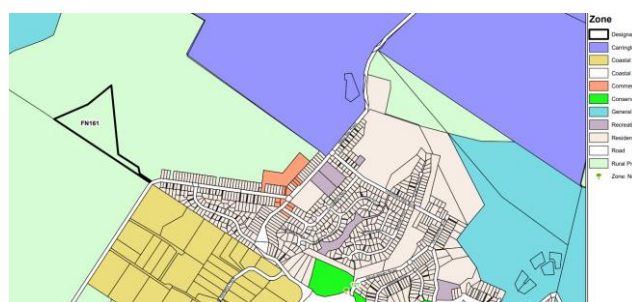


NOTIFICATION DETERMINATION UNDER SECTIONS 95A TO 95G OF THE RESOURCE MANAGEMENT ACT 1991

1 Application Details

TABLE 1

Council Reference:	RC2220163-RMACOM
Applicant:	Carrington Estate Jade LP
Property Address:	The property is located on Doubtless Bay Drive and Matai Bay Road, Whatuwhiwhi.
Legal Description:	Pt Lot 1 DP 67692 (ROT NA115D/665) and part of Lot 6 DP 417562 (ROT 467768)
Description of Application:	<p>To subdivide Pt Lot 1 DP 67692 and part of Lot 6 DP 417562 to create 140 residential allotments plus 3 lots as Road To Vest and 2 Pedestrian Walkways. The subdivision will be undertaken in two stages:</p> <p>Stage 3 - Lots 1 to 36 ranging from 602m² to 2611m²</p> <p>Stage 4 - Lots 1 to 104 ranging from 600m² to 2016m²</p>
Reporting Planner:	Barry Mosley
Operative District Plan Zoning:	Residential

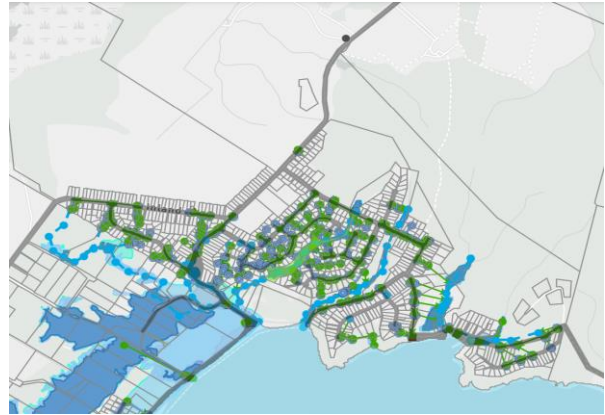


(Figure 1)

Operative District Plan Zone Notations:	No other zone notations other than zoning on zoning maps.
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Other Notations of Relevance:

Some evidence of flooding exists that just enters the land in the subdivision at two points.



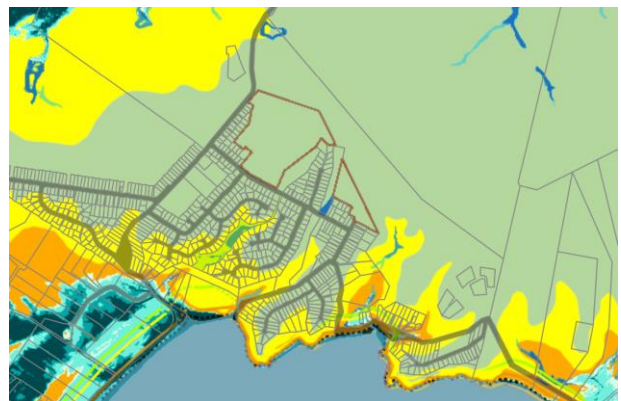
(Figure 2)

An area of erosion prone land crosses the land in the subdivision.



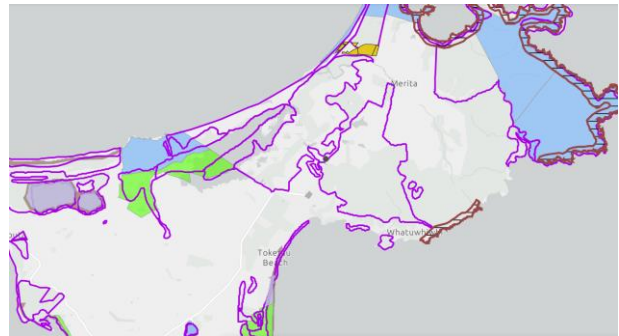
(Figure 3)

The land in the subdivision is not denoted with any natural hazards.



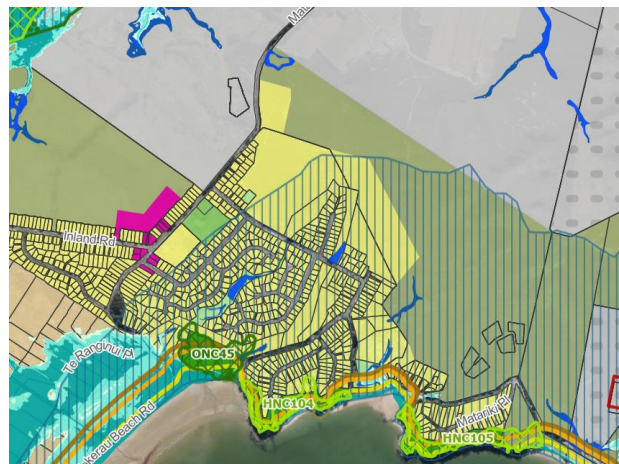
(Figure 4)

The site is shown as a Protected Natural Area (PNA).



(Figure 5)

Proposed District Plan Zoning:



(Figure 6)

Proposed District Plan Overlays:

Zoned General Residential and within the Coastal Environment. A River Flood Hazard Zone (100 Year ARI event) is also denoted as applicable to the site.

Proposed District Plan Designations:

No designations shown.

2 Procedural Details

Date Received:

20 September 2021

Placed on hold by applicant from 28/9/2021 – 17/8/2022, due to section 88 issues.

Date of Site Visit:

25/09/2022

Further Information Requested: 18/10/2022

Further Information Received:	Information request not satisfied.
Suspended under section 88E:	n/a
Extension Pursuant to section 37:	n/a
Pre-application Meeting Held:	No
Pre-lodgement Consultation by Applicant:	Yes <i>The application lodged indicates that consultation occurred with ESNZ (Fire Service).</i>

2.1 Locality Plan



Figure 7: The location of the site

2.2 Description of Site

The site is as described in the application documents being the Assessment of Environmental Effects (AEE) titled "Carrington Estate Jade LP Subdivision (Stages 3 & 4) Application for Resource Consent & Assessment of Effects on the Environment, prepared by Bay of Islands Planning Limited in association with Cook Costello Limited and Von Sturmers Limited, September 2021". I concur with this description.

Mr Henk de Wet reporting as Council's engineer describes the site in his memo of 21 November 2022 as follows.

"A site investigation was undertaken on 30 August 2020, to inform the assessment of the application, site and associated features.

The site is located within the residential zone of Karikari Peninsula, 37.5 km north of Kaitia and 90.5 km north of Kerikeri.

The sites are situated along two south trending spurs on the western end of the mountain ridges of Whatuwhiwhi. The sites consist of bare land covered in a mix of native scrub, grasses and gorse. The sites are identified as erosion prone, and while sections of the site were cleared, we were unable to determine if there were any signs of instability.

There are multiple access points (Lots 110, 112, and 37) to the proposed subdivision where roads to vest will be constructed. Access to proposed Lot 110 is off Matai Road which is a sealed and formed Council Road. The access is at the transition from 50km/h to 100km/h.

Access to Proposed Lot 112 is off Doubtless Bay Drive which is a sealed and formed Council Road. The posted speed limit is 50 km/h.

Access to proposed Lot 37 is at the intersection of De Surville Road and Doubtless Bay Drive which are a sealed and formed Council Roads. The access is at the transition from 50km/h to 100km/h.

Evidence of ground water (springs) was observed along the southern boundary within Lot 112 and Lot 37. Sand deposits, water flow and standing water were seen on Lot 112 with overland flow paths within Lot 37.

Roadside drainage along Matai road consists of concreted swales on the eastern side and under road culverts diverting water flow to existing gullies and flow paths to the west. The culvert (300mm diameter) directly north of access to Lot 110 was blocked with vegetation that borders this area and a bit of quick maintenance did not clear the blockage.

Kerb and channel infrastructure is in place along Doubtless Bay Drive. Cesspits divert water from the northern side to southern along this stretch of road. The ROW leading to Lot 37 has drainage on both sides. At the access to the site there is an overland flow path that directs water towards the southeastern boundary.

Council service connections (manholes) were not noted during the site visit, however, are assumed to be present within the manuka."

2.3 Record of Title

The Record of Title has the following interests/consent notices that are relevant to the proposal:

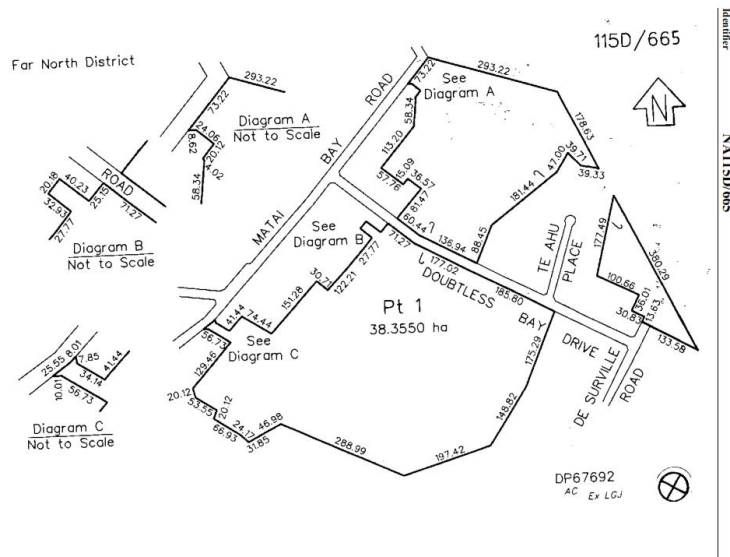
RT Identifier	Legal Description	S221 reference on title
NA115D/665	Part Lot 1 Deposited Plan 67692	6418241.2
467768	Lot 6 Deposited Plan 417562	8207689.1

(TABLE 2)

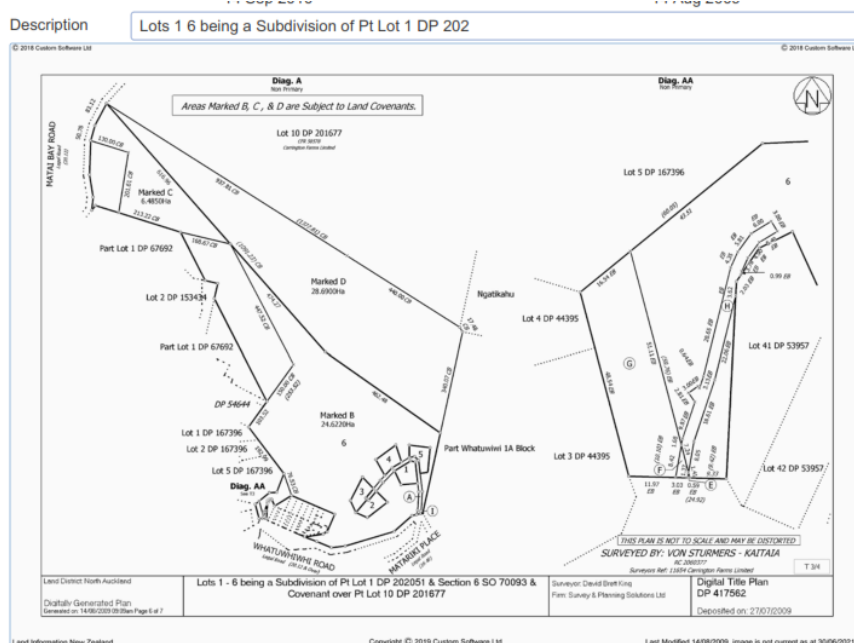
It appears from information supplied, including the former subdivision consent for stages 3 and 4 dated 13 August (since expired) and consent notices dated as early as 15 Feb 2005 that ongoing conditions of consent have attached to land in the subdivision requiring:

- Geotechnical certification of building foundations;
- Prevention of surface water flow obstruction;
- Protection of reticulated systems;
- All stormwater flows from tanks, paved areas, built surfaces to be directed to piped stormwater system connection points;
- Archaeological discovery protocols to be observed;
- Roof water collection systems with a minimum of 45,000 litres of holding capacity that are accessible and compatible with rural fire service equipment;
- Prior approval of access points to certain lots.

The following images detail the land involved in the proposed subdivision.



(Figure 8)



(Figure 9)

3 Description of Proposed Activity

The activity is as described in the application documents being the Assessment of Environmental Effects (AEE) titled “Carrington Estate Jade LP Subdivision (Stages 3 & 4) Application for Resource Consent & Assessment of Effects, prepared by Bay of Islands Planning Limited in association with Cook Costello Limited and Von Sturmers Limited, dated September 2021.”

In summary the applicant seeks:

- a subdivision consent to develop the balance of its land on Doubtless Bay Drive and Matai Bay Road, Whatuwhiwi;
- The application site is legally described as part of Pt Lot 1 DP 67692 and part of Lot 6 DP 417562, held within two ROT's (NA115D/665 & 467768).
- The development area involves some 22.4ha and will be developed in two stages and is essentially the reapproval of the two stages approved by RC 2100195. The activity will be an extension of the adjacent residential development within the locality.
- The proposed subdivision will provide an additional 140 residential lots of varying sizes, plus roads to vest and pedestrian accessways.
- Land use consent is also sought to allow for the placement of residential units within 20.0m of vegetation.

3.1 Internal Specialists

The proposal has been reviewed and assessed by the following Council specialist/s and the matters within the scope of this application have been taken into account in the assessment below.

Internal Specialist	Date Sent	Date Received
RC Engineer	5/10/2021	21/10/2021
IAM Sujeet Tikaram Development Engineer	5/10/2021	8/10/2021
NTA / Roading	5/10/2021	8/10/2021
Reserves	29/09/2021	No response

(TABLE 3)

3.2 External Party

Correspondence has been received from the following external parties, and the matters within the scope of this application have been considered in this assessment below.

External Party	Date Sent	Date Received
Iwi	7/09/2021	31/10/2022
Waka Kotahi (NZTA)	n/a	n/a
Department of Conservation	17/10/2022	No response
Heritage New Zealand Pouhere Taonga	17/10/2022	No response
District Land Registrar	11/11/2022	25/11/2022

(TABLE 4)

The details of the proposed subdivision were sent to the District Land Registrar to comment on the practicality of proposed amalgamation conditions. The following amalgamation conditions were confirmed.

AMALGAMATION CONDITION

Stage 3

That Lot 300 hereon (legal access) be held as to seven undivided one-seventh shares by the owners of Lots 222-228 hereon as tenants in common in the said shares and that individual records of title be issued in accordance therewith.

That Lot 301 hereon (legal access) be held as to eight undivided one-eighth shares by the owners of Lots 206-213 hereon as tenants in common in the said shares and that individual records of title be issued in accordance therewith.

Stage 4

That Lot 101 hereon (legal access) be held as to five undivided one-fifth shares by the owners of Lots 11-15 hereon as tenants in common in the said shares and that individual records of title be issued in accordance therewith.

That Lot 102 hereon (legal access) be held as to three undivided one-third shares by the owners of Lots 33-35 hereon as tenants in common in the said shares and that individual records of title be issued in accordance therewith.

That Lot 103 hereon (legal access) be held as to three undivided one-third shares by the owners of Lots 75-77 hereon as tenants in common in the said shares and that individual records of title be issued in accordance therewith.

(See Request 1826340)

4 Reasons for the Application

4.1 Rule Assessment (Status)

Operative Far North District Plan

Background

Legal Considerations

88A Description of type of activity to remain the same

(1) Subsection (1A) applies if—

(a) an application for a resource consent has been made under section 88 or 145; and

(b) the type of activity (being controlled, restricted, discretionary, or non-complying) for which the application was made, or that the application was treated as being made under section 87B, is altered after the application was first lodged as a result of—

(i) a proposed plan being notified; or

(ii) a decision being made under clause 10(1) of Schedule 1; or

(iii) otherwise.

(1A) The application continues to be processed, considered, and decided as an application for the type of activity that it was for, or was treated as being for, at the time the application was first lodged.

(2) Notwithstanding subsection (1), any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104(1)(b).

Summary of Application

20/9/2021 The application is lodged as a combined subdivision and land use consent (to dispense with the fire setback of 20 metres from vegetation per rule 12.4.6.1.2 OFNDP). The application indicated that the subdivision was considered to be a controlled activity and the land use a discretionary activity and that the two activities should be processed unbundled.

Comment

In my view it would not have been appropriate to process this application as an unbundled consent. This view was communicated to the agent in the section 92 information request with reasons as follows:

“The act of subdivision is associated with determining building sites for development. The land use consent sought will also determine where building sites for development will locate. In this case the effects of the two activities do appear to overlap. The reason being the location of building sites is proposed to be a function of both where sites are created by subdivision and where vegetation is located. Moreover, Controlled Activity Subdivision (Other Matters) states as follows [i.e., addresses fire hazard which is at the heart of the land use matters]:

*13.7.3.2 NATURAL AND OTHER HAZARDS Any proposed **subdivision** shall avoid, remedy or mitigate any adverse effects of natural hazards. In considering a controlled (subdivision) activity application under Rule 13.7.3.2 the Council will restrict the exercise of its control to the following matters and shall have regard to section 106 of the Resource Management Act 1991: (a) the degree to which the proposed subdivision avoids, remedies or mitigates the potential adverse effects of: (i) erosion; (ii) overland flow paths, flooding and inundation; (iii) landslip; (iv) rockfall; (v) alluvion (deposition of alluvium); (vi) avulsion (erosion by streams or rivers); (vii) unconsolidated fill; (viii) soil contamination; (ix) subsidence; (x) **fire hazard**; (xi) sea level rise.”*

Of note is that the local iwi contacted by the FNDC as an interested party [i.e., Chairperson of Hāitaitaimarāngai Marae] also communicated the view in September 2021 that it did not consider it appropriate to consider the consent as an unbundled application on the basis that it considered that effects were overlapping.

15/10/2021 Council's planner advises Bay of Islands Planning of Council's intention to reject the application under s88 RMA on the basis that the Assessment of Environmental effects was inadequate for the complexity of the application.

Comment

It is apparent that the application when lodged did not provide adequate information around vital infrastructure (waste water and stormwater). At the time of lodgement, the application did not have provision for waste water in place, and this was only provided for once a waste water agreement was reached with Council in July 2022. This gap saw the application as being a non-complying activity when first lodged.

19/10/2021 Bay of Islands Planning advises Council of its wish to withdraw the land use consent component of the application.

Comment

At this point the Council sits with only the subdivision application to consider.

8/11/2021 Carrington lodged an objection to the decision of Council to reject the application.

9/8/2022 The objection was taken off hold after a development agreement had been signed by Council and the applicant on 27 July 2022 in regard to waste water disposal. The Council then accepted the application as complete.

18/10/2022 The applicant is supplied with a section 92 request for additional information. Part of this section 92 information request noted that: -

“Documentation supplied (Draft 2021 Scheme Plan Von Sturmers) for stages 3 & 4 show that Lot sizes are less than the required 600m² minimum size for Residential zoned sewered sites (at a glance Lots 57, 96, 97, 99, 100 etc). The subdivision does not appear to meet zone standards as a controlled activity (13.7.2. 1(v)).”

8/11/2022 In a response to the section 92 request for information (of 18 October 2022) the agent supplied a revised scheme plan with amended site sizes that were the required minimum of 600m².

Comment

This indicates that the correct activity status of the subdivision at the time of lodgement on 20 September 2021 (application dated 2 September 2021) was non-complying under District Plan Rule 13.11 as a consequence of not meeting Rule 13.7.2.1 (Minimum Lot Sizes).

Assessment of Activity Status

The applicant has submitted revised scheme plans showing all lots meet a minimum area of 600m² and contends that the subdivision is a Controlled Activity under the Operative District Plan (ODP). For a subdivision in the Residential Zone to qualify as a Controlled Activity, it must comply with all relevant standards, including the minimum lot sizes set out in Rule 13.7.2.1 and Table 13.7.2.1. This table specifies a minimum lot size of:

- 600m² for "sewered" sites; and
- 3,000m² for "unsewered" sites.

The applicable standard therefore depends on whether the proposed lots can be considered "sewered". Chapter 3 of the ODP defines "Sewered" as land which is either:

- (a) able to connect to an existing lawfully established reticulated sewage disposal system, or
- (b) able to be provided with, as part of the subdivision, a reticulated sewage disposal system... for which all necessary approvals have been granted."

While a Development Agreement for wastewater infrastructure has been mooted, this does not constitute a final approval for the works to proceed or guarantee that capacity will be available. Any such agreement itself would be conditional, and further engineering approvals and consents required. As such, it cannot be concluded that "*all necessary approvals have been granted*" for the purposes of satisfying the ODP definition of "Sewered".

Consequently, the applicable minimum lot size standard for a Controlled Activity is the "unsewered" standard of 3,000m². The proposed lots, with a minimum area of 600m², do not comply with this standard.

Furthermore, for a subdivision to be a Controlled Activity, Rule 13.7.3 requires that the application must make provision for a range of matters, including potable water supply (13.7.3.3) and stormwater disposal (13.7.3.4). As detailed later in the effects assessment of this report, significant information gaps remain regarding these services. Therefore, compliance with the prerequisite standards in Rule 13.7.3 cannot be confirmed.

As the proposal does not meet the standards for a Controlled Activity (specifically under Rules 13.7.2.1 and 13.7.3), it falls to be considered against the rules for discretionary and non-complying activities.

Rule 13.11 states that a subdivision is a Non-Complying Activity if it does not comply with the standards for a discretionary activity. Given the proposal's non-compliance with the minimum

lot size standards for even a restricted discretionary or discretionary activity in the Residential Zone (which are 2,000m² and 300m² respectively, with the 300m² standard being for 'sewered' sites), the proposal is determined to be a **Non-Complying Activity**.

Other matters associated with the application lodged under the Operative Far North District Plan and associated with Rules in RMA Plans

The applicant's agent relies on Chapter 13 Subdivision, section 13.6.8 to argue that earthworks consent is not required under the Operative Plan (see extract below in italics).

General Rule 13.6.8

"SUBDIVISION CONSENT BEFORE WORK COMMENCES Except where prior consent has been obtained to excavate or fill land pursuant to rules under Section 12.3, or consent to vegetation clearance has been obtained pursuant to rules under Sections 12.1 or 12.2, and/or relevant consents have been obtained from the Regional Council, no work, other than investigatory work, involving the disturbance of the land or clearance of vegetation shall be undertaken until a subdivision consent has been obtained. When the subdivision consent is granted, provided all the necessary calculations and assessment of effects is provided with the application, the subdivision consent application shall be deemed to include consent to excavate or fill land, and clear vegetation to the extent authorised by the consent and subject to any conditions in the consent. Alternatively, an applicant may apply to add a land use consent application to the subdivision consent application, for any excavation/filling work and/or vegetation clearance. This does not exempt a consent holder from also obtaining any relevant resource consent or approvals from the Regional Council or the Heritage New Zealand Pouhere Taonga for earthworks, vegetation clearance or disturbance of an archaeological site."

In my view this section of the Plan allows a pragmatic approach to be taken to earthworks and vegetation clearance, so that in certain circumstances it may be advanced. However, this section does not in my view preclude the need for consents to be obtained at the district council level. The applicant has not sought consents from Council for either of these activities (i.e., earthworks or vegetation clearance) which are necessary to support the activity of subdivision. I now consider each of these activities separately.

Vegetation Clearance

The effects of vegetation clearance are clearly relevant. Rule 13.6.8 provides that:

- i. Vegetation clearance can proceed in advance of subdivision if consented under Sections 12.1 or 12.2 (***it has not been consented***);
- ii. Vegetation clearance can proceed as part of subdivision provided the requisite assessment of effects is provided with the subdivision application (***this information was not supplied with the application. In response to the section 92 request of 18 October 2022 it was refused in a letter from the agent dated 8 November 2022***);
- iii. Otherwise, a separate land use consent is required;
- iv. This is additional to any requirements of Northland Regional Council (NRC).

It is clear from my site visit on 25 September 2022 that vegetation clearance was well under way on the basis of a previously granted NRC consent for earthworks and vegetation clearance granted under regional rules.



(Figures 10 and 11)

Earthworks

The application includes information regarding an earthworks consent CON20120828006 granted by NRC 8th November 2012 (expired 30 November 2022) for:

- *Land Use Consent: To carry out earthworks for the development of subdivision roading and associated activities.*
- Land Use Consent: To clear vegetation from erosion prone land for subdivision development.

This consent relates to the area of land in the now proposed subdivision. In the NRC report (Nov 2012) the reporting officer comments on the soil type involved as follows.

“The infertile and poorly drained soils on the site are derived from dacite, and are strongly leached and podzolised. Although no obvious signs of major erosion are present, these soils have a potential for severe gully and slip erosion when vegetation is removed and overland flows are concentrated. It is therefore important that all sediment controls including diversion channels and sediment retention ponds are constructed in accordance with the design details specified in the document entitled: “Erosion and Sediment Control - Guidelines for Land Disturbing Activities”, Auckland Regional Council Technical Publication No. 90, dated March 1999 (TP 90), which is included as a condition of consent. Armouring of channels located on slopes, sizing and compaction of earth bunds, suitable overflows for sediment ponds, and maintenance of all structures are just some of the matters that will need to be complied with. Topsoiling and rapid revegetation of exposed areas of land will also be required in the autumn immediately following construction...”

From the site visit undertaken it was clear that significant vegetation clearance had occurred but not any earthworks. It also appeared evident that the vegetation clearance extended beyond land denoted erosion prone by the OFNDP maps.

Discussions with NRC were undertaken and the key elements that impacted earthworks were as follows:

- The National Environmental Standard for Freshwater 2020 (NES-F) may apply as land in the subdivision was considered wetland, however an NRC section 92 request to the applicant sought an ecological report to confirm this as the case;

- A new consent had been sought by the applicant for earthworks under the Northland Regional Council Soil & Water Plan and that the existing regional consent being relied upon would expire in November 2022;
- No scope existed in the situation for offset or compensation for lost wetland;
- It was problematic to consent the subdivision in the absence of the required regional consents for earthworks as there may well be areas that were not developable;
- Currently, NRC's scope to deal with earthworks did not also extend to vegetation clearance that went beyond riparian margins, wetland areas and waterbodies.

The key elements associated with earthworks in the context of the OFNDP and earthworks would appear to be as follows:

- i. Earthworks can proceed in advance of subdivision if consented under Sections 12.3 (***it has not been consented***) or;
- ii. Earthworks can proceed as part of subdivision provided the requisite assessment of effects is provided with the subdivision application (***Information supplied is adequate for conditions to be constructed to mitigate adverse effects associated with earthworks***).
- iii. Otherwise, a separate land use consent is required;
- iv. This is additional to any requirements of Northland Regional Council (NRC).

It is considered that the earthworks information supplied is adequate and requirements of the OFNDP in this regard are adequately satisfied.

Proposed Far North District Plan

The Proposed Far North District Plan (PDP) was notified on 27 July 2022. Rules in a Proposed Plan have legal effect once the council makes a decision on submissions relating to that rule and publicly notified this decision, unless the rule has immediate legal effect in accordance with section 86(3) of the Resource Management Act 1991 (the Act).

The PDP has not yet completed the hearing process, therefore only rules in the PDP with immediate legal effect are relevant. These rules are identified with a 'hammer' in the plan. Rules that do not have immediate legal effect do not trigger the need for a resource consent under the PDP.

A number of rules became operative when the PFNDP was notified, denoted by a red hammer to the right of text.

The section 92 dated 18 October 2021 identified a number of rules that could be relevant to the proposal under the PFNDP. The following details the nature of the information requested.

Earthworks

- *Please advise [and supply an assessment] as to whether Rule EW-R13 [Earthworks] of the Proposed Far North District Plan will be satisfied which requires compliance with EW-S5 Erosion and Sediment Control Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region 2016 (Auckland Council Guideline Document GD2016/005). This rule was operative at notification.*
- *Please advise [and supply an assessment] as to whether Rule EW-R12 [Earthworks] of the Proposed Far North District Plan will be satisfied which requires compliance with an accidental discovery protocol. This rule was operative at notification.*

- Please provide a complete analysis of the status of proposed activities in regards to earthworks under the PFNDP.

Vegetation

From a site visit it is evident that significant vegetation clearance has been undertaken under an existing NRC consent (to expire in Nov 2022), however further vegetation clearance would appear necessary, in which case consent is necessary under PFNDP Operative rules (notwithstanding that consent will also be required under NRC plan rules for earthworks and vegetation clearance going forward) which came into effect 27 July 2022.

- Please provide a detailed outline of the site and the location of vegetation cleared to date (prior to 27 July 2022) and the location of vegetation to be cleared/cleared since the relevant operative PFNDP rules for Ecosystems and Biodiversity came into effect.
- The land in the subdivision is shown as PNA. Please provide an ecological report detailing whether land in the subdivision could be considered a significant natural area using the ecological significance criteria in Appendix 5 of the RPS or in any more recent National Policy Statement on indigenous biodiversity;
- It would appear that the proposal will run contrary to either rule IB-R3 or IB-R4 making it a discretionary activity. Please provide analysis of the proposal against the policy context of the PFNDP in terms of Ecosystems and Indigenous Biodiversity and outline the anticipated effects and magnitude of effects from the proposal.

General Analysis

- Please provide a complete analysis of the status of proposed activities in regards to operative rules in the PFNDP. [Without intending to limit the analysis it is noted that SASM-R1 Earthworks and indigenous vegetation clearance, SASM-R3 Area of significance to Maori and SUB-R15 Area of significance to Maori could also be of relevance.]

The response to these requests from the agent were that the PFNDP requirements for earthworks and Areas of Significance to *Maori* could be respectively satisfied (earthworks) or were not of relevance to the application (Areas of significance to the Application). In regard to the matter of vegetation clearance the issue was largely dismissed on the basis that NRC had previously granted consent for this to occur on erosion prone land.

I **conclude** that in terms of the PFNDP that information is outstanding on the matter of vegetation clearance and the status of the activity under the PFNDP. Information has been supplied that earthworks standards can be satisfied and a check of listed sites in the PFNDP does not identify any sites of significance to Maori (Iwi) that are located within the land in the subdivision.

Proposed Regional Plan for Northland – Appeals Version

National Environmental Standard for Freshwater 2020

section 9(3) – Land use and/or section 11 - Subdivision

Regulation Number and Name	Non-Compliance Aspect	Activity Status
Rule C.8.3.4 of the PRP	Earthworks and associated divergence and discharge of stormwater during works. The area of exposed earth exceeds 5000 square metres and 2500 square metres within erosion prone land.	Discretionary Activity

NES-FW	It is not possible to confirm which rules apply in relation to wetlands under the PRP or the NES-FW as the applicant has not completed (at the time of writing) the wetland assessment requested by NRC under a Section 92 dated 21 June 2022.	Unknown
Rule 13.7.3 Operative Far North District Plan	Fails to meet prerequisite standards for a Controlled Activity subdivision. The application has not demonstrated that adequate provision has been made for essential services, including potable water (13.7.3.3), stormwater (13.7.3.4), and sanitary sewage disposal (13.7.3.5), due to significant information gaps.	Non-complying Activity
Rule 13.11 Operative Far North District Plan	The proposal fails to meet the minimum lot size standards for a Controlled, Restricted Discretionary, or Discretionary activity in the Residential Zone under Rule 13.7.2.1 and Table 13.7.2.1. As necessary approvals for wastewater servicing have not been granted, the proposed lots cannot be defined as "sewered" (per ODP Chapter 3 definition). The lots therefore do not meet the applicable "unsewered" standard of 3,000m ² .	Non-complying Activity
Proposed Far North District Plan		
SUB-A3 CON-2	At time of lodgement SUB-S1 Minimum allotment sizes.	Discretionary Activity
SUB-RS	Site contains land susceptible to land instability.	Discretionary Activity
SUB-R11	Subdivision of a site within flood a flood hazard area.	Discretionary or Non-complying Activity
SUB-R19	Subdivision of a site within a wetland.	Discretionary Activity
SUB-R20	Subdivision of a site within the Coastal environment.	Discretionary Activity

(TABLE 5)

4.2 Overall Activity Status

The overall activity status of the subdivision is determined by an assessment against the rules in both the Operative District Plan (ODP) and the Proposed District Plan (PDP).

Under the Operative District Plan, the application is properly assessed as a Non-Complying Activity. This is determined because the proposal fails to meet the standards for a Controlled, Restricted Discretionary, or Discretionary activity. As detailed in Table 5 above:

- The proposal does not comply with the minimum lot size standards for a Controlled Activity in the Residential Zone (Rule 13.7.2.1). The proposed lots cannot be defined as "sewered" under the ODP definition, as necessary approvals for reticulation have not been granted. The lots therefore do not meet the applicable "unsewered" minimum lot size standard of 3,000m².
- The application also fails to meet the prerequisite standards of Rule 13.7.3, which require that provision be made for essential services.
- As the subdivision does not meet the standards for a discretionary activity, it defaults to a Non-Complying Activity under Rule 13.11.

Under the Proposed District Plan, various components of the subdivision also trigger the need for consent, including as discretionary activities (see Table 5).

Given the most stringent activity status applies, the application must be considered overall as a **Non-Complying Activity**.

5 National Environmental Standards

The following National Environmental Standards may be relevant to the site.

5.1 National Environmental Standards for Freshwater 2020 (NESFW)

While the NESFW is enforced by the regional council, it is still relevant to consider whether the activities subject of this application may have implications in terms of the NESFW regulations.

The application involves earthworks and vegetation clearance, and this may be within 100m of a natural wetland as:

- The land in the subdivision has previously been assessed as *Gumland Shrubland* which is considered to be wet in winter months;
- An application for earthworks sits with the NRC and a section 92 request by NRC seeks information as follows:
 - *An assessment by a suitably qualified person to determine the presence and extent of any natural wetland (as defined by the National Policy Statement for Freshwater Management 2020) within the application area or within 100 metres of the proposed activities. This information is requested to determine if any additional consents are required under the Proposed Regional Plan for Northland (PRP) or the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-FW).*
 - *If any natural wetlands are identified within 10 metres of the proposed activities, additional applications will be required for earthworks and vegetation clearance. If any natural wetlands are identified within 100 metres of a natural wetland, applications will be required for the diversion of clean stormwater during works as well as the ongoing diversion of stormwater from impervious surfaces within the development. As a minimum these applications should include an assessment of effects on the hydrological functioning of the wetland(s) and an assessment of the proposed activities against the relevant objectives and policies including Policy D.4.23 of the PRP and Policy 3.22 of the National Policy Statement for Freshwater 2020.*

6 Notification Assessment

6.1 Section 95A – Public Notification Assessment

Section 95A requires a decision on whether or not to publicly notify an application and sets out a step-by-step process by which to make this decision.

Step 1: Mandatory public notification in certain circumstances

s95A(3)(a)	Has the applicant requested that the application be publicly notified?	No
s95A(3)(b)	Is public notification required under section 95C?	Yes
s95A(3)(c)	Has the application been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977?	No

Step 2: If not required by step 1, public notification in certain circumstances.

s95A(5)(a)	Is the application for a resource consent for one or more activities and each activity is subject to a rule or national environmental standard that precludes public notification?	No
s95A(5)(b)	Is the application for a resource consent for 1 or more of the following, but no other, activities; a controlled activity; a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity?	No

Step 3: If not precluded by step 2, public notification required in certain circumstances not

s95A(8)(a)	Is the application for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification?	No
s95(8)(b)	<p>In accordance with section 95D, does that the activity will have or is likely to have adverse effects on the environment that are more than minor?</p> <p>The assessment below addresses this matter. Due to significant outstanding information requests, Council cannot be satisfied that adverse effects on the environment will be no more than minor. For the purposes of this statutory test, the effects are therefore treated as being more than minor.</p>	Yes

6.1.1 Assessment of Environmental Effects

To determine whether the activity will have or will be likely to have adverse effects on the environment that are more than minor, an assessment of environmental effects carried out in accordance with section 95D of the Act is required.

The assessment of effects supplied by the applicant's agent is generally comprehensive. However, in regard to adverse effects I consider the following relevant to this discussion.

Adjacent Land

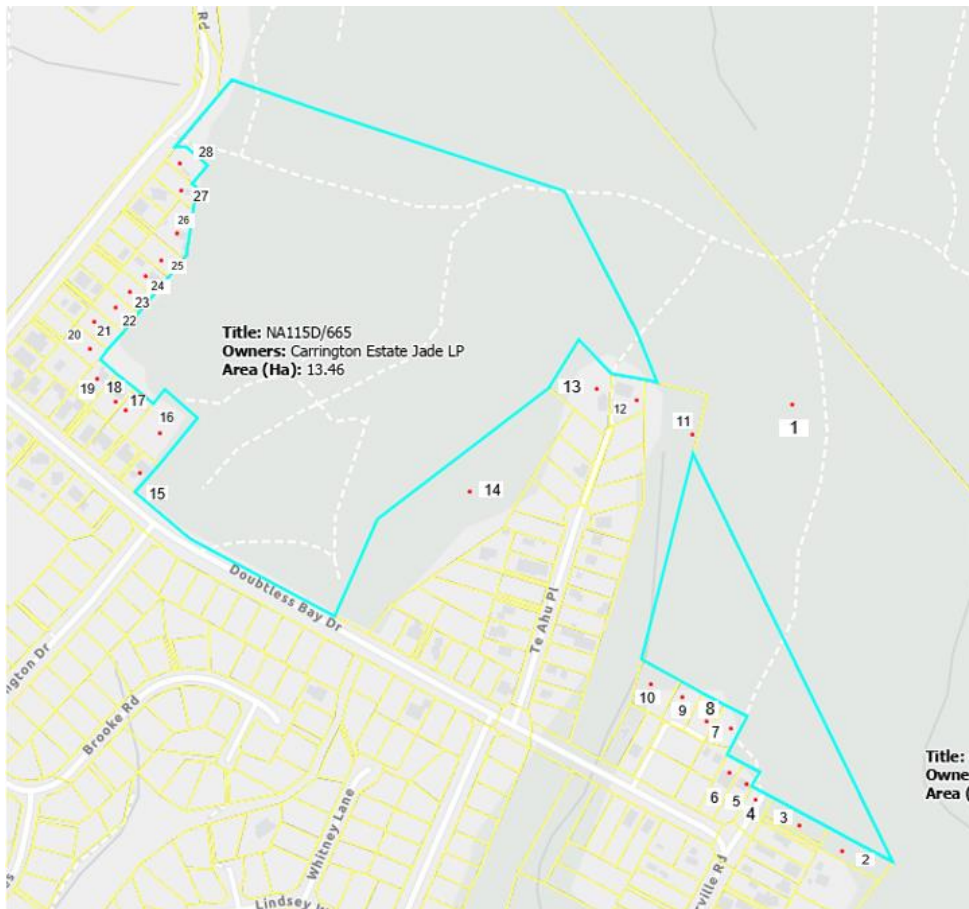
Pursuant to section 95D(a) the consent authority must disregard any effects on the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land.

The land adjacent to the subject site is identified in Table 1 and Figure 1 below.

#	Legal Description	Address
1	Lot 6 DP 417562	104 Matai Bay Road, Karikari Peninsula 0483
2	Lot 27 DP 54644	30 de Surville Road, Karikari Peninsula 0483
3	Lot 26 DP 54644	32 de Surville Road, Karikari Peninsula 0483
4	Lot 8 DP 54644	109 Doubtless Bay Drive, Karikari Peninsula 0483
5	Lot 7 DP 54644	107 Doubtless Bay Drive, Karikari Peninsula 0483
6	Lot 4 DP 376657	7 Sunlover Way, Karikari Peninsula 0483
7	Lot 3 DP 376657	5 Sunlover Way, Karikari Peninsula 0483
8	Lot 2 DP 376657	3 Sunlover Way, Karikari Peninsula 0483
9	Lot 1 DP 376657	1 Sunlover Way, Karikari Peninsula 0483
10	Lot 4 DP 77878	30 Te Ahu Place, Karikari Peninsula 0483
11	Lot 3 DP 77878	31 Te Ahu Place, Karikari Peninsula 0483
12	Lot 2 DP 153434	87 Doubtless Bay Drive, Karikari Peninsula 0483
13	Lot 3 DP 77878	31 Te Ahu Place, Karikari Peninsula 0483
14	Lot 1 DP 153401	57 Doubtless Bay Drive, Karikari Peninsula 0483
15	Lot 11 DP 69243	23 Doubtless Bay Drive, Karikari Peninsula 0483
16	Lot 12 DP 69243	21 Doubtless Bay Drive, Karikari Peninsula 0483

17	Lot 14 DP 69243	17 Doubtless Bay Drive, Karikari Peninsula 0483
18	Lot 17 DP 69243	11 Doubtless Bay Drive, Karikari Peninsula 0483
19	Lot 18 DP 69243	9 Doubtless Bay Drive, Karikari Peninsula 0483
20	Lot 26 DP 69243	48 Matai Bay Road, Karikari Peninsula 0483
21	Lot 29 DP 69243	54 Matai Bay Road, Karikari Peninsula 0483
22	Lot 30 DP 69243	56 Matai Bay Road, Karikari Peninsula 0483
23	Lot 33 DP 69243	62 Matai Bay Road, Karikari Peninsula 0483
24	Lot 34 DP 69243	64 Matai Bay Road, Karikari Peninsula 0483
25	Lot 37 DP 69243	70 Matai Bay Road, Karikari Peninsula 0483
26	Lot 38 DP 69243	72 Matai Bay Road, Karikari Peninsula 0483
27	Lot 41 DP 69243	78 Matai Bay Road, Karikari Peninsula 0483
28	Lot 42 DP 69243	80 Matai Bay Road, Karikari Peninsula 0483

(TABLE 6)



(Figure 12)

Restricted Discretionary Activities

The application is not for a restricted discretionary activity and therefore the consent authority can take into account any relevant matter when assessing the environmental effects.

Written Approvals

Pursuant to section 95D(e) the consent authority must disregard any effect on a person who has given written approval.

In this instance, no written approvals have been provided.

Trade Competition

Pursuant to section 95D(e) the consent authority must disregard trade competition and the effects of trade competition.

There are no trade competition matters.

1.1.1.1 Effects that may be Disregarded

Permitted Baseline

There is no relevant permitted baseline as all subdivision activities require resource consent under the Operative District Plan.

1.1.1.2 Assessment

Receiving Environment

The receiving environment for the proposed subdivision consists of the following element:

- Land which is zoned Residential under the Operative Far North District Plan and General Residential under the Proposed Far North District Plan respectively seeking to enable housing development on sites at a density of 600m².

An existing/former Northland Regional Council Consent detailed in the application and correspondence from the applicant's agents was stated as forming part of the receiving environment. This NRC consent is CON20120828006 which was granted 8 November 2012 and expired on 30 November 2022. Essentially this consent granted approval for the earthworks and clearance of vegetation in the land in the subdivision. The applicant has relied on section 124 RMA to continue activities (vegetation clearance) in preparation for development and has at the time of writing lodged a new application with the Northland Regional Council for earthworks.

I am of the view that CON20120828006 cannot be afforded significant weight in terms of being considered part of the receiving environment for the purpose of the subdivision consent being sought by the applicant for the following reasons:

- The consent has expired and is being renewed under Plans and RMA legislation that extend beyond a decade on from when the consent was initially granted;
- The consent granted limited vegetation clearance approval to erosion prone land, and not all land in the subdivision has this notation;
- Irrespective of consents granted at the Regional Council level this does not remove the need for consent to be obtained at the district council level for both earthworks and especially vegetation clearance which falls more directly under the control of territorial authorities [see section s31(1)(b)(iii) RMA];
- The new consent sought from the Northland Regional Council by the applicant will be limited to earthworks primarily as the Regional Council under its current Plans only has the ability to consider vegetation clearance in the context of a wetland or riparian margin associated with a stream/waterbody;
- The application of RMA sections 123 (duration of a consent) and 124 (Exercise of consent whilst applying for new consent) is more applicable to regional consenting whereas at the territorial authority level section 125 dealing with the lapse of consents has more relevance, and in this case there are no existing district council earthworks and vegetation clearance consents in place for the proposed activities;
- The application for resource consent lodged with the Far North District Council has relied on Rule 13.6.8 in the subdivision section of the Operative far North District Plan as the basis for undertaking what vegetation clearance has been performed to date however, this section does not authorise vegetation clearance solely on the basis of a regional consent. Rule 13.6.8 of the OFNDP provides that:

- i. Vegetation clearance can proceed in advance of subdivision if consented under Sections 12.1 or 12.2;
- ii. Vegetation clearance can proceed as part of subdivision provided the requisite assessment of effects is provided with the subdivision application;
- iii. Otherwise, a separate land use consent is required;
- iv. This is additional to any requirements of NRC.

This is in my view the environment within which the adverse effects of the application must be assessed.

Adverse Effects Assessment

Taking into account the above, the following assessment determines whether the proposed activity will have, or is likely to have, adverse effects on the environment that are more than minor.

Risk Associated with Section 106 Matters RMA Natural Hazards

Geo-technical

Geo-technical considerations are important for the proposed subdivision as the land is elevated, steep in places and in part shown as erosion prone. Section 106 RMA grants a power to territorial authorities to be able to decline subdivision proposals where there are natural hazards or the act of subdivision would likely worsen or accelerate the risk from natural hazard.

Mr Henk de Wet, Council's [initial] reporting engineer notes in his memo of 21 November 2022 after reviewing the applicant's agent's response to the section 92 request pertaining to geo-technical matters that "...the geotechnical investigation report referenced in the response under 16.3 was not included in the application. It is noted that a report "*15813 – Carrington Estate Geotech Report Stages 3 and 4 which will be referred to as "Geotechnical report"* is also referenced in the suitability report, however, was not supplied with the application. In order for the assessment in respect to Geotechnical to be concluded, please can the applicant supply a copy of all geotechnical investigations reports relevant to this application."

The following aerals show the relationship of proposed sites and land identified in the Operative Far North District Plan as erosion prone.



(Figure 13)



(Figure 14)

Soil and Rock being an engineering firm comprising in part of geotechnical engineers were engaged by Lands & Survey on behalf of the Far North District Council to undertake a review of the geo-technical report provided by Cook Costello on behalf of the applicant. In a report dated 25 September 2023 Soil and Rock recommended and concluded that the following additional work was required:

- Additional site walkover to review geomorphology and confirm the assumptions in their reporting;
- Additional hand augerholes to determine topsoil depth and collect samples for laboratory testing;
- Machine drilled boreholes with piezometers to determine site soil profile beyond the depth of the existing hand augerholes;
- Site-specific groundwater depth monitoring;
- Back-analysis of site geomorphological features and historic instability;
- Update slope stability analyses; and
- Clarify the conclusions, recommendations and inconsistencies in the reporting and drawings

At this point in time Soil and Rock concluded that “It is our opinion the geotechnical investigation report provided by the applicant for this Consent is insufficient to satisfy the engineering requirements of Council.”

Following discussion between Cook Costello and Soil & Rock engineers, at 19 December 2023 Soil and Rock released a revised version of its 25 September 2023 report which reached the same conclusion as the earlier version but condensed the action points to bullet points 5, 6 & 7 above.

Further work was conducted on the outstanding geotechnical issues by Cook Costello and at this point in time it is still not determinable as to what geotechnical matters translate to in terms of effects.

Indigenous Vegetation & Habitat

The subdivision requires the clearance of vegetation to enable the construction of dwellings. Earlier parts of this report have established that:

- significant vegetation clearance has occurred within the land in the subdivision;
- although likely required, no FNDC consent has been obtained nor has the proposed subdivision consent been accompanied by any information supporting resource consent for this activity;

The FNDC section 92 request of 18 October 2022 sought the following information pertaining to vegetation and habitat:

- A map showing the location of land considered wetland as an overlay on proposed lots;
- The ecological report outlining the values associated with the wetland being supplied to the NRC;
- A copy of the decision of the NRC on this recent application for earthworks as it is likely problematic if consent is granted for subdivision and certain sites are incapable of development.

In addition, the FNDC section 92 request sought the following information:

- Please provide an assessment of the activity status of the proposal in terms of the above and the National Environmental Standard Freshwater 2020 as it pertains to vegetation clearance in the vicinity of a wetland and any other relevant matters associated with the proposed development.
- I note that both earthworks within and within 10 metres back from a natural wetland are a non-complying activity by way of the National Environmental Standard Freshwater 2020.

Furthermore, the FNDC section 92 request sought the following information:

- Please provide a detailed outline of the site and the location of vegetation cleared to date (prior to 27 July 2022) and the location of vegetation to be cleared/cleared since the relevant operative PFNDP rules for Ecosystems and Biodiversity came into effect.
- The land in the subdivision is shown as PNA. Please provide an ecological report detailing whether land in the subdivision could be considered a significant natural area using the ecological significance criteria in Appendix 5 of the RPS or in any more recent National Policy Statement on indigenous biodiversity;
- It would appear that the proposal will run contrary to either rule IB-R3 or IB-R4 making it a discretionary activity. Please provide analysis of the proposal against the policy context of the PFNDP in terms of Ecosystems and Indigenous Biodiversity and outline the anticipated effects and magnitude of effects from the proposal.

The information requested was declined on the basis of one or more of the following arguments:

- vegetation clearance had been approved under a previous NRC resource consent;
- as a controlled activity the request was out of scope, and
- a new consent for earthworks was sought from NRC

The conclusions that I draw from this set of events are as follows:

- The refusal to supply information as requested in regard to indigenous vegetation and habitat is grounds for the proposed subdivision to be publicly notified.

Earthworks

The earthworks have been described in the AEE as detailed below and as extracted from the Preliminary Civil Suitability report from Cook Costello, version 2, 30 August 2021.

4.1. Stage 3

The development of roads and house pads for Stage 3 has been approximated at volume cut of 8000 m³ and fill of 2200 m³. For initial earthworks calculations a topsoil strip of 150 mm and subgrade of 300 mm has been used. The installation of civil infrastructure such as stormwater and wastewater pipes have an approximate trenching earthworks volume of 1300 m³. Total earthworks balance for Stage 3 is estimated at 5800 m³.

4.2. Stage 4

The development of roads and house pads for Stage 4 has been approximated at volume cut of 20350 m³ and fill of 5400 m³. For initial earthworks calculations a topsoil strip of 150 mm and subgrade of 300 mm has been used. The installation of civil infrastructure such as stormwater and wastewater pipes have an approximate trenching earthworks volume of 4300 m³. Total earthworks balance for Stage 3 is estimated at 14950 m³.

Total combined earthwork will be less than 50,000 m³ for both stages. The approximated balance of 21000 m³ can be stockpiled on land also owned by the client, close to the proposed subdivision site.

The conclusions drawn from the Cook Costello Report (see section 10.2) is that *“the sites that are to be developed are reasonably steep and will require earthworks and retaining to provide appropriate access and building areas. The total volume of earthworks is less than 50,000 m³. The approximated balance of 21000 m³ can be stockpiled on land also owned by the client, in close proximity to the proposed subdivision site.”*

The applicant has advised that in regard to earthworks, rather than provide detailed upfront information on earthworks management that it would be more appropriate to include a condition of consent that Carrington provides a detailed plan as part of the section 223 conditions, which the Council can review at the engineering plan approval stage. It further advises that it is common practice that the contractors tendering for the work will have different construction management processes and the constructive management plan will be more relevant when the detailed design is completed.

The applicant's agent provides a typical engineering condition of consent for earthworks as is detailed below:

"Prior to issue of a Section 223 certificate: -

a) The consent holder must submit a detailed set of engineering plans prepared in accordance with Council's Environmental Engineering Standards. The engineering plans are to be submitted to the Development Engineer for approval.

It is to be noted that certain designs may only be carried out by a Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies.

All work needing design/certification by a CPEng will require completion of a producer statement (design) (EES-PS1 or similar).

Plans are to include but are not limited to:

i) Design details of final earthworks and retaining to construct roads, lot platforms and ponds, in accordance with Council's Environmental Engineering Standards 2010 Edition, including existing and proposed contours and depths of cut/fill. The earthworks plan shall include:

- Environmental Management Plan*
- Construction Management Plan*
- Specific Dust Management Plan*
- Erosion and Sediment Control Plan*

Council's consultant engineer considers that the response from the applicant is acceptable, and that a detailed set of conditions of consent should be considered to cover matters associated with controls during earthworks.

On the basis of this information, I consider that any adverse effects on the environment associated with earthworks can be managed so as to be less than minor.

Flood Risk

In the FNDC section 92 request the applicant and agents were advised as follows:

- Rule 13.7.3.2 of the Operative District Plan is relevant to controlled activity subdivision and the Proposed Far North District Plan indicates land is affected by a River flood Hazard zone (100-year ARI). Furthermore, the Northland Regional Council Natural Hazard Maps identifies the downstream receiving environment as being flood susceptible (River flood and Coastal Hazard zone).
Please supply the following information:
 - Please supply a flood report from an appropriately qualified engineer detailing the risk of land in the subdivision to flooding and if so any appropriate recommendations.
 - Please supply a flood hazard assessment from a suitably qualified engineer detailing the effects of the proposed development on the downstream receiving environment including recommendations to mitigate potential effects to not

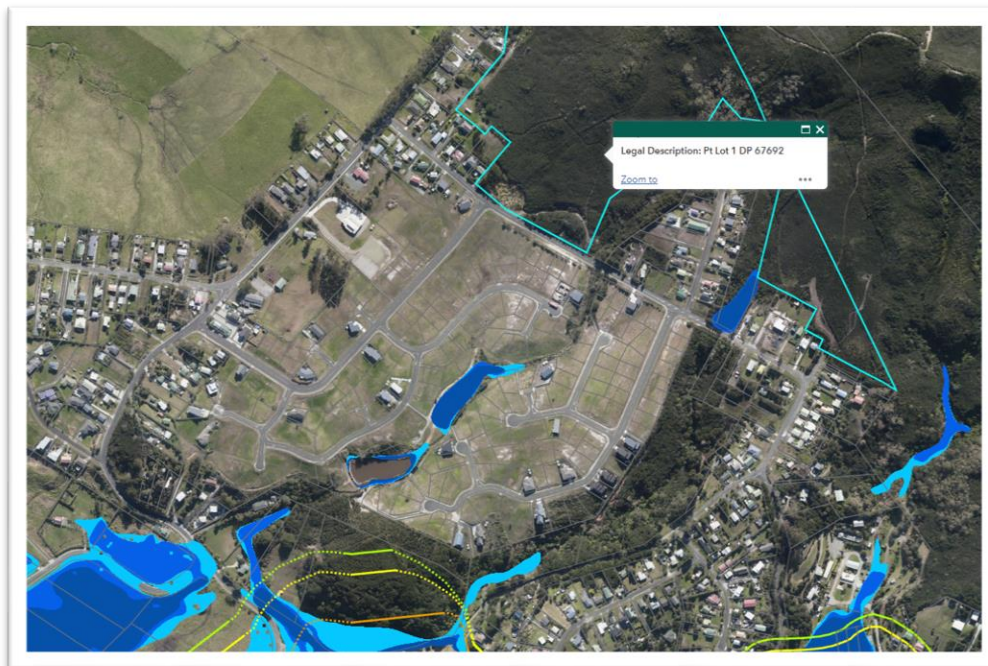
cause or exacerbate flooding of downstream properties and public infrastructure.

Minter Ellison Rudd Watts in the letter of response to the FNDC information request (dated 8 Nov 2022) advised that “ Given the minimal extent of the overlay affecting the Site and that no conceivable building / structure could ever be located in this area, the requirement for a flood hazard assessment is not considered appropriate or necessary. The overlay will not affect development on the Site. We submit that this appears to be a marginal mapping error for the allotments.”

Mr Henk de Wet Council's reporting engineer in his memo of 21 November 2022 notes as follows:

“The applicant’s agent provided an excerpt from an unidentified flood hazard map that depicts a flood overlay downstream of the eastern portion of the site (stage 3). The excerpt was supported by commentary stating in 12.4 of the response that “the requirement for a flood hazard assessment is not considered appropriate or necessary”.

The flood hazard map overlay corresponds with that of the NRC Natural Hazard Maps. The flood hazard maps indicate the same flood extent; however, it is limited to 10 year and 50 Year events. The driver for the flooding is likely to be a lack of capacity of the stormwater culvert crossing Doubtless Bay Drive.



(Figure 15: NRC Natural Hazard Maps (River Flood Hazard))

I may concur with the applicant’s agent as stated in 12.4 of the response that the “overlay will not affect development on the Site”, however the concern that gave rise to the request for an assessment is the potential flood risk of the downstream receiving environment which may be affected as a result of the development.

It is noted that section 6 of the Preliminary Civil Suitability Report prepared by Cook Costello dated 30 August 2022, included in the application, discussed attenuation on allotments by way

of attenuation tanks, however no further discussion or assessment has been included to demonstrate the management of stormwater runoff from the subdivision, and potential effects on downstream flooding.

It is my opinion that the request for information has not been adequately responded to, however could be integrated into the response under Stormwater Management and will be assessed accordingly. “

Subsequently, Minter Ellison Rudd Watts advised in an email dated 20 December 2022 that it would respond with further information to matters raised around flood risk.

No further information on this matter has been supplied and it is indeterminable as to the level of anticipated effects associated with flood risk.

Infrastructure

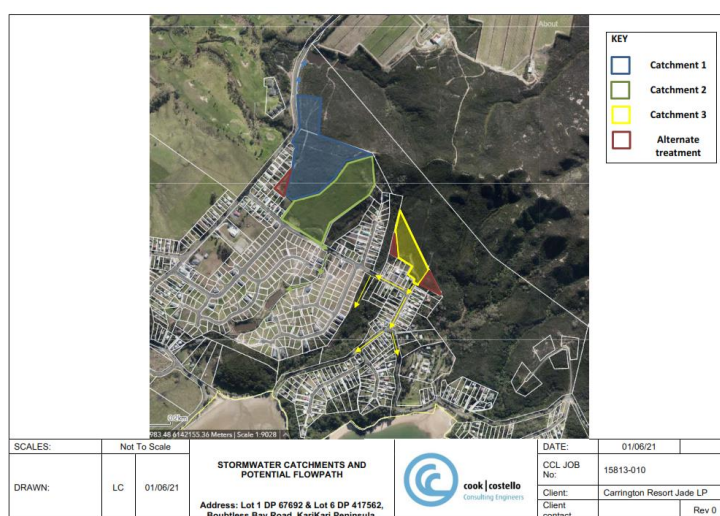
- Waste water

A Development Agreement has been entered into between the applicant and Far North District Council to address the need for waste water disposal. The local waste water treatment plant does not have the capacity to accommodate waste water from the proposed subdivision. The Development Agreement signed between FNDC and the applicant requires an upgrade of waste water treatment infrastructure.

The Development Agreement notes that the FNDC has no current plan or intention to upgrade the WWTP, but has agreed to allow Carrington to carry out the Works at its cost to achieve a total of 437m³ ADWF (average dry weather flow) subject to the terms of the Agreement.

Stormwater

The following aerial details the catchment management plans associated with the proposed subdivision.



(Figure 16)

The key points associated with stormwater as contained in the Cook Costello Preliminary Civil Suitability Report (version 2, dated 30 August 2021) are detailed as follows (i.e., cited directly from the report).

- There are three proposed catchment areas to be considered. Catchments 1 & 2 cover Stage 4 while Catchment 3 covers Stage 3.
- The proposed development will create impervious areas in the form of roads, driveways, and residential housing. For the proposed roads, stormwater runoff will be controlled by curb and channel along the road edge leading to sumps and controlled to existing infrastructure via a piped network.
- It is proposed to include onsite stormwater attenuation for every allotment. This will likely be in the form of individual attenuation tanks. The attenuated stormwater will then enter the proposed stormwater infrastructure in the road boundary. The attenuated stormwater produced by the proposed allotments will be transported to the proposed stormwater infrastructure via open channels if attenuated stormwater is to be discharged overland via spreader bars (so that greater infiltration can be achieved) or piped directly to the proposed infrastructure from the attenuation tank outlets.
- There is also an option to provide onsite stormwater treatment via soakage pits. However, this option may not be practicable due to the expected low soakage rates of the clay soils in the proposed subdivision location.
- To attenuate the increase in stormwater runoff produced by the proposed new roads the following two options are proposed:
 1. Each allotment will be required to over attenuate stormwater runoff to offset, an area of the road runoff based on a percentage of road area to allotment size.
 2. Another option may be to provide stormwater attenuation of the new impervious area by using one of the proposed allotments downstream of the proposed subdivisions and near the entrance to the existing stormwater network as a stormwater attenuation/detention pond. It is proposed allotment 27 for Stage 4 (Catchment 2) and allotment 24 for Stage 3 will be used for these ponds.
- An alternative option to the piped network which can be explored is creating open channel drains along the subdivision's internal roads. The alternative option proposes that stormwater runoff from the proposed lots will drain to the road and enter sumps located in the road curb and channel. These sumps can then outlet via a bubble up type system to open channel stormwater drains. The open channel drains will need to be on the downstream side of the roads. Weirs may be used to improve the open channel storage and reduce flow velocities. These open channel drains will be used to transport stormwater and provide additional soakage capacity and overland flow paths for stormwater.
- Stormwater attenuation design for each individual allotment will need to be completed at the building consent stage based off the lot specific use. The attenuation tanks from the specified lots that are able to direct stormwater to the road will link into the proposed piped stormwater system within the road boundary. There will be numerous allotments that will require easement to drain stormwater from other lots.

- Road runoff will be controlled by the following methods. All road to vest lots are to be designed with curb and channel. The curb and channel will collect runoff, directing it to sumps in various low/flat sections of the roads which will then transfer the stormwater via pipes to existing infrastructure.
- The stormwater in Stage 3 is captured in Catchment 3. Stormwater runoff from roads and attenuation tanks will be piped under the proposed roads and enter existing infrastructure located on Doubtless Bay Drive and De Surville Road. It is proposed that attenuated stormwater from Catchment 3 will travel to the ocean via the proposed pipe system and existing open channel flow paths. It is not expected that the existing infrastructure will encounter any downstream constraints as it drains directly to the ocean.
- Lots 19-23 and 2-9 will drain attenuated stormwater directly into existing stormwater flow paths via spreader bars as it is not possible for these allotments to access the proposed stormwater infrastructure in the proposed road formation. There is only manuka bush below these allotments so the stormwater runoff will not impact any other sections.
- Stage 4 Stormwater attenuation design for each individual allotment will need to be completed at the building consent stage based off the lot specific use. The attenuation tanks from the specified lots that are able to direct stormwater to the road will link into the proposed piped stormwater system within the road boundary. There will be numerous allotments that will require easement to drain stormwater from other lots.
- Road runoff will be controlled by the following methods. All road to vest lots are to be designed with curb and channel. The curb and channel will collect runoff, directing it to sumps in various low/flat sections of the roads which will then transfer the stormwater via pipes to existing infrastructure.
- Catchment 1 The northern end of road to vest, Lot 110 and the upstream lots will drain through a piped / open channel via Easement Lot 105. The southern end of Lot 110 and the associated Lots will drain to sumps located at the northern end of the Matai Bay Road, the internal intersection of Lot 110 and at the downstream end of Lot 106. Proposed Lot 106 will provide open channel flow for the remainder of Catchment 1.
- All stormwater collected from Catchment 1 will then be piped along Matai Bay Road to the proposed stormwater retention pond to the north of the catchment. It is proposed that attenuated stormwater from Catchment 1 will flow north to an existing pond located in the north-west section of Lot 6 DP 417562. The suitability and capacity of the pond will need to be investigated further and upgraded if necessary.
- Proposed road 8 will need to be redesigned as a possible shared accessway for proposed Lots 21, 22, and 24. This is due to there being no existing path to control stormwater runoff from proposed road 8 except for onsite attenuation / soakage in the downstream Lots. There is an opportunity to install stormwater infrastructure to service these lots in proposed Lot 22. There is an existing wastewater main that currently terminated in proposed Lot 22 and follows the boundary of 9 Doubtless Bay Drive (Lot 18 DP 69243). The proposed stormwater infrastructure could follow the same path as the existing wastewater infrastructure.
- Another option is to install stormwater infrastructure along the boundary of 48 Matai Bay Road (Lot 26 DP 69243). This section is currently vacant so would be the

preferable option. Permission from the existing property owners would need to be obtained.

- Catchment 2 captures the proposed development stormwater runoff from the southern section of Stage 3. Attenuated runoff will be piped along the northern side of Doubtless Bay Drive to an existing stormwater culvert where it will enter the existing stormwater system.
- If the option of implementing a stormwater attenuation/retention pond on proposed Lot 27 is used, then all stormwater runoff will enter the pond and slowly drain to the existing open channel. The existing open channel then flows to an existing pond downstream in the subdivision below via a piped system and existing open channel flow paths.

In response to the application lodged and information supplied pertaining to stormwater management the section 92 information request initially sent to the applicant indicated that the FNDC considered that:

- Assessments of the capacity of the existing Council stormwater network and discharge points downstream of the development had not been undertaken, and that no stormwater discharge to the public network from the proposed subdivision would be permitted until this information had been submitted and approved by Council.
- Connections to the FNDC stormwater schemes were yet to be confirmed by Council and were dependent on capacity being available within the systems to service the development

In light of the Cook Costello Report indicating that: some stormwater infrastructure (i.e., ponds Catchment 1) would be required to be developed as the subdivision progressed; a number of possibilities exist to transport stormwater, but at some point this will need to feed into the public stormwater system; it was requested that a proposal [for certification by the Operations Department of FNDC] be supplied that would ensure that the capacity would exist [for the scale of development proposed] to manage stormwater.

Initially this information requested was not supplied (declined) and Mr Henk de Wet advised as follows:

"The request for information was for the applicant to provide an assessment in relation to the capacity to service the proposed development. It is understood that the design would generally be developed at a later stage, but before s223 approval, however, to consider a decision for resource consent, Council has discretion under section 13.7.3.4 of the District Plan, hence the request for the capacity assessment, envisaged by 13.7.3.4(ii). The site suitability report provides discussion on the respective catchments, and includes recommendations and options, assumed to be based on prior knowledge of the site and engineering judgement, which includes that certain upgrades would be required. The report does not provide any calculations or modelling to demonstrate the magnitude of stormwater runoff and the scale or suitability of infrastructure required to service the development. It is my opinion that the request for information has not been adequately responded to."

Subsequently, the applicant's agents advised in an email that further information on stormwater would be provided. However, this information has not been supplied and it is indeterminable as to the level of anticipated effects associated with stormwater.

- Water Supply & Fire Fighting
Water Supply

There is no potable water supply available to lots in the subdivision. Rainwater harvesting through the use of rainwater tanks is proposed.

Information supplied in the Cook Costello report indicates that preliminary tank sizing has been estimated at 50000L capacity for a 1 in 20yr drought event (i.e., enough for 7 weeks of zero rainfall and supply of 250l/day/person (4 people)). Using The Climate and weather of northland – NIWA, 3rd edition report and the median annual rainfall for Kaitaia Aero Ews for the period of 1981-2010 (Table 6), the applicability of a household with 4 people using 250L per person per day with a 50 m³ tank supply was reported as tested. The roof area used for rain collection was 200 m². The results showed that if a 50 m³ tank was refilled twice a year then the demand and rainfall harvest supply balance throughout the year is for a median rainfall year.

Fire Fighting

The Cook Costello report notes that: "on-site storage for fire-fighting supply is required as there will be no reticulated water supply for the subdivision. Firefighting water supply of 45 m³ must be available within 90 of the dwelling. This may be inclusive of tank supply possibly located in the road boundary and individual onsite tank capacity of water supply. The location of proposed 20m³ fire supply storage tanks within the road boundaries will be specified at a later stage. An example of the required water storage for fire-fighting supply is included in documentation . All water infrastructure must comply with SNZ PAS 4509:2003 and be approved by the fire department."

In my view a water supply for firefighting is a critical issue given the land cover surrounding land in the subdivision (see figures 10 and 11). In summer dry months the potential exists for the land in the subdivision to be surrounding by considerable fuel that would feed into any fire putting human safety and physical resources at risk.

The FNDC section 92 request asked the following:

"Please supply a preliminary management plan that outlines the following:

- Location, accessibility and reach of proposed tanks for firefighting,
- Details the proposed strategic/management approach to accessing water for firefighting within the subdivision, including the replenishment and maintenance of the tanks and associated pipework.
- Assessment of the accessibility by fire services to all allotments especially where road gradients prove prohibitive to service vehicles."

This information was not supplied and the applicant's legal agent advised that Carrington's engineers, Cook Costello, were working with Fire Emergency New Zealand

(FENZ) to provide appropriate measures for water for firefighting at the Site, and had agreed on initial options.

However, nothing was finalised in the application.

In terms of natural hazard (fire) the applicant was asked for the following information:

- Please advise how it is intended that Policy 12.4.4.7 of the Operative Plan be achieved in the context of the proposed development.
- Please identify any parties (adjacent landowners) potentially affected by the increase in risk posed by the infringement of standard 12.4.6.1.2.
- In respect of fire risk to residential units (if not covered above under “Water Supply”) please advise of:
 - (a) the degree of fire risk to dwellings arising from the proximity of the woodlot or forest and vice versa; and
 - (b) the full range of mitigation measures proposed to reduce the fire risk.

The applicant’s agents (legal) advised that these items were not relevant to the Application, since Carrington had withdrawn the land use consent part of the Application (which related to fire risks). However, they noted that: section 8.2 of the Site Suitability Report addresses the optional approach to providing water for firefighting supply; that the approach selected must be in accordance with SNZ PAS4509:2003 and be approved by FENZ; and that the application [lodged] had promoted suitable mitigation measures in this respect, as shown by in attached correspondence with FENZ.

Mr Henk de Wet notes in his report that for option 1 (on site individual storage) Council would still require information on accessibility by fire services to all allotments especially where road gradients prove prohibitive to service vehicles.

For option 2 (communal storage tanks) Council would still require information on strategic/management approach of the infrastructure.

Mr Henk de Wet noted that the request had only been addressed partially, and that outstanding information outlined above was required to resolve these matters in relation to water supply.

The applicant’s agent (legal) advised in an email [Dec 2022] that additional information would be supplied in regard to water supply and water as it related to firefighting. This information has not been supplied and it is indeterminable as to the level of anticipated effects associated with fire risk.

- Energy & Telecommunications

In a letter from Top Energy to Philip Cook, Cook Costello dated 28 November 2022 the energy provider indicates that electrical reticulation to sites in the subdivision is possible and advises that it seeks:

“Top Energy requires new connections to be reticulated to the boundary of each lot and the creation of an electrical easement in gross over Lot 37 in Stage 2 and Lots 104, 106, 110 and 112 in Stage 4 (Roads to Vest) where electricity infrastructure will need to be installed”.

The applicant has supplied correspondence from Chorus dated 2 December 2022 that confirms that it can supply reticulation to the land in the subdivision for the purpose of telecommunication.

Roading

Pages 10-12 of the Cook Costello Report address the issue of roading. In response to this information supplied the following information was requested:

- *Please provide a traffic impact assessment prepared by a Chartered Professional Traffic Engineer to address all transport and access complexities associated with the subdivision, which includes but not limited to traffic movements, geometrics of proposed vested roads and private accessways, site distances and sight lines, including an assessment of the degree of compliance with, or departure from the relevant standards.*
- *Please provide an assessment and confirm compliance with PROPERTY ACCESS (see Chapter 15 Transportation). A controlled (subdivision) activity application must comply with rules for property access in Chapter 15, namely Rules 15.1.6C.1.1 - 15.1.6C.1.11 (inclusive).*
- *Please consult with NTA and provide its views on the proposal.*

The applicant's agents (legal) advised as follows:

It is not necessary to provide an additional traffic impact assessment. The transport section of the Engineering Suitability Report attached to the Application addresses these matters with a level of detail that is appropriate for the Application. The Site and the surrounding area have typical intersections and reasonably low volume roads without significant morning and evening peak traffic delays. The assessment only needs to address safe sight distances and geometrics of the intersection. A detailed traffic impact assessment is not considered required for such simple developments in low volume areas. We note the proposed intersections are for lightly trafficked roads and these can be created within Council standards and normal traffic requirements for a residential development. The Council Standards 2022 require the works to be completed by a suitably qualified and experienced practitioner. Carrington's engineer Mr Philip Cook is a Chartered Professional Engineer (civil, geotechnical) that is certified to complete Tier 4 works. As the road is not a collector, arterial or national road, a specific traffic engineer is not needed. Cook Costello has undertaken a transport assessment of the proposed roading network, including the difference between the current Council Standards and the draft 2022 Standards, and this is attached as Appendix D. The Application complies with the permitted activity requirements in relation to property access in the Operative Plan. Please see the assessment attached as Appendix E below. Carrington is in the process of preparing to consult with NTA. Plans will be provided to NTA for approval, and we will provide further information once we receive NTA's feedback on the Application and plans.

Mr Henk de Wet in his report considered that a traffic impact assessment had been provided as requested, however the assessment was undersigned by the applicant's designer, who's is not a chartered professional traffic engineer. Mr Henk de Wet recommended that the assessment was provided to NTA for comment and considered for Peer Review by Traffic Engineer, subject to NTA feedback and response from applicants on consultation with NTA.

Mr Henk de Wet further noted that: Appendix 3B-1 (Standards for private access) limited sealed private accessways to 25% gradient, whereas private driveways are generally also limited to 25%; that the roads and JOALs proposed were all proposed to have grades less than the 25% limit; however, several sections were envisaged to have access at grades exceeding the recommended 25%. He noted that the site suitability report did not include discussion and recommendations in this respect.

Mr Henk de Wet confirmed that the responses received were adequate, however the outcome from the review and or consultation with NTA was paramount to concluding this part of the assessment.

In an email [Dec 2022] the applicant's agents (legal) advised that further information on these matters would be supplied.

Subsequently, a more comprehensive Traffic Impact Assessment (TIA) was completed by Cook Costello, dated 14 February 2024 (Mr. Sven McLeman). This TIA was forwarded to NTA for review and comment.

NTA advised on 28 March 2024 that the following matters remained outstanding in terms of the Traffic Impact Assessment (TIA):

- The TIA assumes the speed limit can/will be changed to 50kph and extend to the proposed subdivision. This catchment is not currently up for review by FNDC and no speed limit changes are proposed. Speed are set based on existing road environment and the 50kph will likely not be extended until build out is complete. Sight distance instead must be calculated based on current posted or operating speed (Matai Bay Road).
- Design speed for roads to vest are okay at 50km/hr but should plan to be posted at a max 40kph as a safe and appropriate speed for a residential street.
- There is no discussion if a right turn bay or other minor widening is warranted, particularly for the proposed road off Doubtless Bay drive and I would like to understand if this has been considered.

No further information has been received on these matters and it is indeterminable as to the level of anticipated effects associated with traffic.

Visual Impacts

I consider that the subdivision and development which will establish post the proposed subdivision will produce significant visual change for the locality for the following reasons:

- The land in the subdivision is elevated (see figures 10 and 11);
- The visual catchment for the hillside upon which development will establish post subdivision is extensive with a wide visual catchment;
- The wider environment is sensitive to development being largely Coastal in character;
- The development will be visible along the expansive Tokerau Beach;
- The subdivision has been preceded by the clearance of a large area of vegetation across the hillside (see figures 10 and 11);
- The subdivision pattern proposed is intensive, homogeneous and proposes to create sites, roads and private accessways across an extensive area of the hillside.

The application lodged does not give consideration to visual effects that might follow from the subdivision or outline any mitigation or principles to be applied to manage adverse effects on landscape.

As part of the section 92 information request of 18 October 2022 it was requested that the applicant supply a landscape assessment in conjunction with the subdivision proposal. This request was declined in a letter dated 8 November 2022 from Minter Ellison Rudd Watts on the basis that any visual effects of the application were not within the Council's matters of control and therefore were not relevant to the assessment of the Application.

The position taken by the applicant's agents was based on the application being considered by them to be a controlled activity. However, as a non-complying activity the scope to consider matters is quite extensive.

I do note that even as a non-complying activity that of relevance to this issue is the fact that the land is zoned Residential and General Residential by both the Operative and Proposed Far North District Plans. Consequently, it has been envisaged that the land in the subdivision will be utilised for the construction of dwellings. Furthermore, the community has had the opportunity to comment on the appropriateness of the Residential zonings proposed.

However, I also note the following matters of relevance:

- Policy 13.2.1 (Subdivision) requires in the process of subdivision that the size, distribution and dimension of allotments be determined with regard to the potential effects (including cumulative effects) on natural character (particularly of the coastal environment), amenity and landscape.
- Policy 13.4.4 (Subdivision) requires that in any subdivision where provision is made for connection to utility services, the potential adverse visual impacts of these services are avoided.
- Policy 13.4.6 (Subdivision) requires that any subdivision proposal provides for the protection, restoration and enhancement of the natural character of the coastal environment , and natural features where appropriate.
- Policy 13.4.13 (Subdivision) states that subdivision, "shall preserve and where possible enhance, restore and rehabilitate the character of the applicable zone in regards to s6 matters (S6 includes preservation of the character of the Coastal Environment [see Figure 6 above and S6(a) RMA]). In addition, subdivision shall avoid adverse effects as far as practicable by using techniques including: (a) clustering or grouping development within areas where there is the least impact on natural character and its elements such as indigenous vegetation, landforms, rivers, streams and wetlands, and coherent natural patterns; (b) minimising the visual impact of buildings, development, and associated vegetation clearance and earthworks, particularly as seen from public land and the coastal marine area;"

On balance I conclude as follows:

- The subdivision is located within a sensitive landscape (i.e., the Coastal Environment) with the potential to create significant visual and amenity effects through the establishment of new boundary plantings, buildings, and accessways and the associated intensification in land use which will follow.
- Subdivision and its potential effects on natural character and visual appearance is a matter which the OFNDP seeks to manage.

- S6 of the RMA considers the preservation of the natural character of the coastal environment as a matter of national importance.
- Although zoned for Residential land use it is necessary to establish the principles that will be applied to mitigating visual impacts associated with the subdivision pattern proposed and the built form that will follow.
- A landscape assessment of the proposed subdivision is necessary, and in the absence of this information it becomes a matter relevant to the level of public notification considered appropriate.

Cultural Matters

Since lodgement of the resource consent by the applicant interested parties have expressed cultural concerns regarding the proposed subdivision. These details are captured in the following table.

Date	Interested Party	Issues Raised
9/01/23	Thomson Lawrence on behalf of the Haititaimarangai 339 Trust	As Manawhenua expressing concerns regarding the clearance of vegetation associated with the subdivision proposal.
30/10/22	Professor Margaret Mutu, Chairperson and on behalf of Karikari Marae, the marae of the mana whenua hapū of Te Whānau Moana o Karikari.	The application ignores the requirements of Part 2 of the Resource Management Act set out at sections 6(e), 7(a) and 8. Expressing strong objection.
09/21	Innes Rupapera, Chairperson of Haititaimarangai Marae.	See below details

(TABLE 7)

Haititaimarangai Marae

Responding as an identified interested party by the FNDC the Chairperson of Haititaimarangai Marae wrote to Council in September 2021 and raised the following matters in regard to the proposed subdivision (these are summarised in bullet points below):

- Haititaimarangai Marae 339 Trust represents Te Whānau Moana and Te Rorohuri hapū. Haititaimarangai Marae is the Tupuna and sole marae of KariKari Peninsula.
- The site subject to the Application is situated within the traditional rohe / tribal boundaries of Te Whānau Moana and Te Rorohuri.
- The application should be notified as local iwi/hapu will be both directly and adversely affected.
- The principal way that that adverse effects will occur include:
 - The application will likely result in significant adverse effects on the relationship that we have with our whenua, moana and taonga katoa and our ability to continue to practice tikanga, including the exercise kaitiakitanga and rangatiratanga.
 - It will introduce further challenges to exercising rangatiratanga and practicing tikanga. Te Whānau Moana and Te Rorohuri already face challenges in this respect.

- Tikanga / customary practices such as gathering kaimoana may be further compromised. Over the years, we have observed depletion in our kaimoana. This depletion appears to correspond with an increase in the use of our moana. Enabling a significant increase in the population will likely see continuation of this depletion.
- The application is both deficient and inaccurate in a number of respects, namely:
 - The Assessment of Environmental Effects (AEE) accompanying the Application states that RMA matters of national significance are not relevant to the Application. As detailed above, the area subject to the Application forms a part of our ancestral lands, water, sites and other taonga. As such, our relationship with the area subject to the Application needs to be recognised and provided for as a matter of national importance under section 6(e) RMA.
 - The AEE fails to recognise the relevance of showing particular regard to kaitiakitanga. The intrinsic values of ecosystems, the maintenance and enhancement of the quality of the environment and the effects of climate change as required by section 7 RMA.
 - the AEE states that the Application is not incompatible with the principles of Te Tiriti o Waitangi as implemented through the Far North District Plan (FNDP). It is difficult to see how this conclusion is arrived at, given that, without limitation:
 - i. the AEE does not contain an assessment of cultural effects;
 - ii. Objective 2.7.1 FNDP provides for Council to give effect to Te Tiriti principles. The Application is contrary to Te Tiriti o Waitangi principles, including the principles of protection and rangatiratanga as it will erode rather than protect our rangatiratanga, tikanga and other cultural values;
 - iii. Objective 2.7.1 FNDP provides for the recognition and protection of wahi tapu and other ancestral sites and the mauri of our whenua, moana and taonga katoa. The Application does not provide for such recognition or protection;
 - iv. Policy 2.8.2 provides that we are to be consulted over the use, development or protection of natural resources where these affect our taonga. The applicant has not undertaken any consultation with respect to the Application.
- Application sets out that while it is normal to bundle activities, it is appropriate to assess the activities of subdivision and land use separately. We do not agree. As the effects of the activities overlap, a bundled approach is appropriate and necessary to ensure that decisionmakers have a full picture and can make an adequately informed decision on the application.

Significant cultural concerns have been raised by mana whenua regarding the proposed subdivision. The applicant declined to provide a Cultural Impact Assessment when this was requested by way of the section 92 information request. In the absence of this information, Council is unable to fully understand the nature and significance of the potential effects on cultural and iwi/hapu values. **Therefore, Council cannot be satisfied that the adverse effects on these values will be less than minor.**

Adverse Effects Conclusion

In conclusion, as detailed in the assessment above, there are significant and outstanding information gaps across a range of matters, including geotechnical stability, flood risk,

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stormwater management, traffic impacts, fire risk, visual amenity, and cultural values. Due to this lack of information, Council has been unable to undertake a complete assessment of the proposal's effects on the environment. **Consequently, Council cannot be satisfied that the adverse effects of the proposal on the environment will be no more than minor.**

Step 4: Public notification in special circumstances

s95A(9)	Do special circumstances exist in relation to the application that warrant the application being publicly notified? The assessment below addresses this matter.	No
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Special circumstances are those that are:

- Exceptional or unusual, but something less than extraordinary;
- Outside of the common run of applications of this nature, or;
- Circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

Special circumstances have been defined as circumstances that are unusual or exceptional, but may be less than extraordinary or unique.

In this case, I conclude that special circumstances do exist that warrant the public notification of the proposed subdivision notwithstanding the Residential zoning of the land concerned. These are detailed below.

- Hāitaitamarangai Marae have raised cultural concerns regarding the proposed subdivision. Public notification would enable better understanding of these concerns and the significance of any cultural landscape in which the proposed subdivision may be located. The applicant has not supplied a cultural impact assessment of the proposal for there to be any understanding of these matters.
- There is likely to be considerable public interest in the proposed subdivision for the following reasons:
 - The land in the subdivision is elevated with a considerably large visual catchment that extends both coastally southward along Tokerau Beach and landward across parts of the Karikari Peninsula;
 - The elevated nature of the land in the subdivision above lower lying developed areas of land has the potential to effect lower lying land in terms of privacy, shading, noise, sediment management and especially stormwater management given the erosion prone character of the land;
 - The subdivision has the potential to significantly change the character of the locality and the applicant has not supplied any landscape assessment of the proposal for an understanding to be obtained around how land and coastal characteristics may be impacted;
 - Vegetation clearance has occurred in the absence of any district council consents and resource consent for this activity does not form part of the subdivision consent sought.

7 Notification Recommendation

Based on the assessment above under section 95A(9) and S95C of the Act, this application must be processed with full public notification.

A handwritten signature in black ink, appearing to read 'Barry Mosley', written in a cursive style.

Barry Mosley
Planner

Date: 14 May 2025

8 Notification Determination

Acting under delegated authority, and for the reasons set out in the above assessment, under sections 95A(9) and 95C this application shall be processed on a full public notification basis.

A handwritten signature in blue ink, appearing to read 'Nick Williamson', written in a cursive style.

Nick Williamson
Team Leader Resource Consents

Date: 5 June 2025