

s95 Notification Report for Resource Consent

Applicant:	Seven Oaks Kinloch Limited		
Address of Site:	23 Kahikatea Drive, Kinloch		
App number:	140145	File No:	61 73 85A
Project code:	RC24583	Application document:	13457776

1 INTRODUCTION

Seven Oaks Kinloch Ltd (the Applicant) has made an application to the Waikato Regional Council (WRC) for resource consents to authorise activities associated with construction of an access road to service a proposed 30 lot residential development at 23 Kahikatea Drive, Kinloch including construction earthworks, culvert structures and the diversion of surface water.

The activities to be considered are as follows:

Reference Id	Activity Subtype	Activity Description
AUTH140145.02.01	Bed - structure	To install a culvert within the bed of the Okaia Stream in association with construction of an access road to a residential subdivision at 23 Kahikatea Drive, Kinloch
AUTH140145.03.01	Water - diversion	To temporarily divert the Okaia Stream in association with construction of an access road to a residential subdivision at 23 Kahikatea Drive, Kinloch
AUTH140145.04.01	Land - disturbance	To undertake earthworks in association with construction of an access road to a residential subdivision at 23 Kahikatea Drive, Kinloch

Table 1: Consents sought

This report assesses the application, the potential environmental effects and the relevant planning provisions in accordance with the Resource Management Act 1991. The report recommends whether to process the consent with or without notification.

2 BACKGROUND

The subject development site is located on the western slopes of the Kinloch valley elevated above the existing areas of urban development. The subject site has a 'Kinloch Residential' zoning under the Taupo District Plan and lies within the area covered by the Kinloch Community Structure Plan (KCSP).

The Taupo District Council (TDC) has outlined that the KCSP was adopted in September, 2004 and was developed through community consultation with the purpose of providing guidance to developers and the community regarding new subdivision within the Kinloch area and to enable sustainable management of future growth.

The application documents also outline that the structure plan also underwent special consultative procedures under the Local Government Act, 2001. Coupled with this statutory consultation process, the structure plan was notified for public comment, went through a formal submission and hearing process and was then adopted by Council. Relevant sections of the plan have been adopted into the Taupo District Plan.

The KCSP provides an indicative collector road layout and the application site includes a section of collector road which extends from the existing Okaia Drive formation within the existing Kinloch residential area into the proposed residential development site area – refer Figure 1.



Figure 1 – Kinloch Community Structure Plan - showing high density development (salmon colour) and proposed collector road alignment extending into the site.

It is noted that both landuse and subdivision consent authorisations have already been approved by the Taupo District Council for the proposed development activities – including the proposed earthworks activities (RM180118 and 180119).

Furthermore, the WRC has recently granted resource consent number AUTH140145.01.01 which specifically authorises the cut to fill earthworks within the residential development area outside of the Okaia Stream gully, which these earthworks activities currently underway on site.

3 SITE

The development site is located immediately westward of the existing Kinloch residential development area and is made up of two parcels of land.

The first parcel has the legal description Lot 13 DPS38473 and has an area of 0.9230ha. This parcel comprises a narrow, elongated parcel of land which extends westward from the end of the existing Okaia Rd formation (currently formed to a stub), across the Okaia Stream gully and up the western gully slope to the proposed development area. This land parcel encompasses the proposed road access link to the site from Kinloch Village which is the subject of these applications.

The second parcel has the legal description Lot 8 DP373131 and has an area of 34.8ha. This parcel comprises a series of elevated/undulating terrace features predominantly with a pasture land cover currently utilised for rural grazing purposes. The proposed residential development area is located within the southern part of this parcel comprising an elevated terrace area of around 3.3ha overlooking Lake Taupo. In addition, a proposed borrow area excavation is located within this area. As noted, the earthworks activities within the residential development works within this parcel have previously been approved under WRC authorisation AUTH140145.01.01 with these activities currently underway on site.

The site comprises both parcels of land for the proposed access and the subdivision and is within the ownership of the Applicant.

As described, the site has a Kinloch Residential zoning under the operative Taupo District Plan and is located within the Kinloch Community Structure Plan area.

The land located on either side of the proposed accessway through Lot 13 DPS38473, is noted as comprising Scenic Reserve land administered by the Department of Conservation.

The site location and surrounding features is outlined within Figure 2 below.



Figure 2 – Site location/layout

As described, the initial portion of the site westward of Okaia Drive, extends across the Okaia Stream gully which comprises an incised gully feature dropping away steeply from the Okaia Drive cul de sac towards the stream channel below. Above the site, the Okaia Stream has a catchment area of around 1140ha which includes large areas of rural pasture land, production pine forest and areas of regenerating and riparian native vegetation along the stream channel. Despite this significant catchment area, the Okaia Stream is identified as having ephemeral flows which can be attributed to the high infiltration rates associated with the catchments volcanic/pumice soils. During the site visit undertaken in January, 2019 it was observed that the stream flow at the proposed crossing point did not exhibit a defined channel and there was no evidence of flows within the gully area at this location.



Figure 3 - Footbridge over Okaia Stream immediately below proposed crossing point in January, 2019 - note no defined channel and no flow.



Figure 4 – Okaia Stream outlet to Lake Taupo – January, 2019

Despite the observed conditions, the Applicant has confirmed that the Okaia Stream is subject to elevated baseflow conditions through the winter months. The Okaia Stream enters Lake Taupo around 300m below the proposed crossing point.

The Okaia Stream at the site has a Waikato Surface Water classification with a Priority 1 Stock Exclusion overlay under the Waikato Regional Plan.

At the proposed crossing point, the gully floor area is dominated by growths of exotic weed species including blackberry, mint and rank grass. However, as the site extends up the western gully slopes, these species transition to a cover of regenerating native bush which covers the site slopes and the adjacent Scenic Reserve land to the north and south.



Figure 5 – Landform at proposed access road alignment. Okaia Stream gully in foreground dominated by invasive pest species.

Emerging onto the upper terrace development area, site topography/cover rapidly changes to undulating open pasture historically utilised for grazing purposes and with the subdivision area earthworks having recently commenced within this area.

The consent application documents have included an ecological assessment report for the site prepared by Nick Singers Ecological Solutions. The key findings of this assessment are as follows:

- Aerial photography from 1963 suggests site vegetation cover as comprising low scrub. Most of the site was further cleared between 1963 and 1977, however the vegetation within the scenic reserve areas and access strip was left intact and allowed to regenerate;

- There is a potential for both native and introduced fish species to be present in the Okaia Stream during periods of flow including koaro, smelt, common bully, koura (freshwater crayfish), kakahi (freshwater mussels), rainbow and brown trout;
- During site surveys (September, 2018) fish were only observed in the very lower reaches of the stream near Lake Taupo where fingerling trout were recorded, although two dead juvenile trout were observed near the Kahikatea Drive culvert;
- Aquatic invertebrate surveys within the lower reaches and at the proposed crossing reach presented low Macroinvertebrate Community Index scores indicative of poor water quality conditions. Higher scores were recorded further upstream suggesting good water quality conditions;
- Stream habitat assessment scores (determined using the Stream Ecological Valuation method) suggest fair ecological conditions within the lower reaches (near Lake Taupo), declining further upstream towards the proposed crossing and Kahikatea Dve, suggesting moderate ecological conditions.
- Vegetation within the site is described as consisting of a canopy of common, early successional forest species dominated by five finger. While two threatened plant species (*Dactylanthus taylorii* and *Pimelea tomentosa*) are known to occur in the vicinity of the site, the species were not found within the site.

The application documents describe site geology as comprising Taupo Pumice Alluvium typical of the Taupo Volcanic Zone and with free draining soakage characteristics. Some areas of ash soils are also anticipated.

The application outlines that there are no known archaeological or cultural sites within the site area with the nearest known archaeological site (T18-26) comprising a cave/rock shelter located approximately 700m to the west within the Otaketake Scenic Reserve.

4 PROPOSAL

The Applicant is proposing to construct an access road to service a 30 lot residential. The proposed access road alignment is based upon the alignment established through the KCSP and the existing development consents authorised by TDC and dictates the requirement for construction earthworks, a culvert stream crossing and temporary stream diversion activities. The specific details of these activities are described as follows:

4.1 Earthworks

The site development activities will require the stripping of the existing vegetation cover followed by the cut to fill of the underlying soil surfaces to achieve the design development contour surfaces. This includes the formation of a large earth fill embankment extending from the existing Okaia Drive cul de sac, across the Okaia Stream gully to access the proposed development site.

The application outlines the specific details of the proposed access road earthworks activities as follows:

	Cut (m ³)	Fill (m ³)	Area (ha)
Access road	950	24,000	0.9

Table 2: Earthworks details

The application outlines that the proposed access road fill embankment will predominantly be formed from cut material sourced from either the main development area or a borrow site located within the broader farm property as authorised through the existing WRC consent AUTH140145.01.01. The fill material is proposed to be placed and compacted in layers to form the road embankment to a maximum fill depth of around 9m.

The application has included erosion and sediment control plans and supporting methodologies to confirm how sediment discharge effects from the proposed earthworks areas will be minimised which is based upon the best practice methods outlined within the WRC Erosion and Sediment Control Guidelines.

Upon completion of the earthworks, the surfaces are proposed to be progressively stabilised via either topsoiling/mulching (batter faces) or placement of roading aggregates (road platform). In addition, the entire road fill embankment batters extending down to the floor of the Okaia Stream gully area proposed to subject to planting with native species.

The bulk earthworks activities are expected to be completed within a 2 to 3 month construction window dependent upon soil/weather conditions encountered.

4.2 Culvert

The proposed road crossing of the Okaia Stream has determined the need for a culvert structure to convey the catchment flows below the embankment.

The proposed culvert design comprises a culvert structure extending along a 31m channel length within the gully floor to convey catchment flows below the road embankment. The culvert size/hydraulic capacity design has been through a number of design revisions since initial lodgement of the consent application as follows:

- The initial design presented a proposed 1050mm low flow culvert installed within the gully floor with a larger 26.3m long, 2m x 2.5m box culvert set approximately 2m higher than the low flow culvert both as a secondary overflow point for larger catchment flows and a pedestrian road underpass;
- The low flow pipe diameter was subsequently increased a 1600mm and then an 1800mm diameter pipe to address concerns raised regarding provision of fish passage through the crossing during periods of flow while also enhancing hydraulic capacity in response to potential headwater flooding and scour effects;
- The finalised design comprises relocation of the proposed 2m x 2.5m box culvert to the gully floor to replace the previous round, low flow culvert design and provide improved hydraulic efficiency in response to potential headwater flooding effects.

The design now also incorporates provision for placement of natural pumice materials through the pipe to achieve a natural bed formation within the pipe to again maximise fish passage and habitat provisions through the crossing.

While the original design documents did not include any specific details regarding outfall erosion and scour protection design, the Applicant has subsequently provided design details for proposed protection mechanisms in the form of rock scour protection at the culvert outfall.

The application documents did not initially include any specific hydraulic design information for the proposed culvert structure however the Applicant has subsequently provided a hydraulic design report to both support the culvert design provisions and to assess the potential hydraulic impacts of the crossing.

The application documents have included a proposed construction methodology for the installation of the culvert structures which is based upon establishment of a temporary stream diversion (refer below) to convey any catchment flows around the culvert works area with the works contained via perimeter bunding and a super silt fence device.

4.3 Stream Diversion

As noted, the proposed culvert installation methodology proposes the temporary diversion of the Okaia Stream flows (if encountered at the time of construction) around the culvert works area to allow these

works to proceed 'in the dry' and to minimise any potential sediment discharge risks during these activities.

The temporary diversion is proposed to be constructed on an alignment to the west of the existing stream channel over a stream channel length of approximately 38m. It is proposed to form the temporary diversion channel to replicate the existing channel conditions and to stabilise the temporary alignment with a suitably anchored liner. The temporary diversion is expected to be in place for no longer than 3 weeks while the culvert installation is being undertaken with flows then being diverted into the new culvert alignment in preparation for the bulk embankment filling activities.

5 STATUS OF ACTIVITIES UNDER THE PLANS

The application triggers a number of rules under the Waikato Regional Plan (WRP) which dictate the requirement for resource consent authorisations as follows:

5.1 Earthworks

Section 5.1 of the Waikato Regional Plan contains rules relating to activities which may contribute to accelerated erosion effects. Rule 5.1.4.15 within this section refers to soil disturbance (earthworks) activities occurring within High Risk Erosion Areas (as defined in the WRP) and requires resource consent authorisation for these activities when they exceed 1,000m³. The Applicant has confirmed that the proposed activities will exceed this trigger volume within the High Risk Erosion parts of the site and hence consent authorisation is required as a Discretionary Activity in accordance with rule 5.1.4.15 of the WRP.

5.2 Culvert

Section 4.2 of the Waikato Regional Plan contains rules relating to stream bed structures. Culverts within the bed of watercourses within catchment in excess of 500ha default to a Discretionary Activity status under rule 4.2.4.4 of the WRP. As the Okaia Stream catchment area above the site exceeds this threshold (1140ha), this activity is to be assessed as a Discretionary Activity in accordance with Rule 4.2.4.4 of the WRP.

5.3 Diversion

Section 4.2 of the Waikato Regional Plan contains rules relating to the damming and diverting of water. This section provides no specific provisions relating to the temporary diversion of surface water/watercourses and hence this activity defaults to a Discretionary Activity status in accordance with rule 3.6.4.13 of the WRP.

Overall, the activities are to be assessed as a Discretionary Activity.

5.4 Other Activities

There are a number of other activities related to the proposed development which have been given consideration as part of this consent assessment.

Stormwater Discharge

The Applicant has outlined that the discharge of stormwater from the future development impervious surfaces within the main subdivision area is able to occur as a permitted activity in accordance with rule 3.5.11.5 of the WRP based upon discharge of this runoff being able to occur to ground soakage up to the 1 in 10 year AEP storm event. This is proposed to be achieved via conveyance of the majority of the development runoff to a specifically designed stormwater soakage basin located within the southern part of the development area which makes use of the sites high porosity pumice soils for discharge of stormwater to ground soakage. Subsequently I have sought the specific design plans/calculations for this system from the Applicant which I have forwarded to the WRC consultant stormwater engineer for review. The engineers review has concluded that:

'the response provides me with confidence that the site, given the nature of the high porosity pumice soils, will be able to achieve soakage of development runoff up to the 10 year event.'

However, the engineer has outlined that the success of this system will be reliant on best practice engineering design, construction and maintenance of this system to ensure its effective function in perpetuity.

Subsequently it has been determined that the stormwater discharges from the development area are able to be undertaken in accordance with WRP permitted activity provisions with the Applicant being made aware of the need to ensure appropriate detailed design, construction and maintenance is implemented to ensure compliance is achieved on an ongoing basis.

For the Okaia Drive extension, alignment stormwater is described as being captured within a piped reticulation network for conveyance to the existing TDC operated Lisland Drive stormwater treatment basin as agreed with TDC through their consent process. Hence these activities will not result in any new stormwater discharges to the Okaia Stream which are subject to WRC consent approval.

Vegetation Clearance

As noted, the proposed earthworks activities within the site will require the removal of existing vegetation cover including areas of regenerating native vegetation and exotic pest species prior to undertaking the proposed soil disturbance activities. Again, Section 5.1 of the WRP relating to accelerated erosion effects contains rules relating to vegetation clearance. Hence, I have requested the Applicant to undertake a detailed assessment of these activities to confirm the status of these activities under this section of the WRP.

Outside of High Risk Erosion Areas, rule 5.1.4.11 of the WRP provides for vegetation clearance as a permitted activity subject to the performance standards of section 5.1.5 which focus on controlling potential erosion, sedimentation and associated effects on any watercourses.

Within High Risk Erosion Areas, rule 5.1.4.15 of the WRP outlines trigger standards beyond which vegetation clearance activities require consent authorisation as a controlled activity. The relevant standards of this rule which trigger resource consent authorisation for vegetation clearance activities within High Risk Erosion Areas include:

5. *Vegetation Clearance of between one and five hectares with the exclusion of planted production forests, plant pests as specified in the Waikato Regional Council's Regional Pest Management Strategy and vegetation clearance adjacent to a Natural State water body as shown on the Water Management Class Maps.*
6. *Vegetation clearance which is within five metres on either side, of the banks of a water body excluding an ephemeral stream, and which is between 50 to 100 metres in length per kilometre of that water body, with the exclusion of planted production forests and vegetation in riparian margins adjacent to planted production forest, riparian enhancement and replanting programmes and plant pests as specified in the Waikato Regional Council's Pest Management Strategy.*
7. *Vegetation clearance within five metres on either side of the banks of a water body excluding an ephemeral stream of greater than 50 metres in length per kilometre of that water body of:*
 - a. *Planted production forest (except as provided for in Rule 5.1.4.11(3) and/or vegetation in riparian margins adjacent to planted production forest; or*
 - b. *Vegetation associated with riparian enhancement programmes*

The Applicant has assessed the proposed vegetation clearance activities in relation to these provisions with the following points outlined:

- Within the proposed access road land parcel (9230m²), which has a more or less continuous vegetation cover, the land identified by the Applicant as comprising a High Risk Erosion Area equates to 3200m²;
- Within the access lot land parcel, the proposed area of vegetation clearance equates to 6777m². Of this area, approximately 1127m² comprises blackberry which is identified a plant pest species under the Waikato Regional Council's Pest Management Strategy and hence can be excluded, thus reducing the relevant area of vegetation clearance to 5650m². Of this area, only 1865m² is considered to be located within a High Risk Erosion Area;
- As this area is less than 1ha, and with riparian vegetation clearance being of less than 50m and on an ephemeral watercourse (the Okaia Stream), these activities are considered to adhere to the vegetation permitted activity provisions of rule 5.1.4.11 of the WRP.

I have reviewed the Applicants assessment and concur that the proposed vegetation clearance are provided for as a permitted activity in accordance with rule 5.1.4.11 contained within Section 5.1 – Accelerated Erosion, of the WRP.

Taupo District Plan

The proposed development activities have been subject to landuse and subdivision consent applications lodged with the Taupo District Council in May, 2018. The consents sought under the Taupo District Plan are outlined as follows:

- Land Use Consent 180118

Land Use consent for earthworks cut and fill to construct roads and to shape the proposed lots in excess of the 1.5m and 0.5m vertical ground alteration limits outside and within setbacks; for future development on the 29 residential lots to have reduced setbacks to the roads and reserves; to exceed the 4.5m height limit within 50m of the adjoining Otaketake and Okaia Stream Scenic reserves; for some of the lots to dispose of stormwater to the proposed Local Purpose Reserve rather than onsite; and for a sale sign exceeding the maximum dimensions.

- Subdivision Consent 180119

Subdivision Consent to subdivide the subject site into 29 residential lots with public roads, an access lot, and to extend water and wastewater infrastructure to service the lots.

I am in receipt of the Taupo District Council's decision on these applications dated 25 February, 2019 which approves these consents following a non-notified consent process on the basis that the effects of the activities are considered to be minimal and there are no affected persons. Hence, the proposed development activities have now been authorised under the Taupo District Plan.

6 PROCESS MATTERS – to date

APP140145

Date	Process Detail
29/11/18	Lodged
17/12/18	s92/On hold
9/8/19	s92 further information requirements addressed (hydraulic effects of the culvert structure upon DoC land).

7 ASSESSMENT FOR THE PURPOSE OF NOTIFICATION

7.1 Adequacy of information

I have determined that the information contained within the application and subsequent further information documents provided by the Applicant is sufficiently suitable and reliable for the purpose of making a recommendation on notification. The information within the application is sufficient to understand the characteristics of the proposed activity as it relates to provisions of the WRP and to identify persons who may be affected by the activity’s adverse effects.

7.2 Applicant’s request, Rule in the Plan or NES that requires public notification - s95A(2) & (3)

The applicant did not request that the application be notified. Public notification is not required under s95(C) and the application has not been made jointly with an application to exchange reserve land.

There are no rules in the Regional Plan or national environmental standard relevant to this proposal that require that the application must be notified.

7.3 Rule in the Plan or NES that precludes public notification and residential activities- s95A(4) & (5)

There are no rules in the Regional Plan or national environmental standard relevant to this proposal that preclude public notification.

The Applicants legal representative has made a case that the applications are for a discretionary activity and fall with the definition of a ‘residential activity’ as outlined in s95A(6) and hence full notification of the applications is precluded. I have sought legal advice in regard to clarify the status of the proposed activities under these provisions. This advice has outlined the following opinion from WRC’s legal representative:

‘In my opinion the activities for which regional consents are sought do not fall within the definition of “residential activity” in section 95A(6). Rather they are precursor activities relating to the development of the site for the ultimate purpose of the construction and use of dwellinghouses as defined. Accordingly public notification is not precluded by Step 2 and you must proceed to Steps 3 and 4.’

Based upon this advice, public notification of the applications is not precluded under these provisions.

The proposed activities are not a boundary activity or a prescribed activity.

7.4 Further Information s95C

The Applicant has not failed or refused to respond to a further information request made under s92(1).

7.5 Adverse Environmental Effects s95A (7) & (8) and s95D

The provisions of s95D (a) to (e) are assessed as below.

- (a) There are effects on persons who own or occupy the land in, on or over which the activity will occur or any land adjacent to that have been disregarded as set out in Table 1.

Table 3: Persons on which effects can be disregarded		
Land	Person	Reason(s)
Lot 7 DPS 38472 &	Department of	This land comprises the two parcels of scenic reserve land through which the proposed site access road located within Lot

Lot 8 DP 373131	Conservation	13 DPS38473 passes. This land is administered by the Department of Conservation and contains the reaches of the Okaia Stream channel immediately upstream and downstream of the proposed culvert crossing. The proposed activities are considered to present a potential for adverse flooding and erosion effects upon this party's land. These potential effects are addressed within the latter sections of this report.
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- (b) As outlined above, the Applicant has provided information to confirm that the vegetation activities to be undertaken on site as a precursor to the earthworks activities, are able to comply with the permitted activity provisions of section 5.1.4 of the WRP and hence the adverse effects of these activities can thus be disregarded.

Nonetheless, the WRC ecologist has outlined that while it is agreed that the botanical values of the subject areas of vegetation are low, they have outlined potential adverse effects of the proposed activities upon the biodiversity/terrestrial ecological values of this area. These include potential direct effects of these activities upon resident flora and fauna as well as potential fragmentation/edge effects of the activities upon the biodiversity values of the surrounding scenic reserve areas. Subsequently I have turned my mind to the relevance of these matters for consideration under the subject WRC consent applications and have accordingly sought legal advice on this matter.

In addition to the permitted status of these activities under WRP provisions, this advice has referred to the provisions of s30 and 31 of the RMA which refer to the functions of regional councils and territorial authorities under the Act. S30 outlines the function of regional councils with s30(c) specifically listing these functions as including:

- (c) *The control of landuse for the purpose of:*
- (i) *soil conservation:*
 - (ii) *the maintenance and enhancement of the quality of water in water bodies and coastal water:*
 - (iii) *the maintenance of the quantity of water in water bodies and coastal water:*
 - (iiia) *the maintenance and enhancement of ecosystems in water bodies and coastal water:*
 - (iv) *the avoidance or mitigation of natural hazards:*

By comparison, s31(b) outlines the functions of territorial authority and specifically lists these functions as including:

- (b) *The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—*
- (i) *the avoidance or mitigation of natural hazards; and*
 - (ii) *[Repealed]*
 - (iia) *the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:*
 - (iii) *the maintenance of indigenous biological diversity:*

These provisions are considered to clarify the scope for consideration of the assessment of the effects of landuse/development activities upon terrestrial indigenous biodiversity as falling within the mandate of the territorial authority. In this respect, I note the provisions of the Taupo District Plan which have identified the adjacent areas of scenic reserve as being afforded 'Significant Natural Area' status but with specific exclusion of Lot 13 DPS38473 where the proposed access road works are located. Accordingly, I note that the TDC s104 assessment report has assessed these activities and has determined the effects of these activities to be of a minor level.

In addition to the above matters, I note that the scenic reserve areas which may be subject to adverse terrestrial biodiversity effects comprise areas administered by the DoC who maintain the overall function for conservation of natural resources in New Zealand. In this respect, it is noted that this party has initially provided their written approval to the proposed activities indicating their acceptance to any potential effects upon the adjacent land under their administration. Subsequently, upon becoming aware of the potential hydraulic impacts of the culvert structure, this party determined to put their approval on hold while these matters were being addressed by the Applicant with specific regard to the potential culvert inlet headwater flooding impacts and the culvert outlet scour protection design. These matters are addressed further within the latter part of this report.

Furthermore, WRCs legal representative has referred to the provisions of the DoC administered Wildlife Act 1953 which outlines specific permit requirements for activities which may result in the disturbance or killing of wildlife. Upon questioning DoC's representative regarding the requirement for wildlife permit authorisations for the proposed activities, they have confirmed that in this instance, they are comfortable that these authorisations are not required in regard to any potential impacts of the activities upon native wildlife. In any case, these provisions are separate to the considerations of the RMA and hence are not considered as part of this assessment.

Overall, based upon the above matters I consider that the proposed vegetation clearance activities and any subsequent potential adverse effects of these activities upon terrestrial biodiversity values in this instance are to be undertaken as a permitted activity under the provisions of the WRP and fall outside of the scope for further consideration under the subject consent applications.

- (c) There are no restricted discretionary activities for which effects must be disregarded as the effect does not relate to a rule in the Plan or NES which restricts discretion.
- (d) There are no trade competition effects to be disregarded.
- (e) As noted, while DoC have initially provided their written approval to the proposed activities, this approval was placed on hold and has not subsequently been reinstated. Accordingly, there are no parties who have provided their written approval to the proposal.

An assessment of the potential adverse environmental effects of the activities subject to consideration through this assessment has been undertaken in section 7.7 of this report and has determined that subject to implementation of proposed measures to avoid, remedy or mitigate these effects, they will be no more than minor.

7.6 Special Circumstances s95A(9)

I have sought legal advice from Mr. Jim Milne legal advisor for Waikato Regional Council as to the nature of an activity which may constitute 'Special Circumstances' under s95A(9). This advice has referred to case law which has defined a 'special circumstance' as:

'something outside the common run of things which is exceptional, abnormal or unusual but less than extraordinary or unique. A special circumstance would be one which makes notification desirable despite the general provisions excluding the need for notification'.

In this instance, the proposed activities relate to earthworks, culvert installation and a temporary diversion associated with implementation of a residential development activity within private land, zoned for residential development purposes under the TDP and approved for these activities through the TDC consent process. Furthermore, the alignment of the proposed access road to the site adheres to the proposed collector road alignment as outlined within the Kinloch Community Structure Plan which was subject to a notified public process and has been in place since 2004. On this basis, I consider that it is reasonable to assume that residential development activities will occur within the subject site.

Furthermore, the scale and nature of the specific activities subject to consideration through these consents comprise activities comparable to many activities for which the WRC routinely receives and processes consent applications on a non-notified basis and on this basis I do not consider the subject activities to be exceptional, abnormal or unusual in nature.

Mr. Milne has also referred to case law regarding activities for which it was determined that special circumstances were warranted based upon there being matters on which further relevant information may have been obtained from the public if the applications had been notified, which could have impacted on the conditions of the consent. In this instance and based on Mr. Milne’s advice, I do not consider that notification of the applications is likely to give rise to provision of additional information from the public beyond that already provided by the Applicant or through WRC’s own technical assessments.

For these reasons, these specific activities are not considered to present special circumstances which in terms of Council’s discretion, warrant public notification.

7.7 Assessment of Adverse Environmental Effects – s95A(2)(a)

The assessment below considers adverse effects on the environment that are potentially more than minor. This assessment does not present a detailed assessment of the effects of the activities, rather it summarises the potential adverse effects of the activities in relation to the information provided to date for the purposes of making a notification decision.

Table 2: Potential Adverse Environmental Effects Assessment
<p>Earthworks</p> <p>The proposed earthworks activities have the potential to result in a variety of environmental effects which are subject to consideration within the scope of these Regional Council applications. These include sediment discharges to the Okaia Stream/Lake Taupo receiving environments, creation of dust nuisance to surrounding properties and potential disturbance of archaeological/cultural sites. These potential effects are discussed and assessed below in regard to the proposed earthworks activities.</p> <p><u>Sediment Effects</u></p> <p>The application documents have included an erosion and sediment control methodology which is proposed to be implemented on site over the course of the earthworks activities to minimise potential sediment discharge effects. Erosion and sediment control measures are proposed to be installed on site in general accordance with the Waikato Regional Council Technical Report Erosion and Sediment Control Guidelines for Soil Disturbing Activities, January 2009 (TR2009/02), which sets out the general methods that the WRC advocates to address the above mentioned erosion and sedimentation effects.</p> <p>Specific measures outlined by the Applicant to control erosion and sediment effects include:</p> <p><i>Erosion Control:</i></p> <ul style="list-style-type: none"> - Installation of a stabilised construction entranceway at the site entrance point to minimise soil disturbance in this high use area; - Installation of the permanent culvert structure as the first measures within the gully to ensure that the Okaia Stream catchment flows can be conveyed through the proposed works area without interacting with areas of earthworks; - Installation of temporary cutoffs and novacoil flumes to divert runoff off the fill platform and down the steep embankment batters to the sediment control devices; - Stabilisation of completed works through topsoiling/mulching, landscape treatments or placement of roading aggregates as soon as finished surface levels are reached. <p><i>Sediment Control:</i></p>

- Installation of dirty water diversion drains along the lateral and lower boundaries of earthworks catchment area to divert all earthworks runoff to sediment control devices;
- Installation of 2 x's decanting earth bunds (DEBs) and super silt fences designed in general accordance with TR2009/02 requirements within the Okaia Stream gully works area to manage sediment runoff during the road crossing embankment earthworks;

The primary DEBs and super silt fence sediment control devices (in combination with the proposed culvert construction methodology discussed below), are considered to represent appropriate control measures to manage any potential sediment discharge effects from the road embankment construction works.

Factoring the sensitive nature of the Lake Taupo receiving environment, I consider that it is important that the large scale stream crossing embankment earthworks also implement progressive stabilisation measures across the 9m high steep/elevated batters slopes forming the embankment directly above the Okaia Stream to minimise the duration of exposure. In this respect, I recommend a consent condition which requires the implementation of progressive stabilisation as the embankment fill lifts occur to form this large structure. Specifically, I recommend that the embankment face should be progressively stabilised with instant stabilisation measures (mulch/geotextile etc) to ensure progressive stabilisation and minimisation of potential scour/erosion effects should any storm events be encountered during these works. The Applicant has confirmed their agreement to these measures.

Treatment within sediment control devices is considered to be maximised where it is enhanced through addition of a rain activated flocculant dosing system with treatment efficiencies in excess of 90% removal of suspended sediment being achievable in flocculated sediment ponds. Discussions with WRC earthworks monitoring staff in the Taupo area have also outlined positive treatment enhancement through the use of flocculation on local soils. In this instance, while the Applicants proposed erosion and sediment control methodology includes measures to reduce the risk of sediment discharges from the site, the addition of flocculant treatment on these devices will assist in enhancing drop out of sediment particulate. In this respect, consent conditions are recommended requiring the Applicant to undertake initial bench testing of site soils in response to flocculant treatment, and if this treatment is proven to be effective in maximising sedimentation, preparation of a Flocculation Management Plan outlining the proposed methods for effective flocculant treatment of the two DEBs along with management of flocculant chemicals within the site to avoid any adverse downstream water quality effects.

Overall, I have reviewed the proposed Erosion and Sediment Control Plans and consider that they present a proposed sediment management system reflective of best practice standards outlined within WRCs TR2009/02 Guideline and are appropriate to minimise potential sediment discharge effects from the earthworks site.

Subject to implementation of a detailed erosion and sediment control plan based upon the above measures (which can be required through consent conditions), I anticipate that discharges of sediment from the site will be limited to low concentration (treated), intermittent discharges, only occurring during significant storm events. In this respect, I consider the potential for the earthworks to result in any significant or persistent adverse water quality and subsequent aquatic ecology effects within the downstream receiving environment will be no more than minor.

Dust Effects

In general, the scale, nature and layout of the proposed access road earthworks comprising the lineal gully fill embankment earthworks are considered to present a low risk for generation of adverse dust effects upon any neighbouring properties within the existing Kinloch residential area.

The Applicant has confirmed that during the earthworks, dust carts will be made available to dampen down any dry/windy conditions which present a risk for fugitive dust effects, with water supply for this purpose being available for this purpose at the nearby TDC Okaia/Oakdale Drive hydrants.

Based upon these factors I consider that the potential for any adverse dust effects beyond the site boundary is no more than minor.

Archaeological/Cultural Effects

The application outlines that there are no known archaeological or cultural sites within the site area with the nearest known archaeological site (T18-26) comprising a cave/rock shelter located approximately 700m to the west within the Otaketake Scenic Reserve. I have reviewed the New Zealand Archaeological database of registered archaeological sites and confirm that this is the case. In this respect, the potential for the proposed activities to result in any adverse archaeological effects is considered to be no more than minor and consent conditions can be imposed to address any accidental discoveries which may occur during the works.

While correspondence received from local tangata whenua has outlined a strong connection to the local landscape and environment, no specific concerns have been raised regarding any specific cultural sites within the development area.

Overall, having assessed the potential adverse effects of the proposed earthworks activities within the scope of the WRP, I consider that these effects can be effectively managed to ensure that they are no more than minor.

Culvert

Construction of the new culvert crossing in the bed of the Okaia Stream has a potential to result in a number of adverse effects including erosion and sediment effects during the construction works, hydraulic effects of the culvert upon stream flow regimes (including flooding and erosion) and ecological effects (including aquatic habitat and fish passage effects). These effects are discussed and assessed as follows.

Construction Effects

The key construction effect associated with installation of the proposed culvert crossing comprises the creation of exposed soil surfaces directly within or adjacent to the stream channel creating a potential for either stream flows or storm runoff to result in adverse erosion and sedimentation effects.

As noted, the Okaia Stream comprises an ephemeral stream which lacks a defined channel at the proposed crossing point and with little to no flow occurring during the drier parts of the year. In this respect, the site conditions present a potential for these works to occur outside of a period of stream flow thus significantly reducing the risk for stream flow to enter the proposed works area over the short duration low flow culvert installation period. Nonetheless, the Applicant has provided a preliminary culvert construction methodology which includes provision for the temporary diversion of any stream flows that do occur over the construction period along with control measures for the works area including containment bunding and a super silt fence to minimise the risk for any adverse erosion and sediment effects which may occur during the culvert installation period. These methods are considered to be reflective of best practice erosion and sediment control methods for streamworks activities and subject to adherence to these requirements I consider that the potential erosion and sediment effects of these activities can be managed to ensure that they are no more than minor. Again, consent conditions can be recommended requiring the submittal/approval of a finalised/detailed culvert construction methodology based upon the preliminary methods outlined by the Applicant. Subject to adherence to the approved plan, I consider that the potential effects of these activities can be effectively managed to ensure that they are no more than minor.

Other potential effects associated with the culvert construction activities include the potential for accidental spillages of hydrocarbons from construction machinery to enter waterways resulting in contamination effects. Again, the ephemeral nature of the watercourse and proposed stream diversion system will present a reduced risk for these effects. In addition, requirements for remote re-fuelling of machinery from the watercourse and the provision or spill kits on sites are considered to

represent best practice management methods which can be imposed through consent conditions to ensure that these potential effects are appropriately mitigated.

Overall, I consider that the potential construction effects of the culvert installation activities within the bed of the Okaia Stream, will be no more than minor.

Hydraulic Effects

The installation of an engineered culvert structure within the bed of a watercourse and the associated modifications to natural flow regimes presents a potential for various adverse hydraulic effects if these structures are not appropriately designed and maintained. These include potential flooding/inundation effects on surrounding land due to impediment/diversion of flows and potential erosion effects due to potential increases in flow velocities at concentrated inlet and outlet points.

The original consent application documents did not include any specific details in regard to the hydraulic design considerations for the proposed culvert structures and hence further information has been sought in regard to these matters. Subsequently, the Applicant has presented a number of culvert design revisions and supporting hydraulic assessments of the Okaia Stream catchment and the impacts of the proposed road embankment and culvert structures upon upstream and downstream flooding and erosion effects. This has included the assessment of the effects of the activities upon upstream and downstream land and has also considered the upscaling of the proposed low flow culvert design initially from a 1050mm pipe, up to a 1600mm pipe, then up to an 1800mm pipe with the current option comprising replacement of the proposed low flow round culvert with the large capacity 2m x 2.5m box culvert structure. The various design options presented by the Applicant have identified progressive improvements in the hydraulic performance of the culvert structure in terms of potential upstream flooding and downstream erosion effects.

Flooding Effects

Considering the potential hydraulic effects of the crossing upon upstream flood levels, the initial culvert design sizing options and associated hydraulic assessment identified the potential for the culvert to result in significant backwater flooding effects during peak storm events with these effects identified as extending to significant depths and extents within both the upstream DoC reserve and adjacent TDC reserve land.

Increasing the culvert capacity to an 1800mm diameter pipe and the supporting/revised hydraulic assessment has been able to confirm avoidance of backwater flooding effects within the TDC reserve land however with effects being maintained within the DoC reserve land immediately upstream of the culvert including a potential for increased flood levels during peak flow events below the 1 in 50 year (being the WRP permitted activity standard).

In response to these potential effects, the Applicant has now revised the culvert design to replace the round low flow culvert pipe with the larger 2m x 2.5m box culvert pipe resulting in increased capacity for flood flows and reduced headwater flood levels during peak events. The revised design and supporting hydraulic assessment has been reviewed by the WRC engineer who has outlined the following comments in response to this design change:

Hydraulic efficiency of the box culvert is significantly improved from the half embedded 1800mm pipe culvert. This results in a significant reduction in upstream headwater (RL366.28m, or depth of 1.18m) and reduced outlet velocities (i.e. 3.6m/s, reduced from 3.9m/s). The HW level is below the soffit of the culvert which ensures significant reserve capacity. Risk of blockage, of the low flow pipe is also reduced. Flows at lower headwater levels are also increased by utilising the box culvert, resulting in increased flows passing through the culvert at the start of a storm event.

It is my opinion that the proposed 2.5m W x 2.0m H box culvert is a significant improvement from the previous culvert arrangement. During extreme events, flooding upstream of the culvert will be generally shallow (contained within the existing scrub vegetation) and intermittent (discharged quickly). Due to the dense vegetation upstream, and wide gully floor, floodwaters are not expected to increase the risk of erosion of the upstream gully. Appropriately design energy dissipation and erosion protection downstream of the culvert will ensure no adverse erosion effects downstream in the DOC land.

Based upon this assessment, I consider that the revised box culvert design option is appropriate to minimise the potential headwater flooding effects of the culvert structure upon the upstream reserve land. While a certain level of headwater flooding will be maintained, this level is considered to be appropriately minimised (approximately 1.18m during a 1 in 100 year event) and will be limited to infrequent, intermittent backwater flooding within the incised, weed covered gully floor area during these peak flow events and with any floodwaters rapidly subsiding via the large culvert outlet immediately following these events. On this basis, I consider that any potential adverse flooding effects of the proposed culvert crossing on the environment will be no more than minor.

Erosion Effects

Considering the potential erosion and scour effects at the discharge points of the proposed culvert, these effects have initially been identified by the WRC engineer as potentially being significant based upon the potential for the smaller diameter low flow culvert to operate under significant head pressure resulting in significant discharge velocities, and considering the highly erosive nature of the local pumice soils. Subsequently, the Applicant has been requested to provide design details and supporting calculations to confirm provision of an appropriate outlet design which can be established within the site boundaries to avoid any potential adverse scour effects within the downstream channel/DoC reserve land.

The Applicant has subsequently presented an assessment of catchment flow velocities and specific culvert outlet erosion protection design based upon the previous 1800mm culvert design comprising provision of a large gabion basket headwall/wingwall structure with a large rip rap rock apron extending for a distance of 6.2m from the culvert outlet to the site boundary.

The proposed design and supporting erosion and scour assessment has been reviewed by the WRC engineer who has confirmed that the design is considered appropriate to protect the downstream channel from adverse erosion and scour effects. Furthermore, while this design has been established based upon the 1800mm round culvert design, the design revision to the proposed larger box culvert will result in further reductions in flow velocities through the pipe and hence adherence to this outlet design will provide a conservative, robust design to address these potential effects. On this basis, I consider that any potential adverse erosion effects of the proposed culvert crossing on the environment will be no more than minor.

Ecological Effects

The installation of permanent, engineered structures within the bed of a watercourse presents a potential for various adverse effects upon aquatic ecology. These include the direct loss of aquatic habitat values within the stream and replacement with the engineered structure, along with the potential effects upon resident aquatic ecology which utilise the surrounding habitat and may be impacted by the long term presence of the structures, such as impediments to fish passage.

In response to the proposed crossing location and design, I have requested the Applicant to provide further justification to the proposal and confirmation of any alternative design considerations. The Applicants response has referred to consideration of a bridge crossing option at this location. However, it outlines that this option was discounted early on based upon the significant bridge structure that would be required to cross the incised Okaia Stream gully. Such a structure was determined to be out of scale with the local environment with potential for additional disturbances within the gully and hence the proposed culvert crossing of the ephemeral stream channel was determined to be appropriate. Furthermore, the proposed crossing alignment is again described as being consistent with the provisions of the KCSP and hence the alignment is considered to adhere to the established TDC framework for development activities in this area as established through the public KCSP development process.

Aquatic Habitat Effects

The application proposes the installation of a 32m long culvert crossing which will replace the existing, natural bed of the Okaia Stream channel with a concrete pipe structure over this stream reach. As described the stream channel at this point was observed during the site visit as lacking a defined

channel, with no evidence of summer flows and with riparian vegetation dominated by pest weed species. The Applicants ecologist has assessed the values associated with this stream reach and has identified the stream as comprising an ephemeral watercourse with moderate ecological value and providing potential, intermittent habitat for native (common bully/koaro) and introduced fish species (brown/rainbow trout). This assessment has been reviewed by the WRC ecologist and is agreed.

In response to the direct habitat effects of the culvert installation, the Applicants ecologist has undertaken a quantification assessment of the subject stream reach using the Stream Ecological Valuation (SEV) method which is considered to represent the best practice method for these purposes. This assessment has then been used to calculate an appropriate level of stream channel ecological enhancement to offset the direct loss of stream channel associated with the culverting activities. This assessment has determined a proposed area of stream channel to be restored of 1.4 times the impact area, thus equating to restoration of a 57m length of stream channel by enhancement planting with native species to a width of 10m on each side of the stream channel. The ecological assessment suggests that this planting could be undertaken within the DoC scenic reserve land immediately upstream of the proposed crossing.

Based upon uncertainty regarding the ability to implement these works within the DoC reserve land, the original application documents made a case that this planting was unnecessary and that suitable offset mitigation for the loss of stream channel could be achieved via planting of the proposed road fill embankment batters directly surrounding the proposed culvert inlet and outlet points within the road corridor land holding. Review of this proposal by the WRC ecologist confirmed that this proposal was neither consistent with the Applicants ecologists recommendations and was not sufficient to offset the direct ephemeral stream loss effects of the activities.

Subsequently, the Applicant has revisited their mitigation proposal and presented a revised proposal which comprises an area of ecological restoration within two DoC administered land parcels (Lots 3 and 4 DP373131) encompassing the Okaia Stream channel directly downstream of the existing Kahikatea Drive culvert crossing (being approximately 700m upstream of the proposed crossing point). The proposed restoration area extends along a 57m reach of the Okaia Stream channel and also encompasses areas of gully floor wetland habitat extending across a total area of 5167m². This area was also observed as having flow and standing water during the site visit in January, 2018.

The revised mitigation proposal has been reviewed by the WRC ecologist. This party has noted that the proposed mitigation site may not necessarily present a 'like for like' mitigation proposal as typically expected, however in this situation may present a 'trade up' based upon the observed presence of flowing/standing water at this location during the site visit. Overall, the WRC ecologists assessment concludes that the revised stream mitigation proposal is adequate (but no more than adequate) to balance the residual adverse aquatic habitat effects of the culvert installation activities.

I concur with this parties assessment and based upon the implementation of an effective restoration package within this area, coupled with the Applicants proposal for planting the entire culvert road embankment with native vegetation, I consider that the direct aquatic habitat loss effects of the proposed culvert installation activities will be no more than minor.

A consent condition can be implemented requiring submittal/approval of a detailed Planting Management Plan for the identified upstream section of the Okaia Stream along with the road crossing embankment batters. This plan should include the specific details of site preparation, plant numbers/species, planting implementation and ongoing maintenance to ensure that the required plantings are established to a self-sustaining level thus contributing to long term enhancement of this area. The planting plan should be implemented within the first planting season following completion of the culvert works.

Fish Passage Effects

Installation of the proposed culvert structure presents a potential impediment to the passage of both native and introduced fish species during periods of stream flow based upon potential that high velocity, laminar flows through the concrete pipe structure will limit fish movements. Based upon the significant catchment area above the culvert (1140ha), this presents a significant potential for disconnectivity between Lake Taupo and the upper catchment area. While the Okaia Stream has been identified as comprising an ephemeral watercourse, the stream has been outlined as flowing within

the subject reach at least for part of the year and with flows observed through the stream at the upstream Kahikatea Drive crossing point during the summer site visit. Furthermore, the ecological assessment included with the application observed two dead juvenile trout within this upstream reach suggesting that fish are able to gain access through the subject reach at certain times of year.

The Applicants ecological assessment has acknowledged the potential effects of the culvert crossing on fish passage and recommended that the culvert comprise a 'fish friendly' structure with installation of rock or concrete fish baffles on the base of the culvert to assist fish passage. However, the application design plans did not specify any such measures and hence further information has been sought to this effect. In response, the Applicant provided updated design information which includes an assessment of the design against NZ Fish Passage Guidelines 2018. In this point in the consent process, this assessment proposed to maintain fish passage through the pipe via increasing the proposed culvert diameter to a 1800mm pipe and with natural bed materials to be placed through the length of the pipe to maintain invert roughness and capacity to facilitate fish passage. This design was reviewed by the WRC ecologist who has identified that the proposed 1800mm culvert is not considered to be entirely consistent with the best practice design requirements of the guideline document, however in this instance, considering the ephemeral nature of the watercourse, is considered to present a reasonable compromise. Overall, the ecologist has concluded that:

'If well installed and maintained, the culvert should provide for fish passage over a range of flow conditions when the stream is flowing at the site and for the species potentially present.'

Further to this assessment, the culvert design has again since been increased in size to the proposed 2m x 2.5m box culvert structure resulting in further reductions in catchment flow velocities through the pipe and increased potential for establishment of a concentrated flow channel through the embedded bed materials within the pipe invert thus contributing to improved fish passage performance beyond the design accepted by the WRC ecologist.

Overall, I consider that based upon the proposed ecological management/mitigation measures proposed by the Applicant including the proposed stream habitat enhancement proposal and fish passage provision through the culvert, the ecological effects of these activities upon the ecological values of the Okaia Stream will be no more than minor.

Diversion

The proposed stream channel diversion comprises a temporary activity that will only be in place for a period of around 3 weeks during the construction works associated with installation of the low flow culvert and occurring within the footprint of disturbance required for the culvert/embankment formation works. The diversion is proposed purely to manage catchment flows and minimise the risk of erosion and sediment effects during these works.

In this respect, I consider that the proposed diversion comprises a necessary part of the proposal to minimise potential environmental effects and if undertaken appropriately, will not in itself result in any adverse effects upon the surrounding environment. Again, consent conditions are recommended requiring the submittal/approval of a finalised/detailed design/methodology for implementation of this diversion based upon the preliminary methods outlined by the Applicant. Subject to adherence to the approved plan, I consider that the potential effects of these activities can be effectively managed to ensure that they are no more than minor.

Overall, having assessed the potential adverse effects of the activities associated with the proposed Okaia Stream gully access road crossing within the scope of the WRP, I consider that these effects can be effectively managed to ensure that they will be no more than minor

Overall, based upon the assessment undertaken above I consider that the actual or potential adverse effects of the proposal on the environment will be, or are likely to be no more than minor.

8 ASSESSMENT FOR THE PURPOSE OF LIMITED NOTIFICATION

8.1 Customary Groups or Statutory Acknowledgement - s95B(2) & (3) & s95E(2)(c)

There are no protected customary rights groups or customary marine title groups who are affected by this application.

That activity is not known to be on or adjacent to land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11 where the person to whom the statutory acknowledgement is made is an affected person.

8.2 Rule in the Plan or NES that precludes public notification – 95B(5) & (6)

There are no rules in the Regional Plan or national environmental standard relevant to this proposal that preclude limited notification.

The applications are not for a controlled activity under a district plan or a prescribed activity.

8.3 Boundary Activity or Prescribed Person – s95B(7)

The applications are not for a boundary activity or a prescribed activity.

8.4 Adverse effects that may or must be disregarded - s95E(2)(a), (b) &

Section 95E states that if a rule or national environmental standard permits an activity with that effect the adverse effect of the activity on a person may be disregarded. As outlined in section 7.5 above, the vegetation clearance activities associated with the proposed construction earthworks have been determined to be permitted by the WRP with any adverse biodiversity effects of these activities further determined to fall outside of the mandate of the WRC. Hence, the effects of the vegetation clearance activities within the site have been disregarded from this assessment.

8.5 Given written approval or unreasonable circumstances – s95E(3)(a)&(b)

Section 95D(e) of the RMA states that Council must disregard any effect on a person who has given written approval to the application. As noted above, the Applicant has previously undertaken consultation with DoC and initially obtained this parties written approval to the proposed activities. However, upon becoming aware of the potential hydraulic effects of the proposed culvert structure upon the adjacent reserve land this party has placed this approval on hold and have not subsequently been reinstated this approval. Accordingly, there are no parties who have provided their written approval to the proposal.

There are no affected persons whose approval is considered unreasonable to request.

8.5 Assessment of adversely affected persons - s95E

I have identified a number of persons/stakeholder groups whom I consider have the potential to be adversely affected by the proposed activities. These parties and the potential effects are outlined as follows:

Department of Conservation

The Department of Conservation (DoC) comprises the owners/administrators of the areas of scenic reserve land extending along the Okaia Stream gully upstream and downstream of the proposed gully crossing site. During the early stages of this consent process it is noted that the Applicant undertook consultation with DoC and subsequently were able to provide a written approval to the proposed site development activities from this party.

However, following receipt of the Applicants initial hydraulic assessment of the proposed culvert crossing, it became evident that the proposed (smaller diameter) culvert presented a significant potential for

backwater flooding effects upon the DoC scenic reserve land upstream of the crossing and also presented a high potential for adverse erosion and scour effects upon the downstream scenic reserve land (based upon the absence of any design proposal to mitigate these effects) along with the potential that any erosion protection measures required may need to extend into the DoC reserve land. In this respect, the Applicant was requested to undertake additional consultation with this party to confirm that these effects were accepted by this party as part of the written approval they had provided. Subsequently, DoC provided written correspondence outlining that their previous written approval was placed 'on-hold' until these concerns were addressed by the Applicant.

The Applicant has then proceeded to consult with this party including updating them of the various culvert design changes occurring through the consent process to minimise the potential for any adverse hydraulic effects upon the DoC reserve land including potential backwater flooding effects and provision of appropriate culvert outlet erosion protection measures maintained within the Applicants land boundary. However, despite persistent attempts, the Applicant has been unable to obtain any specific correspondence from this party to confirm the reinstatement of their approval to the proposed activities.

In response, the Applicant has confirmed their proposal to replace the previous 1800mm diameter low flow culvert with the proposed 2m x 2.5m box culvert thus presenting a significant reduction in the potential hydraulic effects of the culvert crossing upon the adjacent DoC reserve land. As outlined above, review of the culvert design by the WRC engineer has confirmed both appropriate measures to prevent adverse erosion effects at the culvert outlet along with a significant reduction in headwater flooding levels during peak flow events with these effects limited to low level, infrequent, intermittent backwater flooding within the incised, weed covered gully floor area directly upstream of the culvert during these peak flow events and with any floodwater rapidly subsiding via the large culvert outlet immediately following these events.

On this basis, I consider that any effects of the proposed activities upon DoCs interests in the adjacent reserve land will be less than minor, and accordingly written approval as an affected party to the proposed activities is not warranted. This decision has been conveyed to the DoC with a response received confirming their agreement that the effects upon the adjacent reserve land are deemed less than minor and their written approval is hence not required.

Taupo District Council

Taupo District Council comprises the local territorial authority for the development site and will eventually be vested with the proposed public road, culvert and stormwater infrastructure for long term operation and maintenance responsibility to ensure compliance with the relevant consents. As noted, the proposed development activities have already been subject to a land use/subdivision consent process with TDC with this party granting their approval to the proposed activities. Hence, it is considered reasonable to assume that this party have accepted the proposed infrastructure design and associated long term operation and maintenance responsibilities associated with these assets to ensure long term compliance with any relevant WRC consent requirements.

Nonetheless, following receipt of the Applicants initial hydraulic assessment, it was identified that during large scale catchment storm events, the proposed crossing presented a potential for backwater flooding effects extending into the TDC reserve land located on the eastern side of the gully and encompassing the Lisland Drive stormwater basin. Hence, the Applicant was requested to consult with this party to confirm that they were aware of and accepted these effects. Subsequently, correspondence has been provided from this parties development engineer which confirms that they have reviewed this information and that they agree to these effects upon the basis of the proposed upgrade to a larger 1800mm diameter culvert at the proposed crossing point. The design has since been upgraded further to the proposed box culvert configuration thus further reducing any potential for these effects upon this parties land.

Tangata Whenua

The overarching iwi group within the Taupo area comprises Tuwharetoa who represented by the Tuwharetoa Maori Trust Board. In this instance the Applicant has approached this party in regard to the proposed activities with an email response provided from their Environmental Coordinator which outlines in this instance, the Trust Board is in support of the views of the local hapu.

The local hapu in this instance comprises the Mokai hapu represented by members of the local Mokai Marae. Subsequently, the Applicant has provided a summary of efforts made to consult with this party which includes a substantial list of emails dating back to July, 2018 attempting to consult with this party and including proposed site meetings which did not eventuate. In this respect, it is considered that significant preapplication effort was made by the Applicant to engage with this party.

Following lodgement of the consent applications, I have received a package of information from the Friends and Residents of Kinloch (refer below) which included a letter prepared by the Mokai hapu raising a number of concerns regarding the proposed development. This letter had not previously been seen by the Applicant and hence I forwarded a copy to them. In addition, I contacted the Mokai Hapu and advised them of the need to engage with the Applicant to ensure that they were aware of any concerns.

Subsequently the Applicant has contacted the Mokai Hapu directly and arranged a site visit with this party which was undertaken on 14 February, 2019. Following this site visit, the Mokai hapu representative has provided a letter outlining their views on the proposed development activities. I have reviewed this letter and noted that it outlines a number of points/issues regarding the proposed development which are summarised as follows:

- Concern regarding the environmental effects of the proposed Okaia Drive crossing works including habitat loss, water quality effects and the potential for the proposed road alignment to dissect and dislocate local communities;
- Separation distances between future lot boundaries and natural features;
- Support towards any rehabilitation/restoration of land to a more natural state;
- Control of cats and dogs;
- Control of animal and plant pest species;
- Recognition of the hapu's history and connection to the site through renaming the development, road names and information signs;
- Protection of water from adverse discharge effects with outstanding concerns that the developers plans do not address the effects of black/grey water;
- A sustainable living approach for future residents;
- Development water allocation/water supply;
- Increased traffic effects;
- Effects of tourism and adventure activities;
- Request that future consultation with the hapu should be at the earliest development stages – not post design or sales

The letter concludes that should the hapu's views not be taken into serious consideration/inclusion, that the development should go to public consultation.

While this parties broader picture concerns regarding the effects of the development activities are acknowledged, I have reviewed the points raised and note that the majority of these fall outside of the scope of the subject WRC consent considerations relevant to this application including - the terrestrial habitat effects of vegetation clearance activities; lot/dwelling separation distances to natural areas; control of cats, dogs and pest animals/plants; development/road naming; black/grey wastewater effects; sustainable living approach; water allocation; traffic effects; tourism/adventure activities and future consultation processes.

Of the points raised, those relevant to the subject consents are considered to include effects upon water quality and the habitat values of the Okaia Stream. I have assessed these activities within the assessment above and have determined that based upon the proposed best practice construction management measures, the existing condition of the Okaia Stream aquatic habitat and measures proposed by the Applicant to manage the potential effects upon this habitat, the effects of these activities can be managed to ensure that they are no more than minor.

No concerns have been raised by this party in regard to any specific effects of the activities upon any unknown cultural sites and no recorded sites are known to exist within the site area.

For these reasons, I do not consider that the relevant interests of local hapu group will be adversely affected by the proposed activities and no adverse cultural effects are anticipated.

Part way through the consent process, I have been made aware of the recently established Te Kotahitanga O Ngāti Tuwharetoa. This group is identified as the post-settlement governance entity of Ngati Tuwharetoa mandated with improving the broader iwi and hapu representation in decision making. In this respect, this group is identified as incorporating the iwi and hapu representatives already identified above. Nonetheless, the WRC has contacted this groups representative who has subsequently also been identified as the same representative of the Mokai Marae who has already been consulted through this consent process as identified above. Subsequently, I am not aware of any additional concerns which have been raised by this groups representatives which have not already been addressed within the above assessment.

Friends and Residents of Kinloch

The Friends and Residents of Kinloch comprise a group of local Kinloch residents who have a strong interest in activities occurring within and surrounding Kinloch. Representatives of this group have been proactive both prior to and throughout the subject consent process in communicating their concerns regarding the potential adverse environmental effects of the proposed Seven Oaks residential development activities (including the proposed Okaia Stream crossing) to the WRC.

Correspondence and documentation received from this party has highlighted key concerns of this group as follows:

- Proposed deviations from the KCSP (i.e reduced building setbacks to road/reserve boundaries etc);
- The significance of the broader development being possibly 200 dwellings over several years (based upon future stages of development) and management of stormwater effects on Lake Taupo;
- The high potential for ecological damage to the Okaia Stream resulting in the loss of habitat for fish and birdlife;
- Effects on the Whangamata trout spawning stream and the Whangamata Bay fishery;
- Nutrient runoff to Lake Taupo and potential algal growth effects;
- Construction effects including noise, pollution, dust and stormwater runoff;
- Loss of character and amenity values; and
- Effects on traffic flows in Kinloch and the local roading network.

Concerns regarding the KCSP, future development activities, noise, character, amenity and traffic are not relevant matters in relation to the subject consents under the WRP.

The effects of the subject activities upon the Okaia Stream ecological values have been assessed and have been determined to be no more than minor. Furthermore, based upon proposed site management methods I do not consider that the activities present a potential for adverse effects upon Lake Taupo water quality or the trout fishery that are more than minor. Again, it is noted that the DoC, who are vested with management responsibility for the trout fishery within the Lake Taupo catchment, have been consulted extensively throughout this consent process and have not raised any concerns regarding any potential effects of the proposal upon the Lake Taupo trout fishery.

Overall, while this parties interest in the local Kinloch area are acknowledged, I do not consider that the proposed activities present any potential effects upon this party which warrant them to be considered as having affected persons status in accordance with s95E.

6 CONCLUSION

Overall, I conclude the following points in regard to this application:

- There are no specific provisions that dictate a requirement for notification of the consent applications;
- The adverse effects of the subject activities on the environment can be managed to ensure that they are no more than minor;
- There are no affected parties to the proposed activities who have not provided their written approval.

7 SECTION 95 NOTIFICATION RECOMMENDATION AND DECISION UNDER DELEGATED AUTHORITY

It is recommended the application proceed on a **non-notified** basis for the reasons discussed above:

Reporting Officer:



Richard Duirs

**Consultant Resource Officer – Land Development
Resource Use Directorate**

Approved By:



Jorge Rodriguez

**Team Leader – Land Development
Resource Use Directorate**

Dated:

Dated: 19 August 2019

Acting under authority delegated subject to the provisions of the RMA 1991 which at the time of decision had not been revoked.