

BEFORE THE INDEPENDENT HEARINGS PANEL

UNDER the Resource Management Act 1991 (RMA)

AND

IN THE MATTER of an application by Onoke Heights Limited for resource consents for a 93 lot residential subdivision on Dip Road, Whangarei

**STATEMENT OF EVIDENCE OF MELISSA MCGRATH
PLANNING
31 OCTOBER 2023**

MAY IT PLEASE THE INDEPENDENT HEARING PANEL

INTRODUCTION

1. My full name is Melissa Ivy McGrath.
2. I am a Senior Associate at Barker and Associates Limited, a nationwide planning and urban design consultancy. I have 19 years' experience as a Planner. During this time, I have been employed in various resource management positions in local government and private companies and I have a range of planning experience in consenting, policy development, consultation and public engagement. I attach a copy of my CV in **Attachment 1** which provides further detail on my experience and expertise.
3. This evidence is in respect of resource consent applications by Onoke Heights Limited ("**the Applicant**") at Dip Road, Kamo ("**the Site**"). Resource consents are required from:

Whangārei District Council ("**WDC**")
 - (a) combined subdivision and land use resource consent to:
 - (i) create 93 residential allotments, drainage and recreational reserves to vest and other associated works; and
 - (ii) establish retaining walls up to a maximum height of 5m within the setback of road and side boundaries.
Northland Regional Council ("**NRC**")
 - (a) stormwater discharge and diversion associated with land disturbance;
 - (b) stormwater discharge from a public stormwater network within the Whangārei Urban Area;
 - (c) proposed stormwater system vested with WDC as a public stormwater network; and
 - (d) bulk earthworks, including within 10m of a stream and a flood hazard area, (together "**the Proposal**").
4. A number of minor amendments have been made to the Proposal post notification. These are further detailed within the body of my evidence.

5. I am familiar with the area to which the application for resource consent relates. I lived in Crawford Crescent between 2010 – 2013 and I have visited the site surrounds on numerous occasions, most recently on 25 September 2023.

CODE OF CONDUCT

6. Although this is not a hearing before the Environment Court, I record that I have read and agree to and abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Practice Note 2023. This evidence is within my area of expertise, except where I state that I rely upon the evidence of other expert witnesses as presented to this hearing. I have not omitted to consider any material facts known to me that might alter or detract from the opinions expressed.

SUMMARY OF EVIDENCE

7. In my evidence, I:
 - (a) describe the site, surrounding environment and context;
 - (b) provide an overview of the Proposal, consents required and activity status;
 - (c) address the actual and potential effects of the Proposal on the environment;
 - (d) address the extent to which the Proposal is consistent with the relevant outcomes of applicable planning documents;
 - (e) address relevant matters raised by submitters;
 - (f) address the relevant matters raised within the s42A Report;
 - (g) discuss proposed conditions of consent; and
 - (h) provide a summary of my key recommendations and conclusions.
8. The resource consent applications relate to:
 - (a) subdivision to create 93 residential allotments, drainage and recreational reserves to vest and other associated works, and land use consent to establish retaining walls within setback from road and side boundaries. The application requires resource consent from WDC as a discretionary activity under the Operative in Part Whangārei District Plan 2022 (“**OPD**”); and

- (b) consent to discharge and divert stormwater associated with land disturbance, stormwater discharge from a public stormwater network within the Whangārei Urban Area, proposed stormwater system vested with WDC as a public stormwater network, and bulk earthworks, including within 10m of a stream and a flood hazard area. The application requires resource consent from NRC as a controlled activity under the Proposed Regional Plan (“PRP”).
9. The applications were publicly notified on 12th August 2023. A total of 30 submissions were received with the majority in opposition and some neutral. The submissions raise a number of matters primarily relating to the volume of traffic; cultural effects; effects on residential amenity; effects on infrastructure (three waters); flooding effects, effects on ecology; and effects of noise associated with the construction period.
10. The Proposal is supported by expert evidence from:
- (a) Charlotte Nijssen (Legal Survey and Subdivision Design);
 - (b) Madara Vilde (Ecology);
 - (c) Aaron Holland (Three Waters and Geotechnical);
 - (d) Dean Scanlen (Transport); and
 - (e) Jonathan Carpenter (Archaeology).
11. Taking into account this evidence, the mitigation measures offered by the Applicant, and my assessment of other matters within my areas of expertise, I consider that:
- (a) any actual and potential adverse effects associated with the Proposal (including those relating to character and amenity, ecology, transportation, infrastructure and servicing, cultural and heritage, and hazards), subject to compliance with recommended conditions of consent, are avoided, remedied or mitigated to such an extent that they are, on balance, minor and acceptable.
 - (b) there will be positive effects resulting from the Proposal, in particular those associated with the protection and enhancement of the riparian margin of the Otapapa Stream.
12. I have undertaken a comprehensive assessment of the objectives and policies from relevant statutory documents relevant to the Proposal including those in the applicable national environmental standards,

national policy statements, regional policy statement, regional plans, the ODP and Proposed Plan Change 1 Natural Hazards (“**PC1**”). Having carefully reviewed these objectives and policies, I am of the view that the Proposal generally accords with them.

13. The Council's reporting planner, Mr Alister Hartstone, has recommended that the WDC consent be declined on the grounds that the application “*would result in unavoidable and unacceptable adverse effects on those identified cultural values such that a recommendation to decline the application is necessary*”. Mr Hartstone has recommended that the NRC consent must be granted as a controlled activity. Taking into account this evidence, the mitigation measures offered by the Applicant, and my assessment of other matters within my areas of expertise:

- (a) I disagree with Mr Hartstone and conclude that, subject to compliance with recommended conditions of consent, any adverse effects of the Proposal are avoided, remedied or mitigated to such an extent that they are, on balance, minor and acceptable. In reaching this conclusion, I rely upon the technical evidence which demonstrates that the:
- (i) proposed roading and pedestrian access layout, and subdivision design and layout will implement best practice traffic engineering;
 - (ii) subdivision design and allotment layout will provide quality residential development in a manner that is consistent with the planned suburban built character of the General Residential Zone (“**GRZ**”);
 - (iii) proposed stormwater management will enhance the water quality of Otapapa Stream;
 - (iv) proposed recreation reserve and pedestrian walkway will enhance connectivity between Dip Road and Tuatara Drive and enhance and protect the ecology of Otapapa Stream;
 - (v) earthworks, erosion and sediment control will follow best practice;
 - (vi) the archaeological effects are likely to be less than minor to nil and the Site has no greater or lesser archaeological

significance than any other greenfields site in Whangarei where there is a recorded site within 100m.

- (b) I consider that overall, the Proposal is consistent with the outcomes and objectives described generally in the ODP, PC1 and PRP.
 - (c) the Applicant has proposed conditions of consent which I consider appropriately avoid, remedy or mitigate effects, forming a basis on which consent could be granted, should the Commissioner be minded to do so.
14. Overall, having carefully considered all relevant matters, I recommend that both the NRC and WDC resource consent applications be granted, subject to the proposed conditions of NRC consent attached to the S42A Report, and proposed conditions of WDC consent contained in **Attachment 2**.

PURPOSE AND SCOPE OF EVIDENCE

15. My evidence will focus on planning matters associated with the Proposal. My evidence should be read in conjunction with:
- (a) WDC application including Assessment of Environmental Effects, dated 21 November 2021;
 - (b) NRC application including Assessment of Environmental Effects dated 26 November 2021 ("**NRC AEE**"); and
 - (c) responses to further information dated 23 December 2021, 5 April 2023 (including updated AEE dated 5 April 2023) and 24 July 2023 ("**WDC AEE**").
16. I have been involved with the Proposal since January 2021. I was engaged by the Applicant to consider the planning matters raised by the Proposal at the Site. Since my appointment, I have visited the Site and surrounding area numerous times.
17. In producing this statement of evidence, I have reviewed the following evidence and materials:
- (a) the WDC application documents, including the original and updated AEE, associated technical reports, s 92 requests for further information and responses and WDC's s 95 notification decision;

- (b) the NRC application and associated technical reports, s 92 request for further information and responses and the decision;
 - (c) the s 42A hearing report (“s42A Report”) prepared by Alister Hartstone, planning consultant on behalf of WDC and NRC;
 - (d) WDC Development Engineer Report; and
 - (e) the expert evidence provided by the Applicant to support the Proposal.
18. Specifically, my evidence will address:
- (a) site description and context;
 - (b) an overview of Proposal;
 - (c) consents required and activity status;
 - (d) the key findings of the AEE and the evidence of the Applicant, including in relation to:
 - (i) the actual and potential effects of the Proposal on the environment; and
 - (ii) the extent to which the Proposal is consistent with the relevant outcomes sought in the applicable planning documents.
 - (e) comments on submissions;
 - (f) comments on the s42A Report; and
 - (g) proposed conditions of consent.

SITE DESCRIPTION AND CONTEXT

19. A description of the Site and the surrounding environment has been detailed in section 3 of both the WDC and NRC AEE’s which I prepared. The Site is also described in the evidence of a number of the Applicant’s experts.
20. During the preparation of evidence for this hearing, Mr Carpenter brought to my attention that the stream located to the south of the Site is identified and named as Otapapa Stream¹. I incorrectly identified the stream as Waitāua Stream within the WDC and NRC AEE’s and had assumed that

¹ Evidence of Mr Carpenter History of the Site and Vicinity Section.

the WDC and CIA references were correct. For the purposes of this evidence, I refer to the stream by its correct name – Otapapa.

21. From a planning perspective, what I consider to be the key features of the Site are as follows:
 - (a) The Site is approximately 6.8ha in area and legally described as Section 1 SO 65970.
 - (b) The Site is vacant. It is bounded by the Otapapa Stream to the south, with pockets of mixed indigenous and exotic vegetation along the stream edge. There are scattered mature puriri and totara trees located centrally, and a small area of mamaku scrubland located along the north-eastern aspect of the Site.
 - (c) The northern half of the Site comprises of a converging south facing slope of up to 11 degrees and the southern part comprises of waning slopes towards the Otapapa Stream (at the southern boundary).
 - (d) The Site is situated at the north-western residential edge of the suburb of Kamo, situated between the existing residential streets of Dip Road and Tuatara Drive.
 - (e) A WDC water reservoir (Designation WDC-25) is located directly north of the Site, with water pipelines from the reservoir extending south along the eastern Site boundary (within a 3m wide easement for that purpose) to Tuatara Drive.
 - (f) Onoke Reserve, a large area of native vegetation, is located directly to the east of the Site.
22. The ODP identifies the southern portion of the Site as Flood Susceptible and a Critical Electricity Line (Northpower's overhead line traverses the southern boundary and south-eastern corner of the Site). The ODP planning maps identify the Site as being zoned GRZ. The ODP identifies Dip Road as a secondary collector road, and Tuatara Drive as an access road.
23. Portions of the Site are identified as medium land instability and river flooding 10-year and 100-year natural hazards under proposed Plan Change 1 to the ODP.
24. The surrounding environment is summarised as follows:

- (a) Predominantly residential in nature, featuring a mix of single-storey and two-storey dwellings. The existing built form comprises houses that are typically set back from the street by around 5-8m, with either fully open front yards or low fencing. Interconnected suburban streets of Crawford Crescent, Tuatara Drive and Dip Road feed into Three Mile Bush Road. Rural residential development is located to the north west of the Site along Dip Road.
- (b) Hurupaki Primary School and Kindergarten are located immediately to the east, while Kamo Primary School is located less than 1km to the east. The Local Centre of Kamo is approximately 1km east of the Site providing community services, convenience shopping and Kamo High School. Neighbourhood shops are within approximately 400m of the Site, including dairy and takeaway outlets.
- (c) The area is served by public transport and pedestrian infrastructure. The bus network includes services along Three Mile Bush Road within approximately 1km walking distance from the Site.
- (d) The area is well serviced by public open space networks, with natural reserves within Hurupaki Cone to the west, and Onoke Reserve and Hodges Park to the east. Kamo park has active open space located within Kamo Centre;
- (e) Dip Road has a legal width of 20m, two sealed lanes and a carriageway width of approximately 6.4 metres. It has a speed limit of 80 kilometres per hour along the Site frontage, reducing to 50 kilometres per hour 100m south of the proposed new intersection. A footpath is located on the eastern side. There are no street trees, with a number of power and light poles within the road reserve.
- (f) Tuatara Drive has a legal width of 20m, two sealed lanes being 8.2m between kerb faces, and a footpath along the eastern side. It has an internal tee intersection, one leg of which continues north eastwards to existing residential development, the other being a short stub that leads to two existing houses and currently ends

only 25 metres west of the intersection. Tuatara Drive has a speed limit of 50 kilometres per hour.

Zoning of the Site

25. In my view the history of how the zoning of the Site and the surrounding area has been applied is important to understand how the provisions of the ODP should be interpreted.
26. WDC is undertaking a rolling review of the ODP which involves incremental plan changes to the ODP², being topic, location or zone based. To date, two major tranches of plan changes have been completed:
 - (a) First, the Rural Plan Change Package³. In March 2019 the Rural plan changes became formally operative. As a result of these plan changes the Site was zoned Living 3 Environment with a Living Overlay.
 - (b) The second major tranche was the Urban and Services Plan Changes⁴. In September 2022 these plan changes became formally operative. These resulted in the Site being zoned GRZ.

² <https://www.wdc.govt.nz/Services/Planning/District-Plan-changes>

³ PC85A-D Rural Zoning, PC86A&B Rural Urban Expansion and Living, PC87 Coastal Environment, PC102 Minerals and PC114 Landscapes.

⁴ PC88A-J Urban Zones and Precincts, PC82 A & B Signs and Lighting, PC109 Transport, PC115 Open Space, PC136 Three Waters Management, PC143 Airport Zone, PC144, Port Zone, PC145 Hospital Zone, PC147 Earthworks and PC148 Strategic Direction and Subdivision.

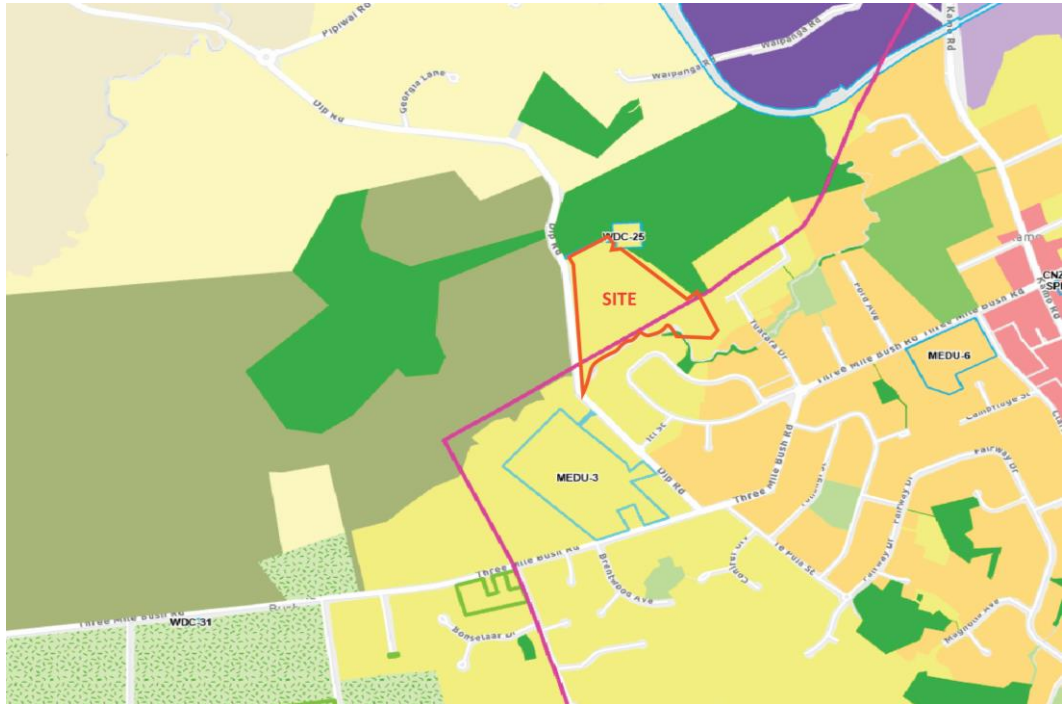


Figure 1: Extract of ODP Area Specific Maps

27. As illustrated in Figure 1, the surrounding locality is predominantly zoned residential under the ODP, including GRZ to the east and south, Natural Open Space Zone to the north and east, Rural Production Zone to the west and Low Density Residential Zone to the north. These plan changes have provided for and enabled residential intensification within locations that are infrastructure ready, including the Site.
28. The plan changes followed the Schedule 1 RMA process to change the ODP, including consultation with tangata whenua and full public notification and hearing of submissions. No submissions were received in opposition to the rezoning of the Site.
29. WDC has not yet undertaken a review of Tangata Whenua objectives and policies, or Sites of Significance to Māori provisions and mapping.

OVERVIEW OF PROPOSAL

30. The description of the Proposal is detailed in Section 4 of the WDC AEE and Section 4 of the NRC AEE. In summary:
- (a) **Subdivision:** It is proposed to carry out a subdivision to create:
- (i) 95 residential allotments – lots 1 – 95;
 - (ii) a public road – lot 300;
 - (iii) jointly owned access lots (“**JOALs**”) – lots 301 and 302;

(iv) a drainage reserve – lot 200; and

(v) a recreation reserve - lot 201

Further detail of the Proposal is provided on the scheme plan and engineering plans prepared by Blue Wallace Surveyors⁵.

(b) **Access and Parking:** The existing vehicle crossing from Dip Road will be decommissioned, and a new public road network created comprising of:

(i) link road between Tuatara Drive and Dip Road;

(ii) internal loop road and a cul-de-sac;

(iii) give-way controlled 'T' intersection at the western end of the link road with Dip Road;

(iv) two JOALs - lot 301 will be held in three undivided shares by the owners of lots 24 to 26, and lot 302 will be held in eight undivided shares by the owners of lots 57 – 64;

(v) lots 1 – 4 will gain access directly from Dip Road; and

(vi) 21 inset parking bays will be provided within the road reserve.

(c) **Pedestrian Connectivity and Open Space Network:** Concrete footpaths are proposed:

(i) on both sides of the link road and the cul-de-sac road;

(ii) on the northern side the loop road;

(iii) on the northern side of lot 302;

(iv) along the eastern side of Dip Road south of the new intersection;

(v) link road footpath will be continued along Tuatara Drive as far as an existing pram crossing near the shoulder of the existing intersection; and

(vi) upgrading of the existing footpath on Dip Road south of the new intersection.

⁵ AEE Appendix 3.

A recreation reserve, including a pedestrian footpath connected to Dip Road, is proposed (lot 201 being 6337m² in area) extending along the southern boundary of the Site, adjacent to the Otapapa Stream.

- (d) **Three Waters Servicing:** All lots will be serviced by connections to public reticulated wastewater and water systems. The stormwater management system includes an onsite stormwater pond, located in the south eastern corner of the Site, to be vested with WDC. The proposed stormwater pond will limit peak flows to predevelopment level for the 2-, 10- and 100-year storm events, with a 20% allowance for climate change.
 - (e) **Geotechnical Investigation:** WDC GIS Land Instability Maps identify the Site as predominantly low instability, with some areas of moderate instability. A *Geotechnical Report* prepared by LDE⁶ includes a number of recommendations which have informed the proposed site works, retaining and the building foundations.
 - (f) **Site Works:** A total of approximately 134,349m³ (52,799m³ cut and 81,550m³ fill) of earthworks are proposed, with a maximum cut depth of 6m and a maximum fill height of 4m. Approximately 400m² of the excavation area will occur within 10m of the Otapapa Stream, to enable the construction of a culvert crossing and stormwater pond outlets. Earthworks will involve modification of the Site to enable the construction of the building platforms, Site access and carparking areas. Silt and sediment control measures are proposed to be implemented in accordance with the Erosion and Sediment Control Guidelines for Land Disturbing Activities in the Auckland Region (2016) for the duration of the construction.
31. The Applicant and its expert team have sought to engage with and respond to feedback received on the Proposal. This has resulted in a number of modifications to the Proposal since lodgement, including the following:
- (a) In response to WDC request for further information (RFI)⁷:

⁶ AEE – Appendix 6.

⁷ Reporting Planner email 10 December 2021 and letter dated 22 December 2021.

- (i) refinement of engineering design details, including reduction in number of residential lots proposed to 93⁸;
 - (ii) Archaeological Assessment – offered conditions of consent relating to accidental discovery protocols, and requiring that archaeological authority under the Heritage New Zealand Pouhere Taonga Act 2014 be applied for prior to commencement of any work onsite, as a pre-emptive measure should archaeology be discovered during excavation⁹;
 - (iii) provided evidence of consultation with hapū, including Cultural Impact Assessment prepared by Te Parawhau¹⁰;
 - (vii) Ecological Assessment Report – offered conditions of consent to require Revegetation Planting Plan for Otapapa Stream within the proposed recreation reserve and the planting of 6 puriri trees within the reserve¹¹.
- (b) In response to WDC request for further information¹², amendments with respect to stormwater and geotechnical matters.
32. The subdivision scheme plan and earthwork plans have been amended to reflect these changes. (Refer **Attachment 2 of Ms Nijssen’s evidence.**)

CONSENTS REQUIRED AND ACTIVITY STATUS

Status of Plans

33. At the time of lodgement (November 2021), the application was considered under the Operative Whangārei District Plan 2007 (“**ODP 2007**”) and PDP¹³.
34. The Site was zoned Living 1 Zone with Living Overlay under the ODP 2007 and proposed to be zoned GRZ under the PDP.

⁸ Applicant response to RFI dated 10 November 2021.

⁹ Applicant response to RFI dated 7 March 2022.

¹⁰ Applicant response to RFI dated 5 April 2023.

¹¹ Applicant response to RFI dated 5 April 2023.

¹² Reporting Planner email dated 8 May 2023.

¹³ Proposed Urban and Services Plan Changes.

35. A number of PDP provisions were subject to appeal at the time of lodgement, and it was necessary to seek consent under both the ODP 2007 and PDP. The Consent requirements are detailed in the original WDC AEE.¹⁴
36. On 15 September 2022 the PDP was made operative in part, including the GRZ and all provisions relevant to this application. A revised WDC AEE was submitted to WDC in April 2023, assessing the Application under the ODP (operative in part) only.
37. On 31 May 2023 WDC notified PC1. No rules have been identified as having immediate legal effect, however the proposed objectives and policies require consideration at the time of decision under section 104. I have evaluated the relevant objectives and policies of PC1 in my evidence below.
38. At the time of lodgement in November 2021, the NRC application was considered under both the Operative Regional Water and Soil Plan for Northland (“**RWSP**”)¹⁵ and the Proposed Northland Regional Plan (“**PRP**”), as the relevant PRP provisions were subject to appeal. Appeals against the relevant PRP rules have now been resolved, meaning these rules are now treated as operative (and the corresponding RWSP rules as inoperative). However, while the relevant appeals have been resolved the PRP has not yet been made operative, therefore the objectives and policies of the RWSP must still be considered under s 104.¹⁶
39. I reach the same conclusion under both the PRP and RWSP, therefore my evidence has focussed on the PRP only.

WDC Consents Activity Status

40. The Proposal was considered and applied for as a restricted discretionary activity at the time of lodgement (November 2021). Post lodgement (April 2022), WDC determined that the Proposal would be a discretionary activity under rule SUB-R2 due to the definition of historic heritage¹⁷:

“As recorded in the minutes of the online Hui of 15 March 2022 Council’s position was summarised with the information known at

¹⁴ AEE, Section 5.

¹⁵ Rule 22.1.1 Stormwater discharges and diversions from roads and from land disturbance activities and Rule 22.1.2 Diversion of Discharge from any road or track by way of stormwater collection system for which a resource consent exists.

¹⁶ RMA, s86A(2).

¹⁷ Email from Kaylee Kolkman (RMA Consents Team Leader) dated 27 April 2022.

that time and as outlined at the hui, that ‘the proposal would be a discretionary activity under SUB-R2 because the entire area is a Site of Significance, based upon the definition of historic heritage which includes Sites of Significance to Maori an area does not have to be mapped in the WDP.’”

41. I disagree with WDC’s interpretation of the definition of historic heritage and SUB-R2. I remain of the view that the Proposal is a Restricted Discretionary Activity under the ODP. However, given WDC’s interpretation and in an effort to progress the application, it was reassessed and re-submitted as a Discretionary Activity.
42. Consents are required for the following under the ODP:
 - (a) Building and Major Structure Setback from boundary — retaining walls along the western and northern boundaries (GRZ-R4 restricted discretionary).
 - (b) Subdivision of a site within 32m of Critical Electricity Lines (CEL-R2 restricted discretionary).
 - (c) General subdivision — the Proposal will not comply with clause 2.1 as a heritage area will not be contained within a single proposed allotment (SUB-R2 discretionary).
 - (d) Subdivision in GRZ — the proposed subdivision will comply with minimum lot size (SUB-R5 controlled).
 - (e) Three waters management — TWM-R2 (stormwater), TWM-R3 (wastewater), TWM-R4 (water supply) and TWM-R5 (integrated three waters assessment) (restricted discretionary).
 - (f) Transport, subdivision, integrated traffic assessment, construction of a new road and major roading alteration (TRA-R13 - TRA-R17 restricted discretionary).
 - (g) Earthworks associated with subdivision (EARTH-R1 controlled).
 - (h) Light — any subdivision (LIGHT-R7 controlled).
43. Consents are required for the following under the PRP:
 - (a) Rule C.6.4.3 Stormwater discharges — The proposed stormwater system and discharge will be vested with WDC as a public stormwater network within the urban area of Whangārei City (controlled activity).

- (b) Rule C.8.3.1 Earthworks controlled activity — The proposed earthworks include a total area of exposed earth of approximately 6.8ha at any one time. This exceeds the permitted standards in Rule C.8.3.1 (controlled activity).

Bundling of Consents

44. The ODP provides for residential development of the Site including all relevant land use consents for proposed roading and infrastructure as a restricted discretionary activity. The matters of discretion do not include consideration of cultural effects. The proposed subdivision is the only component of the Proposal that triggers a need for a discretionary activity consent.
45. The Applicant could have applied for separate land use and subdivision consents, being an easier consenting pathway (e.g. applying to establish infrastructure and consenting the entire site as a multi-unit development, then applying later for a subdivision consent). However, the Applicant has chosen to apply for the consents as a bundle, in a manner that is considered to be best practice and which enables the comprehensive assessment and mitigation of potential effects.

HAPŪ ENGAGEMENT BY THE APPLICANT

46. I note that the RMA does not specifically require engagement or consultation for resource consent applications¹⁸, instead focusing public engagement and consultation to the plan making process.
47. The Applicant's general approach to engagement with mana whenua has been to engage early with hapū with a view to understanding the potential cultural issues and to make a good faith attempt to address them. Engagement was undertaken prior to lodgement of the applications, during the processing of the applications and more importantly, the Applicant has attempted to have ongoing engagement. I have been directly involved with the engagement, and I provide a summary of the engagement with hapū below accompanied by a full record in **Attachment 3**.

¹⁸ Any resource consent application must be prepared in accordance with s 88 of the RMA and must include an assessment of the activity's effects in accordance with the requirements of Schedule 4 of the RMA.

Ngāti Kahu o Torongare

48. Engagement with Ngāti Kahu o Torongare commenced in 2021, prior to lodgement, as the Site was known to be located within their rohe. This included meetings with Ngāti Kahu o Torongare representatives to discuss the initial concept to better understand a hapū perspective of their association with the land and water and all matters relating to the cultural effects of the Project.
49. The majority of engagement was primarily via in person meetings with Ngāti Kahu o Torongare representative Richard Shepherd. Post lodgement engagement meetings were completed with Ngāti Kahu o Torongare including a site visit and hui in Kamo and at Ngāraratunua Marae. These discussions focussed primarily upon the wider cultural landscape, the importance of the surrounding awa and maunga and general opposition to development within the Site.
50. Ngāti Kahu o Torongare ceased to participate in engagement following the hui on 12 August 2022, refused to provide a Cultural Impact Assessment (“CIA”), and have not lodged a formal submission on the application.
51. In my view the Applicant has made genuine attempts to meet with Ngāti Kahu o Torongare and this has included offering B&A’s office space for meetings, moving the Applicant’s other commitments to accommodate any proposed meetings and multiple attempts to meet, in addition to resourcing their engagement. Over the course of communications with Ngāti Kahu o Torongare, there were no site-specific cultural issues identified.

Te Parawhau

52. Engagement with Te Parawhau commenced in 2022, following lodgement of the applications and Te Parawhau expressing an interest in the Site. This included meetings with Te Parawhau representatives to discuss the initial concept to better understand a hapū perspective of their association with the land and water and all matters relating to the cultural effects of the Proposal.
53. The majority of engagement was primarily via in person meetings with Te Parawhau representatives Mira Norris and Pari Walker, including a site visit and hui in Kamo and at Ngāraratunua Marae.

54. In response to concerns raised by Te Parawhau, the Applicant:
- (a) engaged an ecologist¹⁹ to undertake an assessment of the Proposal and proposed conditions of consent to enhance the edge of the Otapapa Stream; and
 - (b) refined proposed lot boundaries along Otapapa Stream.
55. Te Parawhau prepared a CIA²⁰ for the Proposal (which I discuss further later in my evidence), which was resourced by the Applicant. Te Parawhau have submitted against the Proposal.
56. Te Parawhau have identified in their submission that *“the whenua and wai is wāhi tapu, taonga tuku iho and is a site of significance to Te Parawhau Hapū and should be protected from development. The proposal conflicts with Hapū uara ahurea.”*
57. On 17 October 2023 the Applicant met with Te Parawhau representative Mira Norris to discuss the CIA and to try to understand the cultural values of the site. I attended this meeting which was held via MS Teams.
58. In my opinion the Applicant has attempted to continue to engage and develop the relationship to better understand the cultural values specific to Te Parawhau.

SECTION 104(1)(a) - ACTUAL AND POTENTIAL EFFECTS

59. The AEEs have comprehensively considered the actual and potential effects of the Proposal. Accordingly, I do not propose to set out the full assessment here.
60. Instead, I will focus on the key effects of the Proposal that remain in contention (including matters raised by submitters). I consider that these relate to cultural effects, archaeological effects, natural hazards, transport, servicing, ecology, residential amenity, and construction activities.
61. When considering actual and potential effects I have applied a permitted baseline, analysed the receiving environment, and considered the likelihood of change to that environment in the future, based upon the activities that could be carried out as of right or with respect to resource

¹⁹ Ms Vilde of Wild Ecology

²⁰ AEE Appendix 16.

consents that have been granted (where it is likely that they will be given effect to).

Receiving Environment and Permitted Baseline

62. In my opinion the receiving environment is comprised of:
- (a) what lawfully exists in the environment at present;
 - (b) activities (being non-fanciful activities) which could be conducted as of right; and
 - (c) activities which could be carried out under a granted, but as yet unexercised, resource consent.
63. I consider that the receiving environment must be considered in the context of what the surrounding zoning enables and anticipates. The Site is surrounded by predominately residential zoning which provides for a level of residential intensification. GRZ provides for subdivision as a controlled activity, which in my opinion provides a clear indication of the level of non-fanciful residential activities which could occur within the Site.
64. I also consider that Certificate of Compliance CC2300005 (**Attachment 4**) granted by WDC on 13 September 2023 forms part of the receiving environment. This allows for:
- Removal of five individual mature puriri trees, one individual totara tree, and small stand of mamaku and mahoe. The location of the trees is identified in Figure 4 of the application prepared by Barker and Associates dated 4th August 2023.
65. In this case I consider the relevant permitted baseline of the ODP is:
- (a) clearance of all vegetation within the Site;
 - (b) earthworks of any volume associated with a land use activity;
 - (c) buildings and major structures (compliant with bulk and location rules²¹);
 - (d) impervious areas up to 60% of the net site area and setback 5m from any waterbody;

²¹ 8m maximum building height; 3m setback from road boundary, 1.5m setback from any side and rear boundary, 20m setback from the top of the bank of any river that has a width exceeding 3m; no building shall exceed a height equal to 3m above ground level plus the shortest horizontal distance between that part of the building or major structure and any side or rear boundary, except any boundary; and building coverage of 40% of the net site area.

- (e) cumulative building and major structure site coverage up to 40% of the net site area;
 - (f) two residential units per site; and
 - (g) retirement Village or supported residential care with no more than 25 traffic movements per sites per day.
66. I consider the relevant PRP permitted baseline is as follows:
- (a) Earthworks: 5000m² of exposed earth at any time; 200m² of exposed earth at any time and 50m³ of moved or placed earth in any 12 month period within 10m of an intermittently flowing river; and 100m² of moved or placed earth in any 12 month period within a flood hazard area.
 - (b) The diversion and discharge of stormwater from a public stormwater network into water or onto or into land where it may enter water provided that:
 - (i) the discharge is not from a public stormwater network servicing an urban area listed in Table 10: Urban areas; and
 - (ii) the diversion and discharge does not cause permanent scouring or erosion of the bed of a water body at the point of discharge; and
 - (iii) the discharge is not within 100 metres of a geothermal surface feature; and
 - (iv) the discharge does not contain contaminants used, stored or generated in trade or industrial premises; and
 - (v) the discharge does not contain more than 15 milligrams per litre of total petroleum hydrocarbons; and
 - (vi) the discharge does not cause any of the following effects in the receiving waters beyond the zone of reasonable mixing:
 - a) the production of conspicuous oil or grease films, scums or foams, of floatable or suspended materials, or
 - b) a conspicuous change in the colour or visual clarity, or

- c) an emission of objectionable odour, or
- d) the rendering of freshwater unsuitable for consumption by farm animals, or
- e) the rendering of freshwater taken from a mapped Priority Drinking Water Abstraction Point (refer I Maps | Ngā mahere matawhenua) unsuitable for human consumption after existing treatment.

67. In my opinion, the above provides a useful and logical permitted baseline that can be applied to the assessment of effects for the Proposal. Accordingly, I have applied this to the assessment that I undertake below.

Trade competition

68. With regard to section 104(3)(a)(i), I am unaware of any concerns relating to trade competition.

Controlled Activities

69. With respect to the ODP I consider that the following controlled activities are relevant to the consideration of the Proposal:

- (a) SUB-R5 (Subdivision in the General Residential Zone) - subdivision where every allotment has a net site area of at least 320m² and an average net site area of 400m².
- (b) TRA-R14 (Transport Subdivision) - subdivision where the site does not contain an indicative road or a strategic road protection area, all sites have access and crossings which comply with TRA-R5 – R6, and results in a shared access which serves no more than 8 allotments or 8 principal residential units.
- (c) TWM-R5 (Three Waters, Integrated Assessment) - the subdivision results in 8 or more additional allotments (excluding lots for the purposes of reserves, network utilities or transport corridors) from one parent allotment which existed at 4 June 2021.
- (d) EARTH-R1 (Earthworks Associated with Subdivision) – where earthworks do not occur within:
 - a. a Site of Significance to Māori;
 - b. 10m of any archaeological site; and

- c. three times the maximum radius of the canopy dripline of a New Zealand Kauri tree (*Agathis Australis*); and
- are supported by a site suitability report.
- (e) LIGHT-R7 (Subdivision) – where artificial lighting is provided for all streets, walkways, cycleways, and roads created by the subdivision and comply with the AS/NZS1158 series of standards.
70. The earthworks and stormwater discharge are also controlled activities under the PRP.

Positive Effects

71. In my opinion the Proposal will result in positive effects, including the following:
- (a) The development of 93 residential lots with a range of sizes and configurations which will contribute towards additional housing opportunities in the Whangārei District.
 - (b) The development of a transport network which has a high level of urban amenity, including provision of footpaths, lighting, on-street parking, and manoeuvring which contribute to the amenity of the wider residential neighbourhood.
 - (c) A comprehensively designed stormwater management network, which will improve water quality in the Otapapa Stream and reduce risk of flooding downstream.
 - (d) The protection and revegetation of Otapapa Stream will repair the riparian corridor to create ecological linkages and improve ecological values by providing active management of pest and weed species.
 - (e) Increased recreational opportunity via the recreation reserve and pedestrian footpath along the Otapapa Stream, connecting Dip Road to Tuatara Drive.

Natural Hazards

72. A small area of the Site is identified as Flood Susceptible in the ODP. Portions of the Site are identified as medium land instability under PC1, and small areas of the Site are identified as river flooding 10-year and 100-year natural hazards under PC1 and the PRP.

73. Mr Holland assessed the potential effects of the proposed subdivision, bulk earthworks, and stormwater management²². Mr Holland concludes in his evidence that the effects of the Proposal will be managed and his geotechnical investigation and testing undertaken confirms that the Site is suitable for residential development²³. Mr Holland also concludes that the proposed stormwater pond will improve downstream flood risk²⁴.
74. I rely upon Mr Holland's evidence and for these reasons it is considered that the potential effect on natural hazards will be appropriately mitigated, subject to compliance with conditions of consent and recommendations of the Geotechnical Assessment Report, to be less than minor.

Transport

75. Traffic and transportation effects of the Proposal have been assessed by Mr Scanlen²⁵. Mr Scanlen considers that:
- (a) The proposal will almost certainly reduce the traffic on Dip Road south of the proposed subdivision access connection point to that road.
 - (b) Tuatara Drive will be most affected by the traffic produced by the Proposal. It is of a suitable width for the expected traffic and the traffic safety risk on it will remain adequate without traffic calming.
 - (c) The Three Mile Bush Road/Tuatara Drive/Crawford Crescent roundabout will remain suitable in its current form even with further (future) development in the catchments of existing roads beyond the Site.
76. Mr Scanlen's overall conclusion "*remains that the existing road network is adequate for the traffic generated by this subdivision and that, as such, its effects will be less than minor*"²⁶.
77. I rely upon the expertise of Mr Scanlen, with regard to potential adverse transport effects and I consider that, subject to compliance with conditions of consent, those effects will be mitigated to be less than minor.

²² WDC AEE Appendices 5 Integrated Three Waters Assessment and 6 Geotechnical Report

²³ Evidence of Mr Holland paragraph 8.

²⁴ Evidence of Mr Holland paragraph 9.

²⁵ WDC AEE Appendix 4 Integrated Traffic Impact Assessment

²⁶ Evidence of Mr Scanlen paragraph 43.

Servicing

78. As set out in the WDC AEE²⁷ and evidence of Mr Holland, servicing of the Site can be suitably achieved subject to the Proposed conditions. On this basis, any adverse effects associated with three waters servicing on the environment, subject to compliance with conditions of consent will be mitigated to be less than minor and acceptable.

Ecology

79. Ms Vilde has undertaken an assessment of the ecological features and values of the Site and ecological effects generated by the Proposal²⁸. With regard to the potential adverse effects of the Proposal, Ms Vilde has concluded that:

- (a) *“In my opinion, the Proposal has been designed in a manner that recognises the existing ecological and environmental values and constraints of the Site. The Proposal follows the effects management hierarchy with appropriate avoidance, mitigation and off-set strategies employed to ensure that potential adverse ecological effects are no more than minor.*
- (b) *The Proposal aims to strengthen the ecological values of these features through establishing a recreational reserve along the Otapapa Stream margins, stock exclusion in perpetuity, appropriate revegetation planting and ongoing pest weed and pest animal control.*
- (c) *It is noted that individual tree clearance which are located in the central aspect of the site is required to enable development of the site in a coherent manner. The trees are not subject to any existing protection mechanisms and I understand that their clearance is a permitted activity under WDP. The trees are generally considered to be of fair condition, albeit their ecological function in the landscape is limited to the provision of short-term resting grounds for common mobile avifauna. Significant off-set of the tree loss is proposed, and for every tree cleared approximately 250 new trees will be planted within the proposed recreational reserves (Lots 200 and 201) adjacent to the Otapapa Stream.*

²⁷ WDC AEE Appendix 5 Integrated Three Waters Assessment

²⁸ WDC AEE Appendix 18 Ecological Assessment

- (d) *In my opinion, the Proposal presents a balanced outcome in relation to ecological matters, striking a balance between protecting and enhancing areas of higher existing ecological values, while concentrating the potential future development within areas with minimal existing ecological values or functionality.*
- (e) *I consider that the potential adverse ecological effects of the proposal can be secured through best practice sediment and erosion control measures and appropriate planning and development controls. Provided that they are implemented successfully, adverse effects on the environment would be no more than minor, and would, in fact, allow for the enhancement of Otapapa Stream corridor and its immediate margins and a delivery of a positive biodiversity gain.*
- (f) *In my opinion the Proposal will improve the overall ecological health, structure, condition and function of Otapapa Stream and its riparian margins where they expand over the Site. It does this through stock exclusion from the stream and its margins in perpetuity, revegetation of riparian margins and comprehensive pest weed and pest animal control, strengthening ecological networks by protecting existing ecological features on site, creating new habitats and buffer areas, and improving the services provided by ecosystems and resulting in an overall environmental benefit to the indigenous habitats on site and associated indigenous wildlife within the site boundaries and immediate area”²⁹*

80. I rely upon the expertise of Ms Vilde, with regard to potential adverse ecological effects and I consider that, subject to suitable conditions of consent, those effects will be no more than minor or negligible.

Construction Effects

81. Adverse effects associated with the construction of the development (e.g. earthworks, dust, noise and vibration, and construction traffic) are managed or will be managed through:

²⁹ Evidence of Ms Vilde paragraphs 120 – 125.

- (a) the resource consent for bulk earthworks, stormwater diversion, discharge, and construction within Otapapa Stream;
 - (b) a Construction Management Plan (proposed to be required as a condition of consent) including compliance with New Zealand Standard NZS 6803: 1999 "Acoustics - Construction Noise"; and
 - (c) an Erosion and Sediment Control Plan (proposed to be required as a condition of consent).
82. Relying on management plans to address construction effects is common practice for large scale developments and I consider construction effects can be suitably addressed such that any off-site adverse effects will be less than minor.

Residential Character and Amenity

83. The surrounding locality is residential in nature and the Proposal represents a residential density that is consistent the development outcomes sought by and provided for within the GRZ. The ODP anticipates residential density within the Site, with the GRZ providing for subdivision of a site larger than 1ha to a minimum lot size of 320m² (net site area) with an average lot size of 400m² (net site area). In this case, the Proposal comprises of 93 residential lots ranging in size from 327m² to 682m². The proposed lots all comply with the controlled subdivision density standards and would provide sufficient area for residential development within each lot in accordance with the permitted activity rules of the GRZ.
84. I consider that the intensity of residential development is reasonable and that the 93 residential lots do not represent an over-development of the Site. The residential character and density of the lots give effect to the outcomes sought in the GRZ. In my opinion, the effects of the proposed development on residential character and density will be less than minor and acceptable.

Cultural Effects

85. The ODP does not map or schedule the Site as being located within or containing any recorded sites of significance to Māori, or heritage sites or areas. The ODP contains no land use rules applicable to the Proposal

and the management of historic heritage³⁰. Furthermore, the Site has not been identified as culturally significant in previous planning documents³¹.

86. The Te Parawhau CIA, identifies Ōnoke³² and the Waitāua Stream as an Area of Significance to Te Parawhau and other hapū³³. The submission from Te Parawhau Resource Management Unit oppose the Application in its entirety, as it conflicts with “*their uara ahurea and conflicts with all of Te Parawhau Hapū cultural values*”³⁴.
87. The CIA states that the “*historical use of the whenua and awa renders Ōnoke and the Waitāua inappropriate for the living*”³⁵. Whilst the CIA describes in sections 5.1 and 5.2 the history of Te Parawhau and their kaitiakitanga obligation to the whenua, the CIA does not detail what the historical use of the Site was. I understand from consultation discussions with Te Parawhau representatives, that they believe the area was historically used as a battlefield and it may be used as a burial site. The historical use of the area was also described in Environment Court hearing *CDL Land New Zealand Limited v Whangarei DC A99/96* (“**CDL Case**”) dated 25 November 1996 as burial sites, scared trees, a place of burying whenua and the creek that runs through is sacred, from which water is taken to wash sick people.
88. Mr Carpenter has undertaken an assessment of the heritage and archaeological significance of the Site in his Archaeological Assessment Report. As part of his assessment, Mr Carpenter has also undertaken detailed research of the history, use and context of the Site and the stream³⁶. This research confirms in summary:

(a) The investigation of the title to the original Onoke block within which the Onoke Heights Site lies was relatively straightforward and

³⁰ The Historical Heritage Chapter of the ODP applies only to scheduled built heritage or scheduled heritage areas, whilst the Sites of Significance to Māori Chapter ODP applies only to sites that are identified on the planning maps and scheduled.

³¹ Whangārei Operative District Plan 2007, Whangārei District Scheme 1967 and 1987.

³² Ōnoke is described by Te Parawhau as “Ōnoke is located within the boundaries of these ancestral pou (maunga) and forms a part of Te Parawhau Hapu’s Cultural and Archaeological Landscape where a multitude of wāhi tapu and taonga are located” - Te Parawhau CIA, section 5.2.

³³ Te Parawhau CIA, section 5.2.

³⁴ Te Parawhau CIA section 8.5. “Uara ahurea” is defined in Te Aka (Māori Dictionary) online as: “*Uara*” (verb) to desire, value, with ahurea being defined as: “*ahurea*” (noun) culture.

³⁵ Te Parawhau CIA, section 5.2.

³⁶ Mr Carpenter Evidence paragraphs 40 – 89.

uncontentious, and it was alienated shortly thereafter by senior members of Ngati Kahu O Torongare to James Whitelaw.

(b) There is no suggestion in any of the investigations that any significant features were present on Onoke, or any particularly significant history or items which might be reserved for some reason or another by Ngati Kahu.

89. I conclude that there is extensive history associated with the area and cultural interest in the wider area, but there remains uncertainty with respect to the historical cultural use of the Site.

90. Notwithstanding this, section 7.2 of the CIA describes cultural values generally as:

(a) *Mana atua – (deity/spirit realm’s mana) – effects (positive/negative) on the spiritual realm which includes tikanga (protocols/procedures).*

(b) *Mana o te wai – (Tangaroa, Maru’s (the water’s) mana) – effects (positive/negative and benign) on the surrounding waterways and includes any contamination, physical change, discharge into the wai, mauri and wairua.*

(c) *Mana whenua – (the land’s/Papatūānuku’s mana) – effects (positive/negative and benign) on the whenua arising from land use activities and includes earthworks/indigenous vegetation clearance/building coverage.*

(d) *Mana ao tūroa – (the environment’s mana) – effects (positive/negative) on the environment being the space in between Papatūānuku and Ranginui.*

(e) *Mana tāngata – (peoples’ mana) – effects (positive/negative) on people which includes why is the project being carried out, social benefits/non-benefits.*

91. Section 8 of the CIA provides an assessment of potential effects on these general cultural values, including potential effects arising from residential use of the site, bulk earthworks, effects on waterways (including physical change or discharge) and further degradation of the whenua and awa. I provide the following assessment of these potential effects raised.

92. The Site and locality have been rezoned for residential purposes in two recent District Plan change processes³⁷. I note that Te Parawhau did not oppose the rezoning of the Site in those plan change processes. Whilst the opposition to the use of the Site for residential purposes raised by Te Parawhau is acknowledged, it is in direct conflict with the intent of the GRZ zoning that applies to the Site. The GRZ enables and provides for the use of the Site for residential purposes. Residential development of the Site is enabled as a permitted activity (Rules GRZ-R13 - R15) and multi-unit residential development is provided for as a restricted discretionary activity (Rule GRZ-R21), with matters of discretion that do not include consideration of cultural effects.
93. Due to the slope of the Site, bulk earthworks to establish level building platforms, pedestrian and vehicle access, and three waters management are proposed. The CIA states that the proposed earthworks will result in changes to the whenua that will give rise to significant adverse “mana atua” effects³⁸. I understand that the CIA does not identify particular locations within the Site that should be preserved and within which earthworks should not occur, nor does it consider any form of mitigation.
94. As identified in the assessment of the permitted baseline, I note that extensive bulk earthworks could occur as a permitted activity within the Site, because the ODP has no rules to manage earthworks associated with land use activities. Earthworks associated with subdivision are enabled as a controlled activity under the ODP and bulk earthworks are also enabled as permitted and controlled activities under the PRP. Relevant matters of control from the PRP include:

ODP – EARTH-R1 Matter of Control

2. Protocol for accidental discovery of kōiwi, archaeology and artefacts of Māori origin.

³⁷ WDC Rural Plan Changes, and Urban and Services Plan Changes.

³⁸ Te Parawhau CIA section 8.1. “Mana atua” ahurea is defined in Te Aka (Māori Dictionary) online as “(noun) sacred spiritual power from the *atua*”, with “atua” being defined as:

1. (noun) ancestor with continuing influence, god, demon, supernatural being, deity, ghost, object of superstitious regard, strange being - although often translated as 'god' and now also used for the Christian God, this is a misconception of the real meaning. Many Māori trace their ancestry from atua in their whakapapa and they are regarded as ancestors with influence over particular domains. These atua also were a way of rationalising and perceiving the world. Normally invisible, atua may have visible representations.

2. (noun) God.

PRP - C.8.3.2 Earthworks Controlled Activity

7. Adverse effects on the following, where present in adjacent fresh waterbodies or the coastal marine area: a) wāhi tapu, and b) the identified values of mapped Sites and Areas of Significance to tāngata whenua (refer I Maps | Ngā mahere matawhenua).

95. The Applicant has offered to obtain an archaeological Authority under the Heritage New Zealand Pouhere Taonga Act 2014 and offered conditions of consent to this effect, which in my opinion appropriately addresses the ODP matter of control.
96. In response to the concerns raised by the CIA, consideration was given to undertaking a reduced extent of earthworks to only establish pedestrian and vehicle access and three waters management. However, this would in my opinion lead to individual site owners sporadically undertaking earthworks to establish building platforms, effects of which as a permitted activity under the ODP, would not be managed, resulting in potential for edge effects, and inadequate sediment and erosion control. In my opinion, the bulk earthworks proposed will enable the Applicant to comprehensively manage potential environmental effects and apply extensive mitigation measures such as comprehensive sediment and erosion control, residential allotment boundary and building platform setbacks from Otapapa Stream, and the creation of a recreation reserve along Otapapa Stream.
97. The CIA identifies Waitāua Stream as an important taonga and area of significance to Te Parawhau³⁹. I note that Mr Carpenter has confirmed that the stream adjacent to the Site is in fact the Otapapa Stream, raising doubt with respect to the importance of the stream. I note that the CIA raises concern that the Proposal will result in adverse effects on the stream as a result of the proposed earthworks, stormwater runoff, and the stormwater pond. The CIA identifies that the extent and volume of earthworks coupled with the proposed increased impervious surface areas and resultant stormwater discharge arising from the future development is substantial, stating that:

“although a sediment retention pond is proposed to collect this stormwater and discharge the overflow into the awa, the effects on the Waitāua is unacceptable and does not constitute sustainable management of the regions natural and physical resources”.

³⁹

Te Parawhau CIA section 8.2.

98. Ms Vilde has undertaken an assessment of the potential ecological effects of the Proposal and concludes that the Proposal will improve the freshwater quality of the Otapapa Stream. I rely upon Ms Vilde's evidence and conclude that the Proposal will not result in adverse effects to Otapapa Stream. On this basis, I consider that the Proposal will appropriately address the PRP matter of control.
99. The CIA identifies the large puriri and totara trees within the Site as being important taonga due to historical practices⁴⁰. I identify the following with respect to these trees:
- (a) The trees are not protected under the ODP, and a Certificate of Compliance has been issued for their removal – this means they can be removed as a permitted activity, irrespective of the Proposal.
 - (b) A qualified arborist⁴¹ has confirmed the age of the trees to be at least 100 years old (**Attachment 5**); and
 - (c) Ms Vilde and the arborist have confirmed that the trees have suffered from ongoing pruning, exposure to abiotic factors and ongoing stock grazing pressures. Ms Vilde considers that puriri trees are largely not compatible with residential development.
100. Because a Certificate of Compliance has been issued for the removal of these trees, the potential effect of the removal of the large puriri and totara trees must be disregarded. Irrespective of this, I note that the Applicant has proposed to establish large grade puriri trees within the proposed recreation reserve planting zone to off-set the proposed clearance of indigenous vegetation.
101. I conclude for the above reasons that the potential effects from the Proposal, residential use of the site, bulk earthworks and effects on waterways (including physical change or discharge) will not be adverse and will not result in adverse effects on the general cultural values identified in the CIA.

⁴⁰ Te Parawhau CIA section 6.2.

⁴¹ Matthew Clifford, The Tree Consultancy Company.

102. Whilst I acknowledge that there is cultural interest in the wider area, in my opinion there remains uncertainty with respect to specific cultural values of the Site.
103. On balance, taking into consideration the permitted baseline, the receiving environment and the proposed mitigation measures, it is my opinion that the potential for the Proposal to have adverse effects on cultural values as described in the Te Parawhau CIA will be avoided or mitigated such that the potential effects are acceptable.

Archaeological Effects

104. The ODP does not map or schedule the Site as being located within or containing any historic heritage sites or areas. Mr Carpenter has undertaken an archaeological assessment of the Site⁴² and confirms that there are no archaeological sites recorded on the Onoke Heights property. He concludes in his evidence that:

“In conclusion archaeological and historic heritage effects of the Proposal are negligible, being restricted to the potential modification or destruction of as-yet unidentified subsurface archaeological sites and features...”

105. I rely on the expertise of Mr Carpenter regarding potential adverse effects on archaeology and I consider that, subject to suitable conditions of consent, including accidental discovery protocol in accordance with the Heritage New Zealand Pouhere Taonga Act, any adverse effects with respect to archaeology/heritage will be mitigated to be no more than minor and acceptable.

Other matters

106. The AEE has also comprehensively considered the actual and potential effects of noise and critical electricity lines. I have not expanded on these further in this evidence as they are not raised in submissions and the s42A Report.

Conclusion

107. Overall, I consider, taking into consideration the permitted baseline, anticipated development enabled by controlled activities, the proposed mitigation measures and subject to compliance with conditions of consent,

⁴² AEE Appendix 15.

any actual and potential adverse effects on the environment to be, at most, minor and are acceptable.

SECTION 104(1)(b) – PLANNING CONTEXT

108. I have reviewed the relevant statutory documents in accordance with s 104(1)(b), as they relate to the Proposal. These are addressed in detail in the WDC AEE, I have reviewed this analysis and elaborate further below.

National Policy Statement on Urban Development (Updated May 2022)

109. National Policy Statement on Urban Development (“**NPS-UD**”) seeks to achieve well-functioning urban environments which enable all people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety. I consider that objectives 1, 2 4, 5 and 6, and policies 1, 6 and 9 of the NPS-UD are relevant and the Proposal gives effect to these because:

- (a) the development has been carefully designed to ensure a well functioning urban environment, high quality recreational and open space, with connectivity and urban character to support the residential density anticipated and provided for in the GRZ;
- (b) the Proposal responds to the changing needs of the Kamo community by providing additional housing options, through the implementation of development as intended by the GRZ;
- (c) the Proposal will give effect to these policies, by supporting the appropriate urbanisation and intensification of land zoned for residential development, which has high accessibility to open space, schools, and commercial centres; and
- (d) the Proposal has been designed to ensure that adverse effects on cultural values as described in the Te Parawhau CIA will be avoided or mitigated such that the potential effects are acceptable.

110. NPS-UD policy 9 requires local authorities to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) in relation to urban environments “*by providing opportunities in appropriate circumstances for Māori involved in decision making on resource consents*”. In my opinion the Applicant has undertaken extensive efforts to engage with and work with hapū taking into account the principles of

the Treaty of Waitangi, the obligation remains with Councils to provide opportunities for the hapū to be involved in decision making.

111. In my opinion the Proposal will give effect to the objectives and policies of the NPS-UD.

National Policy Statement for Freshwater Management (Amended February 2023)

112. The fundamental concept of the National Policy Statement for Freshwater Management (“**NPS-FM**”) is Te Mana o te Wai, referring to the fundamental importance of water and which recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Te Mana o te Wai protects the mauri of the wai, and is about restoring and preserving the balance between the water, the wider environment, and the community.
113. The objective of the NPS-FM is to ensure that natural and physical resources are managed in a way that priorities:
- (a) first, the health and well-being of water bodies and freshwater ecosystems;
 - (b) second, the health needs of people (such as drinking water); and
 - (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
114. I consider that policies 1, 2, 3, 5, 7, 9 and 15 are relevant to the Proposal, as the Otapapa Stream traverses the southern boundary of the Site. In my opinion the Proposal is consistent with the objective and gives effect to these policies for the following reasons:
- (a) Sediment and erosion control will be in place to mitigate potential effects on the Otapapa Stream.
 - (b) All proposed allotments and future residential development will be appropriately setback from Otapapa Stream.
 - (c) Any stormwater runoff from built form and impervious areas will be directed into the proposed stormwater management system.
 - (d) The water discharged from the onsite stormwater pond (designed to accommodate 2yr, 10yr and 100yr storm events) will be released into the Otapapa Stream. It will not adversely affect the water quality of Otapapa Stream.

- (e) A recreation reserve is proposed to extend along the southern boundary of the Site, protecting the Otapapa Stream and adjoining indigenous vegetation. This will ensure on-going protection of native vegetation and the habitat of the Otapapa Stream.

115. In my opinion the Proposal will give effect to the objective and policies of the NPS-FM.

National Policy Statement for Indigenous Biodiversity (August 2023)

116. The National Policy Statement for Indigenous Biodiversity (“**NPS-IB**”) was not in effect at the time of preparing the WDC AEE. I provide the following assessment of the Proposal with respect to the NPS-IB.

117. The sole objective seeks to

- (a) *to maintain indigenous biodiversity across Aotearoa New Zealand so that there is at least no overall loss in indigenous biodiversity after the commencement date; and*
- (b) *to achieve this:*
 - (i) *through recognising the mana of tangata whenua as kaitiaki of indigenous biodiversity; and*
 - (ii) *by recognising people and communities, including landowners, as stewards of indigenous biodiversity; and*
 - (iii) *by protecting and restoring indigenous biodiversity as necessary to achieve the overall maintenance of indigenous biodiversity; and*
 - (iv) *while providing for the social, economic, and cultural wellbeing of people and communities now and in the future.*

118. Policy 1 seeks to manage indigenous biodiversity in a way that gives effect to the decision making principles and takes into account the principles of the Treaty of Waitangi. Policy 2 seeks that tangata whenua exercise kaitiakitanga for indigenous biodiversity in their rohe. In my opinion the Proposal will give effect to these policies because:

- (a) Applicant has undertaken extensive efforts to engage with and work with hapū taking into account the principles of the Treaty of Waitangi, the obligation remains with Councils to provide opportunities for the hapū to be involved in decision making.

- (b) The Proposal seeks to protect and enhance the indigenous biodiversity of Otapapa Stream and the adjoining indigenous vegetation. The proposed recreation reserve will provide the opportunity for hapū to exercise kaitiakitanga for Otapapa Stream.
119. Policies 8, 13 and 14 are considered relevant as they seek to recognise and provide for the importance of maintaining indigenous biodiversity outside SNAs, promote restoration of indigenous biodiversity and increase indigenous vegetation cover in urban environments.
120. Ms Vilde has undertaken an assessment of the Proposal concluding in her evidence that the Proposal will appropriately balance protecting and enhancing sensitive aquatic environment and ensure that potential adverse effects on indigenous biodiversity are avoided in the first instance, or where it is not feasible or practicable, that potential adverse effects are appropriately mitigated or off-set so that no overall loss of indigenous biodiversity occurs⁴³.
121. Therefore, I concluded, based upon the evidence of Ms Vilde that the Proposal will give effect to the objective and policies of the NPS-IB.

Northland Regional Policy Statement (2016)

122. I assess the Operative Northland Regional Policy Statement (“RPS”) in both the WDC AEE and NRC AEE.⁴⁴ I consider that objectives 3.3, 3.4, 3.5, 3.11, 3.12 and 3.13. Summarised below are the policies I consider to be particularly relevant to the Proposal:
- (a) Policy 4.2.1 seeks to improve the overall quality of Northland’s water resources. Ms Vilde has considered the ecological effects of the Proposal and concludes that it will have a positive effect on the water quality of the Otapapa Stream. I concur with Ms Vilde and consider the Proposal will give effect to policy 4.2.1.
- (b) Policy 4.4.1 seeks to avoid, remedy or mitigate significant adverse effects on areas of predominantly indigenous vegetation, habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes, and indigenous ecosystems and habitats that are particularly vulnerable to modification, including

⁴³ Evidence of Ms Vilde paragraphs 71 and 72

⁴⁴ WDC AEE at Section 10.4 and NRC AEE at Section 10.3.

floodplains and margins of freshwater bodies. Ms Vilde considers that:

“the proposal will ensure that potential adverse effects on indigenous biodiversity are avoided in the first instance, or where it is not feasible or practicable, that potential adverse effects are appropriately mitigated or off-set so that no overall loss of indigenous biodiversity occurs. The proposal provides and promotes restoration of indigenous biodiversity through enhancement of Otapapa Stream riparian margins through appropriate revegetation planting”.

I concur with Ms Wilde and consider the Proposal will give effect to policy 4.4.1.

- (c) Policy 5.1.1 seeks to ensure that subdivision, use and development is located, designed and built in a planned and co-ordinated manner. In my opinion the Proposal will give effect to Policy 5.1.1 as it is in accordance with the Regional Form Development Guidelines and the Regional Urban Design Guidelines. In particular, the proposed development incorporates quality urban design principles including context, character, choice, connections, creativity custodianship and collaboration. With specific reference to 5.1.1(d) and (h), the Proposal can be adequately serviced in terms of transportation, electricity, water, wastewater, and stormwater by existing and proposed infrastructure.
- (d) Policy 7.1.1 requires subdivision, use and development of land to be managed to minimise risks from natural hazards. I consider that the Proposal will be managed to minimise the risks from natural hazards by way of comprehensive design of onsite stormwater management, earthworks and retaining design and avoidance of areas with high instability hazards. I consider the Proposal will give effect to policy 7.1.1.
- (e) Policy 8.1.2 requires the WDC to recognise and provide for the relationship of tangata whenua and their culture and traditions, have particular regard to kaitiakitanga, and take into account the principles of the Treaty of Waitangi, including partnership, when processing resource consents. As previously discussed, the Applicant has undertaken extensive efforts to engage with and work with hapū taking into account the principles of the Treaty of Waitangi. Furthermore, the Proposal will provide for the kaitiakitanga of Otapapa Stream, and avoid or mitigate the potential

cultural effects such that they are acceptable. I consider that the Proposal is not contrary to policy 8.1.2.

123. For these reasons, I consider that the Proposal is consistent with the relevant RPS provisions.

Proposed Northland Regional Plan (October 2023)

124. I consider that the following PRP policies are particularly relevant to the Proposal:

- (a) Policy D.1.1 and D.1.2 specify when an analysis of effects on tāngata whenua and their taonga is required, and the level of analysis/detail required. In my opinion the Applications have included an appropriate analysis of the effects of the Proposal on tāngata whenua and their taonga.
- (b) Policy D.1.4 states that resource consent may generally only be granted if adverse effects from the activity on the values of Places of Significance to tāngata whenua in the coastal marine area and water bodies are avoided, remedied or mitigated so they are no more than minor. I consider that the Proposal will mitigate effects and enhance the water quality of Otapapa Stream, therefore the Proposal will be consistent with this policy.
- (c) Policy D.1.5 sets out how a place of significance to tāngata whenua in the PRP is to be identified and described. While the policy (at (3)) requires the site/area/landscape to be mapped, it also notes that a place of significance that has been identified and described in the manner required by the policy but has not been subject to a plan change yet can still be given weight in consent application decisions. Te Parawhau CIA states that Ōnoke and Waitāua Stream are areas of significance to Te Parawahu. Clause 5 of the policy specifies the detail required for a site/area/landscape to be a place of significance to tāngata whenua. In particular, this requires (relevantly):
 - i. the attributes to be endorsed for evidential purposes by the relevant tāngata whenua community;
 - ii. the values of the place for which protection is required to be recorded; and

- iii. the areas where values can be adversely affected to be geographically defined.

The Te Parawhau CIA does not provide sufficient information to achieve the requirements of policy D.1.5(5).

- (d) Policy D.4.1 seeks to maintain overall water quality. As previously detailed, in my opinion the Proposal will enhance the water quality of the Otapapa Stream and will give effect to this policy.
- (e) Policy D.4.19 applies to the consideration of any application, a consent authority must have regard to:
 - (i) the extent to which the change would adversely affect safeguarding the life-supporting capacity of freshwater and of any associated ecosystem; and
 - (ii) the extent to which it is feasible and dependable that any adverse effect on the life-supporting capacity of freshwater and of any associated ecosystem resulting from the change would be avoided.

As previously detailed, in my opinion the Proposal will enhance the water quality of the Otapapa Stream and will give effect to this policy.

- (f) Policy D.4.27 seeks to manage effects of land preparation, earthworks and vegetation clearance, and that earthworks must be established in accordance with good management practices. In my opinion the Proposal gives effect to policy D.4.27 because sediment and erosion control measures will be implemented in accordance with the Guidelines for Land Disturbing Activities in the Auckland Region (2016) and stormwater will be managed to improve water quality of the Otapapa Stream.

125. I consider that the Proposal will give effect to or be consistent with the relevant PRP policies.

Operative in Part District Plan (September 2022)

126. I consider that the following ODP policies are particularly relevant to the Proposal:

District Growth and Development (DGD) & Urban Form and Development (UFD) Chapters

127. The DGD and UFD Chapters are district wide chapters, guiding decision making at the strategic level. Objective DGD-O3 and policy DGD-P6 seek to enabling urban consolidation and intensification of Whangārei City in a planned and co-ordinated manner. In my opinion, the Proposal gives effect to this policy direction seeking to develop in accordance with the GRZ in a location that is supported by reticulated services.
128. Objective DGD-O4 seeks to identify and protect historic heritage resources and to maintain and enhance other characteristics, qualities or features that are valued by the community and contribute to the District's unique identity and sense of place. Objective DGD-O8 seeks to ensure that growth and development takes into account Māori cultural values. Policy DGD-P8 gives effect to these objectives, seeking to identify and protect heritage features and Sites of Significance to Māori from inappropriate development by mapping District Wide features and applying rules to protect values, attributes, characteristics and qualities of these areas. In my opinion, the Proposal will be consistent with this policy direction for the following reasons:
- (a) No historical resources have been identified within the Site, conditions of consent will ensure that potential modification or destruction of as-yet unidentified subsurface archaeological sites and features will be assessed and managed.
 - (b) The Proposal has taken into account cultural values as identified in the CIA and has avoided or mitigated potential effects on these values.
129. The Proposal will give effect to policy DGD-P10 by increasing the functionally and effectiveness of the Kamo open space network, providing a recreation reserve within the subdivision design.
130. Objective UFD-O2 promotes high quality urban design that responds positively to the local context and the expected outcome for the zone, whilst Objective UFD-O4 recognises that planned urban built form may result in changes to the amenity values and characteristics of the urban area. Policy UFD-P13 Residential Zones specifies where GRZ will be located. In my opinion the Proposal will give effect to this policy direction, as it is proposing consolidated development within the GRZ in a manner that is consistent with the growth and level of amenity anticipated within this Zone.

Transport (TRA), Three Waters Management (TWM) & Earthworks
Associated with Subdivision (EARTH) Chapters

131. The TRA, TWM and EARTH Chapters set policy direction for the establishment, maintenance, and use of the transport network, three waters services and earthworks. Objectives and policies generally seek to:
- (a) integrate land use and transport planning to ensure that land use activities, development and subdivision maintain the safety and efficiency of the transport network;⁴⁵
 - (b) maintain effectiveness, efficiency and sustainability of reticulated three waters, provide three waters infrastructure in an integrated and comprehensive manner and to minimise adverse effects from stormwater and wastewater; and⁴⁶
 - (c) ensure that sites are suitable for development, and that instability hazards and adverse effects on heritage values and New Zealand kauri trees are managed.⁴⁷
132. I rely upon the technical evidence of Mr Scanlen and Mr Holland with respect to transport, three waters infrastructure design and earthworks. In my opinion the Proposal will be consistent with the policies of these chapters, because:
- (a) it has been designed to establish an integrated development, providing safe and efficient access to the proposed residential allotments, including onsite walkability and connectivity to adjoining residential developments and the open space network. Accessibility and safety of the community have been taken into account within the proposed development and the road layout.
 - (b) it includes the effective and efficient provision of three waters infrastructure, including the connection of all proposed residential allotments into public reticulated services, capacity of which have been confirmed. All assets have been designed to provide for ongoing maintenance.

⁴⁵ TRA-O1 Transport network, TRA-O2 Integrate Transport and Land Use Planning, TRA-O4 Safety and Efficiency.

⁴⁶ TWM-O1 Connections, TWM-O2 Reticulated Networks, TWM-O3 Integrated Infrastructure and TWM-O5 Adverse Effects.

⁴⁷ EARTH-O1 Land Instability.

- (c) an integrated assessment of three waters has been undertaken in support of the Application with a comprehensive design of onsite stormwater management to reduce potential flooding downstream.
- (d) earthworks, retaining, and stormwater management have been carefully designed by LDE to mitigate effects from the establishment level finished building platforms within each lot.

Natural Hazards (NH) Chapter

- 133. The objectives and policies of the NH Chapter seek to avoid as far as practicable or otherwise remedy or mitigate the adverse effects of natural hazards on people, property and the environment. Policies seek to ensure that subdivision, use and development does not increase the risk from, occurrence of, or the adverse effects of natural hazards.
- 134. Mr Holland has confirmed in his evidence that the proposed subdivision and servicing have been designed to ensure that potential natural hazard effects will be managed to mitigate and minimise the risk of natural hazards by way of comprehensive design of onsite stormwater management to reduce flooding risk downstream and avoidance of significant earthworks within areas with high instability hazards. It is considered that the Proposal will give effect to the relevant natural hazards objectives and policies.

Historic Heritage (HH) Chapter

- 135. The objectives and policies of the HH Chapter seek to protect the District's heritage resources from adverse effects of subdivision, use and development and to recognise and provide for the relationship of tangata whenua with sites and areas of spiritual, cultural or historical significance.
- 136. Objective HH-O2 seeks to recognise and provide for the relationships of tangata whenua with sites and areas of spiritual, cultural or historical significance. As previously discussed, I consider that the Proposal has recognised the cultural values as identified in the CIA and provided for the relationship of tangata whenua with Otapapa Stream through provision of a recreation reserve along the stream boundary.
- 137. Objective HH-O4 and policy HH-P3 seek to protect historic heritage resources from adverse effects of subdivision, use and development. As previously discussed, no historical resources have been identified within the Site and conditions of consent will ensure that potential modification or destruction of as-yet unidentified subsurface archaeological sites and

features will be assessed and managed. Therefore, I consider that the Proposal will protect historic heritage resources from adverse effects.

138. In my opinion the Proposal is consistent with the objectives and policies of the HH Chapter.

Tangata Whenua Policies (TWP) Chapter

139. The objectives and policies of the TWP Chapter are largely focused upon the representation of tangata whenua in processes, including the preparation and implementation of the District Plan, seeking to ensure effective consultation, and taking into account iwi and hapū management plans. The two relevant objectives are:

TWP-O1 Within the respective domains of the exercise of rangatiratanga and kawanatanga, ensure that priority is afforded to the act of protection of taonga of tangata whenua, and to the relationship of tangata whenua and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga.

TWP-O2 To enable tangata whenua to exercise rangatiratanga and kaitiakitanga over their ancestral lands, waters, sites, waahi tapu and other taonga in the District.

140. Again, I note that specific taonga of the Site remains unclear. I consider that the Proposal has prioritised the protection and enabled kaitiakitanga of the Otapapa Stream through provision of a recreation reserve.

141. Policy TWP-P1 seeks:

Interests of Tangata Whenua To ensure that in the use, development and protection of natural and physical resources, the views and interests of the tangata whenua are fully represented at every stage of the process, including the preparation and implementation of the District Plan.

142. I consider that the Proposal gives effect to TWP-P1. The Applicant ensured that tangata whenua have been represented in the resource consent process, having completed significant engagement to try to understand cultural values with respect to the Site and those cultural values raised in preliminary discussions have been recognised by the Proposal.

143. Policy TWP-P2 seeks:

To ensure that land use, subdivision and development does not adversely affect Sites of Significance to Māori, or other taonga identified in the District Plan or Hapū Environmental Management Plans.

144. In my opinion TWP-P2 does not apply to the Proposal as the ODP does not identify any sites of significance to Māori within the Site.

145. Policy TWP-P3 seeks:

To ensure that indigenous wetlands, estuaries, coastal areas and waterbodies, of significance to tangata whenua, are maintained and enhanced, and that access for tangata whenua to those waterbodies is provided.

146. In my opinion, the Proposal will give effect to Policy TWP-P3 which seeks to maintain and enhance indigenous wetlands, estuaries, and waterbodies of significance to tangata whenua. The Otapapa Stream forms the southern boundary of the Site and the Proposal will maintain and enhance the stream and surrounding area through pest and weed management, planting and protecting the area by way of reserve.

147. Policy TWP-P4 directs efficient consultation and participation. As previously discussed, I consider the Applicant has undertaken consultation and engagement. Policy TWP-P5 gives direction on the use of māori land. As the Site is not māori land I consider that this policy is not relevant. Policy TWP-P6 requires the Applicant to take into account any relevant planning document recognised by an iwi authority. Ngāti Kahu O Torongare and Te Parawhau do not have Hapu Environmental Management Plans submitted to WDC.

148. For the above reasons, I conclude that the Proposal is consistent with the TWP policy direction.

Ecosystems and Indigenous Biodiversity (ECO) & Riparian and Coastal Margins (RCM) Chapters

149. The overarching intent of the relevant provisions in the ECO and RCM Chapters are to maintain and enhance the life-supporting capacity of ecosystems and the biodiversity of the District, and protect and enhance riparian margins. RCM-O2 and RCM-P9 particularly, seek to protect Built Heritage and Sites of Significance to Māori alongside rivers and streams by setting aside esplanade reserves. In my opinion, the Proposal is consistent with the relevant provisions in the chapter because it will protect and

enhance the vegetation within the proposed reserve being provided along Otapapa Stream.

Subdivision (SUB)

150. The SUB Chapter provides direction for the consideration of subdivision of land. Objectives and policies are process-oriented, seeking to protect and enhance the District's valued features and resources, and to subdivide land in a manner that provides for the changing needs of people and communities.⁴⁸ The majority of the policies⁴⁹ are focused upon general subdivision matters, which are either not relevant or the Proposal will be consistent.
151. Objective SUB-O5, requires subdivision to be designed to avoid, remedy, or mitigate any adverse effects on the environment and occurs in a sequenced and coherent manner. This objective is given effect to by SUB-P1 and SUB-P5. SUB-P1 is the key policy which directs subdivision design:

To enable subdivision where it meets the relevant zone, overlay and districtwide policies, where subdivision and development is designed to:

- 1. Reflect patterns of development that are compatible with the role, function, amenity values and predominant character of the zone.*
- 2. Maintain the integrity of the zone with allotment sizes sufficient to accommodate intended land uses.*
- 3. Respond positively to and integrate with the surrounding context.*
- 4. Appropriately avoid, remedy or mitigate adverse effects on:*
 - a. Outstanding Natural Features.*
 - b. Outstanding Natural Landscapes.*
 - c. Coastal Areas.*
 - d. Areas of High Natural Character.*
 - e. Areas of Outstanding Natural Character.*
 - f. Sites of Significance to Māori.*
 - g. Historic Heritage.*

⁴⁸ SUB-O2 Valued Features and Resources, SUB-O3 Community Needs, SUB-O4 Infrastructure, SUB-P1 Zone, Overlay and District Wide Provisions

⁴⁹ SUB-P2 Existing Development, SUB-P3 Boundary Adjustment, SUB-P4 Minor Residential Unit.

h. Significant Natural Areas.

i. Highly versatile soils.

152. SUB-P5 relates to the provision of infrastructure:
- To achieve efficient and effective provision of services and infrastructure by ensuring new allotments are capable of being provided with adequate services and infrastructure.*
153. The proposed subdivision will reflect the development patterns and amenity values of the GRZ, including a range of allotment sizes and residential development supported by detailed site design, which will reflect role, function, amenity values and predominant character of the GRZ. The proposed lot sizes are sufficient to accommodate GRZ land use activities, and servicing, as discussed above, has been comprehensively designed to ensure all proposed allotments will be serviced by reticulated services. The development has been designed to integrate with the surrounding residential suburb, creating open space, pedestrian and vehicle linkages between Dip Road and Tuatara Drive.
154. The Site is not identified by the ODP as containing any of those matters listed in SUB-P1(4), therefore the Proposal is not required to avoid, remedy or mitigate adverse effects on these.
155. For these reasons, I consider that the Proposal will be consistent with SUB-O1 and SUB-P1 and SUB-P5, the Proposal has been comprehensively designed to be sequenced and coherent. It is considered that the Proposal is consistent with the Subdivision objectives and policies.

General Residential Zone

156. The GRZ provides for traditional suburban densities and housing forms and is characterised by one to two-storey standalone residential units. Objectives and policies seek to provide for subdivision and development that is consistent with the planned suburban built environment and are compatible with the amenity levels of existing residential development.
157. In my opinion, the Proposal is consistent with the objectives and policies of the GRZ, particularly objectives GRZ-O1 Density, GRZ-O2 Housing Variety and GRZ-O3 Amenity, and policies GRZ-P1 Density and Character, GRZ-P2 Onsite Amenity, GRZ-P3 Adjacent Properties, and GRZ-P4 Residential Amenity and Character, because the Proposal has been carefully designed

to ensure that each allotment has sufficient area to enable future residential development to comply with all GRZ permitted activity standards for setback from boundary and outdoor living courts. I consider that the Proposal achieves a suburban built character that is anticipated and provided for in the GRZ. Furthermore, a high level of onsite amenity is achieved throughout the development due to the recreation reserve, landscape planting and road treatments.

158. In my opinion the Proposal will give effect to the relevant ODP policies.

Plan Change 1 Natural Hazards (Notified 2023)

159. At the time of writing this evidence PC1 further submissions had closed and no hearing had been scheduled. In my opinion, weight should be given to the objectives and policies of PC1 as they reflect a more up-to-date policy direction, particularly that of the Northland Regional Policy Statement. However, all policies had been challenged by way of submission, and are highly likely to change through the hearing and appeal process. I apply more weight to the ODP policy direction at this point in time.

160. The objectives and policies of PC1 generally seek to manage risk associated with natural hazards and to avoid inappropriate subdivision, land use and development, particularly vulnerable activities, in areas subject to natural hazard risk. NH-O1, NH-O2 and NH-O6 are relevant to the Proposal. Policies NH-P2 and NH-P3 provide direction to which risk shall be managed and assessed. NH-P5 seeks to ensure that the *“potential effects, including long-term effects, of climate change, including sea level rise, river flooding, drought and others, are considered when assessing natural hazard risks”*.

161. For reasons previously stated it is considered that the Proposal will give effect to PC1 policies because the proposed subdivision and servicing have been designed to ensure that potential natural hazard effects will be managed to mitigate and minimise the risk of natural hazards.

Assessment of other matters

162. There are no other matters I consider as “relevant and reasonably necessary” to consider in determining the application in terms of s104(1)(c) of the RMA.

Section 106 Assessment

163. In my opinion, the flood hazard and land instability risks will not be worsened or exacerbated by the Proposal, as the allotments avoid these areas. Furthermore, I consider that the provision of legal and practical access has been demonstrated for each proposed allotment. Therefore, I am satisfied that requirements of Section 106 are suitably addressed.

Part 2 Matters

164. In my opinion, there is no evidence that an assessment of Part 2 is required due to invalidity, incomplete coverage or uncertainty in the planning provisions assessed above. However, in the event that the hearing panel decides it is necessary to refer back to Part 2, I have provided an assessment of Part 2 below.

Section 5 – sustainable management

165. Section 5 of the RMA identifies the purpose of the RMA as being the “sustainable management of natural and physical resources”, which is defined as:

managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, cultural and economic well-being and health and safety while sustaining those resources for future generations, protecting the life supporting capacity of ecosystems, and avoiding, remedying or mitigating adverse effects on the environment.

166. For the reasons set out in my evidence, I consider that the Proposal meets this purpose as it will provide for 93 additional homes within an area identified in the District Plan for residential growth, while protecting and enhancing the Otapapa Stream in the way that does not unreasonably disrupt the amenity of the neighbouring properties or receiving environment.

Section 6 – matters of national importance

167. Section 6 of the Act sets out a number of matters of national importance including (but not limited to):
- section 6(a) - preservation of rivers and their margins;
 - section 6(d) – maintaining and enhancing public access to and along rivers;

- section 6(e) - the relationship of Māori and their culture and traditions and ancestral lands, waters, sites, wāhi tapu and other taonga;
- section 6(f) - the protection of historic heritage from inappropriate subdivision, use, and development; and
- section (h) - the management of significant risks from natural hazards.

168. I consider that the Proposal will achieve significant ecological benefits, including the restoration, enhancement and protection of Otapapa Stream. In addition, the proposed reserve will enhance access to the stream. Subject to compliance with conditions of consent, the Proposal will protect potential archaeological features and will manage risk from natural hazards. I address section 6(e) separately below.

Section 7 – other matters

169. Section 7 identifies a number of “other matters” to be given particular regard and includes (but is not limited to):

- Section 7(a) - Kaitiakitanga;
- Section 7(b) - the efficient use and development of natural and physical resources;
- Section 7(e) - the maintenance and enhancement of amenity values; and
- Section 7(f) – the maintenance and enhancement of the quality of the environment.

170. In my view, the Proposal represents an efficient use of the land and infrastructure for the purpose of efficient residential development. The design of the Proposal is consistent with the amenity values and outcomes anticipated for the GRZ. The Proposal will ensure the restoration and enhancement of the Otapapa Stream which will positively contribute to the enhancement of the quality of the environment. I address section 7(a) separately below

Section 6(e), 7(a) and 8 – Māori cultural and spiritual values

171. Section 8 requires councils to take into account the principles of the Treaty of Waitangi and needs to be considered alongside s6(e) recognising and providing for Māori cultural and spiritual values and having particular regard to s7(a) kaitiakitanga.

172. As I have previously discussed, I consider that the Proposal has taken into account the principles of the Treaty of Waitangi, with the Applicant having undertaken consultation and engagement with hapū, amended the Proposal to respond to concerns raised, and mitigated adverse effects.
173. As detailed in my cultural effect assessment section of evidence, I acknowledge that there is cultural interest in the wider area, but there remains uncertainty with respect to specific cultural values of the Site. As explained above, in my opinion the Applicant has recognised and provided for cultural and spiritual values of the Site as described by the CIA and provided for the kaitiakitanga of Otapapa Stream. As previously concluded, the potential effects from the residential use of the site, bulk earthworks and effects on waterways (including physical change or discharge), will not be adverse and will not result in adverse effects on the general cultural values identified in the CIA.
174. It is my opinion that the Proposal is consistent with Part 2 and achieves the purpose of the Act.

COMMENTS ON SUBMISSIONS

175. A total of 29 submissions on the Proposal have been recorded in the s42A Report.
176. In my opinion, the submissions do not raise new matters/effects that have not previously been addressed in the Applications, and the supporting expert assessments and the supplementary information provided to the Councils (s 92). The s42A Report has also taken these matters into account (and addressed them) when assessing the Proposal.
177. My preceding evidence has worked through the majority of issues that I believe submitters have raised. However, I briefly address the key points raised in the submissions, as follows.

Consultation

178. A number of submitters have raised concern that the Applicant has not undertaken consultation with affected parties, and mana whenua. As previously detailed, in my opinion consultation has been completed in accordance with the requirements of the RMA. Furthermore, the Applicant has undertaken extensive engagement with Ngāti Kahu o Tongare and Te Parawhau.

Cultural effects

179. A number of submitters have opposed the Proposal due to potential cultural effects, considering that the Proposal will have adverse effects on the Ōnoke pa. As previously discussed, in my opinion the Proposal will, taking into consideration the permitted baseline, anticipated development enabled by controlled activities, and the proposed mitigation measures, avoid or mitigate potential adverse effects on cultural values (as described in the Te Parawhau CIA) such that they are acceptable.

Traffic effects

180. Potential traffic and traffic safety effects as a result of the Proposal have been raised by a number of submitters, with the majority of the submitters stating that the Proposal will result in increased traffic on Tuatara Drive and Dip Road.
181. Submitters have raised concern with respect to traffic safety and management, particularly with the interface of traffic with Hurupaki School.
182. Mr Scanlen comprehensively considered the matters raised by submitters and concludes *“that the existing road network is adequate for the traffic generated by this subdivision and that, as such, its effects will be less than minor”*⁵⁰.

Servicing

183. Various submitters have raised concerns with respect to pressure on services and stormwater increasing flooding downstream. Fire and Emergency New Zealand (“FENZ”) are concerned that there is insufficient water pressure to sufficiently service the proposed development for fire fighting purposes.
184. FENZ is concerned that the Proposal has not taken into account the operational requirements to adequately provided for firefighting activities in a safe and effective and efficient manner as required by the Fire and Emergency New Zealand Act 2017.
185. Mr Holland confirms that hydrant flow testing shows that there is sufficient pressure and flow for the proposed development for both water reticulation

⁵⁰ Evidence of Mr Scanlen paragraph 43.

and firefighting purposes, with 4 existing additional fire hydrants located on Dip Road which provide additional coverage to the subdivision⁵¹.

Construction effects

186. A few submitters have raised concerns with respect to effects from construction activities. Effects associated with construction activities have potential ramifications on surrounding dwellings and their residents during the earthworks stage, infrastructure implementation stage, and construction stage, in particular concerns with noise nuisance.
187. I have discussed potential construction effects and proposed management and mitigation previously in my evidence, and I consider that the Proposal will appropriately mitigate potential construction effects to be less than minor.

Ecological effects

188. Submitters have raised matters with respect to ecological effects from the Proposal, including the loss of indigenous vegetation within the Site resulting in loss of ecological pathways, increased numbers of people resulting in more cats and dogs having adverse effects on adjacent Ōnoke reserve, and earthworks and stormwater discharge degrading the ecological quality of the Otapapa Stream.
189. Ms Vilde has undertaken a comprehensive assessment of the actual and potential ecological effects generated by the Proposal and responded to matters raised in submissions.⁵² In summary Ms Vilde concludes:

“In my opinion, the Proposal presents a balanced outcome in relation to ecological matters, striking a balance between protecting and enhancing areas of higher existing ecological values, while concentrating the potential future development within areas with minimal existing ecological values or functionality.

I consider that the potential adverse ecological effects of the proposal can be secured through best practice sediment and erosion control measures and appropriate planning and development controls. Provided that they are implemented successfully, adverse effects on the environment would be no more than minor, and would, in fact, allow for the enhancement of Otapapa Stream corridor and its immediate margins and a delivery of a positive biodiversity gain.

In my opinion the Proposal will improve the overall ecological health, structure, condition and function of Otapapa Stream and its riparian margins where they expand over the Site. It does this through stock

⁵¹ Evidence of Mr Holland paragraph

⁵² Evidence of M Vilde Section 8

exclusion from the stream and its margins in perpetuity, revegetation of riparian margins and comprehensive pest weed and pest animal control, strengthening ecological networks by protecting existing ecological features on site, creating new habitats and buffer areas, and improving the services provided by ecosystems and resulting in an overall environmental benefit to the indigenous habitats on site and associated indigenous wildlife within the site boundaries and immediate area.

It is my opinion that there are no ecological reasons to decline consent.”

190. Based on Ms Vilde’s detailed ecological assessments and the imposition of these measures, I consider that matters raised by submitters in relation to ecological effects have been appropriately avoided or mitigated such that they are insignificant and no more than minor.

Residential Character and Density

191. Submitters have raised the potential effects of the proposed subdivision and future residential development density on residential amenity, stating that the development is high density and not appropriate for the Kamo area.
192. As previously discussed, the Proposal reflects the density of development anticipated and provided for by the GRZ, at a level which is consistent with the planned suburban built character and is compatible with the amenity levels of existing residential development.

Open Space/Recreation Areas

193. Submitters have raised concern about the loss of open space and the lack of provision of recreational areas. The subject Site is not identified as open space or public reserve, it is privately owned and zoned for residential purposes. The Proposal includes provision of a recreational reserve and walkway along Otapapa Stream. Furthermore, the ODP does not require the provision of open space.

COMMENTS ON SECTION 42A REPORT

194. The s42A Report was prepared by consultant planner, Mr Alister Hartstone, with input from WDC reporting engineering officer Jo Floyd.

Environmental Effects

195. Having regard to the application material, the submissions received, and inputs from WDC’s specialists, Mr Hartstone has recommended that the WDC consent be declined on the grounds that the application “*would result*

in unavoidable and unacceptable adverse effects on those identified cultural values such that a recommendation to decline the application is necessary”.

196. Mr Hartstone and I generally agree the activities as set out in the WDC application will generally result in less than or minor potential effects (excluding cultural effects), subject to conditions of consent. Mr Hartstone and I disagree with respect to the potential adverse effects of the Proposal on cultural values.
197. Mr Hartstone has concluded that the *“extent of adverse effects arising from the Proposal on the identified cultural values are such that they cannot be mitigated or avoided and are therefore considered to be unacceptable”*⁵³. In my opinion Mr Hartstone failed to take a balanced approach to his assessment of potential adverse effects, and has failed to consider the permitted baseline, receiving environment and the proposed mitigation.

Cultural Effects

198. Mr Hartstone formed his opinion that the Site *“has significant cultural value”*⁵⁴ based upon the Te Parawhau CIA and findings made by the CDL Case. Mr Hartstone states that *“Despite not being mapped as a Site of Significance to Māori in the WDP, the CIA confirms that Onoke, inclusive of the whenua, native trees, and the Waitāua Stream, are taonga and wāhi tapū”*⁵⁵.
199. As detailed in my cultural effect assessment section of evidence, I consider there is extensive history associated with the area and cultural interest in the wider area, but there remains uncertainty with respect to the historical cultural use of the Site and therefore cultural values of the Site. I cannot understand how Mr Hartstone has reached his opinion that the Site has “significant cultural value”.
200. Unlike Mr Hartstone I have assessed the general cultural values identified in the CIA, concluding that the Proposal will not result in adverse effects to those general cultural values identified. Contrary to Mr Hartstone, I take a balanced consideration of potential cultural effects, taking into consideration the permitted baseline, the receiving environment and the

⁵³ S42A Report paragraph 82.

⁵⁴ S42A Report paragraph 68.

⁵⁵ S42A Report paragraph 68.

proposed mitigation measures, concluding that the potential for the Proposal to have adverse effects on cultural values as described in the Te Parawhau CIA will be avoided or mitigated such that the potential effects are acceptable.

National Policy Statement for Urban Development 2020 (NPS-UD)

201. Mr Hartstone concludes that the NPS-UD, *“objective and policy are considered to signal that while land may be zoned for residential purposes, development of that land is provided for under the NPS-UD must take into account the principles of Te Tiriti o Waitangi”*⁵⁶. I disagree with Mr Hartstone, the NPS-UD sets very clear direction to Council in its consideration of planning processes, it must take into account the principles of the Te Tiriti o Waitangi, it does not provide any signal with respect to plan implementation. I also note that the Urban and Services Plan Changes were promulgated to give effect to the NPS-UD.
202. Mr Hartstone also states that Clause (c) and (d) of policy 9 apply, I disagree with Mr Hartstone because:
- (a) Clause (c) places an obligation on Council to provide the opportunity for Māori to be involved in decision making;
 - (b) Clause (d) requires Council to operate in a way that is consistent with iwi participation legislation. No iwi legislation is relevant to this Proposal.
190. As previously discussed, it is my opinion, that the Applicant has undertaken efforts to engage with and work with hapū taking into account the principles of the Treaty of Waitangi.

National Policy Statement for Freshwater Management (amended February 2023)

203. Mr Hartstone has not provided a conclusion with respect to the NPS-FW stating that *“the NPS-FW is read as protecting the health of freshwater, and where water bodies such as the Waitaua Stream are identified as having Maori freshwater values (in this case mahinga kai and wahi tapu), those require consideration as specific values of importance when making a decision on the applications”*⁵⁷.

⁵⁶ S42A Report paragraph 88.

⁵⁷ S42A Report paragraph 92.

204. I conclude that the Proposal will give effect to the NPS-FW, as previously discussed. The Proposal has been designed to protect and enhance the Otapapa Stream, therefore protecting the “specific values of importance”.

Northland Regional Policy Statement and Proposed Regional Plan for Northland

205. With respect to the RPS, Mr Hartstone concludes that the:

“Proposal will be in direct conflict with the stated objective [3.12] and policy [8.1.2] of the RPS by not recognising the role of kaitiaki as it relates to the cultural values on the site, nor does it recognise and provide for the evident relationship between tangata whenua and the site and the values it contains”⁵⁸.

206. As previously discussed, I do not consider that there is an “evident relationship” between tangata whenua and the Site, nor do I consider that specific cultural values of the Site have been proven. Furthermore, I have detailed how the Proposal has recognised the role of hapū as Kaitiaki. Therefore, I consider that the Proposal is consistent with objective 3.12 and policy 8.1.2.

207. I disagree with Mr Hartstone, and consider as detailed previously in my evidence that the Proposal will give effect to or will be consistent with the relevant RPS policy.

208. With respect to the PRP Mr Hartstone concludes, “*In accordance with Policy D.1.5, Onoke and the Waitaua Stream constitute a Place of Significance to tangata whenua under the Policy*”. As previously discussed, I do not consider that the CIA provides sufficient detail to comply with the requirements of Policy D.1.5 to confirm that Onoke and Waitaua Stream (Otapapa Stream) are places of significance to tangata whenua.

209. Mr Hartstone further describes Policy D.1.4 concluding that the use of “*may generally only be granted*” narrows the scope to grant consent. Stating further that “*it is also not known that what extent any proposed conditions may avoid or mitigate cultural effects of the activity*”. As previously discussed, I consider that the Proposal will avoid and mitigate potential effects, particularly on the Otapapa Stream.

210. I consider that the Proposal will give effect to or be consistent with the relevant PRP policies.

⁵⁸ S42A Report paragraph 96.

Whangārei District Plan (ODP)

211. Mr Hartstone has provided a brief summary of the ODP objectives and policies, stating that the provisions emphasise the consultation process to identify and protect sites of significance to Māori and historic heritage. He concludes that the Proposal will not protect or provide for the cultural values identified on the Site, therefore considered to be contrary to the provisions.
212. I disagree with Mr Hartstone. I have undertaken a detailed assessment of all ODP policy previously within my evidence and conclude that the proposal will be consistent with the objectives and policies.

Conclusion

213. Mr Hartstone concludes:

“The objectives and policies throughout the hierarchy of relevant planning provisions reflect Part 2 of the RMA as they relate to Sections 6(e), 7(a), and 8. The proposal will not provide for or protect the cultural values associated with the site. It is considered that granting consent to the application would result in unavoidable and unacceptable adverse effects on those identified cultural values such that a recommendation to decline the application is necessary”.

214. I disagree with Mr Hartstone’s conclusion for the following reasons:

- (a) I have provided a complete assessment of the Proposal, confirming that it does in fact give effect to or is consistent with all relevant policy within the hierarchy of relevant planning provisions.
- (b) I conclude that the Proposal will give effect to sections 6(e), 7(a), and 8.
- (c) I consider that no policy directs “avoidance” of adverse effects on cultural values, instead policy direction seeks to “protect”, “enhance”, “does not adversely affect” cultural values.
- (d) On balance, taking into consideration the permitted baseline, the receiving environment and the proposed mitigation measures, it is my opinion that the potential for the Proposal to have adverse effects on cultural values as described in the Te Parawhau CIA will be avoided or mitigated such that the potential effects are acceptable.

DRAFT CONDITIONS OF CONSENT

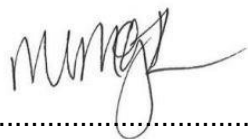
215. I have prepared proposed conditions for the Proposal, as set out in **Attachment 2** to my evidence. I provide the following summary of the consent conditions proposed:

- (a) Survey and easements – Conditions 1, 3a will ensure the subdivision is established in accordance with the information supplied with the Application, and that the survey plan includes all appropriate amalgamation conditions and easements.
 - (b) General engineering – Conditions 3b, d, 4a – n, will ensure that all detailed engineering plans and designs are approved prior to construction, all pre-start approvals are gained, and work is completed in accordance approved plans and approvals.
 - (c) Engineering – management plans – Conditions 4a - b ensure traffic management and erosion and sediment control plans are in place to manage effects during construction.
 - (d) Road naming – Condition 3d ensure compliance with WDC's road naming policy and erection of appropriate signage.
 - (e) Heritage and Cultural – Conditions 3g, 4 o and p ensure management of potential effects prior to commencement of construction, including site blessing, Heritage New Zealand authority and accidental discovery protocol during construction.
 - (f) Geotechnical/Earthworks – Conditions ensure that all proposed earthworks, retaining walls, and site establishment will comply with recommendations of LDE Geotechnical Investigation and will not result in site instability. These conditions also ensure potential dust nuisance and tracking of spoil is managed.
 - (g) Ecology – Conditions 2 a and b, and 4 q - v seek to manage effects on Otapapa Stream, achieved through the protection and on-going management of the proposed recreation reserve.
 - (h) Consent notices – Conditions 4 w and x apply conditions against the future records of title to manage on-going effects such as geotechnical assessment of building foundations.
216. I consider that these conditions appropriately manage and mitigate effects, forming a basis on which consent could be granted, should the Commissioners be minded to do so.

CONCLUSION

217. My evidence has worked through the relevant statutory requirements for the determination of this application under the RMA, including Sections 104,104B and 106.
218. In particular, I consider:
- (a) actual and potential adverse and positive effects of the proposal. In my opinion, the evidence presented by the Applicant has demonstrated that any adverse effects will be no more than minor and acceptable, subject to suitable conditions of consent. There will also be positive effects associated with the application, in particular those relating to the revegetation and ongoing protection of areas of the Site.
 - (b) that I have undertaken of a comprehensive assessment of the relevant statutory documents. In my opinion, the Proposal accords with these documents and in some instances finds specific support in relation to the ecological and public access enhancement elements.
 - (c) the matters raised in submissions have been addressed through the body of evidence, or within the technical evidence for the Applicant.
219. Overall, having carefully considered all relevant matters, I recommend that resource consent should be granted, subject to the conditions of consent contained in **Attachment 2**.

DATED this 31st day of October 2023



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Melissa Mcgrath

ATTACHMENT 1 – QUALIFICATIONS AND EXPERIENCE



Melissa McGrath

Senior Associate

BA; MRP; MNZPI

Melissa has over 20 years of experience in resource management planning with a range of experience in consenting, policy development, consultation and public engagement. Melissa has worked for local authorities throughout the Northland Region, processing resource consent applications, preparing changes to various district plans and creating policy. During her time at Whangārei District Council, Melissa was Team Leader in Resource Consents and shifted to District Plan Manager leading the rolling review of the District Plan. Melissa has worked internationally with Pacific Aid undertaking policy work in Vanuatu. Melissa previously worked in private consultancy undertaking consenting and policy work throughout New Zealand.

Expertise

- Strategic policy
- District Plan changes, private and public
- Resource consent processing, application preparation and management
- Public consultation

Qualifications

- Bachelor of Arts, (Environmental Studies Major) Massey University
- Masters of Resource Management

Affiliations

- Full Member of the New Zealand Planning Institute

Projects / Key Experience

Resource consents: Reporting on a number of land use and subdivision consents throughout New Zealand addressing a wide range of environmental, economic, social and cultural issues. Presenting evidence at resource consent hearings on behalf of Council as reporting planner, submitters and applicants. Preparation and management of consents for small to large scale development within Auckland, Northland and other regions. Resource consent team leader for Whangārei District Council, completing review of applications (s88), managing processing and approving decisions under delegation (s95 and s104 reports).

Particular examples: Lead planner for applicant, seeking subdivision, landuse and discharge consents for a significant greenfield development at Three Mile Bush Road, Kamo, as a non-complying activity. This included a combined Council hearing, appeal and Environment Court mediation, and was ultimately approved. Lead planner for significant tranche of redevelopment sites within Whangārei on behalf of Kāinga Ora. Lead planner for Northpower Limited, seeking notice of requirements for major infrastructure development.

Policy: Managing District Plan Review, leading council hearing and appeal management. Preparation of Private and District Plan Changes including section 32 evaluation, 42A Reporting, attendance at hearings and preparation of written right of reply and Environment Court Mediation and Expert Witness. Managing and working alongside technical consultants. Community / Stakeholder engagement including presentations on marae and Council workshops.

ATTACHMENT 2 – PROPOSED CONDITIONS

SL2100055 – Onoke Heights Limited – Dip Road, Kamo

Under s 108, 108AA and 220 of the RMA, this consent is subject to the following conditions:

1. This resource consent shall be carried out in general accordance with the documents and drawings and all supporting additional information submitted with the application, detailed below, and all referenced by the Council as resource consent number SL2100055, unless a condition of consent specifies otherwise:

a) Application Form and Assessment of Environmental Effects prepared by Barker and Associates dated 26 November 2021;

b) Section 92 Further Information Responses prepared by Barkers and Associates, including:

11 February 2022

- Concept Scheme Plan by Blue Wallace Surveyors Limited reference 20253-01-PL-102 revision 14 dated 10 January 2021.
- Building Envelope Detail Plan by Blue Wallace Surveyors Limited reference 20253-01-PL-103 revision 2 dated 24 November 2021.
- Flood Level Detail – 100 Year Event Plan by Blue Wallace Surveyors Limited reference 20253-01-PL-105 revision 1 dated 16 December 2021.
- Flood Level Detail – 100 Year Event Plan by Blue Wallace Surveyors Limited reference 20253-01-PL-106 revision 1 dated 10 December 2021.
- Resource Consent Plan – Existing Contours Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-200 revision 4 dated 28 January 2022.
- Resource Consent Plan – Design Contours Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-201 revision 4 dated 28 January 2022.
- Resource Consent Plan – Cutoff Volume Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-202 revision 4 dated 28 January 2022.
- Resource Consent Plan – Retaining Wall Scheme by Blue Wallace Surveyors Limited reference 20253-01-RC-203 – 207 revision 4 dated 28 January 2022.
- Resource Consent Plan – Roading Overview by Blue Wallace Surveyors Limited reference 20253-01-RC-300 revision 2 dated 19 January 2022.
- Resource Consent Plan – Road A Longsection CH 0.00-280.00 by Blue Wallace Surveyors Limited reference 20253-01-RC-301 revision 2 dated 19 January 2022.
- Resource Consent Plan – Road A Longsection CH 180.00-392.00 by Blue Wallace Surveyors Limited reference 20253-01-RC-302 revision 2 dated 19 January 2022.
- Resource Consent Plan – Road B Longsection CH 0.00-200.00 by Blue Wallace Surveyors Limited reference 20253-01-RC-303 revision 2 dated 19 January 2022.

- Resource Consent Plan – Road B Longsection CH 120.0-289.00 by Blue Wallace Surveyors Limited reference 20253-01-RC-304 revision 2 dated 19 January 2022.
- Resource Consent Plan – Road C Longsection by Blue Wallace Surveyors Limited reference 20253-01-RC-305 revision 2 dated 19 January 2022.
- Resource Consent Plan – Access Lot 302 Longsection by Blue Wallace Surveyors Limited reference 20253-01-RC-306 revision 2 dated 19 January 2022.
- Resource Consent Plan – Vehicle Tracking Curves by Blue Wallace Surveyors Limited reference 20253-01-RC-307 revision 2 dated 19 January 2022.
- Engineering Plan – Road A Typical Cross Section by Blue Wallace Surveyors Limited reference 20253-01-RC-350 - 357 revision 1 dated 17 November 2021.
- Northpower 33kV Trench Profile Three Mile Bush Road, reference 20183-00-EN-358
- Vehicle Crossings for Lots 9 & 10, 21, 33, 45 & 46 & 200, Vehicle Crossings for Lots 53-55 & 35-39 20183-00-EN-359.
- Resource Consent Plan – Sanitary Sewer Overview by Blue Wallace Surveyors Limited reference 20253-01-RC-400 revision 2 dated 19 January 2022.
- Resource Consent Plan – Storm Water Overview by Blue Wallace Surveyors Limited reference 20253-01-RC-500 revision 3 dated 10 February 2022.
- Resource Consent Plan – Stormwater Layout by Blue Wallace Surveyors Limited reference 20253-01-RC-501 revision 3 dated 10 February 2022.
- Resource Consent Plan – Water Reticulation Overview by Blue Wallace Surveyors Limited reference 20253-01-RC-600 - 602 revision 2 dated 28 January 2022.
- Resource Consent Plan – Water Reticulation Overview by Blue Wallace Surveyors Limited reference 20253-01-RC-700 – 702 revision 2 dated 28 January 2022.
- Resource Consent Drawings– Lighting and Planting Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-800 revision 1 dated 19 January 2022.
- Three Waters Design Report, prepared by LDE, reference 19103 issued 2 February 2022.
- Response to WDC RC Checklist Requirements, prepared by LDE, reference 19103 dated 2 February 2022.
- Geotechnical Review Response, prepared by LDE, reference 19103 dated 2 February 2022.
- Surveyor Certification of stream survey, prepared by Blue Wallace Surveyors dated 8 February 2022.
- Response to Comments from Northland Transport Alliance, prepared by Engineering Outcomes dated 28 January 2022.

5 April 2023

- Revised Assessment of Environmental Effects prepared by Barker and Associates dated 5 April 2022, including updated Appendices:
 - Appendix 3 Concept Scheme Plan by Blue Wallace Surveyors Limited reference 20253-01-PL-102 revision 19 dated 4 April 2023;
 - Appendix 8 Rules Assessment
 - Appendix 13 Notes from Hui with Ngati Kahu o Torongare Hapu
 - Appendix 14 Consultation Record
 - Appendix 15 Archaeological Assessment prepared by Geometria Limited dated 28 February 2022
 - Appendix 16 Cultural Impact Assessment prepared by Georgina Olsen on behalf of Te Parawhau Hapū dated October 2022
 - Appendix 17 Minutes from Hui with Te Parawhau, WDC and Applicant
 - Appendix 18 Ecological Assessment Memo prepared by Wild Ecology dated December 2022
- c) Scheme Plan prepared by Blue Wallace Surveyors Limited reference 20183-00-PL-100 revision 20 dated 31 August 2023;
- d) Engineering Plans prepared by Blue Wallace Surveyors Limited:
- Resource Consent Plan – Cutoff Volume Plan reference 20253-01-RC-202 revision 4 dated 28 January 2022.
 - Resource Consent Plan – Retaining Wall Scheme reference 20253-01-RC-203 – 207 revision 4 dated 28 January 2022.
 - Resource Consent Plan – Roading Overview reference 20253-01-RC-300 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road A Longsection CH 0.00-280.00 reference 20253-01-RC-301 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road A Longsection CH 180.00-392.00 reference 20253-01-RC-302 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road B Longsection CH 0.00-200.00 reference 20253-01-RC-303 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road B Longsection CH 120.0-289.00 reference 20253-01-RC-304 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road C Longsection reference 20253-01-RC-305 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Access Lot 302 Longsection reference 20253-01-RC-306 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Vehicle Tracking Curves reference 20253-01-RC-307 revision 2 dated 19 January 2022.
 - Engineering Plan – Road A Typical Cross Section reference 20253-01-RC-350 - 357 revision 1 dated 17 November 2021.
 - Northpower 33kV Trench Profile Three Mile Bush Road, reference 20183-00-EN-358

- Vehicle Crossings for Lots 9 & 10, 21, 33, 45 & 46 & 200, Vehicle Crossings for Lots 53-55 & 35-39 20183-00-EN-359.
 - Resource Consent Plan – Sanitary Sewer Overview reference 20253-01-RC-400 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Storm Water Overview reference 20253-01-RC-500 revision 3 dated 10 February 2022.
 - Resource Consent Plan – Stormwater Layout reference 20253-01-RC-501 revision 3 dated 10 February 2022.
 - Resource Consent Plan – Water Reticulation Overview reference 20253-01-RC-600 - 602 revision 2 dated 28 January 2022.
 - Resource Consent Plan – Water Reticulation Overview reference 20253-01-RC-700 – 702 revision 2 dated 28 January 2022.
 - Resource Consent Drawings– Lighting and Planting Plan reference 20253-01-RC-800 revision 1 dated 19 January 2022.
- e) Integrated Traffic Assessment prepared by Engineering Outcomes Ltd dated 24 November 2021;
- f) Three Waters Design Report, prepared by LDE, reference 19103 issued 2 February 2022.
- g) Geotechnical Investigation referenced 19103 prepared by LDE dated 2 July 2021;
- h) Ecological Assessment Memo prepared by Wild Ecology dated December 2022;
and
- i) Archaeological Assessment prepared by Geometria Limited dated 28 February 2022.

2. Prior to commencing vegetation clearance:

- a) Prior to the removal of any vegetation on the subject site (except for those trees which are subject of the Certificate of Compliance CC2300005 dated 13 September 2023) as part of works for the consented development, the Consent Holder shall employ a suitably qualified and experienced ecologist to inspect all trees proposed to be cleared. The tree inspection should include assessment of active bird nests, indigenous lizard presence and assessment of bat roosts. Should any active bird nests, bat roosts or native herpetofauna be identified within the tree clearance footprint all works are to cease until appropriate Wildlife permits for salvage and relocation can be obtained. A summary of the vegetation pre-clearance assessment will be provided to Council within 7 working days of the date of the vegetation pre-clearance inspection.
- b) The consent holder shall employ a suitably qualified and experienced ecologist, who must be onsite to supervise any vegetation removal. Should any active bird

nests be identified during the pre-vegetation clearance survey, appropriate exclusion areas ($\geq 10\text{m}$) should be demarcated, nests monitored for fledging and vegetation clearance postponed until chicks have fledged.

3. That before the survey plan is certified pursuant to s 223 of the RMA, the following requirements are to be satisfied:
 - a) The survey plan submitted for approval shall be in general accordance with the Scheme Plan prepared by Blue Wallace Surveyors Limited, entitled "Concept Scheme Plan, Section 1 SO 65970, Kamo, Whangarei, prepared for Onoke Heights Limited" reference as 20253-01-PL-102 Rev. 20 dated 31 August 2023 as attached to this consent. The survey plan submitted shall show:
 - i. Lot 300 as road to vest to Whangārei District Council;
 - ii. Lot 200 as drainage reserve to vest to Whangārei District Council;
 - iii. Lot 201 as recreation reserve to vest to Whangārei District Council;
 - iv. Lot 202 as reserve to vest to Whangārei District Council;
 - v. Lot 301 (Legal Access) is to be held as three undivided one-third shares by the owners of Lots 24 to 26, and new Records of Title are to be issued in accordance therewith. Pursuant to Section 220(1)(b)(iv) Resource Management Act 1991 (See LINZ Request **XX**);
 - vi. Lot 302 (Legal Access) is to be held as eight undivided one-eighth shares by the owners of Lots 57 to 64, and individual Records of Title are to be issued in accordance therewith and new Records of Title are to be issued in accordance therewith. Pursuant to Section 220(1)(b)(iv) Resource Management Act 1991 (See LINZ Request **XX**);
 - vii. All easements required for existing and proposed internal servicing, access, and any stormwater overland flow paths affected by the development to the approval of the Council's Development Engineer or delegated representative.

General Engineering

- b) The consent holder must submit a detailed set of engineering plans prepared in accordance with Council's Environmental Engineering Standards 2010 Edition. The engineering plans are to be submitted to the Council's Development Engineer for approval.

It is to be noted that certain designs may only be carried out by Chartered Professional Engineer (CPEng) working within the bounds of their assessed competencies. All work needing design/certification by a Council approved CPEng will require completion of a producer statement (design) (EES-PS1 or similar).

The Consent holder is to submit all documentation as required by Council "Quality Assurance/Quality Control Manual – Vested Assets". This will include nomination of an CPEng and an "Inspection and Test Plan" for approval by the Council's Development Engineer before any works commence.

Plans are to include but are not limited to:

- i. Design details of the construction of road to vest (Lot 300) in general accordance with:
 - Resource Consent Plan – Rooding Overview reference 20253-01-RC-300 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road A Longsection CH 0.00-280.00 reference 20253-01-RC-301 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road A Longsection CH 180.00-392.00 reference 20253-01-RC-302 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road B Longsection CH 0.00-200.00 reference 20253-01-RC-303 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road B Longsection CH 120.0-289.00 reference 20253-01-RC-304 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Road C Longsection reference 20253-01-RC-305 revision 2 dated 19 January 2022.
 - Resource Consent Plan – Vehicle Tracking Curves reference 20253-01-RC-307 revision 2 dated 19 January 2022.
 - Engineering Plan – Road A Typical Cross Section reference 20253-01-RC-350 - 357 revision 1 dated 17 November 2021.
- ii. Design details of the construction of access lots 301 and 302 in general accordance with the Resource Consent Plan – Rooding Overview reference 20253-01-RC-300 revision 2 dated 19 January 2022 and Resource Consent Plan – Access Lot 302 Longsection reference 20253-01-RC-306 revision 2 dated 19 January 2022.
- iii. Design details of the new intersection with Dip Road in general accordance with Resource Consent Plan – Rooding Overview reference 20253-01-RC-300 revision 2 dated 19 January 2022.
- iv. Design details of vehicle crossings for lots 21, 45 & 46, 69 & 70, 72 & 200 referenced 20183-00-EN-359.

- v. Design details of connection and reticulation of sanitary sewer, stormwater and water services in general accordance with:
- Sanitary Sewer Overview 20253-01-RC-400 revision 2 dated 19 January 2022;
 - Stormwater plans 20253-01-RC-500 and 501 revision 3 dated 10 February 2022;
 - Water reticulation 20253-01-RC-600, 601, 602 and 603 revision 2 dated 28 January 2022;
 - Water reticulation 20253-01-RC-700, 701, 702 revision 2 dated 28 January 2022;
- vi. Design details of a common stormwater treatment/attenuation pond system within proposed Lot 200 prepared in general accordance with Land Development & Exploration Ltd (LDE Ltd) Three Waters Design Report, reference 19103 issued 2 February 2022, plus all other additional information and plans, inclusive of all calculations, provided in support of the proposal.
- Operation and maintenance manuals shall be provided with the attenuation pond designs.
- vii. Design details of street lighting and planting in general accordance with Lighting and Planting Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-800 revision 1 dated 19 January 2022.
- viii. Design details of all retaining walls in general accordance with the Cutfill Volume Plan by Blue Wallace Surveyors Limited reference 20253-01-RC-202 revision 4 dated 28 January 2022 and Retaining Wall Scheme by Blue Wallace Surveyors Limited reference 20253-01-RC-203 – 207 revision 4 dated 28 January 2022 undertaken in general accordance with the LDE Geotechnical Investigation dated 2 July 2021.
- c) The consent holder shall provide written confirmation from the telecommunications and power utility service operator of their consent conditions in accordance with Council's Environmental Engineering Standards 2010 Edition and show necessary easements on the survey plan to the approval of the Council's Post Approval Officer or delegated representative.
- d) The consent holder must provide Council with three proposed street/road/access names in writing for the proposed road to vest (Lot 300) and private road (Lot 302) in accordance with Council's Road Naming Policy, and in order of preference, giving reasons for each proposed name, for approval by Council. A clear plan

detailing the route of the proposed street/road/access should also be submitted and any evidence of consultation relating to the proposed names.

Note:

Please refer to the road naming policy and guidelines available on Council's website <http://www.wdc.govt.nz/PlansPoliciesandBylaws/Policies/Pages/Road-Naming-Policy.aspx>. This condition will not be deemed to be satisfied unless Council has approved the submitted names in writing.

Ecological Restoration Works

- e) The Draft Revegetation Planting Plan (RPP) for Lots 200 and 201 prepared by Wild Ecology (dated October 2023) is to be finalised and submitted to Council's RMA Team Leader RMA Approvals and Compliance (or delegated representative) for approval.
- f) The RPP shall as a minimum contain detail regarding site preparation for planting, eco-sourcing of plants, management of biosecurity and plant diseases, ongoing maintenance and monitoring, pest weed control, and pest animal control. Planting density shall be configured with a goal of achieving 90% canopy closure within five years of planting. Maintenance and monitoring shall be for a minimum of 5 years following the issue of 224(c) certificate.

Heritage

- g) Prior to any site works being undertaken the consent holder shall provide evidence that an Authority has been obtained from Heritage New Zealand Pouhere Taonga to the Councils Manager RMA Consents or delegated representative.
4. Before a certificate is issued pursuant to s 224(c) of the RMA the following requirements are to have been satisfied:

Engineering and Services

- a) The consent holder shall prepare and provide a Construction Management Plan in accordance with Section 1.9 of the Councils Environmental Engineering Standards 2010 ('EES 2010') for certification by the Councils Monitoring Officer or delegated representative. In addition to the matters listed under Section 1.9 of the EES 2010.
- b) The consent holder shall notify Council, in writing, of their intention to begin works, a minimum of seven days prior to commencing works. Such notification shall be sent to the Council's Development Engineer and include the following details:

- i. Name and telephone number of the project manager/ CPEng.
 - ii. Site address to which the consent relates.
 - iii. Activities to which the consent relates.
 - iv. Expected duration of works.
- c) At least 10 working days prior to commencement of earthworks, the consent holder shall invite in writing, and provide the opportunity for, Mana Whenua to perform site blessings, karakia and cultural inductions. The consent holder shall provide written evidence to the Council's Manager RMA Consents or delegated representative to illustrate that an invitation has been made.
- d) The consent holder is to submit a Corridor Access Request application to Council's Road Corridor Co-ordinator and receive written approval for all works to be carried out within Council's Road Reserve in accordance with Council's Environmental Engineering Standards 2010 to the satisfaction of the Development Engineer or delegated representative (refer to the advisory clause below for the definition of a Corridor Access Request).
- e) A copy of the approved engineering plans and a copy of the resource consent conditions, Inspection and Test Plan, approved corridor access request and the above letter are to be held onsite at all times during construction. All personnel working on the site shall be made aware of and have access to the resource consent and accompanying documentation.
- f) All work on the approved engineering plans in condition 3 b) is to be carried out to the approval of the Council's Development Engineer. Compliance with this condition shall be determined by site inspections undertaken as agreed in Council's engineering plan approval letter/ Inspection and Test Plan, and provision of the following:
 - i. Results of all testing, video inspection records of all wastewater and stormwater reticulation, PE pipeline pressure testing and weld data logging results.
 - ii. PS4 and approval of supporting documentation provided by the consent holder's representative/s including evidence of inspections by those persons, and all other test certificates and statements required to confirm compliance of the works as required by Council's QA/QC Manual and the Council's Environmental Engineering Standards 2010.
 - iii. PS3 "Certificate of Completion of Development Works" from the Contractor.

- iv. Code of Compliance Certification under the Building Act for all retaining walls.
- g) The consent holder shall reinstate Council's footpath, kerb and channel, road carriageway formation, street berm and urban services where damage has been caused by the demolition and/or construction works associated with the subdivision or land use consent/s. The assets shall be reinstated in accordance with Council's Environmental Engineering Standards 2010 Edition at the expense of the consent holder and to the satisfaction of the Council's Development Engineer or delegated representative.
- h) The consent holder shall provide written confirmation from a Licensed Cadastral Surveyor that all services and accesses are located within the appropriate easement boundaries for the certification of the Council's Development Engineer or delegated representative.
- i) The consent holder must submit certified RAMM data for all new/upgraded Roading infrastructure prepared by a suitably qualified person in accordance with Council's Engineering Standards 2010 Edition to the satisfaction of the Development Engineer or delegated representative.
- j) The consent holder shall submit written confirmation from power services operators that their conditions for this development have been satisfied in accordance with Council's Engineering Standards 2010 Edition to the approval of the Councils' Post Approval Officer or their delegated representative.
- k) The consent holder shall ensure that spoil from the site is not tracked out onto Council Road formations to the satisfaction of the Development Engineer or delegated representative.
- l) Dust nuisance must be controlled onsite (by use of a water cart or similar) by the applicant so as not to cause "offensive or objectionable" dust at or beyond the boundary of the development.
- m) The consent holder must supply and erect the road signs displaying the public road and private access names approved under Condition 3 d) above in accordance with Sheet 25 of Council's Environmental Engineering Standards 2010 Edition. The sign shall be in a position where it is most visible for road users to the satisfaction of the Council's Development Engineer or delegated representative.

- n) The consent holder must submit for approval a completed 'statement of professional opinion as to suitability of land for building development' (form EES-P01) including a detailed site plan of any areas of or ground stabilisation, cut or fill, from a Chartered Professional Engineer. Any site restrictions shall be included and confirmation that the land is suitable for building development, to the satisfaction of the Council's Development Engineer or delegated representative. This Form EES PO1 (and associated reports, plans and similar) will be registered against the relevant titles via a consent notice.

Heritage

- o) Where, during earthworks on the site, any archaeological feature, artefact or human remains are accidentally discovered or are suspected to have been discovered, the following protocol shall be followed:
- i. All works within 20m of the discovery site will cease immediately. The contractor/works supervisor shall shut down all equipment and activity.
 - ii. The area shall be secured and the consent holder or proponent and the Council must be advised of the discovery.
 - iii. Heritage New Zealand Pouhere Taonga shall be notified by the consent holder or proponent so that the appropriate consent procedure can be initiated.
 - iv. The consent holder or proponent shall consult with a representative of the appropriate iwi to determine what further actions are appropriate to safeguard the site and its contents.
- p) In the case where human remains have accidentally been discovered or are suspected to have been discovered, the following will also be required:
- i. The area shall be immediately secured by the contractor in a way which ensure human remains are not further disturbed. The consent holder or proponent shall be advised of the steps taken.
 - ii. The Police shall be notified of the suspected human remains as soon as practicably possible after the remains have been disturbed. The consent holder or proponent shall notify the appropriate iwi and Heritage New Zealand Pouhere Taonga and the Council within 12 hours of the suspected human remains being disturbed, or otherwise as soon as practically possible.

- iii. Excavation of the site shall not resume until the Police, Heritage New Zealand Pouhere Taonga and the relevant iwi have each given the necessary approvals for excavation to proceed.

Note: If any land use activity (such as earthworks, fencing or landscaping is likely to modify, damage or destroy any archaeological site (whether recorded or unrecorded) an "authority" consent from Heritage New Zealand Pouhere Taonga must also be obtained for the work to lawfully proceed.

Ecological Planting

- q) That the Revegetation Planting Plan for lots 200 and 201 is implemented during the physical development of the Site to ensure that appropriate off-set mitigation planting and ecological enhancement of the Otapapa Stream corridor is carried out to deliver appropriate ecological outcomes.
- r) All ecological planting, animal pest and weed management within Lots 200 and 201 shall be implemented in accordance with the certified Revegetation Planting Plan. Evidence of compliance with this condition shall be provided to Council in writing from a suitably qualified and experienced ecologist prior to the issue of the s224(c) certificate.
- s) Ongoing maintenance and monitoring including weed and pest animal control and plant replacement within Lots 200 and 201 is to take place for minimum of 5 years following the issue of s224(c) certificate. Maintenance schedule is to follow the recommendations outlined within the certified Revegetation Planting Plan.
- t) Upon the completion of the 5-year maintenance and monitoring period a Monitoring and Maintenance Completion Report prepared by a suitably qualified and experienced Ecologist and/or other evidence that demonstrates that ongoing maintenance has been completed to the required standard, shall be provided to the satisfaction of Council's RMA Team Leader RMA Approvals and Compliance (or delegated representative).
- u) The consent holder shall install signage at the public walkway entrance points into Lots 200 and 201 to inform users that all dogs must be on leads at all times when entering these areas.

Bond

- v) Pursuant to s 108(2)(b) and 108A of the RMA, a bond shall be entered into with respect to the Ecological Planting required under the Revegetation Planting Plan certified by Council under condition 3 f).

The bond shall be prepared by the Council's solicitor at the expense of the consent holder and shall be drawn if required by the Council in a form enabling it to be registered pursuant to s 109 of the RMA against the title or titles to the land to which this bond relates. Performance of the bond shall be with a cash bond or other suitable financial instruments to the satisfaction of the Council, with provision for release of a portion of bond once every year for the five year period of the bond. The bond, prepared at that new registered proprietor's expense and to the reasonable satisfaction of the Council's solicitor, shall include the same terms and conditions as are included in the bond presently securing performance of the maintenance works for the subject lot.

The maximum amount of the bond registered in that can be released in any one year is one fifth of the total bond amount and will only be released on receipt of suitable evidence that maintenance and failed plant replacement has been suitably carried out in accordance with condition 3. f). Upon satisfactory proof of transfer of the title by the consent holder to a new owner of any one or more of the lots, the Council shall accept from the new registered proprietor a bond in substitution of the existing bond.

Consent Notices

- w) Pursuant to s 221 of the RMA, the consent holder shall ensure that a consent notice must be prepared and be registered on the Computer Freehold Register on Lots 1 - 93 at the consent holder's expense, containing the following conditions which are to be complied with on a continuing basis by the subdividing owner and subsequent owners:
 - i. Any development shall comply with the restrictions and recommendations (foundation, stormwater and access) of the Geotechnical Assessment prepared by LDE dated 2 July 2022 above and earthworks completion report EES-PO1 provided on completion of this development provided under condition **XX** above, unless an alternative engineering report prepared by a suitably experienced Chartered Professional Engineer is approved in writing by Council.
- x) A solicitor's undertaking shall be provided to Council confirming that the consent notices prepared for registration under the relevant conditions of this resource consent will be duly registered against the new titles to be issued for the subdivision. The solicitor must provide a post registration title and instruments.

Review Condition

- y) That pursuant to s128 of the RMA, the consent authority may at six monthly intervals from the date of the grant of consent until the issue of a s 224(c) certificate, serve notice on the consent holder of its intention to review the conditions of this consent to deal with an effect on the environment which arises after the date of the grant of the consent where such effect is contrary to, or is otherwise not in accord with, the engineering/geotechnical assessments provided with the application for the consent.

Duration of Consent

- z) Under s 125 of the RMA, this consent lapses five years after the date it is granted unless:
- i. The consent is given effect to; or
 - ii. The Council extends the period after which the consent lapses.

Advisory Clauses

1. The Consent Holder shall pay all charges set by Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring, inspection and supervision charges relating to the conditions of this resource consent. The applicant will be advised of the charges as they fall.
2. Any works carried out within Council's road reserve will require an approved Corridor Access Request.
3. A Corridor Access Request (CAR) is defined in the new "National Code of Practice (CoP) for Utilities access to the Transport Corridors". This CoP has been adopted by Council. It provides a single application for Traffic Management Plans/Road Opening Notice applications. Enquiries as to its use may be directed to Council's Road Corridor Co-ordinator, ph 430 4230 ext. 8231.
4. The WDC QA/QC Manual document can be located at the following link: <http://www.wdc.govt.nz/BuildingandProperty/GuidelinesandStandards/Pages/default.aspx>
5. Permits are required for drilling any bores in Northland. Therefore, resource consent will need to be gained from the Northland Regional Council if water is obtained in this way. If a bore is to be constructed, all areas used for sewage effluent disposal and reserve effluent disposal areas must be at least 20 metres away from any groundwater bore.
6. Building Consents may be required for retaining structures.

7. The consent holder should recognise that the proposed development is located on an “at risk” aquifer and to ensure that the development does not result in contamination of the surrounding aquifer or a reduction in groundwater recharge. Mitigation measures may include the return of the collected or diverted treated stormwater to aquifer recharge, the use of low impact stormwater design, and the use of pervious surfaces for roading and drainage.
8. The discharge across boundaries, particularly with regard to the concentration of flows, shall be managed at all times, to avoid the likelihood of damage or nuisance to other properties in accordance with the Council Stormwater Bylaw.
9. Council policy prohibits the building of any structure over an existing water/sewer/stormwater reticulation main.
10. All earthworks are required to comply with the Northland Regional Council Regional Water and Soil Plan for Northland noting Erosion & sediment control and dust suppression requirements.
11. All works to be carried out pursuant to Condition 2b) above shall be undertaken on public land unless written right of entry is obtained from the owners of all private land upon which work is to be carried out. Where any necessary written right of entry has not been obtained, any such infrastructure work shall be re-routed to achieve compliance with this condition.
12. The applicant is advised that a further site inspection of completed works will be required if a period greater than 3 months has passed since the last Council inspection prior to Council issuing the 224(c) certificate.
13. Erosion and Sedimentation Control shall be designed and carried out in accordance with GD05 “Erosion and Sediment Control Guide for Land Disturbing Activities in the Auckland Region”.
14. To help fund additional assets or assets of increased capacity, the Local Government Act 2002 (LGA) allows a council to require development contributions if the effect of a development requires the council to provide new or upgraded infrastructure. The Whangarei District Council has prepared and adopted a Development Contributions Assessment Policy. Under this policy, the activity to which this consent related is subject to Development Contributions Assessment. You will be advised of the assessment of the Development Contributions payable (if any) under separate cover in the near future. It is important to note that the Development Contributions must be paid prior to commencement of the work or activity to which consent relates or, in the case of a subdivision, prior to the issue of a Section 224(c) Certificate. Further information regarding Councils Development Contributions Policy may be obtained from the Long Term Plan (LTP) or Council’s web page at www.wdc.govt.nz.

ATTACHMENT 3 – HAPU ENGAGEMENT RECORD

30 March 2021	Hui with Ngāti Kahu O Torongare representative Richard Shepherd initial introduction to project.
11 February 2022	Hui with Ngāti Kahu O Torongare representative Richard Shepherd to discuss possibility to obtaining a CIA
15 March 2022	Hui between Te Parawhau, Council and Applicant
Between March 2022 – July 2022	Meetings between Mark Holland (Applicant representative) and Pari Walker (Te Parawhau representative)
21 July 2022	CIA consultation with representatives from Ngāti Kahu O Torongare and Te Parawhau hui at Griffin Hall, Kamo
18 August 2022	CIA consultation with representatives from Ngāti Kahu O Torongare and Te Parawhau – included site visit and hui at Ngāraratunua Marae
October 2022	Te Parawhau issued CIA.
Post Issue of CIA:	
20 August 2023	Email request to meet with Te Parawhau representatives to discuss CIA findings
24 September 2023	Email request to meet with Ngāti Kahu O Torongare to discuss the application, CIA and cultural values.
2 October 2023	Email request to meet with Te Parawhau representatives to discuss CIA findings
17 October 2023	Online meeting between Applicant and Mira Norris and Georgina Olsen representatives from Te Parawhau to discuss CIA findings.

ATTACHMENT 4 – CERTIFICATE OF COMPLIANCE

Section 139 of the Resource Management Act 1991

Assessment of Application - Certificate of Compliance



1 Consent Application

Council Reference	CC2300005 and P35827
Reporting Planner	A Hartstone (Set Consulting Ltd)
Applicant	Onoke Heights Limited
Application	Removal of five individual mature puriri trees, one individual totara tree, and small stand of mamaku and mahoe on a site zoned General Residential Zone.
Property Address	Dip Road, Kamo
Legal Description	Section 1 SO Plan 65970
Date Lodged	11 August 2023 (dep paid)
Site Visit	N/a
Environment	General Residential Zone
Resource Notations	CEL and part Flood Susceptible
Other	N/a
Plan Changes	N/a
Distributions	N/a

2 Description of Proposal

Section 4.0 of the application prepared by Barker and Associated dated 4th August 2023 sets out the proposal in detail. Briefly, the application seeks a Certificate of Compliance from the Council to confirm that removal of several native trees identified on the subject site is a permitted activity under the Whangarei District Plan Operative in Part 2022 ('District Plan').

3 Statutory Context

Section 139 of the Resource Management Act 1991 applies if an activity can be done lawfully in a particular location without a resource consent. A consent authority is required to issue a certificate to confirm whether a particular proposal or activity complies with the plan in relation to that location, in all respects.

A Certificate of Compliance is declaratory of compliance at a specified time with the conditions of the plan; with the onus being on the applicant to give full information to the consent authority so that the proposal can be reasonably assessed.

4 National Environmental Standard/s Assessment

There are no National Environmental Standards that are relevant in considering the proposal.

5 Plan Assessment

Operative Whangarei District Plan

Section 5.0 of the applications provides a detailed assessment of the relevant provisions contained in the District Plan. For completeness, the following is recorded:

- Neither the subject site, nor the individual trees, are identified in the District Plan as being subject to any overlay or specific identified resource area that is associated with a rule in the Plan providing any protection for the trees in question. Nor are the trees mapped in the District Plan as a Site of Significance to Maori, and none of the trees on the site are mapped in the District Plan as Notable Trees.

- The subject site is currently subject to a subdivision consent application which has been publicly notified but yet to be determined (WDC ref SL2100055). The removal of the identified trees is contemplated as part of that subdivision consent application. However, it is understood that the applicant has chosen to make application for this Certificate of Compliance separately from the subdivision consent to confirm that such removal is permitted under the District Plan.
- The Council has sought legal advice as to whether any Plan rules may deem individual trees as either Sites of Significance to Maori or as historic heritage. Council has relied on that legal advice to confirm that the District Plan rules under those relevant Plan Chapters are not infringed.

In summary, there are no District Plan rules that are infringed by the removal of the trees as sought in the application.

6 Conclusion and Recommendation

Having considered the activity against the relevant rules of the Whangarei District Plan Operative in Part 2022, it has been concluded that the activity is a permitted activity. Accordingly, it is recommended pursuant to Section 139 of the Act that a certificate of compliance be issued.



A Hartstone
Consultant Planner

13 September 2023
Date



K Kolkman
Team Leader, RMA Consents

13 September 2023
Date

Section 139 of the Resource Management Act 1991

Notice of Decision - Certificate of Compliance



CC2300005 P35827

IN THE MATTER of the Resource Management Act 1991
and

IN THE MATTER of an application under Section 139 of
the Resource Management Act 1991 by Onoke Heights
Limited

Decision

Pursuant to Section 139 of the Resource Management Act 1991 (the Act), and authority delegated under Section 34A of the Act, the Whangarei District Council, **HEREBY CERTIFIES** that the activity described in the First Schedule hereto could be lawfully carried out without a resource consent on the date of receipt of this application, being 11th August 2023, on the site described in the Second Schedule hereto as it is a Permitted Activity under the Whangarei District Plan Operative in Part 2022.

First Schedule

Removal of five individual mature puriri trees, one individual totara tree, and small stand of mamaku and mahoe. The location of the trees is identified in Figure 4 of the application prepared by Barker and Associates dated 4th August 2023.

Second Schedule

Dip Road, Kamo, being Section 1 SO Plan 65970

Advice Notes

- 1 This certificate of compliance will lapse five years after the date of commencement of this consent (being the date of this decision) unless:
 - It is given effect to before the end of that period; or
 - An application is made to Council to extend the period after which the consent lapses, and such application is granted prior to the lapse of consent. The statutory considerations which apply to extensions are set out in Section 125 of the Resource Management Act 1991.
- 2 All archaeological sites are protected under the provisions of Heritage New Zealand Pouhere Taonga Act 1993. It is an offence under that act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to Heritage New Zealand Pouhere Taonga for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effect cannot be practised.
- 3 An applicant for a certificate of compliance has a right of appeal under s120.
- 4 The Team Leader RMA Approvals and Compliance shall be notified at least five (5) working days prior to activities commencing on the subject site.

A Hartstone
Consultant Planner

13 September 2023
Date

K Kolkman
Team Leader, RMA Consents

13 September 2023
Date

ATTACHMENT 5 – ARBORIST REPORT

The Tree Consultancy Company

PO Box 35-284
Browns Bay
Auckland, 0753

Matthew@TreeConsultancy.co.nz

021 289 4821
0508 TREE CO (873 326)
TreeConsultancy.co.nz



Arboricultural Assessment of Effects and Tree Protection Plan

for
Proposed Subdivision

At
Onoke Heights, Kamo, Whangārei

Prepared for **Dayle Widdup**
Project Civil
Address Line 1

Prepared by **Matthew Clifford**
Technician Arborist

Date 7 July 2023
Job ref # 2727

Reviewed by **Andrew Benson**

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1. Instructions

- 1.1 A ninety-four-lot residential subdivision is proposed on Onoke Heights next to Dip Road, Kamo, Whangārei. The Tree Consultancy Company has been engaged by Dayle Widdup of Project Civil to estimate the ages and to assess the general health of seven trees situated on a paddock where the subdivision is proposed to be constructed. The scope of service is as follows.
- Review the plans provided and undertake a site visit and tree inspection. Record tree data, such as heights, trunk circumference, canopy spread, and assess the general health and condition of the trees.
 - Prepare a GIS Tree Plan, and Tree Inventory table, depicting the above.
 - Review historical images online, along with relevant data on potential known tree dates in the wider Whangarei area.
 - Prepare a summarising memo detailing the above.

2. Site description and proposed activities

- 2.1 The subject site is a grass paddock approximately 18 acres in size that is currently being grazed by cattle. The site is situated directly to the east of Dip Road, Kamo and immediately south of the Onoke Scenic Reserve (Figure 1). It is proposed to construct a ninety-four lot, residential subdivision on the site.



Figure 1: The subject site (yellow circle)

- 2.4 The proposal is depicted on the drawing referenced below which has been relied upon for this assessment.
- Blue Wallace Surveyors Ltd, lot layout plan with trees, Ref. 20253-01-PL-109, rev 3, November 2021

3. Site assessment

- 3.1 I carried out a site assessment on the 30th of June 2023. I recorded tree species information of seven trees situated within the grass paddock proposed to be developed. I measured the trees' trunk circumferences at 1.4 m above ground level using a tape measure and canopy spread with a measuring wheel, given the contours of the site the accuracy of the measuring wheel is anticipated decrease. I estimated the height of the trees. I also made qualitative observations of tree condition (form, structure, vitality) and quantitative estimates of crown volume, which can assist in the overall assessment of tree vitality.
- 3.2 I also used a remotely operated drone equipped with a camera to collect aerial photographs of the site to aid in visualising the site conditions, the trees, and the proposed work.
- 3.3 Tree locations have been based on the Blue Wallace Surveyors Ltd, lot layout plan with trees, Ref. 20253-01-PL-109, rev 3, November 2021. Which I have assumed to be correct.

4. Tree details

Tree 1

- 4.1 Large pockets of decay are present of the main stem, while moderate response growth was present around these areas of decay. The reaction wood on the northern side of this tree was noticeably poorer. Epiphytes such as kahakaha (*Astelia hastata*) were noted to be growing within the mid-section of the canopy. Deadwood was noted to be present within the canopy of tree 1, however, this deadwood was generally small in diameter, i.e., less than 50 mm in diameter. Overall, the condition of tree 1 has been assessed to be in a fair condition.

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	12
DBH (cm)	152.8
Crown diameter (N/S)	14
Crown diameter (E/W)	14.4
Live crown volume	85%-90%



Figure 2: Tree 1



Figure 3: Tree 1 from overhead

Tree 2

4.2 Structural surface roots have been damaged on all side of the tree, with the roots on the northern side completely worn away, this is likely caused by cattle grazing on the site. Deadwood is scattered through the canopy, some of this deadwood was estimated to be up to 100 mm in diameter. Overall, tree 2 has been assessed to be in a fair condition.

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	14
DBH (cm)	216.5
Crown diameter (N/S)	15.1
Crown diameter (E/W)	15
Live crown volume	70%-75%



Figure 4: Tree 2

Trees 3 and 4

- 4.3 These two trees have grown approximately 1 m from each other. As a result of this, the root systems of these two trees are intertwined and the canopies of these trees have formed a continuous canopy. Kahakaha epiphytes are growing within the canopy of both trees. Significant decay is present on the southern side of tree 3. Damage to surface roots belonging to tree 4 and impact strikes on the main stem have likely been caused by cattle rubbing against the tree. Overall, tree 3 has been assessed to be in a poor condition, while tree 4 has been assessed to be in a fair condition.

Tree 3

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	12
DBH (cm)	121.9
Crown diameter (N/S)	19.3
Crown diameter (E/W)	15.4
Live crown volume	20%-25%

Tree 4

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	12
DBH (cm)	141.9
Crown diameter (N/S)	19.3
Crown diameter (E/W)	15.4
Live crown volume	70%-75%



Figure 5: Tree 3 & 4 (centre frame)

Tree 5

- 4.4 Surface roots have been damaged on all sides of the tree, large pieces of deadwood up to 150 mm in diameter are present within the canopy of tree 5. Overall, tree 5 has been assessed to be in a fair condition.

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	12
DBH (cm)	190.7
Crown diameter (N/S)	18.9
Crown diameter (E/W)	13.6
Live crown volume	60%-65%



Figure 6 – Tree 2 (left), tree 3 & 4 (centre), tree 5 (right).

Tree 6

- 4.5 Surface roots have been damaged on all side of the tree and large areas of bark damage are present on the trees main stem with good response growth around these areas. Kahakaha epiphytes are growing within the trees canopy. Pieces of deadwood up to 150 mm in diameter are scattered thought the trees canopy. Overall, tree 6 has been assessed to be in a fair condition.

Species	Pūriri / <i>Vitex lucens</i>
Height (m)	12
DBH (cm)	162
Crown diameter (N/S)	13
Crown diameter (E/W)	13.6
Live crown volume	85%-90%



Figure 7 – Tree 6 (centre frame).

Tree 7

- 4.6 Surface roots have been damaged and there is an area of damaged bark on the northern side of the main stem, this area of damaged bark is 1.7 m in length and 500 mm in width, response growth around this area is moderate to good. Overall, tree 7 has been assessed to be in a fair condition.

Species	Tōtara / <i>Podocarpus totara</i>
Height (m)	12
DBH (cm)	109.2
Crown diameter (N/S)	13
Crown diameter (E/W)	13
Live crown volume	85%-99%



Figure 8 – Tree 7.



Figure 9 – 1.7 m in length and 500 mm in width area of damaged bark, present on tree 7.

- 4.12 The location of the trees and the key proposed site features are depicted on the appended site drawing (2726_001_A) in Appendix A.

5. Historical images and relevant information

- 5.1 None of the seven trees assessed are listed on the notable tree register. I have searched online for historical images of the seven trees and have found numerous aerial images showing the trees with the earliest dating back to 1942. Given the size of these trees, I estimate that the seven trees assessed are at least 100 years old. The website that I have used to obtain the photos are www.retrolens.co.nz and www.natlib.govt.nz.



Figure 10 – Aerial image of subject site (2023).

Photo credit www.retrolens.co.nz



Figure 11 – Aerial image of subject site (13/07/1981).

Photo credit www.retrolens.co.nz



Figure 12 – Aerial image of subject site (15/05/1968).

Photo credit – www.retrolens.co.nz



Figure 13 – Aerial image of subject site (19/05/1942).

Photo credit - www.retrolens.co.nz



Figure 14 – Photo of subject site, 1965 (yellow circle).

Photo credit – Kamo, Whangarei, Whites Avion Ltd: Photographs. Ref WA-65427-G. Alexander Turnbull Library, Wellington New Zealand



Figure 15 – Photo of trees assessed, 1965 (Yellow circle).

Photo credit – Kamo, Whangarei, Whites Avion Ltd: Photographs. Ref WA-65429-G. Alexander Turnbull Library, Wellington New Zealand

6. Conclusions

- 6.1 Seven trees were assessed at adjacent Dip Road, Kamo, Whangārei, where it is proposed to construct a ninety-four lot, subdivision, being six mature pūriri and one mature totara. I estimate the trees to be at least 100 years old. Whilst they are in overall fair condition, this is likely attributed to grazing of the land and cattle farming. None of the trees are listed on the notable tree register.

Please contact me should further information required.



Matthew Clifford
Technican Arborist

Appendix A – Drawing 2726_001_A





● Trees

Onoke Heights, kamo, Whangarei
Appendix C - Tree Location Plan



Project No. 2726

Drawing: 2726_001

Rev: A

Appendix B– Tree Inventory

Tree number	Species / Common name	Height (m)	DBH (cm)	Overall vitality	Live canopy volume	Branch structure	Form	Age class	Arboricultural comments and observations
1	<i>Vitex lucens</i> / Pūriri	12	152.8	Fair	85% - 90%	Poor	Fair	Mature	North to south canopy spread – 14 m East to west canopy spread – 14.4 m Situated on a slope, this may have affected the canopy spread measurement.
2	<i>Vitex lucens</i> / Pūriri	14	216.5	Fair	70% - 75%	Fair	Good	Mature	North to south canopy spread – 15.1 m East to west canopy spread – 15 m
3	<i>Vitex lucens</i> / Pūriri	12	121.9	Poor	20% - 25%	Poor	Fair	Mature	North to south canopy spread combined with tree 4 – 19.3 m East to west canopy spread combined with tree 4 – 15.4 m
4	<i>Vitex lucens</i> / Pūriri	12	141.9	Fair	70 %– 75%	Fair	Fair	Mature	North to south canopy spread combined with tree 3 – 19.3 m East to west canopy spread combined with tree 3 – 15.4 m
5	<i>Vitex lucens</i> / Pūriri	12	190.7	Fair	60% - 65%	Fair	Good	Mature	North to south canopy spread – 18.9 m East to west canopy spread – 13.6 m
6	<i>Vitex lucens</i> / Pūriri	12	162.0	Fair	90% - 95%	Fair	Good	Mature	North to south canopy – 13 m East to west – 13.6 m
7	<i>Podocarpus totara</i> / Tōtara	12	109.2	Good	95% - 99%	Good	Good	Mature	North to south canopy spread – 13 m East to west canopy spread – 13 m

