In the Matter of:	*The Resource Management Act 1991*
And	
In the Matter of:	*An application under Section 88 of the Resource Management Act 1991 made by Bernie and Yani Stewart*
File Reference:	*RM220059B*

Decision on Resource Consent Application

Activity

The applicant seeks a change of conditions to the already varied approved subdivision consent (RM220059A) to vary the colour specifications as a result of a typo in the original application and to allow for the future dwelling in Lot 6 to exceed 5 metres in height.

Location

Address: 102 Settlement Road, Kaiwaka.

Legal Description: 102 Settlement Road, Kaiwaka. Lot 1 DP 123715 , RT NA42A/819

Kaipara District Plan (Operative 2013):

The following apply to the subject property:

Zoning:	*Rural Zone*
Overlays:	*N/A*
Activity Status:	*Discretionary Activity pursuant to Section 127 of the Act*

Determination

Pursuant to Section 104, 104B, 108 and 127 of the Resource Management Act 1991 ("the Act"), the Kaipara District Council ***grants*** *RM220059B to allow for the conditions of RM220059A to be amended as follows (showing deletions in strikethrough and additions in bold and underlined:*

General

1. *The activity shall be carried out in accordance with the plans and all information submitted with the application formally received by the Kaipara District Council ("Council") on 18 March 2022 and as varied by the Section 127 application by Reyburn and Bryant dated April 2023* ***and as varied by the Section 127 application by Kylie Mclaughlin-Brown dated 23/08/2023.***

a. *Application form, and assessment of environmental effects prepared by Reyburn and Bryant, dated March 2022.*

Plan title and reference	***Author***	***Rev***	***Dated***
'Proposed Subdivision of Lot 1 DP 123715', reference S16653	*Reyburn and Bryant*	*L*	*March 2023*
Landscape Plan – Overall Plan	*Evolve*		*30 March 2023*
Elevations - Sheet A2001	***Arcline Architecture***	***RFI-03***	***28-08-23***
Elevations – Sheet A2002	***Arcline Architecture***	***RFI-03***	***28-08-23***
Elevations – Sheet A2003	***Arcline Architecture***	***RFI-03***	***28-08-23***
Report Title and reference	***Author***	***Rev***	***Dated***
Engineering Suitability Report for Subdivision	*Hawthorn Geddes*	*2*	*23 August 2022*
Environmental Benefits Assessment Pertaining to a Proposed Subdivision at 102 Settlement Road, Kaiwaka Lot 1 DP 123715	*Rural Design*	*1*	*December 2021*
Assessment of Landscape and Visual Effects	*Evolve*		*December 2021*
Other additional information	***Author***	***Rev***	***Dated***
S92 Response	*Joseph Henehan, Reyburn and Bryant*		*24 May 2022*
Ecological Management Plan	*Rural Design*	*2*	*March 2023*
Ecology Memorandum	*Rural Design*		*28 March 2023*

Charges

2. *The Consent Holder shall pay any subsequent further charges imposed under Section 36 of the Act relating to the receiving, processing, granting and monitoring of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under Section 36(5) of the Act that are subject to challenge, the Consent Holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant final invoice.*

Section 125 - Consent Lapse Date

3. *Under Section 125 of the Act, RM220059 will continue to lapse on 3/10/27, being five years after the date it was originally granted, unless:*

   (a) An application under Section 125 of the Act is made to the Council before the consent lapses (five years) to extend the period after which the consent lapses and the Council grants an extension.

Road names

4. *The consent holder shall provide and install road naming signs in accordance with the Council's Engineering Standards 2011 for proposed Lot 8 (road to vest) within the subdivision. The names shall be as approved by the Council.*

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

Pre-Commencement Conditions

5. *Prior to the commencement of any work authorised under this consent, a Construction Management Plan ("CMP") in accordance with Section 3.3 of Council's Engineering Standards 2011 shall be provided to Council's Development Engineer, or their delegated representative, for certification, and shall include:*

   (i) Details of the site manager including full contact details;
   (ii) Construction methodology including proposed plant and machinery to be utilised;
   (iii) Proposed procedures for controlling sediment runoff and dust generation;
   (iv) Programme of works;
   (v) Proposed hours of work on the site;

(vi) Details of the number and timing of truck movements on the access route to the site;

(vii) Details of any proposed materials storage areas;

(viii) Traffic management plans;

(ix) Proposed communication strategy to advise members of the public of the construction works;

(x) For all road construction works, the consent holder shall give Council's Asset Manager at least 10working days' notice of commencement of any works on any Council Road.

6. *Prior to the commencement of any work within the Council's road reserve, the consent holder shall submit a Corridor Access Request ("CAR") application, including a Traffic Management Plan/s, to the Northern Transportation Alliance Corridor Access Manager and obtain approval.*

Prior to Section 223 Certification

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

General

(a) The survey plan shall be generally in accordance with the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision L, dated March 2023, andprepared by Reyburn & Bryant.

Easements

(b) The survey plan shall show all necessary easements as required for servicing.

Road to vest

(c) The survey plan shall show Lot 8 as public road to vest in the Council.

Amalgamation conditions

(d) Pursuant to Section 220(1)(b)(ii) of the Act, the survey plan shall show an amalgamation condition that Lot 1 hereon and Lot 7 hereon shall be held together and one Record of Title be issued for bothparcels. (LINZ Ref pending).

Utility providers

(e) The Consent Holder / Consent Holder's Surveyor shall provide evidence from the appropriate network utility supply providers that arrangements can be made for the provision of electricity and show the necessary easements on the survey plan to the approval of the Council.

Environmental Benefits/Conservation Covenants

(f) The survey plan shall show the proposed covenant(s) generally as indicated as Area's "A","B", "C","D" and "E" on the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision L, dated March 2023, and prepared by Reyburn & Bryant, asbeing land subject to conservation covenants pursuant to Section 77 of the Reserves Act, or open space covenants pursuant to the Queen Elizabeth the Second National Trust Act 1977.

(g) An Ecological Planting and Weed/Pest Control Management Plan ("EPWCMP"), generally in accordance with the recommendations of the report titled 'Environmental Benefits Assessment Pertaining to a Proposed Subdivision at 102 Settlement Road, Kaiwaka Lot 1 DP 123715' dated December 2021 and prepared by Rural Design, shall be prepared by a suitably qualified ecologist and submitted to the Council for written approval (in a certifying capacity). The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:

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

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

- *Watering,*
- *Weed control,*
- *Cultivation,*
- *Control of pests and diseases,*
- *Removal of litter,*
- *Checking of stakes and ties,*
- *Trimming, pruning,*
- *Topping up mulch*
- *And other works required to ensure planting maintains healthy growth and form.*

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

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

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

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

Landscape Covenants

(h) The survey plan shall show the proposed landscaped areas indicated as Areas "F", "G", "H", "I", "J","K", and "L" on the plan of subdivision titled 'Proposed Subdivision of Lot 1 DP 123715',

reference S16653, revision L, dated March 2023, and prepared by Reyburn & Bryant for the purposes of ongoing compliance with condition 8(n)(xviii) of this consent (RM220059).

Landscaping Design – Private Land

(i) A detailed Landscape Planting and Management Plan, generally in accordance with the recommendations of the report titled 'Assessment of Landscape and Visual Effects', dated December 2021 and in accordance with the amended landscape plan dated 30 March 2023 and prepared by Evolve, including an establishment and maintenance schedule, shall be preparedby a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture, and shall be submitted to Council for written approval. The Landscape Planting and Management Plan shall include, but may not be limited to, the following:

(i) A description of the purpose and objectives of the planting.

(ii) A plan of the planted areas detailing proposed plant species, plant sourcing, plant sizes at time of planting, plant locations, density of planting and timing of planting, height and density upon maturity. The planting sizes for the balance of the plants shall be provided such that maturity is reached and their intended purpose (e.g. privacy) achieved within 3 year period following initial planting.

(iii) A programme of establishment and post establishment protection and maintenance, including planting method, fertilising, weed removal / spraying, replacement of dead or poorly performingplants, watering, length of maintenance programme. Management of the vegetation within the lot shall be the responsibility of the Lot owner.

(iv) Details of weed management.

(v) Details of certification process once established

Building Areas/Restrictive Covenants

(j) The survey plan shall show the identified building areas on Lots 2, 5 and 6 as indicated on the planof subdivision, titled 'Proposed Subdivision of Lot 1 DP 123715', reference S16653, revision L, dated March 2023, and prepared by Reyburn & Bryant. The survey plan is to include dimensions, areas and boundary references for accurate siting for the purposes of ongoing compliance with Condition 8(n)(iii) of this consent (RM220059).

Engineering Design

(k) The Consent Holder shall submit a detailed set of engineering plans, specifications and calculations, prepared in accordance with the Council's Engineering Standards 2011 to the Council's Development Engineer, of their delegated representative for approval.

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

(i) Have the appropriate experience in the relevant areas; and

(ii) Hold appropriate qualifications and membership of professional bodies; and

(iii) Have professional indemnity insurance to the value of at least $1,000,000.

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

a. Design details of the construction of the proposed vehicle crossings on all Lots 1-6 inaccordance with Section 5.2.18 of the Council's Engineering Standards 2011.

b. Engineering details for the road to vest within proposed Lot 8 must be designed in accordance with the Proposed Engineering Design by Reyburn and Bryant (Reference: E16653, Rev: H, dated: 11/08/2022), and approved by NTA (Northland Transport Alliance).

(l) All Engineering works are to be undertaken and supervised by a suitably qualified professional/engineer with relevant experience as per the approved site suitability report. Evidence shall be provided at the pre-construction meeting prior to the commencement of the physical works.

Wastewater confirmation

(m) Written evidence, including a detailed plan layout, prepared by a licensed cadastral surveyor that the existing disposal field(s) for Lot 3 and 4 are contained within the allotment boundaries and comply with Northland Regional Council requirements, noting the required separation distances toboundaries, surface water, water bores and the groundwater table, shall be provided to the satisfaction of the Council's Development Engineer, or their delegated representative.

(n) The exiting effluent disposal field servicing the existing dwelling proposed to be removed from proposed Lot 8 (road to vest) and relocated within proposed Lot 1 shall be decommissioned and/or relocated wholly within proposed Lot 1 ensuring it meets Council's Engineering Standards 2011 andNorthland Regional Council requirements before construction works are to commence on proposedLot 8.

Prior to Section 224(c) Certification

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

Utility Connections

***(a)** Electricity connections shall be provided to the boundary of the net site area of Lots 2, 5 and 6. The Consent Holder shall provide confirmation from the network utility supply authority of compliance with this condition.*

Easements

(b) *The Consent Holder shall provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses constructed under this consent are located within the appropriate easementboundaries.*

Engineering

(c) *All works on the engineering plans approved under Condition 5(e) of this consent are to be completed to the approval of the Council's Development Engineer, or their delegated representative. Compliance with this condition shall be determined by the following:1*

(i) *Site inspections undertaken as agreed in Council's engineering plan approval letter for the engineering plans as required by Condition 7(k) of this consent;*

(ii) *Provision and approval of supporting documentation provided by the Consent Holder in supportof the constructed works, including Producer Statements, completion certificates, works acceptance certificate, statement of compliance of as built works and as built plans, construction management plans, operation and maintenance plans and all other test certificatesand statements and supporting information required to confirm compliance of the works as required by Section 3 of the Council's Engineering Standards 2011.*

Remediation of Damages

(d) *In the event of any damage to any of the Council's road carriageway formation and street berm bythe works associated with this consent, the consent holder shall reinstate the formation and streetberm in accordance with Section 3 of the Council's Engineering Standards 2011.*

As-Built Plans

(e) *The consent holder shall submit certified and dated 'As-Built' plan/s of completed works and services in accordance with Council's Engineering Standards 2011 to the satisfaction of the Council's Development Engineer, or their delegated representative. The consent holder/consent holder's contractor shall supply the required As-Built details in hard copy and electronic (AUTOCAD) format. For pdf files different assets should be marked using following colours:*
Stormwater Assets – Green
Co-ordinates in New Zealand Transverse Mercator NZTM2000.

RAMM Data

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

Construction of roads to vest

(g) *The consent holder shall construct the public road within proposed Lot 8 in accordance with drawingS21 of Council's Engineering Standards 2011, inclusive of the approved street / road name. The sign shall be located in a position where it is most visible for road/access users.*

Landscaping Implementation

(h) *All works described in the approved Landscape Planting and Management Plan submitted to Council in accordance with condition 7(h) of this consent shall be implemented within the first planting season (May to September) following the written approval of the Landscape Planting andManagement Plan.*

The planting shall be implemented to the satisfaction of the Council or Council's delegated representative. The consent holder shall provide a completion report from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture to the satisfaction ofthe Council, and the Council will undertake inspections as required to confirm compliance.

The planting shall be subject to maintenance and monitoring within the proposed lots for a period of five (5) years following written approval from the Council that the planting has been implemented in accordance with the approved Landscape Plan.

Environmental Benefit

(i) *All animal pest control works described in the approved EPWCMP shall be implemented to the satisfaction of the Council. The consent holder shall provide a completion report from a suitably qualified animal pest control professional to the satisfaction of Council.*

(j) *All plant pest / weed control works described in the approved EPWCMP, shall be implemented to the satisfaction of the Council. The consent holder shall provide a completion report from a suitably qualified ecologist to the satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.*

(k) *All planting described in the approved EPWCMP, shall be implemented to the satisfaction of the Council. The consent holder shall provide a completion report from a suitably qualified ecologist tothe satisfaction of Council, and the Council will undertake inspections as required to confirm compliance.*

Conservation Covenant

(l) *A Conservation covenant(s) in accordance with Section 77 of the Reserves Act 1977, or an open*

space covenant under the Queen Elizabeth the Second National Trust Act 1977, shall be preparedfor registration against the titles of the land depicted on the Survey Plan as being subject to a

conservation/open space covenant. A conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document, or anopen space covenant shall require compliance with the QEII Trust.

(m) *The consent holder must erect and maintain fencing in stock proof condition around the boundary ofthe covenant area as is necessary to prevent entry to the covenant area by grazing animals, but notcloser to the bush than the drip-line of the outmost tress. The standard of that fencing is to be either a 7-wire fence with posts no more than five metres apart and with a minimum of five battens between each post and otherwise is to be as defined in paragraph 6 of the second schedule to the Fencing Act 1978, or post and 4-rail as recommended by Rural Design in their memorandum dated March 2023, Rev 2.*

Consent Notice/On-going conditions

(n) *Pursuant to Section 221 of the Act, the following conditions shall be complied with in perpetuity andshall be registered on the titles of Lots 1-7 by way of Consent Notice(s).*

In regard to Lots 1-6

General

(i) Earthworks, the location of buildings, driveways, storm water disposal and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineerhaving regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the site suitabilityreport prepared by Hawthorn Geddes (reference: 12610, rev: 2, dated: 23/08/2022) submitted toCouncil with subdivision consent RM220059.

(ii) Further geotechnical assessment shall be undertaken prior to lodgement of the building consent for development on the lot, requiring a qualified chartered engineer to assess foundation design in regard to ground stability.

(iii) All future dwellings on lots 1, 2, 5, and 6 must be located wholly within the identified building areas shown on the survey plan. Should the building sites differ from that depicted in the survey plan, then further site-specific engineering assessment, analysis and design will be required by a suitably experienced geotechnical engineering professional, acting within the bounds of their competency.

Built Development/Design Guidelines

(iv) Any accessory buildings related to the dwelling and any ancillary infrastructure shall be located within 10 metres of the dwelling. Within Lots 3 and 6, a single accessory building is permitted (excluding accessory buildings of the dwelling. Within Lots 3 and 6, a single accessory building is permitted (excluding accessory buildings of <50m^2 in GFA.) All buildings are to comply with thereduced front yard setbacks approved under resource consent RM220059, being 5 metres on Lot1 and 3 metres on Lots 2, 4 and 5.

(v) All new buildings and structures within proposed Lots 1, 2, 3, 4, and 5 shall not exceed 6 metres in height. ***The proposed building within Lot 6 shall not exceed 5m in height, with the exception of the areas that are shown to be over 5m in height on the elevation plans referenced in condition 1 above.*** *~~All new buildings and structures within proposed Lot 6 shall not exceed 5 metres in height.~~The height of buildings and structures shall be measured using the rolling height limit (above existing ground level).*

(vi) Glazing is to be non-mirrored.

(vii) All buildings on the lots are to be finished in the colours found in ~~BS2525~~ ***BS5252*** *complying with thefollowing:*

a. Hue (colour) All the colours from 00-24 are acceptable

b. Reflectance Value (RV) and Greyness Groups – The predominant wall colours shall have a RV rating of no more than 30% for greyness group A, B and C. Colours within greyness groups D and E are not permitted.

c. Roofs – A RV rating of no more than 20% for greyness groups A, B and C. Colours within greyness groups D and E are not permitted.

(viii) Any fencing shall be restricted to rural fencing typology - post and rail or post and wire fencing to complement the rural character of the site (aside from safety fencing typology around pools).

(ix) The use of spotlights and floodlights are prohibited. The spill from all exterior lighting shall be controlled so illumination and glare is contained within the lot in which the light is located.

(x) Water tanks shall be situated no more than 300mm above ground if ground conditions allow and shall be screened by vegetation.

(xi) Power and telecommunication infrastructure shall be underground.

(xii) Any retaining structures or walls shall be constructed of materials or finished in dark recessive colours or screened by vegetation.

(xiii) Driveways should follow the natural contour of the land and not be situated on any prominent ridgeline. Driveways shall suit the rural character of the site and be recessive in finish. Chip seal, metal or asphalt with natural swales is preferable, if concrete is used concrete with a black oxide additive or exposed aggregate finish is required.

In Regards to Lots 1, 2, 4, 5 and 6

Ecological Planting Maintenance, Weed and Animal/Pest Control

(xiv) *All ecological planting on site shall be maintained in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consent RM220059.*

Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM220059.

(xv) *Ongoing weed and animal/pest control shall be undertaken in accordance with the approved Ecological Planting and Weed/Pest Control Management Plan approved under resource consentRM220059.*

Evidence of compliance with this requirement shall be provided to Council in writing from a suitably qualified ecologist five (5) years from the date of issue of the Section 224(c) certificate for RM 220059.

(xvi) *The keeping of cats, mustelids and rodents on the lots is prohibited. (xvii) Dogs shall not be kepton the lot unless the following conditions are complied with:*

1. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roaminto the covenant area on the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may be in the form of an "electronic pet containment fence" means a system installed or attached to the perimeter of a defined area (or wireless equivalent) which is designed to prevent dogs escaping by transmitting a digital or electronic signal to a receiver collar worn by the dog.

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

In Regards to Lots 1, 2, 3, 5, 6 and 7:

Landscape and Amenity Planting Maintenance

(xvii) *All landscape and amenity planting on site shall be maintained in perpetuity in accordance with the Landscape Planting and Management Plan approved under resource consent RM220059 and the revised landscape plan – dated 30 March 2023. Diseased, dying or dangerous plants must be removed and replaced in accordance with the approved Landscape Planting and Management Plan.*

Evidence of compliance with this requirement shall be provided to Council in writing from a qualified landscape architect or tertiary qualified horticulturalist specialising in amenity horticulture five (5) years from the date of issue of the Section 224(c) certificate for RM220059.

(xviii) *Maintenance of planting will be monitored by Council for a period of five years from the date of issue of the Section 224(c) certificate. There will be a Council charge for this monitoring payableby the lot owner.*

In Regards to Lots 2, 5 and 6:

Servicing

(xix) *Future lot owners are advised that no physical telecommunication connections are provided. Kaipara District Council will not be responsible for ensuring nor providing telecommunication connections to this lot.*

Advice Note: This consent notice can be deleted if a hard-wired connection is provided to the Lot.

Firefighting Water Supply

(xx) *Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot with a minimum volume of 10,000 litres and shall remain accessible an available all year round. Note: This consent notice was volunteered by the applicant an accepted by Council in support ofRM220059.*

(xxi) *Unless specifically authorised in writing by Fire and Emergency New Zealand, sufficient firefighting water supply shall be provided for any commercial or industrial land use on the lot. Sufficient firefighting water supply is deemed to mean meeting full criteria of the Code of Practice for firefighting water supplies 9SNZ PAS 4509 2008) New Zealand Fire Service Firefighting Water Supplies Code of Practice).*

Note: This consent notice was volunteered by the applicant and accepted by Council in support of RM220059.

In Regards to Lots 1, 2, 5 and 6:

(xxii) *At the time of building consent for a dwelling on the lot an approved Stormwater assessment accompanied by a specific stormwater design by a suitably qualified person to mitigate adverse effects of the increase impermeable surfaces must be submitted to council for approval and be approved.*

(xxiii) *At the time of building consent for a dwelling on Lots 1 and 2, the applicant shall demonstrate that stormwater subsoil drainage is to be installed around the footprint of the building and have discharge points provided as per the site suitability report prepared by Hawthorn Geddes (reference: 12610, rev: 2, dated: 23/08/2022) submitted to Council with subdivision consent RM220059.*

Solicitors Undertaking

(o) *A solicitor's undertaking shall be provided to Council confirming that all consent notices and covenants prepared for registration under the relevant conditions of this resource consent will be dulyregistered against the new titles to be issued for the subdivision. The solicitor must provide a post registration title and instruments. All consent notices and covenants to be prepared or registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the consentholder's expense.*

Construction Maintenance Bond

(p) *The consent holder shall enter into a bond as security against any defect in performance of the roading works completed under this consent. The value of the bond shall be for 25% of the total costof the roading works based on actual construction costs.*
The bond shall remain in force for at least one year after completion of the work and until anydefects have been remedied to the satisfaction of the Council.

The bond shall be prepared by Council or Council's solicitor at the consent holder's expense. The bond will be released when all works associated with the bond are completed to Council's satisfaction and inspections fees are paid (or alternatively the consent holder may request that inspection fees can be deducted from the bond refund)

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

Financial Contributions

(q) *A cash contribution in lieu of reserves shall be paid based on 5% of the assessed value of a "nominal"4000m2 dwelling site on Lots 2, 5 and 6 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant's expense.*
At the time of payment of the contribution, the valuation upon which the cash contribution is calculatedshall be no more than three (3) months old.

Advice Notes

i) *The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.*

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

Reasons for the Decision

1. A decision was made under delegated authority to process the consent on a non-notified basis as per theCouncil's Notification Assessment in Section 7.

2. In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of thechange/cancellation of conditions on the environment are considered to be acceptable because:

- The overall effect of the change to conditions is considered to be the same as that associated with the original application.
- There are not considered to be any discernible or perceptible effects associated with amending the conditions as requested by this proposal.
- The changes proposed do not seek to diminish any of the responsibilities of the consent holder in terms of completing the subdivision as originally envisaged.

3. In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement as discussed in Section 10.0 of this report.

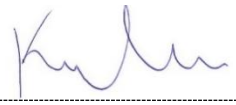
4. In terms of Section 104(1)(c) of the Act, other relevant matters, including financial and development contributions and monitoring have been considered in the determination of the application. However, noneof these matters were of relevance to the change of conditions to provide for amended allotment boundaries of the approved subdivision.

5. The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in Section5.

Reporting Planner *18/09/2023*

Bridget Ford *Date*

Peer Review

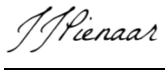


Kim Nathan

20/09/2023

Date

Signed:



JJ Pienaar

Date: 21/09/2023

Resource Consents Team Leader

Kaipara District Council

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

RM 220059B

Section 104 of the Resource Management Act 1991 - Assessment Report

Details of Application	
Applicant	Bernie & Yani Stewart
Property to which the consent relates	102 Settlement Road, Kaiwaka, Lot 1 DP 123715 RT NA42A/819.

1.0 Background

1. In October 2022, an eight-lot subdivision consent (RM220059) was approved as a non-complying activity utilising the environmental benefits subdivision provisions. The original decision includes consent under Rule 13.9.4 (non-complying activities), Rule 12.15.8 (Telecommunications) and Rule 12.10.7 (Setbacks). This consent was approved under delegated authority on a non-notified basis.

2. On the 1 June 2023 a variation was approved to the underlying subdivision consent RM220059, council reference RM220059A. This included varying the scheme plan, the landscaping and ecological covenanted areas, revegetation planting areas and fencing typologies. This consent was also approved under delegated authority on a non-notified basis.

2.0 Description of Proposal

3. Pursuant to s127 of the Act, the applicant now seeks consent pursuant to Section 127 of the Resource Management Act 1991, to vary conditions 1, 8 (n) (v) and (viii) of RM220059A, providing for the following:

    - This proposal seeks to allow the proposed dwelling on Lot 6 to be able to infringe the 5m height control registered on the title as per the Architectural Plans submitted and referenced in Condition 1.

    - The proposal also seeks to change the typo design controls in the decision which refers to all buildings being finished in BS2525. This is to be corrected to BS5252.

3.0 Site and Consent History

4. The application site legally described as Lot 1 DP 123715 was created in 1988. There are no relevant interests listed on the record of title for this lot.

5. The three established dwellings on site are lawfully established by RM160416. The land use consent was granted 19 January 2017 to allow three dwellings on the application site.

6. The application site, legally described as Lot 1 DP 123715 and a total are of 4.5908ha, is located on the southern side of Settlement Road in Kaiwaka. The site is approximately 1km east of State highway 1 and the township of Kaiwaka.

7. The site is irregular in shape and varied in topography, generally form the highest points in the southeast down towards the northeast.

8. The south portion of the subject site includes degraded wetland features extending along the southern ephemeral stream margins. The application proposes to protect and enhance 1.9575ha of wetlands, riparian margins and bush through the underlying subdivision.

9. The site is recognised as having Land Use Classes (LUC) 4 – Arable land. Significant limitations for arable use or cultivation.

10. Neither the Northland Regional Council (NRC) or Kaipara District Council (KDC) identify flood hazards on the site.

11. There are no known archaeology sites on the subject site.

12. The proposed site is not located within the Kaiwaka growth area.

13. The application site and surrounding area have a Rural zoning and is characterised by a mixture of rural – residential / 'lifestyle' allotments and pastoral land. Surrounding allotments range in size from 0.5ha to 5ha with larger sites up to 45+ Ha.

14. On October 2022, a eight-lot subdivision of the application site was approved under delegated authority as a non-complying activity and on a non-notified basis (RM220059).

15. A subsequent variation was approved on the 1 June 2023 (RM220059A), which included a variation to scheme plan, landscaping and ecological covenanted area, revegetation planting areas and fencing typologies. This consent was approved as a discretionary activity and a non-notified basis.

4.0 Kaipara District Plan (Operative 2013)

16. The following apply to the subject property:

Zoning: Rural Zone

Overlays: N./A

Activity Status: Discretionary Activity

5.0 Statutory Context – Section 127

17. Under Section 127 of the Act, a consent holder may apply to the Consent Authority for a change or cancellation of a condition of a consent. Section 127 of the Act details:

(1) The holder of a resource consent may apply to a consent authority for a change or cancellation of a condition of the consent subject to the following.

(a) the holder of a subdivision consent must apply under this section for a change or cancellation of the consent before the deposit of the survey plan (and must apply under

section 221 for a variation or cancellation of a consent notice after the deposit of the survey plan); and

(b) no holder of any consent may apply for a change or cancellation of a condition on the duration of the consent.

(3) Sections 88 to 121 apply, with all necessary modifications, as if-

(a) the application were an application for a resource consent for a discretionary activity; and

(b) the references to a resource consent and to the activity were references only to the change or cancellation of a condition and the effects of the change or cancellation respectively.

18. A key point to consider when assessing whether an application should be processed as a Section 127 change/cancellation of conditions or as a new application, is whether the proposed change in conditions will result in a "fundamentally different activity" or "an activity having materially different adverse effects" to those that lawfully exist or that were assessed under the original application. In this instance the proposal seeks to amend a typo in the original application and to allow for a change of height control for the dwelling proposed in Lot 6. This will enable the applicant to implement the consent in a manner which aligns with the intended outcomes of the KDP and is the same nature, scale and intensity as that approved. As such, it is considered that the proposal does not constitute a "fundamentally different activity" to that previously consented. In considering whether the proposal has "martially different adverse effects" it is noted that the physical work associated with the proposal are entirely unchanged.

19. This application is therefore to be assessed as a Discretionary Activity and the assessment in this report is appropriately confined to the *effects of the changes* to the proposal only (rather than re-addressing the entire proposal as originally consented).

6.0 Notification Assessment

20. Section 127 of the Act details:

(4) For the purposes of determining who is adversely affected by the change or cancellation, the local authority must consider, in particular, every person who-

(a) made a submission on the original application; and

(b) may be affected by the change or cancellation.

21. The above has been taken into consideration by the Council. A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's Notification Assessment Report.

7.0 Statutory Acknowledgements

22. The application site has not been recognised by the Crown, through a statutory acknowledgment, as significant to Te Uri o Hau. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) and authorised to participate in the Resource Management Act 1991 (RMA) proceedings. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) authorised to participate in the RMA proceedings.

23. Council provided a copy of the application to Te Uri o Hau on receipt of the application. No response was received at the time of writing this report.

8.0 Section 104(1)(a) - Actual & Potential Effects on the Environment

Written Approvals

24. With regard to Section 104(3)(a)(ii), the Council must not have regard to the effects on those persons who have given written approval to the application. No persons/parties have provided written approval.

Permitted Baseline

25. In accordance with Section 104(2), the Council may disregard an adverse effect of an activity on the environment if the Plan or a National Environmental Standard permits an activity on the site with that effect (commonly referred to as the 'permitted baseline' test). The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the Plan or NES, irrelevant. The baseline has been defined by case law as comprising non-fanciful (credible) activities that would be permitted as of right by the plan in question.

26. Any variation to a resource consent requires a discretionary activity and therefore the permitted baseline is not deemed relevant.

Receiving Environment

27. The 'environment' upon which effects are to be assessed comprises the existing and reasonably foreseeable future environment. In identifying the environment, it is necessary to consider the environment as it is at the time of application, and the likelihood of change to that environment in the future, based upon the activities that could be carried out as of right or with respect to resource consents that have been granted (where it is likely that they will be given effect to). As this application is for a change/cancellation to conditions of an existing consent, the receiving environment includes any effects from implementation of the original consent.

28. The receiving environment is characterised by rural- residential lifestyle development that contains a mixture of larger rural holdings and smaller lifestyle sized sites, with some as small as 0.5ha. Around the

subject site there are smaller sites to the north and north-west of the site and larger lifestyle blocks to the south and south – east of the site. Sites generally contain single storey standalone dwellings.

29. A subdivision has been granted, council reference RM22059A for the site that the applicant is in the process of implementing. This involves the creation of 6 lots for residential development and the driveway which will be vested as road. Each lot has a building platform to allow for a new dwelling. Given this consent is likely to be implemented it forms part of the receiving environment.

Assessment of Effects

Positive Effects

30. The proposal will allow for the applicants social and economic wellbeing through allowing the roof of the proposed dwelling on Lot 6 to be more than 5m in height.

Landscape, Character and Visual Amenity Effects

31. The proposed change in wording from BS2525 to BS5252 will ensure that the dwellings are designed and finished in accordance with the British Standards 5252. This was the intent of the original application as BS2525 is a typo and does not exist. Therefore, there will be less than minor adverse effects on the surrounding environment as a result of this change to the condition wording.

32. The proposal also seeks to increase the height allowance from 5m to allow for a larger roof form of the proposed dwelling for Lot 6. The reasoning behind the increase in height allowance relates to the design of the proposed dwelling and the ridge of the roof form and will allow the roof to be a continued pitch, rather than having to alter with the ground level.

33. The original application made the height restriction on Lot 6 at 5m for the following reasons:

34. *"Proposed Lot 6 is the most elevated of the proposed lots and built form within this lot has the potential to be prominent within the visual catchment. Consequently it is recommended that the height limit be more restrictive for building and structures within Lot 6".*

35. There is only a small portion of the proposed dwelling that will not meet the 5m required limit. The roof pitch is centralised to the dwelling and is partially sloping which will mitigate adverse bulk and dominance effects. Given that the majority of the house design complies with the proposed height restriction it is deemed that the adverse effects when viewing from the surrounding environment will be less than minor.

Conclusion

36. In summary, having assessed the effects of the change/cancellation to the consent conditions; it is considered that the proposal will result in less than minor, and acceptable, adverse effects on the environment.

9.0 Section 104(1)(b) - Provisions of Standards, Policy Statements and Plans

National Environmental Standards

Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011

37. The NPS-HPL is not applicable to the proposal.

Regional Policy Statement

Northland Regional Policy Statement 2016

38. Having regard to the proposal, and that it is not considered to give rise to an increased level of visual effects or ecological effects than those considered under RM220059 or RM220059A the proposed changes to the consent condition(s) will not require any greater consideration of the above listed National and Regional Policy Statements and Regional Plans of which were considered at the time the original consent was granted.

Regional Plans

Proposed Regional Plan for Northland

39. The proposal does not require any consent under the Proposed Regional Plan for Northland.

Kaipara District Plan 2013

Chapter 12: Rural Zone

Objective 12.5.2 To maintain the rural character and amenity, including the:

· Sense of openness;

· Low dominance of built form;

· Areas of indigenous vegetation and significant fauna; and

· Unmodified natural landforms.

40. It is considered that the proposal is consistent with the relevant objectives and policies relating to subdivision in the Rural Zone. The overall intent of this chapter is to sustainably manage, protect and enhance rural character, high amenity values and biodiversity values by limiting rural subdivision and development. This requires subdivision to result in the protection of significant vegetation, wetlands and wildlife habitats, or enhancement planting, which can offset some of the adverse effects of subdivision on the environment and landscape values. The proposed correction of the BS2525 to BS52523 will ensure that the dwelling finished to the right standards. The proposed increase in height restriction relates to a small centralised portion in relation to the overall dwelling proposed and will be indiscernible to the rest of the dwelling. This will ensure that there are less than minor adverse dominance built from effects. It will

also mitigate additional earthworks, retaining the existing topography as much as possible. The proposal does not alter any vegetation or other works consented under the original consent.

Conclusion

41. On balance, the proposal is considered to be consistent with the relevant provisions of the Regional Policy Statement and the objectives and policies of the District Plan.

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

42. No other matters are considered relevant when assessing this variation to conditions application.

11.0 Part 2 of the Act

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

Section 5 – Sustainable Management Purpose of the Act

44. Section 5(1) states that the purpose of the Act is to promote the sustainable management of natural and physical resources, with sustainable management defined in Section 5(2).

45. It is considered that the proposal will promote the sustainable management of natural and physical resources as it will enable the applicant and current and future landowners to provide for their social and economic wellbeing. At the same time the proposal sufficiently avoids, remedies, or mitigates adverse effects on receiving environments, amenity, and rural character of the surrounding environment.

Section 6 – Matters of National Importance

46. Section 6 of the Act sets out matters of national importance that a consent authority must recognise and provide for. The proposal is considered to be consistent with the provisions of Section 6 as it is not located within the coastal environment and is not located within any outstanding natural landscape. The proposal does not result in the removal of any vegetation or earthworks.

Section 7 – Other Matters

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

    (a) the efficient use and development of natural and physical resources:

    (b) the maintenance and enhancement of amenity values:

    (f) maintenance and enhancement of the quality of the environment:

48. For the reasons stated previously, it is not considered that the proposal will undermine existing amenity values nor compromise the quality of the environment.

Section 8 – Treaty of Waitangi

49. Section 8 of the RMA requires a consent authority to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). In this case, the proposal does not raise any treaty issues.

12.0 Reasons for the Decision

50. A decision was made under delegated authority to process the consent on a non-notified basis as per the Council's Notification Assessment Report.

51. In terms of Section 104(1)(a) of the Act, subject to compliance with conditions, the effects of the change/cancellation of conditions on the environment are considered to be acceptable.

52. In terms of Section 104(1)(b) of the Act, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013 and the Northland Regional Policy Statement as discussed in Section 9 of this report.

53. In terms of Section 104(1)(c) of the Act, other relevant matters been considered in the determination of the application.

54. The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Act and it is considered that granting this resource consent achieves the purpose of the Act as set out in Section 5.

Reporting Planner



Bridget Ford

18/09/2023

Date

Peer Review

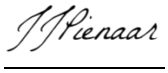


Kim Nathan

20/09/2023

Date

Signed:



JJ Pienaar *Date: 21/09/2023*

Resource Consents Team Leader

Kaipara District Council

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