

Leeara Maxwell

From: Swetha Maharaj
Sent: Friday, 12 December 2025 11:50 am
To: Andrew McPhee
Cc: Leah Frieling; Nick Williamson; Trish Routley; Office - Bay of Islands Planning
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Kia ora Andrew,

Thank you for your email and for providing the applicant's position on the remaining s92 matters. Matters 1, 8 and 9 are satisfied.

Matter 2 – Cultural Effects

I acknowledge your comments regarding consultation versus agreement. You are correct that the RMA does not require applicants to reach agreement with iwi. However, this is not the basis on which Council has determined that Matter 2 remains unsatisfied.

Council's concern is not whether iwi accept the proposal, but whether the cultural effects identified in the CIA and subsequent correspondence have been adequately addressed, such that Council has sufficient information to make an informed decision on notification and substantive effects.

After reviewing your email, iwi's response, and discussing with my Team Leader, Council's position remains Matter 2 (Cultural Effects) is currently unsatisfied because the application does not yet contain sufficient information to understand how the cultural effects identified by iwi are being addressed, and whether the applicant proposes any response, avoidance, or mitigation to those effects. Until this information is provided, Council cannot consider the cultural effects assessment complete for the purposes of s92.

I agree that a meeting would be helpful before Council makes a decision on notification. Nick and I are available.
Monday 12pm – 2pm
Tuesday and Wednesday Na
Thursday 11-12am.
Friday 10-11am or 12-1pm

Please let me know which of these times suits, and I will confirm the meeting.



Swetha Maharaj

Senior Resource Planner - Resource Consents - Tima Kakapo

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From: Andrew McPhee <andrew@bayplan.co.nz>

Sent: Wednesday, 10 December 2025 3:50 pm

To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Cc: Leah Frieling <office@westcoastfarms.co.nz>; Nick Williamson <Nick.Williamson@fndc.govt.nz>; Trish Routley <Trish.Routley@fndc.govt.nz>; Office - Bay of Islands Planning <Office@bayplan.co.nz>

Subject: Re: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Hi Swetha

Based on your email, we understand that the technical information provided (Traffic Assessment and Archaeological Assessment) is sufficient to satisfy the information requests for Matters 1, 8, and 9. Please confirm if this is correct.

Yes, I would like to arrange a meeting to discuss Matter 2 prior to you making a notification decision. To ensure that meeting is productive, I would like you to consider the following points regarding your statement that Matter 2 remains unsatisfied due to a lack of Iwi acceptance:

There is an important distinction between consultation and agreement.

1. We have engaged with Ngāi Takoto;
2. We have received and reviewed their Cultural Impact Assessment (CIA); and
3. We have attempted to meet to discuss the application.

Iwi have made their position clear both in the CIA and through email correspondence. Just because we have not reached an agreement does not mean consultation is incomplete. The RMA requires us to consult, not necessarily agree. Requiring "confirmation from iwi... that they accept" the proposal effectively delegates the Council's decision-making power to a third party, which I do not believe is lawful.

The Archaeological Assessment provided through the s92 response identifies a factual error in the CIA regarding the historical occupation of the site. The CIA claims occupation by the Henare whānau, but historic survey maps confirm this occupation was on Section 21, not the applicant's land (Section 25). This suggests the cultural narrative in the CIA may not accurately reflect the history of this specific property.

You have requested clarity on whether the applicant intends to offer mitigation such as land retirement or vesting. It is unclear why such mitigation is necessary or appropriate. This application is for a subdivision around lawfully established dwellings with no new physical works proposed. Consequently, the subdivision generates no new physical disturbance to the land. Without an adverse effect, I struggle to understand the connection that would allow/enable Council to require cultural mitigation.

I believe we have already provided sufficient information to satisfy Council's 92 request, despite the fact that iwi may remain unsatisfied with the proposal.

I look forward to meeting to discuss this soon. Please let me know your availability.

Kind regards

Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Sent: Wednesday, 10 December 2025 9:07 am

To: Andrew McPhee <andrew@bayplan.co.nz>

Cc: Leah Frieling <office@westcoastfarms.co.nz>

Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Kia ora Andrew,

Thank you for providing the Section 92 response dated 4 December 2025.

After reviewing the information, I can confirm that Section 92 Matter 2 (Cultural Effects and Iwi Consultation) is not yet satisfied.

Cultural Effects Assessment

The archaeological report addresses the physical archaeological aspects, however, cultural effects identified in the CIA remain unresolved. There is a clear difference between the archaeological findings and the cultural significance described by Ngāi Takoto and Te Oneroa-a-Tōhē, which requires iwi review and comment. Has Iwi reviewed the archaeological assessment and provided comments? At this stage, the cultural effects assessment is incomplete.

Consultation with Ngāi Takoto / Te Oneroa-a-Tōhē

While attempts at consultation have been made, and email correspondence has been provided, Council has not received:

- confirmation from iwi or the applicant that they accept or are satisfied with the applicant's response, or
- input from iwi on whether the archaeological assessment adequately addresses their concerns.

I have been in touch with Iwi who have stated they remain open to working toward solutions, but require a comprehensive response demonstrating how cultural effects will be avoided, remedied, or mitigated. This demonstrates that consultation remains incomplete.

Clarity on Proposed Mitigation

Your response notes that iwi expressed a desire for Return and Vesting or Retirement of Land, and that these outcomes fall outside the RMA framework.

However, it remains unclear from the applicant's response whether any form of Retirement of Land or other cultural mitigation is being voluntarily offered, and whether iwi agree to or support any such measures.

To properly assess cultural effects, Council needs clarity on:

- whether the applicant intends to offer any mitigation (e.g., land retirement, protective setbacks, cultural protocols), and
- whether iwi agree with or accept any proposed mitigation.

At present, this remains unresolved.

Letter of Support

A letter of support or written confirmation via email from iwi has not been provided.

I have discussed this matter with my Team Leader, who agrees that:

- Section 92 Matter 2 is **not satisfied**,

- Further clarification and engagement are required to understand and address cultural effects.

Please let me know if you think a meeting is required.



Swetha Maharaj

Senior Resource Planner - Resource

Consents - Tima Kakapo

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From: Andrew McPhee <andrew@bayplan.co.nz>

Sent: Thursday, 4 December 2025 3:49 pm

To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Cc: Leah Frieling <office@westcoastfarms.co.nz>

Subject: Re: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Good afternoon Swetha

Please find attached our response to the s92 request.

Kind regards

Andrew

From: Andrew McPhee <andrew@bayplan.co.nz>

Sent: Wednesday, 19 November 2025 3:10 pm

To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Cc: Leah Frieling <office@westcoastfarms.co.nz>

Subject: Re: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Swetha

We are expecting reports to support this application in next week, so hopefully by the end of next week.

Kind regards

Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Sent: Wednesday, 19 November 2025 2:53 pm
To: Andrew McPhee <andrew@bayplan.co.nz>
Cc: Leah Frieling <office@westcoastfarms.co.nz>
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Andrew,

Following up on this one.

Could you please provide an indication of when we can expect your response to the outstanding information request?



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From: Andrew McPhee <andrew@bayplan.co.nz>
Sent: Tuesday, 14 October 2025 9:37 am
To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Subject: Re: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Good morning Swetha

I have contacted the iwi to have a conversation about the application and have organised some quotes for a traffic impact assessment. Progress is being made.

Kind regards

Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Sent: Tuesday, 14 October 2025 9:28 am
To: Andrew McPhee <andrew@bayplan.co.nz>
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Andrew,

Following up on the below.



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From: Swetha Maharaj
Sent: Monday, 6 October 2025 8:35 am
To: 'Andrew McPhee' <andrew@bayplan.co.nz>
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Andrew,

Thank you for the below email.

I don't consider consent notices to be an appropriate mechanism to address the transport and cultural effects identified at this stage. Consent notices (s221 RMA) are typically used to secure ongoing conditions on titles post-subdivision, and they don't replace the need to assess and understand effects now, particularly in relation to the existing dwellings and the sites.

Let me know if you have any further question.



Swetha Maharaj

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From: Andrew McPhee <andrew@bayplan.co.nz>

Sent: Thursday, 2 October 2025 9:03 am

To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Subject: Re: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Hi Swetha

Thanks for that.

In relation to the remaining matters subject to the further information request:

- Matter 1 - I accept that further work to be done in respect of the access. Is it an option to apply a consent notice condition requiring a traffic assessment and implementation of the findings for safety and crossing standard?
- Matters 2, 8 and 9 - I will discuss this with the client as there has clearly been to and fro with the Iwi (and the creation of a CIA), and this subdivision is significantly less than that previously proposed. As acknowledged in the CIA the property already has three dwellings, this subdivision application does nothing more than provide titles around these. There is no further development proposed through this application. It may be that a consent notice condition can be placed on the new titles ensuring further development is undertaken in consultation with Iwi?

Kind regards

Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Sent: Tuesday, 30 September 2025 1:40 pm
To: Andrew McPhee <andrew@bayplan.co.nz>
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Andrew,

Thank you for your email below.

I have discussed the matters raised below with Nick as per your concerns raised.

- Matters 1 and 2 remain outstanding and I have made additional comments in red below for you to consider.
- Matters 3, 4, 5, 6, 7, 10, 11, and 12 are satisfied.
- In respect to matters 8 and 9- this will be satisfied with consultation with Iwi/Hapu.



Swetha Maharaj

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From: Trish Routley <Trish.Routley@fndc.govt.nz>
Sent: Monday, 29 September 2025 3:53 pm
To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Cc: Nick Williamson <Nick.Williamson@fndc.govt.nz>
Subject: FW: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

FYI



Trish Routley

Manager - Resource
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From: Andrew McPhee <andrew@bayplan.co.nz>
Sent: Monday, 29 September 2025 8:37 am
To: Trish Routley <Trish.Routley@fndc.govt.nz>
Cc: Office - Bay of Islands Planning <Office@bayplan.co.nz>
Subject: Fw: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Good morning Trish

I wouldn't ordinarily bother you with this sort of thing but in this instance, I consider the request overly onerous given the circumstances. The context is provided below in the email correspondence with Swetha, but in a nutshell this application for subdivision does nothing more than wrap titles around dwellings that have been constructed though a building consent that were deemed not to require resource consent through the PIM.

Before I organise a meeting with Swetha to discuss, I would appreciate your take on this.

Happy to have a chat if easier.

Kind regards
Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Sent: Friday, September 26, 2025 2:32 PM
To: Andrew McPhee <andrew@bayplan.co.nz>
Subject: RE: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Hi Andrew,

Comments below in red.

After review, several of the requested items remain outstanding. If you do not agree with my position on the outstanding matters, please let me know. In that case, I will proceed to prepare the section 95 report based on the current application record (with the s92 items unresolved) to determine whether there are any affected persons and whether limited or public notification is required.

If you'd like to discuss before then, I'm happy to arrange a teams meeting.



Swetha Maharaj

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From: Andrew McPhee <andrew@bayplan.co.nz>
Sent: Wednesday, 24 September 2025 8:17 am
To: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>
Subject: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

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Good morning Swetha

I would like to provide some important context in respect of this application before addressing your specific points below, principally, this application is for a three-lot subdivision only.

The application is only creating new titles around an existing, legally established development. All physical works, including the construction of the three dwellings, garages, wastewater systems, accessways, and any associated earthworks and vegetation clearance have been completed. There are no siting and design breaches resulting from the proposed subdivision.

The earthworks and vegetation clearance were mainly historical prior to the applicant owning the site and minor earthworks to facilitate the development that building consent EBC-2023-409/0. By way of further context, the entire site was previously planted in pines. The applicant has planted the tea tree that is existing and along with the previous landowner has been managing the gorse and wattle. There has been no vegetation clearance other than spraying wildling pines, gorse and wattle.

I have attached the approved Project Information Memorandum (PIM) associated with the approved building consent. Nothing was identified in the PIM requiring resource consent.

As this is Councils building consent, the processing officer can easily acquire the said building consent. This is far more practical as there are a number of large files included. Below is the extract from Far North Maps.

Far North Atlas / Kohinga Mahere

Regulatory Water services Hazards Natural environment District

Regulatory layers More information

- Address (LINZ)
- FNDC resource consents
- Building consents (FNDC) - public
- NRC current resource consents
- Easements / non-primary parcels (LINZ)
- Parcels (LINZ/FNDC)
- Contours (NRC)
- Māori land interests
- Zones - Proposed District Plan

Building consent: EBC-2023-409/0

Application description	3x Dwellings with Garages and 3x Water Systems
Lodged date	10/6/2022
Processing status	BC Issued
Application status	BC Issued
Decision date	11/9/2022

Building consent: EBC-2023-409/0

Decision type	BC GRANTED
Expiry date	11/8/2025
Legal description	Lot 2 DP 394720
Parcel ID	7069649
Property ID	3352083
Title	378745

As stated in the AEE, no land use consent was required as the density to implement the dwellings, and associated infrastructure was a permitted activity in the ODP.

The subdivision itself proposes no further land use change, no new construction, and no additional physical works. Therefore, it will not generate new environmental effects beyond those already existing from the permitted land use. Many of the points raised in your letter appear to relate to the effects of establishing the land use, not the effects of the subdivision. I question the justification for requesting information on matters that fall outside the scope of the activity for which consent is sought.

I respond to your specific points raised in the s92 request below.

Point 1 - Engineering: Sight Distance for the Entrance

The access from West Coast Road is existing and services the three legally established dwellings. The vehicle movements associated with this land use are an existing effect. The subdivision does not alter the location, design, or intensity of use of this access. As access was presumably addressed under building consent EBC-2023-409/0, I do not agree that a new assessment is required to assess the effects of a boundary change to support the established land use.

Not satisfied. Subdivision fixes legal access for three titles; safety/compliance of the crossing remains relevant to effects of the subdivision.

A new assessment has not been requested, please provide clarification regarding the sight distance for the entrance, specifically confirming whether it complies with the relevant engineering standards. If it does not meet the required standards, please outline the proposed measures to mitigate any associated effects.

Comments on 30th September

FNDC Roding comments: That sight distances to the crossing do not meet the requirements set in the Engineering Standards, and therefore mitigation measures will be required to make the proposed crossing location safe.

As per my discussion with Nick, this subdivision consent will be legalising the right of way access therefore we require complies with the relevant engineering standards.

Points 2, 8 & 9. Cultural Heritage, Effects on Pā, and Archaeological Assessment

The AEE was prepared based on an assessment of the ODP (and PDP in part), which does not identify any scheduled cultural or archaeological sites on the property. While I acknowledge the CIA provided to you by Te Rūnanga o Ngāi Takoto presents new information, I reiterate that all physical disturbance associated with the development is complete. These works were either historic (prior to the applicant owning the site) or undertaken lawfully to establish the dwellings. I do not understand the rationale for a retrospective assessment of the effects of the construction on cultural heritage. This would appear outside the scope of this subdivision application as no development is proposed.

I note that the applicant purchased the property in 2017, at which time the roading/access through the site and building sites were already present/established, as is evident from the aerial images within the AEE (Figures 5-8). The only earthworks conducted under the applicant's ownership were minor slab cuts required for the new dwellings and the maintenance of existing access lanes, with volumes that did not require an earthworks permit. In respect of vegetation clearance, the property has had significant weed issues from prior forestry use and the overall plan for the site is to control these weeds to allow natives to regenerate.

I note that the approved plans subject to the building consent require as at 27 July 2022 the requirement for compliance with the Auckland Council Guidance Document GD005 for erosion and silt control and with the accidental discovery protocol. I note that the applicant maintains that no remains were found while undertaking the minor earthworks to cut the slabs for the dwellings. If there has been then they would have been reported as required, which is standard protocol for their construction company.

Not satisfied. You have provided some information on the sites history, however not answered s92 matter 2, 8, or 9.

Comments on 30th September

- **Consultation with Hapu is required to ensure cultural values and spiritual connections to the site have been addressed.**

3 & 4. Vegetation Clearance & Earthworks

The AEE is clear that no earthworks are required as part of the subdivision and no vegetation clearance is proposed. As already mentioned, the clearance and earthworks visible on historical aerials was already present when the property was purchased. The enabling works for the consented dwellings were completed as a permitted activity. As this application does not propose any further such works, a request for information on the effects of past activities is not relevant to assessing the effects of the proposed subdivision.

Not satisfied. Your applicant has owned the site from 2017, and as shown on the aerial images earthworks has been undertaken on site in years 2018 and 2019.

Comments on 30th September

- No further information required for 3 and 4.

5. Existing Dwellings

As stated in the AEE and above, building consent EBC-2023-409/0 has been granted by Council. Council can easily access this building consent to confirm. The approved building consent, which Council deemed did not require resource consent, is not relevant to this subdivision consent.

Please provide updated scheme plans to demonstrate these dwelling that are existing on site. Yes, these dwellings were established under EBC-2023-409/0 on a 41ha site. Please confirm post subdivision all relevant zone rules will be met.

Comments on 30th September

-No further information required.

6 & 7. Setback from Lakes & NES-F

Compliance with these provisions relates to the land use activity of establishing the dwellings. This land use was permitted and subject to building consent approval. The subdivision does not change the physical location of the established dwellings in relation to any water body. Assessing these matters now is not relevant to the subdivision proposal, as the effect is already lawfully established.

I do not consider matters 6 and 7 satisfied. The below to matters remain outstanding.

- Please confirm compliance with 12.7.6.1.2 SETBACK FROM SMALLER LAKES, RIVERS AND WETLANDS.
- Please confirm compliance with National Environmental Standards for Freshwater (NES-F).

Comments on 30th September

-No further information required.

10. Department of Conservation (DOC) Consultation

The land use is existing and established through building consent. The subdivision does not create any new or different effects on surrounding conservation land. Therefore, I do not consider DOC to be an affected party in relation to the subdivision proposal and do not agree that consultation is required.

Thank you for the above. Please confirm the above is the assessment you are providing to council for us to determine if DOC is an affected party or not by this proposal?

Comments on 30th September

-No further information required.

11. Updated NPS-HPL Assessment

The AEE provides a thorough assessment of effects on highly productive land . It concludes that effects are negligible, as the dwellings are sited on unproductive Class 6 soil and the small areas of Class 3 soil are constrained by topography. The fragmentation of the land has already occurred as a result of the permitted land use. The subdivision merely formalises this outcome by putting legal boundaries around the existing dwellings. The analysis in the AEE is therefore considered robust and sufficient.

Satisfied.

12. Updated AEE and Scheme Plans

In consideration of the points made in this email, I do not agree that an update of the AEE is necessary. This letter serves as our formal response to your s92 request and clarifies that the majority of the information sought relates to matters beyond the scope of the current subdivision application.

The application for Council to assess is for a subdivision to create titles for three legally established dwellings. It does not involve any further development. I respectfully request that, upon receipt of this clarification, you reconsider the necessity of the remaining information and proceed with the processing of this application on the basis that the effects of the subdivision are less than minor.

Comments on 30th September

-No further information required.

I am happy to meet to discuss these matters if it is considered necessary.

Kind regards

Andrew

From: Swetha Maharaj <Swetha.Maharaj@fndc.govt.nz>

Sent: Monday, 22 September 2025 3:07 pm

To: Andrew McPhee <andrew@bayplan.co.nz>; Office - Bay of Islands Planning <Office@bayplan.co.nz>

Subject: 2260100-RMASUB, 52 Rotokawau Road, Waipapakauri

Kia ora Andrew,

Find attached s92 request for further information for this application. Please note s37 (double timeframes), has also been applied to the application.

If you have any questions, or would like to have a meeting, let me know.



Swetha Maharaj

Senior Resource Planner - Resource Consents -
Tima Kakapo

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