

HAINES

PLANNING

Kerikeri Land Limited

Proposed Retirement Village (Stage 2) at
57C Hall Road and 22 Limelight Lane, Kerikeri

Application for Resource Consent to the
Northland Regional Council

March 2020

Revision History

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On behalf of Haines Planning Consultants Limited

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■ CONTENTS

1.0.	INTRODUCTION.....	1
	Overview	1
	Site Information.....	2
2.0.	ENVIRONMENTAL SETTING	3
	Location and Access	3
	Topography and Hydrology	3
3.0.	THE PROPOSAL	4
	Earthworks.....	4
	Stormwater.....	6
4.0.	REASONS FOR THE APPLICATION	8
	Regional Water and Soil Plan	8
	Earthworks	8
	Stormwater.....	9
	Proposed Regional Plan	9
	Earthworks	9
	Stormwater.....	10
5.0.	ASSESSMENT OF EFFECTS ON THE ENVIRONMENT.....	12
	Premise to Assessment.....	12
	Discharge of Sediments During Earthworks	12
	Discharge of Stormwater from Impervious Areas	13
	Water quality.....	13
	Flooding	14
	Effects on Cultural Heritage.....	15
6.0.	RELEVANT PLANNING PROVISIONS.....	16
	Regional Water and Soil Plan	16
	Earthworks	16
	Stormwater.....	18
	Proposed Regional Plan	18
	Earthworks	18
	Stormwater.....	19
	Weighting.....	19
	Regional Policy Statement.....	19
	Part 2 of the RMA	19

7.0.	CONSULTATION AND NOTIFICATION REQUEST	21
8.0.	DURATION OF CONSENT	22
9.0.	OFFERED CONDITIONS OF CONSENT	23
10.0.	CONCLUSION	24

■ ATTACHMENTS

Attachment 1	NRC Stage 1 Consent APP.040597.01.01
Attachment 2	Records of Title
Attachment 3	Engineering Assessment (Haigh Workman)
Attachment 4	Engineering Drawings (Haigh Workman)
Attachment 5	Ecological Assessment (NZ Environmental)
Attachment 6	Archaeological Appraisal (Clough & Associates)
Attachment 7	Consultation Summary

1.0. INTRODUCTION

Overview

- 1.1. Kerikeri Land Limited ("the Applicant" or "KLL") seeks the necessary resource consents from the Northland Regional Council ("NRC") for the Stage 2 development of a retirement village ("the Proposal") at 57C Hall Road, 22 Limelight Lane and Lot 1 DP 164771 (address unavailable) in Kerikeri ("the Site").
- 1.2. Resource consents for an initial Stage 1 development, comprising 28 villas and associated roading and services, were granted by the NRC¹ and the FNDC² in September and December 2019, respectively. A copy of the NRC consent is included as **Attachment 1**. Enabling works for the Stage 1 development have commenced. The Proposal is for the remainder of the retirement village development.
- 1.3. Resource consent is required for the diversion and discharge of stormwater under the Regional Water and Soil Plan ("RWSP") and for earthworks under both the RWSP and the Proposed Regional Plan for Northland ("Proposed Regional Plan"). Overall, the Proposal is assessed to be a discretionary activity under both plans. A separate application for a discretionary activity resource consent is being sought from the Far North District Council ("FNDC").
- 1.4. This report explains what the Proposal involves, identifies the reasons for consent, and provides an Assessment of Effects on the Environment ("AEE") in support of the application. The AEE concludes that the Proposal is consistent with the relevant planning provisions and satisfies the statutory requirements under the Resource Management Act 1991 ("Act" or "RMA") to be granted consent.
- 1.5. In terms of process, the Applicant requests, pursuant to s 95A(3)(a) of the RMA, that the application be publicly notified. The Applicant further requests that the application be notified jointly with the separate application lodged with FNDC.

¹ APP.040597.01.01.

² RC2190289 (Stage 1 Enabling Works) and RC2190387 (Stage 1 Land Use).

Site Information

- 1.6. The Site comprises four contiguous allotments as identified in **Table 1**. The relevant certificates of title are included as **Attachment 2**.

Table 1: Addresses and legal descriptions

Address	Legal Description	Area (ha)
57C Hall Road	Lot 2 DP 435929	0.0665
	Lot 1 DP 173449	7.3847
Unavailable	Lot 1 DP 164771	5.5512
22 Limelight Lane	Lot 2 DP 149521	3.6618
Total Area		16.6642

- 1.7. KLL is the owner of the above properties, as well as two adjacent properties at 56 and 59 Hall Road, which do not form part of the application site.
- 1.8. The entire landholding is zoned Residential under the Far North District Plan. The Wairoa Stream and a tributary of that stream meander along most of the Site's north-eastern and western boundaries. The associated riparian areas are identified in the District Plan as Esplanade Priority Areas (see **Figure 1**).

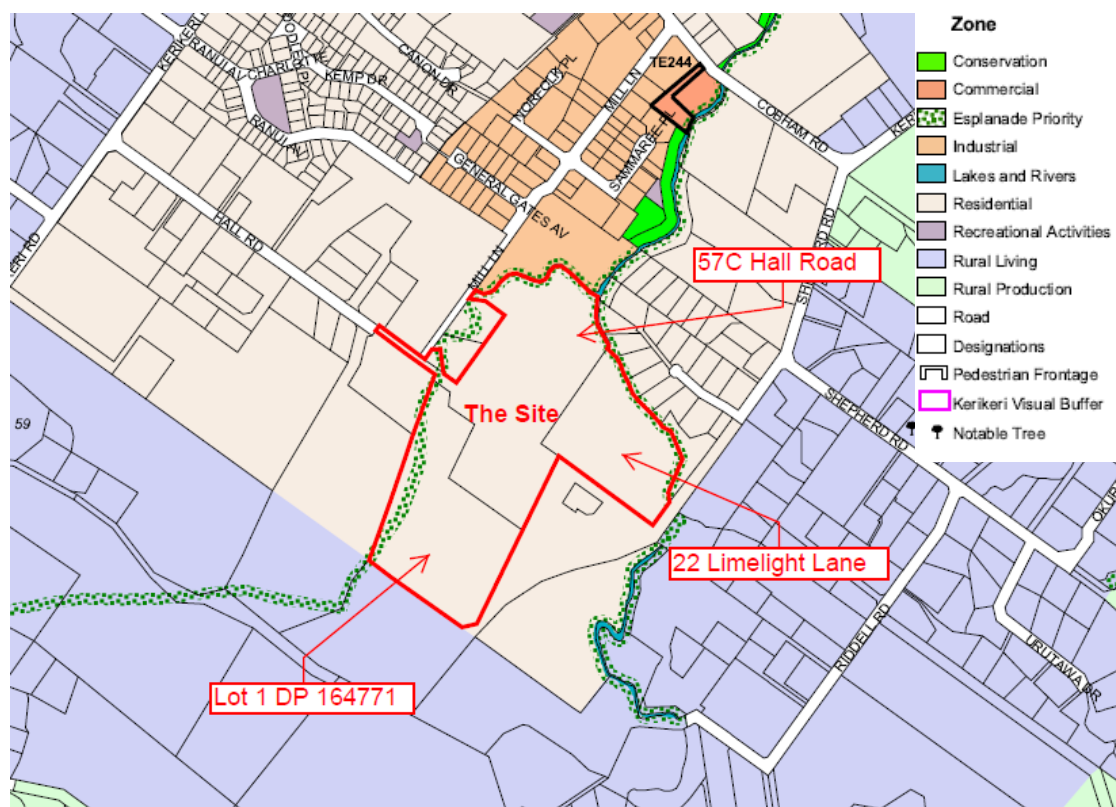


Figure 1: District Plan - Planning Map

2.0. ENVIRONMENTAL SETTING

Location and Access

- 2.1. The Site is situated approximately 1km south-east of Kerikeri town centre, on the fringe of the existing urban area. The Site is zoned Residential under the District Plan and, until recently, has been used for growing crops (orchards and market gardens) with pockets of pasture. Established shelterbelts are present within the Site and along much of its perimeter.
- 2.2. The Site is surrounded by established residential, rural residential, rural production and industrial land uses. The Site is relatively enclosed and screened from these activities by established shelterbelts and riparian vegetation along the edges of the Wairoa Stream and its unnamed tributary.
- 2.3. Due to the surrounding landform and the presence of vegetation, the Site is relatively contained with limited visibility except from properties immediately adjacent to it.
- 2.4. The Site is accessed from the end of Hall Road. Works to upgrade this driveway, including the existing culvert crossing and associated stream works, have been consented to as part of the Stage 1 development. Part of the upgraded driveway is located within the adjacent property at 56 Hall Road, over which the Site has a right of way.

Topography and Hydrology

- 2.5. The Site is characterised by a gently sloping to undulating landform with a more elevated knoll at RL 74.5m near the entrance. From this high point, the land slopes away towards the Wairoa Stream to the north-east and the tributary stream to the west. The two streams converge at the northern corner, which is also the low point (RL 59.0m) of the Site.
- 2.6. The Wairoa Stream and its tributary generally form the Site's north-eastern, northern and western boundaries. Areas closer to these streams slope away more steeply (especially along the Wairoa Stream). The riparian areas adjoining these streams are either fenced or separated from the historic orchard activities by shelterbelts or pasture.
- 2.7. The Site is underlain by moderately well-drained soils. During light rainfall, stormwater soaks into the soils and the fractured bedrock below. During heavy rain events, stormwater follows natural flow paths towards Wairoa Stream and its tributary. Approximately 55% of the Site drains to the Wairoa Stream; the remaining 45% drains towards the tributary.

3.0. THE PROPOSAL

Earthworks

- 3.1. The proposed earthworks are described in detail in the Engineering Assessment (**Attachment 3**) and involves:
- Stripping of topsoil
 - Forming roads and berms
 - Excavating trenches for stormwater and services
 - Forming building platforms
 - Excavation to maintain floodway
 - Excavating stormwater treatment wetlands
- 3.2. The extent of the proposed earthworks is shown on Drawing MP9 of the Engineering Drawings (**Attachment 4**) and in **Figure 2** below. Excluding Stage 1, it is estimated that approximately 112,700m² of the Site will be earth-worked. The estimated volume of cut is 60,410m³, of which 44,230m³ will be reused as fill on site. An additional 13,600m³ of imported aggregate will be used in road formation. Approximately 16,200m³ of surplus cut material will be removed from the Site.
- 3.3. Earthworks will be carried out in stages, likely over a period of eight years or more, in general accordance with Engineering Plan MP9 and as outlined in Section 4.3 of the Engineering Assessment. The staging of bulk earthworks does not necessarily align with the timing for the construction of buildings; materials excavated from one stage may be placed directly as engineered fill for a later stage of development. To reduce the overall risk of sediment discharge from the Site, it is proposed to limit the area of bare soil exposed at any time to a maximum of 50,000m².
- 3.4. The location, timing and extent of earthworks to be carried out in any earthworks season will be the subject of an erosion and sediment control plan (ESCP) which will be required (as a condition of consent offered by the Applicant) to be submitted to and approved by the NRC and FNDC prior to earthworks commencing in a new area of the Site. A detail summary of the relevant sediment control measures is included in the Engineering Assessment and provides a toolkit which KLL can draw from when developing ESCPs for specific areas within the Site.
- 3.5. Parts of the Site adjoining the Wairoa Stream and the tributary are subject to flooding in the modelled 1% annual exceedance probability (AEP) maximum probable development (MPD) + climate change (CC) scenario, as shown in **Figure 3**. Placing fill in this area would reduce the waterway area and increase flood levels on adjoining properties. To avoid the increase in flood levels, it is proposed to maintain the 1% AEP waterway area by excavating the floodplain adjacent to the Wairoa Stream and the tributary as shown on Engineering Drawing MP9 (Figure 4).

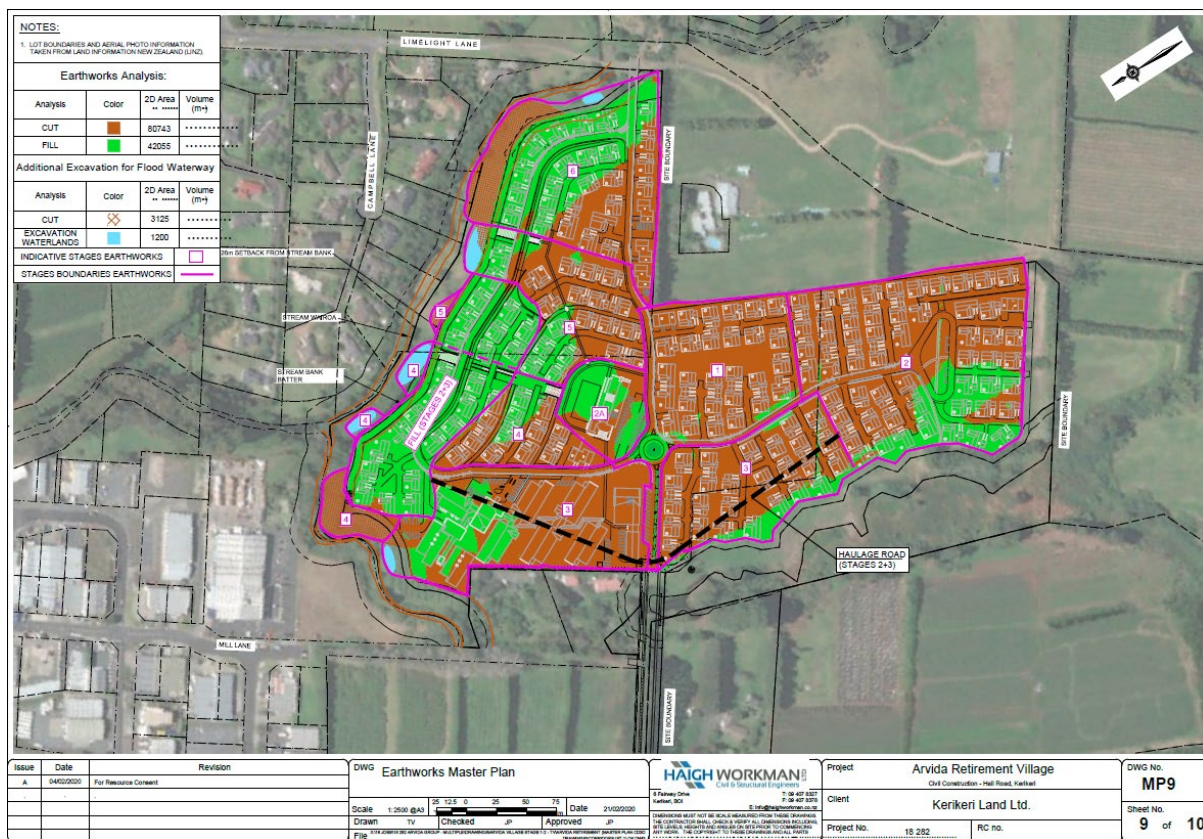


Figure 2: Earthworks Plan

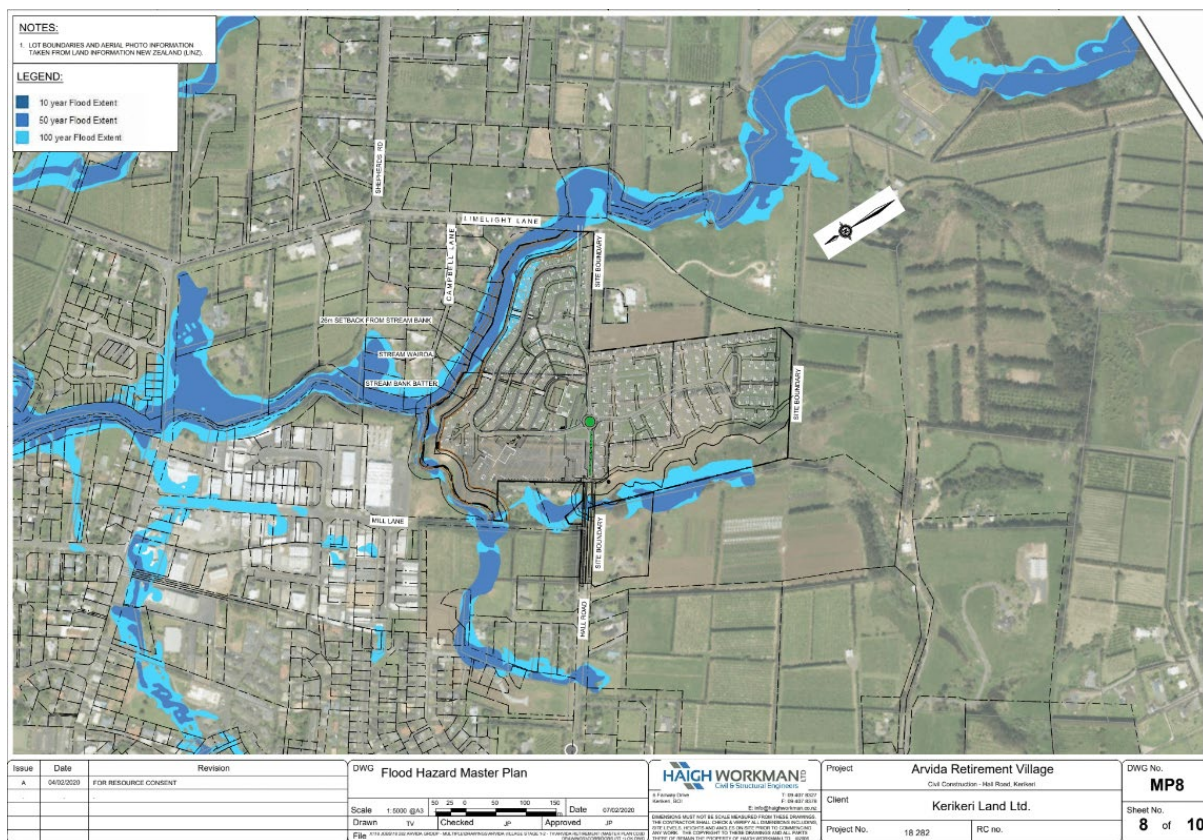


Figure 3: Flood Hazard Plan

Stormwater

3.6. The proposed stormwater management has been designed to comply with district and regional planning and engineering requirements, and to avoid adverse effects on the receiving environment. The following design principles apply to stormwater management for the proposed retirement village development:

- Stormwater reticulation within the site to suitable discharge points designed for the 10% AEP design flows
- Overland flow paths within the site to suitable discharge points designed for the 1% AEP design flows
- Control scour, particularly at discharge points
- Improve stormwater quality where practicable
- Avoid increases in flooding downstream as a result of the development.

3.7. The proposed stormwater design is detailed in the Engineering Assessment and the accompanying Engineering Drawings. The design incorporates a number of “green engineering” principles to aid infiltration and attenuate flows to promote water quality improvement, avoid increasing peak flows in the receiving environment, control scour and ensure compliance with district and regional planning requirements. It comprises:

Primary System

- Piped stormwater reticulation network
- Catch-pit inlets
- Kerb & channel on the main roads
- Central V drainage on accessways
- Stormwater treatment wetlands
- Stormwater outlets to the Wairoa Stream and the tributary stream designed to disperse flow and control scour.

Secondary System

- Roads and driveways lower than surrounding houses
- Overland flow paths through drainage / access path.

3.8. Stormwater pipelines are to be designed for the 10% AEP (10-year ARI) storm event in accordance with the FNDC’s Engineering Standards. Adopting the 10% AEP rather than the 20% AEP (5-year ARI) specified in the RWSP rules, provides a conservative design approach.

- 3.9. The roads, driveways, footpaths and swale drains will be constructed lower than the surrounding residential properties to act as secondary flow. These have been designed for the 1% AEP flood flow assuming there is no stormwater attenuation and all pipe inlets are blocked. While this approach is very conservative, it ensures that buildings within the development will not be flooded even under the most extreme circumstances.
- 3.10. The developed site has been divided into 14 stormwater catchment areas. Each catchment drains to a different discharge point as shown in **Figure 4**. Catchments 1 to 4 will drain through constructed wetlands to the Wairoa Stream. Catchment 5 will drain through a constructed wetland to the combined 'Access tributary' and 'Hall Road Tributary' approximately 130m upstream of the Wairoa Stream confluence. Catchments 6 to 14 drain to the 'Access Tributary' pond upstream of the access road.
- 3.11. The proposed wetlands will attenuate stormwater runoff to some extent. However, attenuation of stormwater runoff from the Site to pre-development levels is not considered appropriate given the location of the Site towards the lower end of the Wairoa Stream catchment.
- 3.12. Alternative stormwater management options have also been considered. These are recorded in the Engineering Assessment. The proposed design is considered to be the best practicable option for the Proposal.

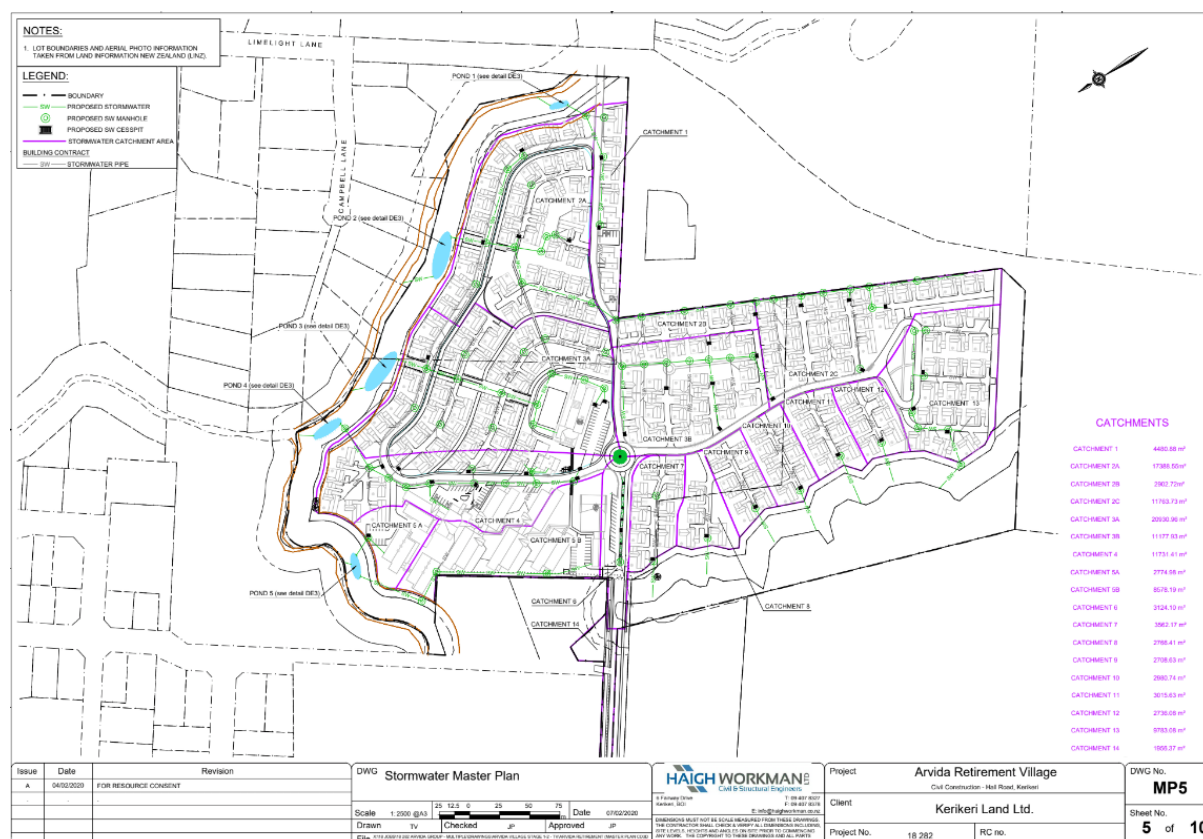


Figure 4: Stormwater Management Plan

4.0. REASONS FOR THE APPLICATION

- 4.1. The Proposal involves bulk earthworks and associated vegetation clearance and the diversion and discharge of stormwater during construction. These activities are controlled under the following sections of the Proposed Regional Plan:
- C.8.3 Earthworks
 - C.8.4 Vegetation clearance
- 4.2. Both earthworks and vegetation clearance rules under the Proposed Regional Plan are subject to appeal. Therefore, the corresponding rules of the RWSP must also be considered. These are:
- 22. Stormwater discharges and diversions (from land disturbance activities)
 - 33. Land disturbance activities
 - 34. Land disturbance activities within the Riparian Management Zone
- 4.3. The Proposal does not require resource consent for the diversion and discharge of stormwater from impervious areas under Rule C.6.4.2 of the Proposed Regional Plan as it complies with the relevant permitted activity standards (as confirmed in the Engineering Assessment). However, as Rule C.6.4.2 is subject to an appeal by the Northland District Health Board ("the DHB appeal"),³ the Proposal is also assessed against the corresponding rules under the RWSP (21. Stormwater discharges).
- 4.4. The relevant resource consent triggers are identified below.

Regional Water and Soil Plan

Earthworks

- 4.5. The threshold volumes under the RWSP are based on the volume of soil moved and excludes aggregate. The total volume of soil moved within the Site over the whole project is estimated to be 60,410m³.
- 4.6. It is conservatively estimated that up to 30,000m³ may be moved within any year. This will exceed the 5,000m³ per year permitted activity threshold in Rule 33.1.3, and is a **controlled activity** under Rule 33.2.1.
- 4.7. Permitted activity Rule 34.1.3 provides for up to 200m² and 50m³ of earthworks within the Riparian Management Zone (RMZ). Permitted activity Rule 34.1.2 provides for associated vegetation clearance. The proposed vegetation clearance and earthworks

³ Appeal to Environment Court by Public & Population Health Unit, Northland District Health Board ENV-AKL000126

within the RMZ will exceed permitted activity thresholds and require a **discretionary activity** resource consent under Rule 34.3.1.

- 4.8. The dominant slope in the RMZ where earthworks are proposed varies from 3 to 16 degrees, which corresponds to a varied RMZ width of between 5 to 20m. A detailed assessment of RMZ width would be required to determine exact areas and volumes within the RMZ. However, this would not be necessary if the NRC accepts a constant RMZ width of 10m, in line with Table 13 of the Proposed Regional Plan. This is the recommended approach as both plans seek to achieve the same outcome, while the Proposed Regional Plan provides an improved/simpler approach and will replace the RWSP in due course.

Stormwater

- 4.9. Condition (a) of Rule 21.1.1 requires a new development to identify and adopt the best practicable option for on-site stormwater disposal “to avoid or minimise changes to stormwater flows after development for the 1 in 5-year return period storm event.”
- 4.10. The Engineering Assessment confirms that the proposed stormwater design is the best practicable option to minimise changes in stormwater flows at the Site. While peak discharge *to the stream* (rather than *in the stream*) will increase as a result of the proposed development, the Engineering Assessment concludes that utilising the proposed design ensures that changes to stormwater flows in the Wairoa Stream and the tributary will be minimal and increases in downstream flooding will be avoided.
- 4.11. While it is considered that the proposed stormwater design is consistent with the intent of Condition (a), out of an abundance of caution, a **controlled activity** resource consent under Rule 21.2.1 is sought as peak discharge to the stream will increase as a result of the proposed development.

Proposed Regional Plan

Earthworks

- 4.12. The permitted activity thresholds for earthworks under Rule C.8.3.1 are:
- Within 10m of a river: 200m² of exposed earth at any time, and 50m³ in any 12-month period.
 - High-risk flood hazard area: 50m³ of moved or placed earth in any 12-month period
 - Flood hazard area: 100m³ of moved or placed earth in any 12-month period.
 - Other areas: 5,000m² of exposed earth at any time.
- 4.13. The proposed earthworks area is approximately 112,700m². It is proposed that the maximum area of earthworks be limited to 50,000m² in any 12-month period.

- 4.14. Some of the proposed earthworks will be adjacent to rivers and within flood hazard areas. The maximum area and volume of earthworks within any 12-month period are estimated as follows:

Location	Area (m ²)	Cut / Fill (m ³)
Within 10m of the Wairoa Stream	1100	1700 / 700
Within 10m of the Tributary	700	400 / 60
High-risk flood hazard area (10% AEP)	2500	4200 / 1400
Flood hazard area (1% AEP)	4000	4700 / 4700

- 4.15. The Proposal breaches the permitted activity thresholds for general earthworks, earthworks within 10m of a river, and earthworks in flood hazard areas. A **discretionary activity** resource consent is required under C.8.3.4.
- 4.16. The associated vegetation clearance exceeds the permitted activity threshold for vegetation clearance within 10m of a river (no more than 200m² in any 12-month period). This is a **discretionary activity** under C.8.4.3.

Stormwater

- 4.17. The Proposal complies with the Rule C.6.4.2 of the Proposed Regional Plan, which permits the diversion and discharge of stormwater from impervious areas, subject to conditions. This rule is subject to the DHB appeal.
- 4.18. The DHB appeal specifically relates to conditions (8)(d) and (9), and seeks the following changes:

Reword C.6.4.2 (8) (d) to “the rendering of fresh water unsuitable for consumption by farm animals and source water for human consumption as per the Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007, or”

And

Add an additional clause to C.6.4.2 (9) to read: “any more than minor adverse effect on the health of people and communities as affected by their contact with fresh water resulting from the discharge”.

- 4.19. Despite the specificity of the DHB appeal, the entire rule has been deemed to be affected. This has necessitated the above assessment against Rule 21.1.1 of the RWSP. Given the advanced nature of the Proposed Plan and the limited scope of the DHB appeal, it is considered that Rule 21.1.1 of the RWSP, while relevant, should be

given limited weight and C.6.4.2 of the Proposed Regional Plan should prevail when assessing the merits of the proposed stormwater design.

- 4.20. It is understood that the DHB appeal is likely to be resolved. Should resolution occur during the processing of this application, this aspect of the application (i.e. consent under Rule 21.1.1 of the RWSP) would simply fall away.

5.0. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

Premise to Assessment

- 5.1. As a discretionary activity, the NRC's discretion is not restricted and all actual and potential effects of the Proposal may be considered. In addition, Rule 36.4 of the RWSP specifies assessment criteria for land disturbance activities which apply to discretionary activities.
- 5.2. The consented and commenced Stage 1 development forms part of the "existing environment" and any effects of that development are not relevant when undertaking the assessment of effects of the Proposal under s 104(1)(a) of the RMA.

Discharge of Sediments During Earthworks

- 5.3. Earthworks are a precursor to development. The scale the proposed earthworks is commensurate with a development of this nature and unexceptional relative to the Site's size. The required volume of cut and fill has been minimised by generally working to the Site's topography and reusing cut material on site where possible.
- 5.4. The Proposal will be developed in stages. This means that only a defined area of the Site will be disturbed at any one time. An indicative staging plan is included in the Engineering Drawings (the sequencing and the extent of the stages are subject to change) to illustrate the area of earthworks that is likely to occur at any given time. It is conservatively estimated that no more than 5ha of the Site will be disturbed at any one time and an erosion and sediment control plan will be prepared prior to commencing earthworks in a new part of the Site.
- 5.5. The potential environmental effects of such earthworks operations are well understood, as are the methods to manage them. Subject to implementing suitable erosion and sediment control measures and following industry best practice, the adverse effects of such activities can be appropriately managed.
- 5.6. The Applicant offers a condition of consent requiring that a finalised erosion and sediment control plan is submitted to the FNDC for approval prior to the commencement of earthworks in a new area of the Site. The proposed erosion and sediment controls will be designed and implemented in accordance with Auckland Council Guideline GD05.⁴
- 5.7. Subject to the implementation of these measures, it is considered that the risks of sediment runoff will be minimised and any adverse effects on the water quality of the adjacent streams would be minor and acceptable.

⁴ Leersnyder, H., Bunting, K., Parsonson, M., and Stewart, C. (2018). Erosion and sediment control guide for land disturbing activities in the Auckland region. Auckland Council Guideline Document GD2016/005. Incorporating amendment 1.

- 5.8. The Applicant also offers to carry out riparian planting in accordance with a planting and weed management plan, and to undertake lizard salvage and relocation, as recommended in the Ecological Assessment (**Attachment 5**). Subject to these conditions and adopting best practice erosion and sediment controls during earthworks, any adverse effects of the Proposal on the riparian environment and aquatic ecological values are considered to be acceptable and insignificant relative to the positive effects.

Discharge of Stormwater from Impervious Areas

Water quality

- 5.9. Effects of stormwater runoff from impervious areas on downstream waterbodies include increases in water temperature (from heated roofs and pavements) and increased levels of pollutants. The former will be reduced to ambient temperature through the proposed bioretention devices before stormwater discharges into the receiving environment.
- 5.10. Methods to control specific pollutants are summarised in **Table 5**.

Table 2: Sources of contaminants and control methods

Contaminant	Source	Control Methods
Oxygen demanding substances	Sewage	Closed sewerage system with standby pumps and at least 24 hours emergency storage
Pathogens	Sewage	
Metals	Vehicles (zinc, lead, copper and chromium) Roofs (zinc)	Source control Bioretention devices Avoid uncoated zinc roofs
Hydrocarbons and oils	Pavement Vehicles	Bioretention devices on completion of construction
Pesticides	Orcharding and gardening	Reduction in use
Nutrients	Orcharding and gardening	Reduction in use
Litter	People	Appropriate village management and litter collection

- 5.11. With the appropriate controls, the contaminant load of stormwater discharging from the Site will be lower than the stormwater runoff from the original orchard, garden and pasture usage of the Site.

Flooding

- 5.12. The margins of Wairoa Stream and its tributary are susceptible to the 10-year and 100-year ARI floods. Part of the proposed development is located within the 1% AEP floodplain. The Proposal's flood hazard mitigation measures include elevating the streamside building sites to a minimum of 700mm above the modelled 1% AEP MPD + CC flood level. Building floor levels will be at least 200mm above ground level. This will provide more than the minimum 500mm freeboard required by the FNDC and NRC rules.
- 5.13. It is proposed to excavate parts of the Wairoa Stream floodplain to maintain the existing waterway area in the 1% AEP MPD + CC event. It is also proposed to excavate the floodplain adjacent to part of the tributary where flow is currently restricted. This will reduce flood levels and improve access and amenity values alongside the tributary.
- 5.14. Downstream effects of the Proposal have been carefully considered in the proposed stormwater design. In summary:
- a. The increase in peak runoff from the Site as a result of the proposed development is very small in comparison to the peak flood flows in the adjacent stream.
 - b. In a spatially uniform rainfall event with a single peak, the increase in runoff from the Site will not coincide with the peak tributary flow because the two catchments have considerably different times of concentration (time to peak flow at the Site after a rainfall burst in the catchment is 10 minutes, compared with approximately 1.5 hours in the Wairoa Stream).
 - c. The increase in runoff from the Site at the early stage of flood flows in the Wairoa Stream will have no effect on peak flows in the stream.
- 5.15. Stormwater attenuation is often implemented to avoid an increase in peak flow from a new development. Peak stormwater runoff is detained and released slowly over a period of time, typically up to 1 to 2 hours. Modelling undertaken as part of the Engineering Assessment has shown that the increase in peak flows from the Site in a spatially uniform rainfall event with a single peak occurs well before the peak flow in the Wairoa Stream and the tributary and will not add to their peak flows. Therefore, detaining stormwater at the Site and releasing it later would result in increased flows downstream closer to the time of the peak flow in the Wairoa Stream, and thus increase peak flooding.

- 5.16. If a second peak in rainfall were to coincide with the peak stream flow, the peaks would be additive. However, the probability of two independent 1% AEP events occurring at the same time is remote (0.01% AEP). In the extremely unlikely event that peak flows were additive, the resulting increase in Wairoa Stream flood flows from the Proposal's stormwater discharge would have no observable effect on flood levels.
- 5.17. Based on the above analysis, the proposed stormwater management system provides only minor attenuation. Despite potential perception that unattenuated stormwater flow could have adverse effects downstream, this is considered the best practicable option for the Site and will, in fact, avoid downstream flooding.

Effects on Cultural Heritage

- 5.18. The District Plan does not record any Sites of Cultural Significance to Maori within or in the vicinity of the Site. Therefore, the proposal is not considered to give rise to any adverse effects on cultural values which cannot be avoided or mitigated through standard conditions. In addition, an agreement has been reached with Ngati Rehia to undertake a cultural impact assessment of the proposed development. This will be provided to the NRC in due course.
- 5.19. The District Plan does not record any archaeological sites within the Site either. The New Zealand Archaeological Association's online maps identify a potential archaeological site (P05/42) within 56 Hall Road. However, archaeological evidence presented as part of the Stage 1 hearing confirmed that this record has been incorrectly plotted and is in fact located five miles to the east of the Site.
- 5.20. The Archaeological Appraisal report (**Attachment 6**) prepared for the Site and the adjacent property at 56 Hall Road determined that it is unlikely that archaeological remains would be exposed/affected as a result of the proposed development, but the possibility cannot be excluded. However, any risk can be appropriately dealt with by a provision for an accidental discovery protocol. In the unlikely event that archaeological remains are exposed during works, the provisions of the Heritage New Zealand Pouhere Taonga Act 2014 would apply.

6.0. RELEVANT PLANNING PROVISIONS

- 6.1. The following is an assessment of the Proposal against the relevant provisions of the RWSP, the Proposed Regional Plan, the Regional Policy Statement for Northland ("RPS"), as well as Part 2 of the RMA, as required by s 104(1)(b) of the Act.

Regional Water and Soil Plan

Earthworks

- 6.2. Section 12 (Land Management) of the RWSP acknowledges the process of erosion both as a natural process and through land modification activities, and identifies the potential adverse effects associated with the sedimentation of waterbodies (Section 12.3).
- 6.3. Objective 12.5.4 seeks to avoid, remedy or mitigate any adverse effects of land disturbance activities on areas of significant environmental and cultural values, including activities adjacent to waterbodies. The corresponding Policy 12.6.4 states:

When assessing applications for resource consents for land disturbance activities adjacent to water bodies, to have regard to:

- a) The maintenance of biological and physical processes;
- b) The maintenance of habitat for feeding, breeding and sheltering indigenous fauna;
- c) The maintenance of biodiversity;
- d) The maintenance of migratory pathways for fish;
- e) The times of day, or year which will least affect feeding, spawning or migratory patterns of fish and other aquatic species;
- f) The amount of shading the existing riparian vegetation provides;
- g) Any proposals for restoration or enhancement of riparian vegetation or aquatic ecosystems.

Explanation: This policy provides direction for when assessing consent applications in order to avoid, remedy or mitigate any adverse effect on water bodies that may result from land disturbance activities adjacent to water bodies.

- 6.4. The proposed buildings are generally well set back from the streams. Activities within the riparian margins are limited to flood mitigation and riparian enhancement works (i.e. to undertake weed clearance and infill planting of native species within the existing sparsely planted riparian areas). The Proposal is considered to be consistent with the above policy because any adverse effects on water bodies will be appropriately avoided, remedied or mitigated through appropriate erosion and sediment control measures.

- 6.5. Section 36.4 of the RWSP sets out the assessment criteria for discretionary land disturbance activities.

Assessment Criteria	Commentary regarding the Proposal
(a) The scale, method and timing of the land disturbance activity and the nature of the surrounding catchment.	The scale of the proposed earthworks correspond to the size of the Site and the scale of the proposed development. The Site is relatively contained with few residential/rural neighbours. The works will be carried out in accordance with best management practices during earthworks season.
(b) The proximity of the land disturbance activity to any water body, the nature and sensitivity of the water body and any associated values and the likely effects on that water body.	The proposed enabling earthworks are generally well set back from the streams with activities within the riparian margins being limited to flood mitigation and riparian enhancement works. Any adverse effects can be managed through appropriate erosion and sediment controls.
(c) The proximity of the land disturbance activity to any areas of significant indigenous vegetation and significant habitats of indigenous fauna that meet the criteria in Appendix 13B, any outstanding or significant natural feature identified in a regional or district plan, any known archaeological site or historic feature, waahi tapu or urupa; and any effects on them.	Not applicable.
(d) The expected efficiency of sediment control measures and any other mitigation measures.	The Site will be developed in stages. This means that only a defined area of the Site will be disturbed at any one time. It is conservatively estimated that no more than 5ha of the Site will be disturbed at any one time and an erosion and sediment control plan will be prepared prior to commencing earthworks in a new part of the Site. The proposed erosion and sediment controls will be designed and implemented in accordance with Auckland Council Guideline GD05.
(e) The removal and/or any retention of vegetation and the expected efficiency of any revegetation and/or rehabilitation programme.	The riparian environment will be enhanced in accordance with a planting and weed management plan.
(f) The adequacy of any proposed monitoring programme to assess the effects of the activity on the environment.	Monitoring of earthworks can be addressed through standard earthworks conditions, and by requiring KLL to submit an erosion and sediment control plan to the NRC for approval prior to commencing earthworks in a new part of the Site.
(g) The practicality of alternative methods to undertake the activity and their likelihood of having reduced environmental effects.	The extent of the proposed earthworks has been minimised through design (to avoid significant cut/fill imbalances) and will be limited to no more than 5ha at any one time to reduce potential adverse environmental effects.

Stormwater

- 6.6. The proposed stormwater design has been assessed against the Controlled Activity Rule 21.2.1 of the RWSP in the Engineering Assessment. Specifically, the proposed stormwater design:
- a. Complies with all but Condition (a) of Rule 21.1.2.
 - b. Will not result in any of the adverse environmental outcomes identified in Condition (b) of Rule 21.2.1.
 - c. Satisfies the relevant matters for control under Rule 21.2.1 (1) to (10).
- 6.7. Being a controlled activity, the proposed stormwater design is presumed to be appropriate subject to satisfying the relevant matters for control. The Engineering Assessment confirms this to be the case. In turn, the proposed stormwater design is deemed to be consistent with the objectives and policies of the RWSP.

Proposed Regional Plan

Earthworks

- 6.8. Policy D.4.26 of the Proposed Regional Plan applies to earthworks and vegetation clearance and states:

When assessing an application for a resource consent for an earthworks, vegetation clearance or land preparation activity and any associated discharge of a contaminant, ensure that the activity:

- 1) will be done in accordance with established good management practices, and
 - 2) avoids significant adverse effects, and avoids, remedies or mitigates other adverse effects on:
 - a) drinking water supplies, and
 - b) areas of high recreational use, and
 - c) aquatic ecosystem health, aquatic species, and receiving environments that are sensitive to sediment or phosphorus accumulation.
- 6.9. The Proposal is considered to be consistent with these policy criteria as the proposed works will be carried out in accordance with established good management practices. In particular, appropriate erosion and sediment control measures will be designed and implemented in accordance with Auckland Council Guideline Document GD05, which is a current and widely adopted guideline for managing sediment runoff from land disturbance activities. Implementation of these measures will ensure the avoidance of significant adverse effects on the receiving environments identified in D.4.26(2).

Stormwater

- 6.10. The proposed diversion and discharge of stormwater from impervious areas comply with Rule C.6.4.2 of the Proposed Regional Plan, including all of its conditions as confirmed in the Engineering Assessment. In turn, the Proposal is considered to be consistent with the related objectives and policies of the Proposed Regional Plan.

Weighting

- 6.11. With respect to the management of earthworks, it is considered that both the RWSP provisions and Proposed Regional Plan provisions seek similar outcomes regarding minimising erosion and discharge of sediment to water. As such, no weighting exercise is required.
- 6.12. With respect to the diversion and discharge of stormwater from impervious areas, a controlled activity resource consent is technically triggered under the RWSP, but the Proposal is a permitted activity under the Proposed Regional Plan. Notwithstanding differences in the “mechanics” (i.e. rules and conditions) of the two plans, both seek to manage the effects of stormwater runoff on water quality and flooding.
- 6.13. The proposed stormwater design represents the best practicable option for the Site and is consistent with the outcome sought under both plans. To the extent that weighting of the two plans may be required, it is considered that much greater weight should be given to the Proposed Regional Plan, which is expected to replace the out-dated RWSP provisions in due course.

Regional Policy Statement

- 6.14. The RPS became operative on 9 May 2016. The purpose of the RPS is to promote the sustainable management of Northland’s natural and physical resources by providing an overview of its resource management issues, and policies and methods to achieve integrated management of its natural and physical resources.
- 6.15. The Proposed Regional Plan’s provisions for managing the effects of land disturbance activities and the diversion and discharge of stormwater, which were notified after the RPS became operative, are deemed to have given effect to the RPS’s policies on region-wide water quality management (RPS, Section 4.2). As the Proposal is considered to be consistent with the Proposed Regional Plan, it must also be consistent with the corresponding provisions under the RPS.

Part 2 of the RMA

- 6.16. The considerations under s 104(1) are subject to Part 2 of the RMA, which sets out the Act’s purpose (s 5) and principles (ss 6-8). The purpose of the RMA is to promote the sustainable management of natural and physical resources. “Sustainable management” is defined in s 5(2) to mean:

Managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while –

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

6.17. The Court of Appeal in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 ("*Davidson*") held that the legal principle in *King Salmon* applies to the consideration of applications for resource consent under s 104(1) insofar as it would be inconsistent with the scheme of the Act to allow planning documents to be rendered ineffective by general recourse to Part 2. Commenting on the implication of the words "subject to Part 2" in s 104(1), the Court of Appeal explained:

[75] If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so.

- 6.18. The foregoing assessment did not identify any issues with the provisions of the regional plans. As such, it is not considered necessary to refer to Part 2 to determine this application. By virtue of being consistent with the relevant provisions of the RWSP, the Proposed Regional Plan and the RPS, the Proposal must also be consistent with Part 2 of the RMA.
- 6.19. Notwithstanding the above, and for the avoidance of any doubt, it is considered that the Proposal will not offend any of the matters set out in ss 6-8 of the RMA. Overall, it is considered that the Proposal will promote the sustainable management purpose of the Act by enabling appropriate development and use of the Site while ensuring that any adverse effects of the activities on the environment are suitably managed.

7.0. CONSULTATION AND NOTIFICATION REQUEST

- 7.1. Prior to making this application, KLL has engaged with local residents and Ngati Rehia representatives. A summary of stakeholder engagement is provided in **Attachment 7**. KLL intends to maintain communications with its neighbours and other stakeholders.
- 7.2. To ensure that all interested parties are given the opportunity to review and comment on the Proposal, the Applicant requests public notification of this application in terms of s 95A(3)(a) of the RMA. The Applicant further requests that the application be notified jointly with the separate application lodged with FNDC.
- 7.3. If both applications attract submissions from parties wishing to be heard, it is anticipated that a joint hearing would be required.

8.0. DURATION OF CONSENT

- 8.1. The proposed earthworks require a land use consent (s 9 RMA) for contravening a regional rule. Section 123 (Duration of consent) of the RMA does not apply to this activity.
- 8.2. Damming and diversion of stormwater associated with earthworks requires consent pursuant to s 14 RMA, while the discharge of stormwater associated with earthworks requires consent pursuant to s 15 RMA. These are short-term activities associated with site development. Limiting the consent duration for these activities would effectively require all earthworks to be completed within the specified timeframe. Given it is expected that the Site will be developed in stages over an eight-plus year period, a 10-year duration is sought.
- 8.3. The maximum consent duration, being 35 years, is considered appropriate for the diversion and discharge of stormwater from the proposed impervious areas given the permanent nature of these activities.

9.0. OFFERED CONDITIONS OF CONSENT

9.1. Without limiting NRC's ability to impose conditions under s 108 of the RMA, the following conditions are offered by KLL as part of the Proposal:

- a. Prior to the commencement of earthworks in a new area of the Site, an Erosion and Sediment Control Plan (ESCP) shall be submitted to the NRC for certification. The ESCP shall be prepared and implemented in general accordance with Auckland Council Guideline GD05, having regard to the site-specific considerations identified in the Site Suitability Report prepared by Haigh Workman, dated March 2019, and:
 - i. A suitably qualified engineering professional shall provide written certification that the erosion and sediment control measures have been installed in accordance with the certified ESCP.
 - ii. The operational effectiveness and efficiency of all erosion and sediment control measures shall be maintained throughout the duration of earthwork operations, or until the site is permanently stabilised against erosion.
 - iii. The area of bare soil exposed on the Site shall not exceed a maximum of 50,000m² at any one time.
- b. Within 12 months of the commencement of site works authorised by these consents, the consent holder shall prepare a planting and weed management plan for the riparian areas of the Wairoa Stream and the unnamed tributary adjoining the development site. The plan shall identify the proposed weed clearance and infill planting / replanting activities within the riparian areas as recommended in the Ecological Assessment prepared by NZ Environmental, dated 11 February 2020. A copy of this plan shall be submitted to the NRC for its record.

10.0. CONCLUSION

- 10.1. The Proposal requires resource consent for earthworks and the diversion and discharge of stormwater associated with the Stage 2 development of a retirement village. While the scale of the Proposal is relatively large and significant by Kerikeri's standards, the foregoing assessment concludes that the effects of the associated activities (being earthworks, vegetation clearance and increased stormwater runoff) can be managed by adhering to established best practices and through the use of appropriate management plans.
- 10.2. Overall, it is considered that the Proposal will not result in any unacceptable adverse effects on the environment, is consistent with the relevant planning provisions, and can be granted consent.

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DATE:

13 March 2020

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