already has an existing connection	Can comply
13.2.28 Stormwater	As discussed above in section 6.2.3 the proposed lots can be provided with appropriate stormwater disposal to comply with 13.2.28	Can comply
13.2.29 Water All new lots or development, within any of the Council's water supply scheme boundaries, except those that are in the Rural Plains, Rural Foothills, Rural Coastal, Rural Ōhiwa and CPZs, shall be provided with an individual connection.	Proposed Lot 2 will be provided with a connection to Council's water scheme, the existing dwelling on proposed Lot 1 has an existing connection	Can comply

7.7 DISTRICT PLAN ASSESSMENT CONCLUSION

The above assessments, and the consideration of effects on the environment contained within Sections 6 and 7 of this report, demonstrate that the effects of the proposal will, overall, be minor and therefore acceptable. The proposal is therefore considered to have no significant adverse effect in terms of the purpose of the above objectives and policies, rules and assessment criteria.

7.8 OTHER MATTERS

Section 104(1)(c) of the Act also states that consideration must be given to "any other matters that the consent authority considers relevant and reasonably necessary to determine the application."

No other matters are considered applicable to this application.

7.9 SECTION 104C

The proposed activity is deemed to be a restricted discretionary activity under the provisions of the District Plan. Accordingly, when considering this application for resource consent the Council must only consider those matters specified in the District Plan over which it has restricted its exercise of discretion. The Council may grant consent, and in doing so may only impose conditions which relate to those matters which discretion has been exercised in its District Plan.

8.0 RESOURCE MANAGEMENT ACT 1991

With respect to the purpose and principles of the Resource Management Act 1991 which are contained in sections 5 to 8 of the Act, it is considered that the proposed development will be an appropriate and sustainable use of the site. The proposal will provide an additional residential site in an area which is close to the Whakatane CBD. The proposal will provide an attractive residential site near amenities and will be consistent with the surrounding residential density. The site is also well serviced and has good access to transportation links, including cycling and pedestrian links.

There are no special ecosystems or environmental values of the site which would be compromised by the proposal. Overall the proposal is consistent with the purpose and principals of the Resource Management Act.

9.0 MONITORING OF EFFECTS

The Council is required to monitor the exercise of resource consents under section 35 of the Act.

The applicant accepts a reasonable monitoring fee in accordance with the Council's monitoring fee system and that the Council may carry out its monitoring functions by way of inspections of the site during development of the proposal.

10.0 FINANCIAL CONTRIBUTIONS

The applicant understands that there will be financial contributions imposed as a condition of consent.

11.0 CONCLUSION

The applicant seeks resource consent to subdivide at 60 Pohutu Street, Whakatane. The site is legally described as Lot 25 DPS 3057 and is 943m². The property is zoned Residential on the Planning Maps and contains no significant features or known hazards. The proposal will create two new allotments of 475m² (Lot 1) and 468m² (Lot 2). The application is seeking to close the existing vehicle crossing which provides access to the existing dwelling on Lot 1. A vehicle crossing, and ROW will be constructed to provide access to both Lots 1 and 2.

The application is a restricted discretionary activity subdivision and is therefore precluded from public notification. As discussed in Section 6.0 of this report and no persons are adversely affected as a result of the proposal and accordingly non-notification of the application is appropriate.

In terms of section 104(1)(a), the adverse effects of the proposal are minimal and are therefore acceptable.

The proposal is also not contrary to the relevant objectives, policies and assessment criteria of the District Plan in terms of section 104(1)(b).

Hence, in accordance with section 104C of the Act, it is considered appropriate for consent to be granted subject to fair and reasonable conditions.

12.0 LIMITATIONS

12.1 GENERAL

This report has been prepared for the particular project described and for the purpose of satisfying the statutory information requirements for an application being made under the Resource Management Act 1991. No responsibility is accepted by Harrison Grierson Consultants Limited (or its directors, agents or employees) for the use of the report or any part of it in any other context or for any other purpose.



APPENDICES



APPENDIX 1

CERTIFICATE OF TITLE

APPENDIX 2

SCHEME PLAN OF SUBDIVISION