

APPLICATION NUMBER: CON20120828006

**COPY FOR YOUR
INFORMATION**

Application Type: Non Notified Replacement and New

Applicant Name: EDGEWATER DEVELOPERS LIMITED

REASONS FOR THE DECISION

These consents are granted pursuant to Section 104B of the Resource Management Act 1991 (the Act). In reaching this decision, the Council has considered the matters outlined in Part 2 and Section 104 of the Act. It has been determined that:

- (1) The adverse effects of the proposed activities on the environment will be no more than minor;
- (2) The proposed activities are consistent with the relevant statutory planning documents and regulations; and
- (3) The granting of these resource consents achieves the purposes of the Act.

Summary of Activity

The proposal is to renew existing consents for earthworks and discharges from a 140 lot subdivision to the north of Doubtless Bay Road, Whatuwhiwi.

A resource consent application was first received in July 1997 for Stage 1 of a 241 lot subdivision on an area south of Doubtless Bay Rd, and involved earthworks for subdivision development, and the construction of two stormwater retention ponds on the Te Kopuaorangiriri Creek. A subdivision consent was issued by the FNDC for this subdivision in March 1998.

The entire area, including the current renewal application area, was zoned residential in about 1972.

Applications for resource consents for earthworks and stormwater discharges on land to the north of Doubtless Bay Road was first received by the Northland Regional Council in December 1997 for Stages 2 & 3, and granted in November 2002 for a term of 10 years. A subdivision consent for this additional 140 lot subdivision (now renamed Stages 3 & 4) was also granted by the FNDC at about this time, and renewed in 2010. All of these resource consents were processed on a non-notified basis.

Regional Plan Rule(s) Affected

The land affected by this development has a land use capability of 6e18 and 7e7 towards the upper part of the site; the later being defined by the Regional Water & Soil Plan for Northland (RWSP) as erosion prone land. The site is described as gumland shrubland, and although the soils are wet during winter months, groundwater levels are insufficient to qualify the site as a wetland in terms of the RWSP.

On non-erosion prone land, earthworks exceeding a volume of 5000 m³ within a 12 month period are a controlled activity according to Rule 33.2.1 of the RWSP. On erosion prone land any earthworks exceeding a volumes of 1000 m³ or an area of 1000 m², is a discretionary activity according to Rule 33.3.1 of the RWSP.

Clearance of more than 5 hectares of vegetation on erosion prone land in any 12 month period is a discretionary activity according to Rule 33.3.2 of the RWSP. If the area of vegetation clearance on erosion prone land was less than this it would still not comply with the permitted activity standards, as one of the conditions of Rule 33.1.2 specifies that the area is to be re-established in woody vegetation within a period of 24 months. For this development this is not possible, therefore any vegetation clearance on this part of the site is discretionary.

The diversion and discharge of stormwater from land disturbance activities are controlled (on non-erosion prone land) and discretionary (on erosion-prone land) activities, according to Rules 22.2.1 and 22.3.1 of the RWSP.

The discharge of stormwater from the developed site will likely be able to meet the permitted standards for Stage 4 of the development within Te Kopuaorangiriri Creek catchment, due to the presence of the two stormwater attenuation ponds. These were sized during the development of Stage 1 to accommodate future discharges from the upstream catchment and ensure compliance with permitted activity Rule 21.1.2 of the RWSP. Discharges of stormwater from Stage 3 are not able to be discharged into this catchment, but will discharge into Waitamatau (also known as Whatuwhiwhi) Creek, and the unnamed tributary of Parakerake Bay; and are unable to satisfy clause (a) of the above rule. This is therefore a controlled activity according to Rule 21.2.1 of the RWSP.

The proposed subdivision has been granted approval by the FNDC.

Actual and Potential Effects (Section 104(1)(a) of the Act)

The adverse effects on the environment of the activity have been determined to be no more than minor for the following reasons:

The proposed development involves the construction of subdivision roading for both Stage 3 and 4. Stages 1 & 2 have already been completed, but at the time of preparing this report, most of the lots within this subdivision remain undeveloped; therefore further development would appear unlikely at the current time. On this basis the applicant has requested a further term of ten years within which to exercise the resource consents for the proposed activities.

The land is of moderate to steep slopes with a cover of indigenous gumland shrub vegetation, but owing to its slope does not have sufficiently elevated groundwater levels to justify a classification as an indigenous wetland. The site is was classified as a Significant Natural Area by DOC as part of its ecological survey of the Aupouri Peninsula in 1995/96, but none of this ecological feature is included in the current FNDC Plan, with a small portion now covered in houses. Similar vegetation occupies large areas of adjacent land.

The clearance of vegetation on non erosion-prone land is a permitted activity according to Rule 33.1.1 of the RWSP, and also on erosion prone land except when more than of 5 ha of vegetation are cleared within a period of 12 months; in which case the activity becomes discretionary. The area of erosion prone land is less than 2.5 ha, therefore this criteria would not be exceeded, but one of the permitted activity standards states that any area of vegetation cleared from erosion prone land must be re-established with woody vegetation within a period of 24 months; which is clearly not possible for subdivision roading. The

effects on soil conservation and water quality values resulting from the clearance of this vegetation are considered to be minimal. An assessment of the site has been undertaken to determine if any part of the site satisfies the RWSP definition of an indigenous wetland, but this is not the case. A report on this matter is on file.

Part of the site is located within the coastal environment as defined by the Proposed Regional Policy Statement for Northland (PRPS), but does not show any outstanding natural features. The Far North District Plan also does not identify this area as containing high ecological or landscape values, and given that the site has already been zoned residential, the effects of clearing vegetation from this site is not a matter that is required to be considered further.

The applicant estimates that approximately 50,000 m³ of earthworks is likely to be required to construct the proposed roads for the subdivision, with a balance of cut to fill. Details of road alignments and areas of earthworks were provided with the initial application, but no erosion and sediment control plans. As the proposed development is likely to be some years away, one of the conditions of consent requires that an Erosion and Sediment Control Plan (ESCP) is provided prior to the commencement of earthworks for each stage of development. The applicant has agreed to this requirement, even although no ESCP was required as part of the original consent.

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 and a condition has been included to require this

As part of the works are to be constructed upslope of a reticulated stormwater system, sediment controls at all cesspits and stormwater inlets will be required, and a condition has been included to require this

Any earthworks undertaken during dry weather has the potential to create dust problems for neighbouring landowners, although in most cases this will be able to be avoided by the use of water carts, should this become of concern. Winds blowing from the predominant southwesterly quarter will tend to reduce this risk by blowing dust away from the adjacent houses, and the scale of the works is relatively small, being largely confined to the formation of new roads and associated earthworks.

Once the development is completed there will be an increase in rate of runoff from the site. Stage 4 area already has downstream stormwater attenuation ponds put in place for the existing development, and these have been sized to allow for this additional runoff. Stage 3 area is unable to connect to this system with stormwater piped into the existing reticulated system and into the two adjacent gullies. Overland flow pathways are to be provided for runoff exceeding stormwater pipeline capacity, and all outlets into downstream channels will have the necessary erosion protection measures installed, any adverse effects on the downstream environment will be no more than minor.

Local iwi groups have been circulated with a copy of the application, and have met on site with the applicant and Council staff. They have raised no concerns about the activity affecting sites of cultural or spiritual significance, and there are no archaeological sites known to be present within the proposed development area.

Relevant Statutory Provisions (Section 104(1)(b) of the Act)


The Council has determined that the activities, and the granting of these resource consents, is consistent with the objectives and policies contained in Chapters 6, 7, 8, & 12 of the Regional Water & Soil Plan for Northland.

The proposed activities contravenes Section 15 of the Act, and therefore the Council has also had regard to the matters outlined in Section 105 of the Act. The Council is satisfied that the activity will not give rise to the effects outlined in Section 107 of the Act after reasonable mixing.

In all the circumstances, the activities are consistent with the purpose and principles of the Act, as included at Part 2 of it.

I confirm that these are the true and correct reasons for the decision to grant resource consents CON201208280(06-10):

**Name and Signature of
Authorised Person:**


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A Richards
Consents Programme Manager - Coastal and Works

Date: **8 November 2012**