

APPLICATION FOR RESOURCE CONSENT: JOINT DECISION REPORT IN ACCORDANCE WITH SECTIONS 127, 95-95E AND 42A OF THE RESOURCE MANAGEMENT ACT 1991

Council References:	Subdivision consent: 2003-10 Land Use consents: 2019-25, 2019-52, 2019-53, 2019-54
Applicant:	Waiotahe Residential Ltd
Proposal:	Vary conditions 1, 32 and 32A of the subdivision consent and; Vary conditions 1 and 3 of the above land use consents, to reduce building line restriction from 25m to 15m for relocatable buildings and 20m for non-relocatable buildings.
Site address:	Waiotahe Dunes development (Stages 5-7): Eastern end of Waiotahe Drifts Boulevard
Legal description and Area:	Lot 315 DP 363806
Zone and Notations:	Coastal Settlement. Coastal Environment Overlay. ASCH,
Activity Status:	Discretionary
Date Application Received:	12/4/2022 (updated joint s127 to change both subdivision and land use consent conditions)
Site Visit:	25/3/2022
Date Further Information Requested:	
Date Further Information Received:	
Reporting Planner:	Laura Swan
Notification Recommendation:	Non-notified
Recommendation:	Grant s127 applications

1.0 PROPOSAL AND BACKGROUND

Land use s127 :

- 1.1 The application seeks to vary conditions 1 and 3 of land use consents 2019-25, 2019-52, 2019-53, 2019-54 which authorise the establishment of dwellings within the ASCH in Stages 5A, 5B, 6B and 6C of the Waiotahe Dunes subdivision development.
- 1.2 Condition 1 is essentially the same in all four land use consents and requires compliance with various scheme plans that show a building line restriction setback 25m from the northern boundary. Figure 1 is the consented scheme plan and shows this BLR as a red dotted line.

- 1.3 Condition 3 is also the same in all four land use consents. It currently specifies that non-relocatable buildings would only authorised on the lot for a period of 50 years.
- 1.4 The proposed land use variation would allow non-relocatable buildings to be setback 20m from the northern boundary of Lot 315 DP 363806, with only relocatable buildings being allowed between 15-20m from the northern lot boundary of Lot 315 DP 363806.
- 1.5 This will provide greater flexibility in terms the developable area within the affected beachfront lots. However, it maintains a greater set-back for non-relocatable buildings in recognition of the long-term risk posed by coastal erosion.

Subdivision s127:

- 1.6 To ensure the subdivision consent conditions align with the land use consent conditions and vice versa, changes to subdivision consent conditions 1, 32 and 32A are also proposed. These existing conditions require the building line restriction to be shown on the Land Transfer Plan and controls on development to be noted in a consent notice.
- 1.7 The AEE report and this report relate to the effects of varying the conditions in all the five consents as the effects on the environment are the same.

Figure 1: Consented scheme plan

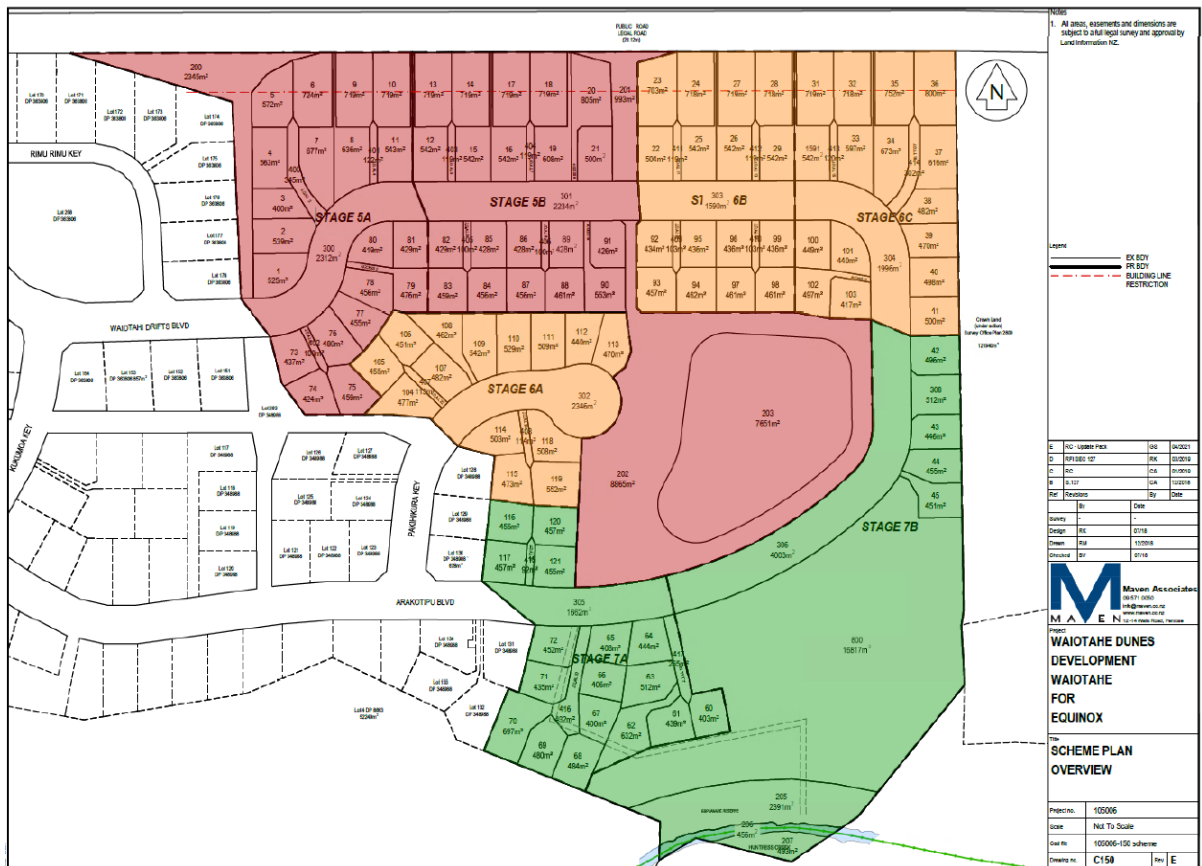


Figure 2 - Proposed scheme plan showing 15m BLR setback (for a relocatable building).



- 1.8 The existing 25m setback is a requirement of the original conditions of subdivision consent 2003-10. A 25m boundary setback (which at that time equated to 70m from the seaward toe of the foredunes) was imposed to address the coastal hazard risk identified in the hazard assessment and peer review completed at the time of the original subdivision (Dr J Gibb 1988 and Dr J Dahm peer review).
- 1.9 The existing lots within the completed stages 1-4 of the Waiotaha Drifts subdivision have a consent notice registered against their records of title that prevents establishment of buildings closer than 25m from their northern boundary (the unformed road).
- 1.10 When the most recent s127 application on subdivision RC2003-10 was processed and granted (decision A244530 dated 27 May 2021), it did not include a proposal to vary the 25m BLR related to hazards although the intent of the condition was made clearer. Condition 32 currently states:

32.0 That the Building Line Restriction be shown on the Land Transfer Plan for Lots 5, 6, 9, 10, 13, 14, 17, 18, 20, 23, 24, 27, 28, 31, 32, 35 and 36 and shall be 25m from the northern boundary of the lots.
- 1.11 The four associated land use consents, and more specifically the approved plans, also showed the 25m BLR to align with the subdivision consent condition.

2.0 SITE DESCRIPTION

- 2.1 The site and locality is described in the original s42A report and this current s127 application, including in detail in the landscape and visual assessment by Reset Urban Design dated 2 May 2022. It is currently undergoing development in accordance with the existing consents. All development authorised by the existing consents forms part of the receiving environment.

3.0 RELEVANT RULES/ACTIVITY STATUS

- 3.1 S127 of the RMA states that a consent holder may apply to a consent authority for a change or cancellation of a condition of consent. All s127 applications must be considered as discretionary activities pursuant to s127(3)(a) of the RMA. Sections 88-121 of the RMA also apply.

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)

- 3.2 The site is not currently being used, has not been used in the past, or is unlikely to have been used for an activity described on the HAIL. Therefore, the NESCS does not apply.

Other NES

- 3.3 There are eight other National Environmental Standards that have been prepared under Sections 43 and 44 of the Act and are in force as regulations. These cover storage of tyres, air quality, human drinking water, marine aquaculture, freshwater, production forestry, telecommunications facilities and electricity transmission.
- 3.4 No other NES apply in relation to this s127 proposal.

4.0 WRITTEN APPROVALS

- 4.1 The applicant has not consulted or obtained the written consent of any party. Refer to comments below regarding covenant.

5.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS

- 5.1 Only the effects resulting from the proposed changes to the land use and subdivision consent conditions can be considered.
- 5.2 Whilst the 25m BLR was originally imposed to avoid effects from coastal hazards, it also has an effect of limiting development's proximity to the dune system, unformed road and public beach to the north of the development. A range of planning documents have come into effect since the original decision for subdivision 2003-10 that require consideration of other effects. These documents include the NZ Coastal Policy statement (2010) and the Opotiki District Plan January 2021)
- 5.3 Therefore, the key effects that require consideration are natural hazards and landscape and visual effects, including those that may affect the natural character of the coastal environment. Access to and along the coast and cultural effects have also been considered.
- 5.4 There is no relevant permitted baseline as any development of the affected beachfront lots relies on these resource consents.

Hazard Effects

5.5 The issue of hazards was carefully considered as part of the decision making for the 2019 application to vary the subdivision consent conditions and for the four associated land use consents.

5.6 Tonkin and Taylor provided a report entitled "Opotiki Harbour Development, Summary of predicted changes to coastal erosion hazard", dated 27 May 2021. It was on the basis of this report that the four land use consents subject to this s127 application were granted. The conclusions reached by Council are outlined in the reasons for those decisions. Some of these reasons include:

- 5) In the short to medium term, conditions of the regional consent relating to the harbour are intended to address the potential erosion effects that might occur as a result of the harbour re-development works. The conditions include a requirement to undertake beach replenishment and planting if 50m of beach erosion occurs at any point along the beach.
- 6) It is concluded that, given the resource consent conditions for the harbour, the lower rates of sea level rise predicted to 2070, and the extent of the existing dune system, the proposed dwellings located within the ASCH are unlikely to be impacted by coastal erosion within the short to medium term.

In this location, there is approximately 60m of dunes in-front of the subject sites, with the proposed dwellings being located a further 25m back behind the northern boundary to comply with the building restriction line.

However, there remains uncertainty about coastal processes over a longer timeframe (50-100 years), in part due to the uncertainties associated with climate change and sea level rise. Monitoring of coastal process, during and after construction of the training walls and harbour re-development, is required to enable the harbour model to be calibrated and longer-term predictions about coastal hazards to be made.

Conditions have therefore been recommended that require all buildings to be designed to be relocatable, if they are authorised to be on the site for more than 50 years. A review may also be undertaken when new coastal hazard information is received.

5.7 This s127 proposal has been lodged on the basis that the existing conditions already satisfactorily avoid or manage effects from coastal erosion, and the reduction in the extent of the BRL to 15m for relocatable buildings and 20m for non-relocatable buildings, will not have any new or different adverse effects. In particular, conditions require:

3. Unless designed and constructed in full accordance with Conditions 4 and 5, buildings are only authorised to be sited on the respective lot for a period of 50 years from the date of this consent decision.
4. All other buildings not subject to Condition 3 shall be designed and constructed so that they are 'relocatable' or able to be 'practicably moved' from the site.

For the purposes of this resource consent, the term 'relocatable' shall mean that the building utilises lightweight construction techniques and shall be able to be 'practicably moved' from the site to another building site in one or multiple parts.

For the purposes of this consent notice, the term 'practicably moved' shall mean that the building (including foundations) shall be able to be physically moved within a five day period, upon commencement of the relocation activity, by way of a removal truck, a roller or rail system, or crane and that access can be gained to the site to relocate the building as proposed, to the satisfaction of Council. For the avoidance of doubt, abandonment or demolition of the building does not meet the definition of 'relocatable'.

8. Upon receipt of a Coastal Hazard Assessment report for Waiōtahe Beach by a suitably qualified coastal hazard specialist, the Council may, in accordance with Sections 128 and 129 of the Resource Management Act 1991, serve notice of its intention to review conditions of this resource consent for the purpose of assessing the risk posed to buildings from coastal inundation or erosion of the dunes due to coastal processes.

The review may consider whether, since the granting of this consent, new information about coastal processes should be considered, or if alternatives to the removal or removal of dwellings in coastal hazard areas have been identified by national or regional government which are viable and acceptable alternatives for the site. The review will enable the actual risk to be considered at the time based on the best information available and the appropriate mitigation measures to be implemented through varied consent conditions.

- 5.8 Whilst construction of the new harbour training walls is well advanced, there is no new publically available monitoring information or new reporting on coastal hazards at this time. The uncertainty that existed at the time of the decision in May 2021 remains.
- 5.9 However, the existing conditions will continue to ensure management and avoidance of effects and any additional hazard effects resulting from the 5m reduction of the BLR (for non-relocatable buildings), particularly over the next 50 years when there is greater certainty around the effects from coastal hazards, will be less than minor.
- 5.10 Buildings which are relocatable may be up to 15m from the northern boundary as they will have been specifically designed to be able to be removed and to therefore avoid any erosion hazard risk even in the longer-term. It is expected that in practice, most, if not all, buildings will be designed to be relocatable.

Landscape and Visual Amenity Effects

- 5.11 The s127 application is supported by a comprehensive Landscape and Visual Assessment by Reset Urban Design dated 2 May 2022 Revision C. This includes a detailed assessment of the existing landscape context and features including cultural and biodiversity values. It has considered the effects from a range of viewpoints, including the public beach and private properties located to the west as shown in the following Viewpoint Map from the report. It also addresses the statutory framework.

VIEWPOINT MAP



- 5.12 The report summarises the magnitude of visual effects from each viewpoint as follows:

Magnitude of Visual Effects Table

9.15 Below is the summary of magnitude of the assessed visual effects of the proposal:

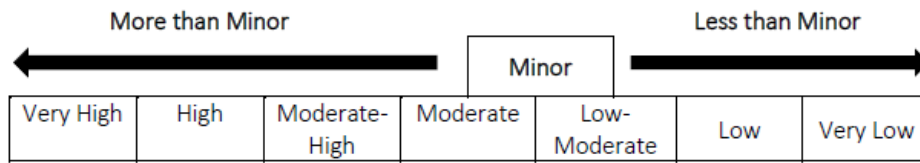
VP #	Quality of View	Existing Value	Sensitivity	Visual Effects
1	Moderate-High	Moderate-High	Low	Very Low
2	Moderate-High	Moderate-High	Low-Moderate	Very Low
3	Moderate	Moderate	Moderate	Low
4	Moderate-High	Moderate-High	Moderate-High	Very Low
5	Moderate-High	Moderate-High	Moderate	Low
6	Moderate-High	Moderate-High	Moderate-High	Low
7	Moderate-High	High	Moderate-High	Low
8	Moderate	Moderate-High	Moderate-High	Low
9	Moderate-High	Moderate-High	Low-Moderate	Low
10	Moderate	Moderate-High	Low-Moderate	Low

5.13 The report’s conclusions are set out in section 12 and include the following statements:

- 12.2 The Proposal seeks a minimal reduction of the existing building setback line by 10 metres for the northern lots from 25 metres to 15 metres. It is considered that the Proposal is appropriate for the coastal environment and the Waiōtahe Dunes development.
- 12.3 The Proposal seeks an amendment to the land use consent(s) which authorise buildings in the ASCH overlay and the building line restriction to the previously consented Waiōtahe Dunes development (May 2021), which considers the ecological sensitivity of the immediate coastal environment. The development implements native plant buffering of the existing wetland in the south-eastern corner and the southern tributary of Huntress Creek and erecting a 1.8m high predator proof fence on the eastern boundary to protect the Huntress Creek Conservation Zone *Indigenous Biological Diversity Area (IBDA) – A*.
- 12.4 The natural topography and the small number of roads in the area reduces the viewing audience of the site to largely intermediate and close views, there are few distant views of the site. Viewpoint photographs from distant views have not been taken as views are limited to private properties.
- 12.5 Intermediate views from public locations are limited due to the low-lying surrounding area and the small number of paper roads within the coastal settlement. The intermediate views will receive very low to low visual effects from the Proposal, due to the distance to site, and the minimal change of 10 metres to the development.
- 12.6 Streets and properties closest to the Site along with Waiōtahe beachgoers will encounter Low visual effects; all close viewpoints are within 440m of the Site. Viewers within the close viewpoints will receive less than minor visual effects from the Proposal.
- 12.7 It is considered that as the level of sensitivity of the site to visual change is generally low to moderate, the mitigation measures of the design applied to the consented development are effective at reducing the impact and overall adverse effects of the proposal on the landscape and visual amenity. The proposal is an acceptable change within the surrounding environment. The Proposal of reducing the building line setback of the northern lots to 15 metres are acceptable with any associated effects deemed to be Low.
- 12.8 Combining both the landscape and visual effects of the development it is concluded that the overall effects will be Low and therefore the proposal is supportable from a landscape architectural perspective.

5.14 In terms of scale of effects, the report describes how a seven point scale based on Te Tangi a Te Manu – Aotearoa NZ Landscape Guidelines has been used and how this equates to RMA language as follows:

In relation to this assessment, for the purpose of determining whether an application is to be publicly notified and for non-complying activities, it is considered that 'minor' would generally equate to a Low-Moderate effect, and that low and very low effects constitute less than minor effects:



5.15 Therefore, overall the effects on the environment as well as adjacent properties are less than minor. I accept and adopt the conclusions of the LVA.

5.16 It is also noted that the subject lots are separated from the existing lots to the west by a new public reserve that will vest as part of the subdivision. This will continue to provide separation/open space and privacy between the existing and new lots and development. This public area provides a view shaft as well that will remain.

5.17 There is also a private covenant that applies to all existing lots within Stages 1-4 which is discussed in detail in the May 2019 s42A report for the s127 subdivision and the four land use consents. Clause 9.1 of the covenant states:

9. Staged Development

9.1 The Grantee acknowledges that the Covenanting Lot forms part of the Property and the Grantor will not oppose or object to any further application by WBL for resource consent or any other consent under the Resource Management Act 1991 in respect of the Development Land or otherwise provided that such application does not interfere with the Grantor's use of the within Covenanting Lot.

5.18 As before, I have treated the covenant as a written approval and all actual and potential effects on the persons who own land in Stages 1-4 have been disregarded for the purposes of assessing the effects of this new s127 proposal. This includes those properties at along Rimu Rimu Key to the west of Stages 5-7.

5.19 To the east of the site is a DOC reserve. The subdivision consent conditions relating to the fencing and landscaping of the shared eastern boundary will remain. There is no adverse effect on the DOC land from the reduced BLR setback now proposed.

5.20 The zone provisions for the Coastal Settlement zone and Coastal Environment overlay will continue to apply and need to be complied with. This includes a height restriction of 7m and reflectively provisions. These controls help ensure buildings are appropriate designed and visual effects are appropriate. These controls did not apply when some of the original dwellings in Stages 1-4 were constructed, but now also apply to the entire subdivision area.

Access to and along the coast

5.21 The subdivision layout includes various reserves to link the residential area to the coast and unformed road and these will provide pedestrian access only. Vehicle access to the coast is not provided for under the existing subdivision conditions. These reserves will remain and are unaffected by this s127 land use proposal. There is no effect on the public's ability to use the unformed road or access the coast.

- 5.22 The proposed setback of 20m from the unformed road boundary is still significant and greater than the 4.5m setback required under the District Plan. There will be no difference in effect in terms of overlooking or surveillance of public areas from the 5m reduction in setback.

Cultural Effects

- 5.23 The 2019 s42A report for the subdivision s127 and the four land use consents includes a comprehensive discussion about cultural effects and summary of the concerns raised by Te Upokorehe and in the "Arokotipu Subdivision Mitigation Plan" submitted on behalf of Ngai Tamahua hapu by Tim Selwyn.

- 5.24 That original s42A report states:

"In my opinion, any effects associated with residential development on the 17 lots within the ASCH (such as amenity, character, landscape and ecological values of the site and surrounding area), which may in turn relate to cultural effects or be of concern to iwi, are already essentially authorised by the existing subdivision consent. Whilst the land use component will enable dwellings to be constructed on the 17 beachfront lots, development of all other lots is permitted.

The fundamental change to the use of the site for residential activities results from the consented earthworks, enabling subdivision works, and permitted residential development on the other lots, not the land use aspect for which a new consent is required. It is also consistent with the long established zoning.

As such, the inclusion of the new land use application has no additional or different adverse effects in terms of the matters of concern to iwi.

Therefore, when considered against the baseline of effects authorised by the existing subdivision consent, the s127 application and the new land use application will not have adverse cultural effects which are greater or different than those already authorised."

- 5.25 The proposed reduction in BLR will not have any different adverse effects in terms of cultural values that are not already authorised by the existing subdivision and land use consents. The land is zoned and consented for residential development. Access to and along the coast will remain unchanged. There is no effect on access or use of the urupa located on the DOC land to the east as a result of the reduced setback. As noted, the boundary treatment along the eastern boundary will remain and provide a clear line of demarcation between that natural area and the residential development, as well as provide screening.

- 5.26 Any effects of this s127 proposal in terms of cultural values are less than minor.

Conclusion regarding scale of effects

- 5.27 Overall, the effects of this s127 proposal on the environment are less than minor. Any effects on the adjacent DOC land are less than minor and effects on other properties within existing Stages 1-4 have been disregarded as the covenant has been treated as a written approval.

6.0 NOTIFICATION ASSESSMENT AND DECISION

Public Notification of Consent Applications

- 6.1 The steps a consent authority must follow in order to determine whether to publicly notify an application are set out in Section 95A of the RMA.
- 6.2 In relation to Step 1, public notification is not mandatory because:
- a. The applicant has not requested public notification.

- b. Public notification is not required under Section 95C as all relevant information has been provided as part of the application.
- c. The application does not involve the exchange of recreation reserve land.

6.3 In relation to Step 2, public notification **is not** precluded because:

- a. The District Plan does not preclude public notification.
- b. The application is for a discretionary activity.

6.4 In relation to Step 3, public notification is not required because:

- a. The District Plan does not require public notification.
- b. The applicant's AEE report and the assessment in Section 5 above demonstrate that the adverse effects of the activities on the environment will be less than minor.

In making the assessment and in considering s95D:

- Effects on persons who own the land within Stages 1-4 of the Waiotaha Drifts subdivision have been disregarded.
- The permitted baseline has not been considered.
- The activity is not for a restricted discretionary activity so all relevant matters can be considered.
- Trade competition effects are not relevant.

6.5 In relation to Step 4, public notification is not required because:

- a. There are no special circumstances that exist that require the application to be publicly notified. The application contains all necessary information to determine the application.

6.6 As such, it is concluded that the application does not need to be publicly notified.

Potentially Affected Persons

6.7 The steps a consent authority must follow in order to determine whether to give limited notification of an application are set out in Section 95B of the RMA.

6.8 In relation to Step 1, no affected groups require notification because:

- a. The proposal does not affect protected customary rights groups.
- b. The proposal does not affect customary marine title groups.
- c. The site is not adjacent to, and will not affect, a statutory acknowledgment area.

6.9 In relation to Step 2, limited notification **is not** precluded because:

- a. The District Plan does not preclude limited notification.
- b. The application is for a discretionary activity.

6.10 In relation to Step 3, no specific persons must be notified because:

- a. The proposal is not a boundary activity.

- b. Effects on other properties within existing Stages 1-4 have been disregarded as the covenant has been treated as a written approval. Effects on any other parties are less than minor as discussed in Section 5 above.

The subdivision and the original four land use applications were not notified so there are no submitters who need to be expressly considered pursuant to s127(4).

6.11 In relation to Step 4:

- a. There are no special circumstances that would warrant limited notification of any other persons.

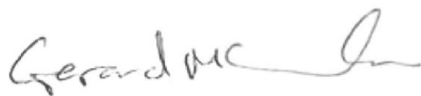
Recommendation Regarding Notification

6.12 Therefore, it is concluded that the s127 application does not require public or limited notification.

Notification decision

6.13 Acting under delegated authority and as recommended in section 6.12 above, the application to vary land use consents numbered 2019-25, 2019-52, 2019-53, 2019-54 and subdivision consent 2003-10 shall be processed on the following basis:

- Non-notified
- Limited Notified
- Notified



3 May 2022

Signed: _____ Date: _____

Gerard McCormack
PLANNING AND REGULATORY GROUP MANAGER

7.0 S104 ASSESSMENT: CONSIDERATION OF APPLICATION

- 7.1 When considering an application and any submissions received, the council must, subject to Part 2, have regard to any actual and potential effects on the environment of allowing the activity.
- 7.2 For the reasons set out above, the adverse effects that this proposal generates are acceptable and consistent with the zoning and compatible with the receiving environment.
- 7.3 The proposal will have positive effects in terms of providing a larger buildable area within the lots which provides greater flexibility for owners and may improve the function and enjoyment of their land.

Section 104(1)(b)

- 7.4 Section 104(1)(b) sets out those documents whose provisions must be considered when determining an application.

Operative District Plan (ODP) and National and Regional Planning Documents

- 7.5 The May 2019 s42A report includes a comprehensive policy analysis, including that of the provisions related to coastal erosion, landscape and natural character. The reduction in the BLR from 25m to 15m does not change that assessment or conclusions reached. Development remains consistent with the zoning and the receiving environment, as authorised by the original 2003 consent. Provisions in both the NZCPS and District Plan support consolidation of existing settlements, which is what these consents enable. The 15m setback, coupled with the unformed road and dunes provide separation from the active beach area itself. Natural coastal processes will continue. All buildings will be set back well over 50m from Mean High Water Springs. The other conditions of the consents will remain and continue avoid, remedy and mitigate effects of development within the lots.
- 7.6 This s127 proposal is consistent with the relevant objectives and policies.

Other Matters and Considerations

- 7.7 Section 104(1)(c) provides that, when considering an application for resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- 7.8 Te Upokorehe has an iwi management plan. The actual and potential cultural effects of the proposal have been considered and are discussed above.
- 7.9 There are no other matters which require consideration.

8.0 DISCRETIONARY ACTIVITIES SECTION 104B

- 8.1 After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—
- (a) may grant or refuse the application; and
 - (b) if it grants the application, may impose conditions under Section 108.
- 8.2 I consider the varied conditions are consistent with Section 108 of the RMA and relate to effects.

9.0 PART 2 MATTERS

- 9.1 Part 2 is only relevant insofar as it relates to the effects of the changes sought.
- 9.2 The application includes a landscape and visual assessment which addresses the natural character of the coastal environment. The natural character of this part of the coast is influenced by the existing development to the west. The consented development for Stages 5-7 forms part of the receiving environment. The reduced setback of up to 15m will not result in additional adverse effects on natural character. The existing district plan and consent conditions will continue to ensure the form and design of built development is appropriate for this location.
- 9.3 There will be no change in terms of access to the coast as existing and proposed public reserves, the unformed road and pedestrian access points will remain (Section 6d).
- 9.4 In terms of Section 6(e), the opinion and concerns of some iwi and hapu representatives expressed previously are acknowledged. However, this decision must take into account the existing consent and the activities already authorised. These include earthworks to enable residential development across the entire site and construction of dwellings on the beachfront lots. There is no effect on the use of the adjoining urupa or access to or along the coast. Buildings will still be well set-back from the public beach area and unformed road.

- 9.5 The site is at risk from a range of natural hazards. The risk associated with coastal erosion will continue to be addressed by requiring buildings to be relocatable. Alternatively, they are only authorised for a 50 year period and must be 20m back from the northern boundary. A review condition also remains in place.
- 9.6 In terms of Section 7, the effects of climate change have been specifically considered through the natural hazard assessment requirement for relocatable buildings or buildings with a limited period of authorisation. There will be no reduction in terms of overall amenity or quality of the environment resulting from the proposed change. The development is consistent with the zoning and anticipated and consented use of the land.
- 9.7 The proposal is in accordance with the purpose and principles of the RMA, as set out in part 2. This s127 proposal facilitates a more efficient use and development of land zoned Coastal Settlement.

10.0 RECOMMENDATIONS

LAND USE RC2019-25

1. Pursuant to sections 34A, 104, 104B and 127 of the Resource Management Act 1991, the undersigned officer, acting under authority delegated from Ōpōtiki District Council, hereby **grants** consent to vary conditions 1 and 3 of resource consent 2019-25 relating to the establishment of one dwelling and non-habitable accessory building(s) on each of proposed Lots 5, 6, 9 and 10 (Stage 5A) which result from the subdivision of Lot 315 DP 363806, and which are located within an Area Sensitive to Coastal Hazards (ASCH).

The varied conditions are set out below. Additions are in underline and deletions in ~~strikeout~~.

Condition 1:

Except as modified by the conditions of this consent, the development shall be carried out in accordance with the submitted plans and information lodged with the application ref. RC2019-25 and any supporting information including:

- ~~i. Scheme Plan Overview, C150, Revision E dated April 2021.~~
Building Setback Plan Overview, C170 Revision B showing a 15m building setback from the northern boundary of Lot 315 DP 363806 for relocatable buildings.
- ~~ii. Planning Assessment Overview, C160, Revision C dated April 2021.~~
- ~~iii. Planning Assessment Specific Building Area, C161, Revision B dated April 2021.~~
- ~~iv. Planning Assessment Specific Building Area, C162, Revision B dated April 2021.~~
- ~~v. Planning Assessment Specific Building Area, C163, Revision B dated April 2021.~~
- ~~vi. Scheme Plan Stage 5A, Drawing No. C150-5A-1 Revision D dated April 2021.~~

Condition 3:

Unless designed and constructed in full accordance with Conditions 4 and 5, buildings are only authorised to be sited on the respective lot for a period of 50 years from the date of this consent decision and must be at least 20m from the northern boundary of Lot 315 DP 363806.

LAND USE RC2019-52

2. Pursuant to sections 34A, 104, 104B and 127 of the Resource Management Act 1991, the undersigned officer, acting under authority delegated from Ōpōtiki District Council, hereby **grants** consent to vary conditions 1 and 3 of resource consent 2019-52 relating to the establishment of one dwelling and non-habitable accessory building(s) on each of proposed Lots 13, 14, 17, 18 and 20 (Stage 5B) which result from the subdivision of Lot 315 DP 363806, and which are located within an Area Sensitive to Coastal Hazards (ASCH).

The varied conditions are set out below. Additions are in underline and deletions in ~~strikeout~~.

Condition 1:

Except as modified by the conditions of this consent, the development shall be carried out in accordance with the submitted plans and information lodged with the application ref. RC2019-52 and any supporting information including:

- i. ~~Scheme Plan Overview, C150, Revision E dated April 2021.~~
Building Setback Plan Overview, C170 Revision B showing a 15m building setback from the northern boundary of Lot 315 DP 363806 for relocatable buildings.
- ii. ~~Planning Assessment Overview, C160, Revision C dated April 2021.~~
- iii. ~~Planning Assessment Specific Building Area, C161, Revision B dated April 2021.~~
- iv. ~~Planning Assessment Specific Building Area, C162, Revision B dated April 2021.~~
- v. ~~Planning Assessment Specific Building Area, C163, Revision B dated April 2021.~~
- vi. ~~Scheme Plan Stage 5B, Drawing No. C150-5B-1 Revision D dated April 2021.~~

Condition 3:

Unless designed and constructed in full accordance with Conditions 4 and 5, buildings are only authorised to be sited on the respective lot for a period of 50 years from the date of this consent decision and must be at least 20m from the northern boundary of Lot 315 DP 363806.

LAND USE RC2019-53

3. Pursuant to sections 34A, 104, 104B and 127 of the Resource Management Act 1991, the undersigned officer, acting under authority delegated from Ōpōtiki District Council, hereby **grants** consent to vary conditions 1 and 3 of resource consent 2019-53 relating to the establishment of one dwelling and non-habitable accessory building(s) on each of proposed Lots 23, 24, 27 and 28 (Stage 6B) which result from the subdivision of Lot 315 DP 363806, and which are located within an Area Sensitive to Coastal Hazards (ASCH).

The varied conditions are set out below. Additions are in underline and deletions in ~~strikeout~~.

Condition 1:

Except as modified by the conditions of this consent, the development shall be carried out in accordance with the submitted plans and information lodged with the application ref. RC2019-53 and any supporting information including:

- i. ~~Scheme Plan Overview, C150, Revision E dated April 2021.~~
Building Setback Plan Overview, C170 Revision B showing a 15m building setback from the northern boundary of Lot 315 DP 363806 for relocatable buildings.
- ii. ~~Planning Assessment Overview, C160, Revision C dated April 2021.~~
- iii. ~~Planning Assessment Specific Building Area, C161, Revision B dated April 2021.~~
- iv. ~~Planning Assessment Specific Building Area, C162, Revision B dated April 2021.~~

- ~~v. Planning Assessment Specific Building Area, C163, Revision B dated April 2021.~~
- ~~vi. Scheme Plan Stage 6B, Drawing No. C150-6B-1 Revision D dated April 2021.~~

Condition 3:

Unless designed and constructed in full accordance with Conditions 4 and 5, buildings are only authorised to be sited on the respective lot for a period of 50 years from the date of this consent decision and must be at least 20m from the northern boundary of Lot 315 DP 363806.

LAND USE RC2019-54

4. Pursuant to sections 34A, 104, 104B and 127 of the Resource Management Act 1991, the undersigned officer, acting under authority delegated from Ōpōtiki District Council, hereby **grants** consent to vary conditions 1 and 3 of resource consent 2019-54 relating to the establishment of one dwelling and non-habitable accessory building(s) on each of proposed lots 31, 32, 35 and 36 (Stage 6C) which result from the subdivision of Lot 315 DP 363806, and which are located within an Area Sensitive to Coastal Hazards (ASCH).

The varied conditions are set out below. Additions are in underline and deletions in ~~strikeout~~.

Condition 1:

Except as modified by the conditions of this consent, the development shall be carried out in accordance with the submitted plans and information lodged with the application ref. RC2019-54 and any supporting information including:

- ~~i. Scheme Plan Overview, C150, Revision E dated April 2021.~~
Building Setback Plan Overview, C170 Revision B showing a 15m building setback from the northern boundary of Lot 315 DP 363806 for relocatable buildings.
- ~~ii. Planning Assessment Overview, C160, Revision C dated April 2021.~~
- ~~iii. Planning Assessment Specific Building Area, C161, Revision B dated April 2021.~~
- ~~iv. Planning Assessment Specific Building Area, C162, Revision B dated April 2021.~~
- ~~v. Planning Assessment Specific Building Area, C163, Revision B dated April 2021.~~
- ~~vi. Scheme Plan Stage 6C, Drawing No. C150-6C-1 Revision C dated April 2021.~~

Condition 3:

Unless designed and constructed in full accordance with Conditions 4 and 5, buildings are only authorised to be sited on the respective lot for a period of 50 years from the date of this consent decision and must be at least 20m from the northern boundary of Lot 315 DP 363806.

SUBDIVISION RC2003-10

5. Pursuant to Sections 34A, 104, 104B, 127, 108 and 220 of the Resource Management Act 1991, the Ōpōtiki District Council grants consent to vary the conditions 1, 32 and 32A of subdivision consent RC2003-10 to relating to Lot 315 DP 363806, being Stages 5-7 of the original subdivision of Lot 5 DP 8663.

The varied conditions are set out below. Additions are in underline and deletions in ~~strikeout~~.

Condition 1:

Except as modified by the other conditions of this consent, the subdivision may be completed in sequential or concurrent stages, and if so, they shall be generally in accordance with the following plans dated April 2021:

- i. Scheme Plan Stage 5A, C150-5A-1, Revision D
- ii. Scheme Plan Stage 5B, C150-5B-1, Revision D
- iii. Scheme Plan Stage 6A, C150-6A-1, Revision D
- iv. Scheme Plan Stage 6B, C150-6B-1, Revision D
- v. Scheme Plan Stage 6C, C150-6C-1, Revision C
- vi. Scheme Plan Stage 7A, C150-7A-1, Revision C
- vii. Scheme Plan Stage 7B, C150-7B-1, Revision D,

and subject to the Ōpōtiki District Council being satisfied that prior to the release of a Section 224(c) Certificate for any stage that all conditions of consent as are relevant to that stage have been met. All roads, access lots, and services required to serve lots in a stage shall be constructed to the standard as required by Conditions 6 and 7. Fees and charges that are capable of being calculated per stage or per lot will be charged on the basis of the number of lots in each stage, and are to be paid prior to the signing of the Section 224(c) Certificate for any stage.

Condition 32.0:

That the Building Line Restriction be shown on the Land Transfer Plan for Lots 5, 6, 9, 10, 13, 14, 17, 18, 20 23, 24, 27, 28 31, 32, 35 and 36 and shall be 15m ~~25m~~ from the northern boundary of ~~the lots~~ Lot 315 DP 363806.

Condition 32A:

That a Consent Notice be registered on the Record of Title for Lots 5, 6, 9, 10, 13, 14, 17, 18, 20 23, 24, 27, 28 31, 32, 35 and 36 stating that no part of any building is permitted north of this Building Line Restriction required by Condition 32 and that the buildings must also comply with the conditions of land use consents RC2019-25, RC2019-52, RC2019-53, and RC2019-54 as applicable to each lot.

11.0 REASONS FOR THE DECISION

11.1 Section 113(4) of the Resource Management Act 1991 requires that every decision on a resource consent that has not been notified shall be in writing and state reasons for the decision. The reasons for the decision on this resource consent variation are listed below:

- 1. The actual and potential effects created by this s127 proposal, which relates to the subdivision consent and four related land use consents, are acceptable. This proposal facilitates more efficient use and development of land zoned Coastal Settlement, as anticipated by the District Plan. This decision must take into account the existing consents and the activities already authorised.
- 2. The proposal is consistent with the objectives and policies of the Opotiki District Plan and National and Regional documents. The site is at risk from a range of natural hazards. The risk associated with coastal erosion will continue to be addressed by requiring buildings to be

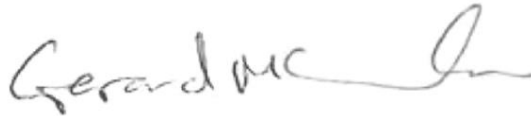
relocatable and also be set-back 15m from the front boundary. Alternatively, they are only authorised for a 50 year period and must be 20m back from the front boundary.

3. The natural character of this part of the coast is influenced by the existing development to the west. The consented development for Stages 5-7 forms part of the receiving environment. The reduced setback of up to 15m will not result in additional adverse effects on natural character. The existing district plan and consent conditions will continue to ensure the form and design of built development is appropriate for this location.
4. There will be no change in terms of access to the coast as existing and proposed public reserves, the unformed road and pedestrian access points will remain. There is no difference in terms of overall amenity or quality of the environment resulting from the proposed change.
5. The proposal is in accordance with the purpose and principles of the RMA, as set out in part 2.

12.0 DECISION

12.1 Acting under delegated authority and as recommended in section 10 above, the application to vary consents numbered 2003-10, 2019-25, 2019-52, 2019-53, 2019-54 shall be:

- Granted subject to the varied conditions of consent specified in section 10 above.
- Refused.



Signed:

Gerard McCormack

PLANNING AND REGULATORY GROUP MANAGER

Date: 3 May 2022