

Attachment 7- NESCS consent resolution and 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.
 - ii.
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. Lot 13 shall vest as road with Opotiki District Council free of all encumbrances and covenants.
11. Lot 13 shall vest as road with Opotiki District Council free of any existing private infrastructure.
12. All easements required to protect access and services shall be duly granted and reserved.
13. All services and soakings for stormwater disposal are to be contained within each lot's boundaries or appropriate easements shall be duly granted or reserved to provide on-going rights of access and maintenance.
14. 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. The consent holder shall provide written confirmation from the relevant network utility providers that the works required by condition X have been completed.
16. 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.
17. 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. 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. 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 10m and the carriage way may be a minimum of 5.5m, with one passing bay as per drawing 660289-PLN-D002 entitled Stage 3 Proposed Road.
20. 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. 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. Schedule 1B and 1C Certification upon Completion of Land Development/Subdivision (NZS4404:2010) shall be provided prior to 224c.
23. 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. 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. A convex mirror shall be installed on the new road, opposite the driveway to Lot 1 DP 8749.
26. During development of the new public road all noise shall comply with the NZS 6803:1999 Acoustics – Construction noise.
27. 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. An updated landscape plan incorporating ecological planting on the sloping area of Lot 6 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 eco-sourced native species, grown from seed collected from natural populations the Eastern Bay of Plenty, are proposed. 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. To ensure the maintenance of, and replacement of dead or diseased plants within the landscaped and ecological planting areas, 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. The plantings on the certified landscaping plan shall be implemented at least 12 months prior to application for s224c.
31. 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. 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. 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. No building on Lots 1-5, 6 and 7 shall exceed 7m in height above natural ground level at the time of subdivision.
 - iv. All buildings on Lots 1-5, 6 and 7 shall be constructed with a minimum platform level at least 0.5m above general ground level and no building shall ensure maintenance of existing overland flow paths.
 - v. No building on lots 10-12 shall exceed 5m in height above natural ground level at the time of subdivision.
 - vi. The exterior of all buildings shall be finished in materials with a reflectivity of between 0-20% as defined within the BS5252 colour palletete. This shall include roofs, trim, gutters and window framing.
 - vii. All required structural retaining to be incorporated into future dwellings, any retaining outside of dwelling not to exceed 0.5m in height.
 - viii. Building coverage on lots 10-12 shall not exceed 500m².
 - ix. Maintain the shelterbelts on the certified landscape plan X at no less than 6m in height.
 - x. Maintain in perpetuity the landscape plantings in the areas shown on Plan X.
 - xi. Ensure that 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.
 - 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.
 - 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. 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. 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.
 - 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. 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 Xm 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. The consent notices shall be prepared by the Council's solicitor and the consent holder shall pay the Ōpōtiki District Councils legal costs and disbursements directly attributable to the compliance with all consent conditions.
36. 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. 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-ose-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.