

NOTICE OF MEETING

RESOURCE CONSENTS HEARINGS PANEL

TO: Chairperson Les Simmons
 Crs Michael Goudie
 June Turner

A meeting of the Resource Consents Hearings Panel will take place in the Council Chamber, Rodney District Council, Centreway Road, Orewa on Friday, 16 April 2010 commencing at 9.00 a.m.

for: CHIEF EXECUTIVE
Rodger Kerr-Newell

OREWA
9 April 2010

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PROGRAMME

<u>Time</u>		<u>Page</u>
9.00 a.m.	A NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991	1

AN APPLICATION FOR CONSENT TO UNDERTAKE A FIVE LOT SUBDIVISION WHICH WILL CREATE THREE ADDITIONAL LOTS BASED ON THE PROTECTION OF 18 HA OF NATURAL REGENERATING AREAS, EXISTING BUSH AND ENHANCEMENT PLANTING AND A TOTAL VOLUME OF 24,850M³ OF ASSOCIATED EARTHWORKS, AS WELL AS A BOUNDARY RELOCATION AT A SITE AT RADIATA ROAD, WARKWORTH.

Address: Radiata Road, Warkworth

APPLICANT: PRESTIN BARBARICH

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Address: Radiata Road, Warkworth

APPLICANT: PRESTIN BARBARICH

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ITEM NO: 1

APOLOGIES

ITEM NO: 2

REPORT



TO Resource Consents Hearings Panel
ON 16 April 2010
FROM Anne Hessell – Reporting Planner
SIGNATURE

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APPROVED FOR RELEASE BY Erik Oosthuizen – Resource Consents Team Leader
SIGNATURE

A handwritten signature in black ink, appearing to read "E. Oosthuizen".

SUBJECT **A NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991**

AN APPLICATION FOR CONSENT TO UNDERTAKE A FIVE LOT SUBDIVISION WHICH WILL CREATE THREE ADDITIONAL LOTS BASED ON THE PROTECTION OF 18 HA OF NATURAL REGENERATING AREAS, EXISTING BUSH AND ENHANCEMENT PLANTING AND A TOTAL VOLUME OF 24,850M³ OF ASSOCIATED EARTHWORKS, AS WELL AS A BOUNDARY RELOCATION AT A SITE AT RADIATA ROAD, WARKWORTH.

Address: Radiata Road, Warkworth

APPLICANT: PRESTIN BARBARICH

FILE REF RMA 55228

WARD Northern

Having considered the proposal against all the relevant statutory criteria it is recommended by the reporting planner that the application be *refused consent*. The reasons for this recommendation are set out in this report.

Note: This report sets out the advice of the reporting planner. This report has yet to be considered by the Panel of Commissioners delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Commissioners have considered the application and heard the applicant and any submitters.

1.0 APPLICATION AND PROPERTY DETAILS

SITE ADDRESS:	Radiata Road, Warkworth	
APPLICANT:	Prestin Barbarich	
LEGAL DESCRIPTION:	Lot 1 & 2 D.P 394615. (C.T 389641 & C.T 389644)	
SITE AREA:	Lot 1 D.P 394615 (9206 m2), Lot 2 D.P 394615 (25.0408 ha)	
DISTRICT PLAN:	Plan Change 55:	Mahurangi-Waiwera Special Character Activity Area
ZONING:	Rodney District Operative in Part:	Plan- East Coast Rural Zone
	Other Notations:	<u>PC 55/ODP 1993</u> Scheduled Activity 30E; Allowing winning and/ or processing of materials as a permitted activity, provided it is used within the forest. <u>RDP-Operative in Part</u> Designation 809; Requiring Authority: Telecom N.Z Ltd; Designation Purpose: Satellite Earth Station – surrounding land-use & building restriction. Planning Map 14. Scheduled Activity 152; Allowing quarrying for materials used in forestry activity as a permitted activity subject to conditions.
ACTIVITY STATUS:	Plan Change 55:	Non-complying activity
	Rodney District Operative in Part:	Plan – Non-complying activity
	Overall:	Non-complying activity
	SNA:	Lot 2 D.P 394615 has an area of SNA classified as ‘Moderate’, in the north-eastern/eastern part of the site. (Map 14).
OTHER RELEVANT CONSENTS:		RMA 51124 - Consent was granted on 4 April 2007, to a boundary relocation involving 3 existing sites and the creation of an additional site by protecting an area of significant native bush, shown as ‘X’ on the scheme plan submitted with this application. This consent has been fully implemented.

CONSENT NOTICES:

Both Lot 1 & 2 D.P 394615 are subject to Consent Notice 7652526.2 relating to geotechnical building restrictions, maintenance of private way, protection of native bush, review condition in relation to the protection of the native bush, the creation of forestry crossings within the protected native bush and removal of pines out of the area of protected native bush.

2.0 BACKGROUND

S93/94 Decision

- 2.1 This application was lodged by the applicant as a fully notified application and therefore there was no section 93/94 notification assessment made.

Relevant Planning History

- 2.2 RMA 51124 was granted on 4 April 2007 and has been fully implemented. It granted consent to a boundary relocation of three existing lots and to also undertake a bush protection subdivision involving the protection of 2.7 ha of native bush, associated with the central stream network that runs through the site that is shown on the scheme plan lodged with this application as 'Area X'. Lots 1 & 2 D.P 394615 being the sites involved in this present application were both created as a result of this earlier application.
- 2.3 It is noted that the protection of 'Area X' was made subject to certain specific stipulations through consent notices. A review condition was imposed to ensure the bush area was not suffering damage as a consequence of physical encroachment, by people, machinery and stock. This allowed the review of the bush protection condition within 12 months following the commencement of the activity and on an annual basis. Consent Notices were also imposed which required that prior to the felling of the forestry block, the consent holder may in agreement with Council install up to two crossings within Area X for the purpose of log extraction and remove pines from the southern fork of Area X. Following the harvesting of pines out of this area no further planting was to occur in this area.

3.0 THE PROPOSAL AND REASONS FOR APPLICATION

- 3.1 The application is for subdivision and boundary relocation involving existing sites Lot 1 D.P 394615 (9,206m²) and Lot 2 D.P 394615 (25.0408 ha). The main component of the application is the creation of three additional sites (Proposed Lots 1, 2 and 3) based on the protection of 18 ha of naturally regenerating area, existing bush and enhancement planting. As indicated in the application (5.1 Proposed Lots, pg 4) these lots will be located on the south facing slopes on the northern side of the property and will be between 1.6 ha and 2.0 ha in size.
- 3.2 The justification for the three additional sites is based on the regenerating areas, existing bush and enhancement planting meeting the intention of Rule 7.14.4 'Subdivision for Significant Enhancement Planting' in the Rodney District Plan - Operative in Part. Therefore while the plan stipulates planting at 1.4 metre centres (5,100 stems per hectare), the large majority of planting that will take place will only be at 2 metre centres.

3.3 Based on the latest scheme plan presented with the application the following planting and/or regeneration will make up the total 18 ha:

- 9.2 ha Manuka/Kanuka Planting.
- 3.85 ha Natural Regeneration.
- 0.65 ha Planting at 1.4 metre centres in earthworked areas.
- 3.8 ha Balance area to be planted.
- 0.5 ha Existing bush.

The application is supported by a 'Revegetation Assessment and Management Plan' prepared by Myles Goodwin of Cato Bolam Consultants Limited.

3.4 Proposed Lot 4 will be the 19.2 ha balance site. Proposed Lot 5 is the lot created from Lot 1 D.P 394615, which is currently a 0.9206 ha lot that will be made into a 1.1 ha lot, through a boundary relocation by including land area to the north between this lot and the boundary of Lot 2 D.P 394615 (the other application site).

3.5 All lots will be accessed via a right of way that runs from Satellite Station Road for approximately 600 metres in a southerly direction, and then crosses the roughly formed Radiata Road and enters the application sites. This right of way is currently in a metalled surface and the applicant has indicated that they are prepared to concrete any parts of the right of way with a grade over 1:8, to a 5.5 metre width. Discussions have been held with the applicant on also imposing an ongoing maintenance condition on the right of way, however at the time the application goes to hearing an agreement on the final form of this right of way condition has not been reached.

3.6 Extensive earthworks are involved in the application. These are required to create the building platforms and right of way for Lots 1-3. As detailed in the application they will cover an area of 9,500m² and have a total volume of 24,850m³ of cut and fill.

3.7 The applicant has asked that the application be staged with Lots 1 & 2 occurring in the first stage (with a balance area) and then Lots 3, 4 and 5 in the second stage.

3.8 In response to a request under section 92 (1) of the RMA, the applicant provided a Visual Assessment prepared by Patrick Corfe of Patrick Corfe Architects Limited which assessed the visual impacts of the potential dwellings on proposed Lots 1-3 and any visual impacts of the proposed earthworks that needed to be undertaken as part of the subdivision. As an indication was given to the applicant that this report was likely to be peer reviewed by one of Council's Consultant Landscape Architects, the applicant elected to use Patrick Corfe who is one of the three usual Consultant Landscape Architects that Council uses for peer review work. For this reason while the applicant has commissioned the report, it was considered a peer review was not necessary.

3.9 It is noted that the application is still technically subject to a section 92 request that was made on 23 December 2009 following a meeting with the applicant and Myles Goodwin from Cato Bolam Consultants. This required the applicant to provide nursery receipts of the 40,000 plants that had been planted on the site. It also requested the applicant submit further information, identifying those areas they would be concentrating on with their weed and pest control efforts. An assessment of the application in relation to the bullet points in Rule 7.14.4.2 of the Rodney District Plan - Operative in Part in respect of the former and current enhancement planting rules, which outlines what the planting is intended to achieve, was also required. At the time of writing this report this information was yet to be provided.

Reason for Application

3.10 *Resource Consent is required for the following reason(s)*

Plan Change 55

- 3.11** Plan Change 55 provides a number of options for subdivision in the Mahurangi –Waiwera Special Character Activity Area, as Limited Discretionary Activities. These include the following:
- 11.1 Sites for the protection of significant stands of native bush or significant natural features.
 - 11.2 Sites for household units on Maori land.
 - 11.3 Sites for the creation of additional reserve land.
 - 11.5 Sites for other activities.
 - 11.6 Sites for the creation of esplanade reserve.
- 3.12** Therefore the Plan Change does not provide for a subdivision option based on enhancement planting or regeneration. On page 210 of the Plan Change it is indicated under the heading, 'Discretionary Activities' that Council may consent to a subdivision which does not meet the limited discretionary standard for minimum frontage and access as a discretionary activity. However the Plan does not directly indicate how an application for subdivision which is made on another basis should be treated.
- 3.13** Generally in such a situation, the application would be considered discretionary under section 77C of the RMA, which is used when the plan clearly requires consent but does not classify the activity status. However a recent Environment Court decision (Batten v Rodney District Council ENV-2008-AKL-000083) which related to a subdivision proposal which did not conform to the subdivision types offered in Plan Change 55 was considered to be a non-complying activity simply because it fell outside the discretionary activities envisaged. Based on this case law it is considered the application should be treated as Non-Complying Activity.
- 3.14** In respect of the boundary relocation aspect of the proposal, it is noted that boundary relocation rules in the Mahurangi-Waiwera Special Character Activity Area are provided under Rule 11.4. However these are not considered to be in legal force, as the equivalent boundary relocation rules in Chapter 23 'Subdivision and Servicing' are now fully operative.
- 3.15** Discretionary activity resource consent for the 24,850 m³ of earthworks is also required under Rule 3.3 (ii) b.1 within the 'Development and Environmental Controls' section of the Plan, however obviously this does not affect the overall activity status of the proposal.
- 3.16** The overall activity status under Plan Change 55 is Non-Complying.
- 3.17** It is noted the site is subject to a Scheduled Activity 30 E under Plan Change 55/Operative District Plan 1993. This allows for the winning and / or processing of minerals, rocks, sand, gravel or clay occurring naturally in the vicinity as a permitted activity, subject to conditions including a requirement that the material is used within the forest from which it is won.
- 3.18** **Rodney District Plan - Operative in Part**
- 3.19** As with Plan Change 55, the Rodney District Plan - Operative in Part offers a number of subdivision types in the rural zones including the East Coast Rural Zone, as Restricted Discretionary Activities or Discretionary Activities, these include the following:
- Subdivision for the Protection of Natural Areas (Protection of Native Bush, Significant Natural Areas & Significant Wetland).
 - Subdivision for Significant Enhancement Planting.
 - Subdivision for Significant Land Rehabilitation.
 - Subdivision for the Creation of Esplanade Reserves.
 - Subdivision for the Creation of Additional Public Reserve Land.
 - Subdivision for Household Units on Maori Land.
- 3.20** Rule 7.14.4 provides for 'Subdivision for Significant Enhancement Planting' where under the current rules one rural residential site may be created where a minimum of either six hectares of planting is provided that will provide valuable ecological benefit or ten hectares of planting, where the planting will not provide valuable ecological benefit. Additional rural residential sites may be created, calculated at one rural-residential site per 6 hectares of planting, up to a maximum total of 5 rural-residential sites. Under Rule 7.14.1.2 (a) (i), subdivision meeting the enhancement planting rules in the East Coast Rural zone is a Discretionary Activity.

- 3.21** The planting is required to meet the Native Revegetation Planting Standards, set out in Rule 7.14.2.3. One requirement of these standards is that planting shall take place at a density of 1.4 metre centres (5,100 stems). It is understood the application does not meet this as the large majority of areas that will be planted will be at 2 metre centres. Other areas will not be planted but will use areas of existing bush or regeneration. For this reason, while the applicant uses the enhancement planting rules in 7.14.4 to justify the appropriateness of the application, it does not technically conform with this subdivision type or the other subdivision types offered under the Rodney District Plan - Operative in Part.
- 3.22** Therefore under Rule 7.14.1.3 (a), the subdivision must be considered a Non-Complying Activity as any subdivision not complying with the requirements for the particular subdivision type in Rule 7.14.2 - 7.14.13.
- 3.23** It is noted that the application was lodged on 11 May 2009, and since that time the enhancement planting rules in 7.14.4 have changed with the resolution by way of Consent Order of a number of appeals relating to the substantive parts of the enhancement planting subdivision provisions on 27 October 2009. While section 88A of the RMA does not technically apply in this instance as the application was already non-complying and therefore did not technically fit within the former rules, it is noted that there are some differences between the pre October 27 2009 rules and the post October 27 2009 rules. The new rules now require that ten hectares (rather than six hectares under the old rules) shall be the minimum area of planting required in any application for subdivision where the planting will not provide valuable ecological benefits. Thereafter for subsequent sites only a further six hectares of planting per additional lot up to a maximum of 5 rural residential sites is required. The Plan now defines in Chapter 3 what a 'Valuable Ecological Benefits' is (relevant when only one additional site is being applied for) and also sets down what the planting shall achieve and where the areas of planting if practicable should be located.(Rule 7.14.4.2).
- 3.24** The boundary relocation rules are contained in Rule 23.8.15 of Chapter 23 'Subdivision and Servicing' Rule 23.8.15.4 (b) states that where an existing site is less than 1 hectare in area it shall be capable of accommodating a dwelling and associated onsite services and the general subdivision requirements in the plan. In such cases the rule states that the proposed site shall not exceed 9,999m² in area. Lot 1 D.P 394615 which is the smaller of the two application sites is 9,206m² in area. The applicant is seeking to increase the size of this site to 1.1 ha in area and therefore Rule 23.8.15.4 is not met. Rule 23.8.15.9 however states that any boundary relocation not complying with Rules 23.8.15.1 to 23.8.15.8, inclusive shall be a Discretionary Activity. Therefore the boundary relocation component of the application is considered to be discretionary.
- 3.25** Under Rule 7.9.4.2.2, excavation and/or deposition, greater than 200m³ in the East Coast Rural Zone requires a Restricted Discretionary resource consent.
- 3.26** The overall activity status under the Rodney District Plan - Operative in Part is Non-complying.
- 3.27** It is noted that the site is subject to a Scheduled Activity 152 under this Plan, which allows quarrying for materials used in forestry activity as a permitted activity subject to conditions.
- 3.28** The site is also subject to Designation 809, where the requiring authority is Telecom New Zealand Ltd, and the designation purpose is listed in the plan as 'Satellite Earth Station-surrounding land use and building restriction' Included in Appendix 15H of the Plan is the criteria the requiring authority will apply in considering an application under section 176 of the RMA. Section 176 of the Act essentially requires that a person who is doing anything to land that is subject to a designation that would prevent or hinder a public work or project or work to which the designation relates, must obtain prior written consent of that requiring authority. A copy of the designation table listing the site and Appendix 15H and 15H (i) are included with this report as Attachment F, for the Panel's information. It is understood this designation does not affect the activity status of the application. The application was fully notified and the requiring authority, Telecom New Zealand Ltd, was served with a notification package and was free to make a submission on the application. No submission from Telecom New Zealand has been received. It is considered the resource consent process and the approval process under section 176 (1) (b) are entirely separate statutory process. Therefore if consent is granted to this application, the applicant will need to also obtain approval under section 176 (1) (b) from the requiring authority.

Overall the application is a non-complying activity, taking account of both plans.

4.0 SITE DESCRIPTION

- 4.1** The application site is comprised of two titles, Lot 1 D.P 394615 (CT 389641) (9206m²) and Lot 2 D.P 394615 (CT 389644) 25.0408 ha. These properties are located just over 2 kilometres south, from the outskirts of the Warkworth Township.
- 4.2** Both sites gain access via a metalled right of way. In a position approximately 1 kilometre east of State Highway One. The right of way leads from Satellite Station Road in a southerly direction for approximately 600 metres, until it reaches the northern boundary of the application sites. While not obvious while on site, the end of the right of way actually converges with Radiata Road, an unformed (or yet to be properly formed) road which runs in a east /west direction across the northern boundary of both application sites, and eventually meets up with Satellite Station Road, not far from the intersection with the State Highway. From the right of way a driveway travels close to the western boundary of Lot 2 D.P 394615, down the slope and branches to the east following the route of the watercourse in the central part of the site.
- 4.3** There are no buildings on Lot 2 D.P 394615, however a dwelling has been established on Lot 1 D.P 394615.
- 4.4** The sites are generally very steeply sloping however a water course traverses the central part of Lot 2 D.P 394615 and in this area the topography levels out more, before sloping upward again in the southern part of the site. It is in this watercourse area that there is a native bush covenant containing the riparian vegetation that was protected under an earlier subdivision application.
- 4.5** The site exhibits signs of the previous forestry activity that has taken place, with areas containing logs and forestry spoil and slash. Other parts of the site contain areas of regenerating bush.

5.0 WEIGHTING OF DISTRICT PLANS

- 5.1** Plan Change 55 is a plan change to the Operative District Plan 1993 which specifically deals with activities in the rural area of the district. It was first notified in 1995 and was made operative in April 2006.
- 5.2** The Rodney District Plan - Operative in Part was first notified in November 2000, and while the majority of its chapters have been made operative, unfortunately the 'Rural' chapter, Chapter 7, which is considered to be the most relevant for this proposal, is still subject to some unresolved appeals.
- 5.3** In respect of the nature of these appeals, it is understood while the substantive parts of Rule 7.14.4 'Subdivision for Significant Enhancement Planting' have all been resolved through consent orders, there is still an outstanding appeal relating to the provision that restricts an applicant to creating a maximum of 5 rural-residential lots from this type of subdivision and some other types of subdivision offered in the Plan. It is understood there also remains an outstanding appeal in relation to the activity status of subdivision in the East Coast Rural Zone and other landscape/environmentally focused zones.
- 5.4** Therefore taking account of these appeals it is considered technically the most weight should overall continue to be placed on the provisions of Plan Change 55. However it is considered appropriate to also place a reasonable amount of weight on the provisions of the Rodney District Plan - Operative in Part despite the existence of some unresolved appeals, as the Plan itself and Chapter 7 overall is at an advanced stage in the statutory process.

6.0 NOTIFICATION AND SUBMISSIONS

Notification

- 6.1** The application was notified on 19 February 2010 and submissions closed on 19 March 2010. A summary of the submissions is set out below. A full copy of the submissions is attached under **Attachment B**.

Submissions

- 6.2 A total of 5 submissions were received by the close of the submission period. Of these 4 opposed the application and 1 was neutral.

GROUPS & ORGANISATIONS

Name	Address	Main Concerns	Relief Sought	Wish to be heard
Auckland Regional Council	-	<p>-Opposes the application.</p> <p>-The application should not be approved as it does not meet the specific rules or the intent of the Subdivision for Significant Enhancement Planting provisions within Rule 7.14.4 or the Native Revegetation Planting Standard contained in 7.14.2.3 of the Proposed District Plan 2000.</p> <p>-It would also be inconsistent with the objectives and policies of the Auckland Regional Policy Statement, including policy 2.5.2.5 which addresses the subdivision, use and development of rural land.</p> <p>- In particular it is likely that there is insufficient land available to undertake an appropriate level of planting (minimum 6 ha of new planting) per additional lot.</p> <p>-While naturally regenerating bush and existing bush, if it is of a high quality, may be a factor that could be taken into account in terms of the overall level of planting required, over and above the 6 hectare minimum, it would not be appropriate to substitute this for required planting.</p> <p>-Overall the application does not demonstrate sufficient ecological benefit to justify the level of development proposed and unnecessarily increases built development within this regionally significant landscape.</p>	-The ARC requests the application be declined.	Yes
New Zealand Fire Service (NZFS)	-	-Proposed subdivision should take into account the operational requirements of the NZFS to adequately provide for fire-fighting	-Seek Consent Notice requiring that upon the construction of habitable	Yes

Name	Address	Main Concerns	Relief Sought	Wish to be heard
		<p>activities in a safe, effective and efficient manner.</p> <p>-Need to ensure adequate water supply is provided for fire fighting purposes . . . an adequate access for fire appliances is provided to this water supply.</p>	<p>buildings, sufficient water volume, pressure and flows be provided in accordance with stipulated codes of practice and that water be accessible for fire fighting purposes.</p> <p>-Also seek consent notice that if the water supply is to be provided by way of tank storage, this must be located a safe distance away from any habitable dwelling in accordance with stipulated codes of practice.</p>	
<p>Royal Forest and Bird Protection Society of New Zealand (Mid – North Branch)</p>	<p>-</p>	<p>-The application is opposed.</p> <p>-Has previously opposed subdivision applications based upon the protection of regenerating bush on former forestry land that has been harvested of exotic timbers and then left in an abandoned state.</p> <p>-In other hearings, applicants have argued that natural regeneration, with some enhancement planting, to a lesser standard than the District Plan rules allow, together with a measure of pest management, is sufficient reason for Council to grant consent for subdivision. Forest and Bird do not accept that, detrimental effects are almost certain to arise in practice and will be more than minor.</p> <p>-Visited the site and noted the steepness of the land, south facing slopes and the extent of invasive pest plant species.</p> <p>-Forest and Bird are not looking for voluminous information that largely goes</p>	<p>-Our objection would be met by consent to the application being refused.</p>	<p>Yes</p>

Name	Address	Main Concerns	Relief Sought	Wish to be heard
		<p>over planning law or regional and district plans. We would like to read solid information that deals with effects in a committed way, along with proposed conditions, that the applicant recognises in advance of a hearing are likely to be required.</p> <p>-Appendix 'C' 'Bush Planting Report', reads more like a report prepared to inform the applicant of the issues that will need to be addressed rather than a formal statement to Council of binding undertakings that the applicant is prepared to make. No independent assessment of the present state of regeneration is given. Animal pests are acknowledged as a potential problem, but nothing much seems to have been done to find out the actual likely situation.</p> <p>-Appendix H 'Weed Control Report' confusingly revisits possible animal pests, this time introducing wild pigs and mustelids - along with the goats, possum and pukeko identified in Appendix C. Appendices have been hastily cobbled together. No need seen by the applicant for any new fencing, unless stock is introduced.</p> <p>-Overall there is a presumption that the necessary RMA certificates will be available in 5 years if the uncertain steps outlined to revegetate the land and control pests are followed. Based on the present information Forest & Bird has grave doubts about that. Self monitoring is always unsure and inability of territorial authorities to monitor consents issued is notorious.</p> <p>-For these reasons and others, Forest & Bird does not think that it is reasonable, appropriate and consistent with the RMA that the application be granted.</p>		

INDIVIDUALS

Name	Address	Main Concerns	Relief Sought	Wish to be heard
Alastair Mitchell Pearce & H.E Pearce	-	<p>-Opposes the application.</p> <p>-Opposes forming only a R.O.W on Radiata Road from the existing R.O.W on Telecom land, to the point where a R.O.W leaves the southern legal boundary of Radiata Road.</p> <p>-Our family has owned Part Allot 172 Mahurangi Parish since 1981, and has established some 6.2 ha of pine forest between 1982-1991. We propose harvesting this forest in 2015/2016. The only vehicle access is along Radiata Road (which I opened up in 1981). Any work on Radiata Road will have to be of a standard to allow for logging traffic. I don't believe a R.O.W as proposed is suitable.</p>	<p>1. Any portion of Radiata Road used to access the proposed lots be formed and metalled with at least a 4m wide carriageway.</p> <p>2. That the road be adequately fenced on the northern boundary of the legal road.</p> <p>3. That prospective purchasers of the new lots are made aware that some logging traffic will be using Radiata Road in the future.</p>	Yes
Paul Grimmer	Lot 2 D.P 128205	<p>-Opposes the whole application to subdivide.</p> <p>-The overall quality of the proposed planting and revegetation is objected to. Whether the application complies with the relevant standards that enable the creation of new lots under Rule 7.14.4 is questioned and submitter considers that a significant proportion of the existing and proposed bush is poor quality and would not enhance the application site or the wider area.</p> <p>-Submitter questions whether the vegetation will result in a valuable ecological or significant visual enhancement to such an extent that could justify the creation of 3 additional lots under the 'Subdivision for Significant Enhancement Planting' entitlement.</p> <p>-The planting currently proposed would not result in an increase in native species diversity or ensure the long</p>	<p>-Refuse application and decline consent.</p> <p>-If consent is granted impose conditions/ consent notices requiring planting at 1.4 metre centres, that all planting is established prior to the issue of s 224c, require all covenant areas be fenced with a stock-proof fence and have proper pest and weed control measures undertaken prior to the issue of a s 224c certificate, require that the building platform for proposed Lot 4 be restricted to the identified building platform symbol only and not include the circular shaped</p>	Yes

Name	Address	Main Concerns	Relief Sought	Wish to be heard
		<p>term ecological viability and significance of the areas to be protected.</p> <p>-Concerned that an independent peer review of the Revegetation Assessment and Management Plan prepared by Cato Bolam has not yet been undertaken....this should be required. Should the application be approved recommendations and conditions in the peer review should be imposed upon the resource consent to ensure the planting and management is in accordance with Council standards under the District Plan.</p> <p>-Proposal is contrary to the objectives and policies as they relate to enhancement planting and ecological benefits, this will have more than minor effects and consent cannot be granted.</p> <p>-The creation of 3 additional lots will adversely affect the rural character of Radiata Road and the wider environment to a more than minor extent. It will result in an increase in traffic movements on Radiata/Satellite Station Road where currently few vehicle movements are experienced.</p> <p>-The increased vehicle movements will also affect the existing amenity values of a peaceful, quiet rural location.</p> <p>-Three new lots will increase residential intensity of the area and significant increases in noise from vehicles, creating a more residential character and adversely affecting the overall rural character.</p> <p>-Proposal is contrary to the objectives and policies of relevant plans as they relate to maintaining and enhancing</p>	<p>area on the scheme plan.</p>	

Name	Address	Main Concerns	Relief Sought	Wish to be heard
		<p>rural character and rural amenity values.</p> <p>-Concerned that the circular shaped area on proposed Lot 4 that is located outside the bush protection/ revegetation areas will become a future building platform for this lot and generate adverse visual effects when viewed from submitter's property (Lot 2 D.P 128205) that adjoins that application site, causing significant adverse effects on the amenity values and rural character enjoyed by this property. It is requested this circular shaped area not contain any buildings due to adverse effects experienced by neighbouring properties.</p> <p>-If there were to be any future dwellings on Lot 4 (which is opposed), these should be restricted to the area marked by the building platform symbol only and not include circular shaped area, which should be planted in native vegetation, given the non-complying status of the application.</p> <p>-Subdivision should be refused, because the quality of the enhancement planting would be insufficient to ensure the long term ecological viability and significance of the areas to be protected.</p>		

Written Approvals

Section 104 (3) of the Act states that a consent authority must not have regard to any effect on a person who has given written approval to the application.

Written approvals have been received from the following persons:

- Neil Lloyd & Eileen Osbourne
- Kenneth Fox
- Russell Leslie Green.

However it is not made clear on the signed forms provided or in the application, what neighbouring properties these people are connected with or what interest they would potentially have in the application.

7.0 REPORTS FROM OTHER OFFICERS/DEPARTMENTS/CONSULTANTS

Reports and/or comments have been received from the persons with respect to this application:

- (1) Development Engineer's report from Cameron Ure (see **Attachment C**)
- (2) Consultant Traffic Engineer's Report from David Mitchell/Mairi Joyce (**Attachment D**)
- (3) Comments from Ecological Adviser Rue Statham (see **Attachment E**).

8.0 STATUTORY ASSESSMENT

8.1 The Act requires for all applications for resource consent that subject to Part 2 of the Act, the Council must have regard to the matters set out in section 104 of the Act.

8.2 Section 104 (2) of the Act states that the Council "may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect." The permitted baseline of effects will therefore be assessed prior to the assessment in terms of section 104 (1) of the Act.

8.3 Following the section 104 (1) assessment an assessment will be made in terms of sections 104D, and Part 2 of the Act.

9.0 SECTION 104 ASSESSMENT

Permitted Activities Assessment

The Existing Environment

9.1. The site is surrounded by a mixture of farming, forestry and some larger rural-residential blocks. Some sites particularly to the east and south-east of the application site have quite large areas of native bush on them. In the reasonably immediate surroundings site sizes tend to range from between 5 ha to 50 ha. Therefore stand-alone residential development in the area is at a fairly low density and at the current time has a less dominant presence than the rural production based activities, pastoral environment and natural features. Further afield a greater degree of fragmentation has occurred on the western side of the state highway, and to the north, and as a consequence residential densities are higher. This is to be expected given that in these areas the zoning reverts back to being General Rural (from East Coast Rural) and is not subject to the designation relating to the Satellite Earth Station where restrictions are placed on surrounding land use and building.

9.2 To the north of the site are the prominent white installations of the Satellite Earth Station, used for telecommunication and radiocommunication purposes and approximately 600 metres to the west is State Highway 1, which travels in a north-south direction.

Unimplemented Consents

9.3 It is considered relevant in assessing the effects of this proposal that on 16 March 2007, the Council granted consent (RMA 39777) to a subdivision based on the protection of Significant Natural Areas, to create 5 additional rural residential lots, on the site that directly adjoins the application site to the east (Allot 172 Psh of Mahurangi SO 1050A). This consent approval has not yet been implemented. It has been noted in the consent document that the applicant's intention is not to create the lots but to use the titles created as transferable titles in the Countryside Living (Town) zone. However the approval has been granted subject to a full set of conditions which would still allow for the subdivision to be fully implemented on the site if this consent holder wished to do so. It is noted that Council records show that no titles have been transferred out as yet, however notes on the file suggest there is an intention to transfer at least 3 of the titles out of the site. It is considered if the five additional lots were to be created on this site, it would, in my view, create quite a noticeable change in the character of the general locality around the application site. It would quite considerably increase the presence of rural-residential activity, as these five lots, together with the existing rural-residential site that is included as one of the application sites as well as the three additional lots sought under the application, would take the total number of rural-residential sites in close proximity to each other to nine. For the Panel's information a copy of the scheme plan for RMA 39777, is included under **Attachment F** to this report.

Activities Permitted by the Plan

9.4 There are a number of activities that are permitted by the plan. These include the following:

- Childcare facilities for not more than 10 children at any one time, accommodated within an existing building.
- Farmstay or homestay accommodation for not more than 10 people, accommodated within an existing household unit.
- Home occupations accommodated within existing household units.
- Outdoor recreation not involving buildings and using resources in their natural state.

It could be argued the creation of three additional sites may give rise to effects that could have some similarity in their character, intensity and scale to the effects that might be expected from the above permitted activities. This may for instance include effects such as the increased traffic movements on the long right of way from Satellite Station Road. However it is my view such comparisons need to be made carefully as the additional development potential subdivision creates means this also increases the potential for such permitted activities to take place. Therefore the effects of the most fundamental land-use activity that might be expected to take place on a new rural-residential site following the subdivision such as the erection of a household unit as well as the effects of other various permitted activities such as home occupations or homestay operations may operate in the environment at the same time. For this reason it is considered the effects arising from the above permitted activities should not be automatically discounted in the evaluation of the effects of this proposal.

Section 104(1) (a) Any Actual and Potential Effects on the Environment of Allowing the Activity.

9.5 Section 3 of the Act states that the term "effect" includes any positive or adverse effect; temporary or permanent effect; past, present, or future effect; any cumulative effect and potential effects.

Ecological Issues

The applicant is seeking three additional rural-residential lots in lieu of the protection of 18 ha of naturally regenerating areas, existing bush and enhancement planting. It is noted that due to the regeneration that is occurring on the site the planting will not meet the standard in the District Plan for planting at 1.4 metre centres and will be at 2 metres centres instead.

As the whole entitlement provisions for subdivision in both District Plans, and particularly the Rodney District Plan - Operative in Part, are based on providing a certain standard of environmental benefit in order to be able to obtain subdivision rights, the question of whether the environmental benefit the applicant is putting forward to meeting this standard is a critical issue in determining the application. This particularly applies to this application, as while the environmental benefits put forward have some similarity to what might be expected under an enhancement planting subdivision under Rule 7.1.4.4 in the Rodney District Plan - Operative in Part, the proposal does not neatly fit within any subdivision type the Plan offers, but offers a combination (regeneration, planting existing bush).

The application is supported by a 'Revegetation Assessment and Management Plan' (Ref: 26976) prepared by Myles Goodwin of Cato Bolam Consultants. The 'Introduction' section of this report states:

'The purpose of this plan is to establish at least 18 ha of vegetation in appropriate areas throughout the property. The aim of the planting has been to enlarge existing bush areas to make them more sustainable in the long term, protect steep slopes and create as many actual or potential ecological linkages as possible. . . . The planting will also provide additional habitat and offer significant water quality improvements. The proposal plans to utilise the expected natural regeneration from this forestry site to reduce the density of planting required to achieve the needed planting density of 5,100 stems/ha.'

The conclusion of the report states:

'Following the planting plan outlined in this report will result in areas of native vegetation that will provide riparian protection, a significant area of bush that links together other bush areas and a protected corridor through the property. The planting will provide significant ecological and landscape benefits.'

The ecological benefits put forward in the application have been assessed by Council's Ecological Adviser - Rue Statham and his comments are provided as an attachment to this report under **Attachment E**. While not strictly falling within these rules, much of Mr Statham's assessment is against the 'Subdivision for Significant Enhancement Planting' rules in 7.14.4 of the Rodney District Plan - Operative in Part, as the arguments and technical information contained in the proposal seek to justify the application based on meeting the environmental objectives of this rule.

Mr Statham indicates that the application does not meet the 'Valuable Ecological Benefit' definition in the District Plan (as now features in the Enhancement Planting rules in the Rodney District Plan - Operative in Part following the resolution of appeals on these rules in October 2009). However this is only a requirement if one additional lot is sought for 6 ha of planting (otherwise 10 ha of planting for the one lot is required) and not under applications where more than one additional lot is sought.

Outside of the need to demonstrate a 'Valuable Ecological Benefit', Mr Statham considers it is important that *'... a degree of acceptability for the regeneration, should at least be considered. That being that the regeneration should ensure an environmental benefit in the short to medium term, thus guaranteeing the long-term. The regeneration should at least be required to meet those minimum standards of height, emergent canopy species and weed issues regardless of planting area.* (pg 3.)

Mr Statham also discusses how planting into open paddock or bare land does not pose the same issues and management complications with weed infestation issues as opposed to the use of natural regeneration where canopy closure has not occurred. He discusses how access to the regenerating areas on the application site is inhibited due to topography, dense gorse and pampas pockets and uncleared forestry slash and debris, this being the case he states that he is left considering *'that the maintenance of the area will be significantly hindered for quite a length of time'* (pg.4)

Mr Statham considers the regeneration is emergent/young, not more than 3.5 years in relation to most of it and comprising vegetation usually found in cut over forestry areas, areas of exotic weed influence and diversely mixed native species. He also notes pockets of more mature vegetation, in areas that have not been so affected by the harvesting of the forest.

Having inspected the site he considers stem density in Area 'H' which is located in the north-eastern part of the site and to the east of proposed Lot 3 is generally good and this appears to be attributable to the area having been harvested earlier. However he notes that regeneration maturity and stem density is certainly lower in those areas that have been more recently harvested being Area 'E' to the south and south-east of proposed Lot 5, Area 'F' on proposed Lot 1, Area 'G' on proposed Lot 2 and Area 'I' in the south-eastern corner of proposed Lot 4. He also notes that in some places in these areas, stem density is significantly lacking and the area is dominated by gorse, and where gorse and pampas dominates stem density is not considered to have been met. He refers back to the 1.4 metre centres of planting required under the District Plan and emphasises this should be across the entire 6 ha (being the entitlement area per lot), rather than an average across this area. Even in the better quality areas such as Area 'H' on proposed Lot 3 and to the east of this, while the stem density is superior, there are still some substantial weed areas where the stem density cannot be met.

Mr Statham also clearly has ongoing concerns with the weed and pest control issue. He considers the following weeds are quite prolific in places:

- Gorse
- Pampas
- Himalayan Honeysuckle
- Wilding Pines

He notes further information requested in this area has not been provided and considers the application should ideally have input from specialist weed and pest management experts, given the labour intensive weed and pest management requirements involved with regenerating areas as opposed to mature forest or newly planted areas.

In relation to the assessment of Mr Statham there also remain outstanding concerns in respect of the planting that has taken place. The proposal does indicate that the planting of Kanuka and Manuka has already occurred over the site. The scheme plan shows Kanuka and Manuka planting occurring over a land area of 9.2 ha in Areas 'E' and 'F'. Nursery receipts have been requested, however these have not been provided to date. Mr Statham also considers a clear indication of the areas that have been planted and the number of plants with regard to success rates and site coverage would be helpful. It appears the observations made on site by Mr Statham in March 2010 are not consistent with the planting to the densities that have been stated in the proposal as submitted.

Rule 7.14.4.2 in the 'Subdivision for Significant Enhancement Planting' rules sets down the key ecological benefits the planting is intended to achieve. From the first lodgement of the application back in May 2009 the rules in this area have changed as result of appeals on these provisions being resolved by Consent Order (October 2009). Because the processing of the application straddles this time period, Mr Statham has made an assessment of both sets of rules, however between the two sets of rules there is obviously some degree of overlap.

In summary these provisions require that the following is achieved through the planting:

Rule 7.14.4.2 Pre October 2009

- Provide valuable ecological linkages.
- Provide necessary enhancement of existing natural areas to ensure their long-term, viability, health and significance.
- Result in increases in native species diversity.
- The use of natural regeneration processes to ensure in the long-term they take over.
- Provide significant benefits and improvements to water quality and land stability.
- Provide enhancement of any existing water course and any wetland to ensure long-term health and viability.
- Provide a potentially significant and sustainable forest.

Rule 7.14.4.2 Post October 2009

- Provide necessary enhancement to an existing natural area to ensure long-term viability health and significance.
- Result in increases in native species diversity.
- The use of natural regeneration processes to ensure in the long-term they take over.
- Provide a potentially significant, sustainable forest.

In respect of providing a significant and sustainable forest the assessment acknowledges that while the criterion is not being met because largely existing regeneration is being relied on, it is acknowledged that a forest through regeneration processes can be achieved in the same timeframes as what enhancement planting achieves provided weed controls issues are effectively dealt with and do not interfere with these processes taking over.

The enhancements being offered under the application do not involve wetland or water course areas. The main central water course on the site has already been made subject to a native bush covenant which protected the riparian vegetation and involved the creation of an additional lot. It is however recognised the proposal will to a certain extent bring about some land stability benefits, simply by being retired from productive activities like forestry and farming and in time if forest succession occurs this will improve further.

The proposal makes use of natural regeneration and relies on this as the dominant process. In respect of diversity, the assessment confirms that diverse vegetation is found in some areas and it is foreseen that over time the diversity of retired areas will increase. However, most importantly, it is considered without active and effective management the ability for the regeneration to diversify to the desired climax community will take a considerable amount of time and the current weed problem would have a negative effect on the bush. Therefore Mr Statham considers the diversity criterion is not truly met.

Mr Statham is also not convinced that the proposal provides a necessary enhancement of existing natural areas to ensure their long-term viability, health and significance. He again highlights his concerns that a number of various weed species have quite a dominant presence and that they are displacing emerging native vegetation on which the whole application is based. He also notes planting in these areas may be problematic as weed control may undermine any new planting. He considers the weed control and site preparation aspects of the application are not robust or effective in terms of managing the evident issues on the site that have been observed.

The presence of some ecological linkages with the proposed 18 ha area to be protected are acknowledged, through the provisions of subdivision, reserve status or District Plan rules (vegetation removal rules), along with the existing covenant area 'X' within the site as shown on the scheme plan which comprises the riparian vegetation along the centrally located watercourse.

Mr Statham also assesses the criteria provided in the post October 2009 enhancement planting rules in respect of the ecological benefits that are provided by the location of the areas of planting (or mainly regeneration in this case).

His final concluding comments on the environmental benefit put forward in the application are as follows:

'The DP does seek to provide for subdivision potential based on an environmental benefit which seems to be quite directed in its approach. Whilst this proposal does not provide for the planting of native forest, and is reliant on augmentation of existing and potential regeneration, there are certainly benefits with regards to linkages to adjacent Significant Natural Areas.

This proposal will retire areas that will abut existing covenant areas and provide an additional buffer, for the most part, to those covenants; notwithstanding proposed building platforms.

For the most part the regeneration is up to and including 400 metres wide, North to South and the East West orientation allows for a linkage some 600 – 700 metres given that there is the existing road.

The application is being strictly considered on a site specific basis and with regards to the regeneration found within the proposed protection areas. Whilst the writer does not agree with some of the assessments and considerations made by Cato Bolam, it is acknowledged that the proposal does have some merits with regards to the retirement of land and its retirement to that of native forest. Council also acknowledges the pre-application meeting whereby the species selection was discussed. However the application does not fulfil all of the criteria as defined in the DP, and because of this does not meet the same standard of environmental benefit expected.

. . . it is the writer's considered opinion that given the level of works undertaken to date with regards to the lack of weed management and the unsubstantiated planting in relation to what will need to be achieved in the short term to ensure the viability and sustainability of the proposed forest, the application does not provide the surety and environmental benefit the DP seeks.

The writer is left with a number of outstanding concerns that leave them unsure as to whether the desired outcome can be guaranteed, even through conditions of consent; these concerns are predominately weed and pest management, the true extent of full diverse planting, surety of the level of environmental benefit, and compliance with conditions of consent in relation to planting and associated covenant maintenance.

. . The writer would prefer to see a much better level (maturity) of regeneration, with minimal weed issues prior application assessment. . . . Whilst it is acknowledged within this assessment and report, that there is a degree of environmental benefit to be realised from this proposal, it falls short of the standards envisaged under the DP.

On this basis it is considered not appropriate, from an ecological perspective, to recommend the granting of consent.'

The rural subdivision rules in both District Plans but particularly the Rodney District Plan - Operative in Part are very strictly based on only encouraging subdivision where a certain standard of environmental benefit is secured. Without this standard being achieved the proposal falls short of the intentions under the Plan. Mr Statham openly acknowledges the application does have some environmental benefit and is not without merit from an ecological standpoint. However particularly with a non-complying activity that does not fit within the usual subdivision configuration (using regeneration, planting and existing bush) there is not only a need for some benefit, but for this benefit to be commensurate with the benefits expected under these subdivision types so it aligns with the environmental outcomes envisaged. This is important because frequent subdivision activity in zones such as East Coast Rural is not desirable for a number of environmental reasons and therefore the requirement for a certain standard to be met ensures subdivision activity does not become overly commonplace.

The high standard of environmental benefit the Plan expects needs to be thoroughly and very robustly demonstrated in the proposal. The most logical comparison to make with this application was with the 'Subdivision for Significant Enhancement Planting' rule 7.14.4 in the Rodney District Plan - Operative in Part. In his professional view, Mr Statham considers the proposal does not demonstrate an equivalent benefit to the benefit anticipated under these rules, furthermore there are issues such as in the area of weed and pest control that would not usually be such a problem in a conventional enhancement planting application but threaten to quite significantly diminish the environmental mitigation that might otherwise contribute to the proposal.

As indicated in the comments of Mr Statham, the Council has in recent times consented to an application (RMA 54502) that sought consent based on providing similar environmental benefit to what is envisaged under the enhancement planting rules but predominantly relied on existing regenerating bush rather than planting. This proposal was closely located to areas classified as Outstanding Significant Natural Areas and High Conservation Value Sites and perhaps more importantly the regeneration was well developed in stem density, canopy closure and had minimal long term weed issues. These latter features in particular are considered to distinguish this application from the current application under consideration. The granting of this consent also demonstrates that there is not a philosophical opposition to the use of regenerating areas, in circumstances where these areas provide a level of ecological mitigation for the subdivision that aligns with the plan requirements. A copy of the planning reports on the RMA 54502 application can be made available at the hearing if needed by the Panel.

Therefore in conclusion it is considered, having regard to the plan provisions and the assessment of Mr Statham that the ecological benefits from the proposal are not of a high enough standard to justify the lot entitlement that is sought. On this basis it is considered there is not enough reason to motivate a recommendation for approval of the application.

Rural Character and Amenity Values

The application seeks consent to create three additional rural-residential sites of between 1.6 ha - 2.0 ha in size and to also adjust the boundary of an existing rural-residential site from just under 1 ha to a 1.1 ha site.

As the application sites fall within landscape focused zones under both district plans where the zoning seeks to protect the remoteness, naturalness, non-urban character and attractive visual amenity values of such sites, it was seen as necessary to have some professional visual and landscape assessment of the proposal as these elements contribute to the rural character and amenity values of the sites and locality. The introduction into rural areas of a greater level of rural-residential activity has the potential to bring about adverse effects on the remoteness, naturalness and non-urban character and detract from the visual amenity values. The application also involves a not insubstantial amount of earthworks to create building platforms and right of ways, which again can bring about a level of modification to the environment, particularly with the appearance of the land form that can also have adverse effects on rural character and amenity.

As requested of them under section 92 (1), the applicant has provided a Visual Assessment from Patrick Corfe Landscape Architects Limited.

In describing the existing landscape character of the locality this assessment indicates that residential development in the area is maintained at a low density, with houses being well spread out from each other and in some cases in isolation. Many are also on more elevated ground to enable enjoyment of the views of the surrounding landscape (pg 3). The environment also includes rural accessory buildings and the installations at the Satellite Earth Station to the north on Satellite Station Road. (pg 4)

The assessment appears comfortable that the earthworks proposed will not have a major visual effect and will in time be mitigated by areas of native planting and regeneration. This appears to be helped by the visual isolation of the area, particularly the limited viewing audience to the south. The assessment explains that the lots as proposed are located some way below the sites northerly ridgeline and have further visual containment by the ridgeline further to the south of the site. There will be some minor alteration to the top of the northern ridge, but the assessment considers this will not bring about a negative visual effect (pg 5).

The assessment examines the visual effects of the proposal from various view point locations to the north, to the south, in relation to motorists on State Highway 1 and users of public reserves to the north and to the west. In all cases except in respect of the dwelling on proposed Lot 5 which is one of the application sites for which a boundary relocation is sought, the visibility is judged as 'Low' and the visual effects as being a 'Low level of visual effect'. This is interpreted in the report as having a no more than minor effect on the existing view and not having a marked effect on the overall quality of the scene. (pg. 6 & 7).

The final conclusions in the report indicate that:

'For static viewing audiences . . . The sites southerly orientation and location below a ridgeline restricts its visibility from the north. Viewed at a distance from locations to the south, the proposal will be within their northerly aspect but viewed at a significant distance and in the context of complex landscape of valleys, ridges and vegetation.'

'...The sites location on the south of a ridge facing away from the State Highway ensures the lots themselves will not be visible from the State Highway. Any earthworks associated with the drive access will be of short duration and minimal visual impact from this transient view.'

'It is the conclusion of this Visual Assessment that the proposal will have no adverse visual effects on landscape character or amenity values within this rural setting. The potential viewing audience is very limited and any visual effect of the proposal is lessened by distance from the site, undulating topography and vegetation.' (Section 6.0 'Conclusion' pg 7).

Therefore based on the Landscape and Visual evidence that has been presented in the application it is accepted that the adverse effects in terms of landscape and visual issues and how these relate to the rural character and amenity values are no more than minor. It is noted that while there has been no specific assessment of the effects arising from having dwellings on all five sites proposed (3 additional sites under this subdivision and two existing sites), the report does indicate that due to the limited viewing audience, topography and vegetation, any potential cumulative effects (being the combined effect of this proposal along with the effects of existing development and subdivision) are not considered to be of any significance.

The submission of Paul Grimmer which has been lodged by O'Conner Planning Consultants Limited raises some concerns about adverse effects on rural character and amenity values. It is understood this submitter's property (Lot 2 D.P 128205), directly adjoins the larger application site Lot 2 D.P 394615 in the southwestern corner.

The submitter's concerns relate to how increased traffic movements from three additional lots on roads that currently experience very minimal traffic movements (Radiata and Satellite Station Road) will alter the peaceful and quiet rural setting currently enjoyed by them. They also relate to concerns about how the introduction of the three new lots will increase the residential intensity and create a more residential character than currently exists and increase vehicle noise disturbance. There has also been specific concern expressed about the unusual circular shaped area with connected access on proposed Lot 4 and the potential for this to become a building platform, rather than the platform shown further to the north-east. The submitter seeks that should consent be granted to the proposal, this area be planted in native vegetation, and the building platform as shown on the scheme plan for proposed Lot 4 be fixed to the area identified on the submitted plan by way of a Consent Notice.

In my view given the landscape orientation of the Mahurangi Waiwera Special Character Zone/East Coast Rural zone and the assessment that has been undertaken on three of these sites, if the Panel is minded to grant consent to the application, all four building platforms in the positions indicated on the scheme plan should be subject to Consent Notices. It is noted that under Rule 7.14.4.9 of the Rodney District Plan (which refers to 7.14.3.2.9) this is technically a requirement, however outside of landscape zones is often only recommended at the planner's discretion. Taking account of the non-complying status of the application and the imperative to secure significant environmental benefit if subdivision is to occur, I also concur with the submitter's wish to see the circular area on Lot 4 planted in native vegetation. It would also seem logical to include it in the covenanted areas as well. In my view leaving the area unplanted and uncovenanted creates a situation where the adjacent covenanted areas will be more vulnerable to 'edge effects' from the activities that might take place in this area.

In respect of the other matters raised by this submitter it is considered the intensity of five rural-residential sites is a level of residential activity that is not unanticipated by the Plan in circumstances where the environmental protection or enhancement provisions of the Plan are met. It is noted that Rule 7.14.4.3 (a) (iii) in the 'Subdivision for Significant Enhancement Planting' rules allows a maximum total of five rural-residential lots by this means.

The less significant component of the application involves a boundary relocation to increase the size of the smaller application site Lot 1 D.P 394615, from 9206m² to 1.1ha to create proposed Lot 5. It is considered this increase in size will have little adverse effect on rural character and amenity issues. While some land area will be taken from the larger site that will form proposed Lot 4, this represents a very small amount of land and as the land area in proposed Lot 4 is almost entirely intended to be covenanted, there is no issue of existing production based activities being marginalised. The increased land will also mean proposed Lot 5 will be a more similar size to the other three additional rural-residential sites that have been proposed. There is however unlikely to be little change to how this lot operates as the main development on the site has already taken place (existing dwelling) and the increased land that will be gained adjacent to the northern boundary of the site is mainly incorporated into a right of way.

Finally based on the concerns that have been expressed about the ecological aspects of the application and notwithstanding the conclusions of the Visual Assessment, it is considered the creation of additional sites within the rural zone without adequate environment benefit does in itself pose a threat to the rural character and amenity values. As all subdivision will inevitably cause some degree of rural character and amenity effect, this needs to be offset by environmental mitigation. While environmental mitigation has been provided it has been determined that this is not of an adequate standard and therefore the rural character and amenity effects are not being mitigated to the extent they should be or to the degree the Plan expects.

Traffic and Transportation Effects

In accordance with Council's usual practice with resource consent applications, the proposal has been assessed by David Mitchell and Mairi Joyce of T2 Engineers, who are the Council's Consultant Traffic Engineers.

In respect of the site access arrangements for the proposed lots in the subdivision the assessment notes that the current right of way serving the existing sites, which traverses land owned by Telecom, currently has five lots using it. Following the proposed subdivision the number of lots will increase to eight.

The assessment considers that based on the Standards for Engineering Design and Construction, the right of way should be sealed with a width of at least 5.5 metres (exclusive of channels) as per the standard and this should be made a condition of consent.

It is noted the assessment wrongly considers the site is zoned for Countryside Living purposes when it is actually zoned Mahurangi Waiwera Special Character Activity Area/East Coast Rural.

In their application the applicant has made it clear that they are only proposing an upgraded metal surface for the right of way. The following is an extract from the application which discusses this:

'The standard of construction has been discussed with Council engineers. It has been agreed in principle that for two extra lots an upgraded metalled surface will be required for all areas less than 1:8 but where the grade exceeds this, a 5.2 metre wide concrete surface will be required.' (7.1.1.3 'Infrastructure, access' pg 9 AEE)

It is understood the recommendation for a sealed right of way by the Consultant Traffic Engineers largely relates to concerns about safety that arise from lack of maintenance over time that typically occurs with right of way situations.

This issue will be discussed in further detail in the section of the report that comments on the development engineering issues, however it is noted the applicant has offered a condition of consent that is intended to address the Council's concern about the state of the right of way, particularly in respect of damage that may result during the construction period to develop the lots.

Council's Traffic Engineer is satisfied that the current unformed public road (wrongly identified in the assessment as Satellite Station Road) Radiata Road that approaches the site from the north in a westerly position to the right of way and runs along the northern boundary of the site, does not need to be formed.

Essentially the application poses no major parking or loading issues. In respect of traffic generation and distribution the assessment identifies that 27 additional daily vehicle movements will be generated with three peak movements as a result of the three additional lots. This level of traffic increase is expected to have a less than minor effect on the local roading network.

In respect of safety issues, while four crashes have been recorded within 100 metres of the intersection of Satellite Station Road and State Highway One, it is considered this is likely due to a sight distance issue at the Twin Streams Road intersection with the State Highway rather than the Satellite Station Road intersection. On this basis the overall conclusion is that the proposed development would not be expected to lead to a more than minor increase in accidents at the intersection.

In respect of all matters, it is concluded that there is no traffic related reason that consent should not be granted subject to recommended conditions. It is considered the conditions relating to parking spaces for residential units are a requirement under the transportation and access provisions of the District Plan anyway and therefore do not need to be re-imposed as conditions. In respect of the requirement to seal the right of way to a 5.5 metre standard, this will be discussed later in the report, but the main effect this condition seeks to address can be mitigated with a maintenance condition that the applicant has provided some level of agreement to in principle.

Development Engineering Issues

The application has been assessed by Council's Development Engineer Cameron Ure in respect of the following matters:

- Engineering suitability for proposed use
- Earthworks
- Silt and Dust Control
- Stormwater
- Water supply
- Sanitary sewerage
- Existing road access
- Onsite access and parking
- Health and Safety Issues
- Engineering Plans
- Contributions

In respect of geo-technical engineering issues the report discusses the need to place 13,000m³ of fill to establish a stable building platform on Lot 1. Sub-soil drainage for stability reasons is also required for proposed Lot 1.

In relation to stormwater, the development is not in an urban drainage area and therefore private on-site disposal is required. As part of the development two culverts are proposed. The first will drain the infill on Lot 1 to Lot 2 and will require an easement in favour of Lot 1 to allow the owners of this lot to undertake maintenance. The second culvert drains under right of way 'y' and again will require an easement over Lot 2 to allow the owners of Lot 3 to carry out any maintenance. The subsoil drainage under the fill on Lot 1 will remain a private pipeline. A recommendation of the geotechnical report is that the rainwater tank overflow be discharged down hill of the building platform and away from wastewater disposal areas. In an area that is outside the Water Supply Area, the use of rainwater tanks is standard practice and acceptable.

In respect of waste-water, the lots, all of which are over 1 ha in size, are of sufficient land area to enable onsite wastewater disposal, however because there is engineered fill on proposed Lot 1 it is recommended the field is placed between the building platform and the right of way.

In respect of the access arrangements for the subdivision, the assessment comments that the applicant proposes to use the right of way 'D' from Satellite Station Road (shown as Thompson Rd on the scheme plan), rather than extending Radiata Road to the west. The number of users will be increased from the present situation of five to eight users. The Engineer considers the right of way should be formed to a Rural Type 1 standard, with a 5.5 metre width exclusive of channels. It is clear the preference from a development engineering point of view is that right of way 'D' is upgraded to this standard, however there is also a level of acceptance that concerns in respect of maintenance can also be adequately addressed with a condition that a metal surface is maintained for a period of five years. (It is noted any section with a grade steeper than 1 in 8 shall be finished in a concrete standard). Such a condition has been prepared with some consultation from the applicant and involves the submission of an engineering report before the expiry of the five years to ensure, if required, the right of way is returned to Council's rural metal standard as was required under the subdivision conditions.

In respect of the right of ways 'Z' and 'Y' which serve lots 1-3, a metal construction is acceptable given the low number of users, except again where the grade is more than 1 in 8.

As shown on the scheme plan that has been submitted with the application, a roughly formed section of Radiata Road runs from east to west between the termination of right of way 'D' and northern boundaries of the sites. The Engineer requires that Radiata Road from right of way 'D' to 6 metres below right of way 'Z' (serving Lots 1-3) shall be formed to give access to Lots 1-3 and those lots further to the east and this will be required to be constructed to a rural metal road standard two lanes wide. It is noted that the submission from Alastair Mitchell Pearce and H. E Pearce calls for this part of Radiata Road to be formed to a standard that allows for logging traffic, being a formed and metalled carriageway of at least 4 metres in width. Obviously a balance needs to be reached between imposing conditions that are fair and reasonable and relate to the effects that arise from the subdivision and the need to provide a reasonable standard of access to these lots, particularly having regard to the location of a section of public road between right of way 'D' and 'Z' and the need to ensure the formation of this section of road is in a fit state to be used by all members of the public.

Engineering plans will be required to be submitted in respect of the private culverts, vehicle crossings and various right of ways. Financial contributions have been calculated at \$19,587.22 for sportsfields, community facilities and roading purposes.

Overall it is considered provided the recommended conditions of consent are imposed which have been attached to the Development Engineer's assessment that there is no development engineering reason why consent for the application should not be granted.

Section 104(1) (b) Any Relevant Plan Provisions

District Plan Provisions

Plan Change 55

Objectives and Policies

9.6 The proposal is considered to be generally **consistent with** the following objectives and policies that relate to the Mahurangi-Waiwera Special Character Activity Area.

- (a) Objective 5.1 (pg 195)
- (b) Policies 5.2 (i), (ii), (viii) (pg 195-196)

9.7 These provisions seek to protect and retain the natural coastal and non-urban character of the Mahurangi Harbour and the associated surrounding rural backdrop as well as the water quality and water habitat of the Mahurangi River by controlling land modification activities such as earthworks, particularly along the harbour and waterways. They accept that the process of boundary relocation may allow landowners to better manage their landholdings, provided there are no undesirable landscape, character or natural environmental effects or the interruption of existing productive activities. It is considered particularly in a wider environment context the proposal will not bring about adverse effects on the natural, coastal and non-urban character of the Mahurangi Harbour and the rural setting that forms an associated part of this feature. While an additional three lots will be created, it appears the low visibility of the site, due largely to its topographic characteristics and that of adjacent areas, assists in minimising serious character changes in the wider locality within which the Mahurangi Harbour is contained. It is considered that the boundary relocation sought, which will involve including just under 2,000m² of additional land into an existing rural-residential lot, will not bring about undesirable environmental effects and will not affect production activities as the extra land area will come from proposed Lot 4 which the applicant proposes to almost entirely covenant as part of the proposal.

9.8 The proposal is considered to be **inconsistent with** the following policy that relates to the Mahurangi-Waiwera Special Character Activity Area.

- (a) Policy 5.2 (vi) (pg 195)

9.9 This policy relates to an intention to operate an incentive system by using subdivision to legally and physically protect native bush and vegetation and other natural features by providing for the subdivision of additional sites on landholdings where these features are legally and physically protected. It is accepted that even a completely complying enhancement planting subdivision under Rule 7.14.4 of the Rodney District Plan would not strictly conform with this provision as Plan Change 55, being the older planning document of the two, does not provide for this as a subdivision option. However, often with such applications an argument can be made in terms of the application delivering the same environmental benefits as envisaged under Plan Change 55. In this case the assessment of Council's Ecological Adviser, Rue Statham, indicates there are significant outstanding concerns in respect of the quality of regeneration being put forward as a benefit, inadequate weed and pest control and uncertainty about the level of planting that has taken place. Because of these concerns it is difficult to be able to support the subdivision proposed and it is considered the Plan and this policy indicates that there was never an intention for such subdivision to take place without this being secured, otherwise the system of providing an incentive for subdivision is undermined.

Rodney District Plan-Operative in Part

Objectives and Policies

9.10 The proposal is considered to be generally **inconsistent with** the following objectives and policies that relate specifically to the East Coast Rural zone, and the more general rural policies listed in (c).

- (a) Objective 7.8.2.1.2 (East Coast Rural zone)
- (b) Policies 7.8.2.2.6 & 7.8.2.2.7 (East Coast Rural zone)
- (c) Policies 7.4.10 & 7.4.11 (General policies)

9.11 A repeated theme of these provisions is the expectation that high quality and diverse environmental enhancement will take place if subdivision for further rural-residential opportunities is going to occur in this high quality coastal landscape environment. Therefore subdivision is not encouraged except within these limited circumstances where it may generally be considered appropriate. Policy 7.8.2.2.7 is particularly targeted in this regard, indicating that further subdivision should be limited in the zone and should only occur when undertaken as part of enhancement type subdivision such as protecting

significant natural areas, enhancement planting or land rehabilitation meeting policies 7.4.10 and 7.4.11 as appropriate. Policies 7.4.10 and 7.4.11 are over-arching rural policies that are not necessarily specific to any zone. Policy 7.4.10 is considered to be most relevant to this proposal as it refers specifically to the enhancement planting subdivision option. It indicates that the adverse effects of subdivision should include the enhancement and restoration of native habitats and ecosystems and should be undertaken when the following is provided:

'(c) significant restoration or enhancement of areas which are largely depleted, highly modified or destroyed in terms of native biodiversity within the District; and

(d) compensation, mitigation or remediation to offset the adverse effects of subdivision or development.'

Furthermore the 'Explanation and Reasons' provided under policy 7.4.10 states the following: *'Where enhancement is to occur, the extent of enhancement needs to be significant and such enhancement should only occur where there is an existing natural area of high value, or where the enhancement would restore an area which is heavily degraded. Restoration/enhancement in other circumstances is not appropriate.'*

Council's Ecological Adviser has undertaken a peer review of the environmental benefits that have been offered under the application and has considered they do not demonstrate an equivalent benefit to the benefit anticipated under the 'Subdivision for Significant Enhancement Planting' in the Rodney District Plan. While acknowledging there is a degree of environmental benefit to be realised from the proposal, he has concerns about the level (maturity) of regeneration, the lack of weed and pest control that threatens to have quite a detrimental effect on the current and future environmental benefits that might otherwise result and the uncertainty about the planting that has taken place, as supplementary enhancement to the regeneration.

It is clear the objectives and policies that have been outlined above do not simply expect a moderate level of benefit but a significant and extremely worthwhile benefit, otherwise the benefits do not sufficiently offset the adverse effects of the subdivision, which is of particular importance in a zone that has the natural features and landscape attributes of the East Coast Rural Zone.

9.12 The proposal is considered to be **consistent with** the following policies.

(a) Policies 7.8.2.2.1, 7.8.2.2.4, 7.8.2.2.8 & 7.8.2.2.10.

9.13 The reason why the proposal is considered to be consistent with these provisions is that based particularly on the landscape and visual evidence presented in the application (Patrick Corfe Landscape Architect Limited), the location of the three additional lots is not expected to adversely affect landscape issues in relation to the Mahurangi and Waiwera estuary areas or other distinctive and high quality landscapes identified as being particularly sensitive to new land-use activity and subdivision. The isolated visual catchment the proposal falls within assists in ensuring serious effects on the non-urban rural character, and amenity values are avoided, including cumulative effects. The assessment of Council's Consultant Traffic Engineer has also confirmed there are no major implications in relation to road traffic and safety issues. It is acknowledged the proposal will lead to some enhancement of the environment from the current situation or previous forestry activity.

Assessment Criteria

9.14 The Rodney District Plan - Operative in Part also provides assessment criteria for subdivision in the East Coast Rural Zone under Rule 7.15.3. In summary the provisions of this zone specific assessment criteria, contained in (a)-(f) are concerned about minimising land-form modification to avoid landscape and water quality effects. They also seek to avoid adverse effects on the high landscape values in the zone or effects of this nature on the visual amenity values generally through the inappropriate location of building platforms, site configuration, scale and character of subdivision proposals. Clause (f) of the assessment criteria indicates that for land in the Mahurangi Harbour catchment, opportunities to provide walkways or connections to other reserves or to provide access or lookouts over the Mahurangi Harbour should be encouraged. It would appear the location of the sites would prevent this option being explored as the sites are a reasonable distance inland to the west of the harbour and

do not appear to immediately adjoin reserve land. In respect of the other aspects of the assessment criteria it is considered again the landscape and visual assessment submitted in support of the application essentially confirms the location and design of the subdivision and the associated land modification (involving 24,850m³ of earthworks) is not inappropriate in landscape terms. Given the volume of earthworks involved and their location above a covenanted watercourse/riparian area, it is considered important that, if consent approval results, effective silt retention controls should be imposed to avoid adverse water quality effects on this waterway and others in the areas. Overall it is considered solely in respect of the limited range of matters the assessment criteria in Rule 7.15.3 addresses (relating to landscape issues, water quality and public access), that the application is on balance not inconsistent with these provisions.

Any Relevant National Policy Statement or Regional Policy Statement

The Auckland Regional Policy Statement (ARPS) and Plan Change 6

- 9.15** The Auckland Regional Policy Statement (ARPS) is a regional planning instrument that seeks to achieve integrated and co-ordinated management of the regions natural and physical resources. A wide range of regionally important issues are evaluated in the document including issues relating to subdivision and development in the rural environment. The ARPS became operative in 1999.
- 9.16** The 'Regional Overview and Strategic Direction' section of the document, Chapter 2, identifies and discusses key issues relating to a broad array of regionally based issues in respect of for example, the quality of the environment, the protection of rural zones, the natural character of the coast, heritage resources, transport efficiency, significant natural features and landscapes and areas of significant indigenous vegetation. Under these issues 'Strategic Objectives' and 'Strategic Policies' are set.
- 9.17** Strategic Objective 2.5.1.3, seeks to protect the soil resources, amenity values, rural character, landscape values and mineral resources of rural areas, from the regionally significant effects of inappropriate subdivision, use and development. Strategic Policy 2.5.2.5, seeks to ensure the subdivision, use and development of land is managed so that rural soils are safeguarded, rural resources are able to meet the needs of future generations and so significant adverse effects on the environment including the effects on the rural character of rural areas and on regionally significant environmental values are avoided or where avoidance is not practicable, remedied or mitigated.
- 9.18** The submission from the Auckland Regional Council (ARC) who are the regional authority that administer the ARPS indicates that the ARC feel the proposal is inconsistent with Strategic Policy 2.5.2.5 as outlined above. They have also indicated that *'the application does not demonstrate sufficient ecological benefit to justify the level of development proposed and unnecessarily increases built development within this regionally significant landscape.'* (Point 5 of ARC submission dated 19/03/10). I concur with this comment, and in relation to the provisions outlined above, consider that because there is not a high enough standard of ecological benefit offered under the proposal the entitlement to subdivide the land has failed to be demonstrated, therefore the rural character and amenity effects, effects on rural resources and on rural environmental values that inevitably will occur through the subdivision are not sufficiently mitigated. On this basis the application is considered to represent inappropriate subdivision in the rural environment.
- 9.19** Proposed Plan Change 6 to the ARPS was notified in 2005, and it is understood the change is still under appeal in the Environment Court. This change arose out of a desire to give effect to the Auckland Regional Growth Strategy which seeks to integrate land use and transport activities. Under Proposed Change 6, Strategic Objective 2.6.1.8 seeks to protect amenity values, rural character and landscape values of rural areas from inappropriate subdivision use or development. It is also noted that Strategic Policy 2.6.2.5 (i) relating to urban containment clearly expects that settlement in a rural location will achieve environmental restoration and/or enhancement. As discussed above in relation to the ARPS, it is considered the environment enhancement offered in the proposal will benefit the environment ecologically, however in assessing the application against the enhancement planting provisions of Rule 7.14.4 in the Rodney District Plan (on which the application is based), it has been determined this benefit is not to the standard expected in terms of providing sufficient mitigation of effects arising from subdivision activity.

Section 104 (1) (c) Any other Matter

Relevant Council Documents

Vision Rodney

- 9.20** Vision Rodney is a strategic vision document which was formed through local community involvement and the facilitation of Council, whereby the people of Rodney articulated what they value in the district, what they would like to see change and what they want for the future. It is a non-statutory document.
- 9.21** The document is structured into six outcomes and associated outcome statements. The statements that are considered to hold the most relevance to this resource consent application are:
- Outcome 3 'Distinctive' - *'We will maintain and enhance the character of our townships and rural areas through excellent urban and rural planning and the intelligent management of growth.'*
 - Outcome 6 'Clean and Green' - *'We will continue to value, protect and enjoy the natural environment.'*
- 9.22** In respect of Outcome 3, 'Distinctive', discussion in the document indicates that people want to retain green belts around townships, and they want to retain the open space character of the district and to protect important landscape features such as ridgelines. Importance is also placed on the protection of ecological features.
- 9.23** In relation to this discussion for Outcome 3 the following comments are made. The landscape and visual evidence provided in the application demonstrates that the location and configuration of the additional sites proposed do respond sensitively to the landscape quality of the environment and due to the design of the subdivision and the site attributes adverse effects on distinctive landscape features such as prominent ridgelines are avoided. It is however considered important that in order for the greenbelt areas around townships and the open space character of the rural parts of the district to be retained, subdivision in rural zones that have not be set aside for countryside living purposes, should generally only occur in circumstances where an environmental benefit that offsets the effects from creating new rural-residential lots can be demonstrated.
- 9.24** In respect of Outcome 6, 'Clean and Green', discussion in the document indicates that people very much appreciate the natural elements such as the native bush and coastal environments that are a part of the Rodney District. People also appear to be seeking some flexibility in how natural areas are protected through covenants etc, but they also indicate that cautious decisions should be made in relation to fragmenting rural land.
- 9.25** In relation to this discussion for Outcome 6 the following comments are made. It is considered there can be some flexibility exercised in the way the subdivision rules are administered provided equivalent environmental benefits are achieved against those proposals that more closely meet the provisions of the District Plan. On the other hand it is also clear people are concerned about subdivision in the rural environment being given too lightly and bringing about an irreversible change to this environment. Given the outstanding concerns of Council's Ecological Adviser in respect of the ecological benefit offered in this application in relation to the three additional lots sought, it is considered this proposal fails to demonstrate that the subdivision, which will inevitably bring about effects and change to the existing rural environment, is appropriate because the effects of fragmenting the land have not been sufficiently mitigated. On this basis, the application is not considered to be consistent with some of the underlying intentions that contribute to this outcome.

Planning Rodney

- 9.26** Planning Rodney is *'A strategic future focused picture' of the district based on known growth, economic, social, environmental and cultural factors, that indicates the direction we, as a district, are heading in. It provides focus and the staging by which we will get there.'* (pg 2 'Executive Summary'). It was adopted in December 2008 and is understood to be a spatial representation of 'Vision Rodney'. Again as with 'Vision Rodney', 'Planning Rodney' is a non-statutory document.

- 9.27** Under this document the application site falls within the 'Kaipara-Mahurangi Green Buffer Area' (GB2). The document indicates that buffer areas identified in the document have a preservation and enhancement focus. The Council's strategic approach to these areas is one of balance, where it is important they should be protected from further degradation, but it is also acknowledged they cannot be frozen in time and therefore it is accepted they will be farmed, used for forestry or rural lifestyle options.
- 9.28** It is indicated the Council will '*encourage a high degree of protection and enhancement of the green buffer areas, principally through the District Plan*' and also '*restrict further rural subdivision.*'(3.5.4 Green Buffer Areas pg 33).
- 9.29** It is considered the application is aligned within the intentions of the 'Planning Rodney' document in the Kaipara-Mahurangi Green Buffer Area by seeking to undertake the enhancement and ongoing protection of an 18 ha area of former forestry land. However it is considered the extent of development potential sought (particularly in an area that is recognised as having special qualities) in exchange for this level of enhancement is not considered sufficient. The document indicates an intention to restrict further subdivision, and therefore it could be expected the subdivision rules within the identified 'Green Buffer Areas' may become more stringent than they currently are. As the application falls short of the current standard expected under the District Plan provisions, it is considered the proposal is not in this regard consistent with the over-riding direction of the 'Planning Rodney' document.

The Integrity and Consistent Administration of the Plan

- 9.30** It is considered granting consent to this application could potentially undermine the integrity and consistent administration of both applicable plans but particularly the Rodney District Plan - Operative in Part.
- 9.31** Outside of Countryside Living or Kawau Island zoning and apart from some limited exceptions (relating to the General Rural Zone Rule 7.14.1.1 (g) or Subdivision for Household Units on Maori Land) all subdivision opportunities that are provided for in all the other rural zones in the Rodney District Plan, being the General Rural, East Coast Rural, Landscape Protection Rural and Dune Lakes zones require that a certain standard of environmental benefit is present, achieved or can be achieved before there is a potential for a landowner to have subdivision rights. This may relate to the protection of natural areas such as significant native bush or wetland, significant enhancement planting or significant land rehabilitation or the creation of additional public reserve land or esplanade reserves. Some subdivision types are limited to only certain zones.
- 9.32** The need for a high standard of environmental benefit before subdivision can take place is therefore a cornerstone of the rural subdivision rules in Rodney. It is considered granting consent to an application that does not meet this standard will undermine the ongoing administration of the Rodney District Plan and Plan Change 55 and this may be widespread across the zones and various subdivision types, which while different, operate on a similar premise that offering an environmental benefit of a certain standard can provide a subdivision entitlement. It is considered this would most severely affect the integrity of the 'Subdivision for Significant Enhancement Planting' rules in 7.14.4 of the Rodney District Plan, as the applicant justifies the proposal on the basis of these rules. The application is not considered to exhibit any distinguishing features and therefore an expectation would be created that similar applications would be treated the same way.

Section 104 Assessment Conclusions

- 9.33** Overall it is considered that having regard to all the relevant section 104 matters that consent be *refused*.

SECTION 104D ASSESSMENT

10.0 As a non-complying activity section 104D of the Act states that the Council may only grant consent if it is satisfied that either:

- (a) the adverse effects of the activity on the environment will be minor; or
- (b) the application is for an activity that will not be contrary to the objectives and policies of the relevant plan.

10.1 Based upon the section 104 assessment of actual and potential effects in Section 9 of this report, it is considered that the adverse effects on the environment relating to the insufficient standard of environmental benefit offered in the application, and consequently the lack of mitigation provided to offset the adverse effects of the subdivision such as on the rural character and amenity values will be no more than minor. The reasons for this conclusion are set out in the Section 9 assessment.

10.2 Based upon the section 104 assessment of the relevant objectives and policies of Plan Change 55 and the Rodney District Plan-Operative in Part in Section 9 of this report, it is considered that the proposed activity will be contrary to the following objectives and policies.

Plan Change 55

Policy 5.2 (vi)

Rodney District Plan - Operative in Part

Objective 7.8.2.1.2

Policies 7.8.2.2.6 & 7.8.2.2.7

Policies 7.4.10 & 7.4.10.

The reasons for this conclusion are set out in the Section 9 assessment.

10.3 Overall it is considered that the proposal fails to meet either of the gateway tests and should not be considered for the grant of consent.

PART II ASSESSMENT

11.0 The purpose of the Act is to promote the sustainable management of natural and physical resources. In terms of section 5 of the Act it is considered the application falls short of doing this as it seeks to create three additional rural-residential sites without adequately mitigating the adverse effects from this subdivision through offering a high enough standard of environmental enhancement.

11.1 The following matters of national importance are relevant to this application. *'Section 6 (b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development.'* The application site falls within a regionally significant landscape under the Auckland Regional Policy Statement 1999. While the applicant has provided professional evidence in their application that indicates the proposal will not have adverse visual effects on landscape character or amenity values within this rural setting, a certain level of effect will always result from the additional development and environmental changes that inevitably come about through the creation of additional titles. Because the application does not adequately mitigate this effect with the level of environmental enhancement expected under the District Plan, it is not considered to be an appropriate development within this important landscape.

11.2 The following other matters are considered to be relevant to this application. *'Section 7 (b) the efficient use and development of natural and physical resources.'* Because the application does not demonstrate a sufficient environmental benefit, it is considered it does not represent an efficient use or development of the rural land resource.

11.3 There are no section 8 Treaty of Waitangi matters relevant to this application.

- 11.4 Overall it is considered this application is contrary to Part 2 matters. The matter of greatest concern clearly centres on seeking subdivision in the rural zone without sufficient environmental enhancement which would mitigate adverse effects to the level anticipated under the relevant planning documents.

RECOMMENDATION

That, pursuant to Sections 104 and 104D of the Resource Management Act 1991, the notified application for resource consent by Prestin Barbarich to undertake a five lot subdivision which will create three additional lots based on the protection of 18 ha of naturally regenerating areas, existing bush and enhancement planting as well as 24,850m³ of associated earthworks and a boundary relocation at a site at Radiata Road, Warkworth (Lot 1 & 2 D.P 394615 C.T 389641 & C.T 389644) is refused consent.

REASONS FOR THE RECOMMENDATION

Pursuant to Section 113 of the Resource Management Act 1991, the reasons for this decision are as follows:

- (a) The high standard of environmental benefit the Plan expects in an application for subdivision in this zone needs to be thoroughly and very robustly demonstrated in the proposal, particularly as the application is a non-complying activity. The application fails to do this. The most logical comparison to make with this application was with the 'Subdivision for Significant Enhancement Planting' option under rule 7.14.4 in the Rodney District Plan - Operative in Part. In his professional view Council's Ecological Adviser considers the proposal does not demonstrate an equivalent benefit to the benefit anticipated under these rules, with the regeneration maturity and stem density in the majority of areas being low relative to the planting density standards expected under Rule 7.14.4 and the Kanuka and Manuka planting over a 9.2 ha area on the site not fully demonstrated. Furthermore there are major concerns in respect of weed and pest control issues that have not been addressed and threaten to quite significantly diminish the environmental mitigation that might otherwise contribute to the proposal.
- (b) While it is acknowledged the applicant has provided a professional opinion which has determined the proposal will have no adverse visual effects on landscape character or amenity values within this particular rural setting, it is nevertheless considered the creation of additional sites within the Mahurangi-Waiwera Special Character Activity Area/East Coast Rural zone without adequate environmental benefit still poses a threat to the rural character and amenity values in the sense that all subdivision will inevitably cause some degree of effect in relation to these issues through associated land modification, environmental changes and additional potential for development to occur. These effects need to be offset by environmental mitigation. While this has been provided it has been determined that it is not of an adequate standard and therefore the rural character and amenity effects are not being mitigated to the extent they should be or to the degree the plan expects. The effects on rural character and amenity are therefore considered to be more than minor.
- (c) Under the objectives and policies for the Mahurangi-Waiwera Special Character Activity Area in Plan Change 55, it is accepted that in a wider environment context the proposal will not bring about adverse effects on the natural, coastal and non-urban character of the Mahurangi Harbour and the rural setting that forms an associated part of this feature. The application is however considered to be inconsistent with Policy 5.2 (vi) that indicates the Plan seeks to operate an incentive system by using subdivision to secure a worthwhile environmental benefit. It is accepted the application will deliver some environmental benefit, but not to a standard that justifies the level of subdivision that is being sought.
- (d) The application is also considered to be inconsistent with objectives and policies for the East Coast Rural zone and policies for the rural zones in general. A recurring theme of these provisions is the expectation that high quality and diverse environmental enhancement will take place if subdivision for further rural-residential opportunities is going to occur particularly in a high quality coastal landscape environment. Based on the assessment of Council's Ecological Adviser it is considered the 18 ha of naturally regenerating areas, enhancement planting and

existing bush does not represent high quality and diverse environmental enhancement. The 'Explanation and Reasons' provided in the Plan that relate to some of these provisions indicate that where enhancement is to occur, the extent of enhancement needs to be significant.

- (e) Provisions in the Auckland Regional Policy Statement 1999 (ARPS) and Proposed Change 6 seek to protect the rural environment from the regionally significant effects of inappropriate subdivision, use and development (Strategic Objective 2.5.1.3 ARPS, Strategic Objective 2.6.18 Proposed Change 6) because there is not a high enough standard of ecological benefit offered under the proposal, and the entitlement to subdivide the land has failed to be demonstrated, therefore the rural character and amenity effects, effects on rural resources and on rural environmental values that inevitably will occur through the subdivision are not sufficiently mitigated. On this basis the application is considered to represent inappropriate subdivision in the rural environment and is inconsistent with these aspects of the ARPS.
- (f) The application is not considered to align with some of the underlying intentions relating to Outcome 3 'Distinctive' and Outcome 6 'Clean and Green' in the 'Vision Rodney' document. Under 'Planning Rodney' which is a spatial representation of 'Planning Rodney' the site falls within the 'Kaipara-Mahurangi Green Buffer Area' (GB 2). In this area Council's strategic approach is to encourage a high degree of protection and enhancement and to also restrict further rural subdivision. As the application is considered to fall short of the current standard expected under the District Plan provisions, it is considered the proposal is not in this regard consistent with the over-riding direction of the 'Planning Rodney' document.
- (g) Overall it is considered the proposal fails to meet either of the gateway tests under section 104 D, in that the adverse effects of the activity on the environment will be more than minor and the proposal is contrary to some objectives and policies in Plan Change 55 and the Rodney District Plan - Operative in Part.
- (h) It is considered the application is contrary to Part 2 matters and in particular the 'sustainable management' purpose in Section 5 of the RMA. The matter of greatest concern clearly centres on seeking subdivision in the rural zone without sufficient environmental enhancement which would mitigate adverse effects to the level anticipated under the relevant planning documents.

ATTACHMENTS

ATTACHMENT A:	Extract from the application
ATTACHMENT B:	Submissions
ATTACHMENT C:	Development Engineer's Report from Cameron Ure
ATTACHMENT D:	Consultant Traffic Engineer's Report (David Mitchell/Mairi Joyce)
ATTACHMENT E:	Comments from Council's Ecological Adviser Rue Statham
ATTACHMENT F:	Extracts from the Rodney District Plan in relation to Designation 809 and a copy of the scheme plan for RMA 39777