



**NOTICE OF MEETING**

**RESOURCE CONSENTS HEARINGS PANEL**

**TO:** Chairperson                      Alan Watson  
         Crs                                      June Turner  
            Suzanne Weld

A meeting of the Resource Consents Hearings Panel will take place in the Council Chamber, Rodney District Council, Centreway Road, Orewa on Monday, 20 July 2009 commencing at 9.00 a.m.

for: CHIEF EXECUTIVE  
Rodger Kerr-Newell

OREWA  
13 July 2009

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**PROGRAMME**

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

**CONSENT TO UNDERTAKE A SEVEN LOT SUBDIVISION OF A SITE, WHICH IS IN THE LOW INTENSITY RESIDENTIAL ACTIVITY AREA AND THE RESIDENTIAL L (LOW INTENSITY) ZONE AND IS IN THE MCKINNEY ROAD STRUCTURE PLAN AREA (WARKWORTH).**

**UNDER THE RODNEY DISTRICT PLAN - OPERATIVE IN PART THE SITE IS TRAVERSED BY AN INDICATIVE ROAD. RULE 23.8.13 IN THIS PLAN REQUIRES THE ROAD TO BE FORMED TO THE EXTENT REQUIRED TO SERVE THE LAND WITHIN THE SUBDIVISION AND VESTED IN COUNCIL. THE SUBDIVISION SOUGHT DOES NOT PROPOSE EITHER THE VESTING OR FORMATION OF THE INDICATIVE ROAD**

Address: 21 Wilson Road, Warkworth

**APPLICANT: NORTERRA WARKWORTH LIMITED**

## I N D E X

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2.	<b>A NOTIFIED RESOURCE CONSENT APPLICATION UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991</b>	1

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Address: 21 Wilson Road, Warkworth

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ITEM NO: 1

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**APOLOGIES**

ITEM NO: 2

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**REPORT**



**TO** Resource Consents Hearings Panel

**ON** 20 July 2009

**FROM** Anne Hessel – Senior Planner

**SIGNATURE**

A handwritten signature in black ink, appearing to read "S. Seager".

**APPROVED FOR** Steve Seager – Team Leader Resource Consents

**RELEASE BY**

**SIGNATURE**

A handwritten signature in black ink, appearing to read "S. Seager".

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

**CONSENT TO UNDERTAKE A SEVEN LOT SUBDIVISION OF A SITE, WHICH IS IN THE LOW INTENSITY RESIDENTIAL ACTIVITY AREA AND THE RESIDENTIAL L (LOW INTENSITY) ZONE AND IS IN THE MCKINNEY ROAD STRUCTURE PLAN AREA (WARKWORTH).**

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Address: 21 Wilson Road, Warkworth

**APPLICANT: NORTERRA WARKWORTH LIMITED**

**FILE REF** RMA 54594

**WARD** Northern

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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

<b>SITE ADDRESS:</b>	21 Wilson Road, Warkworth		
<b>APPLICANT:</b>	Norterra Warkworth Limited		
<b>LEGAL DESCRIPTION:</b>	Lot 2 D.P 81296 (C.T NA37D/858)		
<b>SITE AREA:</b>	1.9066 ha		
<b>DISTRICT PLAN: ZONING:</b>	<b>Plan Change 26:</b>	Low Intensity Residential Activity Area	
	<b>Rodney District Operative in Part:</b>	<b>Plan-</b> Residential L (Low Intensity) Zone	
	<b>Other Notations:</b>	McKinney Road Structure Plan Area (Warkworth)	
<b>ACTIVITY STATUS:</b>	<b>Plan Change 26:</b>	Non-Complying	
	<b>Rodney District Operative in Part:</b>	<b>Plan -</b> Non-Complying	
	<b>Overall:</b>	Non-Complying	
	<b>SNA:</b>	None	
<b>OTHER RELEVANT CONSENTS:</b>		RMA 51954(Consent for a 5 lot subdivision)	
<b>CONSENT NOTICES:</b>		None	

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## 2.0 BACKGROUND

### S93/94 Decision

2.1 This application was fully notified for the following reasons.

- The actual and potential adverse effects of the proposal on existing and future amenity in the locality will be more than minor.
- The actual and potential effects of the proposal on the safe and efficient operation of the State Highway 1 intersection with McKinney Road may be more than minor.
- There are persons wider afield than those adjoining or who are in the immediate vicinity to the site that are considered likely to be adversely affected by the granting of the consent.

### Relevant Planning History

2.2 The applicant lodged an earlier seven lot subdivision for the same site (RMA 51954). This application was fully notified in March 2007 for reasons very similar to the reasons for full notification of this current application. Twelve submissions were received.

2.3 Following the notification of RMA 51954, the applicant in consultation with Council planning staff, altered their proposal from a seven to a five lot subdivision with lots ranging in size from 2,704m<sup>2</sup> -7,442m<sup>2</sup>. This altered proposal was re-notified on a limited basis to only adjoining landowners and people who had made a submission on the original seven lot subdivision. Four additional submissions were received from those received through the first notification.

2.4 Consent was granted by the Resource Consents Hearing Panel to the five lot version of RMA 51954 on 28 August 2008. This consent approval included a condition that required that at the time a formed legal road becomes available for the indicative road shown on the scheme plan

submitted with the application to connect to, the formed legal road was to be extended so as to align with the indicative road shown on that scheme plan. A further condition was also imposed requiring that the two rear lots in the subdivision closest to the indicative road were to relinquish any rights of way onto Wilson Road and obtain access solely from the future road to be created.

- 2.5** Following the granting of consent, the consent holder appealed this decision. The appeal centred around two conditions that had been imposed relating to the indicative road and the relinquishing of the right of ways following this. It is considered it may be useful for the Panel in making their decision to be provided with some detail on the nature of this appeal.
- 2.6** The Notice of Appeal under section 121 of the RMA indicates that the reasons for the appeal were because the conditions were unreasonable, unnecessary and therefore unlawful. In summary it was felt that the need for the indicative road only arose if the road was needed to serve the subdivision. It was considered all lots in the subdivision gained reasonable and practicable access to Wilson Road and this position would not change if an adjoining land owner forms the indicative road on their lot. It was further considered that the condition to form the indicative road was unnecessary to avoid or mitigate adverse effects from the subdivision and was therefore for an ulterior and unlawful purpose.
- 2.7** After lodging this appeal, the applicant in September 2008 lodged a new application for a virtually identical seven lot subdivision on the same site, this application being the current proposal under consideration (RMA 54594). The decision was made to fully notify this application.
- 2.8** Some months following the notification decision of this new seven lot application, the applicant decided to withdraw their appeal relating to the five lot subdivision, as they intended to pursue all issues through the new yet to be determined seven lot application.

### **3.0 THE PROPOSAL AND REASONS FOR APPLICATION**

- 3.1** The applicant Norterra Warkworth Limited propose to subdivide the 1.9066 ha site Lot 2 DP 81296 (C.T NA37D/858) into seven lots. The proposed lots sizes are as set out below:

- Lot 1- 2742 m<sup>2</sup>
- Lot 2- 2745 m<sup>2</sup>
- Lot 3- 2977 m<sup>2</sup>
- Lot 4- 2215 m<sup>2</sup>
- Lot 5- 2506 m<sup>2</sup>
- Lot 6- 3202 m<sup>2</sup>
- Lot 7- 2823 m<sup>2</sup>

- 3.2** All lots are generally rectangular in shape. Lot 1 and 2 are shown as having access off Wilson Road, by way of two reciprocal right of ways 'A' and 'B' which both extend off Wilson Road and run alongside each other along the common boundary of Lots 1 and 2, to almost halfway into these sites. While these sites could potentially have direct access off Wilson Road the applicant has indicated that the right of ways have been provided to reduce the number of vehicle crossings/road entries onto Wilson Road.
- 3.3** Lots 3-7 will access Wilson Road via the right of way system provided on the western side of the site shown on the proposed scheme plan as 'C', 'D', 'E', 'F' and 'H'.
- 3.4** The scheme plan provided with the application shows an indication of possible future Medium Intensity layout by showing a division of Lots 1 & 2 and 4-7 with a dashed line. Lot 3 has not been shown with such a division, presumably because this is the only lot in the proposed subdivision that will contain the existing development; this being a household unit, a garage and small shed and therefore this potentially creates a constraint to further subdivision of this lot.
- 3.5** The indicative road shown on Map 56 of the Rodney District Plan - Operative in Part which traverses the northern section of the application site is shown on the proposed scheme plan. The applicant states in the proposal that it is considered to be highly unlikely this proposed indicative road will be vested or formed in the short term as it passes through too many individually owned allotments and is therefore commercially unviable for any one property

owner to develop. The applicant has therefore only shown it on the scheme plan for long term strategic planning purposes and considers it can be vested from Lots 5 and 7 as and when required in the future. The vesting and formation of the indicative road does not however form part of this current seven lot subdivision proposal.

- 3.6** It is noted that the southern cul de sac extension of the indicative road which is also shown on Map 56 and straddles part of the eastern side of the application site and part of the two adjoining sites on the other side has not been shown on the proposed scheme plan, submitted for the subdivision.

**Reason for Application.**

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

**Plan Change 26**

- 3.8** Under Rule 3.4.2 subdivision as a controlled activity is provided for land within the Low Intensity Activity Area for sites with an area of 8,000m<sup>2</sup> or greater capable of containing a square for building purposes measuring 50m x 50m. Each site shall also contain a stable building area, flood free in an event with an Annual Exceedance Probability (AEP) of 1% which is suitable for building foundations complying with the requirements of the relevant building code etc.
- 3.9** Rule 3.4.2 also provides for subdivision as a discretionary activity for land in all activity areas where certain engineering related controlled activity requirements are not met and a report from a registered engineer is submitted with the application addressing these areas of non-compliance. In the Low Intensity Activity Area specifically a subdivision can also continue to be treated as a discretionary activity in any situation in which the controlled activity standard is not met but the performance criteria are met and the minimum shape dimension is not reduced below 30 metres.
- 3.10** The application clearly does not qualify as a controlled activity under Rule 3.4.2 as the minimum site size of 8,000m<sup>2</sup> is not met by Lots 1-7. The requirement to contain a square for building purposes measuring 50 m x 50 m does also not appear to be met by Lots 1-7.
- 3.11** The application also does not qualify as a discretionary activity under Rule 3.4.2. The application does not demonstrate that the minimum shape dimension for each of the lots will not be reduced by 30 metres. It would appear proposed Lot 3 may not be able to meet this. As well as this it is considered the performance criteria are not met as PC 26 states that site sizes shall be consistent with the intended level of intensity of respective activity areas. As the average lot size in the proposed subdivision is 2744m<sup>2</sup> and as the minimum site size for the zone is 8,000m<sup>2</sup>, the density of the subdivision is clearly not in accordance with the intended level of intensity. Therefore the subdivision can not be considered discretionary under Rule 3.4.2.
- 3.12** Outside what has been outlined above Plan Change 26 and Rule 3.4.2 provides no further indication as to how subdivision applications not meeting other requirements should be processed. While it is considered such an application could therefore be treated as discretionary, under section 77 C of the RMA, as an activity that the plan requires consent for but provides no classification in the way of activity status, conventionally the Council has considered such proposals on a non-complying basis. It is also noted that the previous five lot subdivision for the same site was treated as a Non-Complying Activity under Plan Change 26. On this basis it is considered the application will be considered non-complying under Plan Change 26.
- 3.13** Whilst the residential provisions in Plan Change 26 are no longer treated as being operative because the Chapter 8 'Residential' chapter of the Rodney District Plan - Operative in Part became operative on 30 January 2009, this application was lodged prior to this operative date on 25 September 2008. Legal advice received from the Council's Chief Legal Officer has indicated that under section 88A such an application should be processed, considered and decided on as an application for the type of activity that it was for, or was treated as being for at the time the application was first lodged. Section 88A also states that notwithstanding this, any plan or proposed plan which exists when the application is considered must be had regard to in accordance with section 104 (1)(b). Therefore the application will be processed under the provisions of both Plan Change 26 and the Rodney District Plan - Operative in Part.

## **Rodney District Plan - Operative in Part**

- 3.14** Under the Rodney District Plan - Operative in Part, Rule 8.15.2.1(a) states that in the Low Intensity Residential Zone a minimum site area of 8,000m<sup>2</sup> capable of containing a square for building purposes measuring 50 metres x 50 metres is provided for. An alternative Rule 8.15.2.1 (a) has been 'blacked out' for reasons relating to financial contributions. This rule provides for a minimum site area of 4,000 m<sup>2</sup> in the Low Intensity zone capable of containing a square for building purposes measuring 50 metres x 50 metres. Technically however only Rule 8.15.2.1(a) providing for 8,000m<sup>2</sup> sites applies to the application.
- 3.15** It is understood the intention with the 'blacked out rules' was to provide for lower density development during the time that the Council did not have operative financial contribution provisions in its District Plan. On a financial contributions regime becoming operative, a variation was to be notified introducing these 'blacked out' rules into the plan. In reality however as Plan Change 62 has been operative since April 2005 the Council's usual approach with such applications has been to give serious consideration to applications that have been made under the 'blacked out' rules, despite the fact that technically they have no statutory effect.
- 3.16** Rule 8.15.3.1 requires that in the Low Intensity zone and in some other residential zones, minimum frontage and access of up to 6 metres must be provided however up to 5 sites may gain frontage over a jointly owned access lot or right of way for the benefit of sites or a combination of both.
- 3.17** Rule 8.14.1 (c) states that any subdivision not listed in the Subdivision Table is a Non-Complying Activity and will be assessed against the relevant matters in section 104 of the Act. The Subdivision Table under Rule 8.14.2 provides for sites that comply with the subdivision standards in Rule 8.15 as a Restricted Discretionary Activity. Sites in the Low Intensity Zone that do not meet the shape factor up to 30 metres or the site size where the reduction in area is no more than 10% are a Discretionary Activity. Finally as a Discretionary Activity the table also provides for sites that do not comply with the minimum frontage standards, provided the number of site that gain access over a right of way or jointly owned access lot are not increased.
- 3.18** The subdivision proposal involves seven sites all of which are less than 8,000m<sup>2</sup> (being the minimum site size under the non-blacked out rules which is technically applicable). Therefore the reduction in site area is greater than 10% for all seven lots. The applicant has also not demonstrated that the shape factor has been reduced by no more than 30 metres on Lot 3.
- 3.19** Both Proposed Lot 1 and 2 meet the requirement for minimum frontage and access of 6 metres, with frontage onto Wilson Road of 44 and 42 metres respectively and a reciprocal right of way 'A' and 'B' which only serves these two lots.
- 3.20** The remaining 5 lots, Lots 3-7 are served by a right of way of approximately 170 metres. While this right of way will have a formed width of 3 metres, the width of the land area set aside for the right of way including the width of its frontage onto Wilson Road is 6 metres. The requirements of Rule 8.15.3.1 relating to access and frontage are considered to be met.
- 3.21** Because the Subdivision Table under Rule 8.14.2, does not provide for a subdivision application containing these non-complying aspects relating to site size and shape factor to the extent that they are not met by this proposal the application is accordingly assessed as Non-Complying activity under Rule 8.14.1 (c).
- 3.22** The application site falls within the McKinney Road Structure Plan Area (Warkworth) as shown on Map 56. Under Chapter 13 of the plan titled 'Future Development and Structure Plans' Rule 13.9.4.4, states that subdivision of land within Structure Plan Areas shown on the Planning Maps and set out in Appendix 13A, is a Restricted Discretionary Activity. Therefore consent is also required under these Chapter 13 rules.
- 3.23** Under Chapter 23 of the plan titled 'Subdivision and Servicing' Rule 23.8.13.1.1 states that where an Indicative Road shown on the Planning Maps traverses land that is the subject of an application for consent as a Restricted Discretionary Activity, the subdivide shall form the road over the land in accordance with the lines indicated on the Planning Maps, subject to certain rules in the plan (relating to the alignment of the road). While the activity status of the

subdivision application is not Restricted Discretionary, as there are no limits to the discretion that can be applied to a non-complying activity, this rule can be taken account of in assessing this application.

- 3.24** It is also noted that Rule 23.8.13.1.4, states that legal and physical access for sites within the subdivision, shall be either from the formed Indicative Road or by access complying with Rule 23.8.6 (a rule that refers back to the access requirements in other parts of the plan including those outlined above for the Low Intensity zone.)
- 3.25** The application is a Non-Complying Activity under the Rodney District Plan - Operative in Part.

**Overall the application is a non-complying activity.**

#### **4.0 SITE DESCRIPTION**

- 4.1** The application site is located in an area of large lot residential style properties, concentrated around the intersection of McKinney, Thompson and Wilson Road on the southern side of the Warkworth Township.
- 4.2** While there are some smaller sites in this area, typically the majority of sites that are located within this Low Intensity zoning are at least 4,000m<sup>2</sup> in size with some such as the application site being over 1 ha.
- 4.3** The site is on the northern side of McKinney Road and the general trend is for it to slope downward from the road. On the other side of the northern boundary of the site, is an extensive area of land currently in the process of being developed for medium intensity residential purposes.
- 4.4** The site is a rectangular shape, approximately 1.9 ha in size, with approximately 99 metres of frontage onto Wilson Road.
- 4.5** The existing development on the site includes driveway access which commences in the south-west corner of the site and travels in a diagonal direction in to the site, leading to the relatively centrally located house and garage on the site. There is also a shed behind the house near the eastern boundary of the site.
- 4.6** There is some residential landscaping around the house and other buildings. To the front and rear of these existing buildings are grazing paddocks.
- 4.7** There is no exotic or native vegetation of any particular note on the property.

#### **5.0 WEIGHTING OF DISTRICT PLANS**

- 5.1** Plan Change 26 was made operative in July 2005.
- 5.2** On 30 January 2009, a number of chapters in the Rodney District Plan - Operative in Part became operative, this included the 'Residential' chapter, Chapter 8 and the 'Subdivision and Servicing' chapter, Chapter 23. This meant that any applications lodged from this operative date which relate to land-use activities or subdivision on urban residential land were solely assessed under the Rodney District Plan - Operative in Part, as Plan Change 26 had been superseded.
- 5.3** As discussed in an earlier section of the report, as this application was lodged prior to 30 January 2009, under section 88A of the RMA, it still must be processed, considered and decided on as the type of application it was on lodgement. This means still being considered under Plan Change 26.
- 5.4** Nevertheless as both the subdivision and residential chapters of the Rodney District Plan - Operative in Part are now fully operative parts of the document, it is considered these provisions should be given a significant amount of weight over the provisions of Plan Change 26, which is considered less relevant.

## 6.0 NOTIFICATION AND SUBMISSIONS

### Notification

- 6.1 The application was notified on 25 May 2009 and submissions closed on 25 June 2009. A summary of the submissions is set out below. A full copy of the submissions is attached as Attachment 2.

### Submissions

- 6.2 A total of four submissions were received by the close of the submission period. One submission was neutral, one was supportive and two were in opposition.

## GROUPS

Name	Main Concerns	Relief Sought	Wish to be heard
<b>New Zealand Fire Service (NZFS)</b>	<ol style="list-style-type: none"> <li>1. That the subdivision take into account the operational requirements of the NZFS, to provide for firefighting activities.</li> <li>2. That the importance of essential services, such as emergency services, are recognised for the safety and wellbeing of future occupiers.</li> </ol>	That consent notices be placed on the Certificate of Title requiring: <ol style="list-style-type: none"> <li>a). Upon the construction of the house. Sufficient water volume, pressures and flows be provided in accordance with the NZFS Code of Practice and this water supply be accessible for firefighting purposes.</li> <li>b). That if water supply is to be provided by way of tank storage, this be located a safe distance way from any habitable dwelling in accordance with the NZFS Code of Practice.</li> </ol>	Yes

## LOCAL RESIDENTS

Name	Main Concerns	Relief Sought	Wish to be heard
<b>R. H Moir</b>	The number and size of lots	Decline the application for lots under 4,000 m <sup>2</sup> .	No
<b>Mr M Pezic</b>	The Warkworth Structure Plan shows this area as being zoned for future residential.	Approval of this application.	Yes

Name	Main Concerns	Relief Sought	Wish to be heard
<b>Beverley Simmons</b>	<ul style="list-style-type: none"> <li>- Lot sizes sought and the effects of this on the character and amenity.</li> <li>- Effects on Protected Item (H072) in the Rodney District Plan-Operative in Part</li> <li>- Construction of Indicative Road, should subdivision go ahead.</li> </ul>	That Council refuse consent.	Yes

### Written Consents

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.

No written approvals were submitted with the application.

### 7.0 REPORTS FROM OTHER OFFICERS/DEPARTMENTS/CONSULTANTS

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

- (1) Development Engineer's Report (Ross Green) (see **Attachment 3**)
- (2) Comments from Strategy and Policy Planner (Ryan Bradley) (see **Attachment 4**)
- (3) Comments from Consultant Traffic Engineer (David Mitchell) (see **Attachment 5**)

### 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 existing development on site includes a single household unit, garage, landscaping, small shed and driveway access. The remainder of the site has been retained in pasture which makes up the large majority of the site area. With the current level of development on the property the building to land area ratio is therefore low, taking account of the urban residential zoning that has been applied to the land.

**9.2.** The Low Intensity zoned locality the site sits within tends to have a range of site sizes. The majority of sites would exceed 4,000m<sup>2</sup> in area however there is a concentration of more intensive sites than this close to the intersection of Wilson and Pulham Road. At the other end of the spectrum, there are also larger sites that are of a size and style that are very rural-residential in nature. Some of these are over 1 ha, with one conspicuously large lot of 5.9 ha on the corner of Hepburn Creek and Wilson Road. While the 1.9 ha application site is located on the northern side of Wilson Road, most of the larger lots generally appear to be located on the southern side of Wilson Road.

## Unimplemented Consents

- 9.3** The applicant for this proposal Norterra Warkworth Limited was granted consent on a limited notified basis on 28 August 2008 for a five lot subdivision on the application site (RMA 51954). Whilst conditions that were imposed on this consent approval relating to the indicative road were appealed by the applicant, this appeal was ultimately withdrawn. The site sizes granted consent to under this five lot subdivision proposal is as follows:

Lot 1: 2,704 m<sup>2</sup>  
Lot 2: 2,714 m<sup>2</sup>  
Lot 3: 2,608 m<sup>2</sup>  
Lot 4: 3,600 m<sup>2</sup>  
Lot 5: 7,442 m<sup>2</sup>

The layout of the five lot subdivision was also very similar to the seven lot proposal with a similar long right of way located along the western boundary of the site. Consent was granted subject to conditions that at the time a formed legal road becomes available for the indicative road shown on the scheme plan to connect to, the formed legal road was to be extended so as to align with the indicative road shown on that scheme plan. Certain right of ways were also to be relinquished once this road connection was achieved.

- 9.4** Another unimplemented consent that is considered to have relevance to the Panel's deliberations on this proposal is the subdivision RMA 37771 that was granted by Consent Order in the Environment Court on 8 August 2008. This is known as the Pezic subdivision and relates to the land directly adjoining part of the eastern boundary of the application site. It should be noted that the cul de sac that extends to the south as part of the indicative road shown on Planning Map 56 of the Rodney District Plan - Operative in Part, partly straddles the north-western corner of the Pezic site. The site sizes granted consent to under this four lot subdivision is as follows:

Lot 1: 2,658 m<sup>2</sup>  
Lot 2: 1,718 m<sup>2</sup>  
Lot 3: 1,522 m<sup>2</sup>  
Lot 4: 1,941 m<sup>2</sup>

Under this Consent Order subdivision conditions were also imposed requiring that at the time a formed legal road becomes available for the indicative road shown on the scheme plan to connect to, the formed legal road is to be extended so as to align with the indicative road shown on the scheme plan. Again certain right of ways were to be relinquished once this road connection was achieved. It is understood the indicative road conditions in the five lot Norterra subdivision consent were actually modelled off these indicative road conditions included in the Pezic Consent Order.

## Activities Permitted by the Plan

- 9.5** There are no activities permitted by the Plan that relate to subdivision as all forms of subdivision require a resource consent approval.

Permitted Activities on existing sites include:

- Single household Unit
- Minor Household Unit (sites over 600 m<sup>2</sup>)
- Accessory buildings
- Home Occupations in existing dwellings
- Boarding Houses accommodating not more than 10 persons
- Homes for the Aged not accommodating more than 10 persons
- Homestay/Farmstay accommodation for not more than 10 persons
- Childcare facilities for not more than 10 children in an existing dwelling or building.

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

- 9.6** 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.

### **Residential Character and Amenity**

The area in which the application site is located is considered to be an area in transition. In parts it does certainly have a Low Intensity residential character, however there remains some larger lots of over 1 ha, where with the retention of such elements as rural fencing and pasture and large areas of undeveloped land, there is also a lingering rural lifestyle character.

Within this mix, there are also smaller lots on the corner of Pulham and Wilson Road and the rapidly developing and quite expansive medium intensity development directly abutting the northern border of the Low Intensity zoning.

Therefore in my view the area does not have a consistent and entirely typical Low Intensity Residential Character.

In terms of residential character and amenity considerations, Council's previous administration of the Low Intensity Residential subdivision rules have generally signalled (provided conditions relating to financial contributions can be imposed), a minimum site size of 4,000m<sup>2</sup> being appropriate.

The seven sites being sought do not meet this 4,000m<sup>2</sup> standard. The average lot size in the subdivision is 2723m<sup>2</sup>.

Of relevance however is considered to be the fact that lot sizes similar to the sizes sought under the seven lot subdivision have already been approved under the five lot subdivision for the site and therefore could be considered part of the existing environment. Furthermore the Pezic subdivision on the directly neighbouring site which is subject to the same Low Intensity zoning involved the approval of three sites below 2,000m<sup>2</sup>, with one lot in particular going down to 1,522m<sup>2</sup>.

The McKinney Road Structure Plan which indicates medium intensity development up to the McKinney Road/Wilson Road ridgeline has some degree of incorporation in the Rodney District Plan - Operative in Part, as the Planning Maps include it in the 'Structure Plan Areas', with reference to Appendice Maps showing future Medium Intensity zoning and make it subject to special structure plan subdivision rules. Therefore there is some statutory recognition of the future medium intensity zoning for the area.

I consider an assessment of the residential character and amenity effects of the proposal should be assessed in the context of these recent subdivision approvals and the Structure Plan rules in the Rodney District Plan - Operative in Part a statutory planning document.

While the lots sizes proposed (2215m<sup>2</sup> - 3202m<sup>2</sup>) are in some cases well below the 4,000m<sup>2</sup>, lots of this size and smaller are either already present in the locality or are part of the existing environment as an unimplemented consent. As well as this it is considered the sizes that are proposed are still of a large enough site area to not be significantly inconsistent with a large lot residential style of development, albeit at the higher density end of the spectrum. On this basis it is therefore considered their inclusion in the environment would not erode the Low Intensity residential character that exists in parts of the locality to a more than minor extent.

### **Transportation and Traffic Effects**

The application has been assessed by Council's Consultant Traffic Engineer - David Mitchell.

In respect of the access that will be utilised by the new lots in the subdivision, Mr Mitchell notes that Lots 1 and 2 will use a new access at the front of the site, while the five remaining lots will come off a second crossing. This crossing will be at the extreme western end of the property and will be via a 3 metre wide right of way. The existing driveway from the south-west corner of the site will be removed.

Mr Mitchell indicates that the two proposed crossings for a property with 85 metres of road frontage is acceptable and the 35 metres distance between them is also satisfactory. Confirmation that sight distances are met in accordance with the Council standards is however required.

The three metre width of driveway serving Lot 1 and 2 is considered appropriate.

The driveway serving the other 5 lots is a more substantial length of approximately 170 metres, with again a width of 3 metres.

As a result of the assessment undertaken Mr Mitchell has three main recommendations in respect of this 170 metre right of way. They are as follows:

- Additional widening on the 90 degree bend between Lots 6 and 7. This would enable the access to accommodate for example a car towing a trailer or an emergency vehicle.
- A 6 metre wide crossing at the Wilson Road boundary to accommodate a pull off area to avoid conflict between entering and existing vehicles.
- The provision of an additional passing area approximately half way down the right of way.

In respect of parking Mr Mitchell notes there is ample space on site to accommodate the two carparks required under the District Plan parking requirements.

The additional six lots will create 60 additional movements per day which the existing road network is capable of accommodating.

With the further subdivision of the proposed sites however (potential Medium Intensity), the safety and efficiency implications of this for the McKinney Road, State Highway One intersection would need consideration, taking account of potential signalisation at this intersection and the formation of the indicative road connection.

The review concludes there is no traffic related reason to withhold consent, subject to the necessary recommendations as required.

### **Engineering Matters**

The proposal has also been assessed by Council's Development Engineer - Ross Green.

The following comments are provided in relation to the various development engineering considerations.

#### *Site Stability and Subdivision Related Earthworks*

The Geo-technical report provided with the application confirms the entire land area of the application site is not subject to any instability issues. The report provides foundation requirements. Accordingly the proposed sites meet the District Plan subdivision standards in relation to being able to nominate hazard free building sites.

Some earthworks will be needed to construct the two new accesses proposed for the configuration of lots. Whilst one right of way will be approximately 170 metres long, these earthworks are not expected to be extensive and will predominantly involve top-soil stripping. Excavation for the building platforms on Lots 1 and 2 will be necessary.

#### *Stormwater*

There is currently no reticulated stormwater available to the property.

Mr Green explains that for the previously approved five lot subdivision, individual onsite detention was recommended with the discharge going to the bottom of the slope. However with the time that has elapsed between the two applications a stormwater detention / treatment pond has since been built on the property directly to the north as a result of other recent subdivision.

Council's Stormwater Asset Engineer considers the stormwater servicing of the subdivision should involve the extension of public lines from the pond to the proposed lots. The capacity of this reticulation would take account of the intended medium intensity environment in the future.

It is further noted in the assessment that in terms of dealing with stormwater run-off from the driveways, reticulation over onsite methods is preferable.

#### Water Supply

In accordance with Council's usual policy, water supply connections are not provided where wastewater disposal systems are being used.

#### Sanitary Sewerage

As with stormwater, the area is not served by a public wastewater system and at present there are no plans to provide one.

All lots in the subdivision exceed 1,500m<sup>2</sup> by a comfortable margin and therefore there is adequate land area to provide for onsite wastewater disposal.

Mr Green notes that stringent controls in respect of wastewater were imposed on a subdivision to the east of the application site (Pezic subdivision) and he considers it is appropriate that these are re-imposed for this application. Such recommended conditions also refer to the necessary requirements should the area become connected to the public system in the future.

Overall in respect of development engineering matters it appears provided the recommended conditions of consent are imposed, Council's Development Engineer is satisfied the effects in this area can be sufficiently mitigated to a level where they are no more than minor.

#### **Effects relating to the Indicative Road and Future Medium Intensity Environment.**

In respect of the indicative road the applicant in their application has stated the following:

*'The proposed Indicative Road along the northern boundary is in our view highly unlikely to be vested or formed as it passes through too many individually owned allotments and therefore commercially unviable for any one property owner to develop. However we have shown it within the long term strategic planning and it can be vested from Lots 5 and 7 as and when required.'* (p.8 Lamb & Molloy Ltd Report).

It is noted that while the east to west connection of the indicative road has been shown on the Lamb & Molloy Ltd scheme plan submitted with the application the cul de sac extending southward which is also part of the indicative road has not been shown.

The Assessment Criteria under the Rodney District Plan - Operative in Part (Rule 13.9.5.2.2), relating to subdivision of land within a Structure Plan Area shown on the Planning Maps seeks to ensure that any proposed subdivision will not have adverse effects on the future urban development of the area as shown in the Structure Plan and will in particular, take account of the indicative transport network as shown in the Structure Plan in the way the subdivision has been designed.

In the comments provided on the application by Policy Planner - Ryan Bradley it is made clear that the Council's position is that the indicative road network should be protected and provided for in the way the proposed subdivision is configured. He also notes that the small cul-de-sac on the north-east boundary has been excluded.

The information provided in 13 A.2 of the Rodney District Plan - Operative in Part in relation to the McKinney Road Structure Plan Area (Warkworth) refers to one of the key objectives of the proposed residential expansion to the south-east of Warkworth is to provide the area with *'an adequate network of internal collector roads'*. (p. 7 Appendix 13A: Chapter 13).

It is also noted that in the review undertaken by Traffic Engineer David Mitchell it is stated that *'The design of the indicative road is to allow traffic generation from more intensive medium density subdivision to be captured on internal roads, rather than increasing volumes directly*

*onto Wilson Road, and the further subdivision lines shown on the plans do not appear to be able to achieve this.'* (last page of David Mitchell's assessment under 'Recommendations').

It is accepted that the indicative roading is not necessarily required to service the current seven lot subdivision that is being sought-as it is acknowledged the subdivision meets the requirements in the Rodney District Plan - Operative in Part for a minimum frontage and access of 6 metres and no more than five sites gaining access over a right of way.

Therefore in my view contemplation of any possible future indicative road conditions can only reasonably require formation and vesting of the road, when it becomes available at the boundary, and when the next subdivision of the land takes place.

Nevertheless taking into consideration the higher density that has already been approved on this site (the five lot subdivision) and with the Pezic subdivision and the Medium Intensity zoning that is signalled in the Rodney District Plan, through the incorporation of the structure planning process into this Plan, all these factors point to a real likelihood of more intensive subdivision occurring in the future.

It is considered the indicative road is required for this future medium intensity residential environment that will result from this subdivision.

Taking account of this it is considered the applicant has not made adequate enough provision for the indicative road in the future. The scheme plan submitted does not show the cul de sac that extends southward from the main east-west traverse of the road, despite the other side of this cul de sac having been approved under the Pezic approval.

Also as pointed out by Council's Policy Planner there has been no plan provided showing the ultimate future subdivision of the land to medium intensity. While Medium Intensity lot sizes are shown with a dashed line on the scheme plan, the applicant does not fully demonstrate from a practical point of view and to a detailed enough level how the majority of lots (which would be created from the very lots sought under this proposal) in any future medium intensity subdivision will turn their back on Wilson Road and begin to access the indicative road. Of particular interest is how the access of future medium intensity lots that will not have direct road frontage onto the indicative road will be managed, without creating a haphazard right of way system, that might bring about lower medium intensity residential amenity values than the Structure Plan would have anticipated.

With the approved five lot subdivision this was not such an immediate concern, because virtually the entire lot the indicative road traversed (apart from a minimal area at the end of the cul de sac) was retained in a large 7,442m<sup>2</sup> balance lot.

The further fragmentation of the land around the indicative road if not done in a co-ordinated way could potentially bring irreversible effects to the future residential environment.

It is considered while the applicant has sought to take advantage of the future higher residential densities that may result in the area, based on the provisions of Chapter 13 in the Rodney District Plan and the Structure Plan areas shown on the planning maps, they have not fully demonstrated that the current subdivision will not jeopardise the indicative road. This could then consequently jeopardise the future medium intensity environment which will rely on this roading connection for a number of outcomes such as connectivity, urban form, and amenity values.

Accordingly until this is demonstrated the effects in this area are considered to be more than minor.

### **Effects on Natural Features and Landscape**

Often land zoned for Low Intensity Residential purposes is in areas where there are natural features such as pockets of native bush or groups of established trees or in some cases features associated with the coastal environment.

Larger lots sizes are often more conducive to the retention and long-term protection of such features and therefore such elements can be accommodated into the subdivision design.

The District Plan rules therefore seek to ensure new subdivision and subsequent land-use activity responds appropriately to an environment that often consists of such features.

However despite its zoning the application site does not contain such features. Apart from a few Willow trees in the interior of the site, there is little in the way of notable vegetation or habitat that exists on the site. It is therefore considered the high density that consent is sought for would not be expected to bring about any environmental compromise in this regard.

Wilson Road runs along an existing ridgeline and therefore as identified with the Planner's recommendations on the five lot subdivision, the main visual effects of subdivision relate mainly to Lots 1 and 2; these being the two lots that have direct frontage onto Wilson Road and that are positioned at the top of the slope.

As these lots have already been approved under the previous five lot subdivision, (there are trivial differences in site sizes for Lot 1 & 2, between the two subdivisions involving approximately 40m<sup>2</sup> in land area), it is considered limited weight can be placed on these effects that can now be considered part of the existing environment, as an unimplemented consent.

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

#### **District Plan Provisions**

##### **Plan Change 26**

##### **Objectives and Policies**

- 9.7** The proposal is considered to be **consistent with** the following objectives and policies.
- (a) 3C. Provision of Low Intensity Residential Activity Areas, Objective 1, Policies 2(a)-(b) on page 6.
- 9.8** The application is considered to be generally consistent with the objectives and policies referenced above in Plan Change 26. The proposal does not pose any threat to high quality landscapes and the sensitive natural environment because the site is not considered to contain such features. While the subdivision will involve the creation of site sizes that are less than what was intended under this document, it is considered the sites will still be of a size where a relatively spacious and open residential character will be retained. There will still be sufficient land area to allow for low intensity residential living to a certain degree and such living would not be dissimilar to what takes place in the locality with existing larger low intensity residential properties.

#### **Rodney District Plan-Operative in Part**

##### **Objectives and Policies**

- 9.9** The proposal is considered to be **consistent with** the following objectives and policies.
- (a) Objective 8.8.1.1.1 & 8.8.1.1.2, page 18  
(b) Policy 8.8.1.2.1, 8.8.1.2.2, 8.8.1.2.3, 8.8.1.2.4, 8.8.1.2.5, 8.8.1.2.6, page 18-19.
- 9.10** Whilst the subdivision does not comply with the minimum site size requirements in the plan it is considered the site sizes are nevertheless reasonably spacious and not of such a small size as to severely erode the Low Intensity Residential character of the area. The smallest site proposed in the subdivision of 2,215m<sup>2</sup> (proposed Lot 4) would still be able to contain three medium intensity zoned sites (if reticulated) and still have 415m<sup>2</sup> to spare. Consideration is also given to the fact that the site does not contain sensitive or high quality landscape or environmental features that in other cases might justify a lower density. The effects in this regard are also assessed against the background of the recently approved higher density Pezic subdivision on the neighbouring land and the five lot approval on the application site itself.

- 9.11 Policy 8.8.1.2.3 which sets down that ‘*Subdivision in the Low Intensity Residential Zone should not create sites with a net site area of less than 4,000m<sup>2</sup>*’ (or 8,000m<sup>2</sup> if the non-blacked out rules are applied), is a very prescriptive policy. Clearly the site size requirements in this policy are not met however it is considered the proposal is not entirely incompatible with the intentions of the policy. A low intensity environment will still be retained, with a density that is considered appropriate in the context of both the previous consent approvals that have taken place with similar densities, and the Rodney District Plan’s introduction of elements of the Structure Plan into the District Plan, which forecasts a future higher residential density, alongside the Low Intensity Residential zoning also applied to the site.

## **Any Relevant National Policy Statement or Regional Policy Statement**

### **Auckland Regional Policy Statement**

- 9.12 The Auckland Regional Policy Statement (and Change 6) is a statement about managing the use, development and protection of the natural and physical resource of the region. As part of these policies are provisions that enable urban growth to occur in areas that have been incorporated into the Auckland Regional Growth Strategy. The McKinney Road Structure Plan Area is included within these identified areas for growth and is therefore in accordance with it. The Statement also includes provisions about such issues as heritage, natural hazards and other issues which the proposal is considered to be generally consistent with.

### **Section 104 (1) (c) Any other Matter**

#### **The McKinney Road Structure Plan**

- 9.13 The McKinney Road Structure Plan (Warkworth) relates to the area to the south-east of the Warkworth settlement. This area is contained by McKinney Road to the south that connects with the State Highway, Pulham Road to the east and established residential areas to the north that extend to the edge of the town centre itself. It is noted that structure planning does not usually feature in statutory planning documents such as the District Plan, but as it has been included in the Rodney District Plan - Operative in Part document, in this instance it is considered to have some statutory basis that should be recognised.
- 9.14 In respect of future residential areas, the over-riding strategy is to largely accommodate for residential expansion in Warkworth by providing for it in this south-eastern part of the settlement and avoiding the spread of new residential activity to the west of State Highway One.
- 9.15 The objectives the Structure Plan seeks to achieve with this residential growth is a clearly defined urban edge along McKinney and Wilson Road, the accommodation of projected residential demand for the next 20 years, preventing urban sprawl and the undesirable visual impacts of the rural area to the south this would bring and finally providing for this expansion with an adequate network of internal collector rules.
- 9.16 The proposed new roading system that is intended to support this residential expansion is a prominent part of the structure planning for the area and is described as follows in the Structure Plan *‘The roading network includes the southward extension of Hauiti Drive across the proposed south-eastern residential expansion area, to link with McKinney Drive, Blue Gum Drive, and a proposed new collector road between Pulham Road and the Hauiti-McKinney link road, thereby creating the collector road system necessary to serve the new residential areas.’* (p.8 Appendix 13A: Chapter 13 - Rodney District Plan-Operative in Part). It is understood the indicative road that Planning Map 56 of the Rodney District Plan - Operative in Part shows on the application site is the ‘proposed new collector road between Pulham Road and the Hauiti-McKinney link road. . .’, that has been referred to here in the written component of the Structure Plan.
- 9.17 The roading system proposed clearly underpins the strategy to concentrate and contain future medium intensity development in this area and provide for an effective medium intensity residential growth area in Warkworth. As discussed above in relation to the indicative road it is considered the application that has currently been put forward fails to demonstrate how the subdivision sought would not preclude the possibility of this roading connection taking place and an acceptable layout and operation of medium intensity lots being achieved around it. On this basis it is considered there remain concerns as to how consistent the present proposal put forward in the application is with the McKinney Road Structure Plan.

### **The related McKinney Road Subdivision RMA 53896**

- 9.18** It is considered relevant to advise the Panel of the current subdivision which has been lodged with the Council for a large area of land to the north-west and west of the application site.
- 9.19** This application (RMA 53896) was lodged by Warkworth Investments Limited, Westwinds Developments Limited and Landsdale Developments Limited in March 2008 and involves the land that is contained within the McKinney Road Structure Plan Area and Future Urban zoning under the Rodney District Plan - Operative in Part. The application seeks land-use consent to undertake 150,000m<sup>3</sup> of bulk earthworks and to undertake a subdivision involving the creation of 186 lots residential lots ranging in size from 500m<sup>2</sup> to 1951m<sup>2</sup>.
- 9.20** Eight roads are proposed to serve the development. Of relevance to the Norterra application is what is outlined in the plan submitted for the RMA 53896 proposal that shows the western connection of the indicative road as 'Road 7' travelling in south-easterly direction off the development site, rather than directly along the northern boundary of the properties to the south (including the Norterra site) as shown on Planning Map 56 of the Rodney District Plan - Operative in Part. This therefore means the indicative road as shown under RMA 53896 would enter the Norterra property in a more southward position than how the road is represented in Planning Map 56. The different position of the road could very approximately be described as traversing the site in such a way that it separates the top third of the property from the land area in the remaining two thirds of the property below it.
- 9.21** This application has been fully notified and at the time of writing this report a hearing was scheduled for 21 August 2009. The different alignment of the indicative road shown in this yet to be determined application (RMA 53896) when compared with the alignment shown on Planning Map 56 in the Rodney District Plan - Operative in Part creates somewhat of a dilemma. A situation where two different subdivision approvals showing two different roading alignments that are not able to connect with one another should be strenuously avoided.
- 9.22** It is understood the changed alignment of the indicative road for RMA 53896 is an applicant not Council lead change. In his analysis on the traffic engineering related issues for the RMA 53896 subdivision, Council's Traffic Engineer David Mitchell has not currently expressed any concern about the changed alignment other than recommending that land-owner agreement is obtained for the changed position. If these approvals are not forthcoming he considers the alignment as shown in the Structure Plan/District Plan should remain.
- 9.23** It is the writer's view that should the Panel be of the mind to approve the Norterra application, the alignment of the indicative road as shown in Planning Map 56 should at this stage be relied on for providing the necessary connection. Because RMA 53896 is still in a relatively early stage of processing having not yet proceeded to hearing, it would appear unwise to base any future approval of the Norterra application on this new road position, when the outcome of the RMA 53896 proposal is still some way from being finally determined.

### **The Integrity and Consistent Administration of the Plan**

- 9.24** As the application is a Non-Complying Activity, granting consent to the proposal could act as a precedent for other similar applications in the same zone to expect the same outcome.
- 9.25** If there are special or unusual circumstances that can be identified as applying to either the site or the proposal, then a precedent can be avoided as these characteristics set the proposal apart from other applications that may follow seeking similar treatment.
- 9.26** The fact that an existing five lot subdivision already applies to the site and there is a four lot subdivision on the adjoining land (Pezic), both of which contain minimum site sizes that are somewhat smaller than what the subdivision standards indicate for the Low Intensity Residential zoning, is acknowledged as a special or unusual feature. Therefore in terms of the density issue alone, not taking account of other factors, this could be viewed as a justification for treating this application differently to other proposals seeking higher density development in Low Intensity Residential zoning.
- 9.27** However there are other factors involved in this proposal. It is considered there are a number of sites in the district that have had both indicative roading identified on them and/or have been included in a Structure Plan Area under the provisions of the Rodney District Plan - Operative in Part, as is the case with this site. It is considered an undesirable precedent is

set if the Council were to approve such a subdivision that does not sufficiently demonstrate it will not preclude or hinder the later more intensive development of the land and the roading network that will facilitate and be an integral part of this future residential environment. Particularly when aspects of this structure planning process which indicate a future medium intensity zoning and internal collector road system have been incorporated into a statutory planning document (Rodney District Plan - Operative in Part).

#### **Section 104 Assessment Conclusions**

- 9.28 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 will be no more than minor in relation to Residential Character and Amenity, Transportation and Traffic Effects for the immediate subdivision proposed, Engineering Matters and Effects on Natural Features and Landscape. However the effects with regard to the Indicative Road and Future Medium Intensity Environment are considered to be 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 the plan in Section 9 of this report, it is considered that the proposed activity will not be contrary to the objectives and policies for the Low Intensity Residential Activity Area zoning in Plan Change 26 or the Residential L (Low Intensity) zoning in the Rodney District Plan –Operative in Part. The reasons for this conclusion are set out in the Section 9 assessment.
- 10.3** Overall it is considered that the proposal meets one of the gateway tests and can 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 that this application does not promote sustainable management because it fails to address how the development proposed will accommodate a future medium intensity residential environment and associated roading networks in an area that has been identified to accommodate such residential expansion in order to avoid effects such as urban sprawl and adverse visual amenity effects in other areas not as suitable for such residential intensification.
- 11.1** There are no section 6 matters of national importance relevant to this application.
- 11.2** The following other matters are relevant to this application. 'Section 7(b) efficient use of natural and physical resources.' It is considered the applicant has not had particular regard to how the proposal site is located in an area that has been specifically set aside for the future residential growth of Warkworth. They have not designed their subdivision in the context of it fitting into this future wider medium intensity environment which will rely on indicative roading networks in order for it to be an effective residential area with the amenity values expected in a medium intensity residential setting. The isolated development of individual sites in such a way that fails to take account of this may compromise the area being able to serve this important future purpose and therefore cause an inefficient use of the land that would have otherwise provided these intended and wide ranging environmental outcomes.
- 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 relates to the failure to address the future medium intensity environment as indicated in the Structure Plan in the Rodney District Plan - Operative in Part, including how sites created from the lots that are being sought under the present application will take account of the indicative road as a future internal collector road.

## **RECOMMENDATION**

That, pursuant to Sections 104 and 104D of the Resource Management Act 1991, the notified application for resource consent by Norterra Warkworth Limited, to undertake a seven lot subdivision of a site, which is in the Low Intensity Residential Activity Area under Plan Change 26 and the Residential L (Low Intensity) Zone under Rodney District Plan-Operative in Part and under this plan is also in the McKinney Road Structure Plan Area (Warkworth) and is traversed by an indicative road, at the property at 21 Wilson Road Lot 2 D.P 81296 (C.T NA 37D/858), be *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 application proposes lot sizes between 2215m<sup>2</sup> - 3202m<sup>2</sup>. While these fall below the 4,000 m<sup>2</sup> (blacked out rules) indicated in the Rodney District Plan - Operative in Part, consideration has been given to the similar or smaller lots sizes that have been approved under the five lot subdivision on the same site (RMA 51954), and on the Pezic subdivision (RMA 37771) on the adjoining site. There has also been some statutory recognition of the future intensification of the area with the medium intensity zoning, that has been shown in the McKinney Road Structure Plan, which has been incorporated into the Rodney District Plan - Operative in Part. Taking account of all these factors and the fact the lots sizes have sufficient land area to still provide a spacious residential environment, it is considered the proposal is not inconsistent with the residential character and amenity expected in a large lot residential area.
- (b) Council's Traffic Engineer has assessed the transportation and traffic effects of the seven lot proposal in relation to the access and parking requirements for the sites and the additional traffic generation that will result and concludes there is no traffic related reasons to withhold consent, subject to the necessary recommendations as required. However in respect of the traffic and transportation effects as they relate to the wider planning issues involved in the proposal, Council's Traffic Engineer considers the design of the indicative road is to allow traffic generation from more intensive subdivision to be captured on internal roads, rather than going onto Wilson Road, he considers the further subdivision configuration shown on the scheme plan does not appear to be able to achieve this.
- (c) Council's Development Engineer has also assessed the application in relation to site stability, stormwater, water supply and sanitary sewerage and has not raised any concerns in respect of development engineering issues provided the recommended conditions of consent are imposed.
- (d) In respect of the effects relating to the indicative road and the future medium intensity environment, the following is considered. While the applicant has sought to take advantage of the future higher residential densities that may result in the area based on the provisions of Chapter 13 of the Rodney District Plan - Operative and the medium intensity zoning shown on the Planning Map 56, they have not fully demonstrated that the current subdivision will not jeopardise the indicative road and will consequently compromise the future medium intensity environment, which will rely on this roading connection for a number of outcomes such as connectivity, urban form, amenity values etc. Accordingly until this is demonstrated the effects in this area are considered to be more than minor.
- (e) The McKinney Road Structure Plan, seeks to achieve an area of medium intensity residential expansion in the south-east of Warkworth that will be supported by a network of internal collector roads. The roading system clearly underpins the strategy to concentrate and contain medium intensity development in this area and provide

effective medium intensity residential growth in Warkworth. The application fails to demonstrate how the subdivision sought would not preclude the possibility of this roading connection taking place and how from this an acceptable layout and operation of medium intensity lots can be achieved around it.

- (f) Under Section 104D of the Resource Management Act 1991 (RMA) the proposed subdivision will not generally be contrary to the objectives and policies for the Low Intensity Residential Activity Area in Plan Change 26 or the objectives and policies of the Residential L (Low Intensity) zoning in the Rodney District Plan-Operative in Part. Also under section 104D of the RMA, it is considered the adverse effects on the environment will be no more than minor in relation to Residential Character and Amenity, Transportation and Traffic Effects for the immediate subdivision proposed, Engineering Matters and Effects on Natural Features and Landscape. However the effects with regard to the Indicative Road and Future Medium Intensity Environment are considered to be more than minor. Overall it is considered the proposal meets one of the gateway tests and can be considered for the grant of consent.
- (g) The applicant is considered to be contrary to some Part II matters. In terms of section 5 of the RMA, it is considered the proposal does not promote sustainable management because it fails to address how the development proposed will accommodate a future medium intensity residential environment and associated roading networks in an area that has been identified to accommodate such residential expansion, so as to avoid adverse effects such as urban sprawl and adverse visual amenity effects in other areas not as suitable for this sort of residential intensification.

#### **ATTACHMENTS**

**Attachment 1: Application**

**Attachment 2: Submissions**

**Attachment 3: Development Engineers Report - Ross Green**

**Attachment 4: Comments from Strategy and Policy Planner - Ryan Bradley**

**Attachment 5: Comments from Consultant Traffic Engineer - David Mitchell**

**Attachment 6: Planning Map 56 and Appendix 6 (Figure 2) - Rodney District Plan  
- Operative in Part.**