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**To:** District Plan Team – Attention: Greg Wilson  
Strategic Planning & Policy  
5 Memorial Avenue  
Private Bag 752  
Kaikohe 0440.  
Email: greg.wilson@fnhc.govt.nz

**RE: Submission on the Proposed Far North District Plan 2022**

1. **Details of persons making submission**

Kerry Michael Lupi & Susan Charlotte Lupi (the '**Landowners**')  
C/- Bay of Islands Planning (2022) Limited  
Attention: Steven Sanson  
PO Box 318  
PAIHIA 0247

2. **General Statement**

The Landowners are directly affected by the Proposed Far North District Plan ('**PDP**'). They seek to remove the proposed Horticulture Zone in favour of the Rural Residential Zone.

The Landowners cannot gain an advantage in trade competition through this submission. They are directly impacted by the PDP. The effects are not related to trade competition.

### 3. **Background & Context**

#### Background

The Landowner has an established rural property located along Stanners Road, Kerikeri. The land under consideration is used currently as a basalt quarry, but contains numerous houses, yards, barns and access ways.

Part of the site has been recently approved for a 5 lot subdivision (Refer **Annexure 1**) which promotes rural lifestyle development ranging from 3ha to 2.01ha in size.

The basalt quarry operation located on the balance of the land operates under existing Northland Regional Council and Far North District Council consents. Both of these have a consistent expiry date of the 30 April 2030. The relevant decision from FNDC in relation to the basalt quarry is located in **Annexure 2**.

On closure of the quarry, the existing quarry pit is to become a lake, be landscaped and will provide sufficient amenity and rural residential and lifestyle opportunities for Kerikeri and Waipapa surrounds.

As the closure of the quarry will be within the life of the PDP, it is considered appropriate to forward plan for what the site will be following closure of the quarry.

#### Site Description

The land to which this submission relates comprises the following Record of Title. The property address is known as 156 Stanners Road.

- RT 901860 (Lot 2 DP 539355).

A plan showing the location of the land is provided at **Figure 1**.



*Figure 1 – Site (Source: Prover)*

The site is 57.3738ha in size and has direct access from Stanners Road.

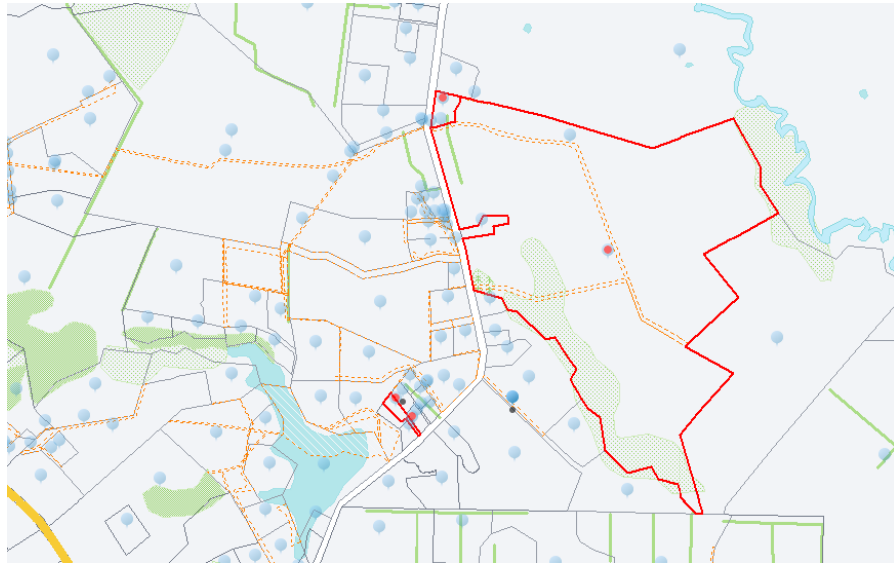
#### Surrounds Description

The site is situated around and near landholdings which serve a rural residential purpose that have direct access from Stanners Road.

Many of the properties along Stanners Road have been previously subdivided, and include allotments as small as ~2,200m<sup>2</sup> in size.

**Figure 2** below shows the general subdivision and development pattern in the general area.

**Figure 2** highlights the submission site, with the smaller site representing a landholding of at least ~2,200m<sup>2</sup> in size. There are a number of properties that have a diverse size, and largely cater to rural residential development.



*Figure 2 – Site & Surrounds (Source: Prover)*

The development pattern along Stanners Road represents a diverse and mixed rural environment. There are smaller allotments mixed with larger landholdings which largely serve rural residential and productive uses. Small enclaves of residential development seem to happily co-exist amongst these productive uses which are generally screened. Pressure for rural residential and rural lifestyle allotments have seen many larger landholdings subdivided to provide for such purposes. The submission site is evidence of this.

Horticultural and productive activities occur both sides of Stanners Road in various capacities.

Many rural residential properties front Stanners Road, and a recent subdivision is located opposite the submission site. There are rural residential properties in close proximity and the sites own subdivision promotes further rural residential development.

### Operative and Proposed District Plan Zoning

The site currently is currently zoned as Rural Production. The site is not implicated by any resource features or other overlays of relevance.

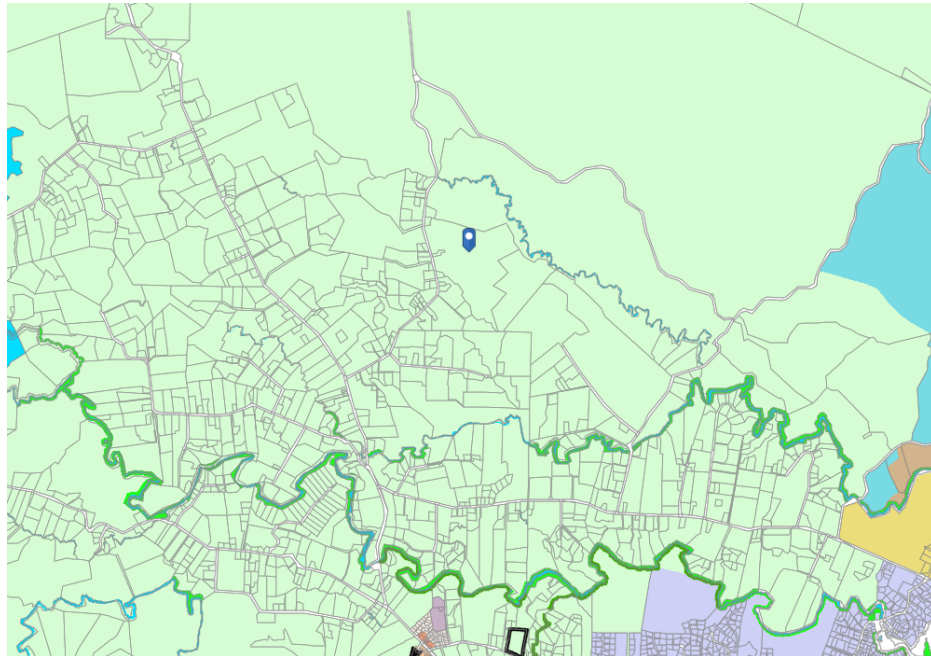


Figure 3 - Operative Zone (Source: Far North Maps)

The PDP seeks a Horticulture Zone for the site. The PDP also highlights that the site is subject to some localised flooding.

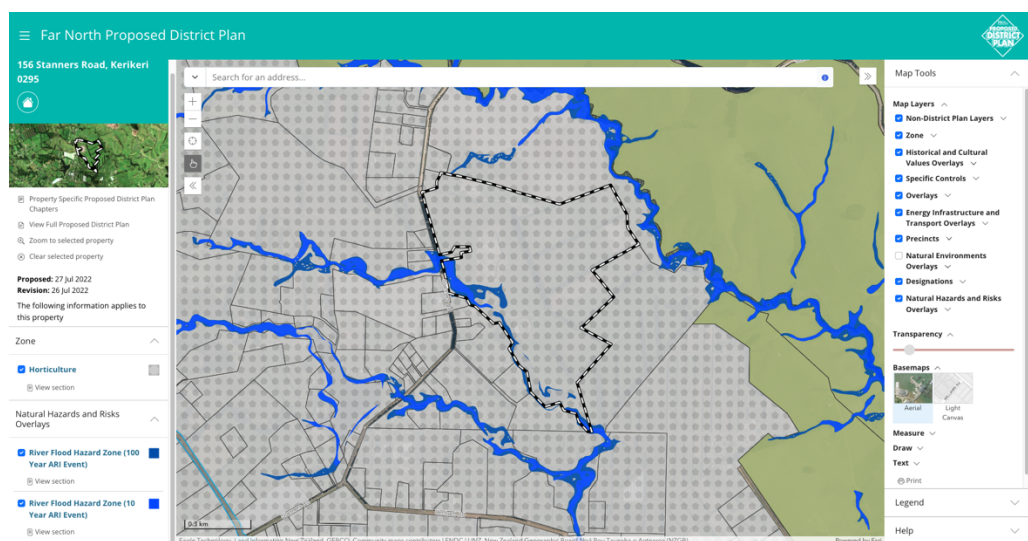


Figure 4 - Proposed Zoning (Source: PDP E Maps)

Notwithstanding the above, the NZLRI Land Use Capability Maps consider the site as having a mixture of Class 3s1 and Class 3s2 soils – ‘versatile’ as per the Regional Policy Statement for Northland 2016.

4. **The specific provisions of the Proposed Far North District Plan that this submission relates to are:**

- Proposed Planning / Zone Maps which relate to the site referred to in Section 3 of this submission.

5. **The Landowners seek the following amendments/relief:**

This submission requests that the PDP:

- Removes the proposed Horticulture Zone in favour of a Rural Residential zone. **S270.001**

6. **The reasons for making the submission on the Proposed District Plan are as follows:**

The reasons why it is believed that the Rural Residential Zone is a more appropriate zone for this site are:

- a) It better aligns with existing development, size of landholdings, surrounding land uses, and proposed uses for the site.
- b) There is no existing horticultural use, and the land is not suitable for such usage.
- c) The land is not consistent with the Horticulture Zone provisions.

- d) Rural Residential zoning is more consistent with higher order Resource Management Act 1991 (**'RMA'**) policies and plans.
- e) Rural Residential zoning is more consistent with the purpose and principles of the RMA.

We briefly expand on these reasons in the following sections. These matters will be fleshed out further in the evidence we call in support of our position at the hearing.

### **Better aligns with existing development, size of landholdings and surrounding land uses**

Amending the zoning of the land, and perhaps other sites of a similar nature, would redefine, but cement, the rural residential and rural lifestyle character that presently exists.

The existing land uses are a mixture of rural residential and lifestyle development, situated within and amongst existing horticultural and productive activities. These seemingly co-exist with minimal issues that are envisaged by the Plan in terms of reverse sensitivity and are effectively managed by consent conditions. Small scale farming also occurs in the surrounds.

The landowners have owned the land for some time, and apart from the existing quarrying use, there is limited productive potential for the site, having reverted much of the land to grazing and activities associated with quarrying.

Whilst the size of the site is reasonably large, horticultural activities are not currently undertaken. The potential for such

uses have been abandoned by the landowners in favour of the quarrying activity and rural residential potential for the site on its closure. These factors contribute to the sites lack of potential for horticulture and move towards favouring a more appropriate zone that will assist with the rehabilitation of the quarrying pit on this activities expiry.

The future potential for the site to be a premier managed subdivision with a lake as a focal point is somewhat unique in the context of a typical subdivision. This approach build off the existing subdivision consent which sets a potential approach for future development of the land.

Overall, the sites location, surrounding uses, and proposed development lead to the conclusion that the proposed zoning undertaken by the PDP is not the most appropriate means to achieve the purpose of the RMA.

### **No existing horticultural use and land is not suitable for such usage**

The site is not currently used for horticulture, nor are many of the existing and developed sites within the surrounds. The general development pattern evidenced is that of residential activities being present and co-existing with horticultural activities.

It is understood that the general area has some of the components which make the activity of horticulture potentially viable.



This includes versatile soils (noting the site has mapped class 3s1 and 3s2 soils), access to water, and access to other matters (i.e transport routes) that may make such horticultural activities viable.

It is understood that the Regional Policy Statement for Northland 2016 based versatile soils off the New Zealand Land Resource Inventory. It is noted that this is based off mapping at a scale of 1:50,000. It is considered that this scale is appropriate for regional level planning, but at a district and site specific level, mapping at such a scale should not be supported as rationale for rezoning areas of land within the Horticulture Zone. Our clients may provide further soil mapping and testing evidence at a site specific level to confirm this matter.

With reference to **Annexure 3**, the existing land uses in the site and surrounds are considered as a mixture lifestyle, stock fattening, recreational, residential and market gardens. The development patterns suggests that residential and lifestyle developments as being predominant along Stanners Road.

The current level of residential development, fragmented allotments already approved and developed, and lack of clear site specific rationale that confirms that the site under consideration (and other sites) do in fact have versatile soils, leads to the conclusion that the site is not suitable for horticultural use.

### **Land is not consistent with Horticulture Zone provisions**

Key objectives and policies for the Horticulture Zone seeks to manage its long term availability and protection for the benefit of future generations, avoid land sterilisation that reduces the potential for highly productive land, avoids fragmentation of land and reverse sensitivity effects, does not exacerbate natural hazards, maintains rural character and amenity, and is serviced by on site infrastructure.

In the context of the site and surrounds under consideration, it is considered to be difficult to achieve the intent of the zone.

The primary reason for this is that the site and surrounds have already been fragmented, and perhaps sterilised to a point where 'retrofitting' zoning to suit the underlying soils characteristics (amongst a range of other things) is unlikely to result in a reversion from residential to horticultural activities.

In this specific instance, the promoted protection intent of the zone is neglecting the reality on the ground. The existing quarry activity takes up a large portion of the balance of the land, and the approved subdivision also promotes further difficulties in retrofitting land alongside this area.

In terms of benefits for current and future generations, it appears that the rationale has been to consider this against an economic framework i.e what is the productive property area required to achieve a viable economic return.

This above is considered in more detail in Economic Analysis Report 2020, particularly section 4.1.4 and Table 31 which concludes that:

- *Kiwifruit orchards would need to have a productive area of between 7ha and 16ha respectively. These align closely with the current median sized horticultural property (7ha) and average sized horticultural property (17ha) (Figure 34).*
- *Vineyards would need to have a productive area of between 11ha and 25ha respectively.*
- *Dairy farming properties would need to have a productive area of between 46ha and 103ha respectively. The upper value is not dissimilar to the current median and average dairy farm property size (94ha and 126ha respectively) (Figure 35).*
- *Sheep and beef properties would need to have a productive area of between 242ha and 538ha respectively. This is considerable larger than the estimated median and average sheep and beef property sizes currently in the district (Figure 36). This implies that the majority of the current sheep and beef properties may be making even smaller household returns (i.e. less than \$45,000 per annum). Other income sources may be relevant.*
- *Arable crop/grain farming properties would need to have a productive area of between 70ha and 155ha respectively.*
- *Other livestock farms (but particularly deer farming properties) would need a productive area of between 126ha and 280ha.*

This table and section is provided in **Annexure 2**. As the site remains quite large in nature, a \$100,000 annual household

return could be made, however in comparison to potential economic returns from rural residential subdivision, it is clear that this would be far greater than this figure considering existing land prices in Kerikeri for rural residential blocks.

In effect the PDP, is limiting the use of the land for Kiwifruit, Viticulture, or a small scale dairy farm. Given the context of the site and surrounds being predominantly residential and lifestyle in nature, and the minimal returns suggested, a rural residential zone is considered far more appropriate in this instance.

### **Land is consistent with Rural Residential Zone provisions**

The Rural Residential Zone:

- a) Is predominantly used for rural residential activities and small scale farming.
- b) Predominant character of the zone is maintained and enhanced and includes peri-urban scale residential activities, small scale farming activities with limited building and structures, smaller lot sizes than anticipated in the Rural Production and Rural Lifestyle zones, and a diver range of rural residential environments.
- c) Helps to meet the demand for growth around urban centres, whilst ensuring the ability of land to be rezoned for urban development is not compromised; and
- d) Has land use and subdivision where it maintains rural residential character and amenity, supports a range of rural residential and small scale farming activities, and is managed to control reverse sensitivity issues.

The site (and surrounds) are used for a mixture of residential activities and small scale farming activities. There is a rural residential character that is mixed with productive uses and this is evidenced on the site and in the surrounds.

Rezoning the land to Rural Residential will assist with Council in its efforts to promote land for residential use. As the site can be self-serviced, there is not unintended drag on Council infrastructure.

Further subdivision of the site, would not result in reverse sensitivity effects, as smaller lots sizes down to ~2,200m<sup>2</sup> are already evidenced along Stanners Road, and in close proximity to productive activities.

Stanners Road is relatively close to Waipapa and if future growth around this node continues, there will be further pressures from landowners and the market for residential landholdings on the peri-urban fringe.

### **More consistent with higher order RMA policies and plans**

In terms of the recently promulgated NPS for Highly Productive Soils, there are numerous requirements and exemptions therein which are relevant to the site under consideration. Section 3.4 'Mapping highly productive land' contemplates a mapping exercise at a level of detail that 'identified individual parcels of land'. As mentioned above, this level of assessment has not been undertaken for the site, and Council is relying on mapping undertaken at a regional scale to support its zoning intent. This is not considered appropriate in the context of district wide provisions and zoning.

The NPS also contains exemptions for activity on sites subject to permanent or long term constraints (see 3.10). This allows an avenue for site specific matters, such as underlying development, existing fragmentation and surrounding land uses to be appropriately considered. The site and the surrounds certainly contains many of the items within the exemptions that would not dismiss that potential for the site to be zoned rural residential.

The RPS does promote higher order action in that subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which ensures that subdivision in a primary production zone (i.e proposed Horticulture Zone) does not materially reduce the potential for soil-based primary production on land with highly versatile soils, or if they do, the net public benefit exceeds the reduced potential for soil based primary production activities.

It is evidenced within Council's own expert opinion, that the site could generate some returns if reverted to Kiwifruit or Vineyards however, one rural residential block on its own is likely to fetch more than the potential of these productive uses.

### **More consistent with the RMA**

The RMA seeks to enable people to provide for their economic, social, cultural and well being while ensuring natural and physical resources remain available for future generations, and adverse effects are appropriately avoided, remedied or mitigated.

The proposed Horticulture zoning of the Land does not achieve the sustainable management of resources. As already noted, the current

characteristics of the site and surrounds make it unusable for a horticultural purpose, and do not allow the owners to provide for their economic or social wellbeing. There are also question marks over the site in terms of appropriate and site specific soil mapping to confirm it in fact has versatile soils.

Nor does the zoning allow for the zone intent to be met, based on the underlying development, characteristics and factors present.

The Rural Residential zoning would be more consistent with the purpose and principles of the RMA as it would enable these matters to be provided for in a coherent and more consistent manner than when considered against the provision intent and aims of the Horticulture Zone.

7. **The Landowners wish that the Far North District Council address the above matters by:**

1. Amend the proposed zone for the subject site from the Horticulture Zone to the Rural Residential Zone; and
2. Any other relief to achieve the outcomes sought by this submission.

8. Our clients wish to be **heard** in relation this submission.

Yours sincerely,



**Steven Sanson**

Director | Consultant Planner

On behalf of the Landowners

Dated this 20<sup>th</sup> Day of October 2022



## **Annexure 1: Recently Approved Subdivision of Site**



**FAR NORTH DISTRICT COUNCIL**

**FAR NORTH OPERATIVE DISTRICT PLAN**

**DECISION ON RESOURCE CONSENT APPLICATION (SUBDIVISION)**

**As amended pursuant to s133A of the RMA**

**Resource Consent Number: 2220245-RMASUB**

**Pursuant to section 104B and 104D, of the Resource Management Act 1991 (the Act), the Far North District Council hereby grants resource consent to:**

**Kerry Michael Lupi & Susan Charlotte Lupi**

The activity to which this decision relates:

**Subdivision of two titles to create 5 lots in the Rural Production Zone as a Non-Complying Activity.**

**Subject Site Details**

Address: 156 Stanners Road, Kerikeri, Far North, 0295

Legal Description: Lot 2 DP 539355

Record of Title reference: CT-901860

**Pursuant to Section 108 of the Act, this consent is issued subject to the following conditions:**

1. The subdivision shall be carried out in accordance with the approved plan of subdivision prepared by Donaldson's Registered Land Surveyors, Lots 1-5 Being a Proposed Subdivision of Lot 2 DP 539355 and Lot 1 DP 452627, Survey Ref. 7863, dated September 2021, and attached to this consent with the Council's "Approved Stamp" affixed to it.
2. The survey plan, submitted for approval pursuant to Section 223 of the Act shall show:
  - (a) All easements in the memorandum to be duly granted or reserved.
  - (b) Areas W, X, Y, and Z being subjected to protective covenants.

3. Prior to the approval of the survey plan pursuant to Section 223 of the Act, the consent holder shall:
- (a) Submit plans and details of all works for the approval of Far North District Council. Such works are to be designed in accordance with Far North District Council: Engineering Standards & Guidelines 2004 – Revised 2009 and NZS 4404:2010 to the approval of the Development Engineering Officer or their delegated representative.

Plans are to detail the:

- I. Upgrade of the existing vehicle access crossing from Stanners Road to access Easement E, to a formed and sealed / concrete double width entrance to the lot which complies with the Councils Engineering Standard FNDC/S/6, 6B, and section 3.3.7.1 of the Engineering standards and NZS4404:2004. Vehicle access crossing including splays are to be sealed from the existing edge to the property boundary.
- II. Upgrade of the existing access on ROW easement “E” to a formed and 5m minimum finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- III. Formed and metalled access on ROW easement “F” to 5m minimum finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- IV. Formed and metalled access on ROW easement “G” to 5m minimum finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- V. Formed and metalled access on ROW easement “H” to 3m finished metalled carriageway width. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- VI. Formed and metalled access on ROW easement “I” to 3m finished metalled carriageway width with passing bays provided to comply with Rule 15.1.6.1.2 of the Far North District Plan. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30 or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.
- VII. Formed and metalled access on ROW easement “J” to 3m finished metalled carriageway width with passing bays provided to comply with Rule 15.1.6.1.2 of the Far North District Plan. The formation is to consist of a minimum of 200mm of compacted hard fill plus a GAP 30

or GAP 40 running course and is to include water table drains and culverts as required to direct and control stormwater runoff.

VIII. Earthworks including proposed erosion and sediment control measures required to undertake the development of the site. The plan must be prepared in accordance with the "*Erosion and Sediment Control Guide for Land Disturbing Activities (GD05)*".

IX. Parts of the existing access and proposed easement areas are subject to flooding. In addition to the details required above, consideration of the flooding risk must also be considered with the works creating no further or increased flooding hazard risk to people, property or the wider environment.

Note: Resource consent from the Northland Regional Council may be required for works within the flood plain.

4. Prior to the issuing of a certificate pursuant to Section 224(c) of the Act, the consent holder shall:

- (a) The consent holder will construct works in accordance with the plans approved under Condition 3(a). Upon completion of the works specified in the approved plans, provide certification of the work from a suitable qualified engineering practitioner that all work has been completed in accordance with the approved plans.
- (b) Provide written confirmation that RC 2180391 is to be formally surrendered.
- (c) Secure the conditions below by way of a Consent Notice issued under Section 221 of the Act, to be registered against the titles of the affected allotment. The costs of preparing, checking and executing the Notice shall be met by the Applicant.

#### **Lots 1- 4**

- (i) The site is located in close proximity to an existing consented quarrying operation and may be subject to blasting, vibration, noise from excavation and crushing, and dust from quarrying and truck traffic. Any future lot owner should consider the proximity of the consented quarrying operations and the effects of that operation, when carrying out any new development on the site.

Note: The quarry operates under a Far North District Council consent reference RC 2150188, and Northland Regional Council Consent, referenced NRC CON 2005 1435701. Please refer to those documents to understand the level of effects associated with this activity.

- (ii) The owner shall preserve the indigenous trees, bush, and lake or waterways on areas W, X, Y, and Z and shall not without the prior written consent of the Council and then only in strict compliance with any conditions imposed by the Council, cut down, damage, alter or destroy any of such trees, bush, lake or waterway.

The owner shall be deemed to be not in breach of this prohibition if any of such trees, bush, lake or waterway die or are altered from natural causes not attributable to any act or default by or on behalf of the owner or for which the owner is responsible.

- (iii) The property is located within a kiwi present zone indicating that the site may contain or is within proximity to habitat that may support North Island Brown Kiwi. The following measures are applied to the site to reduce any increased threats to this species as a result of intensification:
  - i. No more than two dogs shall be kept on the lot. All dogs must be kept inside or tied up at night, and must be kept under control at all times.
  - ii. No more than two cats shall be kept on the lot. The cats must be kept inside at night and neutered.
  - iii. No mustelids may be kept on the lot.

**Lots 2 - 4**

- (iv) Electricity and telecommunication supply is not a condition of this consent and these have not been reticulated to the boundary of the lot. The lot owner is responsible for the provision of power supply and telecommunications.
- (v) In conjunction with the construction of any dwelling, and in addition to a potable water supply, a water collection system with sufficient supply for firefighting purposes is to be provided by way of tank or other approved means and to be positioned so that it is safely accessible for this purpose. The provisions will be in accordance with the New Zealand Fire Fighting Water Supply Code of Practice SNZ PAS 4509.
- (vi) Due to horticultural activities taking place in the vicinity, any dwelling to be constructed on the lot which will utilise rainwater as a potable water supply will require a suitable water filtration system to be installed.
- (vii) In conjunction with the construction of any building requiring a wastewater disposal system the lot owner shall obtain a Building Consent and install the wastewater treatment and effluent disposal system. Wastewater treatment and effluent disposal system shall be secondary treatment with land application via pressure assisted dripper lines, designed and constructed, noting the recommendations and limitations included in the "Site Suitability Wastewater Report" prepared by Kerikeri Drainage LTD, dated 4 August 2021, included in RC 2220245. The areas identified as Reserve Disposal Area for the disposal of treated effluent shall remain free of built development and available for its designated purpose.

The installation shall include an agreement with the system supplier or its authorised agent for the ongoing operation and maintenance of the wastewater treatment plant and the effluent disposal system.

Note: Where a wastewater treatment and effluent disposal system is proposed that differs from that detailed in the above-mentioned report, a new TP 58 / Site and Soil Evaluation Report will be required to be submitted, and Council's approval of the new system must be obtained, prior to its installation.

- (viii) The location and foundations of any buildings shall be designed and certified by a suitably experienced Chartered Professional Engineer, prior to issue of any building consent.
- (ix) A stormwater management plan prepared by a Chartered Professional Engineer or suitably qualified professional is to be provided for Council

approval at the Building Consent stage for each future dwelling and associated impermeable surface areas. Stormwater runoff from the future dwellings, accessways and parking/manoeuvring areas, where such areas exceed the permitted thresholds, shall be attenuated back to pre-development levels for a 10% AEP storm event plus an allowance for climate change via detention tanks prior to dispersive discharge to the lake via natural overland flow paths.

### **Cancellation of Consent Notice Pursuant to Section 221 of the Act**

1. The application to cancel consent notice CONO 10477687.3 and CONO 11551306.2 and replace this with a new consent notice is hereby granted pursuant to Section 221 of the Resource Management Act 1991. The specific clauses of the new consent notice are those found under Condition 4(c) of this decision.

### **Council Further Resolves:**

1. THAT pursuant to section 243(e) of the Resource Management Act 1991, Far North District Council grants approval to part cancel existing easement A, B, and D, created by EI 11551306.3 over Lot 2 DP 539355 for the purpose of a right of way, conveying electricity, telecommunications and computer media, with the cancellation applying to the area shown as easement A, B, and D on Lot 5 of the plan of the Lots 1-5 Being a Proposed Subdivision of Lot 2 DP 539355 and Lot 1 DP 452627, Survey Ref. 7863, dated September 2021.
2. THAT pursuant to section 243(e) of the Resource Management Act 1991, Far North District Council grants approval to part cancel existing easement A, B, and C created by EI 10477687.4 over Lot 2 DP 539355 for the purpose of conveying electricity, telecommunications and computer media, and draining water with the cancellation applying to the area shown as easement A, B, and D on Lot 5 of the plan of the Lots 1-5 Being a Proposed Subdivision of Lot 2 DP 539355 and Lot 1 DP 452627, Survey Ref. 7863, dated September 2021.

### **Advice Notes**

1. Archaeological sites are protected pursuant to the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence, pursuant to the Act, to modify, damage or destroy an archaeological site without an archaeological authority issued pursuant to that Act. Should any site be inadvertently uncovered, the procedure is that work should cease, with the Trust and local iwi consulted immediately. The New Zealand Police should also be consulted if the discovery includes koiwi (human remains). A copy of Heritage New Zealand's Archaeological Discovery Protocol (ADP) is attached for your information. This should be made available to all person(s) working on site.
2. The consent holder shall provide evidence that a Traffic Management Plan (TMP) has been approved by Councils Corridor Access Engineer and a Corridor Access request (CAR) and obtained prior to any vehicle crossings being constructed or undertaking any remedial works to the existing public road carriageway.
3. During the assessment of your application it was noted that a private Land Covenant exists on your property. Council does not enforce private land covenants, and this does not affect Council approving your plans. However, you may wish to get independent legal advice, as despite having a resource consent from Council, the private land covenant can be enforced by those parties specified in the covenant.

4. The consent holder will be responsible for the repair and reinstatement of the public roads (Stanners Road) carriageway, if damaged as a result of the site works and building operations.

### **Reasons for the Decision**

1. The Council has determined (by way of an earlier report and resolution) that the adverse environmental effects associated with the proposed activity are no more than minor and that there are no affected persons or affected customary rights group or customary marine title group.
2. The application involves the subdivision of the site into five lots with no land use breaches. The activity is located in the Rural Production Zone. Overall, the activity is a Non-Complying Activity.

#### Policy Assessment

3. The proposed activity is subject to the Objectives and Policies of the Northland Regional Policy Statement (RPS) and the Operative Far North District Plan, as detailed below:

#### RPS

4. In terms of the Regional Policy Statement for Northland, for the following reasons the application is considered to be consistent with its Objectives and Policies:
  - a. Fresh and coastal water – the proposal does little to impact fresh and coastal water, and the application was supplemented by an Engineering Report, concluding that wastewater disposal is achievable with specific measures for stormwater disposal at time of building construction. It is also being proposed that an existing lake and some native vegetation on site become protected under a covenant with further restoration and enhancement requirements associated with the subdivision.
  - b. Indigenous ecosystems and biodiversity – the proposal avoids effects on indigenous biodiversity as there is no known vegetation clearance required to give effect to the proposal. Positive effects include the protection of bush and margins of the lake.
  - c. Economic potential and social wellbeing – the proposal provides for economic development through jobs and employment via future construction.
  - d. Regional form – The development has been designed to consider the broader implications resulting from a reduced lot size in the Rural Production and has ensured that amenity, infrastructure and community wellbeing is not adversely impacted.
  - e. Tangata whenua – No earthwork proposed, wastewater and stormwater mitigation will be accessed at time of building construction. There are no known effects to tangata whenua resulting.
  - f. Natural hazards – The site is subject to some River Flood Hazards, these hazards can be addressed at time of development.
  - g. Natural character, features / landscapes and historic heritage – None of the features are known to exist on the site.
5. Overall, the proposal is considered to be consistent with the aims and intent of the RPS.

#### Operative Far North District Plan

6. The environmental outcomes expected for the Rural Production Zone are as follows:

- 8.6.2.1 A Rural Production Zone where a wide variety of activities take place in a manner that is consistent with the sustainable management of natural and physical resources and compatible with the productive intent of the zone.
  - 8.6.2.2 A Rural Production Zone which enables the social, economic and cultural well-being of people and communities, and their health and safety, while safeguarding the life supporting capacity of the environment and avoiding, remedying or mitigating adverse effects on it.
  - 8.6.2.3 A Rural Production Zone where the adverse cumulative effects of activities are managed and amenity values are maintained and enhanced.
  - 8.6.2.4 A Rural Production Zone where the adverse effects of incompatible activities are avoided, remedied or mitigated.
7. The proposed activity is consistent with the existing residential / lifestyle use that exists in the surrounds. The applicant has undertaken an assessment against the relevant objectives and policies of the Rural Environment, Rural Production Zone and Subdivision Chapter of the Far North District Plan. These objectives and policies echo the sentiments found in the environmental outcomes expected associated with appropriate development in the rural environment.
8. The proposal allows for a continuation of rural lifestyle living in all lots as well as continued productive intent for Lot 1. The proposed lots are large enough to have consistent amenity values that are not incompatible to those in the surrounding areas. Overall, the development is not inconsistent with the objectives and policies of the FNDP.
9. Additionally, the requirements of the relevant parts of the Northland Regional Plan (Appeals), relevant National Environmental Standards and Policy Statements have been assessed. On assessment, there are no matters arising relevant to the application.

#### Precedent Effect

Precedent effects are a matter that require consideration under s104(1)(c) – Other Matters, particularly as a non-complying activity. In this instance, the proposal seeks a similar density to what is being seen along Stanners Road and all effects can be appropriately mitigated.

#### S104D

10. As a non-complying activity, under s 104D, a consent authority may only grant a resource consent if it is satisfied that either:
- The adverse effects of the activity on the environment will be minor; or
  - The application is for an activity that will not be contrary to the objectives and policies of any relevant plan.
11. In this situation, the proposal is considered to pass both statutory gateway tests.
- 12. Part 2 Matters**  
The Council has taken into account the purpose & principles outlined in sections 5, 6, 7 & 8 of the Act. It is considered that granting this resource consent application achieves the purpose of the Act.
13. In summary it is considered that the activity is consistent with the sustainable management purpose of the Act.



### **Approval**

This resource consent has been prepared by Steven Sanson (Sanson & Associates), Consultant Planner and is granted under delegated authority (pursuant to section 34A of the Resource Management Act 1991) from the Far North District Council by:



**Pat Killalea, Principal Planner**

**Date: 21<sup>st</sup> April 2022**

**Amended pursuant to s133A of the Act:**



**Date: 19<sup>th</sup> May 2022**

### **Right of Objection**

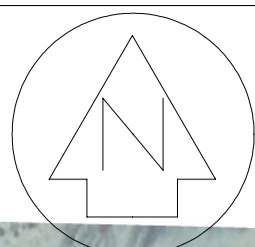
If you are dissatisfied with the decision or any part of it, you have the right (pursuant to section 357A of the Resource Management Act 1991) to object to the decision. The objection must be in writing, stating reasons for the objection and must be received by Council within 15 working days of the receipt of this decision.

### **Lapsing of Consent**

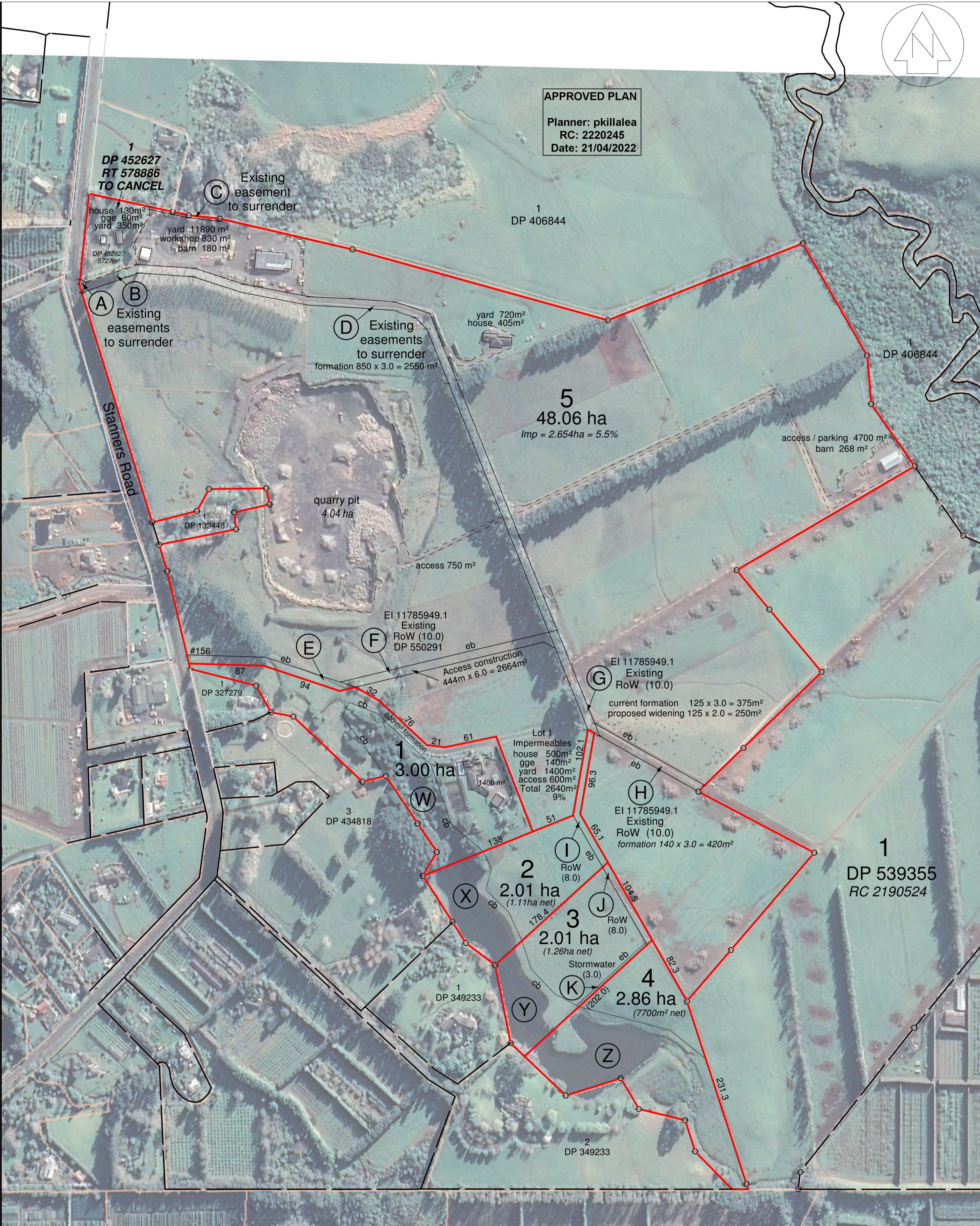
Pursuant to section 125 of the Resource Management Act 1991, this resource consent will lapse 5 years after the date of commencement of consent unless, before the consent lapses;

The consent is given effect to; or

An application is made to the Council to extend the period of consent, and the council decides to grant an extension after taking into account the statutory considerations, set out in section 125(1)(b) of the Resource Management Act 1991.



**APPROVED PLAN**  
 Planner: pkillalea  
 RC: 2220245  
 Date: 21/04/2022



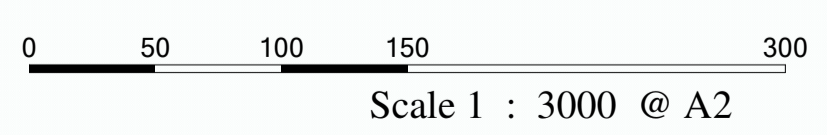
EXISTING EASEMENTS			
Purposes	Shown	Burdened	Benefited
Right to convey water, electricity, & telecommunications.	E F G H	Lot 5	1 DP 539355 EI 11785949.1

EASEMENTS TO SURRENDER <i>Sec 243 RMA</i>		
Purposes	Labelled	Documents
Right of Way, convey electricity & telecommunications,	A, B, D, G, H	EI-11551306.3
Drain water.	A & B	EI-10477687.4
	C	EI-10477687.4

**Applicants : K. & S. Lupi**  
**Titles :** 901860 & 578886  
**Total area :** 57.9465 ha  
**Zone :** Rural Production

PROPOSED EASEMENTS			
Purposes	Shown	Burdened	Benefited
Right of way, convey electricity, & telecommunications.	E F G I J	Lot 5	Lots 1 - 4 Lots 2 - 4 Lots 3 & 4 Lot 4
Right of Way	E, F, G, H	Lot 5	.1. DP 539355

**PROPOSED COVENANTS**  
 Areas shown W - Z are for aquatic habitat preservation.



September 2021

**IN THE MATTER** of the Resource Management Act 1991:

**AND**

**IN THE MATTER** of an application under the aforesaid Act, 1991 by Kerry Michael Lupi and Susan Charlette Lupi

**APPLICATION NUMBER 2150188-RMALUC**

The property in respect of which the application is made, is situated at 202 Stanners Road, Kerikeri.

**HEARING**

Before the Hearings Commissioner of the Far North District Council, on the 25<sup>th</sup> July 2016.

**Proposal:**

To continue the mineral extraction activity which extracts and crushes basalt rock originally approved under RC 2060429 with a maximum annual volume of 30,000m<sup>3</sup>.

The resource consent is **GRANTED**. The reasons are set out below.

Application Number	2150188-RMALUC
Site Address	202 Stanners Road Kerikeri
Applicant	K & S Lupi
Legal Description	PT SEC 33 BLK VI KERIKERI SD
Site Area	84.3769 hectares
District Plan Zoning	Rural Production
Activity Status	Discretionary
Other relevant consents	RC2060429 – approved until 30/05/2017
Consent notices title restrictions	N/A
Appearances	For the Applicant: Mr TCT Williams – Counsel Mr J Kemp – Planner Mr P Ibbotson – Acoustics Mr Bastow – Red Bull Blast Specialist  For the Submitters: Mr Spake – 142 Stanners Road Mr Pickworth – 203 Stanners Road  For the Council: Mr P Killalea

Hearing Adjourned	25 <sup>th</sup> July
Hearing Closed	29 <sup>th</sup> August
Site Visit	24 <sup>th</sup> and 25 <sup>th</sup> July

## Introduction

1. This decision is made on behalf of the Far North District Council ('the Council') by Independent Hearing Commissioner Ms Kim Hardy, appointed and acting under delegated authority under sections 34 and 34A of the Resource Management Act 1991 (the 'RMA').
2. This decision contains the findings on the application for resource consent and has been prepared in accordance with s113 of the RMA.
3. The application was limited notified with submissions closing on 21 February 2016. The submitters notified are all listed in the Council Report at paragraph 5.1. A total of 3 submissions were received, all of which opposed the application. However, the submitters noted that with adequate conditions of consent their concerns could be addressed. Two of the submitters wished to be heard in support of their submission.
4. Written approvals were received from:
  - a. B Pickworth – Lot 1 DP 208927 (note: B Pickworth originally provided written approval but subsequently submitted on the proposal)
  - b. Kyle O'Leary – Lot 1 DP 457833
  - c. K & C Stratful – Lot 1 DP 349233
  - d. G & M Smith – Lot 1 DP 327279
  - e. PJ McKenzie – It was not clear from the written approval provided if the signatory had the delegation to sign on behalf of Landcorp.
5. Given the ambiguity, the submission from PJ Mackenzie has not been considered as a submission in support of the application.

## Procedural matters

6. The hearing report was prepared by Ms Felicity Foy and approved by Mr Pat Killalea, Principal Planner. As Ms Foy no longer worked for the Council at the time of the hearing Mr Killalea attended the hearing and took on the role of reporting planner.
7. The hearing took place on the morning of 25<sup>th</sup> of July 2016.
8. At the conclusion of the hearing it was agreed between the parties that the Applicant would provide the following information to the Far North District Council in response to questions raised during the course of the hearing within 10 working days of the hearing (being on or before 5pm Monday 8<sup>th</sup> August 2016):
  - a. A Quarry Development Plan in accordance with Rule 8.8.5.3.3 of the Far North District Plan.
  - b. The Quarry Development Plan was to include the methods for assessing and managing noise attenuation, and the methods for managing and monitoring the blasting activities;
  - c. Any proposed amendments to the conditions of consent recommended in the Council Officers report contained within the Hearing Agenda dated 25<sup>th</sup> July 2016; and
  - d. The protocols for communicating with residents on the quarrying activities in particular the blasting that occurs throughout the year.
9. The hearing was adjourned and directions requiring the above were issued.
10. The information requested was circulated to all submitters on receipt for their further comment. No further comment was received by the Council from the submitters.

11. Counsel for the applicant then provided their written closing submission to Council on 22 August.
12. Following a review of the information provided the hearing was then closed on 29<sup>th</sup> August.

### **Relevant statutory provisions considered**

13. In accordance with section 104 of the RMA I have had regard to the relevant statutory provisions including the relevant sections of Part 2.

### **Relevant standards, policy statements and plan provisions considered**

14. In accordance with section 104(1)(b)(i)-(vi) of the RMA, I have had regard to the relevant policy statements and plan provisions of the following documents:
  - a. Northland Regional policy Statement; and
  - b. Far North District Plan

### **Summary of proposal and activity status**

15. The proposal is described in the planning report as follows:

*'The application seeks consent to continue the mineral extraction activity on site which extracts and crushes basalt rock and that was originally approved under RC 2060429. The operation has a maximum annual volume of 30,000m<sup>3</sup>.*

*The original proposal lodged under this application requested to double current production to 60,000m<sup>3</sup> whilst also removing the 10 year duration limitation. The proposal was scaled back to the current maximum of 30,000m<sup>3</sup> per annum following a request for additional information.*

*The application was then amended to have no change to the scale of the operation; although the quarry face location is moving towards property boundaries. The application also seeks the removal of the 10 year duration which was an integral part of the original proposal. The current application suggested an expiry date of 30/04/2030 be applied but this was before the scale of production was reduced. When advising of the revised quantity (reducing back to a maximum of 30,000m<sup>3</sup>) there was no comment provided on the proposed lapsing date.*

The operation occurs within an existing quarry pit located on Stanners Road. The process involves the processing of rock won from the quarry walls. The existing operation was granted consent on the basis that extensive site rehabilitation would occur prior to and on cessation of the quarrying activity. The original Twin Lakes Quarry Management Plan and updated plan dated 2016 set out the landscaping and rehabilitation actions. It is proposed to rehabilitate the quarry site following completion of the quarrying activities by forming a lake. The perimeter of the lake is to be planted and landscaped to enhance the aesthetic and ecological values of the property.

16. Discretionary Activity consent is required under Rule 12.3.6.3.1 for Quarrying outside the Minerals Zone. The quarry is located within the Rural Production Zone.

### **Existing consent**

17. The Far North District Council granted landuse consent to KM and SC Lupi to *'undertake a quarry operation which extracts and crushes basalt rock for 10 years at 10000m<sup>3</sup> per annum (up to a maximum of 30,000m<sup>3</sup> per annum) at 203 Stanners Road Kerikeri'* on 20<sup>th</sup> June 2007.
18. No change to the extraction volume is proposed in the current application. There is no change to the current hours of operation being:

- a. Crushing 8.00am to 5.00pm.
  - b. Cartage of metal and general quarrying operations 7.00am to 6.00pm.
19. The existing consent requires compliance with the permitted noise levels as set out in the 'Far North Revised Proposed District Plan'.
20. The consent was granted with condition 11 requiring the preparation of a detailed Quarry Management Plan with the plan to be approved by Council prior to commencement of the quarry activity.

### **Regional consents**

21. The Northland Regional Council has granted 5 separate consents and permits that expire on the 30<sup>th</sup> April 2030, including consent to:
- o Remove overburden and extract up to 30,000m<sup>3</sup> of basalt rock per year;
  - o Take groundwater and surface water from a quarry pit for the purposes of quarry dewatering;
  - o Discharge stormwater from land disturbance activities to land;
  - o Discharge water from a quarry pit to land and water
  - o Divert stormwater from land disturbance activities
22. The effects of the overburden removal, the taking of ground and surface water and the discharge and diversion of stormwater from land disturbance activities and de watering have been addressed through the regional consent process.

### **Summary of evidence heard**

23. The Far North District Council planning officer's recommendation report was circulated prior to the hearing and taken as read.
24. The evidence presented at the hearing responded to the issues and concerns identified in the Council planning officer's report, the application and the submissions made on the application.
25. The applicant was represented by Mr T Williams Counsel, with evidence from the following:
- a. Mr J Kemp – Planning
  - b. Mr P Ibbotson – Acoustics
  - c. Mr Bastow – Quarry Blasting

### **Applicant**

#### Planning

26. Mr Jeff Kemp a Principal Consultant and Director of Bay of Islands Planning Limited provided planning evidence in support of the application. Mr Kemp explained that the application was for *'re approval of the existing quarry operation which provides a range of aggregate for construction, building and forestry activities. The quarry operation is to be undertaken in a similar methodology as currently exists with the crushing unit being relocated to the floor of the quarry'*.
27. Mr Kemp explained the structure of the Operative Far North District Plan with particular regard to the rules related to quarrying activities. He explained that the rules provide for quarries located in both the Mineral Zone and those located in any other zone. He stated that *'There are a number of quarries operating within the Far North the majority of which are located in the Rural Production Zone.'*<sup>1</sup> He then explained that quarries are provided for as discretionary activities in the Rural production zone subject to a Quarry Development Plan being applied to the activity. Mr Kemp considered the application was accompanied with a Quarry Development Plan in the form of

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<sup>1</sup> Statement of Evidence of Mr Kemp, paragraph 26, page 6.

- a Quarry Management Plan. The alternative is that quarries are undertaken in the Minerals zone being a sub zone within the Rural Environment. The minerals zone specifically allows for quarry activities with its own set of rules. A Quarry Development Plan is also required within the Minerals Zone.
28. He notes that the Minerals Zone specifically applies rules related to velocity and air pressure (Rule 8.8.5.1.8) but that the same rule does not apply to an application for a quarry outside the Minerals Zone.
  29. Mr Kemp concluded that the application was consistent with the objective and policy directions within the relevant statutory documents being the Northland Regional Policy Statement and the Far North District Plan. He also considered the adverse effects were addressed through management practices and consent conditions.

### Acoustics

30. Mr Ibbotson an Acoustic Consultant with Marshall Day Acoustics provided evidence on the potential noise emissions. In addition to his noise evidence he also commented on blasting vibration and overpressure. He explained the process on site as involving crushing using a primary (jaw) and secondary (cone) crusher as well as typical quarry plant such as loaders, excavators, bulldozers, on and off road trucks. Rock breaking occurs at times in the pit to break oversized rocks prior to crushing.
31. Whilst noise and blasting from vibration were not within the scope of his original assessment he discussed the typical vibration and overpressure standards used to control the effects of blasting to acceptable levels.
32. Mr Ibbotson confirmed that his reading of the District Plan noise standards concluded that the quarry is required to comply with a noise limit of 65dB<sub>LA10</sub> at the site boundary to meet the District Plan Standards and comply with the existing resource consent.
33. Mr Ibbotson considered that the operation within the pit represents a *'negligible risk that the noise standards will be exceeded'*. In his assessment Mr Ibbotson has considered both the effects of noise as well as compliance with the District Plan noise standards. Mr Ibbotson undertook noise measurements on the 3<sup>rd</sup> of September 2015 when the quarry was in full operation and both the jaw crushing and ancillary plant were operating. Levels measured on site with the quarry in operation were 52dB<sub>LA10</sub> at both measured locations. The locations were representative of 150 Stanners Road (Spake) and 203 Stanners Road (Pickworth). He concluded that his calculations and measurements show that the District Plan 65dB<sub>LA10</sub> noise limit would be readily complied with, even during conditions favourable to sound propagation.
34. He specifically commented on Mr Spake's submission that drilling at the northern face of the quarry does not receive screening from the edge of the quarry pit and is the noisiest activity at the dwelling. Mr Ibbotson calculated the level of noise at the dwelling façade would be 55dB<sub>LA10</sub> when drilling on the north face is being carried out. He considered the level of noise to be reasonable, even where attenuation from the quarry walls or barriers is not provided.
35. Mr Ibbotson recommended alternative blasting conditions referring to blasting limits contained in AS2187-2:2006 together with a requirement for building condition surveys to manage community concern over potential building damage.

### Blasting

36. Mr Bastow a Technical Services Manager with Red Bull explained the drilling and blasting methodology at the quarry. Mr Bastow holds a BSc in

Environmental Science, an explosive handlers licence and New Zealand Shot Firers qualification. He also explained the blast event that occurred on the 5<sup>th</sup> of July and the reasons why he considered that was a unique event. On the 5<sup>th</sup> of July a particularly loud and disturbing blast event occurred at the Quarry. Mr Bastow explained that the loud noise was a result of the drill hole preparation not adequately confining the explosive within the drill hole.

37. Following questions on the likelihood of such an event occurring again, Mr Bastow advised that additional management measures would be established to improve on-site practice and ensure it doesn't happen again. Including drill logs to determine the quality of the material profile prior to drilling. He also advised that the blasting could be restricted to a set time during the day to provide neighbours with more certainty as to the likely timeframe within which a blasting event may occur.

## **Submitters**

### Mr Spake

38. Mr Spake provided a video of the unexpected blast that occurred on the 5<sup>th</sup> of July and which was visible from his property. He provided a verbal statement and comprehensive presentation. He explained that he had lived at his property since 2004 with the expectation that the lake proposed as part of the site rehabilitation would have been established by now.
39. Mr Spake's property is at 142 Stanners Road and is located to the South of the Quarry site. The property at 150 Stanners Road is located between Mr Spake's property and the quarry site to the north. However, when standing in Mr Spake's rear garden it is possible to view the quarry. Whilst he acknowledged that the quarry contributes to Far North growth, he considered that his family's property and lifestyle should also be preserved.
40. Mr Spake was very clear about the decision he sought for the quarry operation:
- a. *'Additional noise monitoring from the corner of my boundary to ascertain real time effects.*
  - b. *Independent vibration recording from the corner of my boundary during the 2 full blasting events proposed for the North face.*
  - c. *Uphold the current blasting frequency at not more than once every two months.*
  - d. *Minimise visual effects and support noise dampening with a condition of hedgerow planting on the southern boundary.*
  - e. *A condition to mitigate noise levels by way of Earth bund along the Southern boundary.'*
41. He advised that he had not had an opportunity to consult with the quarry operator. The lack of communication with the quarry operator was a consistent theme amongst the submitters. Mr Spake was also concerned to ensure that the incident of the 5<sup>th</sup> of July did not reoccur.

### Mr Pickford

42. Mr Pickford lives at 203 Stanners Road. Whilst he originally provided written approval to the application he subsequently lodges a submission in opposing the application. The blast of the 5<sup>th</sup> July 2016 was of particular concern to him also. He was sitting in his chair when the blast occurred and thought the window was going to blow out. He was disappointed that he had not received any communication from the quarry following the blast until the week before the hearing. He said that he would normally receive a phone call the day beforehand and usually expected the blast to be around midday. On this occasion he had no advance warning and the blast occurred closer to 5pm.



Mr Pickford also expressed concerns with noise associated with truck movements to the quarry in the early morning and noise from the crusher operation.

43. Mr Pickford's property is located opposite the quarry site entrance. His site is elevated with the dwelling set back from the road.
44. In his written submission Mr Pickworth requested that the volume of extracted material be confined to 30,000m<sup>3</sup>.

#### Mr McClelland

45. Mr McClelland lives at 138 Stanners Road. Whilst he provided a written submission he did not wish to speak at the hearing. The quarry is also visible from the garden of Mr McClelland's property albeit at a greater distance than Mr Spake's property. In his written submission Mr McClelland was concerned with noise, visual amenity impact and the need for boundary screening.
46. All three submitters in their written submissions requested that conditions are imposed on the quarrying activity to address noise and amenity issues.

#### **Applicant's right of reply**

47. In his right of reply Mr Williams, Counsel for the applicant, confirmed that the Applicant had provided the following documents in response to directions:
  - a. A revised Quarry Management Plan.
  - b. A Blasting Management Plan.
  - c. An Operation Noise and Vibration Plan incorporating protocols for communicating with residents.
48. The applicant also proposed amendments to the conditions of consent contained within the s42A report. Mr Williams considered the information provided by submitters at the hearing assisted in identifying and managing the effects of the quarry operation of most concern to neighbours. He proposed that management and mitigation of these concerns would be achieved through the proposed conditions of consent and implementation of the plans and protocols contained within those conditions.
49. In response to concerns raised by residents around the noise impact of blasting at the site, the applicant offered an amendment to condition 4 whereby blasting would be limited to between the hours of 1.00pm to 3.00pm.
50. Amendments were also recommended to conditions 5 to 11 by the Applicant's acoustic specialist Mr Ibbotson. The amendments include:
  - a. Condition 5 now specifically refers to the permitted noise level set out in the Operative Far North District Plan.
  - b. Condition 5 now provides for in situ noise measurements to be conducted at neighbouring properties, as suggested by Mr Shand at the hearing.
  - c. Condition 7 ensures that construction activities on the land (including construction of the earth bund depicted on the proposed plan and now incorporated into condition 14) will be carried out in accordance with the relevant noise guidelines.
  - d. Conditions 8-11 include additional detail on the methodology for vibration measurements and exchange of information to ensure compliance.
  - e. Condition 11 was amended to ensure consistency with the communication protocol in condition 15.
  - f. Condition 14 specifically provides for the earth bund and landscaping to be implemented within 3 months of consent being granted.
  - g. Condition 15 incorporates the communication protocol included at section 10 of the Operation and Vibration Management Plan.
  - h. Condition 16 now incorporates the Blasting Management Plan.

## **Principal issues in contention**

### **Operating noise**

51. The submitters were concerned with the noise impact of the quarry operation, specifically the impact of the blasting when it occurs unexpectedly as it did on the 5<sup>th</sup> of July.
52. Mr Ibbotson in his evidence concluded that in his opinion that overall the noise from operation of the quarry was within a reasonable level and consistent with the noise limits applied to other similar activities within New Zealand. However, he further considered that as vibration and overpressure from blasting (which was the cause of the 5<sup>th</sup> July event) cannot be easily mitigated without increasing the extent of rock breaking required, community liaison was required to manage noise and vibration effects.
53. Mr Shand the Council's Resource Consents Engineer assessed the noise effects of the quarry operation. He concluded that whilst an acoustic report had been provided to Council it had not addressed the issues raised in Mr Spake's submission. Mr Ibbotson specifically addressed Mr Spake's concern at paragraph 6.8 of his evidence. Whilst his assessment concluded that the activity would readily comply with the District Plan noise limit of 65dB<sub>LA10</sub> he also assessed the noise level at the dwelling façade of Mr Spake's property to be 55dB<sub>LA10</sub>.
54. I am satisfied that a robust assessment of the noise impact of the quarry activity and in particular the effect on Mr Spake's property has been undertaken. The limited hours of operation being from 8.00am to 5.00pm for the crushing activity and with weekends and public holidays excluded from the operating hours, the potential noise activities are adequately managed.
55. In addition the Marshall Day Acoustics Operation Noise and Management Plan sets out a clear process for managing the noise generated at the site. It sets out the operation measures to be implemented and ensure consideration is given to the potential impacts on neighbours including communication and monitoring of the operational noise and blasting.
56. Mr Ibbotson has also recommended a number of amendments to the consent conditions. The proposed amendments further ensure the commitments of the Applicant set out in the management plans related to managing noise, blasting and vibration are clearly set out in the consent conditions.

### **Vibration and blasting**

57. The impact of vibration and blasting was of particular concern to submitters given the incident that occurred on the 5<sup>th</sup> of July. The submitters were concerned with the likelihood of such an event occurring again. Mr Bastow was able to explain the reason for the recent event and the relatively unique circumstances that caused the loud blast. He advised that additional management and drill hole monitoring measures were proposed to ensure such events do not occur in the future.
58. Following adjournment of the hearing a 'JSB Construction Stanners Road Quarry Blast Management Plan' was prepared by Red Bull Powder Company. The plan clearly sets out the responsibilities and actions around management of blast activities on site. The plan demonstrates that management protocols are in place to inform residents of blasting activities and to ensure effective communication occurs with residents.
59. The proposed offer to limit the blasting activities to between 1-3pm on the nominated blast day provides further certainty to residents around the timing of the works. The Blasting is expected to take place on average once every six months, with a maximum frequency of no more than once every two months.

60. I am satisfied that the recent event occurred in less usual circumstances and adequate management protocols are proposed to be implemented on site to pro-actively manage the blast activities and address the risk of such an event recurring.

### **Visual amenity**

61. Mr Spake was concerned with the visual impact of the quarry operation on his property, particularly given the open outlook from the rear of his site. He was concerned with the visibility of the continued quarry excavation and the impact this would have on his outlook. He also said that he had expected the planting of a hedgerow to mitigate the visual presence of the quarry when it was first established on the site but that had not occurred.
62. The updated Quarry Management Plan which was provided following adjournment of the hearing includes proposed landscape planting for the duration of the quarrying activity and when the quarrying activity ceases.
63. An updated aerial layout plan was also provided entitled 'Existing Quarry Operations on Sec33 Block VI Kerikeri Survey District' prepared by Williams and King Registered Land Surveyors, Planners and Land Development Consultants. The plan is the same plan approved by the Northland Regional Council consents but also illustrates the indicative location of the proposed earth bund and proposed landscaping to the south of the quarry activity. The bund is intended as mitigation for the submitter properties located to the south of the site. Compliance with this plan is required in the consent conditions.
64. I am satisfied that measures are to be taken by the applicant to address the visual impact of the operation from the submitter properties and that further communication with neighbours will occur in order to achieve an agreed visual amenity outcome. The earth bund and associated landscaping is to be implemented within 3 months of the granting of this resource consent.

### **Quarry Management Plan**

65. I questioned the absence of a Quarry Management Plan at the hearing particularly given the Discretionary Activity requirement that the application is to be lodged with a Quarry Management Plan. Albeit that the original consent was granted conditional on the preparation of a Quarry Management Plan. Whilst a Plan had been provided it was the version prepared for the earlier consent application that was granted in 2007 and did not represent the current proposal. Subsequent to the hearing adjournment, the applicant provided an updated Quarry Management Plan '*KM & SC Lupi The Lakes Basalt Extraction Quarry Management Plan – August 2016*' as requested in directions issued following adjournment.

### **Ongoing communication with neighbours**

66. Both submitters raised concerns that the quarry owner and operator had not communicated as effectively as they could have. Particularly to advise of blasting activities with the potential to cause disturbance. This has been acknowledged by the applicant in the Blasting Management Plan provided following adjournment of the hearing, where communication with neighbours is to be carried out by the quarry operator's Community Liaison Person (JSB Construction). The plan further notes the requirement to consult on noise matters in accordance with the protocols set out in the Marshall Day '*JSB Stanners Road Quarry, Operational Noise and Vibration Management plan (August 2016)*.'
67. The need to communicate with local residents is also set out explicitly in the consent conditions. I consider this issue has been adequately addressed in the actions and amendments to the relevant management plans since

adjournment of the hearing. I am satisfied that quarry operator's obligation to communicate effectively with residents is clearly set out in the consent conditions and associated management plans.

### **Timeframe for the quarry operation**

68. Whilst the timeframe for duration of the quarry consent was not raised by submitters I have addressed it further for purpose of clarity. The applicant sought a consent expiry date of 30 April 2030 based on a higher volume of annual production of 60,000m<sup>3</sup>. Following the reduction in production volume to 30,000m<sup>3</sup> per annum, no consequential change to the consent expiry date was sought by the applicant. The consent duration and expiry date was not questioned during the course of the hearing.
69. The existing consent was granted by the Far North District Council on 20<sup>th</sup> June 2007 for a finite period of 10 years from commencement of site works at the quarry. The existing consent was granted with a clear expiry timeframe.
70. The existing Northland Regional Council consents were granted on 4 February 2015 and expire on 30 April 2030.
71. The expiry date sought for the landuse consent is consistent with the regional consent timeframes being 30 April 2030.

### **Part 2 RMA**

72. Overall I find that that the proposed quarrying activity and associated site rehabilitation is consistent with the overarching purpose and principles of the RMA. The proposed quarrying activities can be undertaken in a sustainable manner.
73. There are no section 6 matters of national importance of relevance to the application.
74. Measures have been put in place to manage the amenity impacts of the activity on neighbouring properties. Following cessation of the quarrying activity the site will be rehabilitated to form a lake enhancing the overall visual and ecological amenity of the area.
75. The quarrying activity itself also social and economic benefits for the wider Far North community.
76. There are no water bodies within close proximity to the quarry operation but the quarry pit does attract water and requires regular de watering. These matters are addressed through the Northland Regional Council consents.
77. Local iwi have been advised of the application and no submissions or advice was received by the Council.
78. The proposal is not contrary to the principles of the Treaty of Waitangi under section
79. Overall the proposal is consistent with Part 2 and the purpose of sustainable management.

### **Section 104**

80. A comprehensive s104 assessment is included in the Planner's report. I do not propose to repeat that analysis. The assessment concluded that subject to further information and confirmation on noise and vibration standards, that the adverse effects from the activity on the environment will be no more than minor. The assessment considers the effects on flora and fauna, including in particular Kiwi Habitat and concludes those effects as being minor. Advice to Council from the Department of Conservation on the application was that Kiwi are present in the area and as such dogs should be controlled on site at all times. Given the location of the quarry being in a pit rather than the more typical benching on the side of a hill, the extent of the visual amenity effects of

the quarry are considered manageable through consent conditions and proposed planting.

81. The acoustic assessment confirms that the existing and proposed operation complies with the district plan noise standards and that noise can be effectively managed.

#### **Decision**

82. In exercising my delegation under sections 34 and 34A of the RMA and having regard to the foregoing matters, sections 104, and Part 2 of the RMA, it is determined that resource consent is **granted** until 30 April 2030 for the reasons and subject to the conditions set out below.

#### **Reasons for the Decision**

1. The quarry activity contributes to the social and economic wellbeing on the Far North Community.
2. The proposal is not contrary to the objectives and policies of the Far North District Plan.
3. Robust conditions have been proposed to ensure that the potential effects of the quarrying activity are managed.
4. The proposed rehabilitation on cessation of the quarrying activity will ensure positive amenity and ecological outcomes.
5. The proposal is consistent with Part 2 of the RMA and the overall purpose of sustainable management of natural and physical resources.

#### **Conditions**

1. The quarrying activity shall be carried out in accordance with the approved plans attached to this consent with the Council's "Approved Plan" stamp affixed to it. Specifically the plan entitled 'Existing Quarry Operations on Section 33 Block VI Kerikeri Survey District' prepared by Williams and King and dated 14 December 2014.
2. The quarrying activity shall be carried out in accordance with the Quarry Management Plan entitled KM & SC Lupi The Lakes Basalt Extraction dated August 2016; and the Marshall Day JSB Stanners Road Operation Noise and Vibration Management Plan dated 8 August 2016.
3. This consent expires on the 30<sup>th</sup> April 2030. The quarry activity shall cease at or before 30th April 2030, upon which time rehabilitation of the quarry including establishment of the lake and landscaping shall be fully implemented.
4. The consent holder shall provide a bond to Council to cover the reasonable costs of the landscaping and rehabilitation cost pursuant to Section 108A of the Resource Management Act 1991. The consent holder shall provide a guarantor (acceptable to the consent authority) to bind itself to pay for the carrying out of the landscape conditions in this consent in the event of a default by the holder or the occurrence of an adverse environmental effect requiring remedy. The bond may be varied or cancelled or renewed at any time by agreement between the holder and the consent authority. The bond shall be released when, in the opinion of the Council, the specified conditions have been satisfied. Any costs incurred in the preparing, checking, monitoring, and release of the bond are to be met by the consent holder.
5. The hours of operation be limited to exclude public holidays and weekends and shall observe the following times during weekdays [times indicated are relative to the same day ] :

Crushing	8.00am to 5.00pm
Cartage of metal and general quarrying operations	7.00am to 6.00pm
Blasting	1.00pm to 3.00pm
(on the nominated day)	

6. All activities except construction activities shall be so conducted as to ensure that noise from the site shall not exceed the following noise limits as measured at or within the boundary of any other site, except for sites owned by JSB Construction or subsidiary:

0700 to 2200 hours	65 dB $L_{A10}$
2200 to 0700 hours	45 dB $L_{A10}$ and 70 dB $L_{AFmax}$

Sound levels shall be measured in accordance with NZS 6801:1991 "Measurement of Sound" and assessed in accordance with NZS 6802:1991 "Assessment of Environmental Sound". The notional boundary is defined in NZS 6802:1991 "Assessment of Environmental Sound" as a line 20m from any part of any dwelling, or the legal boundary where this is closer to the dwelling.

7. Operational noise measurements shall be conducted at the façade of the nearest three dwellings (138, 142 and 203 Stanners Road) or at positions representative of these dwellings within two months after the southern bund is constructed (or if weather conditions do not permit within this timeframe, as soon thereafter as weather conditions permit). Results shall be provided to Council within 15 working days of the measurements being completed. Where access to these sites is not obtained from the landowner or resident, the best representative positions shall be used and any assumptions for the effect of distance or other acoustic attenuation stated within the report.
8. Construction and demolition of bunds or any other construction activities shall be carried out in accordance with noise guidelines as contained in New Zealand Standard NZS 6803: 1999 "Acoustics - Construction Noise".
9. Vibration from blasting shall comply with the recommended ground vibration limits for control of damage to structures as set out in Table J4.5(B) of AS2187.2:2006 Explosives – Storage Transport and Use at the location of any nearby dwelling. The locations for monitoring shall be in accordance with AS2187-2:2006 and as set out in the referenced standards within (BS7385-2:1993 and the USBM guidelines). This may include on-ground sensors and foundation mounted sensors as required.
10. Prior to the first blast occurring under this consent, building condition surveys shall be conducted in all nearby buildings likely to receive external ground vibration levels greater than 5.0mm/s PPV. This distance shall be determined by consideration of the site law, i.e. a review of historic levels of vibration in comparison with the MIC used in each blast and/or a prediction of where 5mm/s will be achieved based on signature analysis. Condition surveys shall be repeated after the first blast and after every four production blasts thereafter or at other increments as agreed with the landowner.
11. Structural vibration measurements shall be performed in-situ for the first blast within the dwellings identified in Condition 10 above. Where dwellings are grouped together, vibration measurements may be taken in a single dwelling that is considered by a recognised acoustic and vibration engineer to be representative of the group. Measurements of ground vibration and overpressure external to the structure at a representative location shall also be performed. Geophone and microphone measurement locations shall be carefully recorded. The placement of external geophones shall be in accordance with the ISEE field practice guidelines, AS2187-2:2006 and/or other recognised standard. Placement of internal sensors shall be in general accordance with DIN4150-3 and/or BS7385-2. This data obtained shall be used by the quarry operator and blasting engineer to ensure that the design of future blasts do not generate levels of ground borne vibration and overpressure levels that exceed consented limits in these conditions. Where permission from landowners or

residents is not obtained to access properties, the nearest representative position shall be used as an alternative.

12. Overpressure shall not exceed 128 dB  $L_{Zpeak}$  for 90% of the blasts and no more than 133 dB  $L_{Zpeak}$  at any time when measured at a position representative of the façade of the nearest dwelling(s). The measurement position shall be at least 3 metres from any façade.
13. The Quarry Management Plan (QMP) dated 8 August 2016 shall be updated to include specific means of silt control measures and management, dust minimisation and the agreed bund and landscaping plan. This plan shall be approved by Council prior to exercise of this consent and shall require that contractors control their dogs at all times (as the site is within a Kiwi Habitat Area).
14. The earth bund and landscaping shall be established in the location as shown on plan 'Existing Quarry Operations on Section 33 Block VI Kerikeri Survey District' prepared by Williams and King and dated 14 December 2014, and provided to Council on 8 August 2016 with the bund and landscaping shown. The bund is for the purpose of creating a visual buffer between the quarrying activity and the properties at 138 and 142 Stanners Road. The final form and location of the bund shall be confirmed in consultation with the residents at 138 and 142 Stanners Road and shall be established within 3 months of consent being granted.

**Advice note:** the applicant is advised to seek advice from the Northland Regional Council as to whether regional resource consent is required for construction of the bund.

15. A detailed landscape plan shall be provided to Council within 1 month of the grant of this consent. The plan shall include all of the proposed site landscaping including the earth bund, the landscaping required in condition 14 and the longer term landscaping to be implemented in stages in association with the Quarry Management Plan.
16. The landscaping plan shall be implemented and planted progressively in stages in conjunction with the Quarry Management Plan. The landscape plan shall include species to provide effective screening of the quarry from adjacent properties and shall also include the size and species of existing vegetation. The landscape plan shall specifically include the following information:
  - (a) Names of proposed species.
  - (b) Size of proposed stock for planting
  - (c) Locations and spacing of proposed plants, planting methods and details of staking of trees.
  - (d) Details of proposed maintenance.
  - (e) Details of proposed mulch, type and depth.
  - (f) Weed eradication programme for landscaped areas

The planting programme and plan shall be implemented to the satisfaction of the Resource Consents Manager.

17. The proposed earth bund and landscaping depicted on the Approved Plan shall be implemented within 3 months of the issue of this consent. The height of the bund shall be no less than 3.0m in height with the landscaping attaining a minimum height of 2.0m.
18. The screening plantings are to occur within the next planting season (approximately March – September) directly following the issue of this consent. The landscaping shall be maintained for a period of 3 years after extraction works are concluded, with all works completed to the satisfaction of the Resource Consents Manager.

19. Adjoining property owners shall be given notice of any blasting event in accordance with the requirements of the Marshall Day JSB Stanners Road Operation Noise and Vibration Management Plan dated 8 August 2016.
20. The consent holder shall undertake blasting activities in accordance with the Marshall Day JSB Stanners Road Operation Noise and Vibration Management Plan dated 8 August 2016.
21. Signage on the application site shall be limited to that prescribed within the District Plan. Additional signage associated with blasting requiring temporary road closure (max 5 minute) shall be erected as required and warning signage of "trucks crossing" shall also be provided for as part of the quarry operation.
22. No dust emissions from the quarry activities shall occur beyond the boundaries of the property.
23. All activities on site are to be carried out in accordance with the Marshall Day Acoustics Operation Noise and Vibration Management Plan dated 8 August 2016.
24. Verification of completion of all works, required in this consent is to be provided in writing to the Resource Consents Manager within 3 months of the grant of this consent.
25. In Pursuant to Section 128 of the Act the Council reserves the right to review any aspect of this resource consent. The review may occur within twelve months of the issue of this consent and "as required" thereafter. All costs associated with the review are to be met by the consent holder.



**Kim Hardy**  
**Chairperson**

**15 September 2016**



## **Annexure 2: Quarry Approval**

**Annexure 3: Figure 10 - Rural Environmental Economic Analysis –  
Update, August 2020**

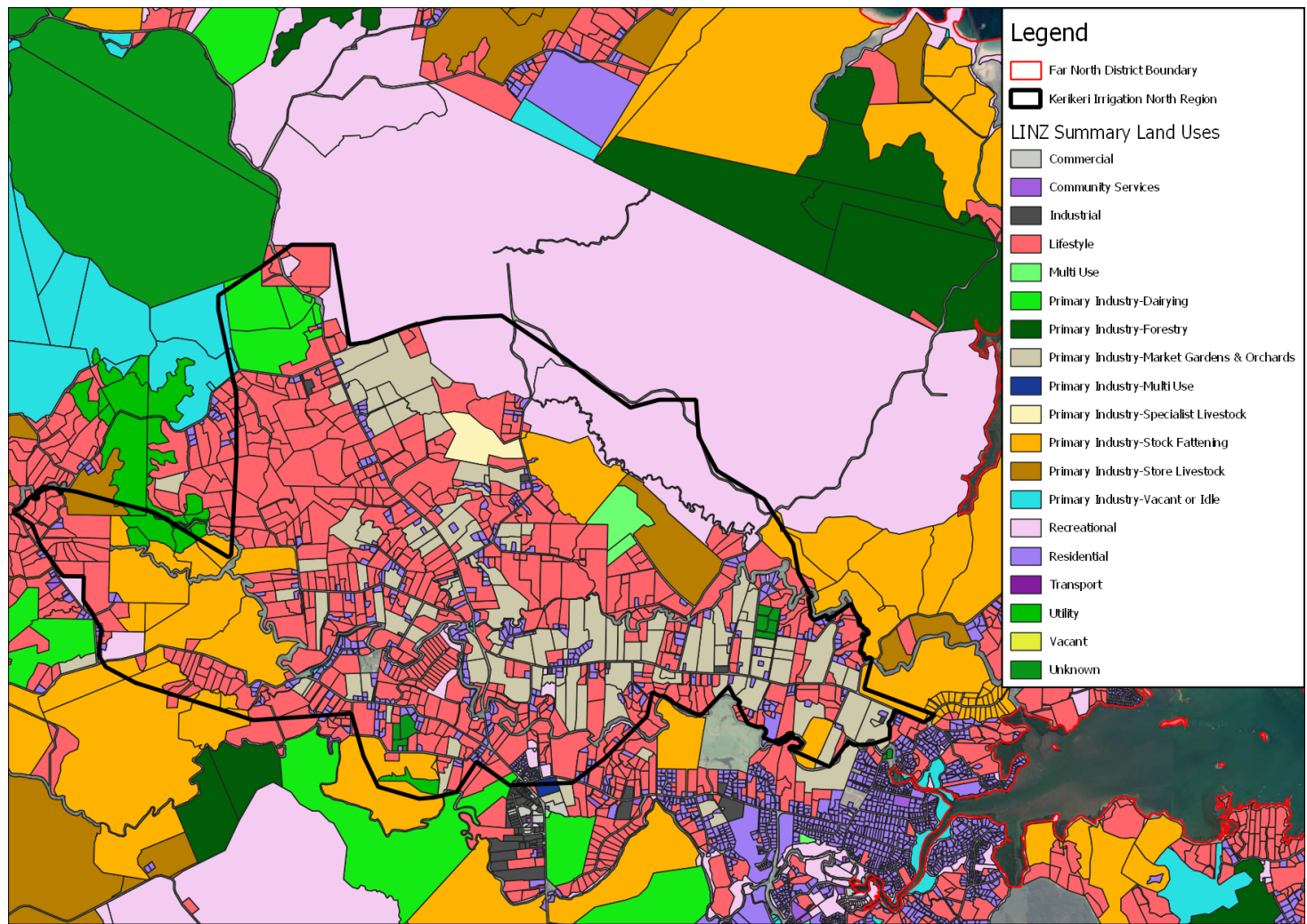


Figure 9: Map of Kerikeri Irrigation North Region – Summary of Current Land Uses (LINZ Codes) by Parcel

**Annexure 4: Section 4.1.4 and Table 31 - Rural Environmental Economic Analysis – Update, August 2020**

Once the average returns to the farmer per hectare have been identified, it is possible to determine the amount of productive land required for returns of different amounts. From here Council can make an assessment as to the degree to which land can be sub-divided off productive properties while still leaving a residual productive unit.

#### 4.1.4 Results and Discussion

Table 31 shows the results of the analysis. The table identifies the productive property area that would be required to achieve a range of annual household returns (per annum). Care is needed in applying the averages for other livestock farming as the results are based largely on deer farming operations and may not be applicable to the wide variety of livestock farming that takes place in this sector in the Far North. Similarly, indicative kiwifruit orchard sizes may not apply directly to citrus or avocado orchards for example. The results are indicative only and based on a number of assumptions. Last, 'annual household return' is not the same as gross output, so direct comparisons with the section 4.1.1 above are not appropriate.

In summary, in order to get a return of between \$45,000 and \$100,000 per annum (being the lower and upper limit tested):

- Kiwifruit orchards would need to have a productive area of between 7ha and 16ha respectively. These align closely with the current median sized horticultural property (7ha) and average sized horticultural property (17ha) (Figure 34).
- Vineyards would need to have a productive area of between 11ha and 25ha respectively.
- Dairy farming properties would need to have a productive area of between 46ha and 103ha respectively. The upper value is not dissimilar to the current median and average dairy farm property size (94ha and 126ha respectively) (Figure 35).

Table 31: Estimated Annual Return (\$) by Primary Production Property Size (ha)

Annual Household Return (\$)	Required Productive Property Area (ha)					
	Sheep, Beef and Grain Farming		Other Livestock Farming (Deer Focussed)	Dairy Farming	Horticulture	
	Sheep and Beef	Arable Crops (Grain Focussed)			Kiwifruit	Viticulture
\$ 45,000	242	70	126	46	7	11
\$ 50,000	269	77	140	52	8	13
\$ 55,000	296	85	154	57	9	14
\$ 60,000	323	93	168	62	10	15
\$ 65,000	350	101	182	67	11	16
\$ 70,000	377	108	196	72	11	18
\$ 75,000	404	116	210	77	12	19
\$ 80,000	431	124	224	83	13	20
\$ 85,000	458	132	238	88	14	21
\$ 90,000	484	139	252	93	15	23
\$ 95,000	511	147	266	98	15	24
\$ 100,000	538	155	280	103	16	25

\* Source: M.E (based on available industry data and M.E assumptions)

- Sheep and beef properties would need to have a productive area of between 242ha and 538ha respectively. This is considerable larger than the estimated median and average sheep and beef property sizes currently in the district (Figure 36). This implies that the majority of the current sheep and beef properties may be making even smaller household returns (i.e. less than \$45,000 per annum). Other income sources may be relevant.

- Arable crop/grain farming properties would need to have a productive area of between 70ha and 155ha respectively.
- Other livestock farms (but particularly deer farming properties) would need a productive area of between 126ha and 280ha.

These viable property sizes are not constrained to single freehold parcels (and could be an aggregation of several parcels). However, they provide useful context when evaluating the viability of minimum lot sizes. A 20ha lot size in the Rural Production and General Coastal Zone is not expected to sustain an economically viable farming property (unless there are other sources of income not captured). A 12ha lot size could sustain an economic kiwifruit orchard based on the assumptions applied (or a low returning vineyard) but not an economic farm unit. A 4ha lot size is expected to generate an even lower return than tested for kiwifruit growing and is highly unviable for other farming activities seeking a return.

## 4.2 Modelling the Economic Impact of Changing Land Use Scenarios

Altering land uses, moving from productive activities to urban residential activities, can have significant effects and impacts on the economies of small towns and the district overall. Converting productive land to residential is nearly always a permanent change. This means that the land will never again be able to produce agricultural output so is lost to the sector. Differences in soil types and nature of the land lead to different levels of impact. Highly versatile and productive soils are rare – covering approximately 9% of Northland’s total area and 10% of Far North District’s total land area and generally sustain the highest levels of value added or GDP contribution from primary production to the economy. The loss of these soils will obviously have a greater impact in the short and long term than the consumption of less productive land.

Approximately 72% of horticultural production in the Far North District rural environment occurs on highly versatile soils (by area), equating to 86% of estimated horticultural gross output<sup>152</sup>, compared with 58% of dairy production (61% of estimated gross output) and 42% of sheep and beef production (50% of estimated gross output). This means loss of those soils to residential uses impacts the horticultural sector much harder than other sectors, as the alternative soil types are less suitable for horticultural production (although plentiful water supply can help counter that).

It is also important to understand that agricultural production generates significant downstream effects as well as the traditional upstream impacts (usually the ones captured in an Economic Impact Assessment). For example, a Kiwifruit orchard purchases goods and services in order to ensure it can produce fruit, but the fruit it produces also drives significant downstream businesses – such as kiwifruit-based product manufacturing – confectionary, beverages, beauty products etc. These effects also need to be considered when assessing the potential impacts of highly versatile soil loss and productive land generally.

### 4.2.1 Residential Land Consumption

Part of the assessment process is to establish an appropriate counterfactual against which the effects of converting primary production land (but particularly highly versatile soils) to residential use can be measured. A key question to be answered is this;

*“In the absence of development opportunities on highly versatile soils around Far North District townships, would household growth still occur?”*

The answer to this question has the major bearing on the assessment outcomes. If the answer to this question is yes, then Council has it within its power to achieve the benefits that arise from population growth around its major townships – higher rates take, more ability to provide sustainable services, retail and service sustainability and therefore community focal points become stronger. In addition, the minor (short term) economic benefits that arise from the construction effect will still occur.

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<sup>152</sup> Refer analysis contained in Section 3.5.