

**DECISION ON SECTION 127 APPLICATION
UNDER THE RESOURCE MANAGEMENT ACT 1991**

Decision

Pursuant to section 34(1) and sections 104, 104B, 127 and Part 2 of the Resource Management Act 1991 (the Act), the Far North District Council **grants** resource consent to change and cancel conditions of resource consent RC 2220253-RMAOBJ.

Council Reference:	2200253-RMAVAR/A
Applicant:	Zhann Tracey
Property Address:	Lot 2, Newton Road, Omapere 0473
Legal Description:	LOT 2 DP 184528
Description of Application:	To have 1 less lot in the subdivision of RC2200253-RMASUB which was a consent to create 4 additional lots in the Rural Production Zone.

The following changes and/or cancellations to the conditions of resource consent RC 2220253-RMAOBJ are made:

(~~Strikethrough~~ indicates deletions and underline indicates additions and changes)

For clarity a complete set of conditions, as amended, are provided in Schedule 1 to this decision.

Condition 1 to be amended

The subdivision shall be carried out in accordance with the approved plan of subdivision prepared by Thompson Survey, referenced "Proposed Subdivision of Lot 1 and Lot 2 DP 184528", dated ~~29.10.20~~ 02.06.2022 and attached to this consent with the Council's "Approved Stamp" affixed to it.

Condition 3(a) to be cancelled

~~(a) The consent holder shall submit plans & details of all works on the right of way upgrading for the approval of Council prior to commencing construction. Such works shall be designed in accordance with the Council's current Engineering Standards and NZS4404:2004. The plans shall show the following detail:~~

- ~~i. The plans to show the diversion of the access to the north of the slip in accordance with the recommendations of the report from LDE Slope Stability Analysis of Access Road, Project Reference: 17850 and dated 17 July 2020. The plans shall also show the sediment control measures intended to be installed and maintained during the earthworks.~~

- ii. ~~A copy of the scheme plan or survey plan showing the proposed carriageway widths and the location of passing bays for each section of the proposed right of way carriage upgrading.~~

Condition 5(d) be amended to read;

Provide formed and metalled access on ROW easements ~~A, B, C, D, G, R, S, T, K, U, V, W, O, X and Y, L, P and Q.~~ The width of the carriageway shall be as per the requirements of Appendix 3B-1 of the Far North District Plan as specified below. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.

Concentrated stormwater runoff is to be discharged in such a manner that there is no erosion.

Right of Way Carriageway Width Requirements:

- ~~5-8 lots served, 5 metre carriageway width~~
- ~~3-4 lots served, 3 metre carriageway width with passing bays to comply with Rule 15.1.6.1.2 of the District Plan.~~
- ~~2 lots served, 3 metre carriageway width~~

Conditions under 5(f) be amended to read.

(f) Secure the conditions below by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of the affected allotment. The costs of preparing, checking and executing the Notice shall be met by the Applicant.

i. In conjunction with the application for building consent for the construction of any building which includes a wastewater treatment & effluent disposal system, the applicant shall submit an onsite wastewater report prepared by a Chartered Professional Engineer or a council approved Report Writer. The report shall identify a suitable method of wastewater treatment for the proposed development along with an identified effluent disposal area plus a reserve disposal area. Reserve Disposal Areas for the disposal of treated effluent shall remain free of built development and available for its designated purpose. ~~[Lot 1 & Lots 3-5]~~ [Lots 1 & 3]

ii. In conjunction with the lodging of a building consent application for the construction of any building, the applicant shall provide a design for stormwater management, prepared by a suitably qualified and experienced practitioner, which addresses stormwater management, and provides suitable mitigation measures to reduce flows from development. ~~[Lot 1 & Lots 3-5]~~ [Lots 1 & 3]

iii. All buildings will require foundations specifically designed by a Chartered Professional Engineer in accordance with design parameters specified by a suitably qualified Geotechnical engineer who is familiar with expansive soils in the region. The design shall reference the Subdivision Suitability Report by LDE Slope Stability Analysis of Access Road, Project Reference: 17850 and dated 17 July 2020). The foundation design details shall be submitted in conjunction with the Building Consent application. ~~[Lot 1 & Lots 3-5]~~ [Lots 1 & 3]

iv. Reticulated power supply or telecommunication services are not a requirement of this subdivision consent. The responsibility for providing both power supply and telecommunication services will remain the responsibility of the property owner. ~~[Lot 1 & Lots 3-5]~~ [Lots 1 & 3]

v. Prior to undertaking any significant earthworks or clearance of vegetation on the areas noted as "NRC Erosion Prone Area" marked in blue within ~~lots 3, 4 and 5~~ 2, 3, and 4 on approved plan of subdivision prepared by Thompson Survey, referenced "Proposed Subdivision of ~~Lot 2 DP 184528~~ Lot 1 and 2 DP 184528", dated ~~28.04.20~~ 02.06.2022, the

owner should assess the need for a land use consent from the Northland Regional Council and/or an earthworks permit under that FNDC General Bylaws and/or an earthworks resource consent from the Far North District Council. [~~Lots 3-5~~] [Lots 2, 3 & 4]

vi. In conjunction with the construction of any dwelling, and in addition to a potable water supply, a water collection system with sufficient supply for firefighting purposes is to be provided by way of tank or other approved means and to be positioned so that it is safely accessible for this purpose. These provisions will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS 4509. [~~Lot 1 & Lots 3-5~~] [Lots 1 & 3]

vii. The land owners and occupiers of Lot 2, 3, 4 ~~and 5~~ must not cut, damage, fell, wilfully injure or destroy the vegetation (including roots) within the areas shown as covenant area endorsed as AA, AB, AC, AÆ, AD on the survey plan or execute work in the vicinity of the trees (including a prohibition on excavation, construction or storage of material or debris) without the prior consent in writing from the Council.

The lot owner shall be deemed to be not in breach of this prohibition if any such vegetation dies from natural causes which are not attributed to any act or default by or on behalf of the owner or for which the owner is responsible. [~~Lots 2-5~~] [Lots 2-4]

Vii The site is identified as being within a kiwi present zone. Any cats and/or dogs kept onsite must be kept inside and/or tied up at night to reduce the risk of predation of North Island brown kiwi by domestic cats and dogs. [~~Lots 1-5~~] [Lots 1-4]

Advice Notes

Lapsing of Consent

1. The granting of this section 127 application does not alter the lapse date of the original consent. The consent holder is recommended to check that the original consent does not lapse before it is given effect to.

Right of Objection

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

Reasons for the Decision

1. By way of an earlier report that is contained within the electronic file of this consent, it was determined that pursuant to sections 95A and 95B of the Act the proposed activity will not have, and is not likely to have, adverse effects on the environment that are more than minor, there are no affected persons and no special circumstances exist. Therefore, under delegated authority, it was determined that the application be processed without notification.
2. The proposed change is within the scope of the original resource consent and therefore can be considered under section 127.
3. In regard to sections 104(1)(a) and 127(3) of the Act the actual and potential effects of the proposed change will be acceptable as:

- a. The proposal will result in a shortened ROW, which does not extend over an area of land that is unstable which is a positive effect.
 - b. The proposal will result in larger allotment sizes, more consistent with the nature of the zone which is a positive effect.
4. In regard to sections 104(1)(ab) and 127(3) of the Act there are no offsetting or environmental compensation measures proposed or agreed to by the applicant for the activity.
 5. In regard to sections 104(1)(b) and 127(3) of the Act the following statutory documents are considered to be relevant to the application:
 - a. Operative Far North District Plan 2009,
 - b. Proposed Far North District Plan 2022

Operative Far North District Plan

The proposed change is consistent with the relevant objectives and policies of the Operative District Plan because

Chapter 13 - subdivisions.

Objectives: 13.3.1, 13.3.5, 13.3.8

Policies: 13.4.1, 13.4.2, 13.4.6, 13.4.8

The subdivisions is designed in a way that is consistent with the purpose of the zone, while maintaining the protection under the original consent and avoiding hazards. The allotments are able to provide for onsite water and stormwater management.

Proposed Far North District Plan

The proposed change is consistent with the relevant objectives and policies of the Proposed District Plan because

Objectives: SUB-O1, SUB-O3

Policies: SUB-P3, SUB-P4, SUB-P8, SUB-P11

The variation results in larger allotments, which are more consistent with the purpose, characteristics and qualities of the zone which are able to provide for a building location and have better physical access. Protection is maintained to ensure the management of natural environmental resources and so the effects on indigenous vegetation are avoided and mitigated.

For this resource consent application, the relevant provisions of both an operative and any proposed plan must be considered. Weighting is relevant if different outcomes arise from assessments of objectives and policies under both the operative and proposed plans.

As the outcomes sought are the same under the operative and the proposed plan frameworks, no weighting is necessary.

6. In regard to sections 104(1)(c) and 127 of the Act there are no other matters relevant to the application.

7. Based on the assessment above the proposed change will be consistent with Part 2 of the Act.

The proposed change will avoid, remedy or mitigate any potential adverse effects on the environment while providing for the sustainable management of natural and physical resources and is therefore in keeping with the Purpose and Principles of the Act. There are no matters under section 6 that are relevant to the proposed change. The proposal remains an efficient use and development of the site that will maintain existing amenity values without compromising the quality of the environment. The activity is not considered to raise any issues in regard to Te Tiriti o Waitangi.

8. Overall, for the reasons above it is appropriate for the change(s) and cancellation of the conditions of consent to be granted.

Approval

This resource consent has been prepared by Shanay Howard (Planning NZ), consultant resource planner. I have reviewed this and the associated information (including the application and electronic file material) and for the reasons and subject to the conditions above, and under delegated authority, grant this resource consent.



Name: Pat Killalea

Date: 28th September 2022

Title: Principal Planner

Schedule 1

Complete set of Consent Conditions for RC 2200253 as Amended by RC 2200253-RMAVAR

1. The subdivision shall be carried out in accordance with the approved plan of subdivision prepared by Thompson Survey, referenced "Proposed Subdivision of Lot 1 and Lot 2 DP 184528", dated 02.06.2022 and attached to this consent with the Council's "Approved Stamp" affixed to it.
2. The survey plan, submitted for approval pursuant to Section 223 of the Act shall show:
 - (a) All easements in the memorandum to be duly granted or reserved.
 - (b) All areas of native vegetation to be protected (Areas AA, AB, AC, AD, marked on the approved plan) as "areas to be subject to bush protection covenant"
3. The consent holder must, before the survey plan of subdivision is approved under section 223 of the Act, provide three alternative names for the private way to be constructed over the proposed right of way for the approval of the Council. In giving its approval, the Council will require to be satisfied that the road name is relevant to the history of the area, character of the locality or is otherwise appropriate.
4. Prior to the issuing of a certificate pursuant to Section 224(c) of the Act, the consent holder shall:
 - (a) The Consent Holder shall ensure that the following works are constructed in accordance with the Councils Engineering Standards and Guidelines 2004 and to the approved plans, to the approval of the Council's Resource Consents Engineer-
 - (i) Construct a turning head designed to accommodate a Heavy Rigid Vehicle, to Council Standards, to a metal standard at the end of Newton Road to mitigate the effects of the additional traffic generated on the road by way of the subdivision.
 - (b) Provide a formed double width entrance, to a metal standard, to the right of way which complies with the Councils Engineering Standard FNDC/S/6, 6B/C/D, and section 3.3.7.1 of the Engineering standards and NZS4404:2004.
 - (c) Provide formed and metalled access on ROW easements A,C,G,R,S,K, L, P and Q. The width of the carriageway shall be as per the requirements of Appendix 3B-1 of the Far North District Plan as specified below. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running

course and is to include water table drains and culverts as required to direct and control stormwater runoff. Concentrated stormwater runoff is to be discharged in such a manner that there is no erosion.

Right of Way Carriageway Width Requirements:

- 3-4 lots served, 3 metre carriageway width with passing bays to comply with Rule 15.1.6.1.2 of the District Plan.

- 2 lots served, 3 metre carriageway width

- (d) Prior to earthworks commencing, install erosion and sediment control measures in accordance with Auckland Council Guidance Document 2016/005: Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region [GD05]. The measures shall be maintained and cleaned out as necessary until non erodible cover has been established.
- (e) Secure the conditions below by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of the affected allotment. The costs of preparing, checking and executing the Notice shall be met by the Applicant.
 - i. In conjunction with the application for building consent for the construction of any building which includes a wastewater treatment & effluent disposal system, the applicant shall submit an onsite wastewater report prepared by a Chartered Professional Engineer or a council approved Report Writer. The report shall identify a suitable method of wastewater treatment for the proposed development along with an identified effluent disposal area plus a reserve disposal area. Reserve Disposal Areas for the disposal of treated effluent shall remain free of built development and available for its designated purpose. [Lots 1 & 3]
 - ii. In conjunction with the lodging of a building consent application for the construction of any building, the applicant shall provide a design for stormwater management, prepared by a suitably qualified and experienced practitioner, which addresses stormwater management, and provides suitable mitigation measures to reduce flows from development. [Lots 1 & 3]
 - iii. All buildings will require foundations specifically designed by a Chartered Professional Engineer in accordance with design parameters specified by a suitably qualified Geotechnical engineer who is familiar with expansive soils in the region. The design shall reference the Subdivision Suitability Report by LDE Slope Stability Analysis of Access Road, Project Reference: 17850 and dated 17 July 2020). The foundation design details shall be submitted in conjunction with the Building Consent application. [Lots 1 & 3]
 - iv. Reticulated power supply or telecommunication services are not a requirement of this subdivision consent. The responsibility for providing both power supply and telecommunication services will remain the responsibility of the property owner. [Lots 1 & 3]
 - v. Prior to undertaking any significant earthworks or clearance of vegetation on the areas noted as "NRC Erosion Prone Area" marked in blue within lots 2, 3, and 4

on approved plan of subdivision prepared by Thompson Survey, referenced "Proposed Subdivision of Lot 1 and 2 DP 184528", dated 02.06.2022, the owner should assess the need for a land use consent from the Northland Regional Council and/or an earthworks permit under that FNDC General Bylaws and/or an earthworks resource consent from the Far North District Council. [Lots 2,3 & 4]

- vi. In conjunction with the construction of any dwelling, and in addition to a potable water supply, a water collection system with sufficient supply for firefighting purposes is to be provided by way of tank or other approved means and to be positioned so that it is safely accessible for this purpose. These provisions will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS 4509. [Lots 1 & 3]
- vii. The land owners and occupiers of Lots 2, 3, and 4 must not cut, damage, fell, wilfully injure or destroy the vegetation (including roots) within the areas shown as covenant area endorsed as AA, AB, AC, AD, on the survey plan or execute work in the vicinity of the trees (including a prohibition on excavation, construction or storage of material or debris) without the prior consent in writing from the Council.

The lot owner shall be deemed to be not in breach of this prohibition if any such vegetation dies from natural causes which are not attributed to any act or default by or on behalf of the owner or for which the owner is responsible.

[Lots 2-4]

- viii. The site is identified as being within a kiwi present zone. Any cats and/or dogs kept onsite must be kept inside and/or tied up at night to reduce the risk of predation of North Island brown kiwi by domestic cats and dogs. [Lots 1-4]

Advice Notes

1. Archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes kiwi (human remains). A copy of Heritage New Zealand's Archaeological Discovery Protocol (ADP) is attached for your information. This should be made available to all person(s) working on site.