

BEFORE THE ŌPŌTIKI DISTRICT COUNCIL

UNDER the Resource Management Act 1991

AND

IN THE MATTER OF a resource consent application by G & S Stilwell for
subdivision consent, and land use consent under the
National Environmental Standard for Assessing and
Managing Contaminants in Soil (NESC), at 98C Ohiwa
Harbour Road (Onekawa Road), Ohiwa

**STATEMENT OF EVIDENCE OF SHAE MATENGA CROSSAN
ON BEHALF OF G & S STILWELL**

PLANNING

10 AUGUST 2022

Introduction

1. My full name is Shae Matenga Crossan. I hold the qualifications of Bachelor of Geography (2003) and Masters of Regional & Resource Planning (2005) from the University of Otago. I am a full member of the New Zealand Planning Institute.
2. I am a Planning Director at Stratum Consultants Ltd, a planning, engineering and surveying company. I oversee the planning and resource management work within the practice and have 17 years work experience. The Company operates within the Bay of Plenty, and I have personally worked within the Bay of Plenty since 2008.
3. I have experience with several planning projects in the wider Bay of Plenty area including various subdivision activities and land use consents within the rural, residential, industrial and commercial sectors.
4. I am familiar with the site having undertaken a number of site visits, and the locality in general.
5. I prepared the planning assessment submitted with the application for the consents sought.

Code of Conduct for Expert Witnesses

6. I have read and agree to comply with the Code of Conduct for Expert Witnesses contained in the Environment Court's Practice Note 2014. I confirm that this evidence is within my area of expertise, except where I state that I am relying upon the specified evidence of another person. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

Scope of Evidence

7. I have prepared this evidence to help answer the key planning questions relating to the Application. In particular, I summarise the nature and significance of effects (drawing upon the information in the applicant's landscape and other reports and evidence), and I provide my assessment of the relationship of the proposal with the provisions of the relevant planning instruments, Section 104 and Part 2 of the Act.
8. In addition, I have reviewed the provisions of the planning instruments that I consider are relevant to the proposal as detailed in the application. These include the Regional Policy Statement, the Regional Natural Resources Plan, and the Operative Ōpōtiki District Plan.
9. I have concluded that granting consent to the proposal, on balance, will not be contrary to the relevant objectives and policies of the planning instruments that relate to the core contested issues to be considered for the Application, i.e.:
 - Rural Production Effects
 - Character & Amenity Effects
 - Landscape & Visual Effects
 - Biodiversity Effects
10. I have read and am familiar with the submissions, Section 42A Report, and relevant attachments including the landscape peer review assessment.
11. I confirm that I have undertake visits to the site in February 2022 and July 2022. I have also undertaken several visits to the directly adjoining site (Ohiwa Cove) from 2017 – 2020 when I was involved with the subdivision of that property.

Executive Summary

12. In summary, I have concluded the adverse effects of the proposed subdivision will be no more than minor overall. I consider that overall effects from the proposed development can be appropriately mitigated by conditions of consent.
13. In response to submissions and the Section 42A Report, the applicant proposes an *alternative* ten lot (seven additional lot) subdivision for consideration. The scheme plan of the ten-lot subdivision proposal is attached to this evidence at Appendix A. I comment and address the alternative proposal further within my evidence.
14. I note that there is also a minor change to the budling platform on Lot 6 on both the original scheme plan and alternative scheme plan, which has been reorientated to include the existing shed. Booth scheme plans are attached at Appendix A.

Background

15. The applicant has sought consent from the Ōpōtiki District Council (“Council”) for a subdivision of the subject property including a “boundary adjustment” reconfiguration of two adjoining titles. The proposed subdivision and boundary adjustment will result in twelve titles, with nine additional titles overall.
16. The application also seeks consent for contaminated soils disturbance for the house site areas upon which orchard landuse has been carried out in the past under the National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health (“NESCS”).

Status of the Application

17. The subdivision component of the application is a Discretionary Activity under the Operative Ōpōtiki District Plan (“ODP”).

18. The boundary adjustment component of the application is a Controlled Activity under the Operative Ōpōtiki District Plan (“ODP”).
19. The contaminated soils disturbance for soils above naturally occurring background levels requires consent under the NESCS as a Controlled Activity.
20. Overall, the application is assessed as a Discretionary Activity.

Statutory Considerations Required by the Act

20. Whilst I wish to avoid repeating provisions of the Act and the ODP that are identified in the Section 42A Report, to establish the basis of my opinions it is necessary for me to summarise the assessment requirements under which the application is to be considered.
21. The application is determined to be a Discretionary activity under the ODP. The proposal is therefore to be assessed against Sections 104 and 104B of the Act. Section 104B provides that the consent may be granted or refused, and if it is to be granted, conditions may be imposed.
22. Section 104 requires that consideration of the application shall, subject to Part 2, have regard to:
 - The actual and potential effects on the environment of allowing the activity;
 - Relevant provisions of the Regional Policy Statement, the Natural Resources Plan, and the ODP;
 - Any other matter considered relevant and reasonably necessary to determine the application.
23. The Section 104 assessment is also subject Part 2 of the Act. I consider the relevant Part 2 matters that are required to be recognised in achieving the

purpose of the Act (Section 5), and provided for in considering the Application are:

24. Section 6 matters including:
 - (a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
 - (b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use and development
 - (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
 - (d) the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:

25. Section 7 matters including:
 - The efficient use and development of natural and physical resources;
 - The maintenance and enhancement of amenity values;
 - Maintenance and enhancement of the quality of the environment;
 - Any finite characteristics of natural and physical resources.

26. For the purposes of this evidence, I consider the most relevant planning instruments to be the Regional Policy Statement, the Natural Resources Plan and the ODP. I consider that the above documents have given regard to Part 2 of the Act and incorporate the required matters within their relevant intentions and objectives and policies.

Submissions

27. A total of ten submissions were made to the application as part of the public notification process. Ms Swan has accurately summarised these submissions in her Section 42A Report.

28. It is my opinion that the issues raised in the submissions have been adequately dealt with in the application, by Ms Swan in her Section 42A Report and further addressed through this hearing process by the evidence provided today. The relevant Resource Management Act issues raised in submissions are further addressed in my assessment of effects below.

Actual & Potential Effects on the Environment

29. In this section I address the potential adverse effects of the application which are contested through Ms Swan's Section 42A Report. Those matters being:

- Rural Production Effects
- Character & Amenity Effects
- Landscape & Visual Effects
- Biodiversity Effects

30. I do not consider that it is necessary in this instance to address in detail those effects that are largely agreed in Ms Swan's report with respect to access, traffic and roading, stormwater and services, natural hazards, reverse sensitivity, and cultural matters. I am happy to answer questions or clarify any points on these matters if required by the commissioner.

31. The Act's definition of effects also includes positive effects and I consider the following positive effects should be considered in the context of the overall development. These include:

- The provision of a high quality clustered rural lifestyle subdivision.
- Planting of new indigenous vegetation that would replace exotic vegetation - a view that is supported by Te Upokorehe Iwi;
- The economic and social wellbeing of the applicant;
- The replacement of the existing right of way access with a new public road, that will benefit the subdivision and existing right of way users and will legitimise Mr Ian Bertram's current physical access;

- Provision of allotments which houses can be built upon at a time where there is a critical housing shortage.

Rural Production

32. A significant concern raised by Ms Swan, is related to the adverse effects of the proposed subdivision on rural production. Ms Swan states that while the land is not defined as “versatile land” under the ODP, she still considers that the soils have value in terms of rural productive potential. She also notes that the land classification is the same as areas within the Ōpōtiki District such as Paerata Ridge and Tablelands where there are large, developed kiwifruit orchard holdings.
33. I largely agree with the above, however note that although the soils in those other areas have similar classes, there are a range of factors other than solely soils classification that need to be considered when looking at land and its overall productivity. This includes land contour, altitude and land orientation which is significantly different in the areas Ms Swan refers to above, whereby there are large north facing elevated plateau areas suited to large scale kiwifruit operations.
34. Having reviewed available aerial photography, it is also clear that the immediate surrounding area (area from Ohiwa Harbour Road north and area south of Ohiwa Beach Road (see Figure 1 below) has very few orchard type production activities occurring, with the only area of kiwifruit orchard on the adjoining site to the north and a small avocado orchard on land further to the north. All other land is either larger pastoral land holdings, large and small rural residential blocks and residential activities within the coastal settlement zone to the north. The closest large scale developed kiwifruit orchard landholdings start approximately 3km to the east on Paerata Ridge Road where there is a significantly larger area of flat available land suitable for horticulture. In my view, if the land has significant value for rural production potential that was economic then it would likely be used for these purposes rather than varied

land uses that are occurring. This is supported by Mr Gavin Stillwell as the applicant in his evidence.



Figure 1 – Ohiwa Headland Area with Surrounding Land uses (Source: Grip, 2022)

35. Mr Stilwell, as an experienced orchardist, has provided evidence on the economics of the current avocado orcharding and notes this is marginal due to bi-annual fruit bearing, wind and weather issues and an oversupply of avocados in the industry. Mr Stilwell also states that he has investigated other commercial orchard options such as kiwi fruit and passionfruit however the economics and returns would also make this marginal. In addition, staff shortages and disease management of passionfruit make this highly labour-intensive crop marginal.
36. I stand by the assertion I made in the original application that the removal of this land from potential rural production activities would have little effect on the overall productive rural land resource within the Ōpōtiki District. Excluding the land within the district that Ms Swan has noted as being under the control of the Department of Conservation, the subject site's marginal productive area

remains a fraction of the overall productive rural land resource within the District. This is reinforced in Mr Stillwell's evidence.

37. Ms Swan states that the rural land resource is under increasing pressure from existing lifestyle subdivisions that she has described and proposed lifestyle subdivisions. She does not state where or what these proposed subdivisions are and if they are currently with Council for processing and as such the full effects of this "pressure" cannot be examined.
38. Overall, I agree that the subdivision as proposed will remove some marginal land from being able to be utilised for rural production activities, however based on the evidence from Mr Stilwell, the lands' ability for economic and productive rural activities are marginal and as such that the removal of this land will have no overall bearing on the productive rural land resource within the District.

Character & Amenity Effects

39. In my view the character and amenity effects are similar in nature to the landscape and visual effects and the proposed mitigation of this is interrelated. I assess landscape and visual effects separately below. Other amenity and character related matters relevant to the proposal include potential traffic, noise, and the density of the development.
40. I note of the three adjoining parties that did not provide approval, only Mr Ian Bertram (owner of adjoining rural residential property Lot 1 DP 8749), Mr Logan Bertram and Mr Dean Bertram (owners of adjoining rural residential property Lot 1 DP 545499) made submissions in opposition to the proposal. Mr Bertram's submission included concerns about amenity in terms of increased traffic and loss of rural lifestyle. Whilst I acknowledge that there would be increased traffic generation over and above the existing situation, given the nature of the road, topography (i.e., the road will not induce high speeds), the separation and

elevation of Mr Bertram's dwelling, and the future rural residential land use, I consider that potential traffic noise would be modest.

41. Mountain Ridge Holding who own the adjoining property to the east, did not provide written approval, but also did not provide a submission in opposition to the proposal. Ms Swan states in her report that Mountain Ridge Holdings may be subject to increased amenity effects from traffic associated with the new proposed new public road, however there are no dwellings within close proximity to this area and the topography of the land would not lend itself well to the construction of a new dwelling.
42. Concern regarding amenity effects is also raised by Mr A Sandom (owner of a rural residential lot in the original Ohiwa Cove Rise subdivision) in his submission including traffic noise, lighting, density, and rural character effects.
43. Ms Swan has also raised considerable concerns in her Section 42A Report around the effects of amenity and character due to the proposed density of the subdivision. Ms Swan notes that the lots are essentially "residential" lots, however I disagree with this assertion that the lots proposed are residential. Reviewing the lots in the surrounding coastal settlement areas, these generally average in size from 800m² - 1200m² being the minimum required to have a compliant onsite effluent system. The allotments proposed as part of this development significantly exceed the size of a typical residential allotment.
44. In response to the submissions and Ms Swan's concerns, the applicant has proposed an amended alternative scheme plan option as attached, which reduces the overall number of additional allotments from nine to seven (twelve to ten lots overall) and subsequently the number of additional houses. The houses removed are the most prominent being those sites previously located on Lots 11 and 1. This changes the density of the subdivision to allotments that are largely around 4000m² in area which is generally consistent with those lots directly to the south and west within the most recent Ohiwa Cove subdivision development.

45. Whilst subdivision of the rural residential lot sizes proposed as part of this subdivision are not expressly permitted under the ODP, the character and landscape of the surrounding area is made up of a mixture of uses including rural residential allotments, horticultural allotments, pastoral allotments and residential allotments further to the north, which include a wide variance in lot sizes and land uses. The subdivision as proposed is not significantly different to immediately surrounding sites.
46. The proposed development will result in a change to the existing character and environment given there are no houses on the proposed allotments at present. However, change and how this is perceived is often subjective to individual parties' views and is a personal perception. I note that the vast majority of directly adjoining properties have provided their written approval to the development and have therefore accepted the potential amenity and character effects that will result.
47. Overall, and interrelated to landscape and visual effects, I am of the opinion that the amenity and character effects of the proposal can be adequately mitigated through the planting and design controls proposed. The reduced seven lot alternative scheme plan option would have additional benefits of reduced density and would also reduce the two most visually prominent house sites.

Landscape & Visual Effects and Natural Character

- 41 The key landscape and visual effects do not result from the subdivision itself but would result from dwellings and built form constructed on the new allotments.
- 42 The houses within the subdivision have been situated to maximise outlook but also in a way that is sympathetic to the landscape through the design controls proposed.

43. It is noted that the houses on proposed Lots 1 – 7 are set below the ridgeline against a backdrop of higher ground whilst the house sites on Lots 10 – 12 are located on the upper plateau area.
44. As I have noted earlier, the houses removed are visually the most prominent being those sites previously located on Lots 11 and 1. In my opinion, whilst not required to ultimately reduce visual effects to an acceptable level, the overall built form would be reduced across the subdivision.
45. The specialist Landscape and Visual Assessment (“LVA”) prepared by Mr Chris Campbell, along with his evidence provided, has addressed the visual effects in detail by considering the landscape context, viewing audience and catchment. Mr Campbell has recommended building design controls and landscaping to allow the proposed dwellings to “blend in” with the surrounding environment.
46. In response to the Section 42A Report and Mr Kim Goodfellow’s landscape peer review assessment, Mr Campbell has provided additional information through his evidence to clarify matters relating to cumulative effects, clarifying the modelling of the proposed dwelling size and visual screening.
47. Ms Swan advises that Mr Goodfellow considered that the LVA exaggerates the screening benefit of the proposed planting, however, does not provide any visual material within his peer review to support this view. Ms Swan also states the existing shelterbelts are a prominent “natural landscape element”. Whilst I acknowledge that these form part of the existing environment, they are not part of the historical landscape environment being planted exotic tree species. In time the proposed native plantings will provide a more historically accurate natural vegetation form, a view that was supported by Upokorehe iwi through consultation.

48. In addition, the applicant has volunteered additional mitigation planting to assist with screening and softening of the development in the revised ten lot subdivision proposal. Larger tree sizes have also been considered at the time of planting; however, the applicant has advised that they cannot source larger trees for planting.
47. I note that Ms Swan has recommended that the height restrictions and planting as detailed in Mr Campbell's assessment be required as consent notice conditions should consent be granted and I consider that these measures are appropriate. I do note, however, there are some clarifications required to these and I will discuss this further when commenting on conditions further in my evidence.
48. In my opinion and based on the expert advice and further information of Mr Campbell, the visual effects can be suitably mitigated and will be no more than minor.

Native Vegetation/Biodiversity Effects

50. The subject site does not contain any identified native vegetation or Indigenous Biodiversity features. As noted in the Section 42A Report, the adjoining site contains an Indigenous Biodiversity Feature (native bush with Weka habitat) per the Bay of Plenty Regional Council (BOPRC) Regional Coastal Environment Plan and the adjoining Mountain Ridge Holdings land also contains areas of developed native vegetation.
51. Concern is raised by Forest & Bird, Mr A Random and Mr & Mrs Robinson that the subdivision has potential to introduce pests and pest plant species into the area that would threaten the biodiversity and ecological values in the area. This is also noted by BOPRC in their comments on the application.

52. Since the outset of the proposal, the applicant has proposed a substantial native planting regime. Whilst some of this planting is to mitigate visual effects of the development through screening and visual softening, the native planting will replace exotic vegetation removed from the site and will also contribute to overall indigenous biodiversity. This is acknowledged by Ms Swan in her Section 42A Report.
53. Ms Swan has advised that she considers that planting of the embankment area on proposed Lot 6 would enhance the overall proposal and provide a better linkage to established native planted biodiversity areas to the east and west of the site. Ms Swan has recommended this as a condition of consent. The applicant has considered this requirement as part of the alternative ten lot proposal and included additional planting within the lot 6 embankment area and also through the subdivision as shown on Mr Campbell's alternative landscape plan. The applicant does not however wish to plant the entire embankment and remains committed to provide some grazing opportunity in this area of Lot 6.
54. As noted in Mr Stilwell's evidence, he is actively involved in pest control in the area and contributes to the pest management in the area. Mr Stilwell has also proposed a no cat covenant which would be registered and enforced by Mr Stilwell as the grantor.
55. In view of the foregoing, I do not consider that the subdivision creates an adverse effect in relation to adjoining Biodiversity Areas and subsequently the native planting proposed by the applicant will enhance the overall biodiversity of the site.

Overall Opinion on Effects

56. Relying on the LVA report of Mr Chris Campbell, information provided by Mr Stilwell and personal observations of the site and its surrounds, it is my opinion

that any potential adverse effects of the proposal will be no more than minor overall, subject to the proposed suite of recommended conditions.

Plan & Policy Provisions

57. In this section of my evidence I comment on the provisions of the relevant planning instruments and provide my opinion with respect to the consistency of the proposal against them. In this case, I consider the relevant instruments to be:

- The Regional Policy Statement (“RPS”)
- The Regional Natural Resources Plan (“RNRP”)
- The Opotiki District Plan (“ODP”)
- The National Environmental Standard for Assessing Soil Contaminants in Relation to Human Health (“NESCO”)

58. I have set out what I believe to be the relevant objectives and policies in the original application and Ms Swan has also covered these in detail in her Section Report. I will expand on the assessment of these where necessary, however, to avoid repetition I do not consider it necessary to provide detailed further assessment where I agree with Ms Swan.

59. Regarding the NESCS, I consider that the proposal is fully consistent with this document as a Controlled Activity. Accordingly, I consider no further assessment is necessary.

RPS & RNRP Matters

60. The RPS specifically sets out objectives and policies for rural growth and land use that I consider relevant and are the key issues required to be addressed as part of this proposal. I address these where relevant in relation to relevant assessment matters below.

61. The RNRP specifically sets out objectives and policies for activities that have the potential to affect water and land resources. I consider the proposal is able to meet the relevant permitted activity criteria and intention of the RNRP and accordingly no further assessment is required to assess the compliance of this proposal.

Operative District Plan

62. I undertook a detailed analysis of the relevant ODP objectives and policies relating to the development in the application (Section 5). I address these where relevant including where there is a contested view in Ms Swans Sec 42A Report.
63. The relevant resource management issues for the coastal zone within the ODP are set out as follows:
1. *The location of residential activities within the zone need to be managed to ensure that adverse effects on the amenity values, the quality of the environment and the natural and physical resources of the District are managed.*
 2. *The characteristics of residential properties need to be maintained so that the residential nature of the site and adjoining sites is maintained. These include managing effects such as the height of buildings, storage areas, parking, loading, signage, noise and glare and separation distances.*
 6. *Sporadic and inappropriate subdivision, use and development pressure can depreciate the natural character and indigenous biodiversity of the coast.*
 7. *Within the Coastal Zone there are many historical, cultural and archaeological areas of importance that can be destroyed or modified from earthworks activities.*

8. *Coastal areas are of importance to tangata whenua for spiritual, historical, or cultural purposes and these need to be provided for.*
 9. *Sites within the zone need to be of sufficient size so that where on-site effluent treatment is required there will be no adverse effects on the site, adjoining sites and particularly on the coastal ecosystem.*
 12. *Activities can adversely affect the safety, sustainability and efficiency of the transport network.*
 13. *Some land within the Coastal Zone is used or able to be used for farming and horticulture activities. The zone provisions need to provide for such uses alongside recreational and residential uses of the zone while recognising the need to preserve the natural character of the Coastal Environment.*
 14. *A biosecurity incursion could have significant adverse effects on the wellbeing of the district, particularly the horticultural industry, and inappropriate management of such incursions can result in the unintended spread of pest species*
64. Where relevant I comment on the above, which set the basis for the objectives and policies for the zone. In my view the key policy matters for consideration include:
- Rural Production
 - Amenity and Character
 - Landscape and Visual
 - Biodiversity

Loss of Rural Production

65. Ms Swan relies heavily on the land use classification of the land, subdivision objectives and policies, and RPS objectives and policies, to draw her conclusion that the proposed subdivision will fragment rural land, not provide for rural production, and have unacceptable adverse effects.

66. The RPS sets high level outcomes for managing the rural land resource across the Bay of Plenty Area. It has a much wider scope than zoning specific provisions and, in my view, the relevant objectives and policies are primarily aimed at protecting versatile and productive land within the Rural zone on a Region wide basis. As previously identified, the site does not contain versatile land as defined in the ODP and the productive potential of the land is small and considered marginal.
67. When considering the resource management issues listed above for the zone, there is one directive that states that some land within the coastal zone is used or able to be used for farming and horticulture activities. Furthermore, there is one objective (9.2.5) and two policies (9.2.5.1 and 9.2.5.2) that relate to rural production, with policy 9.2.5.2 primarily relating to reverse sensitivity whereby it is accepted that there are no resultant issues or effects are accepted by the adjoining landowners. Ms Swan implies that the coastal zone is a rural zone, where primary production activities are of significant importance. In my view, in consideration of the resource management issues identified for the zone this is a very small part of the overall intention of the zone, which considers a wide range of influencing factors. Should primary production be a primary consideration then the site would have been better zoned Rural as part of the recent District Plan review. Based on the evidence provided by Mr Stilwell the land has limited potential for productive rural activities.
68. In my opinion the key issues for the coastal zone relate to natural character (which I discuss next), not rural production. While the subdivision will remove some land from rural production activity and the potential of this land to be used for rural production, overall, this is not the primary goal for the Coastal Zone and therefore the proposal is not contrary to the rural production objectives and policies.

69. Regarding the subdivision objectives and policies in Chapter 15 of the ODP, again I consider that these are primarily relevant to versatile land and land that is feasibly productive for rural land uses.

Natural Character & Amenity

70. I consider that amenity and character are directly related in the context of the proposed subdivision and the relevant objectives and policies are therefore interrelated. As I have stated above, the key matter for the coastal zone in my opinion and based on the number of objectives and policies is natural character.
71. The resource management issues for the zone do not seek to prevent or prohibit residential activities within the zone, but rather seek to manage effects of these activities on the natural character. In my view this is evidenced by the Discretionary activity status of the subdivision. In my opinion if subdivision such as the current proposal was not envisaged to some extent, then it would attract a Non-Complying or Prohibited activity status (noting that there are several examples of Non-Complying subdivision activities within the ODP).
72. The relevant objectives and policies of the ODP with regard to character and amenity relate to protection of the landscape and landscape values, character and density of development and are as set out in the application and Ms Swan's Section 42A Report.
73. The objectives and policies generally seek to retain and restore the natural landscape character of the area and provide for a low density of development sympathetic to the landscape and surrounding environment. Effects of residential activities are sought to be managed through bulk and location controls.

74. In my opinion the proposed activity is consistent with these provisions. Whilst there will be a change to the character that exists at present, the subdivision provides mitigation by way of building design controls and landscaping in relation to the proposed house site locations. As I have stated in the application, Mr Campbell in his LVA advises that the proposed planting of the native vegetation along the western boundary will increase the degree of naturalness across the site.
75. Each proposed house site is located so as to comply with the minimum yard provisions in relation to existing external boundaries and proposed new internal boundaries and therefore the separation distances envisaged by the zone are maintained.
76. I agree with Ms Swan to a certain extent and acknowledge that the proposal is not entirely consistent with ODP Policy 9.2.2.5 and Policy 9.2.2.6, in that residential development (being the houses that would result upon the allotments) is not consolidated within established coastal settlement. The lot sizes proposed however are significantly larger than standard residential allotments. However, I do not consider that the development results in “sprawling” subdivision that has an effect on the natural character of the coastal environment.
76. In terms of ODP Policy 15.2.1.5, the site is surrounded in the wider area and catchment by sensitive environments, however I do not consider that the site as a whole, is a sensitive environment. Stricter design controls are proposed on those more elevated lots being 10, 11 and 12 proposed as part of the subdivision to limit effects on the receiving environment.
77. In my opinion, while the subdivision will result in a change to the existing character and landscape, potential adverse effects generated by the proposal can be suitably mitigated through the design controls and vegetation proposed and overall, the proposal is therefore not contrary to the intention of the zone.

Landscape & Visual

78. I largely agree with Ms Swan on the relevant objectives and policies set out in her report which generally mirror those in the original application that I prepared. I note that Ms Swan has also included Ohiwa Harbour Zone objective and policy 11.2.1 and 11.2.1.2 and whilst the Ohiwa Harbour Zone is part of the receiving environment, I consider these should be afforded little weighting in the overall assessment of the proposal which is located within the Coastal Zone. I also consider the RPS objectives and policies Ms Swan has listed are more relevant to developments occurring within an environment such as the Ohiwa Harbour Zone which contains a substantial number of Section 6 RMA features (harbour, cultural matters, biodiversity features, coastal environment). In my view, the visual effects of the proposal on the Ohiwa Harbour zone are substantially mitigated by the planting and design controls proposed and are shown in Mr Campbell's LVA simulations to have little discernible visual impact from the receiving Ohiwa Harbour Environment.
79. As I have stated previously, I consider that the removal of the exotic shelterbelt and planting of native vegetation will restore some of the historic natural character within the zone (Policy 9.2.1).
80. The remaining relevant objectives and policies largely mirror those assessed in terms of the Natural Character & Amenity. As I stated there, I agree that the proposal is not entirely consistent with ODP Policy 9.2.2.5 and Policy 9.2.2.6 in that residential development (being the houses that would result upon the allotments) is not consolidated within established coastal settlement, but I do not consider that the development results in "sprawling" subdivision that has an adverse effect on the natural character (and subsequently adverse visual impacts) of the coastal environment.
81. Overall, based on the LVA and Mr Campbell's evidence I consider that the visual and landscape impacts of the proposal are significantly mitigated

through the design controls and landscaping proposed and are therefore not contrary overall to the relevant objectives and policies. I note that the further reduction to seven additional allotments as shown on the alternative scheme plan attached would ultimately reduce potential landscape and visual effects further by removing the two most visually prominent house sites.

Biodiversity

82. The site does not contain any recorded or established Biodiversity areas. Regarding objectives and policies, the most relevant are those that apply directly to the site being ODP Policy 15.2.1.1 and Policy 9.2.1. I consider that Policy 9.2.1 is directly met in that native vegetation will directly be restored to the site through the planting proposed. In terms of mitigating effects on ecological features per Policy 15.2.1.1, the native vegetation planted will be covenanted and cats will be prohibited on the new lots.
83. Regarding the higher order RPS Objectives and Policies these generally set out to protect indigenous habitats and their ecosystems, encourage restoration of habitats and vegetation and avoid, remedy or mitigate adverse effects of subdivision (in this case on Section 6 matters) being areas of significant indigenous vegetation and significant habitats of indigenous fauna. In my view the subdivision as proposed is not contrary to these.
84. Overall, I conclude that the proposal is consistent with the intention's set out with respect to biodiversity.

Overall opinion on provisions of planning instruments

85. In my opinion, overall, when assessing the proposal against the gamut of relevant objectives and policies in the relevant planning instruments, the subdivision is, on balance, not contrary or repugnant to the objectives and policies due to the reasons outlined. Effects of the activity can be suitably

mitigated which uphold the intention of the relevant objectives and policies. Accordingly, in my opinion it would be appropriate to grant consent giving due consideration to provisions of the planning instruments.

Section 104C Other Matters

86. Ms Swan discusses the Ohiwa Harbour Strategy (OHS), a non-statutory management guideline for the Ohiwa Harbour, including the relevant objective and policies within that document. The OHS as Ms Swans states from the document, covers the Ohiwa Harbour and surrounding catchment. Ms Swan concludes that due to the proposal's overall lack of ecological enhancement, the density and bulk of development are not consistent with objectives and policies of the document.

87. My view of compliance with the document differs from the view of Ms Swan, in that of the listed objective and policies the proposal is consistent with, or at least not contrary to all but one of the policies. The proposal does not limit concentrated built development to existing urban areas or coastal settlements (Policy 2.2) but does in In my opinion comply with the following.

- The site largely slopes towards the Waioatahe catchment and has minimal discharge into the Ohiwa Harbour Catchment and therefore does not affect its health (Objective 2.2).
- Ecological enhancement will occur through the native plantings proposed (Policy 1.2).
- The impact of the development in the wider harbour environment is achieved through the landscaping and design controls proposed (Policy 2.1).
- Achieves an appropriate balance between development and landscape protection without needing structure planning (Policy 2.3).
- Minimises the effect on Ohiwa Harbours visual catchment by controlling development (Policy 2.4).

88. Regarding Plan Integrity and Precedent, I have set out a separate section in the application on precedent which I reaffirm. In terms of Plan integrity, as a Discretionary Activity rather than a Non-Complying or Prohibited Activity, subdivision that does not comply with the minimum lot size is an activity that can be assessed through a resource consent process and is not specifically excluded in the zone.
89. I disagree that granting consent to the application would influence subdivision within the Ohiwa Harbour Zone or Rural Zone as those zones have their own separate rule provisions, factors and influences which would need to be assessed in contrast to the Coastal Zone and the subject site.
90. I do not disagree with Ms Swan that a Plan Change would be an appropriate mechanism to address the zoning for the wider area, however in the context and scale of the application and subject site a plan change is not warranted in my view and a resource consent process is an appropriate mechanism to be followed in this instance.

Officer's report

86. I confirm that I have read Ms Swan's Section 42A Report. Overall, I disagree with her recommendation to refuse consent for the subdivision component of the application.
87. I do agree with her recommendation that both the boundary adjustment component of the application and NESCS consent be approved.
88. I have discussed the points of contention and where I agree/disagree with Ms Swan in the preceding assessment of affects and assessment of relevant planning instruments.

Conditions

89. Although Ms Swan's recommendation is to refuse the application, I largely agree with the set of conditions she has proposed should the commissioner decide to grant consent to the applications. I have tracked minor changes to these and attached these at Appendix B. I summarise my suggested changes to the conditions as outlined below.
90. Regarding Condition 1, should the alternative scheme plan be considered more appropriate by the commissioner then reference to that plan will need to be included.
91. Condition 9 proposes that a consent notice be registered on Lot 8 restricting building heights, landscaping and reflectivity controls to the same as proposed Lot 7. I note that Lot 8 is to be boundary adjusted with the adjoining property and a separate title for this lot will not result. In terms of built development on this area if ever proposed in future, I consider that due to the fact that this area could be built on now and the boundary adjustment does not change or increase the ability for this (or any additional dwelling) that the current District Plan bulk and location controls are appropriate. Accordingly, I consider that Condition 9 should be deleted.
92. With regard to Condition 12, as a condition of consent, it is appropriate that only Lots 6 & 9 be referenced in this condition given they are the only lots that contain existing built structures whereby soak rings would need to be located within new boundaries. It is appropriate that all new lots also adhere to this requirement for new buildings, and I recommend that this be included as a consent notice condition for the new vacant allotments.
93. Condition 14 requires telecommunications infrastructure to be provided to serve the subdivision. I note that this was not a requirement of the adjoining Ohiwa Cove subdivision. Furthermore, there is no fibre available within the area and copper telecom network is the only option available, which is

- essentially redundant. Mobile phone coverage and satellite internet is now widely available in these areas. Accordingly, I consider the requirement to install telecommunications infrastructure can be deleted.
94. Regarding Condition 17, a requirement to design the proposed public road generally in accordance with the concept report provided is proposed which is acceptable in principle, however it is specifically stated that the scruffy domes shall be replaced with alternatives at the outfalls. I note that Ms Swan states within her Section 42A Report that Council's Engineer is concerned with the appropriateness of a scruffy dome but does not specify any reasons as to why. Based on the engineering report submitted, I do not consider that the scruffy dome is not a viable option and therefore should be directly excluded. There is still an option to discuss this further through the detailed design. Accordingly, I consider that the condition should be altered to delete the requirement to exclude the scruffy dome as an outfall option and this could be further assessed at detailed design stage.
95. Condition 19 requires that a 5.5m wide road carriageway be created for the proposed new public road, however the information submitted with the application proposes a 5.0m wide carriageway. Ms Swan notes that a 5.0m wide carriageway is proposed in her Section 42A Report and that the Council's Development Engineer is satisfied with the concept subject to detailed design. Accordingly, the condition should be amended to reflect the proposed 5.0m carriageway width.
96. Condition 22 requires a minor clarification that the Schedule 1B and 1C certification shall be provided at the time of application for Sec 224 certification, not prior.
97. Regarding Condition 28 which relates to landscaping, the applicant has advised that they have been unable to source the required plants locally and as such flexibility to source the plants from other locations is necessary in order to fulfil the landscaping requirements. Accordingly, minor changes to the condition are proposed.

98. Condition 29 currently requires the consent holder to pay a 150% value landscaping bond to Council for the landscaping and maintain the planting for a period of three years. In my experience, I have not seen such a condition imposed regarding private landscaping, and for vested infrastructure, the maximum bond has been calculated at 5% and held over a period of 18 months. The applicant is agreeable to maintaining the landscaping for a period of three years, but as the landscaping is private does not consider that a bond is appropriate. Accordingly, I have suggested that the condition be amended to reflect this.
99. Condition 30 requires that the landscaping be planted 12 months prior to application for Sec 224c. In my opinion this has the potential to significantly delay the completion of the subdivision and a six-month period would be adequate for plating to establish. Accordingly, I consider the condition should be amended to reflect a 6-month period.
100. Condition 33 i. – 33 vii proposes minor wording amendments to the consent notice conditions to improve the legibility.
101. Condition 33viii proposes additional wording for clarity purposes to ensure that it is clear that up to 500m² of built coverage is permitted per lot in respect of Lots 10 – 12.
102. A minor change to Condition 33xi in respect of the sourcing of planting as with Condition 28 above is proposed.
103. Regarding Conditions 33xv and 34xxiv it is not proposed to exclude dogs from the subdivision and accordingly it is suggested that this requirement is removed. Dogs are much easier to control, tie up and manage. Mr Stillwell notes that any dogs within the development will be required to be kiwi aversion trained and contained during the night.

104. It is sought to add additional wording to Conditions 33xvi and 33xviii regarding the stormwater and geotechnical assessments to allow any future lot owner to develop in accordance with the referenced reports or an alternative prepared by a suitably qualified practitioner.
105. Conditions 33xix and Condition 34xxv currently require future owners to pay Council legal costs and disbursements in relation to the enforcement of consent notice conditions. In my opinion it is not appropriate to impose this as a condition of a consent notice - firstly, it is not a provision included in resource consents generally, and secondly monitoring is a functional part of a Council's regulatory duty.
106. Overall, with the above minor changes to the proposed conditions I believe effects of the subdivision can be adequately mitigated.

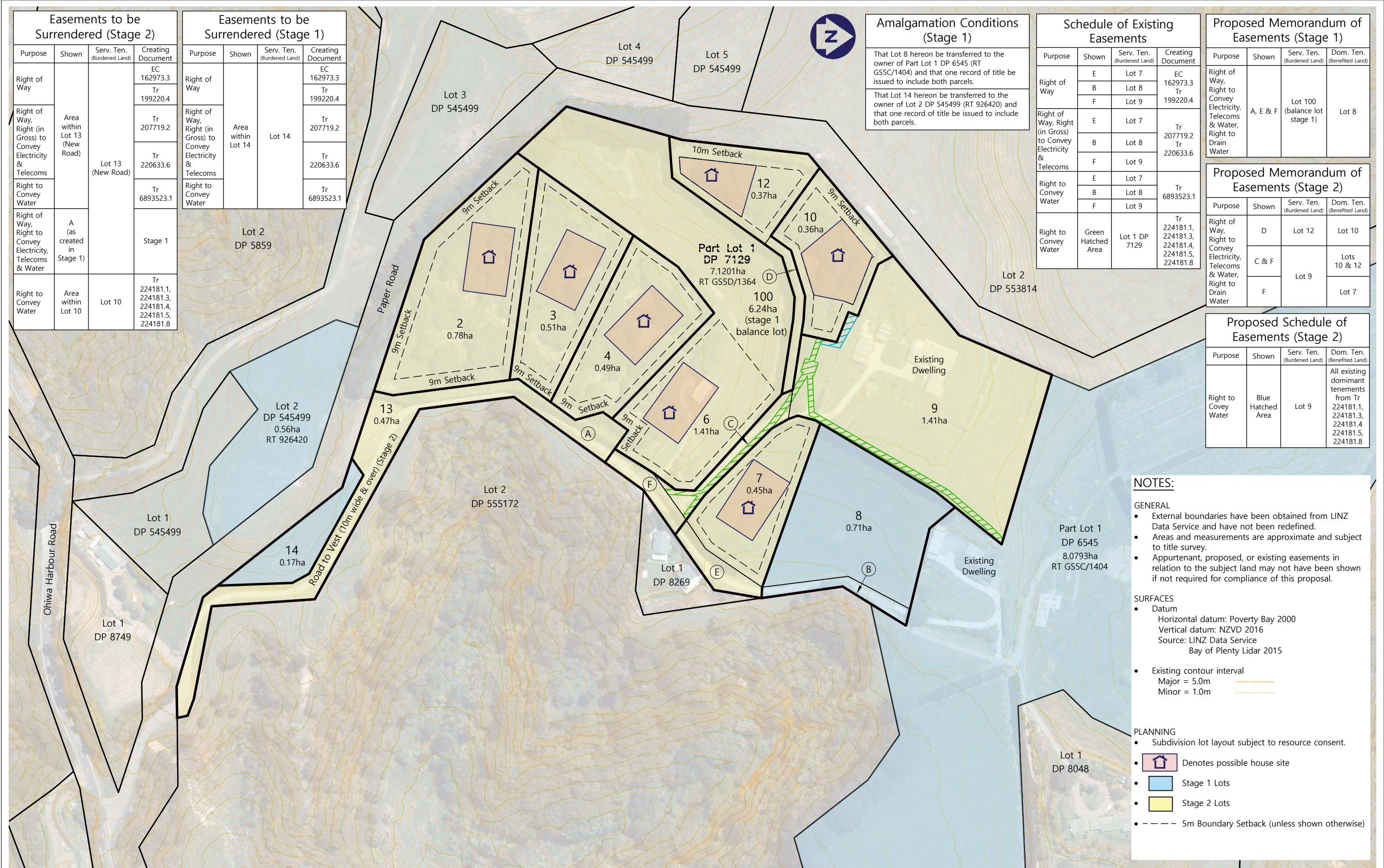
Conclusion

107. In this evidence I have provided my opinion in relation to the Section 104 assessment requirements of the Act. I have relied on the specialist landscape report and evidence reported by Mr Chris Campbell and evidence prepared by Mr Gavin Stilwell to conclude that overall, any potential adverse effects on character, amenity, rural production and biodiversity will be no more than minor. In addition, I have concluded that potential adverse effects generated by the proposal can adequately be mitigated.
108. I have concluded that while the proposal is not directly aligned with some objectives and policies, that overall and on balance the proposal is not contrary the objective and policy framework of the relevant planning instruments.
109. It is my opinion that the Proposal is consistent with Part 2 of the Act.
110. Overall, it is my opinion that granting consent to the proposal is able to meet the sustainable management purpose of the Act.

Shae Crossan
10 August 2022

APPENDIX A

Proposed Scheme Plan & Alternative Scheme Plan Option



No.	Date	Drawn	Approved	Issue/Revision
A	09.08.22	SAR	-	ISSUED
B	-	-	-	-
C	-	-	-	-
D	-	-	-	-
E	-	-	-	-
F	-	-	-	-
-	-	-	-	-
-	-	-	-	-
-	-	-	-	-

Stilwell, G. & S.
98c Ohiwa Harbour Road
Opotiki

Proposed 2 Stage Subdivision of
Lot 1 DP 7129, Part Lot 1 DP 6545, & Lot 2 DP 545499
Alternative Scheme

Drawing No.	660289 -PLN-D003
Sheet No.	01
Issue	A
A3 SCALE:	1:2000

Stratum
CONSULTANTS

OFFICE: TAURANGA CONTACT: 07 571 4500

APPENDIX B

Proposed Consent Conditions

Attachment 7—NESCS consent resolution and proposed example subdivision conditions

Pursuant to section 9(1)(a) of the Resource Management Act 1991 and Regulation 9 of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, the Ōpōtiki District Council grants consent for a controlled activity to subdivide, change the use of land and disturb soil on Part Lot 1 DP 7129 located at 98C Ohiwa Harbour Road, Ohiwa, subject to the following conditions which are imposed under S108 of the Resource Management Act 1991:

Conditions

1. Except where modified by any condition of this consent, all activities shall be carried out in accordance with Resource Consent Application 2022-49 and in particular the Detailed Site Investigation report prepared by BCD Group for 98C Ohiwa Harbour Road, Opotiki, Job Number 22-0079, dated 8 March 2022.
2. Unless additional testing is undertaken to determine the level of contaminants in the soil meets cleanfill criteria, any soil removed from the site shall be disposed of at an appropriately licensed landfill facility. Any additional sampling must be undertaken in accordance with the Ministry of the Environment's Cleanfill guidelines.
3. A copy of any receipts from landfill operators showing the date and volume or tonnage of any soil disposed off-site shall be provided to the council for record keeping upon completion of any works involving soil removal.
4. A monitoring fee of \$130 (inclusive of GST) shall be paid to the council for the monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, the costs of that will be charged to the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.

Possible Subdivision Conditions

Notwithstanding the reporting planner's recommendation to refuse consent, the following conditions have been compiled to assist the Commissioner.

1. The proposed activity shall be carried out in accordance with the submitted plans and information lodged with application ref. 2022-47 and the supporting information supplied, including the:
 - i. Subdivision Scheme Plan by Stratum Consultants, ref. 660289-PLN-D002 dated 28/4/22.
 - ~~i. Or Alternative Subdivision Scheme Plan by Stratum Consultants, ref. 660289-PLN-D003 dated 9/8/22~~
2. The subdivision may be completed in two stages, with stage 1 comprising Lots 8, 14 and the balance lot. Stage 2 comprises Lots 1-5, 6, 7, 9 and 10-12.

3. The s223 certificate for both stage 1 and stage 2 shall be approved by the council within 5 years of the date of this decision.

Stage 1 conditions:

4. That Lot 8 hereon be transferred to the owners of Part Lot 1 DP 6545 (RT GS5C/1404) and that one record of title be issued to include both parcels. See Request 1783452
5. That Lot 14 hereon be transferred to the owners of Lot 2 DP 545499 (RT 926420) and that one record of title be issued to include both parcels. See Request 1783452
6. All easements required to protect access and services shall be duly granted and reserved.
7. A consent notice shall be registered against the record of title for Lot 14 stating that no buildings are permitted on this lot.
8. The proposed landscape planting for Lot 14 shall be completed.
9. ~~A consent notice shall be registered on the Record of Title for Lot 8 with controls on landscaping, height, reflectivity and earthworks equivalent to the controls required for Lot 7.~~

Stage 2 conditions

- ~~10.9.~~ Lot 13 shall vest as road with Opotiki District Council free of all encumbrances and covenants.
- ~~11.10.~~ Lot 13 shall vest as road with Opotiki District Council free of any existing private infrastructure.
- ~~12.11.~~ All easements required to protect access and services shall be duly granted and reserved.
- ~~13.12.~~ All services and ~~soakings~~soak rings for stormwater disposal from existing buildings on Lot 9 are to be contained within ~~the each lot's~~ boundaries or appropriate easements shall be duly granted or reserved to provide on-going rights of access and maintenance.
- ~~14.13.~~ Underground power ~~and telecommunications~~ shall be provided to the boundaries of 1-4, 6, 7, and 10-12 and terminated by means of standard utility termination boxes.
- ~~15.14.~~ The consent holder shall provide written confirmation from the relevant network utility providers that the works required by condition ~~15X~~ have been completed.
- ~~16.15.~~ The consent holder shall appoint an appropriately qualified and experienced person to design and supervise the works, certify compliance upon completion and ensure all works, services are designed and completed in accordance with:
 - i. This resource consent;
 - ii. Sound engineering practice;
 - iii. Ōpōtiki District Council's "Code of Practice – Subdivision and Development" version 1: 2000; except as expressly noted by another condition of this consent.
 - iv. The engineering plans as approved by the Engineering and Services Group Manager on behalf of the council per Condition 17.-
- ~~17.16.~~ Engineering design drawings for the proposed public road and rights of way C, D, E and F shall be provided to the Engineering and Services Group Manager for approval prior to any construction works commencing. This shall include stormwater control measures for the public road designed in general accordance with the report by Stratum Consultants dated 27 July 2022

entitled 'Stormwater Assessment for Proposed Access Road, 98C Ohiwa Harbour Road, Opotiki', ~~except that an alternative to scruffy domes shall be provided at the outfalls.~~

~~18.17.~~ The rights of way shall be designed and formed to comply with Standard Drawings R26 and R27 of the Ōpōtiki District Council's "Code of Practice.

~~19.18.~~ The new public road shall be designed and formed in accordance with Standard Drawings R01, R03 and R04, except that the legal width may be reduced to a minimum of ~~40m~~10m, and the carriage way may be a minimum of 5.05m, with one passing bay as per drawing 660289-PLN-D002 entitled Stage 3 Proposed Road.

~~20.19.~~ The new vehicle crossings for Lots 4, 6 and 7 shall be constructed to comply with Standard Drawings R25 and R28 of the Ōpōtiki District Council's "Code of Practice – Subdivision and Development" version 1: 2000.

~~21.20.~~ Prior to the commencement of roading works on site, an inspection plan shall be agreed with Council's Engineering and Services Group Manager or delegate, that specifies inspection hold points during the construction of the new public road and rights of way.

~~22.21.~~ Schedule 1B and 1C Certification upon Completion of Land Development/Subdivision (NZS4404:2010) shall be provided with the application for prior to-224c approval.

~~23.22.~~ Dust, erosion and sediment control measures shall be implemented during any earthworks and infrastructure development works in accordance with the Bay of Plenty Regional Council's Erosion and Sediment Control Guidelines for Land Disturbing Activities, June 2010.

~~24.23.~~ The consent holder shall ensure that finished ground levels on Lots 10-12 following any development works, such as removal of the shelterbelt and installation of landscaping are such that any stormwater runoff from new lots falls to the east, away from the unformed road parcel.

~~25.24.~~ A convex mirror shall be installed on the new road, opposite the driveway to Lot 1 DP 8749.

~~26.25.~~ During development of the new public road all noise shall comply with the NZS 6803:1999 Acoustics – Construction noise.

~~27.26.~~ A building platform for Lots 1-4, 6-7 and lots 10-12 shall be defined by survey and shown on the new s223 survey plan and shall be in accordance with the location specified on the scheme plan 660289-PLN-D002 dated 28/4/22. A 10m building setback shall apply along the western boundary of Lot 12.

~~28.27.~~ An updated landscape plan incorporating ecological planting on the sloping area of Lot 6 or area equivalent to shall be provided to the council for certification by an officer with delegated authority to approve resource consents. The plan shall be prepared in the input of a suitably qualified ecologist and ensure that ~~only only~~ eco-sourced native species, grown from seed collected from natural populations the Eastern Bay of Plenty, are proposed and used where available. The plan shall include detailed of the maintenance and weed control that is to be implemented over a period of three years while the plants establish.

~~29.28.~~ To ensure the maintenance of, and replacement of dead or diseased plants within the landscaped and ecological planting areas the consent holder shall maintain the planting for a period of three years. ~~a bond of 150% of the value of all the landscaping and ecological planting works shall be paid to the Council prior to issue of a s224c certificate. The bond shall be for a period of three years.~~

~~30.29.~~ The plantings on the certified landscaping plan shall be implemented at least ~~6-12~~ months prior to application for s224c.

~~31.30.~~ A Pest Management Plan shall be prepared ~~by a suitably qualified person~~ and provided to the council for certification by an officer with delegated authority to approve resource consents. The Pest Management Plan shall detail the pest control measures that will be undertaken on each lot in perpetuity. The purpose of the Pest Management Plan is to control possums, rats, mustelids and feral cats within the site.

~~32.31.~~ In the event that an unidentified archaeological site is located during any works, all works shall cease immediately at that place and within 20m of the place and the Accidental Discovery Protocol contain in Appendix 5 (Chapter 21) of the Opotiki District Plan shall be implemented.

~~33.32.~~ A consent notice, ~~or other form of legal covenant,~~ shall be registered against the computer register of Lots 1-5, 6, 7, 10-12 to record that the owner(s) shall on a continuing basis;

- i. Not permit more than one dwelling or habitable building to be constructed on the lot.
- ii. Ensure all buildings are located within the building platform shown on the Land Transfer Plan.
- iii. ~~Ensure that no~~ Ensure that a building on Lots 1-5, 6 and 7 shall exceed 7m in height above natural ground level at the time of subdivision.
- iv. ~~Ensure that a~~ Ensure that a All buildings on Lots 1-5, 6 and 7 shall be constructed with a minimum ~~floor platform~~ level at least 0.35m above general ground level and no building shall ensure maintenance of existing overland flow paths.
- v. ~~Ensure than no~~ Ensure that a building on lots 10-12 shall exceed 5m in height above natural ground level at the time of subdivision.
- vi. ~~Ensure that t~~ Ensure that a The exterior of all buildings shall be finished in materials with a reflectivity of between 0-20% as defined within the BS5252 colour ~~palette~~ palette. This shall include roofs, trim, gutters and window framing.
- vii. ~~Ensure that a~~ Ensure that a All required structural retaining to be incorporated into future dwellings, any retaining outside of dwelling not to exceed 0.5m in height.
- viii. ~~Ensure that b~~ Ensure that a Building coverage on lots 10-12 shall not individually exceed 500m² ~~on each lot.~~
- ix. Maintain the shelterbelts on the certified landscape plan X at ~~no less than~~ 4-6m in height.
- x. Maintain in perpetuity the landscape plantings in the areas shown on Plan X.
- xi. Ensure that ~~only~~ only eco-sourced native species, grown from seed collected from natural populations the ~~Eastern~~ Bay of Plenty, are used in the landscape plantings on the lot where possible.

- xii. Ensure that no pest plants, as identified in the most recent Bay of Plenty Regional Pest Management Plan, shall be planted or permitted to grow on the lot.
- xiii. Ensure all habitable dwellings are be provided with a firefighting water supply and access to that supply that complies with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.
- xiv. All owners and occupiers shall actively control pest species, not limited to possums, mustelids, rats, and feral cats in accordance with the Pest Management Plan dated X or subsequent version of the Plan certified by an officer of council with delegated authority to approve resource consents.
- xv. No ~~dogs and~~ cats shall be permitted to be kept on the lots. ~~✓~~
All dogs must be controlled on-site within a securely fenced area so they cannot roam beyond the boundary of the lot.
- xvi. Ensure that all future development of the lot is undertaken in accordance with the Geotechnical Assessment Report for G and S Stilwell, 98C Ohiwa Harbour Road, Opotiki, dated 18 March 2022 prepared by Stratum Consultants or subsequent report prepared by a suitably qualified practitioner.
- xvii. The Bay of Plenty Regional Council's Erosion and Sediment Control Guidelines for Land Disturbing Activities shall be implemented during any earthworks or site development so that there is no off-site discharge of sediment or sediment laden stormwater.
- ~~xviii.~~ xviii. Ensure that stormwater from all buildings and impermeable areas is collected and disposed of in accordance with the report by Stratum Consultants entitled 'Stormwater Assessment for Proposed New Lots' dated 27 July 2022 or subsequent report prepared by a suitably qualified practitioner. A detailed stormwater design report shall be provided with all building consent applications, or prior to installing any new impermeable areas which do not require building consent, to demonstrate compliance with this condition.
- ~~xviii.~~ xix. All services and soak rings for stormwater disposal are to be contained within the boundaries or appropriate easements shall be duly granted or reserved to provide on-going rights of access and maintenance.
- ~~xix.~~ Pay the Council's legal costs and disbursements directly attributable to the enforcement of the consent notice and the council's conditions set out in the notice.

~~34.33.~~ 33. A consent notice, or other form of legal covenant, shall be registered against the computer register of Lot 9 to record that the owner(s) shall on a continuing basis;

- xx. Not permit more than one dwelling or habitable building to be constructed on the lot.
- xxi. Maintain the shelterbelts on the landscape plan at no less than ~~4~~4m in height.
- xxii. Ensure that no pest plants, as identified in the most recent Bay of Plenty Regional Pest Management Plan, shall be planted or permitted to grow on the lot.

xxiii. All owners and occupiers shall actively control pest species, not limited to possums, mustelids, rats, and feral cats in accordance with the Pest Management Plan dated X or subsequent version of the Plan certified by an officer of council with delegated authority to approve resource consents.

xxiv. No ~~dogs and~~ cats shall be permitted to be kept on the lot. ~~✓~~
All dogs must be controlled on-site within a securely fenced area so they cannot roam beyond the boundary of the lot.

~~xxv. Pay the Council's legal costs and disbursements directly attributable to the enforcement of the consent notice and the council's conditions set out in the notice.~~

~~35.34.~~ The consent notices shall be prepared by the Council's solicitor and the consent holder shall pay the Ōpōtiki District Council's legal costs and disbursements directly attributable to the compliance with all consent conditions.

~~36.35.~~ The consent holder shall pay a financial contribution for reserves purposes of \$790 plus GST for each additional vacant lot created by this subdivision (a total of nine additional vacant lots).

~~37.36.~~ A monitoring fee of \$130 (inclusive of GST) shall be paid to the council for the monitoring and supervision of this resource consent. Notwithstanding the above, where there is good and reasonable cause for unprogrammed monitoring and additional site inspections, the costs of that will be charged to the consent holder. Such costs are recovered on an actual and reasonable basis as defined in the Fees and Charges Schedule as approved by the Council in terms of Section 36 of the Resource Management Act 1991.

Advice Notes

1. It is an offense under Section 87 of the Heritage NZ Pouhere Taonga Act 2014 to modify or destroy an archaeological site without an authority form Heritage NZ irrespective of whether the works are permitted or consent has been issued under the Resource Management Act 1991 or Building Act 2004.
2. Under Section 125 of the Resource Management Act 1991, this resource consent will lapse in five years, unless it is given effect to within that time.
3. In accordance with Section 127(1) of the Resource Management Act 1991, the consent holder may apply to the consent authority for a change or cancellation of any condition of this consent.
4. New addressing will be completed following the issue of new records of title to reassign numbers based on the road name Onekawa Road.
5. A 'defensible space' should be maintained around any dwelling in accordance with the recommendations of Fire and Emergency New Zealand.
6. Should the landowner determine that an alternative water source cannot be accessed for firefighting purposes for the development or does not have sufficient capacity or pressure in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008, consultation and agreement on an alternative supply such as water sprinklers will need to be sought from Fire and Emergency New Zealand and evidence of this

agreement provided to Ōpōtiki District Council for its consideration and agreement when determining whether the consent notice relating to the Code of Practice has been satisfied.

7. As part of the building consent application for future dwellings, the applicant will need to demonstrate that conditions allow for on-site effluent treatment in a manner that complies with the Operative On-Site Effluent Treatment Regional Plan (OSET Plan). In order to do this a site and soil evaluation using OSET Plan Schedule 5 must be carried out. New systems must comply with OSET Plan Schedule 2 (which includes a site and soil evaluation). A preliminary assessment has been completed as part of the subdivision application.

BOPRC will only accept on-site effluent treatment assessments from individuals who have completed the relevant Opus course.

For a list of currently approved OSET System Designers go to:
www.boprc.govt.nz/environment/resource-consents/consent-and-compliance/household-water/approved-oset-system-designers/.

8. Earthworks proposed will be a permitted activity if the applicant can comply with all the conditions set out in Rule LM R1 (permitted earthworks) of the Regional Natural Resources Plan.
9. Due to the proximity of future house sites to Onekawa Forest Remnants and Oscar Reeve Scenic Reserve future home owners should be aware of:
 - the effects animals (including domestic cats, dogs and ferrets) could have on the ecological values of the area and
 - the potential for some garden plant varieties to invade and degrade natural areas.