

Boundary Adjustment &  
Subdivision, & NESCS  
Consent

G & S Stilwell  
98C Ohiwa Harbour Road, Opotiki

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March 2022



660289-PLN-R001

24 March 2022

Planning Department  
Opotiki District Council  
PO Box 44  
**Opotiki 3172**

Attention: Senior Planner – Laura Swan

Dear Laura,

**Proposed Boundary Adjustment & Subdivision (Two Stages) & Consent to Disturb  
Contaminated Soils  
98C Ohiwa Harbour Road, Opotiki**

Please find enclosed on behalf of the applicant, **G & S Stilwell**, a resource consent application for a boundary adjustment and subdivision to be undertaken over two stages at the above address.

This application is made pursuant to Section 88 of the Resource Management Act 1991, and incorporates all information required by Form 9 and Schedule 4 to the Act.

Consent is also required pursuant to Section 9 of the National Environmental Standard for Assessing & Managing Contaminants in Soil to Protect Human Health (NESCS) to disturb soils above naturally occurring background levels on site through construction of access and future house sites.

The application fees will be paid via direct credit. We trust the attached information is satisfactory and look forward to your favourable response.

If you have any further queries, please do not hesitate to contact the writer on **(07) 571 4500**.

Yours faithfully

Stratum Consultants Ltd

A handwritten signature in black ink, appearing to read 'Shae', followed by a long horizontal flourish.

Shae Crossan

BA, MRRP, MNZPI

Planning Director

# Executive Summary

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**To:** Opotiki District Council

**Applicant:** G & S Stilwell

**Location:** Ohiwa Harbour Road, Opotiki

**Legal Description:** Part Lot 1 DP 7129 (RT GS5D/1364) – Subject Title  
Part Lot 1 DP 6545 (RT GS5C/1404) – Adjoining Boundary Adjustment Title  
Lot 2 DP 545499 (RT 926420) – Adjoining Boundary Adjustment Title

**The Proposal:** Proposed Subdivision & Boundary Adjustment & NESCS Consent to Disturb Contaminated Soils

**Zoning:** Coastal (Planning Map 4a)

**Activity Status:** **Boundary Adjustment**  
Controlled Activity under Rule 15.3.3 of the Opotiki District Plan

**Subdivision**  
Discretionary Activity under Rule 15.3.4 of the Opotiki District Plan

**NESCS Consent**  
Controlled Activity under Rule 9 of the NESCS

**Address for Service:** G & S Stilwell  
C/- Stratum Consultants Ltd  
PO Box 13651  
**Tauranga 3141**  
Attention: Shae Crossan  
Tel: (07) 571 4500  
Email: shae.crossan@stratum.nz

## **LIST OF ATTACHMENTS**

APPENDIX A	Records of Title
APPENDIX B	Iwi Consultation
APPENDIX C	Archaeological Assessment
APPENDIX D	Landscape & Visual Assessment & Landscape Plans
APPENDIX E	Geotechnical Report
APPENDIX F	Written Approvals & Neighbour Correspondence
APPENDIX G	DSI Report
APPENDIX H	Stratum Consultants Ltd Scheme Plan
APPENDIX I	OSET Feasibility Report

# Resource Consent Application

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## 1.0 INTRODUCTION

Pursuant to Section 88 of the Resource Management Act 1991 (the Act), **Stratum Consultants Ltd** applies to Opotiki District Council for resource consent on behalf of **G & S Stilwell ("the applicant")**. This application has been prepared in accordance with Form 9 and Schedule 4 of the Act, and incorporates all information required by those documents.

The applicant proposes to undertake a boundary adjustment and subdivision over two stages, with the boundary adjustment occurring at Stage 1 and the subdivision occurring at Stage 2.

The proposed boundary adjustment will transfer two small portions of the subject property to adjoining properties at Stage 1. Stage 2 will subdivide the balance of the property into 10 lifestyle allotments (9 additional titles).

In addition, a DSI report has been undertaken for the site which identified soils above naturally occurring background levels on the site, but below harmful human health levels. Consent is sought under the NESCS to disturb the soils as part of future access and house construction on each lot.

The proposed development is described in detail under Section 3.0 of this application, and is shown on Stratum Consultants Ltd Scheme Plan attached at Appendix H.

## 2.0 SITE DESCRIPTION

### 2.1 Legal Description

The applicants are the owners of the subject property which is legally described as Part Lot 1 DP 7129 held in Record of Title (RT) GS5D/1364 with a total area of 7.1201ha.

The site is subject to right of way easements, water and electricity and telecommunication easements. Many of these easements are located within the future road to vest at Stage 2 and will need to be cancelled prior to the vesting of the road but will remain applicable at Stage 1 of the proposal which is a boundary adjustment only and will retain the existing right of way access.

There are no consent notices registered on the title.

There is an existing private land covenant registered on the title requiring a height restriction to the north of the existing dwelling. This will transfer to the new title for proposed Lot 9 which contains the existing dwelling and has no further bearing on the subdivision.

Part Lot 1 DP 6545 which is subject to a boundary adjustment at Stage 1 is owned by Kenneth Bryan, Angela Bryan & RSL Trustee Services Limited and is held in RT GS5C/1404 with a total area of 8.0793ha

The site is subject to several rights of way and services easements. There are no existing land covenants or consent notices registered on the title.

Lot 2 DP 545499 is also subject to a boundary adjustment at Stage 1, is owned by Kevin Bevege and Donna Bevege and held in RT 926420 with a total area of 0.5553ha.

There is an existing consent notice and variation to consent notice registered on this title which specifies several building related matters in respect of Lot 2 DP 545499. There are also private covenants registered on the title. The consent notice specifies that no further subdivision of Lot 2 DP 545499 can occur except for minor boundary adjustments, which this proposal seeks. This property only has land being amalgamated with it from the subject property as part of the boundary adjustments and as such the consent notices and covenants remain unaffected.

Copies of the above RT's, consent notice and land covenant are attached at Appendix A.

## **2.2 Physical Description**

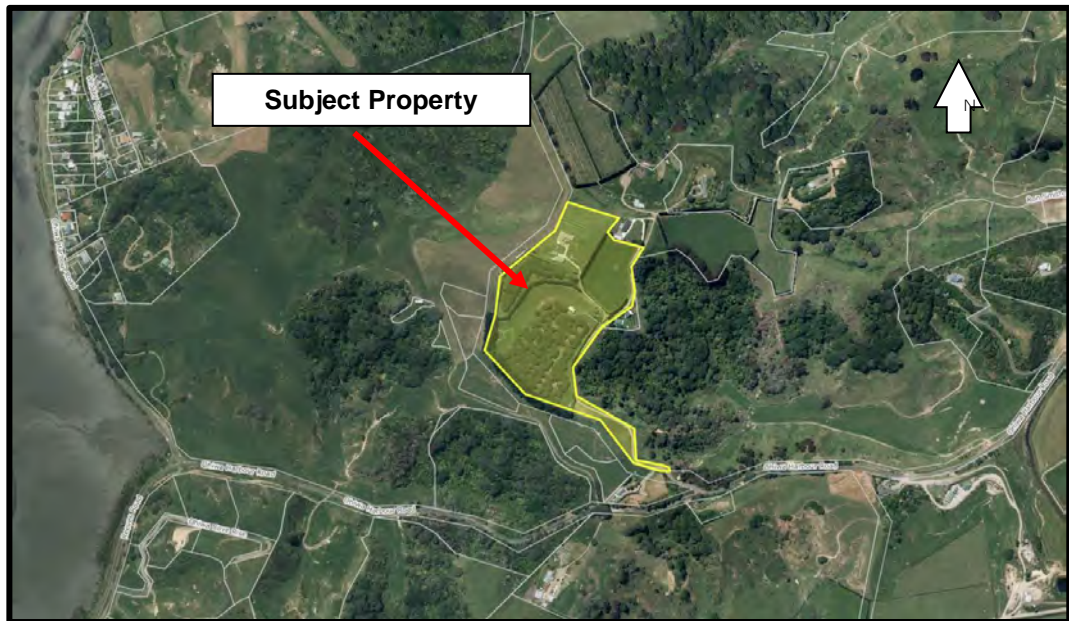
The subject site is located at 98C Ohiwa Harbour Road, Ohiwa Harbour, Opotiki as shown on the Location Diagram at Figure 1 below.

The property is currently accessed via an existing metalled right of way from the formed portion of Onekawa Road.

The site contains an existing dwelling and implement sheds located in the northern extent of the property. The balance of the site contains a small area of passion fruit vines, developed avocado orchard and pastoral land.

The topography of the site varies and includes a generally flat to gently undulating area where the existing southern area of avocados are planted, a pasture covered sidling to the north of this which then rises to a further plateau area containing the existing dwelling, lawn area and further avocado trees.

The existing land use surrounding the application site includes pastoral farming, horticulture and residential lifestyle living.



**Figure 1: Location Diagram**

The site is also shown as being located on a ridgeline on the Planning Maps, although this has no specific bearing on the site as it is located within the Coastal Zone and the ridgeline depicted does not appear to accurately follow the ridgeline which is essentially along the western boundary of the site.

The site is shown as having Class 4 & 6 Soils on the Planning Maps which are not defined as versatile soils.

There are no known hazards, or any other special overlays identified on the Operative District Planning Maps.



### 3.0 PROPOSAL DESCRIPTION

This application seeks resource consent from the Opotiki District Council to undertake a boundary adjustment and subdivision over two stages as shown on the Stratum Consultants Ltd Scheme Plan attached at Appendix H. Details of the proposed development are outlined in the following sections.

Stage 1 will result in boundary adjustments whereby proposed Lot 8 will be amalgamated with the adjoining property – Part Lot 1 DP 6545 and proposed Lot 14 will be amalgamated with Lot 2 DP 545499. The balance of the property will be held in one title. No additional titles will be created at Stage 1.

Stage 2 will result in the further subdivision of the Stage 1 balance title creating proposed Lots 1, 2, 3, 4, 6, 7, 9, 10, 11 and 12 (ten additional titles). Lot 13 is proposed to be created and vested as road with the Opotiki District Council.

### 3.1 Proposed Allotments

The proposed boundary adjustment and subdivision are configured as follows:

#### **Stage 1 (Boundary Adjustment)**

#### ***3.1.1 Proposed Lot 8 & Part Lot 1 DP 6545***

Area:	Lot 8 – 0.71ha Part Lot 1 DP 6545 – 8.0793ha  Total Amalgamated Area – 8.7893ha
Description:	Rural Horticultural Allotment
Road Access:	Access to Onekawa Road via existing vehicle entrance and right of way
House and Buildings:	Existing dwelling and shed

**3.1.2 Proposed Lot 14 & Lot 2 DP 545499**

Area:	Lot 14 – 0.17ha Lot 2 DP 545499 – 0.56ha  Total Amalgamated Area – 0.73ha
Description:	Lifestyle Allotment
Road Access:	Access via existing entrance and right of way from Ohiwa Harbour Road and access to Onekawa Road via existing vehicle entrance and right of way
House and Buildings:	Existing dwelling located on Lot 2 DP 545499

**3.1.3 Lot 100**

Area:	6.24ha
Description:	Balance Allotment
Road Access:	Access to Onekawa Road via existing vehicle entrance and right of way
House and Buildings:	Existing dwelling and implement sheds

**Stage 2 (Subdivision)****3.1.4 Proposed Lot 1**

Area:	0.27ha
Description:	Lifestyle Allotment
Road Access:	Access to Onekawa Road via proposed new road to vest (Lot 13)
House and Yards:	Possible house site shown at least 9m clear of Onekawa Road boundary, 9m clear of Lot 13 (road to vest boundary) and 5m clear of proposed side boundary

**3.1.5 Proposed Lot 2**

Area:	0.51ha
Description:	Lifestyle Allotment
Road Access:	Access to Onekawa Road via proposed new road to vest (Lot 13)
House and Yards:	Possible house site shown at least 9m clear of Onekawa Road boundary, 9m clear of Lot 13 (road to vest boundary) and 5m clear of proposed side boundaries

**3.1.6 Proposed Lot 3**

Area:	0.51ha
Description:	Lifestyle Allotment
Road Access:	Access to Onekawa Road via proposed new road to vest (Lot 13)
House and Yards:	Possible house site shown at least 9m clear of Lot 13 (road to vest boundary) and 5m clear of proposed side and rear boundaries

**3.1.7 Proposed Lot 4**

Area:	0.51ha
Description:	Lifestyle Allotment
Road Access:	Access to Onekawa Road via proposed new road to vest (Lot 13)
House and Yards:	Possible house site shown at least 9m clear of Lot 13 (road to vest boundary) and 5m clear of proposed side and rear boundaries

**3.1.8 Proposed Lot 6**

Area:	1.43ha
Description:	Lifestyle Allotment
Road Access:	Access to Onekawa Road via proposed new road to vest (Lot 13)

House and Yards: Possible house site shown at least 9m clear of Lot 13 (road to vest boundary) and 5m clear of proposed side and rear boundaries.

### **3.1.9 Proposed Lot 7**

Area: 0.45ha

Description: Lifestyle Allotment

Road Access: Access to Onekawa Road via proposed new road to vest (Lot 13) and proposed privateway E.

House and Yards: Possible house site shown at least 5m clear of proposed side and rear boundaries.

### **3.1.10 Proposed Lot 9**

Area: 1.26ha

Description: Lifestyle Allotment

Road Access: Access to Onekawa Road via proposed new road to vest (Lot 13) and proposed privateway C.

House and Yards: Existing dwelling at least 5m clear of proposed new side boundaries.

### **3.1.11 Proposed Lot 10**

Area: 0.27ha

Description: Lifestyle Allotment

Road Access: Access to Onekawa Road via proposed new road to vest (Lot 13) and proposed privateway C,D.

House and Yards: Possible house site shown at least 9m clear of Onekawa Road boundary and 5m clear of proposed side boundaries.

### **3.1.12 Proposed Lot 11**

Area: 0.20ha

Description: Lifestyle Allotment

Road Access: Access to Onekawa Road via proposed new road to vest (Lot 13) and proposed private way C,D.

House and Yards: Possible house site shown at least 9m clear of Onekawa Road boundary and 5m clear of proposed side boundaries.

### **3.1.13 Proposed Lot 12**

Area: 0.20ha

Description: Lifestyle Allotment

Road Access: Access to Onekawa Road via proposed new road to vest (Lot 13) and proposed private way C,D.

House and Yards: Possible house site shown at least 10m clear of Onekawa Road boundary and 5m clear of proposed side boundaries.

## **3.2 Geotechnical Considerations**

A geotechnical report has been prepared for the proposed subdivision which includes general recommendations for the identified possible house sites on the respective allotments. Provide the recommendations are adhered to it is considered that each lot is suitable to contain a dwelling in future.

### **3.3 Access**

#### **Stage 1**

At Stage 1 of the proposal the amalgamated Lot 8 and Part Lot 1 DP 6545 along with the balance Lot 100 will gain access via the existing metalled privateway from Onekawa Road. As Stage 1 is a boundary adjustment only and no additional lots are being created, no increased use will result and accordingly it is proposed to retain the existing privateway in its current formation.

Lot 2 DP 545499 and Proposed Lot 14 will gain primary access via the existing entrance and right of way at 118 Ohiwa Harbour Road.

#### **Stage 2**

##### **Road to Vest (Lot 13)**

At Stage 2 a new road to vest is proposed over part of the existing privateway up to a point where it serves proposed Lot 7 and Lot 1 DP 8269. As discussed with Council Senior Engineer at a pre-application meeting held on 2 February 2022, a 10m wide road reserve would be required and typically a 6m wide carriageway. A 10m wide road reserve is generally possible over the alignment.

In terms of the proposed carriageway, it is proposed to construct the carriageway to a width of 5m with passing bays provided at selected locations. The proposed road would be formed to a rural standard in accordance with the Development Code, with table drains and a 2-coat chip seal.

A turning/parking area is also provided within Lot 13 in between Lots 1 and 13.

All design would be in accordance with the Opotiki District Council Development Code of Practice.

A condition of consent is anticipated requiring detailed engineering design for the proposed road to be submitted to Council for approval prior to construction of the road.

### **Privateways**

Proposed Privateway C serving Lots 9 – 12 is already sealed and formed with a width of between 3 – 4 metres. It is considered that this is formed to suitable standard and no further upgrading would be required.

Proposed privateway D serving proposed Lots 10 – 12 is proposed be formed and sealed to a width of 4.0m.

Proposed privateway E serving Lot 7 and the other existing right of way users beyond the subject site is proposed to be formed and sealed to a width of 5.0m up to the point of the Lot 7 driveway. Beyond this point no additional lots are created and the existing right of way formation will remain.

### **3.4 Water Supply**

Each proposed lot will obtain water via roof collected rainwater or private onsite bore and tanks will be required to be installed at the time of building consent along with tanks for firefighting supply. A consent notice condition to this effect can be imposed on the new titles.

### **3.5 Wastewater Disposal**

Wastewater from any future dwellings on Lots 1 – 7 & 10 – 12 will be disposed of on site in accordance with the requirements of the BOPRC OSET Plan and this can be further addressed at building consent stage when the dwelling size is determined as each lot contains suitable area for wastewater disposal.

An OSET feasibility assessment has been prepared confirming that each lot can dispose of wastewater in accordance with the BOPRC OSET Plan and is attached at Appendix I.

### **3.6 Stormwater**

Stormwater disposal recommendations are included in the attached geotechnical report for the proposed possible house sites on Lots 1 – 4, 6 and 10 - 12.



### **3.7 Electricity Supply**

Electricity supply will be provided to serve each allotment.

### **3.8 Versatile Soils**

According to the District Planning Maps the site contains Class 4 & 6 soils which are not identified as versatile soils under the LUC Classification.

Accordingly, we do not consider that there will be significant adverse effects on any versatile soils.

### **3.9 Cultural Consultation & Archaeological Matters**

The applicant has met with Te Upokorehe Iwi on site to discuss the proposal. The applicant has taken into account the considerations from the site meeting and Te Upokorehe Iwi have provided a letter of support to the proposed development as attached at Appendix B.

The applicant has also had an archaeological report commissioned for the site by Insitu Heritage.

The archaeological assessment has not identified any evidence of archaeological features on the property and considers that an archaeological authority from Heritage New Zealand is not required.

### **3.10 Landscape & Character**

A detailed landscape & visual assessment (LVA) and landscape plans have been prepared by Greenwood Associates which are attached to the application.

The LVA has provided a detailed assessment of the existing landscape of the site and surrounds from various viewpoints surrounding the site and from proximate positions.

The LVA also provides an assessment of landscape and visual effects resulting from the proposed development and has assessed the relevant objectives and policies of the Coastal zone.

The report has concluded for a number of reasons that the effects of the development are very low – low which results in a no more than minor effect and has included a number of recommendations such as:

- Fencing to include only post and rail fencing or existing post and wire fencing
- Building design controls in terms of colour and reflectivity.
- Retaining controls
- No minor dwellings permitted, and secondary buildings being restricted to shed only that are located within the proposed building platforms.
- Planting in accordance with the landscape plan provided.

The proposal involves the removal of some existing avocado trees and exotic shelter belts that are to be replaced by native plantings which will assist in screening-built form from any new dwellings along with returning a more natural planting arrangement to the site.

Landscaping to be planted by the applicant as part of the subdivision and landscaping to be planted by the future lot owners is identified on the Greenwood Associates plan J001233/08 within the landscape plan set. It is anticipated that a condition can be imposed requiring the subdivision planting prior to Section 224(c) and that a consent notice condition can be imposed requiring the individual lot planting.

A further assessment of the character, landscape and visual effects of the proposal is included in the assessment of the relevant District Plan objectives and policies and AEE in Section 6.0 & 7.0 below.

### **3.11 Easements**

Any additional easements that may be required to secure services to the proposed subdivision will be identified at the time of field survey and shown on the title plan submitted for approval under Section 223 of the Act.

### **3.12 Natural Hazards**

The District Plan maps do not identify the property as being subject to any natural hazards.

### **3.13 Contaminated Soils**

The DSI report prepared for the site has identified contamination levels within the existing avocado orchards as above naturally occurring background level in respect of cadmium, copper, zinc and hydrocarbons but below harmful human health levels.

The DSI report advises that there is a very low risk to human health from the use/disturbance of onsite soils.

Soils are safe for use and re-use on site but cannot be removed from site as cleanfill unless it is further tested.

A controlled activity consent is sought under Section 9 of the NESCS to subdivide the site and disturb soils associated with access and future house construction on the allotments. This global consent for the subdivision is considered more appropriate than individual owners needing to apply for their own specific NESCS consents at the time of building consent.

## 4.0 OPERATIVE OPOTIKI DISTRICT PLAN

The primary planning instruments controlling development in the area is the Operative Opotiki District Plan.

### 4.1 Zoning

The application site is located within the Coastal Zone of the Operative District Plan.

The site is shown to have a ridgeline running through it per the District Plan Maps however there are no specific provisions relation to this ridgeline within the Coastal Zone. It would also appear that the ridgeline line as depicted on the maps is incorrect and that this line should run along the western boundary of the site which is the physical ridgeline.

There are no other special designations or overlay areas on the District Planning Maps.

### 4.2 Operative District Plan Standards

The District Plan requires subdivision and development within the Coastal Zone to be assessed against the Subdivision Chapter (15) and the Coastal Zone Chapter (9) of the District Plan.

<b>Section 15 of the District Plan – Subdivision Activity Standards</b>		
<b>Standard</b>	<b>Description</b>	<b>Comment</b>
15.3.4.3	<i>Boundary Adjustments in accordance with Rule 15.4.8</i>	<p><b>Consent Required – Controlled Activity</b></p> <p>The proposed boundary adjustments can comply with the provisions of 15.4.8 in that the boundary adjustments will not result in any significant changes to the resulting title areas and the boundary adjustments will not reduce rural production options</p>

15.3.4.2	<i>Lots which do not meet the requirement of 15.4 or general subdivision standards in 15.5</i>	<b>Consent Required – Discretionary Activity</b> The proposed allotments created at Stage 2 are unable to meet the minimum lot size for subdivision in the Coastal Zone of 4ha.
15.4.4.1	<i>All lots shall have access to a road which is formed to a suitable standard</i>	<b>Complies</b> At stage one the boundary adjusted lots will retain legal access to Onekawa Road and Ohiwa Harbour Road respectively via the existing right of ways. At Stage 2 all lots will have access to the new road to be vested.
15.4.4.2	<i>The maximum number of lots that may be served by one access shall be six. A legal road shall be required where more than six lots are served</i>	<b>Complies</b> At stage one six title will continue to have access via the existing right of way At Stage 2 a new legal road is to be created and vested. The proposed privateways created at Stage 2 of the subdivision will serve a maximum of six lots (proposed privateway E)
15.4.4.3	<i>The minimum access width required for up to six lots shall be as follows: 1 lot 3m 2 lots 4m 3-6 lots 6m</i>	<b>Complies</b> The proposed privateways comply with the required access widths.
15.4.4.4	<i>Where an access is greater than 135m in length the minimum access width shall be 4m to allow emergency service access</i>	<b>Complies</b> The proposed road to vest and proposed privateways will be formed with a width of 4m.

15.5.1	<i>Engineering Standards</i>	<p><b>Complies</b></p> <p>The proposal will comply with the relevant standards of the Development Code or variation as approved by Councils Engineering Manager.</p>
15.5.2	<i>Existing Buildings</i>	<p><b>Complies</b></p> <p>The proposed new boundaries comply in relation to setbacks from proposed new boundaries.</p>
15.5.3	<i>Natural Hazards</i>	<p><b>Complies</b></p> <p>There are no identified natural hazards on the site. A geotechnical report has been prepared outlining foundation requirements for future dwellings on the subdivided sites.</p>
15.5.4	<i>Subdivision Adjoining Highways</i>	<p><b>Not Applicable</b></p> <p>The subdivision does not adjoin a State Highway.</p>
15.5.5	<i>Water, Stormwater &amp; Sewage Disposal</i>	<p><b>Complies</b></p> <p>Services for the subdivided lots have been considered to ensure compliance.</p> <p>Stormwater disposal requirements are outlined in the attached geotechnical report.</p> <p>An OSET feasibility report has been prepared confirming the suitability of OSET disposal in future.</p> <p>Potable water is to be provide via private supply to each lot.</p>
15.5.6	<i>Wastewater Connections</i>	<p><b>Not Applicable</b></p> <p>The site is not within a reticulated wastewater area.</p>

15.5.7	<i>Stormwater Management</i>	<b>Can Comply</b> General stormwater disposal requirements are outlined in the attached geotechnical assessment. Specific design requirements will be confirmed at the time of building consent.
15.5.8	<i>Potable Water</i>	<b>Not Applicable</b> The site is not within a reticulated water area.
15.5.9	<i>Underground Services</i>	<b>Can Comply</b> Electricity to serve the site will be provided via underground connection.
15.5.10	<i>Stock Crossings</i>	<b>N/A</b> The site does not involve any subdivision of a dairy farm.
15.5.11	<i>Protection &amp; Fencing of Indigenous Vegetation</i>	<b>N/A</b> There are no identified wetlands or significant indigenous vegetation areas on site.
15.5.12	<i>Management of Pest Plants</i>	<b>N/A</b>

<b>Chapter 9 of the District Plan – Coastal Zone Activity Standards</b>		
<b>Standard</b>	<b>Description</b>	<b>Comment</b>
9.6.1	<i>Site Requirements</i>	<b>Complies</b> Each of the proposed allotments can meet the requirements and any future dwelling will need to meet the height and daylighting requirements of the zone.
9.6.2	<i>Yards</i>	<b>Complies</b> The possible house sites identified are located at least 5 metres from the proposed new and existing side and rear boundaries and are at least 9 metres away from the existing

		Onekawa Road boundary and future Road to Vest Boundary
9.6.3	<i>Landscaping</i>	<b>N/A</b> A further assessment may be undertaken at building consent stage in respect to storage. A landscaping and visual assessment report along with detailed landscaping plans have been prepared in relation to the subdivision and are attached.
9.6.4	<i>Noise and Glare</i>	<b>N/A</b> Any future dwellings will meet the District Plan noise and glare requirements and land uses being carried out on the sites will be permitted activities.
9.6.5	<i>Parking &amp; Access</i>	<b>Complies</b> There is sufficient area for parking on each of the resulting allotments. Vehicle entrances can be provided to each lot in accordance with Appendix 4.
9.6.6	<i>Signs</i>	<b>N/A</b> No signage is proposed as part of the development.
9.6.7	<i>Floor Levels</i>	<b>N/A</b> The site is not within the Coastal Environment.
9.6.8	<i>On Site Effluent Disposal</i>	<b>Complies</b> Each proposed lot can dispose of wastewater in accordance with the BOPRC On Site Effluent Treatment Regional Plan. This will be determined at the time of building consent when dwelling size and design is determined and each lot is large enough to provide access to an OSET field for maintenance purposes.



9.6.9	<i>Water Supply</i>	<b>Complies</b> Water for each of the new lots can be provided via roof collected rainwater or individual bore on each lot.
9.6.10	<i>Coastal Hazard Assessment</i>	<b>N/A</b>
9.6.11	<i>Setback for Plantation Forestry</i>	<b>NA</b>
9.6.12	<i>Relocation of Re-Siting of Buildings</i>	<b>N/A</b>
9.6.13	<i>Goat Farming</i>	<b>N/A</b>
9.6.14	<i>Deer Farming</i>	<b>N/A</b>
9.6.15	<i>Crop Protection Structures</i>	<b>N/A</b>
9.6.16	<i>Seasonal Worker Accommodation</i>	<b>N/A</b>
9.6.16	<i>Vegetation Disturbance &amp; Ancillary Earthworks in associated with a response under the Biosecurity Act 1993</i>	<b>N/A</b>

As described above, the boundary adjustment is a reconfiguration of three existing titles and accordingly a **Controlled Activity**.

The proposed subdivision can meet all relevant subdivision standards within the zone except for the minimum lot size of 4ha. Accordingly, the subdivision is a **Discretionary Activity**.

All other performance standards of the Operative District Plan can be met.

Overall, the subdivision and boundary adjustment require consent as a Discretionary Activity.

### 4.3 Activity Status

The assessment of the Operative District Plan standards in the preceding sections shows that the application for a boundary adjustment and subdivision must therefore be assessed as the following:

- **Boundary Adjustment Consent** to reconfigure three existing titles in the Coastal Zone, being a Controlled Activity under Rule 15.3.3 of the Opotiki District Plan
- **Subdivision Consent** to undertake a subdivision which does not meet the minimum lot size for subdivision in the Coastal Zone, being a Discretionary Activity under Rule 15.3.4 of the Opotiki District Plan.

## 5.0 DISCTRICK PLAN MATTERS OF CONTROL & ASSESSMENT CRITERIA]

The following provides an assessment against the relevant controlled activity (Boundary Adjustment) and Discretionary Activity (Subdivision) subdivision criteria within Chapter 12 of the District Plan.

### 5.1 Controlled Activity Criteria

#### ***15.6 CONTROLLED ACTIVITIES: MATTERS OVER WHICH CONTROL IS RESERVED***

##### ***15.6.1 The Council has reserved control over the following matters:***

###### ***15.6.1.1 Enabling use consistent with the purpose of the Zone***

***1. The lot size and the location of building platforms to comply with the requirements of each zone and not compromise the continuation of permitted lot on adjacent sites, including rural production activities in the Rural Zone.***

Comment: The proposed controlled activity boundary adjustment makes minor adjustments in the overall title areas and does not affect the overall productive potential of the land or building platforms of each of the resulting titles.

###### ***15.6.1.2 Protection of cultural, historical, ecological or archaeological sites and values***

***1. The need for protection of cultural, historical, ecological, or archaeological sites.***

***2. The use of legal mechanisms to protect cultural, historical, ecological or archaeological sites.***

Comment: The proposed controlled activity boundary adjustment does not propose any physical works that would affect cultural or archaeological sites. There are no identified ecological features on the site.

***15.6.1.4 Provision of services within a subdivision***

- 1. Compliance with the Standards in 15.4.***
- 2. The provision of services (water, including water for firefighting purposes, telecommunications services, and electricity) to lots created by subdivisions.***
- 3. Connections to Council infrastructure (water, sewer, stormwater).***
- 4. Management of stormwater effects arising from the subdivision.***
- 5. Potential for co-location of services.***
- 6. Potential for undergrounding of telecommunications services and electricity.***
- 7. Provision for effluent disposal where sewer connection is not available.***
- 8. Installation of water meters where required by Council.***
- 9. Provision of access to and access within the site.***
- 10. The formation of access and specifications for access points to State Highways.***

Comment: The proposed boundary adjustment will not affect any servicing of the resulting allotments created as part of the boundary adjustment, as each resulting title has an existing dwelling with existing services and has existing legal access.

***15.6.1.5 Stability of the site and susceptibility of the site to natural hazards***

- 1. The requirement for an engineer's report or a geotechnical report of the site.***
- 2. The location of sites for dwellings and buildings away from areas of instability.***
- 3. The requirement for a natural hazard report indicating susceptibility of the site to natural hazard events.***

Comment: The boundary adjustment will reconfigure three existing titles that each contain an existing dwelling. There are no identified natural hazards on the site.

## 5.2 Discretionary Activity Criteria

### *15.8 ASSESSMENT CRITERIA FOR DISCRETIONARY ACTIVITIES*

#### *15.8.1 GENERAL CRITERIA*

*15.8.1.1 The matters that Council may have particular regard to when assessing an application for a subdivision as a Discretionary Activity will include, but not be limited to, the following:*

- 1. Provision for riparian management and habitat restoration.*
- 2. Mechanisms used to avoid, remedy or mitigate adverse effects on habitats of ground nesting birds.*
- 3. Effects of earthworks and vegetation clearance on at risk, threatened or regionally distinctive species of indigenous vegetation and fauna and their habitats, including an assessment by an appropriately qualified ecologist and mechanisms to protect areas of ecological value.*
- 4. Provision for exclusion of stock from areas, this may include fencing.*
- 5. Effects on public access and recreation opportunities.*
- 6. Need for esplanade reserves or strips or other protection for waterbody margins.*
- 7. Effects of building platforms and access on the visual values and significant landscapes and features in the area, including an assessment by an appropriately qualified landscape architect, where there is the potential for landscapes or features listed in 13.9.1 or 13.9.2 to be affected.*
- 8. Potential effects on the landscape values of the site.*
- 9. The impacts on the historic heritage values of the site.*
- 10. Extent to which the proposal has regard to Māori values, particularly any traditional, cultural or spiritual aspect relating to the land.*
- 11. The ability to locate building platforms to comply with the requirements of each zone and not compromise the continuation of permitted Activities on adjacent sites, including rural production activities in the Rural Zone.*

***12. The pattern of subdivision and how it relates to the environmental outcomes for the zone, including reverse sensitivity effects.***

***13. Management of existing plant and animal pests, including methods used to avoid, remedy, or mitigate the adverse effects of pest weed species.***

***14. The potential adverse effects of fire, including fire spread.***

Comment: There are no riparian margins or identified significant indigenous vegetation, ecological areas or landscape areas within the subject site. No esplanade reserves are proposed or required as there are no streams or waterways on the property.

A landscape and visual assessment have been prepared for the subdivision in respect of the higher density development proposed which concludes that with the removal of exotic vegetation and replanting with selected natives in sporadic forms returns a degree of naturalness to the site and overall results in a positive effect.

All setbacks for future dwellings comply with the minimum required under the District Plan from road boundaries and from side and rear boundaries.

The applicant has met with Te Upokorehe Iwi who have provided a letter supporting the development and therefore Maori values and cultural matters have been considered.

The archaeological assessment attached considers that there is a low likelihood of archaeological matters being present on the site due to previous ground modification and the fact that no features were identified during an archaeological survey of the property.

Given the existing adjoining land uses and separation distances of the new lots from rural activities, it is not considered that any reverse sensitivity issues will result.

Plants and animals' pest species are not a relevant consideration to the application.

It is anticipated that each dwelling/lot will need to provide sufficient onsite water storage to meet relevant firefighting code requirements.

***15.8.4 REQUIREMENTS FOR BUILDING PLATFORMS IN THE RURAL, COASTAL AND ŌHIWA HARBOUR ZONES***

***The Council shall consider how the residential building platform provides visual separation distances from residential building platforms on adjacent sites, by means of topographical features, distances over flat land, protected areas of vegetation or similar devices and that will not compromise the continuation of Permitted Activities, including rural production activities, on adjacent lots through reverse sensitivity effects***

Comment: The LVA and landscape plans attached have considered visual mitigation for the proposed dwellings through colour and reflectivity controls and native planting which will still allow views from the proposed dwelling sites but obscure the dwellings, so they are able to blend in with the natural topography and planted form.

All proposed dwelling sites can meet the specified setbacks for the zone both in relation to existing and proposed internal boundaries.

### **5.3 Summary**

The assessment criteria assessed above are further used as a guide for the relevant effects assessed in Section 7.0 below.

## 6.0 DISTRICT PLAN OBJECTIVES AND POLICIES

The following presents an assessment of the relevant Operative District Plan objectives and policies in relation to the proposal which are considered as the Coastal Zone and Subdivision objectives and policies.

### 6.1 Coastal Zone

#### ***OBJECTIVE 9.2.1***

***Retain and, where appropriate, restore the distinctive natural character within the Coastal Zone.***

#### ***POLICIES***

##### ***9.2.1.1***

***Require setback for structures and buildings from the coast where practicable to ensure maintenance of the coastal ecosystem and the natural character of the coastline and to enable esplanade reserves, or esplanade strips to be set aside for the future.***

***9.2.1.2 Ensure that the subdivision, use and development of land within the Coastal Zone avoids as far as practicable significant adverse effects on natural character and where these cannot be avoided, be remedied, or mitigated.***

***9.2.1.3 Encourage voluntary actions to maintain, enhance or protect the natural character of the Coastal Zone.***

Comment: The subject site is modified through existing horticultural development and the construction of residential dwellings on and adjoining the site and does not exhibit pure Coastal character given its physical separation from the harbour and ocean margins.

In terms of character and measures to enhance the natural character of the site, the LVA concludes that the degree of naturalness along the ridgeline of the site is increased by the proposed planting layout along the western boundary of the site and a degree

of rural amenity is retained with the retention of some of the existing avocado trees within the properties.

### **OBJECTIVE 9.2.2**

*The adverse effects of inappropriate subdivision, use and development on the natural character of the Coastal Zone are avoided or are remedied or mitigated, including by providing for development in areas better able to absorb the effects of the development than other areas of the coast.*

### **POLICIES**

*9.2.2.1 Residential activities within the zone need to be managed and located to ensure that adverse effects on the amenity values, the quality of the environment, and the natural and physical resources of the District are avoided, remedied, or mitigated.*

*9.2.2.2 Manage the effects of residential activities through controls on building height, storage areas, parking, loading, signage, noise, glare, and separation distances to ensure the amenity value of the site and adjoining sites is maintained.*

*9.2.2.3 Require residential, commercial or industrial building setback from MHWS as a means of avoiding, remedying or mitigating the adverse effects of potential coastal hazard risks.*

*9.2.2.4 Ensure that any site within the zone is of a sufficient size to avoid or mitigate any potential effects of the on-site disposal of effluent and to ensure that there are no adverse effects on the Coastal Environment.*

*9.2.2.5 Manage the effects of subdivision, use and development on the natural character of the Coastal Zone through avoiding inappropriate development outside existing settlements, as far as practicable, or remedying or mitigating adverse effects, while recognising that some activities, due to functional, operational or technical requirements, need to locate in the Coastal Zone.*

*9.2.2.6 Encourage subdivision, use and development within established coastal settlements to ensure that residential development is managed to avoid, remedy or mitigate the effects of sprawling subdivision on the natural character of the Coastal Environment.*



***9.2.2.7 Ensure that residential buildings within 300m of the Harbour Industrial Zone are located and designed to avoid reverse sensitivity effects on lawfully established activities in the Harbour Industrial Zone.***

Comment: The LVA considers that potential adverse effects on amenity values are minimised through native planting, which is considered to increase the naturalness of the site. Additionally rural amenity is maintained throughout the site, through the retention of fruit trees and areas for grazing as well as the retention of small-scale horticultural activities in the outdoor living spaces of the existing dwelling.

The LVA has not proposed any restrictions on height and the height limits for future dwellings is set by the controls in the District Plan. The LVA has however recommended colour and reflectivity controls to mitigate glare.

The LVA has also recommended that no minor dwellings are permissible and that any secondary buildings are limited to sheds and that these sheds are located within the building platform areas.

All identified house sites are setback from existing and proposed external and internal boundaries in a compliant manner with the District Plan Standards.

The site is well separated from MHWS in terms of the Ohiwa Harbour and Waiohahi Estuary and the Coast.

Each site is large enough and of suitable topography to accommodate a compliant On-Site Effluent Treatment System as detailed in the attached OSET feasibility report.

Whilst the proposed development is not within an existing Coastal Settlement, given the existing residential lifestyle development in the immediately surrounding area it is considered that the proposed development builds on this whilst at the same time managing and mitigating overall effects of further development so that no cumulative impacts are created.

**OBJECTIVE 9.2.3**

*To recognise and provide for tangata whenua relationships with the Coastal Zone.*

**POLICIES**

*9.2.3.1 Where activities in the zone affect the relationship tangata whenua have with their cultural sites and traditions, activities are to avoid, remedy or mitigate adverse effects.*

*9.2.3.2 To take into account Hapū and Iwi resource environment management plans.*

*9.2.3.3 To recognise only tangata whenua can identify and evidentially substantiate their relationship and that of their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.*

*9.2.3.4 The outcomes of consultation with tangata whenua will be taken into account when assessing resource consent applications affecting the Coastal Zone to show how the relationships of Maori and their culture and traditions with their ancestral taonga are recognised and provided for.*

Comment: As previously identified the applicants have met with representatives of Te Upokorehe and Te Upokorehe have provided a letter of support to the proposed development as attached.

The applicant has considered planting requirements as requested by Te Upokorehe and this has been factored into the landscape planting plans provided.

It is therefore considered the above objectives and policies have been met and no concerns were raised by Tangata Whenua with respect to the proposed development.

**OBJECTIVE 9.2.4**

*Manage activities to ensure vehicle movement is undertaken in a safe and efficient manner that does not adversely affect the functioning of the transport network.*

**POLICY**

*9.2.4.1 To avoid remedy or mitigate the adverse effects of activities on the safety and efficiency of the transport network*

Comment: A new public road will be constructed to serve the additional allotments created at Stage 2 of the development. This road will be subject to detailed engineering design and approval prior to being constructed. Given the number of additional lots created it is not expected that there will be any adverse impact on the existing road network capacity.

A pre-application meeting with Councils Senior Roading Engineer did not identify any issue with the Onekawa Road/Ohiwa Harbour Road intersection.

### **9.2.5 OBJECTIVE**

***Enable rural production activities in the Coastal Zone.***

### **POLICIES**

***9.2.5.1 To provide for rural production activities, including associated buildings and structures, recognising that these activities are integral to and contribute to the rural use of the Coastal Zone.***

***9.2.5.2 To provide for rural production activities by ensuring that adjacent residential activities do not compromise the ability to use the land for rural production purposes through reverse sensitivity effects.***

Comment: Whilst the proposal will remove some of the existing avocado orchard and the land from this existing rural production activity, the applicant advises that due to current market demand for avocados and existing over supply around the country, it is uneconomic to continue with the avocado orcharding on the property.

We note that overall, the removal of the orchard will be approximately 2.3ha of land which is a minimal fraction of the overall rural/coastal land resource within the District.

All buildings maintain the setbacks required for the Coastal Zone under the District Plan and it is therefore expected that reverse sensitivity issues are significantly mitigated.

We note that most of the subdivision adjoins existing lifestyle development. Lot 9 (which contains the applicants existing dwelling) adjoins orchard to the north however no new dwellings or lots are created in this area. Furthermore Lots 10, 11 & 12 are also adjacent to pastoral land to the west however there is a significant separation with the legal unformed road in this location along with the yard setback for any future dwelling.

## 6.2 Subdivision

### *Objective 15.2.1*

*Subdivision within the district maintains the quality of the environment and enables the sustainable management of the natural and physical resources of the district.*

### *Policies*

*15.2.1.1 To ensure that lots are of a size, design and density that is consistent with the characteristics and purpose of the zone and suitable for the intended use.*

*15.2.1.2 To avoid, remedy, or mitigate the adverse effects of subdivision and other land uses on ecological, landscape, heritage and cultural values.*

*15.2.1.3 To avoid the fragmentation and loss of the productive rural land, and in particular versatile land.*

*15.2.1.4 To ensure that subdivision does not compromise rural production activities.*

*15.2.1.5 To manage the effects of new small lot subdivision for rural residential purposes in sensitive rural and coastal environments.*

*15.2.1.6 To avoid subdivision of land that would result in the modification, degradation or destruction of significant natural and cultural heritage features, or reduction of threatened, under-represented and originally rare ecosystem or vegetation types, and to encourage legal protection where practicable.*

Comment: The design philosophy of the subdivision has been to cluster the allotments into the central area of the property.

Whilst the lot sizes are significantly below the minimum lot size for the coastal zone, the subdivision is located in close proximity to other lifestyle development in the area with smaller allotments and is also close to Ohiwa Harbour Road being the main link from the Ohiwa Harbour to Waitohi. The proposed lot sizes are suitable for their intended use to accommodate residential activities.

There are no identified ecological or landscape overlays on the site per the District Planning Maps and cultural matters have been considered through the consultation undertaken with Te Upokorehe.

The site is not identified as having versatile soils on the District Planning Maps and given the soil type and size of the lot is largely constrained to accommodate economic rural activities.

Given the separation of the new allotments to existing rural allotments it is not considered any reverse sensitivity issues would arise that would constrain rural production activities.

Given the location of the site and existing surrounding development it is not considered that the site is a highly sensitive coastal environment.

No adverse effects will result to ecological, landscape and heritage values within the vicinity of the subject property. Landscape, ecological, cultural, and archaeological values have been considered in the formulation of the proposal.

Overall, the quality of the District's environment and natural and physical resources will be maintained by the proposal thereby ensuring consistency with the above objective and policies.

#### **15.2.2 OBJECTIVE**

***Subdivision of land does not adversely affect the safe and efficient functioning of regionally significant infrastructure and the National Grid and the capacity of roads and infrastructure to service new development.***

#### **POLICIES**

***15.2.2.1 To manage the effects of development so that services and roads associated with the subdivision are provided or upgraded to an appropriate standard.***

***15.2.2.2 To ensure safe and efficient access to and from the transport network by requiring access to be constructed in a location and to a design standard that is appropriate for their intended use.***

***15.2.2.3 To ensure new sites have services appropriate to their intended use.***

Comment: As previously advised a new public road is to be constructed and vested to serve the subdivision at Stage 2. It is considered that through the construction of this

new road that traffic from the development can adequately be accommodated as well as within the existing roading network beyond the site.

Services have been considered as part of the proposal and each lot can be adequately serviced with water, wastewater and has options for stormwater disposal. Electricity supply will also be provided to each allotment.

#### **15.2.4 OBJECTIVE**

***Recognise the special relationship tangata whenua have with their ancestral land.***

#### **POLICIES**

***15.2.4.1 To recognise and provide for the cultural, spiritual and archaeological values of tangata whenua and the desire of tangata whenua to live on and develop their ancestral lands and to protect the natural environment of their ancestral lands.***

Comment: Consultation has been undertaken with Te Upokorehe Iwi who hold mana whenua over the area and as advised they have provided a letter supporting the proposed development.

### **6.3 Summary of Objectives & Policies**

Whilst the proposed allotments are below the minimum lot size set for the coastal zone, mitigation is provided via the proposed building controls and landscaping to ensure an appropriate character is maintained. The site is unique in the fact that there is established lifestyle/residential living in close proximity which differentiates this site and area from much of the other coastal zoned land in the District.

Consultation has been undertaken with local iwi who have provided support to the proposed development and therefore due consideration has been given to the cultural values associated with the site.

The subdivision can be accessed and appropriately serviced as described throughout the application.

Considering the advice and recommendations of the specialist landscape report attached coupled with the unique nature and location of the site, whilst the proposal is not directly supported by the objectives and policies relating to lot sizes and use of the

zone, overall, the proposal is consistent with the other relevant objectives and policies of the Operative District Plan for the zone and subdivision in general.

## **7.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS**

In accordance with Section 88(2)(b) of the Act and Clause 1(d) of Schedule 4 of the Act, this assessment of environmental effects of the proposed activity has been prepared in such detail as corresponds with the scale and significance of the effects that it may have on the environment.

### **7.1 Visual Effects & Effects on Amenity & Character**

The existing amenity and character of the site and the character of the surrounding environment is typified by residential living, pastoral farming, and horticulture.

There will be some change to the existing environment as there is likelihood that a dwelling will be constructed on each of the new allotments in the future, however the change in itself will not create an adverse effect on the existing character and amenity due to the proposed mitigation measures.

The LVA concludes:

*"The site of the proposed subdivision sits within a wider landscape of high natural rural character values, with key perceptible character elements being the interplay between fragments of native vegetation and geometrically arranged utilitarian planting and open areas of pastoral landscape, and the network of ridgelines.*

*The physical effects upon the landscape are predominantly limited to the removal of existing shelter belts, a limited amount of physical alteration to the site is required to accommodate the proposed building platforms and the prevailing profile of the site will be maintained.*

*Whilst the change from a working orchard to a residential development can be considered to be significant, when viewed against the wider context of the proposal, it can be seen that there are positive changes in terms of landscape character values arising from the proposal. The most notable being the removal of mass bodies of exotic*

*planting and their replacement with native vegetation, this can be considered to increase the 'naturalness' of the site and will particularly be evident when viewed from within Ohiwa Harbour and Ōhope.*

*The proposed planting has been arranged in such a manner that when combined with the retained avocado trees and shelter belts will ensure that any future built form placed upon the proposed lots will not be viewed in its entirety whilst still allowing future occupants of the site to enjoy views out to the wider landscape.*

*These factors being given due consideration it is factored that the level of both permanent and temporary adverse effects on both landscape and visual amenity generated by proposal can be considered to be Very Low - Low\* / No more than minor.*

Based on the recommendations of the specialist landscape report and planting and mitigation controls proposed such as colour, clustering, landscaping and reflectivity controls, overall, it is considered that the effects of this subdivision on coastal character and visual amenity are no more than minor.

## **7.2 Traffic & Access**

As previously identified the minor boundary adjustments at Stage 1 will utilise the existing right of way and as no additional titles are created at this stage traffic effects are negligible.

At Stage 2, the proposed lots will gain access via a new road allotment to be vested which will need to be formed in accordance with Councils Development Code or a variation approved by Councils Engineering manager.

It is considered that the new road will be an improvement on the existing metalled right of way and maintenance requirements will be removed from owners and users' responsibilities with a sealed road also significantly reducing potential dust impacts.

There is sufficient area on each allotment for parking, loading, and manoeuvring and this can be further assessed at the time of building consent for each allotment.

It is therefore assessed that any effects on traffic and access will be less than minor.



### **7.3 Potential Effects from Natural Hazards**

The site does not contain any natural hazards as identified on the District Planning Maps.

The geotechnical report attached to the application confirms that the house sites are stable and are appropriate to build on.

We therefore consider that the provisions of Section 106 of the Act can be met, and any potential adverse effects relating to natural hazards will be less than minor.

### **7.4 Effects on Culture & Archaeology**

The applicant has consulted with Te Upokorehe Iwi who have provided support to the application. Planting considerations raised by Te Upokorehe have been factored into the landscape design.

The Archaeological Assessment attached has found no evidence of archaeological features on the property and that a prior archaeological authority is not considered necessary.

Accordingly, it is considered that cultural and archaeological matters have been considered and any resultant effects are of a less than minor nature.

### **7.5 Reverse Sensitivity**

There are no new allotments created within close proximity to the developed orchard to the north of the property. The applicants existing dwelling will remain the closest to the existing orchard on the adjoining property.

It is noted that in the Western Bay of Plenty District where there is a prevalence of orchard activities, after numerous years of application a 30m setback from orchard activities has been deemed an acceptable separation distance in terms of reverse sensitivity and spray drift.

Notwithstanding this there are separate rules and regulations in the horticultural industry regarding notification of spraying to adjoining property owners that fall outside the scope of the RMA process.

The proposed house sites are at least 5m and 9m clear of the property boundaries as required by the District Plan and therefore comply with the setback as anticipated by the plan.

Considering the above it is our opinion that reverse sensitivity effects will be less than minor overall.

## **7.6 Contaminated Soils**

In terms of contaminated soils, as noted these are below harmful human health levels but above naturally occurring background levels and as such there is a very low risk to human health through the utilisation and/or disturbance of the onsite soils.

## **7.7 Precedent Effects**

Precedent effect is a concern that similar applications for consent should be dealt with in a similar way. It is not an effect on the environment as such but may be a matter for Council to consider under the 'any other relevant matter' clause of Section 104 of the Act.

Granting consent to a discretionary activity has no precedent effect in the strict sense as not one application is the same, and every application has its own unique attributes, constraints, circumstances, and characteristics in relation to location, topography, access, available infrastructure, surrounding land uses and hazards.

The Act requires applications to be considered on their own merits. The extent of influence that this proposal might have on other applications will entirely depend on the similarities and the timing of applications.

The discretionary status of the application is triggered by the fact that the allotments sizes are below those specified for the Coastal Zone in the District Plan.

In the context of the proposal, due to the unique nature of the suite, existing surrounding lifestyle development and lack of versatile soils within the site the proposed subdivision is considered appropriate and an efficient utilisation of the land resource.,

For the above reasons, we consider that precedent will not be created through the granting of this application and that the proposal contains unique components and can therefore be distinguished from future applications that may be lodged.

## **7.8 Summary**

The assessment of environmental effects presented above is guided by the provisions of the Act and the assessment criteria of the District Plan. Overall, this assessment shows that the actual and potential effects of the proposed subdivision on the environment will be no more than minor overall.

## **8.0 REGIONAL MATTERS ASSESSMENT**

### **8.1 Operative Regional Policy Statement**

The proposal has been assessed against the relevant sections of the Operative Regional Policy Statement including:

- The coastal environment;
- Iwi resource management;
- Matters of national importance;
- Rural & urban growth management.

It can be concluded that the proposal is generally consistent with the relevant matters prescribed within the operative policy statement and therefore is considered to subscribe to the principle of sustainable management of the region's natural and physical resources.

The above matters are addressed through the application and through the objectives and policies of the District Plan which was created after the Operative RPS and gives effect to the direction of this document.

### **8.2 Operative On-Site Effluent Treatment Regional Plan**

Each lot contains sufficient area and topography to dispose of effluent onsite in accordance with the requirements of the OSET Plan. The attached OSET feasibility

assessment confirms that a compliant system can be located on each resulting allotment.

Systems will be specifically designed at the time of building consent once dwelling design, layout and size is confirmed.

### **8.3 Operative Regional Natural Resources Plan**

Rule 1, relating to permitted earthwork activities is relevant to the proposal. Some earthworks will be undertaken to form roading and building platforms on the allotments when dwellings are constructed. Given the timing and nature of the earthworks required the volume and area of material disturbed will be well within permitted activity thresholds of 5000m<sup>3</sup> and 1 hectare respectively within a 12-month period and therefore will not require authorisation through a Resource Consent.

Rule 30B relating to the discharge of clean stormwater is a matter contained within the Plan relevant to the proposal. Each lot is large enough for efficient stormwater disposal. Any stormwater from future dwellings can be disposed of on-site via ground soakage which is standard practice in rural/coastal areas. All requirements of Rule 30 can be met by the proposal, particularly with respect to rate of discharge (125 litres/sec for a 10 min 10 % AEP event) meaning that stormwater discharged from the future dwellings within proposed subdivision can be assessed as a permitted activity.

## **9.0 PART II RESOURCE MANAGEMENT ACT 1991**

### **9.1 Section 5**

The proposal has regard to the purpose of the Act in that the natural and physical resources of the site are being managed in a sustainable manner.

The consolidation and intensified use of the site makes the most efficient use of the land and subscribes to the concept of sustainability, which is one of the fundamental principles of the Resource Management Act 1991.

The proposal does not detrimentally affect the potential of natural and physical resources of the site to meet the reasonably foreseeable needs of future generations,

nor the life supporting capacity of water, soil, air and ecosystems given the soils are not classified as versatile, there are no significant water bodies affected on the site, no air related discharges are proposed and there is no indigenous vegetation or fauna on the site that would need to be cleared to make way for the development.

## **9.2 Section 6**

The site is located in an area of historic Maori occupation; however, Iwi have been consulted with accordingly and provided support to the proposal.

An archaeological assessment has been prepared for the property and no evidence of historic heritage or archaeological features were identified.

## **9.3 Section 7**

Regard has been given to:

- Kaitiakitanga
- The efficient use and development of natural and physical resources.
- The maintenance and enhancement of amenity values; and
- Maintenance and enhancement of the quality of the environment.

Kaitiakitanga has been given due consideration through the consultation undertaken and the landscaping proposed takes into consideration matter raised by local iwi on site.

The proposed subdivision is an efficient use and development of the natural resources and the physical resources existing on the site which are currently used for marginally productive avocado orchard purposes.

As detailed in the application the proposed house sites are to be partially screened and located and therefore there will be no adverse effects on existing amenity values. Services such as wastewater and stormwater can be adequately disposed of on site without affecting the quality of the environment.

## 9.4 Section 8

Regard has been given to the principles of the Treaty of Waitangi. Consultation has been undertaken with local iwi and their concerns have been factored into the landscaping design of the subdivision.

## 10.0 NOTIFICATION

### 10.1 Public Notification

Section 95A of the Act sets out the circumstances where an application for resource consent must or should be publicly notified through consideration of several steps.

In terms of mandatory public notification, as detailed by Step 1 the applicant has not requested public notification, the proposal is not for an exchange of reserve land under the reserves act, and public notification is not required under Sec 95(c).

With regard to Step 2, public notification is not precluded as the application is a Discretionary Activity overall.

With regard to Step 3, there is no applicable rule under the District Plan or an NES that requires public notification and pursuant to Sec 95(d) adverse effects are considered to be no more than minor overall for the following reasons:

- Through the assessment of environmental effects, we deem that any effects of the proposal on the wider environment resulting from the subdivision of the site will be no more than minor. Potential traffic can be accommodated within the proposed and existing roading network, and as such we consider that there will not be any adverse effects on the wider community and wider roading network.
- There are existing non-Rural activities on and surrounding the site, the development is consistent with these uses, and will not result in any adverse effects on the Coastal zone as a whole as the site is unique.
- There will be no adverse effects on public services or infrastructure.

In terms of Step 4, we do not consider that there are any special circumstances that require public notification, and that the application therefore does not require public notification under Section 95A (9)(b).

Accordingly, we consider that the application need not be publicly notified.

## 10.2 Limited Notification

Section 95B of the Act, in conjunction with Sections 95E & 95F details the process where limited notification of the consent application may be undertaken.

In terms of Step 1, there are no applicable protected customary rights groups or customary marine title groups, and the site is not subject to a statutory acknowledgement area or adjacent to a statutory acknowledgement area.

With regard to Step 2, limited notification is not precluded by any rule within the District Plan, or an NES and the Stage 2 subdivision is not a controlled activity or a prescribed activity.

In the case of Step 3, the application is not for an infringed boundary activity and again is not a relevant prescribed activity excluding notification.

The applicant has undertaken consultation with the following property owners who utilise the existing right of way and those directly adjacent properties across the unformed portion of Onekawa Road to the west.

Name	Property	Location in Relation to Subject Site	Approval Provided
Karen Martinsen & Kirk Martinsen	Lot 1 DP 8269 98A Ohiwa Harbour Road	Adjoining the sites eastern boundary and utilises existing ROW for access	Yes
Angela Bryan, Kenneth Bryan, RSL	Part Lot 1 DP 6545 98 Ohiwa Harbour Road	Adjoining the sites northern boundary	Yes

Trustee Services Limited			and utilises existing ROW for access	
Geoffrey Brown, Nanette Brown, Pingao Trustee Riverlock Limited	Lot 1 DP 6545 98D Ohiwa Harbour Road		Utilises existing ROW for access	Yes
Dianne Hearn	Lot 1 DP 9213		Utilises existing ROW for access	Yes
Mountain Ridge Holdings Limited	Lot 2 DP 555172 137 Ohiwa Beach Road		Adjoining the sites eastern boundary and utilises existing ROW for access	No
Donna Bevege, Kevin Bevege	Lot 2 DP 545499 118B Ohiwa Harbour Road		South of the subject site across Onekawa Road	Yes
Peter Carter, Susan Carter, New Zealand Trustee Services Limited	Lot 3 DP 545499 118 Ohiwa Harbour Road		South of the subject site across Onekawa Road	Yes
Russell Davis, Maureen Simonsen	Lot 4 DP 545499 118 Ohiwa Harbour Road		West of the subject site across Onekawa Road	Yes
Chris Howard, Toni Howard	Lot 5 DP 545499 118 Ohiwa Harbour Road		West of the subject site across Onekawa Road	Yes
Ohiwa Cove Limited	Lot 2 DP 553814 118 Ohiwa Harbour Road		West of the subject site across Onekawa Road	Yes

As shown above, the applicant has obtained all but one written approval, that being the owner of Lot 2 DP 555172 located at 137 Ohiwa Beach Road. The effects on the above parties that have provided written approval can therefore be discounted.

The owners of Lot 2 DP 555172 (Mountain Ridge Holdings Ltd) were consulted with as per the documentation attached however have not provided written approval. They had requested that the applicants remove all the trees on the unformed portion of Onekawa



Road and also facilitate a boundary adjustment with the adjoining owner of Part Lot 1 DP 6545 to provide access to their land. Both requirements are outside the scope of this consent application and are not related to any relevant effect created by the proposed subdivision. The applicant clarified several other queries raised by the owner of Lot 2 DP 555172 as per the attached correspondence.

We note that the owners of Lot 2 DP 555172 have legal access over the existing right of way to the rear of their land, however this is not the only access to the land which also has access via direct frontage to Ohiwa Beach Road and Ron Smith Drive. As part of the subdivision legal access will be retained to this land at the Stage 1 boundary adjustment via the existing rights of way and at Stage 2, via the vested public road, and beyond that point, existing right of way.

There are no dwellings on Lot 2 DP 555172 in close proximity to the proposed subdivision or horticultural activities that would generate potential adverse reverse sensitivity matters.

In our opinion, the matters requested by the owners of Lot 2 DP 555172 are outside the scope of this application and given the fact that legal access will continue to be provided to the land, any effects on this party as a result of the subdivision will be of a less than minor nature.

The applicant has also undertaken consultation with Te Upokorehe Iwi who hold mana whenua over the area and have provided their written approval to the proposal as previously identified in the application.

In terms of Step 4, we consider that no special circumstances exist that would require notice to be served on any other party and as such it is considered that the application can be processed on a non-notified basis.

### **10.3 Notification Conclusion**

Accordingly, it is considered that this proposal meets the tests of Sections 95A to 95F and can be processed without public or limited notification.

## **11.0 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING SOIL CONTAMINANTS IN RELATION TO HUMAN HEALTH (NESCS)**

A detailed site investigation (DSI) has been prepared and is attached at Appendix F.

A DSI has been undertaken which confirms that soils contaminants are below the specified harmful residential levels of the NESCS and that there is highly unlikely to be any effect on human health resulting from the use of the soils for residential development and that the soils quality should not affect the granting of resource consent or building consent.

The DSI report does note however that some soils are above background levels and accordingly a controlled activity NESCS consent is required.

The soil above background is safe for reuse on site but if removed from site will need to be taken to an approved landfill or further testing undertaken.

Accordingly, consent is required under the NESCS Controlled Activity under the NESCS.

## **12.0 CONCLUSION**

The proposed boundary adjustment and subdivision is outlined in detail in Section 3.0 of this application and is shown on the accompanying plans.

As required by the Act, the proposed development has been assessed in terms of the Opotiki District Plan, and the actual and potential effects of the activity on the environment.

With regard to the assessment of environmental effects contained in Section 6.0 of this application, it was concluded that any adverse effects of the proposed development on the environment will be less than minor and can be mitigated. In addition, all but one adjoining property owner and/or existing right of way user has provided their written approval accepting the effects of the subdivision.

In addition, overall, the proposed subdivision is not contrary to the relevant objectives and policies of the District Plan given the nature of the site and existing surrounding environment and is consistent with the purpose and principles of the Act.

Accordingly, we seek that Council take a positive approach to this application and grant consent through a non-notified resource consent process.

## 12.1 Limitation

This report has been prepared for G & S Stilwell for the proposed boundary adjustment, and subdivision consent at 98C Ohiwa Harbour Road, Opotiki. It is not to be relied upon or used out of context by any other person without reference to Stratum Consultants Limited. The reliance by other parties on the information or opinions contained in the report shall, without prior review and agreement in writing, be at such parties' sole risk.



Shae Crossan for Stratum Consultants Ltd on behalf  
of the applicant

March 2022

### LIST OF ATTACHMENTS

APPENDIX A	Records of Title
APPENDIX B	Iwi Consultation
APPENDIX C	Archaeological Assessment
APPENDIX D	Landscape & Visual Assessment
APPENDIX E	Geotechnical Report
APPENDIX F	Written Approvals
APPENDIX G	DSI Report
APPENDIX H	Stratum Consultants Ltd Scheme Plan
APPENDIX I	OSET Feasibility Report