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McKinlay & Co
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NEW PLYMOUTH

SUBDIVISION CONSENT NO. 2002/069 - PLAN NO. 4565A

Granted for a Non-Complying Activity under the provisions of the Resource Management Act 1991 subject to the Conditions shown below.

APPLICANT: **The Washer Family Trust**

LOCATION: 762 South Road - Omata

LAND: Lot 2 DP 20763

REASONS FOR APPROVAL:

1. The subdivision provides for the creation of 20 Lots of approx 4000m² with each of the Lots having a 1/20th share of the balance land. The subdivision includes a Road (Lot 22), an Esplanade Reserve (Lot 23), a Pedestrian Access Reserve (Lot 24) and increases over part the width of the Esplanade Strip that was set aside on the previous subdivision creating DP 20763.
2. Under Section III of the Transitional New Plymouth District Plan the site is zoned Rural and is subject to:
 - Esplanade Reserve Designation
 - Inclusion of Sites in the Register of Notable Items
 - Coastal Hazard Zone

The subdivision is a Non-Complying Activity under this Plan.

3. Under the 1998 Proposed New Plymouth District Plan the site is located within the Rural Environment Area. The land is subject to the following other matters identified in the Proposed Plan as 'Overlays':
 - Coastal Policy Area
 - Coastal Hazard Area (part of site)
 - Regionally Significant Landscape (adjoining Tapuae Stream)
 - Priority Water Body (Tapuae Stream)
 - Mean High Water Springs - Tasman Sea
 - Waahi Tapu and Archaeological Sites

The subdivision is a Non-Complying Activity under this Plan.

4. The Environment Court have made it clear that in the circumstances where there are both Transitional and Proposed District Plans, the provisions of each Plan are to be addressed and, if required, Resource Consent sought in relation to the provisions of each Plan.

In this instance, the subdivision was a Non-Complying Activity under both the Transitional and Proposed District Plan.

In considering the application the particular weighting given to each District Plan is determined for each case in accordance with Section 19 of the Resource Management Act 1991.

5. The applicant has undertaken consultation with both the local rural neighbourhood and with other agencies including Taranaki Regional Council, Te Kotahitanga O Nga Mahanga a Tairi, Dept of Conservation, NZ Historic Places Trust, and Transit NZ. Once the subdivision commences onsite the need for consultation will continue and this is reflected in the Consent Conditions.
6. This application has been considered under Sections 104, 105, 106, 108 and 109 of the Resource Management Act. Additional conditions have been imposed under Section 220 of the Resource Management Act.

Under Section 105 2(a) the Council shall not grant consent for a Non-Complying Activity unless it is satisfied that either:

- (i) *The adverse effects on the environment will be minor; or*
- (ii) *The application is for an activity that will not be contrary to the Objectives and Policies of either the relevant Plan or the Proposed Plan.*

Section 104 sets out the matters the Council shall have regard to when considering this application. In exercising the discretion to grant or refuse a consent and to impose conditions the Council has regard to all the matters under Section 104(1) that are relevant in the circumstances. Subject to Part II of the Resource Management Act (purpose and principles), the following matters are considered relevant in respect of this application:

- (a) *Any actual and potential effects on the environment of allowing the activity;*
- (c) *Any relevant National Policy Statement, New Zealand Coastal Policy Statement, Regional Policy Statement and Proposed Regional Policy Statement;*
- (d) *Any relevant Objectives, Policies, Rules or other provisions of a Plan or Proposed Plan;*
and
- (i) *Any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

This application for subdivision has also been considered under Section 106 of the Resource Management Act. Section 106 states that the consent authority shall not grant Subdivision Consent if it considers that either:

- The land, or structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
- Any subsequent use of the land is likely to accelerate, worsen or result in material damage to that land, other land, or structure, by erosion, falling debris, subsidence, slippage, or inundation from any source.

The consent authority may grant consent under Section 105 of the Resource Management Act if it is satisfied that the effects described in Section 106 will be avoided, remedied, or mitigated by either, rules in the District Plan or conditions of Resource Consent.

7. The application for subdivision is an amendment to the application applied for in July 2001. The original application proposed to create a conventional fee-simple subdivision of the land which complied with minimum area requirements (Rural rule 73) of the Proposed District Plan, although it was a Discretionary Activity in regard to Waahi Tapu and the building of a road in the Coastal Policy Area.

The land comprises 77 hectares of undulating farmland operated as a Bull Farm. There is one dwelling located on the site. An Esplanade Strip adjoins the Tasman Sea and the Tapuae Stream as a result of previous subdivision, which created the vineyard site on the adjoining land. The public frequently use the land as a means of access to the beach, which has recreational value. The land is highly visible from the State Highway and has views towards both the Coast and Mount Taranaki.

Since the lodging of the original application Council and the applicant have worked to achieve subdivision and development of the land that places an emphasis on retaining the character of the natural coastal environment, that provides public access to the coast, maintains rural character and which integrates substantial infrastructure works into the environment.

8. Transitional District Plan:

The purpose of the provisions of the Rural Zone is to provide for and encourage the use of rural land for the production of food and primary produce, while at the same time, recognise and carefully control the continuing trend toward land use intensification in the District.

The Objectives of the Transitional Plan also seek to ensure that the agricultural use of rural land is not compromised by premature urban development or inappropriate subdivision and to protect and maintain the rural character and amenity of the area and the general welfare and social fabric of its inhabitants.

A Farm Park Development can achieve comprehensive land diversification with residential occupation confined to minimum allotment size. The establishment of a Farm Park where the individual lot owners will own the balance land in equal shares does not limit the ability for the balance land to be used for a wide range of rural land-based activities. Nomination of building platforms and the requirement to develop and implement a Design Guide are conditions imposed to ensure that the placement of buildings in locations where rural character is retained when viewed from significant outlooks i.e coast, State Highway, river mouth and from adjoining rural properties. The balance Lot 21 has an area of 65 hectares which is in excess of the minimum area of 40 hectares required for pastoral farming under the this Plan.

9. Proposed District Plan:

The subdivision has been considered in terms of the Policies and Objectives of the Proposed District Plan.

The subdivision is a Non-Complying Activity in terms of Lot size – Rural Rule 73.

The subdivision is a Discretionary Activity in terms of Overlay Rule OL 14 relating to the construction of roads in the Coastal Policy Area.

The subdivision is a Discretionary Activity in terms of Overlay Rule OL 64 relating to Waahi Tapu and Archaeological Sites.

The subdivision is a Non-Complying Activity under the Rural Environment Rule 88, which requires more than six Lots to be served by a Road and not a right-of-way.

The land is located within the Coastal Policy Area and while no rules apply, the assessment criteria require consideration of adverse effects on the natural character of the Coastal Environment.

The Tapuae River mouth is identified as a Regionally Significant Landscape under the Proposed Plan and this application has been assessed in light of its significance.

Regionally Significant Landscape:

Policy 15.2 states " *subdivision, use and development should not result in adverse visual effects on, and should enhance, where practicable, the following Regionally Significant Landscapes* "

A substantial part of the Regionally Significant Landscape is included within the Esplanade Reserve and within the widened Esplanade Strip. Lots 3 & 4 lie within this landscape and the placement and design of buildings on these two Lots has been assessed so that buildings will be integrated in to the land. In addition regenerative planting will enhance the Coastal landscape. It is considered therefore that the subdivision is consistent with Policy 15.2 of the Proposed Plan.

Waahi Tapu and Archaeological Sites:

An archaeological assessment has been carried out by Archaeology North and consultation has been carried out with Te Kotahitanga O Nga Mahanga A Tairi Society Inc to determine the extent of Waahi Tapu and archaeological sites in the area. This includes those identified in the plan and any others not included. The layout of the subdivision has been designed to take into account these sites and conditions of the Subdivision Consent ensure ongoing protection. The Council is therefore satisfied that the Waahi Tapu and archaeological sites can be protected from any adverse effects of subdivision and development.

Allotment size and numbers:

The subdivision creates 20 rural residential allotments of approximately 4000m². The subdivision is a Non-Complying Activity under the provisions of Rural Rule 73.

This application has been considered in the context of Objective 4 *'To ensure the subdivision, use and development of land does not adversely affect those elements that define the rural character while recognising the diverse nature of rural land and land uses'*.

Placement of sites has been undertaken through rigorous analysis of distinct landscape areas. Given the size of allotments at 4000m² preallocation of building platforms is not considered necessary. As a Farm Park Subdivision, Lot 21 will be retained as one large lot in equal ownership. This will retain open space and rural character. The rural residential sites have been placed within Lot 21 and away from the external boundaries.

District Plan rules stipulate minimum allotment sizes, and limits the number of smaller allotments per Certificate of Title. This method has been included as a means of ensuring that subdivision in the Rural Area will be consistent with rural character and will enable sustainable use and development of the rural land resource while allowing for appropriate use and development. The 4 hectare minimum has been set on the basis of protecting a level of visual amenity while still allowing a range of traditional 'rural activities' such as agriculture, horticulture or forestry to occur. Maintaining large allotment sizes in the rural areas is therefore seen as consistent with existing land uses, and a way in which the open space nature of the rural area will be retained.

The Proposed Plan does recognise that a more intensive form of subdivision may be appropriate where, for example, topography means that even though the Lots are smaller, the effect on the rural character is the same because there is no apparent aggregation of development.

While the Plan has chosen minimum lot size as a method to implement Objectives and Policies alternative techniques may also be suitable. The concept “Farm Park” is an innovative and new technique in rural subdivision. Specifically designed Farm Parks can achieve comprehensive land diversification and management while managing any adverse effects from subdivision and development.

It is considered that Farm Park subdivision of this site is able to be carried out in a manner that retains rural character and amenity and is a viable technique that can be used for managing rural subdivision.

Public Access:

The Proposed Plan has an objective *to maintain and enhance public access to and along the coast, lakes and rivers.*

This subdivision incorporates a Public Road, Reserve and increased Esplanade Strip, all of which serve to achieve this objective.

New Road:

The construction of a Road in the Coastal Policy Area is a Discretionary Activity. Relevant policies include *“The natural character of the coastal environment should not be adversely affected by inappropriate subdivision, use or development and should, where practicable be restored and rehabilitated”*.

The impact of the road on the natural character of the Coastal Environment has been considered. The road will extend approximately mid way between the State Highway and the Coast. From the end of the road a carpark will be formed and pedestrian access will then lead to the coast from a Esplanade Strip and Reserve. The intersection of the road with the State Highway has been approved by Transit New Zealand.

The Council is satisfied that the road will as far as practicable be integrated with the existing landscape and consent conditions will ensure that cut /fill quantities will be kept to a minimum.

Traffic and Transport:

Rural Rule 88 requires that more than 6 sites be served by a road and not a right-of-way. In this case as the land is located within the Coastal Policy area it is considered that minimal infrastructure should be built. Right-of-ways are required to be constructed to standards suitable for the number of uses and are required to be situated clear of ridgelines. Consent conditions will enforce these requirements and ensure that adverse effects are effectively mitigated.

10. Actual and Potential Effects on the Environment:

Potential and actual effects on the environment have been considered as follows:

Visual effects on Rural Character and Amenity and the Coastal Environment:

The introduction of 20 dwellings into this neighbourhood has the potential to generate adverse visual effects, which may adversely affect rural character and amenity. Conditions of approval imposing restrictions on the placement of building and a requirement to refer to a design guide for siting, scale, form and types of materials are imposed as conditions of consent to mitigate effects of development.

The Council is satisfied that lots have been placed in locations to avoid intrusive dominance form beach and State Highway and also from adjoining rural properties. The Farm Park concept will enable the balance of the land to be maintained as a large open space and it is considered that all of these techniques together will mitigate potential adverse visual effects.

Productive Potential:

The Council is satisfied that the retention of Lot 21 as a farm lot will enable the productive rural use of the land for pastoral farming or other rural activity to be maintained.

Traffic:

The subdivision will result in a new road. The public currently has informal access to the beach over the land. The construction of a road providing a safe access to the State Highway intersection is considered to be an improvement on the present roading situation in that a properly controlled road will be provided. Careful design in the placement of the road and in particular ensuring that the road will not extend to the coast and that it is integrated with the landscape are all methods to ensure that the road will not create an adverse visual effect in the Coastal Policy Area.

Earthworks and Stormwater :

Substantial earthworks will be necessary which can result in adverse effects. Conditions of consent e.g silt and dust control have addressed temporary effects of earthworks.

Waahi Tapu and Archaeological Sites:

A positive outcome of this subdivision is the identification of Waahi Tapu and archaeological sites. Waahi Tapu sites will be retired from grazing and conditions relating to Waahi Tapu will ensure ongoing protection.

Vegetation /Habitat Effects:

Rehabilitation and amenity planting is proposed as part of this subdivision. Existing native vegetation and the mature cabbage tree on Lot 21 are to be protected by conditions of consent. The reestablishment of coastal planting and enhancement of wetlands are positive potential effects of the subdivision.

Coastal Hazard:

The Council is satisfied that Section 106 Resource Management Act matters have been satisfactorily addressed. A report from a suitably qualified Engineer is required as a condition of consent and building conditions can be as imposed as a consent notice if required.

11. The New Zealand Coastal Policy Statement

The Council is satisfied that:

- The subdivision is consistent with the New Zealand Coastal Policy Statement; and
- The natural character of the Coastal environment can be enhanced by planting and revegetation; and
- The development is not of a sprawling or sporadic nature

12 In considering the proposal the Council has concluded that the subdivision is consistent with the purpose and principles of the Resource Management Act 1991. Furthermore, the Council

considers that all of the matters under Sections 6, 7 and 8 of the Resource Management Act 1991 have been addressed in achieving the purpose of the Act.

Pursuant to the provisions of Section 105 (2)(a)(i) of the Resource Management Act the Council is satisfied that the adverse effects on the environment of this subdivision will be minor.

13. This consent has been granted in accordance with Section 94(2) of the Resource Management Act 1991, as the Council is satisfied that the adverse effects on the environment of the activity will be minor, and the written approval has been obtained from every persons who may be adversely affected by the granting of the consent.

CONDITIONS:

1. The applicant is responsible for all costs incurred in complying with the conditions.
2. All work carried out on the subdivision will be to standards acceptable to the New Plymouth District Council.
3. One copy of the Title Sheet (A3 size) is to be provided when the Survey Plan is submitted for approval.
4.
 - (a) Approval fees to be paid in accordance with Councils Schedule of Subdivision Fees and Charges when the Survey Plan is submitted for approval.
 - (b) The applicant shall pay to the Council an engineering and inspection fee of \$150 or 1.125% (being an estimated value of infrastructure or right-of-way work) whichever is the greater. The value of work to be assessed shall not include works required by Transit NZ. The value of work shall be determined at the commencement of the subdivision, that is on the contract price.
 - (c) The Consent holder shall pay the Council's cost of any monitoring necessary to ensure compliance of the subdivision with the Conditions specified. Council's monitoring will be carried out by Council's Environmental Planner - Monitoring and the costs payable will be the charge out rate current for that financial year.
5. This consent is valid for three years from the date of granting.
6. Except for those changes which must be made in order to give effect to the Conditions that follow, the subdivision and development shall be in accordance with the plan and information submitted with the application 4656A and identified as follows:

Figure 1	-	The Site
Figure 2	-	Farm Park Plan
Figure 3	-	Subdivision Scheme Plan
Figure 4	-	Site Analysis Plan
Figure 5	-	Visual Characteristics of Site
Figure 6	-	House Types
Figure 7	-	Typical House Types A - D
Figure 8	-	Archaeological Sites
7. The minimum allotment size of Lots 1 to 20 shall be 4000m² per Lot.
8. Goods and services tax payable on all land and services vested without charge in the Council shall be paid to the Council by the applicant upon presentation by the Council to the applicant of a tax invoice.

9. A Reserve Contribution is payable on Lots 1 to 20 unless it is demonstrated that all Lots 1 to 20 have unambiguous ownership of the larger Lot 21 and that Lot 21 cannot be further subdivided and cannot be disposed of other than in conjunction with smaller Lots 1 to 20.
10. All telephone and electric power cables required to service the subdivision shall be laid underground.
11. Protection of Waahi Tapu Sites:
 - (a) The two Pa sites shall be fenced off and planted in native vegetation (Note requirement for planting under Condition 7);
 - (b) Native trees shall be planted on adjoining Section 139 Omata District (as agreed by subdivider and Nga Mahanga A Tairi). Vehicle access to be provided during planting;
 - (c) The issue relating to the shed over the boundary is a bonded work relating to the former subdivision of the land. The subdivider has undertaken to remove the shed. The issue relating to rates payable on adjoining Section 139 Omata District has been resolved.
12. Protection of Archaeological Sites:
 - (a) Lot boundaries and building sites shall be set to avoid archaeological sites.
 - (b) A plan of Fort Robert and associated hut sites shall be prepared. The report shall be prepared with the assistance of a suitably qualified archaeologist. This plan will assist with determining a road alignment that has the least effect on the Fort and associated features.
 - (c) A vegetation plan and work specification shall be prepared to guide the planting work which is to be carried out on the two Pa sites. The plan and work charter shall be consistent with the principles of the ICOMOS NZ Charter for Conserving Heritage and the Historic Places Trust.
 - (d) In the event that any activity associated with this proposal (e.g. earthworks, landscaping, fencing) is likely to modify, damage or destroy an archaeological site, an authority from the NZ Historic Places Trust must be obtained for the work to proceed lawfully. If an archaeological site is encountered during works for the proposed development, work shall cease immediately and the NZ Historic Places Trust shall be notified so that an archaeological assessment can be made and advise given accordingly.
13. Bush Areas:
 - (a) The native bush areas shall be defined and shall be subject to Conservation Covenant for the purposes of encouraging regeneration and protection of indigenous bush remnant. This Covenant shall be ongoing and shall be registered against the Certificate of Title pursuant to Section 221 of the Resource Management Act. (A copy of Council's draft document is **attached**).

The areas of bush areas shall be fenced at a minimum standard of a permanent one-wire electric fence.
 - (b) The mature Cabbage Tree on Lot 21 shall be protected as a Condition of Subdivision and shall be subject to the provisions of Section 221 of the Resource Management Act.
14. Distances between buildings and new boundaries shall comply with the requirement for existing buildings to meet standards in relation to new boundaries (Rural Rule 77).

15. The applicant shall relocate any wastewater disposal systems serving either allotment which does not lie wholly within the allotment or are within distances specified by the Council from the existing or proposed boundaries.

16. An amalgamation condition shall apply:

'That Lot 21, (legal access) be held as to undivided shares by the owners of Lots 1 to 20 hereon as tenants in common in the said shares and that individual Certificates of Title be issued in accordance therewith'.

17. Pursuant to Section 321(3)(c) of the Local Government Act 1974 the New Plymouth District Council, being satisfied that Lot 1 to 20 of the Subdivision of Lot 2 DP 20763 has adequate access to that allotment over other land pursuant to an access lot.

The Council resolves that the Condition of Section 321(1) of the Local Government Act 1974 shall not apply.

18. Building Platform:

An inspection and a report shall be carried out on soil compatibility by a suitably qualified Registered Engineer to confirm the suitability of Lot 1 to 20 for on-site stormwater and wastewater disposal and to confirm a suitable building platform in accordance with Appendix 21.1 (Proposed District Plan). The area for wastewater disposal shall be shown within Lot boundaries. The Council may waive the requirement to have an equivalent area set aside within Lot boundaries for future Reserve (and utilise Lot 21 instead) should difficulties arise. Other innovative solutions may be accepted.

The report shall take into account the Coastal Hazard Overlay provisions of the District Plan.

Any recommendations requiring specific on-site stormwater and wastewater disposal shall be subject to Consent Notice under Section 221 of the Resource Management Act noting soil conditions, site investigation details and recommendations.

If necessary to achieve report recommendations allotment boundaries shall be modified.

19. Pursuant to Sections 220 1(c) and 221 of the Resource Management Act 1991 the following conditions shall apply which shall be registered as a Consent Notice on the respective Title:

- (a) That no residential dwelling shall be constructed on Lot 21.
- (b) That the number of dwellings on Lots 1 to 20 shall be limited to 1 on each Lot.
- (c) A Consent Notice in accordance with Section 221 of the Resource Management Act 1991 shall be registered against Lots 1 to 20 requiring that all building development on each of these Lots shall be in accordance with design guidelines agreed between the applicant and the Council.

The design intentions are to enhance the quality of the existing environment through the careful insertion of buildings whose site, form, scale and construction is consistent with the special character of the area.

- (d) A Location Restriction shall apply on Lot 21 as requested by Roper Family Trust.

20. Lots 23 shall be vested in the Council as Esplanade Reserve. Lot 24 shall be vested as Reserve (Pedestrian Access) and the applicant shall arrange for Certificates of Title to be issued for the Reserve. The width of Reserve (pedestrian access) shall be 5.0 metres.

21. Revegetation and Enhancement Planting:

Revegetation and enhancement planting shall be undertaken as offered in the application (Clause 6.5). Prior to the commencement of the revegetation work, a planting plan and maintenance programme shall be submitted to the Compliance Monitoring Officer for approval. The planting plan and maintenance programme shall specify the quantities, species, size (PB Grade) and location of the proposed vegetation and shall ensure the on-going:

- Release of plants from weed and grass infestation;
- Replacement of plants which are dead or in poor health;
- Possum control

For a period of not less than 5 (five) years.

This Condition shall be secured by way of a Bond.

Rehabilitated vegetation shall be fenced and where appropriate may be subject to protection pursuant to section 221 of the Resource Management Act.

22. Earthworks:

- (a) The subdivider shall appoint a suitably qualified Registered Engineer to design control and certify all earthworks associated with roading and rights-of-way and a Certificate shall be provided regarding design and compaction.
- (b) All uncompacted fill shall be identified and shall be shown on final plans and be subject to a Memorandum of Location Restriction.
- (c) All earthworks undertaken shall employ the best practical means of minimising the escape of silted water or dust from the site. A description of the proposed means of mitigating these effects shall be submitted and approved and put in place prior to any earthworks commencing.
- (d) Earthworks shall be staged to ensure a minimum ground area is open at any one time for construction.
- (e) The amount of cut and fill shall be kept at the lowest possible level in achieving the necessary cut to fill balance.
- (f) The roading shall be shaped to ensure surface run-off is channelled towards grassed swales, and ponds where stormwater infiltration or detention is proposed. Where an ongoing discharge is to natural waters these swales shall be planted in natural species.
- (g) Engineering plans shall include earthworks proposed in more detail, including construction timeframes, proposed staging, methodology and sediment control measures.
- (h) Silt detention structures shall be maintained and cleaned out as necessary until such time as regrassing or other non-erodable surfaces have been reinstated.
- (i) Dust Control - All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and roads, including but not limited to –
 - (i) The staging of areas of the works
 - (ii) The installation and maintenance of wind fences and vegetated strips
 - (iii) Watering of all haul roads and manoeuvring areas during dry periods
 - (iv) Spraying of load dumping operation
 - (v) Suspension of all operation if necessitated by prevailing conditions

- (j) Protection of archaeological sites - The archaeological sites identified shall be cordoned off from the remainder of the property a fence or similar barrier prior to the commencement of any work on the site. This fence barrier shall be constructed to the standard that will prevent:
 - (i) Vehicular traffic through the area
 - (ii) The area being used for temporary storage of materials
 - (iii) The modification of the areas existing contour
 - (iv) Excavations within the area
 - (v) The lighting of fires in the area
- (k) Tree/ Native Bush protection. The areas of native bush and the Cabbage Tree on Lot 21 shall be protected and cordoned off from the remainder of the property by a suitable barrier/fence prior to commencement of any work on the site. This fence /barrier shall be constructed to the standard that will prevent:
 - (vi) Vehicular traffic through the area
 - (vii) The area being used for temporary storage of materials
 - (viii) The modification of the areas existing contour
 - (ix) Excavations within the area
 - (x) The lighting of fires in the area

23. Esplanade Strip:

Pursuant to the provisions of Section 234 of the Resource Management Act 1991 the present Esplanade Strip shall be varied as follows:

- (a) The Strip shall be cancelled over that part of land to become Reserve (Lots 23 and 24).
- (b) The Strip shall be increased in width to 30 metres where it adjoins the true right bank of the Tapuae Stream between Lots 23 and 24.

24. The applicant shall provide the Council with written certification from a suitably professionally qualified person that the land is suitable for subdivision and for the intended uses and that the said land will be subdivided and developed in full compliance with the provisions of the Council's District Plan and the Statutory and Regulatory Requirements administered by the New Plymouth District Council in respect of land subdivision and development.

25. A Memorandum shall be shown on the Survey Plan, and Easements created for services as required.

26. Easements in gross shall be granted in favour of the Council over the electricity lines in favour of Powerco.

27. Lot 22 shall vest in the New Plymouth District Council as Road. The splays shall vest in Transit NZ as State Highway

28. Road:

The design and construction of the road and carpark shall as far as practical be integrated with the coastal landscape. Consideration shall be given to varied carriageway (cross-section and layout) and regard given to pedestrian and bridle paths:

- (a) The minimum legal road width shall be 16 metres.
- (b) The carriageway seal width shall be two lane and a minimum of 3.0 metres per lane.

- (c) Where stormwater from the road is controlled by kerb and channel, the berm width shall be a minimum of 3.0 metres.
- (d) Where the stormwater is controlled by surface water channel the berm width shall be a minimum of 5.0 metres.
- (e) The maximum grade of the road shall be 10%.
- (f) All cut batters shall be within the adjacent private property.

29. Right-of-way:

The design and construction of the right-of-way shall as far as practical be integrated with the coastal landscape:

- (a) Major internal access right-of-ways shall have a minimum legal width of 7.0 metres.
- (b) Minor internal access right-of-ways shall have a minimum legal access width of 5.0 metres.
- (c) Cut and fill batters are to be located within the legal width of the right-of-way.
- (d) Right-of-way shall generally be located clear of ridgelines.
- (e) Right-of-way carriageway shall be 3.6 metres wide with 5.0 metre wide passing bays (determined at time of Engineering Plans).
- (f) The maximum grade of the right-of-way shall not exceed 1 in 5 and where the right-of-way is greater than 10% it is recommended that the surface shall be sealed.

30. Stormwater:

- (a) Secondary flow path from the road and right-of-ways, (in particular as they relate to building platforms) shall be shown.
- (b) Surface runoff is to be channelled towards grass swales and ponds where stormwater and infiltration or detention is proposed. Where an ongoing discharge is to natural water these swales shall be planted in natural species.
- (c) Where the road crosses the existing stream a culvert suitable for the catchment shall be designed and constructed in accordance with Council's Stormwater Code of Practice.
- (d) Stormwater swale drains shall be monitored and maintained by the Consent Holder for a minimum period of two years from the date of the 224(c) Certificate. Monitoring reports shall be submitted to the Compliance Monitoring Officer every three months

31. All the above works are to be designed and constructed in accordance with the following current and relevant New Plymouth District Council Codes of Practices and Standard Specifications. These standards are for mitigating adverse effects on the environment from earthworks, traffic (roading and vehicle access), sewage and stormwater drainage, water supply and utility structures.

- Part 3 Roading Code of Practice
- Part 5 Stormwater Code of Practice
- Part 6 Water Reticulation Code of Practice
- Part 7 Vehicle Crossing Code of Practice
- Standard Specification for Sanitary Sewers and Stormwater
- Standard Specification for Water Reticulation

Other alternative and innovative solutions may be approved for those aspects where the standards of the Code of Practice are unable to be met or can be achieved in a different way. Emphasis shall be on retaining the character of the natural coastal environment and integrating all the infrastructure works into the environment.

32. Detailed engineering plans, specifications, estimates and as built shall be provided for all works including earthworks and silt detention measures. On completion of earthworks, an Earthworks Completion Report and Certificate signed by the Registered Engineer who designed and supervised the works shall be submitted.

NOTE: The applicant should be aware that the Historic Places Act 1993 (HPA) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. Under Section 2 of the HPA, an archaeological site is defined as a place associated with pre-1900 human activity, where there may be evidence relating to the history of New Zealand. Section 10 directs that an authority is required from the New Zealand Historic Places Trust if there is "reasonable cause" to suspect an archaeological site (recorded or unrecorded), may be modified, damaged or destroyed in the course of any activity. An authority is required for such work whether or not the land on which an archaeological site may be present is designated, or a Resource or Building Consent has been granted, or the activity is permitted in a Regional or District Plan. Evidence of archaeological sites may include oven stones, charcoal, shells, ditches, banks, pits, terraces, stone walls, building foundations, artefacts of Maori and European origin or burials.

NOTE: Structures such as retaining walls, inground walls and bridges requiring Building Consent under the Building Act shall obtain a Building Consent which can include the use of a Producers Statement from an appropriately qualified person.

NOTE: The plans required under this consent are separate to and do not form part of any Building Consent that may be required on the subject site.

NOTE: Consultation shall be undertaken with the Taranaki Regional Council for the requirement for silt control measures as the land adjoins the Tapuae Stream and the Tasman Sea.

NOTE: Section 357 of the Resource Management Act 1991 provides a right of objection in respect to the granting of this consent.

DATED this 10 day of September 2002

FRANK VERSTEEG - ASSISTANT CHIEF EXECUTIVE

DM17788

Miss Williams
ASSM: 005683
LEGL: 095202

McKinlay & Co
P O Box 116
NEW PLYMOUTH

SUBDIVISION CONSENT NO. 2002/070 - PLAN NO. 4713A

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APPLICANT: **The Washer Family Trust**

LOCATION: 762 South Road - Omata

LAND: Lot 2 DP 20763

REASONS FOR APPROVAL:

1. The subdivision provides for the creation of 20 rural-residential sites, varying in area from 2.0 hectares to 8.0 hectares. The subdivision includes a Road (Lot 22), Esplanade Reserves (Lot 23 and Lot 24) and retains in part the Esplanade Strip that was set aside on the previous subdivision creating DP 20763.

This subdivision approves Plan No. 4713A, an amendment to Plan No. 4713. This former plan did not receive consent, given the decision by Transit New Zealand to require relocation of the access intersection of the new road with the State Highway at the time this application was under consideration. This amended plan reflects this change in road alignment. In addition the new road terminates at a new location, that is, approximately at the same place vehicles currently when using the informal access to the Tapuae Beach. The relocation of the road to this part has forced reconsideration of reserve and pedestrian access along the Tapuae Stream to the Coast.

The narrowing of reserve (Lot 23) is necessary given the location of the Pa – P19/24, and the requirement to achieve right-of-way access to the new allotments.

Alternative locations for vehicle access have been considered and the layout put forward on the most practical and feasible solution. Some works to stabilise the river bank within the future reserve will be required to be carried out by the applicants.

2. Under Section III of the Transitional New Plymouth District Plan the site is zoned Rural and is subject to:
 - Esplanade Reserve Designation
 - Inclusion of Sites in the Register of Notable Items
 - Coastal Hazard Zone

The subdivision is a Non-Complying Activity under this Plan.

3. Under the 1998 Proposed New Plymouth District Plan the site is located within the Rural Environment Area. The land is subject to the following other matters identified in the Proposed Plan as ‘Overlays’:
- Coastal Policy Area
 - Coastal Hazard Area (part of site)
 - Regionally Significant Landscape (adjoining Tapuae Stream)
 - Priority Water Body (Tapuae Stream)
 - Mean High Water Springs - Tasman Sea
 - Waahi Tapu and Archaeological Sites

The subdivision is a Non-Complying Activity under this Plan.

4. The Environment Court have made it clear that in the circumstances where there are both Transitional and Proposed District Plans, the provisions of each Plan are to be addressed and, if required, Resource Consent sought in relation to the provisions of each Plan.

In this instance, the subdivision was a Non-Complying Activity under both the Transitional and Proposed District Plan.

In considering the application the particular weighting given to each District Plan is determined for each case in accordance with Section 19 of the Resource Management Act 1991.

5. The applicant has undertaken consultation with both the local rural neighbourhood and with other agencies including Taranaki Regional Council, Te Kotahitanga O Nga Mahanga a Tairi, Dept of Conservation, NZ Historic Places Trust, and Transit NZ. Once the subdivision commences onsite the need for consultation will continue and this is reflected in the Consent Conditions.
6. This application has been considered under Sections 104, 105, 106, 108 and 109 of the Resource Management Act. Additional conditions have been imposed under Section 220 of the Resource Management Act.

Under Section 105 2(a) the Council shall not grant consent for a Non-Complying Activity unless it is satisfied that either:

- (i) *The adverse effects on the environment will be minor; or*
- (ii) *The application is for an activity that will not be contrary to the Objectives and Policies of either the relevant Plan or the Proposed Plan.*

Section 104 sets out the matters the Council shall have regard to when considering this application. In exercising the discretion to grant or refuse a consent and to impose conditions the Council has regard to all the matters under Section 104(1) that are relevant in the circumstances. Subject to Part II of the Resource Management Act (purpose and principles), the following matters are considered relevant in respect of this application:

- (a) *Any actual and potential effects on the environment of allowing the activity;*
- (c) *Any relevant National Policy Statement, New Zealand Coastal Policy Statement, Regional Policy Statement and Proposed Regional Policy Statement;*
- (d) *Any relevant Objectives, Policies, Rules or other provisions of a Plan or Proposed Plan;*
and
- (i) *Any other matters the consent authority considers relevant and reasonably necessary to determine the application.*

This application for subdivision has also been considered under Section 106 of the Resource Management Act. Section 106 states that the consent authority shall not grant Subdivision Consent if it considers that either:

- The land, or structure on the land, is or is likely to be subject to material damage by erosion, falling debris, subsidence, slippage, or inundation from any source; or
- Any subsequent use of the land is likely to accelerate, worsen or result in material damage to that land, other land, or structure, by erosion, falling debris, subsidence, slippage, or inundation from any source.

The consent authority may grant consent under Section 105 of the Resource Management Act if it is satisfied that the effects described in Section 106 will be avoided, remedied, or mitigated by either, rules in the District Plan or conditions of Resource Consent.

7. The Council has also granted consent for a 20 lot Farm Park Subdivision (20 rural-residential Lots and 1 Access Lot), with Road and Reserve – Consent 2002/069 Plan No. 4565A and as amended by Consent No. 2002/219. It is the landowners intention to proceed with either a Farm Park or this more conventional form of subdivision.

The land comprises 77 hectares of undulating farmland operated as a Bull Farm. There is one dwelling located on the site. An Esplanade Strip adjoins the Tasman Sea and the Tapuae Stream as a result of previous subdivision, which created the vineyard site on the adjoining land. The public frequently use the land as a means of access to the beach, which has recreational value. The land is highly visible from the State Highway and has views towards both the Coast and Mount Taranaki.

The Council and the applicant have worked to achieve subdivision and development of the land that places an emphasis on retaining the character of the natural coastal environment, that provides public access to the coast, maintains rural character and which integrates substantial infrastructure works into the environment. The land is divided into distinct landscape features of valleys, ridges, river mouth, stream and plateau. Subdivision lay out has been designed in a way which is sensitive to these natural features.

8. Transitional District Plan:

The purpose of the provisions of the Rural Zone is to provide for and encourage the use of rural land for the production of food and primary produce, while at the same time, recognise and carefully control the continuing trend toward land use intensification in the District.

The Objectives of the Transitional Plan also seek to ensure that the agricultural use of rural land is not compromised by premature urban development or inappropriate subdivision and to protect and maintain the rural character and amenity of the area and the general welfare and social fabric of its inhabitants.

Subdivision of land under this plan is based on the concept of suitability of land for intended rural activity. Rural Rule 5.3 specifies minimum area requirements.

The subdivision is a Non-Complying Activity under the Transitional District Plan as the subdivision is unable to comply with these rules.

9. Proposed District Plan:

The subdivision has been considered in terms of the Policies and Objectives of the Proposed District Plan.

The subdivision is a Non-Complying Activity in terms of Lot size – Rural Rule 73

The subdivision is a Discretionary Activity in terms of Overlay Rule OL 14 relating to the construction of roads in the Coastal Policy Area.

The subdivision is a Discretionary Activity in terms of Overlay Rule OL 64 relating to Waahi Tapu and Archaeological Sites.

The subdivision is a Non-Complying Activity under the Rural Environment Rule 88, which requires more than six Lots to be served by a Road and not a Right-of-way.

The land is located within the Coastal Policy Area and while no rules apply, the assessment criteria require consideration of adverse effects on the natural character of the Coastal Environment.

The Tapuae River mouth is identified as a Regionally Significant Landscape under the Proposed Plan and this application has been assessed in light of its significance.

Regionally Significant Landscape:

Policy 15.2 states “ *subdivision, use and development should not result in adverse visual effects on, and should enhance, where practicable, the following Regionally Significant Landscapes* “

A substantial part of the Regionally Significant Landscape is included within the Esplanade Reserve and within the widened esplanade strip. Lots 3, 4 and 5 lie within this landscape and the placement and design of buildings on these Lots has been assessed so that buildings will be integrated in to the land. Lot sizes at 3.84, 2.05 and 3.13 hectares are sufficiently large to accommodate each landscape unit e.g Lot 4 – the river mouth area. In addition regenerative planting will enhance the Coastal Landscape. It is considered therefore that the subdivision is consistent with Policy 15.2 of the Proposed Plan.

Waahi Tapu and Archaeological Sites:

An archaeological assessment has been carried out by Archaeology North and consultation has been carried out with Te Kotahitanga O Nga Mahanga A Tairi Society Inc. to determine the extent of waahi tapu and archaeological sites in the area. This includes those identified in the plan and any others not included. The layout of the subdivision has been designed to take into account these sites and conditions of the subdivision consent ensure ongoing protection. The Council is therefore satisfied that the waahi tapu and archaeological sites can be protected from any adverse effects of subdivision and development.

Allotment size and numbers:

The subdivision creates 13 Lots less than 4.0 hectares and 7 Lots in excess of 4 hectares. Rural Rule 73 allows for two allotments less than 4.0 hectares. The subdivision is a Non-Complying Activity under the provisions of Rural Rule 73.

This application has been considered in the context of Objective 4 *‘To ensure the subdivision, use and development of land does not adversely affect those elements that define the rural character while recognising the diverse nature of rural land and land uses’*.

District Plan rules stipulate minimum allotment sizes, and limits the number of smaller allotments per Certificate of Title. This method has been included as a means of ensuring that subdivision in the Rural Area will be consistent with rural character and will enable sustainable use and development of the rural land resource while allowing for appropriate use and development. The 4 hectare minimum has been set on the basis of protecting a level of visual amenity while still

allowing a range of traditional ‘rural activities’ such as agriculture, horticulture or forestry to occur. Maintaining large allotment sizes in the rural areas is therefore seen as consistent with existing land uses, and a way in which the open space nature of the rural area will be retained.

The Proposed Plan does recognise that a more intensive form of subdivision may be appropriate where, for example, topography means that even though the Lots are smaller, the effect on the rural character is the same because there is no apparent aggregation of development.

Lot boundaries have been aligned with landscape areas. Larger Lots have been retained adjoining the State Highway, adjoining the Tapuae Stream, River Mouth, that is, adjoining places of public views. Smaller Lots 6, 7, 9, 10 and 13 adjoins the Coast Line will have building platforms set back from the seaward boundary which will enable the natural character of the Coast to be maintained.

Smaller Lots have been clustered to the north-eastern corner of the site. Grouping allotment within the rural environment in this way means that large open space areas are retained while still accommodating smaller rural-residential sites and this is considered a viable technique for subdivision of rural land in this case given the varied landscape.

Placement of sites has been undertaken through rigorous analysis of distinct landscape areas. Preallocation of building platforms have been utilised to ensure that buildings will be located on these platforms to minimise dominance when viewed from the Coast, minimise visibility from State Highway and to achieve integration with the landscape.

While the Plan has chosen minimum lot sizes as a method of implement Policies and Objectives alternative techniques may also be suitable.

It is considered that the proposed subdivision of this site is able to be carried out in a manner that retains rural character and amenity.

Public Access:

The Proposed Plan has an objective *to maintain and enhance public access to and along the coast, lakes and rivers.*

This subdivision incorporates a public road, reserve and increased esplanade strip, all of which serve to achieve this objective.

New Road:

The construction of a Road in the Coastal Policy Area is a Discretionary Activity. Relevant policies include “*The natural character of the coastal environment should not be adversely affected by inappropriate subdivision, use or development and should, where practicable be restored and rehabilitated*”.

The impact of the road on the natural character of the Coastal Environment has been considered. The road will extend approximately mid way between the State Highway and the Coast. From the end of the road a carpark will be formed and pedestrian access will then lead to the coast from a esplanade strip and reserve. The intersection of the road with the State Highway has been approved by Transit New Zealand.

The Council is satisfied that the road will as far as practicable be integrated with the existing landscape and consent conditions will ensure that cut /fill quantities will be kept to a minimum.

Traffic and Transport:

Rural Rule 88 requires that more than 6 sites be served by a road and not a right-of-way. In this case as the land is located within the Coastal Policy area it is considered that minimal infrastructure should be built. Right-of-ways are required to be constructed to standards suitable for the number of uses and are required to be situated clear of ridgelines. Consent conditions will enforce these requirements and ensure that adverse effects are effectively mitigated.

10. Actual and Potential Effects on the Environment:

Potential and actual effects on the environment have been considered as follows:

Visual effects on Rural Character and Amenity and the Coastal Environment:

The introduction of between 20 to 23 dwellings into this neighbourhood has the potential to generate adverse visual effects, which may adversely affect rural character and amenity. Conditions of approval imposing restrictions on the placement of building and a requirement to refer to a design guide for siting, scale, form and types of materials are imposed as conditions of consent to mitigate effects of development.

The Council is satisfied that lots have been placed in locations to avoid intrusive dominance from beach and State Highway and also from adjoining rural properties.

Productive Potential:

While the land will no longer be utilised as an economic pastoral farm unit, lot sizes are significant to allow for the establishment of other forms of rural activities. The ability of the land to be used for rural activity is not lost. Lot sizes vary between 2.0 to 8.0 hectares.

Traffic:

The subdivision will result in a new road. The public currently has informal access to the beach over the land. The construction of a road providing a safe access to the State Highway intersection is considered to be an improvement on the present roading situation in that a properly controlled road will be provided. Careful design in the placement of the road and in particular ensuring that the road will not extend to the coast and that it is integrated with the landscape are all methods to ensure that the road will not create an adverse visual effect in the Coastal Policy Area.

Earthworks and Stormwater :

Substantial earthworks will be necessary which can result in adverse effects. Conditions of consent e.g. silt and dust control have addressed temporary effects of earthworks.

Waahi Tapu and Archaeological Sites:

A positive outcome of this subdivision is the identification of waahi tapu and archaeological sites. Waahi Tapu sites will be retired from grazing and conditions relating to waahi tapu will ensure ongoing protection.

Vegetation /Habitat Effects:

Rehabilitation and amenity planting is proposed as part of this subdivision. Existing native vegetation and the mature cabbage tree on Lot 2 are to be protected by conditions of consent. The reestablishment of coastal planting and enhancement of wetlands are positive potential effects of the subdivision.

Coastal Hazard:

The Council is satisfied that Section 106 Resource Management Act matters have been satisfactorily addressed. A report from a suitably qualified Engineer is required as a condition of consent and building conditions can be as imposed as a consent notice if required.

11. The New Zealand Coastal Policy Statement

The Council is satisfied that:

- The subdivision is consistent with the New Zealand Coastal Policy Statement; and
- The natural character of the Coastal environment can be enhanced by planting and revegetation; and
- The development is not of a sprawling or sporadic nature

12 In considering the proposal the Council has concluded that the subdivision is consistent with the purpose and principles of the Resource Management Act 1991. Furthermore, the Council considers that all of the matters under Sections 6, 7 and 8 of the Resource Management Act 1991 have been addressed in achieving the purpose of the Act.

Pursuant to the provisions of Section 105 (2)(a)(i) of the Resource Management Act the Council is satisfied that the adverse effects on the environment of this subdivision will be minor.

13. This consent has been granted in accordance with Section 94(2) of the Resource Management Act 1991, as the Council is satisfied that the adverse effects on the environment of the activity will be minor, and the written approval has been obtained from every persons who may be adversely affected by the granting of the consent.
14. The subdivision will only proceed if the grantee does not proceed with proposed Subdivision Consent No. 2002/069 – Plan No. 4565A granted on 10 September 2002, and Consent No. 2002/219 Variation of Consent Conditions.

CONDITIONS:

1. The applicant is responsible for all costs incurred in complying with the conditions.
2. All work carried out on the subdivision will be to standards acceptable to the New Plymouth District Council.
3. One copy of the Title Sheet (A3 size) is to be provided when the Survey Plan is submitted for approval.
4. (a) Approval fees to be paid in accordance with Councils Schedule of Subdivision Fees and Charges when the Survey Plan is submitted for approval.
(b) The applicant shall pay to the Council an engineering and inspection fee of \$150 or 1.125% (being an estimated value of infrastructure or right-of-way work) whichever is the greater. The value of work to be assessed shall exclude works required to be undertaken by Transit NZ. The value of work shall be determined on the commencement of the subdivision that is on the contract price.
(c) The Consent holder shall pay the Council's cost of any monitoring necessary to ensure compliance of the subdivision with the Conditions specified. Councils monitoring will be carried out by Council's Environment Planner-Monitoring and the costs payable will be the charge out rate current for that financial year.

5. This consent is valid for three years from the date of granting.
6. Except for those changes which must be made in order to give effect to the Conditions that follow, the subdivision and development shall be in accordance with the plan and information submitted with the application 4713A and with the following plans from the Boffa Miskell plans from the MB Report dated December 2002:
 - Figure 4 - Site Analysis Plan
 - Figure 5 - Visual Characteristics of Site
 - Figure 6 - House Types
 - Figure 7 - Typical House Types A - D
 - Figure 8 - Archaeological Sites
 - Carpark Layout – Dated 4 December 2002
7. Goods and services tax payable on all land and services vested without charge in the Council shall be paid to the Council by the applicant upon presentation by the Council to the applicant of a tax invoice.
8. All telephone and electric power cables required to service the subdivision shall be laid underground.
9. Protection of Waahi Tapu Sites:
 - (a) The two pa sites shall be fenced off and planted in native vegetation (Note requirement for planting under Condition 7);
 - (b) Native trees shall be planted on adjoining Section 139 Omata District (as agreed by subdivider and Nga Mahanga A Tairi). Vehicle access to be provided during planting;
 - (c) The issue relating to the shed over the boundary is a bonded work relating to the former subdivision of the land. The subdivider has undertaken to remove the shed. The issue relating to rates payable on adjoining Section 139 Omata District has been resolved.
10. Protection of Archaeological Sites:
 - (a) Lot boundaries and building sites shall be set to avoid archaeological sites.
 - (b) A plan of Fort Robert and associated hut sites shall be prepared. The report shall be prepared with the assistance of a suitably qualified archaeologist. This plan will assist with determining a road alignment that has the least effect on the Fort and associated features.
 - (c) A vegetation plan and work specification shall be prepared to guide the planting work which is to be carried out on the two Pa sites. The plan and work charter shall be consistent with the principles of the ICOMOS NZ Charter for Conserving Heritage and the Historic Places Trust.
 - (d) In the event that any activity associated with this proposal (e.g. earthworks, landscaping, fencing) is likely to modify, damage or destroy an archaeological site, an authority from the NZ Historic Places Trust must be obtained for the work to proceed lawfully. If an archaeological site is encountered during works for the proposed development, work shall cease immediately and the NZ Historic Places Trust shall be notified so that an archaeological assessment can be made and advise given accordingly.
11. (a) The native bush areas shall be defined and shall be subject to Conservation Covenant for the purposes of encouraging regeneration and protection of indigenous bush remnant. This Covenant shall be ongoing and shall be registered against the Certificate of Title

pursuant to Section 221 of the Resource Management Act. (A copy of Council's draft document is **attached**).

The areas of bush areas shall be fenced at a minimum standard of a permanent one-wire electric fence.

- (b) The mature Cabbage Tree on Lot 2 shall be protected as a Condition of Subdivision and shall be subject to the provisions of Section 221 of the Resource Management Act.
- 12. Distances between buildings and new boundaries shall comply with the requirement for existing buildings to meet standards in relation to new boundaries (Rural Rule 77).
- 13. The applicant shall relocate any wastewater disposal systems serving either allotment which does not lie wholly within the allotment or are within distances specified by the Council from the existing or proposed boundaries.
- 14. Pursuant to Section 321(3)(c) of the Local Government Act 1974 the New Plymouth District Council, being satisfied that Lots 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16 17 & 18 of the Subdivision of Lot 2 DP 20763 has adequate access to that allotment over other land pursuant to an access lot.

The Council resolves that the Condition of Section 321(1) of the Local Government Act 1974 shall not apply.

15. Building Platform:

- (a) An inspection and a report shall be carried out on soil compatibility by a suitably qualified Registered Engineer to confirm the suitability of Lot 1 to 20 for on-site stormwater and wastewater disposal and to confirm a suitable building platform in accordance with Appendix 21.1 (Proposed District Plan).

The report shall take into account the Coastal Hazard Overlay provisions of the District Plan.
- (b) Any recommendations requiring specific on-site stormwater and wastewater disposal shall be subject to Consent Notice under Section 221 of the Resource Management Act noting soil conditions, site investigation details and recommendations.
- (c) If necessary to achieve report recommendations allotment boundaries shall be modified.
- 16. Pursuant to Sections 220 1(c) and 221 of the Resource Management Act 1991 the following conditions shall apply which shall be registered as a Consent Notice on the respective Title:
 - (a) That the number of dwellings on Lots 2 to 5, and 7 to 19 inclusive shall be limited to 1 on each Lot.
 - (b) Lots 1 to 20 shall each be subject to a Location Restriction that identifies and limits the location of a building platform dwellings to that shown as a circle on Figure 3 W – 9530FP (McKinlay & Co)
 - (c) A Consent Notice in accordance with Section 221 of the Resource Management Act 1991 shall be registered against Lots 1 to 20 requiring that all building development on each of these Lots shall be in accordance with design guidelines agreed between the applicant and the Council.

The design intentions are to enhance the quality of the existing environment through the careful insertion of buildings whose site, form, scale and construction is consistent with the special character of the area.

- (d) A Location Restriction shall apply on Lot 1 as requested by Roper Family Trust, and shall apply in respect of buildings structures and trees.
17. (a) Lots 23 and 24 shall be vested in the Council as Esplanade Reserve and the applicant shall arrange for Certificates of Title to be issued for the Reserve. In addition, the remaining Strip between these two Lots and the Coastal Strip may vest as Reserve (Esplanade) if the applicant is agreeable to this vesting.
- (b) Protection works shall be carried out on the bank of the Tapuae Stream where eroding, adjoining the Pa and narrowest strip of Reserve.

18. Revegetation and Enhancement Planting:

Revegetation and enhancement planting shall be undertaken as offered in the application. Prior to the commencement of the revegetation work, a planting plan and maintenance programme shall be submitted to the Compliance Monitoring Officer for approval. The planting plan and maintenance programme shall specify the quantities, species, size (PB Grade) and location of the proposed vegetation and shall ensure the on-going:

- Release of plants from weed and grass infestation;
- Replacement of plants which are dead or in poor health;
- Possum control

For a period of not less than 5 (five) years.

This Condition shall be secured by way of a Bond.

Rehabilitated vegetation shall be fenced and where appropriate may be subject to protection pursuant to section 221 of the Resource Management Act.

19. Earthworks:

- (a) The subdivider shall appoint a suitably qualified Registered Engineer to design control and certify all earthworks associated with roading and right-of-way and a Certificate shall be provided regarding design and compaction.
- (b) All uncompacted fill shall be identified and shall be shown on final plans and be subject to a Memorandum of Location Restriction.
- (c) All earthworks undertaken shall employ the best practical means of minimising the escape of silted water or dust from the site. A description of the proposed means of mitigating these effects shall be submitted and approved and put in place prior to any earthworks commencing.
- (d) Earthworks shall be staged to ensure a minimum ground area is open at any one time for construction.
- (e) The amount of cut and fill shall be kept at the lowest possible level in achieving the necessary cut to fill balance.
- (f) The roading shall be shaped to ensure surface run-off is channelled towards grassed swales, and ponds where stormwater infiltration or detention is proposed. Where an ongoing discharge is to natural waters these swales shall be planted in natural species.

- (g) Engineering plans shall include earthworks proposed in more detail, including construction timeframes, proposed staging, methodology and sediment control measures.
- (h) Silt detention structures shall be maintained and cleaned out as necessary until such time as regrassing or other non-erodable surfaces have been reinstated.
- (i) Dust Control - All necessary actions shall be taken to prevent a dust nuisance to neighbouring properties and roads, including but not limited to –
 - (i) The staging of areas of the works
 - (ii) The installation and maintenance of wind fences and vegetated strips
 - (iii) Watering of all haul roads and manoeuvring areas during dry periods
 - (iv) Spraying of load dumping operation
 - (v) Suspension of all operation if necessitated by prevailing conditions
- (j) Protection of archaeological sites - The archaeological sites identified shall be cordoned off from the remainder of the property a fence or similar barrier prior to the commencement of any work on the site. This fence barrier shall be constructed to the standard that will prevent:
 - (i) Vehicular traffic through the area
 - (ii) The area being used for temporary storage of materials
 - (iii) The modification of the areas existing contour
 - (iv) Excavations within the area
 - (v) The lighting of fires in the area
- (k) Tree/ Native Bush protection. The areas of native bush and the Cabbage Tree on Lot 3 shall be protected and cordoned off from the remainder of the property by a suitable barrier/fence prior to commencement of any work on the site. This fence /barrier shall be constructed to the standard that will prevent:
 - (vi) Vehicular traffic through the area
 - (vii) The area being used for temporary storage of materials
 - (viii) The modification of the areas existing contour
 - (ix) Excavations within the area
 - (x) The lighting of fires in the area

20. Esplanade Strip:

Pursuant to the provisions of Section 234 of the Resource Management Act 1991 the present Esplanade Strip shall be varied as follows:

- (a) The Strip shall be cancelled over that part of land to become Reserve (Lots 23 and 24).
21. The applicant shall provide the Council with written certification from a suitably professionally qualified person that the land is suitable for subdivision and for the intended uses and that the said land will be subdivided and developed in full compliance with the provisions of the Council's District Plan and the Statutory and Regulatory Requirements administered by the New Plymouth District Council in respect of land subdivision and development.
22. A Memorandum shall be shown on the Survey Plan, and Easements created for services as required.
23. Easements in gross shall be granted in favour of the Council over the electricity lines in favour of Powerco.

24. Lot 22 shall vest in the New Plymouth District Council as Road. Splays shall vest in Transit NZ as State Highway.

25. Road:

The design and construction of the road and carpark shall as far as practical be integrated with the coastal landscape. Consideration shall be given to varied carriageway (cross-section and layout) and regard given to pedestrian and bridle paths:

- (a) The minimum legal road width shall be 16 metres.
- (a) The carriageway seal width shall be two lane and a minimum of 3.0 metres per lane.
- (b) Where stormwater from the road is controlled by kerb and channel, the berm width shall be a minimum of 3.0 metres.
- (c) Where the stormwater is controlled by surface water channel the berm width shall be a minimum of 5.0 metres.
- (d) The maximum grade of the road shall be 12.5%.
- (e) All cut batters shall be within the adjacent private property. The fill batters where in private property shall be subject to a Memorandum of Easement.

26. Right-of-way:

The design and construction of the rights-of-way shall as far as practical be integrated with the coastal landscape:

- (a) Right-of-way 'A' shall have a minimum legal width of 7.0 metres.
- (b) Right-of-ways 'B', 'C' & 'D' shall have a minimum legal access width of 5.0 metres.
- (c) Cut and fill batters are to be located within the legal width of the right-of-way.
- (d) Right-of-way shall generally be located clear of ridge lines.
- (e) Right-of-way carriageway shall be 3.6 metres wide with 5.0 metre wide passing bays (determined at time of Engineering Plans).
- (f) The maximum grade of the right-of-way shall not exceed 1 in 5 and where the right-of-way is greater than 10% it is recommended that the surface shall be sealed.

30. Stormwater:

- (a) Secondary flow path from the road and right-of-ways, (in particular as they relate to building platforms) shall be shown.
- (b) Surface runoff is to be channelled towards grass swales and ponds where stormwater and infiltration or detention is proposed. Where an ongoing discharge is to natural water these swales shall be planted in natural species.
- (c) Where the road crosses the existing stream a culvert suitable for the catchment shall be designed and constructed in accordance with Council's Stormwater Code of Practice.
- (d) Stormwater swale drains shall be monitored and maintained by the Consent Holder for a minimum period of two years from the date of the 224(c) Certificate. Monitoring reports shall be submitted to the Compliance Monitoring Officer every three months

31. All the above works are to be designed and constructed in accordance with the following current and relevant New Plymouth District Council Codes of Practices and Standard Specifications. These standards are for mitigating adverse effects on the environment from earthworks, traffic (roading and vehicle access), sewage and stormwater drainage, water supply and utility structures.
- Part 3 Roding Code of Practice
 - Part 5 Stormwater Code of Practice
 - Part 6 Water Reticulation Code of Practice
 - Part 7 Vehicle Crossing Code of Practice
 - Standard Specification for Sanitary Sewers and Stormwater
 - Standard Specification for Water Reticulation

Other alternative and innovative solutions may be approved for those aspects where the standards of the Code of Practice are unable to be met or can be achieved in a different way. Emphasis shall be on retaining the character of the natural coastal environment and integrating all the infrastructure works into the environment.

32. Detailed engineering plans, specifications, estimates and as built shall be provided for all works including earthworks and silt detention measures. On completion of earthworks, an Earthworks Completion Report and Certificate signed by the Registered Engineer who designed and supervised the works shall be submitted.

NOTE: The applicant should be aware that the Historic Places Act 1993 (HPA) provides for the identification, protection, preservation and conservation of the historic and cultural heritage of New Zealand. Under Section 2 of the HPA, an archaeological site is defined as a place associated with pre-1900 human activity, where there may be evidence relating to the history of New Zealand. Section 10 directs that an authority is required from the New Zealand Historic Places Trust if there is "reasonable cause" to suspect an archaeological site (recorded or unrecorded), may be modified, damaged or destroyed in the course of any activity. An authority is required for such work whether or not the land on which an archaeological site may be present is designated, or a Resource or Building Consent has been granted, or the activity is permitted in a Regional or District Plan. Evidence of archaeological sites may include oven stones, charcoal, shells, ditches, banks, pits, terraces, stone walls, building foundations, artefacts of Maori and European origin or burials.

NOTE: Structures such as retaining walls, inground walls and bridges requiring Building Consent under the Building Act shall obtain a Building Consent which can include the use of a Producers Statement from an appropriately qualified person.

NOTE: The plans required under this consent are separate to and do not form part of any Building Consent that may be required on the subject site.

NOTE: Consultation shall be undertaken with the Taranaki Regional Council for the requirement for silt control measures as the land adjoins the Tapuae Stream and the Tasman Sea.

NOTE: Section 357 of the Resource Management Act 1991 provides a right of objection in respect to the granting of this consent.

DATED this 24 day of December 2002

MANAGER REGULATORY SERVICES

DM17944