

## **DECISION ON SUBDIVISION CONSENT APPLICATION UNDER THE RESOURCE MANAGEMENT ACT 1991**

### **Decision**

Pursuant to section 34(1) and sections 104, 104A, 106, 108 and Part 2 of the Resource Management Act 1991 (the Act), the Far North District Council **grants** subdivision resource consent for a Controlled activity, subject to the conditions listed below to:

**Applicant:** Gavin Frederick Hoult  
**Council Reference:** 2250259-RMASUB  
**Property Address:** 149 State Highway 10, Whangaroa  
**Legal Description:** PT PAKONGA 305N BLK (Title:NA596/97)

#### **The activity to which this consent relates is:**

Subdivision existing development in the Industrial zone, including amalgamation, creating two additional allotments as a Controlled activity.

### **Conditions**

Pursuant to sections 108 and 220 of the Act, this consent is granted subject to the following conditions:

1. The subdivision shall be carried out in general accordance with the approved plan of subdivision prepared by Thomson Survey Limited, referenced 10596 Scheme, dated 02/02/24, and attached to this consent with the Council's "Approved Stamp" affixed to it.

#### **Survey plan approval (s223) conditions:**

2. The survey plan, submitted for approval pursuant to Section 223 of the Act shall show:
  - a. The endorsement of the following conditional amalgamation, pursuant to Section 220(1)(b) of the Resource Management Act 1991:  
  
**THAT Lots 3, 4 and 5 are to be held in the same certificate of title [LINZ request number: 1935154].**
  - b. An easement to Convey water from Lot 3 to Lot 1 and Lot 2. The easement shall ensure the continued provision of potable water supply from the existing system on Lot 3 to Lots 1 and 2, including any necessary infrastructure such as pipes, pumps, and storage tanks.

- c. Provide a solicitor's undertaking that the above referenced easement, with appropriate rights and obligations for maintenance, repair, and access clearly defined, will be registered on the relevant Records of Title.

### **Section 224(c) compliance conditions**

3. Prior to the issuing of a certificate pursuant to section 224(c) of the Act, the consent holder shall:
  - a. Provide evidence that separate sewer connections to the Council sewer scheme have been provided for the existing buildings on Lots 1-3. If any new connections are required, an application for each new connection to the sewer scheme shall be submitted to Council for approval.
  - b. Lots 1-3 shall be provided with a water collection system with sufficient supply for firefighting purposes is to be provided by way of tanks or other approved means and are 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 4509:2008 and evidence shall be provided that FENZ approval has been obtained.
  - c. The consent holder shall provide to Council written confirmation from the New Zealand Transport Agency (NZTA) that all requirements outlined in NZTA's approval letter (Reference: 2023-0356, dated 16 May 2024) have been completed to NZTA's satisfaction.
4. 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 consent holder:
  - a. The site is identified as being within a kiwi present zone. If any owners or occupiers of or visitors to the lot keep or introduce onto the land any carnivorous animal (including dogs or cats) they must be kept inside and/or tied up at night. This is to reduce the risk of predation of North Island brown kiwi by domestic cats and dogs.

**[All lots]**
  - b. Prior to the construction of any new buildings or future development on the lot, the consent holder shall provide to the Council, for certification, a Flood Hazard Assessment prepared by a suitably qualified engineer. The flood hazard assessment shall evaluate the potential flood risk, including consideration of minimum finished floor levels. No new buildings shall be constructed until the Council has certified these assessments as appropriate for the proposed development.

**[All lots]**
  - c. The Subdivision Site Suitability Report provided at the subdivision stage has identified that the subject site is within River Flood Hazard Zones for the 10-Year,

50-Year, and 100-Year Annual Return Intervals, as well as Coastal Flood Hazard Zones 0, 1, 2, and 3, based on Northland Regional Council (NRC) flood modelling. Additionally, access to the site via State Highway 10 (SH10) is subject to flooding during significant rain events, as confirmed by NRC modelling. As mitigation for site and access flooding may not be feasible, future owners should be aware that access may become impassable during heavy rain events. Owners should prepare an evacuation plan to address access limitations and ensure safety during such events.

**[All lots]**

## **Advice Notes**

### **Lapsing of Consent**

1. Pursuant to section 125 of the Act, this resource consent will lapse 5 years after the date of commencement of consent unless, before the consent lapses;
  - a) A survey plan is submitted to Council for approval under section 223 of the RMA before the lapse date, and that plan is deposited within three years of the date of approval of the survey plan in accordance with section 224(h) of the RMA; or
  - b) An application is made to the Council to extend the period of consent, and the council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Act.

### **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.

### **Archaeological Sites**

3. 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 koiwi (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.

### **Section 224 Certification**

4. A Section 224 Certificate will not be issued until all Council invoices, including engineering fees and any other costs associated with the Resource Consent have been paid in full.

### **General Advice Notes**

5. This consent has been granted on the basis of all the documents and information provided by the consent holder, demonstrating that the new lot(s) can be appropriately serviced (infrastructure and access).

6. *As part of the correspondence to be provided for condition 3(c), it is recommended that a copy of the Encroachment License issued by NZTA is provided for Council records.*

## **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 also no affected persons and no special circumstances exist. Therefore, under delegated authority, it was determined that the application be processed without notification.
2. The application is for a Controlled resource consent as such under section 104A the Council must grant this application and may only impose conditions in relation to those matters over which control is reserved, these matters are found in section 13. of the Operative District Plan.
3. regard to section 104(1)(a) of the Act the actual and potential effects of the proposal will be acceptable as:
  - a. The subdivision is around existing development and does not introduce new land uses or vacant lots. There are no new built structures proposed, and any potential effects of the subdivision are limited to administrative changes to land titles.
  - b. The site is within flood hazard zones, as identified in the application's Subdivision Site Suitability Report. However, the subdivision does not introduce additional impermeable surfaces or exacerbate flood risks. Conditions have been imposed to require a flood hazard assessment prior to any future development.
  - c. The proposal will also result in positive effects, including improved land administration through the amalgamation of Lots 3, 4, and 5 into a single title and compliance of access in accordance with NZTA requirements.
4. In regard to section 104(1)(b) of the Act the following statutory documents are considered to be relevant to the application:
  - a. National Environmental Standard for Assessing and Managing Contaminants in Soil (NES-CS).

The proposed Lot 3 has been identified as a HAIL site, and a Preliminary Site Investigation (PSI) has been undertaken. The PSI concludes that the subdivision does not pose a risk to human health.

- b. Operative Far North District Plan 2009,
- c. Proposed Far North District Plan 2022

The proposed subdivision is a controlled activity under the Far North District Plan, meaning it is anticipated and provided for within the Industrial Zone. The proposal aligns with the objectives and policies of the Industrial Zone by facilitating appropriate land use while maintaining the operational efficiency of existing industrial activities. The creation of two residential allotments within an industrial setting is supported by existing use rights, ensuring compatibility with surrounding land uses.

The subdivision has been designed in accordance with the objectives and policies for subdivision in the Industrial Zone, meeting the minimum lot size requirements for sewerage sites. The proposal also incorporates appropriate infrastructure provisions, with existing connections to the Council's reticulated wastewater system and recommendations for water storage on residential lots.

The site is proposed to be zoned Light Industrial. No relevant rules in the Proposed District Plan have immediate legal effect. Therefore, the proposal is assessed primarily against the Operative District Plan.

5. In terms of s106 of the RMA the proposal is not considered to give rise to a significant risk from natural hazards, and sufficient provision has been made for legal and physical access to the proposed allotments, as the proposed subdivision is created around the existing developments and only minimal physical works may be required. Accordingly, council is able to grant this subdivision consent subject to the conditions above.
6. Based on the assessment above the activity will be consistent with Part 2 of the Act. The activity 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 application. The proposal is 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.
7. Overall, for the reasons above it is appropriate for consent to be granted subject to the imposed conditions.

## Approval

This resource consent has been prepared by Diego Solarte Garcia, Title. 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.



**Tianxu (Brian) Huang**

Date: 5 February 2025

**Team Leader – Resource Consents**