

29 May, 2019

Waikato District Council
Private Bag 544
NGARUAWAHIA 3742

Our Ref: 13246

Dear Sir/Madam

**Re: Proposed Subdivision & Land Use
G & S Singleton Heritage Limited
635 Whatawhata Road, SH23, Dinsdale.**

Please find attached a subdivision resource consent application to subdivide the above property into ten allotments.

The applicant has opted for the direct credit option for payment of \$5,000.00 being your subdivision application fee (deposit) for this Non Complying activity proposal.

Application plans 13246 contained in Appendix 13 illustrates this proposal. Additional information relating to the project is attached in appendices below and the report that follows.

Appendix 1	Records of Title
Appendix 2	Planning Maps
Appendix 3	Site Photographs
Appendix 4	Service Provider Comments
Appendix 5	NZTA Consultation
Appendix 6	Land Use Capability Report
Appendix 7	Floodplain Analysis
Appendix 8	Agriculture Suitability Report
Appendix 9	Geotechnical Investigation & Natural Hazard Assessment Report
Appendix 10	NES Soil Contamination Report
Appendix 11	Site Tree Survey
Appendix 12	Landscape View Shafts
Appendix 13	Subdivision Application Plans (11 Sheets)

Please consider this report and the attached information as meeting the requirements of an Assessment of Effects as required by the Fourth Schedule to the Resource Management Act 1991.

PUBLIC NOTIFICATION (& Special Circumstances)

The applicant is not requesting the application to be publicly notified.

In determining the appropriate pathway under s95A of the RMA and related notification provisions, the special circumstances issues only arises where there is a decision that public notification is not needed under those provisions but there is something exceptional about the application that makes public notification appropriate. The exercise of the special circumstances notification power under s95A(4) is to be exercised only in truly exceptional

cases, where there is something about the application that raises matters of public interest or importance or otherwise justifies a public notification process.

This application does not exhibit any unusual or exceptional circumstances. Council should take the statutory course and consider the likely and usual environmental effects of subdivision in the wider environment and in relation to the adjoining land and immediate surrounding environment.

This report concludes the wider environmental effects of the subdivision are less than minor not requiring public notification. The effect on immediate neighbours is also concluded to be less than minor not requiring limited notification.

LOCATION

The property is situated at 635 Whatawhata Road, Dinsdale.

LEGAL DESCRIPTION

The land that makes up the subject of this proposal is as follows:

RT SA10B/682 contains 4.0494ha more or less being Lot 1 DPS 12627 owned by G & S Singleton Family Trust. This title was issued 18 September, 1969; and

RT SA10B/683 contains 41.6194ha more or less being Lot 2 DPS 12627 owned by G & S Singleton Family Trust. This title was issued 18 September, 1969;

Both Records of Title are subject to Gazette Notice H159200 declaring SH23 to be limited access.

Copies of Record of Title (RT) and the Gazette Notice are attached in Appendix 1.

ZONING

The Operative Waikato District Plan (ODP) and the Proposed District Plan (PDP) zones the subject site Rural. Council planning map extracts are attached in Appendix 2 highlighting the subject land. The site is not subject to any legend item or feature other than being within The Waikato River Catchment and subject to Designation. The Designation relates to NZTA Designation district plan reference J4 limited access to SH23 (the Gazettal Notice).

TOPOGRAPHY & OCCUPATION

The site contains a number of buildings previously associated with a golf course and golf training academy including: Clubrooms / academy; golf pro outlet store / café; green keeper dwelling and two larger utility sheds (one located mid lot the other opposite the greenkeeper dwelling) and one smaller utility shed next to the golf pro shop all located as shown on the LU application plans 13246 Sheets 2 and 5. On 14 December, 2018 Council approved LUC0192/19 that provides for the construction of a 192m² storage shed to be located immediately north of the existing utility shed near the eastern boundary of the 4.0ha RT SA10B/682.

A private drain runs parallel with the eastern boundary.

The site has an approximate 500m of road frontage to Whatawhata Road, SH23. The southwest corner adjoins Designation E3 Taitua Arboretum. To the east and west is rural land. To the southwest is the eastern extent of Stonebridge farm park dwellings. To the north and across SH23 is rural land.

The majority of the site is low lying peat and silt in pasture with many significant stands of mature and new tree plantings as well as grasses and shrubs around the six ponds scattered across the site. In the three and a half years of the applicant's ownership some 70,000 trees and grasses have been planted. Along the eastern boundary moderately steep

slopes of silts, clays and sands are present the most prominent is the raised area at the northwest corner upon which the former golf club structures have been constructed. In places larger mature trees have been removed due to age and fragility and the sites replanted.

SITE HISTORY

The land previously operated as Westlands golf course with function facilities. Westlands anecdotally has been a golf course and club since the mid 1970's established by then landowners John and Margaret Mortimer. The May 1986 application (Appendix 5) to the Waipa County Council by the new owner, Westlands Golf Course (1981) Limited provides the best available summary of the history and events at that time. It was this application that established the Cardrona building relocated from the city to complement existing facilities. This planning departure application was subject to an objection and then approved on 13 April, 1987 subject to conditions. The departure provided for specified outdoor sports activities including education and training, conferences, campervan facilities, the construction of a motel complex (never constructed) and a restaurant and sale of food and alcoholic beverages. Condition (v)(a) required SH23 access to be constructed to the design presented at the hearing and to proper Ministry of Works standards.

The golf course subsequently changed hands and the new owner Chang-Ho Choi lodged consent with council under the RMA 1991 to convert the Cardrona building into sleeping accommodation for golf students. The consent LUC0190/05 (Appendix 5) was granted on 17 January, 2005. The accommodation provided for up to 36 students and 4 staff at any one time. Written approval was gained from Transit New Zealand (Appendix 5). Golf course usage declined over the years until the final discontinuance and eventual sale to the applicant in 2015. Since that time the site has been significantly planted, modest fertiliser application, no livestock grazing and limited feed supplement crops (sorghum / hay). Currently grass is controlled by mowing.

ACCESS

Both Records of Title are accessed over one existing formed and sealed commercial standard crossing and internal access road that is wholly located with the road reserve. The crossing width is approximately 25m at the SH23 road seal edge extending to a 3.0m sealed shoulder that diminishes over a length of about 80m to a reduced shoulder width. One internal access runs parallel with SH23 but rises above the highway to the former golf course structures located in the north east corner. The second internal metal access runs southward the full length of the subject site. NZTA positive consultative reply has been received (see Appendix 5).

SERVICES

POWER & TELECOMMUNICATIONS

The existing structures are already connected to power and telecommunication from the roadside via overhead lines at the northeast of proposed Lot 8. WEL Networks and Chorus confirmation of supply is contained in Appendix 4. However the applicant anticipates a wireless connection for proposed Lots 1 – 7 inclusive and Lot 10 and therefore asks that the standard "either or" telecommunication condition is imposed. Example wireless providers Lightwire and Spark coverage maps confirm potential availability. The site is outside current fibre reticulation area. Existing power cables to the site have been identified and easements proposed to secure supply.

Off Grid Power Generation Preference

Lots 1 – 7 inclusive and Lot 10 are intended to be off grid with regard to power reticulation. The existing shed contained in proposed Lot 3 is already off grid and serviced by a Sky Solar system the details of which are contained in Appendix 4.

Operative District Plan Rule B8 Other utilities (e.g. telecommunications, energy)

Rule B8.1 states that *other utilities shall meet these objectives:*

- (i) *safeguard health and safety*
- (ii) *provide an adequate supply of the service or commodity to each allotment*
- (iii) *not conflict with the operation or maintenance of the services mentioned above.*

And

B8.2

The layout of any utility reticulation network shall be constructed to:

- (a) *adequately service each allotment, development or road area*
- (b) *be compatible with any existing network that it is linked to*
- (c) *be compatible with other utility systems*
- (d) *avoid the likelihood of contamination or leakage*
- (e) *accommodate the anticipated demand, and withstand the anticipated pressures and loads in its locality*
- (f) *be made from materials suitable for the intended use*
- (g) *be clearly identified and accurately recorded on as-built drawings*
- (h) *ensure safety in operation*
- (i) *not be visually intrusive*
- (j) *be located, if the utility is on a road, in accordance with the road controlling authority's requirements*
- (k) *ensure safety and full reinstatement of road openings, with minimum public disruption. (Compliance with the Waikato District Council's Road Opening Code will be accepted as compliance with this provision).*

Proposed District Plan 6.1.3 Policy - Technological advances

- (a) *Provide flexibility for infrastructure operators to use new technological advances that:*
 - (i) *Improve access to, and enable the efficient use or development of infrastructure;*
 - (ii) *Allow for the re-use of redundant infrastructure and structures where appropriate; and*
 - (iii) *Result in positive environmental and community outcomes.*

6.4 Infrastructure, Subdivision and Development

6.4.1 Objective – Integration of infrastructure with subdivision, land use and development

Infrastructure is provided for, and integrated with, subdivision, use and development.

6.4.2 Policy – Provide adequate infrastructure

Ensure adequate provision of infrastructure, including land transport networks, where land is subdivided or its use intensified.

6.4.3 Policy – Infrastructure Location and Services

Ensure subdivision, use and development are provided with infrastructure and services to a level that is appropriate to its location and intended use including: Electricity services.

The National Policy Statement for Renewable Electricity Generation (NPS) is guidance for local authorities on how renewable electricity generation should be dealt with in Resource Management Act 1991 (RMA) planning documents. These documents include regional policy statements, regional plans and district plans. The NPS took effect on 13 May, 2011 and includes renewable solar electricity generation. Local authorities are required to adopt a positive and proactive policy response to Renewable Electricity Generation (REG) activities in policy statements and plans that applies at national, regional and local levels.

Decision-makers on resource consent applications are required to have particular regard to the provisions of the NPS as a result of s 104(1)(b) of the RMA, regardless of when the application was lodged.

Two principal reasons underlay the development of the NPS REG. First, a significant increase in the proportion of electricity generated from renewable resources will be required to achieve the Government's target of 90% of electricity from renewable sources by 2025, and to maintain security of supply. This was highlighted in the report by the Board of Inquiry established to consider the proposed NPS REG, where it found that installed capacity for renewable generation would need to increase by as much as 77% to supply the projected demand for electricity and achieve the Government's target of 90% renewable energy. Second, renewable electricity generation (REG) is being unduly impeded by variable provisions in local authority policies and plans and changing attitudes to the environmental effects of development associated with REG activities.

It is understandable therefore that the above district plans power reticulation policies do not prohibit the potential for off grid power systems and that renewable electricity generation is not incompatible with district plan policy.

EFFLUENT DISPOSAL

The existing golf clubrooms / academy are serviced by a septic tank and effluent field located as shown the application plan Sheet 2, immediately to the west and located within the slope and within Lot 8. The septic tank effluent field is located in the north east corner of proposed Lot 8. A second septic tank is located to the west of the greenkeepers dwelling at the base of the slope at road level and within Lot 10. The effluent field runs to the south also wholly contained in Lot 10.

The former golf pro shop and café within Lot 9 is serviced by its own septic tank and effluent field located to the west as shown on the application plan Sheet 2.

The existing shed contained in proposed Lot 3 has its own septic tank and effluent field located as shown on application plan Sheet 5 that was approved via building consent BLD0876/19.

The geotechnical report (see Appendix 9) prepared by CMW Geosciences Ref: HAM2018-0112AB Rev 1 and dated 21 December, 2018 confirms at page 7 that due to the shallow water table wastewater management requires advanced aerated systems. The elevated sites (Lots 2, 5, 6, 7 & 10) are suitable to utilise conventional shallow trenches or advanced aerated systems.

WATER SUPPLY

The site has is not serviced by Council reticulation. There are two existing water bores located on the eastern boundary. One bore and pump shed is located within Lot 8. This bore pumps water to the water tank on the south side of the golf clubrooms / academy building and is thereafter distributed to three structures, the golf clubroom / academy, greenkeepers dwelling and golf pro shop / café contained in Lot 9. These water lines are yet to be located to ensure accurate easement location. This is a minor matter and can be assured via a condition of consent requiring water easements to be shown on the land transfer plan.

A second water bore is located within balance Lot 10. This bore feeds an irrigation system and the south east water storage tank within the allotment. This bore will continue to serve Lot 10 only.

Lot 3 has its own water tank to collect and detain rain water.

Future dwellings within Lots 1, 2, 4, 5, 6, and 7 will require onsite water detention tanks for domestic use.

STORM WATER

Lot 8 golf clubroom / academy directs all roof storm water to the water tank for detention and use. Overflow, if any, is discharged to the internal driveway and three catch pits eventually discharging to the eastern boundary drain. Drainage is shown on application plan Sheet 2B. The greenkeepers dwelling within Lot 10 discharges storm water into pipes located adjacent the eastern wall discharging via pipe to a pond in the south and within Lot 10. The utility and consented storage shed will discharge storm water directly to the eastern drain. The pro golf shop / cafe and utility shed discharge to ground in the immediate vicinity of the structure. Lot 3 shed directs rainwater to a water detention tank and any overflow to ground.

NEW ZEALAND TRANSPORT AGENCY (NZTA) CONSULTATION

The site fronts Whatawhata Road being State Highway 23 accordingly the Records of Title are subject to Gazette Notice H159200 declaring SH23 to be limited access.

A consultation letter was sent to NZTA on 14 December, 2018 (see Appendix 5). This letter outlines the history of the site and previous Transit New Zealand consultation associated with the golf course operation and academy as well as the current subdivision application. NZTA reply and affected party approval letters are also contained in the appendices.

LAND USE CAPABILITY (LUC) CLASSIFICATION

Appendix 6 contains a LUC report prepared by Soil and Land Evaluation Limited dated 7 August 2018. The report is necessary because both the Operative District Plan (OPD) and Proposed District Plan (PDP) contain prohibited activity provisions relating to subdivision containing high quality soils.

Operative District Plan Rule 25.5 Prohibited Activities

"Subdivision of land resulting in more than 2 additional allotments (excluding a utility allotment, access allotment or conservation house allotment) containing high quality soils from any allotment with a Certificate of Title issued prior to 6 December 1997..."

Proposed District Plan Rule 22.4.1.1 Prohibited Subdivision

"PR2 (a) Subdivision of a Record of Title issued prior to 6 December 1997, which results in more than one additional lot being located on high class soil".

The OPD defines high quality soils to *Mean land classified as Land Use Capability Class I, II or IIIe, on the New Zealand Land Inventory Worksheets (as amended in the 1986 Second Edition) legend, provided land classified as Class IIIe is further described as containing well and moderately drained soil, in accordance with Milne, J. D. G.; Clayden, B.; Singleton, P. L.; Wilson, A. D. 1995 Soil description handbook (revised edition press). Manaaki Whenua Press, Lincoln, New Zealand.*

The PDP defines High class soils to mean *those soils in Land Use Capability Classes I and II (excluding peat soils) and soils in Land Use Capability Class IIIe1 and IIIe5, classified as Allophanic Soils, using the New Zealand Soil Classification.*

The detailed LUC investigation confirms the absence of high quality (class) soils. The site contains:

3w2 (75% site coverage) Kaipaki silty peat loam & Te Kowhai humic silt loam being very poorly drained with high water tables all the winter months. It is not versatile soil subject to water logging, extreme pugging totally unsuitable for cropping and horticulture at all times and livestock grazing during the winter months. It is not High Quality (class) Soil.

3e3 (10% coverage) Hamilton clay loam is poorly drained especially during the winter months due to high water table. The land slopes 8 - 15°. It is not versatile soil subject to water logging during the winter months and prone to heavy pugging. It is totally unsuitable for cropping and horticulture. It is not High Quality (class) Soil.

4e2 (10% coverage) Hamilton clay is poorly drained especially during the winter due to high water table. The land slopes 16 - 20°. It is not versatile soil subject to water logging during the winter months and prone to heavy pugging. It is totally unsuitable for cropping and horticulture. It is not High Quality (class) Soil.

LUC Explanations

[First numbers 3 & 4 = lowest arable cropping suitability; e = erosion; w = wetness; last numbers 2 & 3 = management unit, e.g., similar landscape groups, pugging management, drainage, fertiliser].

Record of Title SA10B/682 shown as Lot 1 in LUC report contains modified soil. The soil has been reworked and is man - made and not subject to classification. This land area is already fully developed with existing structures.

The report also identified areas of the golf course such as the greens and bunker as high quality (class) soil. However the report notes this soil is imported sand or constructed soil.

FLOOD HAZARD ANALYSIS

The Golovin Floodplain analysis dated May 2017 is contained in Appendix 7. This report was commissioned to provide the extent of the 100 year flood and justify and provide minimum RL floor levels (RL 0.5m under floor bearers) for affected and proposed building platforms. Table 3.1 page 11 of the report provides the estimated flood levels and the finished floor levels for seven allotments identified as A - G. These correspond to the current subdivision application plan allotments 1, 2, 3, 5, 6, 7 and 10 the most likely affected platforms. Lots 8 and 9 above RL30m are unaffected.

The report recommends a survey check of Lot 1 (G), Lot 5 (C) and Lot 7 (A) given the estimated ground level is near the estimated flood level. A survey check was made the results of which are shown on the application plan Sheets 3, 5 & 7.

Lot 1 building platform minimum is RL25.46 being 1.16m above the modelled flood level
Lot 5 building platform minimum is RL28.02 being 1.72m above the modelled flood level.
Lot 7 building platform minimum is RL28.93 being 2.33m above the modelled flood level.

AGRICULTURE SUITABILITY REPORT

The LUC report and flood report confirms the site is both subject to flooding as well as containing soil types that are not versatile soils. These two factors provide severe limitations for cropping and horticulture and as well as livestock grazing. It is supposed that the stated limitations adversely affect the site capacity to function as a rural allotment. The AgFirst agricultural suitability report dated 18 December, 2018 contained in Appendix 8 is provided to support the subdivision proposal.

The report is very clear stating the site has little, if any, potential to become a meaningful agricultural block. The land failed to produce a commercially viable sorghum crop in December 2015. The site has significant impediments that include poor soil types and high water table exhibiting no soil versatility; the significant expense to clear land; the expense to fence and reticulate versus the calculated poor returns for either heifer grazing or maize.

More significantly Waikato Regional Council notified Plan Change 1 that will very likely prohibit the site returning to agricultural production. The Rules in Part A - Rules 3.11.5.1 to 3.11.5.7 of Chapter 3.11 have immediate legal effect from the date of notification in accordance with section 86B(3)(a) of the Resource Management Act 1991. The new condition (q) to section 5.1.5 in Part B, and the consequential amendments to the text in Part D have immediate legal effect from the date of notification.

Plan Change 1 seeks to place a sinking lid on Nitrogen leaching from the Western Waikato Catchment base on a known nitrogen reference point established in the years 2014 / 15 or 2015 / 16. The two potential agricultural conversion scenarios (maize and heifer grazing) presented in the report has established Nitrogen would increase by 80% per hectare. Regional resource consent would be required to undertake the land use change. The report

states such a change would not be supported by the Regional Council. Moreover the economic viability analysis would not support the land use change.

NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH

Contained in Appendix 10 is a Preliminary Site Investigation report prepared by Envirochem Evaluation Limited dated May 2019. The report states that with respect to the eight proposed residential allotment building platforms, the analysed existing levels of contamination are considered highly unlikely to be a significant risk to human health. The proposed subdivision and change of use activities being permitted activities pursuant to section 8(4)(b) of the Regulations.

Utilising a precautionary approach, further investigation is required to ascertain the significance of the Lot 1 building platform slightly elevated W1 sampling result for arsenic, that is, whether or not the sample taken is isolated or more widespread with the building platform. Additional sampling is currently underway to be forwarded upon receipt.

GEOTECHNICAL REPORT

RMA Section 106(1A) – Risk of Natural Hazards

This section requires an assessment of the risk from natural hazards and the likelihood of natural hazards occurring (whether individually or in combination); and the material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind.

Appendix 9 contains a geotechnical report prepared by CMW Geosciences Ref: HAM2018-0112AB Rev 1 and dated 21 December, 2018. The following investigation the report confirms the proposed building platforms suitable for rural residential development provided recommendations in the report are followed.

Stormwater Soakage

Due to shallow ground water encountered on the low lying areas soakage to ground is expected to be limited as it will be for the elevated areas given the clays and silts resulting in low permeability. Runoff from roofs is to be collected and detained. Any runoff is to be controlled via low flow discharge orifice. Overflow structures are proposed to be feed into nearby existing ponds.

Wastewater

There is no council reticulated wastewater servicing then site. Given soil stratigraphy advanced aerated systems are likely to be required on the low lying soils. Suitable systems for elevated areas may also utilise either advanced aerated systems or shallow trenches.

Earthworks / Slope Stability

Some building platforms are expected to comprise minor cuts and fill in the order of 1.0m – 2.0m to provide level building platforms and driveways. The report outlines a process whereby earthworks can be satisfactorily achieved. Lot 2 gradients near the building platform are unlikely to meet the building code factor of safety. However, given the soil type and where works follow an upslope regression gradient of 1:2.5 projected from the toe of the slope, provides a conservative design approach in the absence of any detailed slope stability analysis. A preliminary Building Restriction Line has been imposed upslope of which all building and earth fill construction is to be undertaken unless supported by further geotechnical investigation. All other building platforms are considered to be at low risk of deep seated instability.

Natural Hazards Risk

Page 5 of the report and Appendix C provides an assessment of natural hazards. The site is suitable for development subject to earthworks recommendations as well as further CPT testing at building consent stage for Lots 4 and 10. Due to soil type and shallow water table these two lots are potentially subject to liquefaction. The report also recommends that Lot 1 building platform be the subject of CPT testing related to the potential for settlement under foundation loads. It is considered the identified hazard and proposed mitigation (recommendations) is consistent with OPD Natural Hazard *Objective 5.2.1 Risks from natural hazards to health, safety and property, resulting from use, development or protection of land, are minimised* and supporting policies *5.2.2A Use or development of other land subject to natural hazards should be required to mitigate the related risks to health, safety and property* and *5.2.3 Use, development or protection of land should not increase the adverse effects of natural hazards, or compromise natural processes.*

ACTIVITY STATUS

Prohibited Activities

The ODP prohibited

Activity Rule 25.5(d) provides that subdivision is a prohibited activity where *subdivision of land resulting in more than 2 additional allotments (excluding a utility allotment, access allotment or conservation house allotment) containing high quality soils from any allotment with a Certificate of Title issued prior to 6 December 1997, unless the land forms part of the Hampton Downs Motorsport Park as shown on the planning maps and is developed in accordance with Schedule 2.*

Pursuant to the PDP operative rule 22.4.1.1 PR2(a) subdivision is a prohibited activity where *Subdivision of a Record of Title issued prior to 6 December 1997, which results in any additional lot being located on high class soil.*

The subject site Records of Title are dated prior to 6 December 1997 but do not contain high quality soils evidenced by the Land Use Capability (LUC) Classification report prepared by Soil and Land Evaluation Limited. An application can be made to Council.

Activity Status

1. Subdivision

Pursuant to OPD Rule 25.70A.1 subdivision is a restricted discretionary activity subject to compliance with performance standards. Failing to comply with Rule 25.70A.1(b) the application falls to non – complying activity status pursuant to Rule 25.70A.2.

Pursuant to PPD Rule 22.4.1.2 subdivision is a restricted discretionary activity subject to compliance with performance standards. Failing to comply with Rule 22.4.1.2(a)(ii) & (iii) the application falls to non – complying activity status pursuant to Rule 22.4.1.2 NC1.

2. Land Use

Pursuant to a failure to comply with OPD Rule 25.51.1(a); 25.52.1(a) & (b), 25.54.1(a), 25.55.1(a) the application falls to discretionary activity and / or non – complying activity pursuant to rule 25.51.2; rule 25.52.2; rule 25.54.2 / 25.54.3 and 25.55.2 / 25.55.3.

Pursuant to a failure to comply with PDP Rule 22.3.6; Rule P1 22.3.7.1(a) and Rule P4 22.3.7.1(a) is a restricted discretionary and / or discretionary activity.

Overall the application is a non - complying activity.

SUBDIVISION PROPOSAL

The proposed subdivision is illustrated on application plans 13246 eleven (ii) Sheets attached in Appendix 13. It is proposed to subdivide Lot 1 & Lot 2 DPS 12627 as follows:

Lot 1	8530m ²
Lot 2	1.04ha
Lot 3	1.01 ha (contains existing shed)
Lot 4	8165m ²
Lot 5	8000m ²
Lot 6	1.75ha
Lot 7	1.22ha
Lot 8	9620m ² (contains former golf clubrooms / academy)
Lot 9	1.80ha (contains former golf pro shop and utility shed)
Lot 10	35.41ha (contains former greenkeepers dwelling, utility shed & storage shed via unimplemented LUC019219).

Appendix 13 Application Sheets

Proposed Subdivision of Lots 1 & 2 DPS 12627, 635 Whatawhata Road, Dinsdale. G & S Singleton Heritage Limited, Sheets 1, 2, 2B, 3, 4, 5, 6 & 7.

Survey of Individual Planted Trees, 635 Whatawhata Road, Dinsdale, G & S Singleton Heritage Limited, Sheet 1.

Supplementary Planting Plan, 635 Whatawhata Road, Dinsdale, G & S Singleton Heritage Limited, Sheet 1.

Lot 4 Building Platform Mitigation, 635 Whatawhata Road, Dinsdale, G & S Singleton Heritage Limited, Sheet 1.



LAND USE PROPOSAL

Consequential to subdivision land use resource consent is sought for the following infringements:

Lot 8: - Rule 25.51.1(a) Building coverage

Lot 8 & Lot 9: Rule 25.52.1(a) & (b) Non - residential building gross floor area

Lot 10: Rule 25.54.1(a) Building setbacks allotments 1.6ha or more

Lot 3 & Lot 8: Rule 25.55.1(a) Building setbacks allotments 5000m² to less than 1.6ha

SPECIAL CIRCUMSTANCE

This non – complying activity application in part relies on special circumstances in combination with supporting evidence provided in the various reports contained in Appendices 5 - 11.

Special circumstance in this section is not special circumstances that exists for the purpose of s95A(4) public notification as noted above. Where an applicant is pointing to a special or exceptional circumstances that justify the granting of a non – complying activity, that does not trigger public notification of the application under s95A(4).

Special circumstance is related to the ability of and justification for Council to grant a non - complying subdivision because of existing special or exceptional circumstances. The Environment Court consistently identified the need for a non - complying activity to exhibit unique or at least unusual qualities to justify the granting of consent. Where Special circumstances exist, it is possible for a council to grant a non - complying consent and maintain the consistent administration of the district plan.

This requires an application to provide sufficiently unusual characteristics that distinguishes it from circumstances that commonly arise so that a council can with confidence say there is no precedent effect or risk of challenge to the integrity of the district plan. Conversely for district plan integrity to be imperilled and an application declined, would take a clear case involving an irreconcilable clash with important plan provisions. The bar to decline using precedent is set very high because the RMA makes no reference to the integrity of planning documents being less necessary than the need to consider the plans effect based objectives and policies and where the proposal does not generated effects that are more than minor.

This application provides strong distinguishing features that make it obviously 'out of the ordinary' and 'unique'. Council need not have a concern about granting consent causing future difficulty in processing likely similar applications. The distinguishing features include:

- i. The site is a former golf course that is far too costly to convert back into rural productive land (tree felling / clearance, fencing and water reticulation).
- ii. If converted the land is not economically viable given potential agricultural use.
- iii. Waikato Regional Plan Change 1 is not supportive of conversion back to productive rural land as this will result in a calculated 80% increase in Nitrogen leaching.
- iv. The land is neither productive nor versatile land. It does not contain high quality (class) soil.
- v. The land is subject to flooding, 95% of the land is poorly and very poorly drained subject to extreme and heavy pugging and totally unsuitable for cropping and horticulture.
- vi. The land is unique and 'out of the ordinary'. It previously operated as a golf course that eventually failed. Within the Waikato District there are at least nine existing golf courses (see table below) five of which can be discounted due to public ownership. It is clear that none of the golf courses wholly contain soils that are not high quality soils with the predominant (w) wetness limitation. 635 Whatawhata Road is unique.

Golf courses containing low quality soils the predominant limitation is erodibility which itself does not necessarily prevent versatility to undertake agriculture. The Waikato District, for example, has many steep hill country farms. Hukanui Golf Club is the only golf course that contains wetness limitation noting that 98% of the golf course is not subject to this limitation rather LUC 2s1 (s = dominant limitation is in the rooting zone).

Golf Club	LUC
Waikare	2e2, 2e4 & 3e3
Onewhero	2e3, 4e4
Waiterimu	2w2, 4e3,
Huntly	2w4, 3s1
Hukanui	2s1, 2w3
Ngaruawhia	1s1
Te Kowhai	2w3
Te Akau	3e3
Raglan	4e2

In the unlikely event four privately owned golf course fail and putting aside Waikato Regional Council Plan Change 1, these all have potential options for conversion to agriculture / horticulture. Raglan, Ngaruawhia, Hukanui, Waiterimu and Te Akau Golf Clubs are publicly owned being Recreation Reserve or Public Domain and very unlikely to revert to production land. Given the comparison between golf clubs the subject site remains 'out of the ordinary' and 'unique', there being no possible 'like' application.

OPERATIVE & PROPOSED DISTRICT PLAN COMPLIANCE ASSESSMENT

Subdivision and land use compliance is to be assessed under Rural Zone Chapter 25. We make the following comments with respects to relevant rules only. Refer to Appendix 13 Application Plans 13246 for details.

The Resource Management Act 1991 does not accord proposed plans equal importance with operative plans, rather the weight to be given to the provisions of a proposed plan will depend on the extent to which it has proceeded through the submissions and appeal process and in some circumstances a proposed plan may be given more weight than an operative plan. The relevant considerations include:

1. The extent to which the proposed measure has been exposed to testing and independent decision-making
2. Circumstances of injustice
3. The extent to which a new measure, or the absence of one, might implement a coherent pattern of objectives and policies in a plan
2. Whether there had been a significant shift in Council policy which the new provisions implement
3. Whether the new provisions are in accordance with Part 2 of the Resource Management Act

The proposed has not yet proceeded to a stage that weighting can be applied other than PDP 22.43.1 Rule that is operative. This variation is otherwise complaint with Rule 22.4.16(a) Conservation house lot and Rule 22.4.1.2 General subdivision. There is no discernible significant shift in Council policy.

Rule	Provision	Proposal	Proposed District Plan
Land Use – Building – Assessment against Building Rules considered relevant to the application is shown below			
25.46 - Number of Dwellings			
25.46.1	Construction of a dwelling, other than a dependent person's dwelling, is a permitted activity if, after completion: (a) there is only one dwelling on the land contained in the certificate of title, or (b) there are 2 dwellings on the land contained in the certificate of title, and the title contains at least 40ha.	Lots 1, 2, 4, 5, 6 & 7 are vacant. Lot 3: contains an existing shed. Lot 8: contains the former golf clubroom / academy. Lot 9: contains the former golf pro shop / café. Lot 10: contains the former greenkeepers dwelling, utility shed and unimplemented consented storage shed. A second building platform is proposed in the south and east. Lot 10 will contain an area in excess of 40ha providing for a future dwelling so that a second dwelling is permitted pursuant to ODP rule 25.46.1(b).	No relevant change to this rule.
25.48 - Minimum site area – dwelling			
25.48.1	25.48.1 Construction or alteration of a dwelling is a permitted activity if: (a) the site is connected to a reticulated wastewater system, or (b) the net site area is at least 2500m².	(a) N/A. There is no council reticulation. (b) The net site area of lots is in excess of 2500m². Complies.	No associated rule.
25.49 - Building height			
25.49.1	Construction or alteration of a building or structure is a permitted activity if: (a) its height does not exceed 10m, and (b) it does not protrude through the obstacle limitation surfaces defined in Chapter 30,	(a) No structure on site exceeds the maximum 10m. Complies. (b) N/A. Site is outside of the stated area.	The maximum 10m applies. Otherwise no relevant change to this rule.

Rule	Provision	Proposal	Proposed District Plan
	<p>Designation N1 (Hamilton Airport), and</p> <p>(c) it does not protrude through the obstacle limitation surfaces defined in Appendix K (Te Kowhai Airfield), and</p> <p>(d) its height does not exceed 5m in the Battlefields View Shaft identified on the planning maps, and</p> <p>(e) its height does not exceed 7.5m in the Landscape Policy Area, and</p> <p>(f) the highest part of the building is at least 20m vertically and horizontally from the ridge in a Ridgeline Policy Area, and</p> <p>(fa) the highest part of the building is below the 60m contour (Moturiki Datum) on the eastern side of the Hakarimata Range between Elgood and Parker Roads.</p> <p>Despite (a), a frost fan is a permitted activity if it complies with (b) to (fa), and</p> <p>(faa) the height of support structure does not exceed 10.5m, and</p> <p>(faaa) fan blades do not rotate higher than 13.5m.</p>		
25.50 - Daylight admission			
25.50.1	<p>Construction or alteration of a building is a permitted activity if:</p> <p>(a) the building does not protrude through a height control plane rising at an angle of 37 degrees commencing at an elevation of 2.5m above ground level at every point of the site boundary</p>	<p>All existing buildings onsite fall within the setbacks enable compliance.</p> <p>The Cardrona building is setback some 10m off the proposed boundary. Albeit the boundary is approximately 2.0m downslope the expansive separation distance supports compliance. Lot 10 dwelling is located about 10.0m from the boundary and downslope resulting in compliance.</p>	No change between rules.
25.51 - Building coverage			
25.51.1	<p>Construction or alteration of a building is a permitted activity if:</p> <p>(a) total building coverage does not exceed 2% of the site area, or 500m², whichever is the larger.</p>	<p>(a)</p> <p>Lot 3 larger and small shed has an approximate total area of 298m² or 3.0% and complies being less than the greater 500m².</p> <p>Lot 8 contains the former clubroom / academy (Cardrona) building) which has an area of about 725m² or 7.5% and fails to comply.</p> <p>Lot 9 contains the former golf pro shop / and café with an area of about 483m² or 2.7% and complies being less than the greater 500m².</p> <p>Lot 10 contains the former greenkeepers dwelling an existing utility shed and an unimplemented storage shed of 192m². The total coverage is approximately 610m² Or less than 0.5% and complies.</p> <p>25.51.2</p> <p><i>Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</i></p>	No change between rules.
25.52 – Non residential building			
25.52.1	<p>Construction or alteration of a non-residential building is a permitted activity if:</p> <p>(a) the gross floor area of any non-residential building does not exceed 400m², and</p> <p>(b) the gross floor area of any non-residential building on a site of less than 2ha does not exceed 250m².</p>	<p>(a) & (b)</p> <p>Lot 3 sheds has a total area of about 298m² or 3.0% and fails to comply with (a). The shed however is an existing structure not creating any additional effects on the local environment. Where subdivision is approved the structure is likely to be converted to a dwelling and would comply.</p>	No associated rule.

Rule	Provision	Proposal	Proposed District Plan
		<p>Lot 8 contains the former clubroom / academy (Cardrona) that has an area of about 725m² and fails to comply with (a) & (b).</p> <p>Lot 9 contains the former pro golf shop /café and utility shed that has a combined area of about 483m² and fails to comply with (a) & (b).</p> <p>Lot 10 contains an existing utility shed and an unimplemented storage shed the combined area of 354m² in compliance with (a) & (b).</p> <p>25.52.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity.</p>	
25.52A Buildings for productive rural activities			
25.52A.1	Construction or alteration of a building used for productive rural activities is a permitted activity if: (a) the gross floor area of each building does not exceed 1000m ² .	This rule is not applicable given this application is not seeking or supporting productive rural activities. Lot 10 is the only lot with a land area would support a productive rural use if it were not for the severe wetness limitation and other stated impediments to reconversion. The sheds within this allotment do not otherwise exceed 1000m ² .	No associated rule.
25.53 - Building set back - road boundary			
25.53.1	Construction or alteration of a building is a permitted activity if it is set back at least: (a) 12m from the road boundary, or 7.5m from the road boundary if the certificate of title is less than 1.6 ha, and (b) 22m from the centre line of an indicative road, and (c) 25m from an expressway, or the proposed Waikato Expressway, and (ca) 15m from a state highway.	All structures are set back more than 15.0m from SH23 and complies. (b) and (c) do not apply.	<p>Rule 22.3.7.1</p> <ul style="list-style-type: none"> Habitable building road setback is unchanged. SH23 setback remains 15m (rule 22.3.7.2(a)(ii)). <p>Building setback sensitive land use Rule 22.3.7.2 P1(ii) retains 15m setback to a national route.</p>
25.54 – Building setbacks allotments 1.6ha or more			
25.54.1	<p>25.54.1 Construction or alteration of a building on an allotment 1.6ha or more is a permitted activity if the building is set back at least: (a) 25m from every boundary other than a road boundary</p>	<p>Lots 6, 9 & 10 are in excess of 1.6ha.</p> <p>Lot 6 is vacant land & Lot 9 complies with this rule.</p> <p>Lot 10 former greenkeepers dwelling is wholly contained in the 25m setback being some 10.0m from the common boundary with Lot 8 and fails to comply.</p> <p>The existing utility shed and proposed storage shed are located within the eastern boundary 25m setback. The proposed shed as well as the utility shed was the subject of LUC0192/19 and the effects of which were considered at that time and approved. Adjoining affected person approval was gained. The infringement is therefore lawful and constitutes the permitted baseline.</p> <p>25.54.2 Any activity that does not comply with a condition for a permitted activity is a discretionary activity if it is: 1. a non habitable building within 25m from one or more boundaries other than a road boundary</p> <p>25.54.3 Any activity that does not comply with a condition for a discretionary activity is a non-complying activity.</p>	<ul style="list-style-type: none"> Rule 22.3.7.1 P3(a) habitable building retains the 25m setback other than road boundary rule. Rule 22.3.7.1 P4(a) non habitable building is unchanged against rule 25.53.1.

Rule	Provision	Proposal	Proposed District Plan
25.55 - Building setbacks allotments 5000m² to less than 1.6ha			
25.55.1	Construction or alteration of a building on an allotment between 5000m ² and less than 1.6ha, is a permitted activity if the building is set back at least: (a) 12m from every boundary other than a road boundary and (b) 25m from the boundary of an adjoining allotment 6ha or more for a building which accommodates a residential activity.	<p>Lots 1, 2, 3, 4, 5, 7 & 8, have areas between of 5000m² and <1.6ha. Other than Lot 3 and Lot 8 all other lots are vacant.</p> <p>Lot 3 shed infringes the 25m eastern side yard by up to 20m and fails to comply.</p> <p>Lot 8 contains the former golf clubrooms / academy building it was not originally consented as a residential activity defied by ODP and complies with (b). This building is approximately 10.0m from the proposed eastern boundary and fails to comply with (a).</p> <p>25.55.2 <i>Any activity that does not comply with a condition for a permitted activity is a discretionary activity if it is:</i></p> <p>(a) <i>a non habitable building within 12m from one or more boundaries other than a road boundary if the adjoining allotment is 6ha or more.</i></p> <p>25.55.3 <i>Any activity that does not comply with a condition for a discretionary activity is a non-complying activity.</i></p>	Rule 22.3.7.1(a) P1 habitable building is unchanged.
25.61 Building in Flood Risk Area			
25.61.1	Construction or alteration of a building on land shown on the planning maps as a Flood Risk Area or other land that is subject to flood hazards is a permitted activity if: (a) the floor level of any habitable room is at least 0.3m above the 1% design flood level, and (b) the floor level of any non-habitable room is at or above the 1% design flood level, and (c) wastewater and stormwater disposal systems comply with Appendix B (Engineering Standards).	Council planning maps do <u>not</u> show the subject site to fall within a flood hazard area. The Golovin flood analysis report contained in Appendix 7 provides the extent of a potential 100 year flood event. This report will enable floor levels to be designed.	No associated rule.
Subdivision			
25.70A - Subdivision generally			
25.70A.1	Subdivision is a restricted discretionary activity if: (a) the subdivision creates no more than one additional certificate of title from each existing viable certificate of title that existed prior to subdivision, other than utility and access allotments, and (b) the land being subdivided comprises land with each certificate of title issued (i) prior to 6 December 1997, or (ii) after 6 December 1997 if it was created by: □ a process other than subdivision under the Resource Management Act 1991, or □ a boundary adjustment where the land was contained in a viable certificate of title issued prior to 6 December 1997, or □ despite rule 25.5(e), a subdivision which created a utility allotment exclusively for the purposes of a network utility from land contained in a certificate of title issued prior to 6 December 1997.	<p>(a) & (b). The subject site is comprised of two viable Records of Title. The proposal results in more than one additional record of title and fails to comply.</p> <p>(b)(i) Records of Title were issued on 18 September, 1969 and complies.</p> <p>25.70A.2 <i>Subdivision that does not comply with a condition for a restricted discretionary activity is a non-complying activity.</i></p>	<p>Rule 22.4.1.2 RD1 (a). This rule combines OPD rule 2570A.1 and rule 25.74.1.</p> <p>i. The proposal utilises Records of Title that have dates prior to 6 December 1997 and complies.</p> <p>ii. The parent RT SA10B/683 has a complying area of 41.6ha. RT SA/10B/282 fails to comply.</p> <p>iii. The proposal results in more than one additional record of title and fails to comply.</p> <p>iv. Lot 6 & 9 has areas in</p>

Rule	Provision	Proposal	Proposed District Plan
	Discretion restricted to: ▯ subdivision layout ▯ rural character ▯ subdivision layout supporting the efficient use of soils ▯ potential for reverse sensitivity		excess of 1.6ha and fails to comply. Lot 10 is the balance allotment. v. A & B. The land contains no high class soil. <i>NC1: General subdivision that does not comply with Rule 22.4.1.2. RD1.</i>
25.72 – Allotment Boundaries			
25.72.1	Subdivision is a restricted discretionary activity if the boundary of every allotment is drawn so that: (a) existing buildings comply with the permitted activity rules relating to building coverage, setbacks, and daylight angles, except to the extent of any non-compliance that existed lawfully prior to the subdivision, and (b) no area of significant indigenous vegetation and habitat, hazard area, contaminated land, dune land, heritage item, site of significance to Maaori, or wetland is divided between allotments, and (c) boundaries avoid any tree listed in Appendix F (Notable Trees), and (ca) the largest new allotment contains all land within: (i) 200m of the boundary of an Aggregate Extraction Policy Area used for sand extraction, and (ii) 500m of the boundary of an Aggregate Extraction Policy Area used for rock extraction, and (iii) 300m of the limit of any area occupied by an operating intensive farm. Discretion restricted to: ▯ effects on amenity values of buildings ▯ effects on sites of significance to Maaori ▯ effects on any notable trees ▯ amenity and rural character ▯ effects on heritage items ▯ matters referred to in Appendix M: Acoustic Insulation, M4 Airport Noise Outer Control Boundary Consent Notice ▯ effects on archaeological sites	a. Lot 8 fails building coverage, non - residential floor area and side yard setback. Lot 9 fails non - residential floor area and Lot 10 fails a side yard setback. All other lots comply. b. No area of significant indigenous vegetation and habitat, hazard area, contaminated land, dune land, heritage item, site of significance to Maori, or wetland is divided between allotments c. There are no notable trees recorded in the Proposed District Plan located on the subject property. (ca) There are no known Aggregate Extraction Policy Areas for sand, rock or any operating factory farm within the distances prescribed by this rule. 25.72.2 <i>Subdivision that does not comply with a condition for a restricted discretionary activity is a discretionary activity.</i>	Rule 22.4.2(a) Subdivision of land containing any natural hazard area, contaminated land, Significant Amenity Landscape, notable trees, intensive farming activities or Aggregate Extraction Areas must comply with all of the following conditions. Proposed allotments are not subject to any stated matters. The term Natural hazard Area is not defined in the PDP, there is no map overlay. Hazard in PDP Means in the context of hazardous substances, physical situations, processes and actions in relation to a hazardous substance that has the potential for adverse effects on people, ecosystems or the built environment.
25.74 – Allotment size – minimum - maximum			
25.74.1	Subdivision is a restricted discretionary activity if: (a) The parent certificate of title is at least 20ha; and (b) Every child certificate of title has a minimum net site area of 8000m ² and a maximum of 1.6ha, except for an access allotment or a utility allotment, and (c) No more than one certificate of title produced by the subdivision has an area greater than 1.6ha, and (d) a utility allotment for a network utility does not exceed 50m ² Discretion restricted to: ▯ dimensions, shapes and orientation of certificate of title ▯ effects on runoff rate and water quality ▯ amenity and visual values ▯ rural character ▯ potential for reverse sensitivity ▯ subdivision layout supporting the efficient	(a) The parent RT SA10B/683 has a complying area of 41.6ha. RT SA/10B/282 fails to comply. (b) Lots 6 & 9 have areas in excess of 1.6ha and fails to comply. Lot 10 is the balance allotment. (c) Two Lots (6 & 9) have areas greater than 1.6 and fails to comply. (d) Not Applicable. No utility lot is proposed. 25.74.2 <i>Subdivision that does not comply with a condition for a restricted discretionary activity is a non-complying activity.</i>	See Rule 22.4.1.2 RD1 (a) above.

Rule	Provision	Proposal	Proposed District Plan
	use of soils		
25.75 - Frontage			
25.75.1	<p>Subdivision is a restricted discretionary activity if:</p> <p>(a) every allotment with a road boundary, other than an access allotment, access leg, or utility allotment, has a width at the road boundary of at least 60m.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▣ safety and efficiency of vehicle access and road network ▣ amenity values and rural character. 	<p>Lots 8, 9, & 10 have road frontage. Lot 8 and Lot 10 comply with this rule. Lot 9 has frontage of 50m and fails to comply.</p> <p>25.75.2 <i>Subdivision that does not comply with a condition for a restricted discretionary activity is a discretionary activity.</i></p>	No change between rules.
25.76 – Road Access			
25.76.1	<p>Subdivision is a controlled activity if:</p> <p>(a) every allotment is provided with vehicle access to a public road, and</p> <p>(b) the vehicle access complies with Appendix A (Traffic) and Appendix B (Engineering Standards), and</p> <p>(c) the access is aligned to avoid any tree listed in Appendix F (Notable Trees), or a site of significance to Maori.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▣ adequacy of the access for its intended use ▣ road efficiency and safety ▣ matters referred to in Appendix A (Traffic) and Appendix B (Engineering Standards) ▣ amenity and rural character resulting from the location of the road access. 	<p>(a) All Lots have direct and existing access to Whatawhata Road SH 23.</p> <p>(b) See Appendix A and B below (NZTA)</p> <p>(c) Not Applicable. The site does not contain and notable tree or site of significance to Maori.</p>	No associated rule.
25.77 - Building Platform			
25.77.1	<p>Subdivision is a restricted discretionary activity if every allotment, other than a utility or access allotment, is capable of containing:</p> <p>(a) deleted</p> <p>(b) a shape factor, being either</p> <p>(i) a circle with a diameter of at least 30m exclusive of boundary setbacks, or</p> <p>(ii) a rectangle of at least 1000m², exclusive of boundary setbacks, of which each dimension is at least 25m, and</p> <p>(ba) a building platform where a dwelling could be built as a permitted activity, being a circle with a diameter of at least 18m, located within the shape factor, and</p> <p>(c) a building platform with an average gradient not steeper than 1:8, and</p> <p>(d) a building platform that, within the Landscape or Ridgeline Policy Area, is not visible from a road or other public place, and</p> <p>(e) a building platform not subject to inundation in a 2% probability storm or flood event.</p>	<p>(b) The application plan shows proposed Lots 1 – 7 and Lot 10 to have complying building platforms. Lots 8 & 9 already contain buildings notwithstanding both lots contain complying shape factors.</p> <p>(c) All building platforms are near level.</p> <p>(d) & (e) Not Applicable. Site is not subject to any policy area or inundation.</p>	<p>Rule 22.4.9(a).</p> <p>(i) Conformed that all platforms comply.</p> <p>(ii) All platforms are near level.</p> <p>(iii) Platforms are certified geotechnically stable.</p> <p>(iv) Subdivision utilises existing access to SH23 approved by NZTA.</p> <p>(v) The 1% AEP has been calculated (Golovin report) and shows platforms to be unaffected by flood with possible exception of Lots 1, 5, 7. Finished floor level of 0.5m above the flood RL is necessary. These lots were surveyed and confirmed to be flood free. Lot 1 RL25.46m; Lot 5 RL28.02m and Lot 7 RL27.93.</p> <p>(vi) Able to comply.</p>

Rule	Provision	Proposal	Proposed District Plan
25.78 – Earthworks			
25.78.1	<p>Subdivision is a controlled activity if:</p> <p>(a) earthworks comply with Appendix B (Engineering Standards)</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> • matters referred to in Appendix B (Engineering Standards) • amenity and streetscape • nature and source of fill • location of earthworks and fill • compaction of fill • volume and depth of earthworks and fill • identification of future building platforms • water quality • provision of erosion and sediment control plan for the work <ul style="list-style-type: none"> • notice prior to commencement • protection of the Hauraki Gulf Catchment Area 	No earthwork is proposed.	<p>Rule 22.2.3.</p> <p>No earthwork is proposed.</p>
25.79 – On-Site Services			
25.79.1	<p>Subdivision is a restricted discretionary activity if, for every allotment other than a utility or access allotment:</p> <p>(a) stormwater, land drainage, water supply and wastewater disposal on every allotment is managed in accordance with Appendix B. (Engineering Standards), and</p> <p>(aa) provision is made to connect to a telecommunications network and energy supply network, and</p> <p>(b) services are placed underground where</p> <p>(i) a new road is required as part of the subdivision, or</p> <p>(ii) existing services to the land are already placed underground, and</p> <p>(ba) every allotment less than 6ha in an area serviced by the existing infrastructure of a rural water supply scheme is connected to that scheme.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> ▣ health and safety ▣ amenity values ▣ matters referred to in Appendix B (Engineering Standards) ▣ the ability of allotments to manage on-site: <p>(i) treatment and disposal of household effluent</p> <p>(ii) stormwater</p> <p>(iii) sediment resulting from building platforms, access and landscaping</p> <ul style="list-style-type: none"> ▣ safety, integrity, and maintenance of local networks including water supply and wastewater disposal. 	<p>a) <u>Water Supply</u></p> <p>The site has is not serviced by Council reticulation. There are two existing water bores located on the eastern boundary. One bore and pump shed is located within Lot 8. This bore pumps water to the water tank on the south side of the golf clubrooms / academy building and is thereafter distributed to three structures, the golf clubroom / academy, greenkeepers dwelling and golf pro shop / café. Easements will be required at 223 approval upon water pipe locations having been identified. Any proposed use of water tanks after subdivision (also for SW collection) or just reticulation lines.</p> <p>A second water bore is located within balance Lot 10. This bore feeds an irrigation system and the south east water storage tank within the allotment.</p> <p>Lot 3 has it own water tank to collect and detain rain water.</p> <p>Future dwellings within Lots 1, 2, 4, 5, 6, and 7 will require onsite water detention tanks for domestic use..</p> <p><u>Storm water</u></p> <p>Lot 8 golf clubroom / academy directs all roof storm water to the water tank for detention and use. Overflow, if any, is discharged to the internal driveway and three catch pits eventually discharging to the eastern boundary drain.</p> <p>The greenkeepers dwelling within Lot 10 discharges storm water into pipes located adjacent the eastern wall discharging via pipe to a pond in the south and within Lot 10. The utility and consented storage shed will discharge storm water directly to the eastern</p>	<p>Rule 14.3.1.8 Service Connections for subdivision.</p> <p>Rule 14.11.1.1(a) Storm water can be provided to proposed lots in accordance with this permitted rule.</p> <p>14.11.1.3(a)(iii) Self - contained wastewater can be provided to proposed allotments not already serviced.</p>

Rule	Provision	Proposal	Proposed District Plan
		<p>drain.</p> <p>The pro golf shop / cafe and utility shed discharge to ground. Lot 3 shed directs rainwater to a water detention tank and any overflow to ground.</p> <p>CMW Geosciences report states that due to shallow ground water encountered on the low lying areas soakage to ground is expected to be limited as it will be for the elevated areas given the clays and silts resulting in low permeability. Runoff from roofs is to be collected and detained with any a low flow orifice. Overflow structures are proposed to be feed into nearby existing ponds</p> <p><u>Wastewater</u></p> <p>The existing golf clubrooms / academy is serviced by septic tanks and effluent field located as shown the application plan Sheet 2, immediately to the west and within the slope and within Lot 8. The effluent field is located in the north east corner of proposed Lot 8. A second septic tank is located to the west of the greenkeepers dwelling at the base of the slope at road level and within Lot 10. The effluent field runs to the south also wholly contained in Lot 10.</p> <p>The former golf pro shop and café within Lot 9 is serviced by its own septic tank and effluent field located as shown the application plan Sheet 2.</p> <p>The existing shed contained in proposed Lot 3 has its own septic tank and effluent field located as shown on application plan sheet 5 that was approved via building consent BLD0876/19.</p> <p>The CMW Geosciences report confirms at page 7 that due to the shallow water table wastewater management will requires advanced aerated systems. The elevated sites (Lots 2, 5, 6, 7 & 10) are suitable to utilise conventional shallow trenches or advanced aerated systems.</p> <p><u>Power & Telecommunication</u></p> <p>The existing structures are already connected to power and telecommunication from the roadside via overhead lines at the north east of proposed Lot 8. WEL Networks and Chorus confirmation of supply is contained in Appendix 4. The applicant anticipates a wireless connection and therefore we ask that the standard "either or" telecommunication condition is imposed. Example wireless providers Lightwire and Spark coverage maps confirm potential availability. The site is outside current fibre reticulation area however Chorus has provided a quote that includes the ability to provide fibre.</p> <p>(b) No new road is proposed. Existing services are located underground.</p> <p>(ba) Not Applicable. There is no Council</p>	

Rule	Provision	Proposal	Proposed District Plan
		reticulated water supply.	
25.80 – Hazard Risks			
25.80.1	<p>Subdivision is a restricted discretionary activity if:</p> <p>(a) the land is not in the Huntly South Assessment Area, Huntly East Mine Subsidence Area or Flood Risk Area.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> avoidance and mitigation of hazard risk. 	<p>(a) Proposed building platforms are not located in any Flood Risk Area identified on the Council Planning Maps.</p>	No associated subdivision rule.
25.81 – Esplanade Reserves and Esplanade Strips			
25.81.1	<p>Subdivision is a controlled activity if an esplanade reserve or strip 20m wide (or other width stated in Appendix G Esplanade Priority Areas) is created from every allotment:</p> <p>(a) less than 4ha and within 20m of</p> <p>(i) mean high water springs, or</p> <p>(ii) the bank of any river whose bed has an average width of 3m or more, or</p> <p>(iii) a lake whose bed has an area of 8ha or more, or</p> <p>(b) 4ha or more within 20m of mean high water springs or a water body identified in Appendix G (Esplanade Priority Areas).</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> deleted the type of esplanade provided – reserve or strip width of the esplanade reserve or strip access to the esplanade reserve or strip matters provided for in an instrument creating an esplanade strip or access strip works required prior to vesting any reserve in the Council 	<p>N/A. The subject property does not adjoin or contain:</p> <ul style="list-style-type: none"> mean high water springs; or any river with a bed of 3.0m or more; or Any lake. 	No change between rules.
25.82 – Land Containing Heritage Items			
25.72.2	<p>Subdivision of land containing a heritage item listed in Appendix C1 (Historic Heritage Items) is a restricted discretionary activity if:</p> <p>(a) the heritage item is wholly contained on one allotment, and</p> <p>(b) the relationship of the heritage item with its setting is maintained.</p> <p>Discretion restricted to:</p> <ul style="list-style-type: none"> effects on the values, context and setting of the heritage item. 	<p>(a) & (b) Not Applicable.</p> <p>The subject property is not identified in Appendix C1 as containing any heritage item.</p>	N/A.
25.83 – Traffic Generation			
25.83.1	<p>Subdivision is a controlled activity if:</p> <p>(a) traffic generated by likely land uses following the subdivision does not alter the status or function of roads in the road hierarchy identified in Appendix A (Traffic).</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> capacity and quality of the road surface function of the public road safety and efficiency of the road network safety of road users 	<p>(a) The subdivision as proposed will not alter the status or function of Whatawhata Road SH 23 (See NZTA consult reply in Appendix 5).</p>	See Rule 14 12.1.4(d) below.
			Rule 22.4.3 Title boundaries – Significant Natural Areas, heritage

Rule	Provision	Proposal	Proposed District Plan
			<p>items, Maaori sites of significance and Maaori areas of significance</p> <p>RD1 (a) The boundaries of every proposed lot must not divide any of the following: (i) Significant Natural Areas; (b) Council's discretion shall be limited to the following matters: (i) Effects on Significant Natural Areas (SNAs);</p> <p>NC1: Subdivision that does not comply with Rule 22.4.3 RD1. The scheme plan of subdivision shows the SNA as green hatch. Lots 7, 11, 17 and 18 contain a SNA that is wholly contained within the gully system. Due to aerial distortion it is doubtful that Lots 8 and 15 are within the SNA.</p>

Appendix A – Traffic

A3 – Provision of Access on Subdivision

Rule	Provision	Proposal	Proposed District Plan
A14			
A21	Access and Entrances		
A21.1	<p>Subdivision is a controlled activity if:</p> <p>(a) every allotment has vehicle access to a road, and</p> <p>(b) no more than 4 allotments share a private access, and</p> <p>(c) no access, access leg or right of way runs parallel to any road within 30m of the road, and</p> <p>(d) every access and road entrance is laid out and constructed to comply with the standards in</p> <p>(i) Tables 4, 5 and 6, and</p> <p>(ii) Figures 4 to 10 inclusive, and</p> <p>(iv) Appendix B (Engineering Standards).</p> <p>(e) no new entrance is created from a limited access road, and</p> <p>(f) where the land being subdivided has legal access to 2 roads, no more than one allotment accesses the road with the higher classification in the road hierarchy in Table 8 Road Hierarchy, and</p> <p>Control reserved over:</p> <ul style="list-style-type: none"> matters referred to in Appendix B (Engineering Standards) adequacy of the access for its intended use space for utilities traffic safety and efficiency amenity values length and width of access leg or access standards, including to retain potential future use of allotments, and vehicle entrance design and dimensions separation distances between vehicle entrances and intersections sight distances need for forming or upgrading roads in the vicinity due to increased traffic from the subdivision 	<p>(a) Complies. Lots are able to access SH23 either directly as for Lots 8, 9 and 10 the remainder via ROW A to E inclusive.</p> <p>(b) Lots 1 – 7 inclusive will share a private way – ROW A & B and fails to comply.</p> <p>(c) Lot 8 has an existing access leg that runs parallel with SH 23. This is an existing situation. NZTA has reviewed this application. The consultative reply is contained in Appendix 5 that has provided support for the proposal access.</p> <p>(d) See table assessment below.</p> <p>(e) N/A.</p> <p>(f) N/A</p>	<p>Rule 14.12.1.1(a) – (g)</p> <p>(a) The site has access to SH23.</p> <p>(b) See assessment tables below.</p> <p>(c) N/A.</p> <p>(d) Lot 8 has an existing access leg that runs parallel with SH 23. This is an existing situation and supported by NZTA.</p> <p>(e) N/A.</p> <p>(f) N/A</p> <p>(g) N/A</p> <p>Rule 14.12.1.2 & 14.12.1.3. Developed Lots 3, 8 and 9 have compliant parking and manoeuvring areas.</p> <p>Rule 14.12.1.4(d) Within the Rural Zone: There is a maximum 200 vehicle movements per day and no more than 15% of these vehicle movements are heavy vehicle movements.</p> <p>The site is likely to generate up to 100vpd. No heavy rural machinery is expected from residential sites.</p>
Table 4	<p>Access to an Allotment</p> <ul style="list-style-type: none"> Number of House Allotments / activities = Lots 1 - 4. Number of House Allotments / activities = Lots 5 - 8. Indicative Traffic Volume = 10 and 80 Minimum Access leg width of 4m, 6m and 20m. 	<p>ROW A serves a maximum of eight (8) allotments requiring an access lot and a minimum width of 20m and a seal width of 4.0m reducing to 3.0m serving 2 - 4 lots. ROW proposed width is 10m and fails to comply.</p> <p>ROW B – E inclusive serve three or less allotments and has a complying width of 10m</p>	<p>Table 14.12.5.15 Access and road conditions (Rural and Country Living Zones). 1 – 3 = 6m minimum width 4 – 8 = 10m minimum width.</p> <p>The proposed ROW width is 10m in compliance with this rule. This rule requires an access lot up to 8 allotments rather than ROW.</p>
Table 5	<p>Separation Distances (Speed Environment 100kph) Local Road</p> <ul style="list-style-type: none"> Access / Access (n) = 200m 	<p>All lots will utilize a single and existing crossing to SH23. The nearest vehicle crossing in the vicinity of this crossing is a farm entrance located at RAPID 614 Whatawhata Road SH23 being 48m separation to the east on the opposite side of the road. This is a</p>	<p>Table 14.12.5.1 Separation distances. No change between rules.</p>

Rule	Provision	Proposal	Proposed District Plan
A14			
		37m wide formed and sealed commercial entrance. NZTA consultative reply confirms continued use of the existing access.	
Table 6	Minimum Sight Distances 100kph (speed environment) = minimum sight distance = 250m (more than 40vpd Rural Areas).	Sights distance from the crossing looking east to Hamilton City is 264m and west to Raglan 800m in compliance with this rule.	Table 14.12.5.3 - Minimum sight distances. No change between rules.

Appendix B – Engineering Standards

B2 – Wastewater

Rule	Provision	Proposal	Proposed District Plan
B2.1	The wastewater disposal system shall meet these objectives: (a) safeguard peoples' health and safety (b) safeguard people from loss of amenity due to the presence of unpleasant odours or the accumulation of offensive matter resulting from wastewater and foul water disposal (c) safeguard the intrinsic values of ecosystems within the land being subdivided (d) ensure that sanitary wastewater is removed from the premises.	Compliance is expected where the recommendations of the CMW Geoscience report are followed.	Rule 14.2 Rules applying to all infrastructure. P1 - 14.2.1.1 (a) to (f). See Rules 14.11 and 14.12.
B2.2	Drainage systems for the disposal of wastewater shall be constructed to: (a) convey foul water to an appropriate treatment and disposal system (b) avoid the likelihood of blockage and leakage (c) be supported, jointed, sealed and protected in a way that will avoid the likelihood of penetration of roots, or the entry of groundwater, or surface stormwater (d) be provided with reasonable access for maintenance, and clearing of blockages (e) be ventilated to avoid the likelihood of foul air and gases accumulating in the drainage system and sewer (provided that vents shall be positioned to avoid nuisances near existing buildings or likely future building sites) (f) be constructed to avoid the likelihood of damage from superimposed loads, normal ground movement, or flooding from a 2 per cent probability flood event (g) be compatible with any existing network that it is linked to (h) not unduly restrict the location of any future buildings (i) use materials suitable for the intended use (j) be sized to accommodate the foreseeable flows (k) have a design life of at least 70 years. (ka) set back drip lines and effluent disposal fields at least 1.5m from the site boundary.		
B2.3	Every allotment shall be provided with a piped gravity outfall connected to an existing council sewer, where a sewer is available within 500 metres and which has the capacity to carry the potential volume of wastewater likely to emanate from the allotment following subdivision. (The capacity of the sewer means the capacity of the length of the sewer from the allotment to, and including, the treatment facilities).	Not Applicable. There is no council waste water reticulation available to the site.	
B2.4	The connection to the sewer shall be made in a manner that avoids damage to the sewer, and that is to the approval of the network utility operator.		
B2.5	On-Site Wastewater Disposal Every allotment that is not connected to a reticulated wastewater system shall be capable of being provided with a means of treating and disposing of sanitary wastewater (within the net area of the allotment) that meets the objectives and relevant construction standards above, and that ensures that there will be no contamination of downstream properties by wastewater effluent. Waste water systems in poorly drained areas should be designed to avoid health risks from the effects	See B2.1 above	

Rule	Provision	Proposal	Proposed District Plan
	<p>of high ground water levels on the proposed effluent disposal field.</p> <p>On-site wastewater systems shall comply with AS/NZS 1547:2000 or subsequent revisions, and shall comply with the Waikato Regional Council's regional rules for onsite discharges of wastewater.</p>		
B3 – Trade Waste		Not Applicable	
B4 – Water			
B4.1	<p>The water supply system shall meet these objectives:</p> <ul style="list-style-type: none"> (a) safeguard people from illness caused by infection from contaminated water or food (b) safeguard against injury or property damage arising from the operation of the system (c) safeguard people from loss of amenity arising from a water supply that is offensive in appearance or odour (d) provide adequate supply of potable water for the reasonably foreseeable consumption, health and hygiene needs of people using each allotment (e) conserve water by avoiding leaks and, where practicable, the use of water saving fixtures, such as low flow shower heads and rain tanks will be encouraged (f) provide adequate water supply for fire fighting in urban areas (fa) new buildings shall incorporate water saving fixtures where practicable, such as low flow shower heads and rain tanks 	In the absence of council reticulation, proper installation of a rainwater tank collection and detention is expected to meet these objectives. Water to some lots is available from the existing water bores.	
B4.2	Every allotment shall be provided with a potable water supply sufficient for the likely use of the land following subdivision.	See B4.1above	
B4.3	<p>Water supply systems shall be constructed to:</p> <ul style="list-style-type: none"> (a) ensure compliance with the NZ Drinking Water Standards 2000 or subsequent revisions, where the system serves more than one dwelling or property (b) avoid the likelihood of potable water contamination within both the system and the water main (c) provide water at flow rates that are adequate for the likely future land use on each allotment under normal conditions (the minimum requirement shall be the flow rates required for a typical household containing 4 persons), and to withstand anticipated pressures and loads (d) avoid the likelihood of leakage (e) allow reasonable access for maintenance of mechanical components (f) allow the system and any backflow prevention devices to be isolated for testing and maintenance (g) provide adequately for fire fighting, with accessible water supplies in public places, in all zones other than the Rural and Country Living Zones (h) be compatible with any existing network it is linked to (i) have a design life of at least 70 years (j) use materials suitable for the intended use (k) be clearly identified as such, if carrying non-potable water. <p>Note – urban type activities that establish in the Rural, Coastal and Country Living Zones may be required under resource consent conditions to provide for fire fighting, as the Council will not supply water in these areas at sufficient pressure or flow for fire fighting.</p>	See B4.1above	

Rule	Provision	Proposal	Proposed District Plan
B4.3A	Every allotment less than 6ha in an area serviced by the existing infrastructure of an urban or rural water supply scheme is connected to that scheme.	N/A. No Council reticulation is provided.	
B4.4	Every allotment connected to the Council water supply system shall be equipped with an approved water connection and meter backflow preventer where applicable. For allotments fronting a public road, the connection shall be located on the road side of a road boundary at a point where it is clear of vehicle and traffic movements and readily accessible for meter reading. The installation of a rain tank for secondary use, e.g. watering gardens, washing boats, is encouraged.		
B5 – Stormwater			
B5.1	<p>The stormwater disposal system shall meet these objectives:</p> <ul style="list-style-type: none">(a) safeguard people from injury or illness from damage caused by surface water(b) avoid adverse effects caused by surface water on other properties(c) protect the environment from accelerated erosion or sedimentation(d) protect the environment from the effects of heavy metals and other contaminants in stormwater discharges(e) protect the outfalls of drainage systems.(ea) provide adequate drainage within each allotment	<p>Storm water management associated with development will be undertaken to ensure compliance with the relevant standards.</p> <p>Stormwater Soakage</p> <p>Due to shallow ground water encountered on the low lying areas soakage to ground is expected to be limited as it will be for the elevated areas given the clays and silts resulting in low permeability. Runoff from roofs is to be collected and detained with any a low flow orifice. Overflow structures are proposed to be feed into nearby existing ponds.</p>	
B5.2	Buildings and site works shall be constructed in a way that protects people and property from the adverse effects of surface water.	See B5.1 above. The floodplain analysis provides the expected extent of the 100 year event. No proposed building platform will be adversely affected given minimum floor levels are provided.	
B5.3	Surface water, resulting from a storm having a 10per cent probability of occurring annually and which is collected or concentrated by buildings or site work, shall be disposed of to a suitable outlet in a way that meets the objectives in B5.1 and avoids the likelihood of damage or nuisance within the allotment or to other property. Secondary flow paths shall be provided for surface water flows exceeding the 10per cent storm flow.	Onsite storm water shall be managed in accordance with the recommendations contained in the CMW Geosciences report.	
B5.4	<p>Drainage systems for the disposal of surface water shall be constructed to:</p> <ul style="list-style-type: none">(a) convey surface water to an appropriate outfall using gravity(b) avoid the likelihood of blockages, leakages, or penetration by roots, where pipes, manholes or lined channels are used(c) provide reasonable and safe access for maintenance, and clearing of blockages(d) avoid the likelihood of damage to any outfall, in a manner acceptable to the network utility operator(e) avoid the likelihood of damage from superimposed loads or normal ground movements(f) deal with surface water in the catchment in which it falls(g) adequately service each allotment, road area or other land area falling to the point of entry into the drainage system(h) be compatible with any existing drainage network it is linked to(i) use materials suitable for the intended use(j) have a design life of at least 70 years(k) not unduly restrict the location of any future building	See B5.3 above.	

Rule	Provision	Proposal	Proposed District Plan
	<ul style="list-style-type: none"> (l) avoid the discharge of stormwater to any wastewater sewer network (m) avoid an increase in the peak flow rate off the land in Living, Pa, Business, Industrial (particularly in Raglan) and Country Living Zones. Within the Tamahere Country Living Zone any measures designed under this rule shall ensure that existing low flows in gully streams are preserved. (n) minimise discharge of contaminants (o) ensure that stormwater disposal areas are adequately separated from effluent disposal areas to safeguard the functioning of both systems. In areas of poorly drained soils either the stormwater is to be directed to areas with higher infiltration, or infiltration systems are to be constructed. (p) ensure that residual stormwater (after mitigation) discharged to a gully is piped down the gully sides with appropriate erosion protection measures, e.g. rip rap at the outlet to the gully floor (q) minimise the amount of stormwater entering the piped drainage system (r) facilitate groundwater recharge where soil characteristics and winter groundwater conditions indicate that infiltration systems are a viable engineering solution. (s) cover the immediate needs as well as those of foreseeable future developments (t) have a design life of not less than 100 years (u) build infrastructure that minimises lifecycle costs (v) meet the requirements of any catchment management plan, where applicable (w) ensure that the infrastructure vested in Council is of sufficient capacity to cope with total unmanaged design flows assuming there are no functioning private LIUDD's within the catchment. 		
B5.5	Every allotment shall be provided with a piped gravity outfall connected to a council stormwater drain where one exists and where it has the capacity to carry the potential volume of stormwater likely to emanate from the allotment following subdivision. (The capacity of the drain means the capacity of the length of the drain from the allotment to, and including, its outfall to a water body or coastal water).		
B5.6	All systems shall be designed to accept the flow from upstream of the subdivision, and shall be of sufficient capacity to provide for maximum flows from possible future development areas, to the extent of development allowed as a permitted activity in the relevant zone.	The site does not receive flow from the north or east. Northern flows, if any, are cut off by SH23 and eastern flows by a boundary drain. Natural drainage is south to north along and adjacent of the western boundary. The extent of these flows is contained in the floodplain analysis.	
B6 – Earthworks			
B6.1	Earthworks shall meet these objectives: <ul style="list-style-type: none"> (a) safeguard people, property and the environment from the adverse effects of unstable land (b) improve land utilisation (c) avoid accelerated erosion or sedimentation (d) be sympathetic to surrounding cultural and landscape values (e) avoid, remedy or mitigate any adverse effects on the environment 	No earthwork is proposed.	
B6.2	Earthworks shall be constructed to: <ul style="list-style-type: none"> (a) remain safe and stable for the duration of the intended land use 		

Rule	Provision	Proposal	Proposed District Plan
	<ul style="list-style-type: none">(b) be geotechnically sound(c) provide safe, stable and accessible building sites(d) withstand and remain stable under anticipated loads(e) provide for the adequate control of stormwater, and cater for the natural groundwater flows(f) minimise sediment loss from the site through implementation and maintenance of sediment controls(g) avoid adverse effects on other land from changes to natural water flows and established drainage paths.(ga) avoid sites of significance to Maori		
B7 – Road Standards		Not Applicable.	
B8 – Other Utilities			
B8.1	<p>Other utilities (e.g. telecommunications, energy) shall meet these objectives:</p> <ul style="list-style-type: none">(a) safeguard health and safety(b) provide an adequate supply of the service or commodity to each allotment(c) not conflict with the operation or maintenance of the services mentioned above.	<p>The provision of electricity and telecommunications services to proposed allotments not already supplied will be undertaken and constructed to meet the relevant objectives and standards in consultation with the relevant service provider.</p>	
B8.2	<p>The layout of any utility reticulation network shall be constructed to:</p> <ul style="list-style-type: none">(a) adequately service each allotment, development or road area(b) be compatible with any existing network that it is linked to(c) be compatible with other utility systems(d) avoid the likelihood of contamination or leakage(e) accommodate the anticipated demand, and withstand the anticipated pressures and loads in its locality(f) be made from materials suitable for the intended use(g) be clearly identified and accurately recorded on as-built drawings(h) ensure safety in operation(i) not be visually intrusive(j) be located, if the utility is on a road, in accordance with the road controlling authority's requirements(k) ensure safety and full reinstatement of road openings, with minimum public disruption (Compliance with the Waikato District Council's Road Opening Code will be accepted as compliance with this provision)		

NON - COMPLIANCE AND ASSESSMENT OF ENVIRONMENTAL EFFECTS

The above assessment against the OPD and the PDP rules and assessment criteria for restricted discretionary activities identifies the following non - compliance with the relevant rules.

A - LAND USE

Rule 25.51.1(a) - Building coverage

This permitted rule requires that total building coverage does not exceed 2% of the site area, or 500m², whichever is the larger.

Lot 8 contains the former clubroom / academy (Cardrona) building) which has an area of about 725m² or 7.5% and fails to comply.

Rule 25.52.1(a) & (b) – Non residential building

This rule states that *Construction or alteration of a non-residential building is a permitted activity if:*

- (a) *the gross floor area of any non-residential building does not exceed 400m², and*
- (b) *the gross floor area of any non-residential building on a site of less than 2ha does not exceed 250m².*

Lot 8 contains the former clubroom / academy (Cardrona) that has an area of about 725m² and fails to comply with (a) & (b).

Lot 9 contains the former pro golf shop /café and utility shed that has a combined area of about 483m² and fails to comply with (a) & (b).

Pursuant to Rule 25.52.2 *Any activity that does not comply with a condition for a permitted activity is a discretionary activity.*

Rule 25.54.1(a) – Building setbacks allotments 1.6ha or more

The rule states *Construction or alteration of a building on an allotment 1.6ha or more is a permitted activity if the building is set back at least:*

- (a) *25m from every boundary other than a road boundary.*

Lot 10 former greenkeepers dwelling is wholly contained in the 25m setback being some 10.0m from the common boundary with Lot 8 and fails to comply.

Pursuant to Rule 25.54.3 *Any activity that does not comply with a condition for a discretionary activity is a non-complying activity.*

Rule 25.55.1(a) & (b) Building setbacks allotments 5000m² to less than 1.6ha

This rule requires *Construction or alteration of a building on an allotment between 5000m² and less than 1.6ha, is a permitted activity if the building is set back at least:*

- (a) *12m from every boundary other than a road boundary.*

Lot 3 shed infringes the 25m eastern side yard by up to 20m and fails to comply with (b).

Lot 8 contains the former golf clubrooms / academy building (non - habitable building) that is approximately 10.0m from the proposed eastern boundary and fails to comply with (a).

Pursuant to rule 25.55.3(a) *a non habitable building within 12m from one or more boundaries other than a road boundary if the adjoining allotment is 6ha or more is a discretionary activity (Lot 8).*

Pursuant to rule 25.55.3(b) *any activity that does not comply with a condition for a discretionary activity is a non-complying activity (Lot 3).*

B - SUBDIVISION – ODP SUBSTANTIVE ISSUES

Rule 25.70A.1(a) - Subdivision generally

The rule provides *that the subdivision creates no more than one additional certificate of title from each existing viable certificate of title that existed prior to subdivision, other than utility and access allotments.*

This subdivision seeks to create eight (8) additional records of title.

Pursuant to rule 25.70A.2 *subdivision that does not comply with a condition for a restricted discretionary activity is a non-complying activity.*

Rule 25.72.1(a) – Allotment Boundaries

Subdivision is a restricted discretionary activity if the boundary of every allotment is drawn so that *existing buildings comply with the permitted activity rules relating to building coverage, setbacks, and daylight angles, except to the extent of any non-compliance that existed lawfully prior to the subdivision.*

Lot 8 fails building coverage, non - residential floor area and side yard setback. Lot 9 fails non - residential floor area and Lot 10 fails a side yard setback.

Pursuant to rule 25.72.2 *Subdivision that does not comply with a condition for a restricted discretionary activity is a discretionary activity.*

Rule 25.74.1(a), (b) & (c) – Allotment size

Subdivision is a restricted discretionary activity if:

- (a) The parent certificate of title is at least 20ha; and*
- (b) Every child certificate of title has a minimum net site area of 8000m² and a maximum of 1.6ha, except for an access allotment or a utility allotment, and*
- (c) No more than one certificate of title produced by the subdivision has an area greater than 1.6ha,*

RT SA/10B/282 fails to comply with an area of less than 20ha. Lots 6 & Lot 9 have areas in excess of 1.6ha and fails to comply.

Pursuant to rule 25.74.2 subdivision that does not comply with a condition for a restricted discretionary activity is a non-complying activity.

Rule 25.75.1(a) - Frontage

The rule states that subdivision is a restricted discretionary activity if every allotment with a road boundary, other than an access allotment, access leg, or utility allotment, has a width at the road boundary of at least 60m.

Lot 9 has frontage of 50m and fails to comply.

Pursuant to rule 25.75.2 subdivision that does not comply with a condition for a restricted discretionary activity is a discretionary activity.

Rule A21.1(b) - Access and Entrances

This requires that *no more than 4 allotments share a private access.*

Lots 1 – 7 inclusive will share a private way – ROW A & B and fails to comply. ROW B allows up to five allotments and ROW A eight allotments.

Table 4 Road Type

ROW A serves a maximum of eight (8) allotments requiring a minimum width of 20m. ROW A proposed width is 10m and fails to comply.

PDP

Table 14.12.5.15 Access and road conditions (Rural and Country Living Zones).

This rule requires an access lot up to 8 allotments rather than ROW.

ASSESSMENT

RMA 1991 section 104D Particular restrictions for non-complying activities states:

(1) *Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*

- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
- (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
 - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
 - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
 - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*

(2) *To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.*

Section 104D Gateway Test

When an application is made for a non-complying activity the consent authority must first determine whether the section 104D 'gateways test' is satisfied – the consent authority may only consider granting consent if it is satisfied that, either:

S104D(1)(a): The adverse effects of the activity on the environment will be minor. The test is whether the adverse effects as proposed to be remedied and/or mitigated are more than minor. The threshold test relates to adverse effects and where mitigating factors can be considered. 'Minor' is not defined, whether an effect will be more than minor is a matter of fact and degree;

OR

S104D(1)(b): The activity will not be contrary to the objectives and policies of the relevant plan and any relevant proposed plan. The word contrary contemplates being opposed in nature, different, or opposite to. The relevant objectives and policies "as a whole" must be considered, however a decision may be based upon a single objective. Where there is a conflict between objectives and policies, the specific ones should be preferred over the general ones.

If either of the limbs of the test can be satisfied, the consent authority may grant or refuse the consent after considering all the matters in section 104(1). The purpose of section 104D(1)(a) is to allow applications for non-complying activities where the adverse effect on the environment is so minor "that it is not likely to matter", even though the activity may be contrary to the operative and/or proposed plans. The statutory test of "minor" needs to be understood in context and applied within the policy framework.

POLICIES AND OBJECTIVES

RMA Section 104 requires proposed plans to be taken into account. The weight to be given to a proposed plan depends upon what stage it has reached in the First Schedule process the weight generally being greater as a proposed plan moves through the hearing and appeals process. Greater weight may also be given to a proposed plan which represents a significant shift in council policy provided the new provisions are in accordance with Part 2. The relevant considerations include:

1. The extent to which the proposed measure has been exposed to testing and independent decision-making
2. Circumstances of injustice
3. The extent to which a new measure, or the absence of one, might implement a coherent pattern of objectives and policies in a plan
2. Whether there had been a significant shift in Council policy which the new provisions implement
3. Whether the new provisions are in accordance with Part 2 of the Resource Management Act

The proposed has not yet proceeded to a stage that weighting can be applied. There is no significant shift in Council policy.

The assessment above has identified land use and subdivision performance standards infringements. The relevant Operative and Proposed District Plans objectives and policies are set below.

1. Operative District Plan

Biodiversity and Habitats

Objective 2.2.1: *Indigenous biodiversity and the life-supporting capacity of indigenous ecosystems are maintained or enhanced.*

Policy 2.2.3: *Priority should be given to protecting and restoring threatened habitats and habitats of threatened species such as coastal and lowland forest, riparian areas, wetlands, dunes and peatlands.*

Land Transport

Objective 8.2.1: *An integrated, safe, responsive and sustainable land transport network is maintained, improved and protected.*

Policy 8.2.2A: *Subdivision, use and development should not compromise the road function as specified in the road hierarchy.*

Policy 8.2.2B: *Subdivision, use and development should be in a location and at a scale that:*

- (a) *is consistent with the existing or planned capacity and design of the roading network, and*
 - (aa) *is consistent with the intended function of any roads that may be affected by the subdivision, use and development (roading hierarchy), and*
- (b) *does not compromise the safety and efficiency of the roading network, and*
- (c) *does not compromise the safety and efficiency of the railway network.*

Amenity Values

Objective 13.2.1: *Adverse effects of activities on amenity values are managed so that the qualities and character of the surrounding environment are not unreasonably compromised.*

Policy 13.2.2: *Adverse effects associated with lighting, litter, electromagnetic radiation, vermin, traffic, spray drift, and noise should be contained within the site where they are generated.*

Policy: 13.2.3: *Adverse effects associated with offensive or objectionable dust, smoke and odour should be contained within the site where they are generated.*

Policy 13.2.4: *Adverse effects that cannot be contained on the site where they are generated must be remedied or mitigated.*

Policy 13.2.5: *Amenity values, health and safety should be protected from adverse traffic effects including:*

1. *noise, vibration, dust, lighting and glare*
2. *vehicle emissions*
3. *accelerated or contaminated stormwater runoff*
4. *visual effects of parking and loading areas*
5. *traffic safety and congestion.*

Objective 13.2.6: *Amenity values of localities are maintained and enhanced.*

Policy 13.2.7: *Scale, intensity, timing and duration of effects of activities should be managed to be compatible with the amenity and character of the locality.*

Policy 13.2.8: *Activities with similar effects or a similar expectation of amenity should be located together.*

Objective 13.4.1: *Amenity values of sites and localities maintained or enhanced by subdivision, building and development.*

Policy 13.4.2: *Subdivision, building and development should be located and designed to:*

- (a) *be sympathetic to and reflect the natural and physical qualities and characteristics of the area.*
- (b) *N/A*
- (c) *avoid buildings and structures dominating adjoining land or public places, the coast, or water bodies.*
- (d) *Retain open space and access to public open space.*
- (e) *encourage retention and provision of trees, vegetation and landscaping.*
- (f) *arrange allotments and buildings in ways that allow for view sharing, where appropriate.*
- (g) *provide adequate vehicle manoeuvring and parking space on site.*
- (h) *N/A*
- (i) *N/A*
- (j) *mitigate foreseeable effects (including reverse sensitivity effects) on, and from, nearby land use, particularly existing lawfully established activities.*
- (k) *N/A*
- (l) *maintain adequate daylight and direct sunlight to buildings, outdoor living areas and public places.*
- (m) *maintain privacy*
- (n) *avoid glare and light spill.*

Policy 13.4.3: *Trees that have special amenity value should be protected.*

Objective 13.6.1: *Rural character is preserved.*

Policy 13.6.2: *Rural subdivision and development should be of a density, scale, intensity and location to retain or enhance rural character, including:*

- (aa) *a predominance of natural features over built features*
- (a) *a very high ratio of open space in relation to areas covered by buildings*
- (b) *open space areas in pasture, trees, crops or indigenous vegetation*
- (c) *tracts of unmodified natural features, indigenous vegetation, streams, rivers, wetlands and ponds.*
- (d) *N/A.*
- (e) *N/A*
- (f) *post and wire fences, purpose-built farm buildings, and scattered dwellings*
- (fa) *Low population density*

- (g) generally narrow carriageways within wide road reserves, often unsealed with open drains, low-speed geometry and low traffic volumes.
- (h) a general absence of urban-scale and urban-type infrastructure such as roads with kerb and channel, footpaths, mown berms, street lights, advertising signs, sealed and demarcated parking areas, decorative fences and gateways.
- (i) a diversity of lot sizes and shapes, related to the character and pattern of the landscape.

Objective 13.6.5: *The cumulative adverse effects of subdivision or development on rural character and amenity values are avoided.*

Policy 13.6.6: *Rural character should be maintained and the cumulative adverse effects of subdivision should be avoided.*

Policy 13.6.7: *Repeated subdivision of rural land that results in additional lots must be avoided.*

Policy 13.6.8: *Rural character should be retained by avoiding the incremental expansion of areas where compromise has already occurred.*

Policy 13.6.9: *Subdivision, use and development should not further compromise rural character in rural areas already modified by non-rural activities.*

Policy 13.6.10: *Subdivision, use and development of rural land composed principally of small land holdings should be managed to retain rural character by ensuring allotments are of sufficient size for rural land uses to predominate in these areas.*

2. Proposed District Plan

Rural Environment

Objective 5.1.1 (a): *Subdivision, use and development within the rural environment where:*

- (i) *high class soils are protected for productive rural activities;*
- (ii) *productive rural activities are supported, while maintaining or enhancing the rural environment;*
- (iii) *urban subdivision, use and development in the rural environment is avoided.*

Productive Versatility of Rural Resources

Objective 5.2.1(a) *Maintain or enhance the:*

- (i) *Inherent life-supporting capacity and versatility of soils, in particular high class soils;*
- (ii) *The health and wellbeing of rural land and natural ecosystems;*
- (iii) *The quality of surface fresh water and ground water, including their catchments and connections;*
- (iv) *Life-supporting and intrinsic natural characteristics of water bodies and coastal waters and the catchments between them.*

High Class Soils

Policy 5.2.3: *Effects of subdivision and development on soils.*

- (a) *Subdivision, use and development minimises the fragmentation of productive rural land, particularly where high class soils are located.*
- (b) *Subdivision which provides a range of lifestyle options is directed away from high class soils and/ or where indigenous biodiversity is being protected.*

Rural Character and Amenity

Objective 5.3.1: *Rural character and amenity are maintained.*

Policy 5.3.2: *Productive rural activities*

- (a) *Recognise and protect the continued operation of the rural environment as a productive working environment by:*

- (i) *Recognising that buildings and structures associated with farming and forestry and other operational structures for productive rural activities contribute to rural character and amenity values;*
- (ii) *Ensuring productive rural activities are supported by appropriate rural industries and services;*
- (iii) *Providing for lawfully-established rural activities and protecting them from sensitive land uses.*

Policy 5.3.4: Density of dwellings and buildings within the rural environment

- (a) *Retain open spaces to ensure rural character is maintained.*

Policy 5.3.7: Reverse sensitivity effects

- (a) *Recognise the following features are typical of the rural environment and the effects are accepted and able to be managed:*

- (i) *Large numbers of animals being farmed, extensive areas of plants, vines or fruit crops, plantation forests and farm forests;*
- (ii) *Noise, odour, dust, traffic and visual effects associated with the use of land for farming, horticulture, forestry, farm quarries;*
- (iii) *N/A.*
- (iv) *N/A.;*
- (v) *N/A.*

- (b) *Avoid adverse effects outside the site and where those effects cannot be avoided, they are to be mitigated.*

- (c) *Mitigate the adverse effects of reverse sensitivity through the use of setbacks and the design of subdivisions and development.*

- (d) *The scale, intensity, timing and duration of activities are managed to ensure compatibility with the amenity and character of the rural environment.*

- (e) *Enable the use of artificial outdoor lighting for night time work.*

- (f) *Ensure glare and light spill from artificial lighting in the rural environment does not:*

- (i) *(i) Compromise the safe operation of the road transport network; and*
- (ii) *Detract from the amenity of other sites within the surrounding environment.*

Policy 3.8: Effects on rural character and amenity from rural subdivision

- (a) *Protect productive rural areas by directing urban forms of subdivision, use, and development to within the boundaries of towns and villages.*

- (b) *Ensure development does not compromise the predominant open space, character and amenity of rural areas.*

- (c) *Ensure subdivision, use and development minimise the effects of ribbon development.*

- (d) *Rural hamlet subdivision and boundary relocations ensure the following:*

- (i) *Protection of rural land for productive purposes;*
- (ii) *Maintenance of the rural character and amenity of the surrounding rural environment;*
- (iii) *Minimisation of cumulative effects.*

- (e) *Subdivision, use and development opportunities ensure that rural character and amenity values are maintained.*

- (f) *Subdivision, use and development ensures the effects on public infrastructure are minimised.*

Policy 3.9: Non-rural activities

- (b) *Avoid buildings and structures dominating land on adjoining properties, public reserves, the coast or waterbodies.*

A - LAND USE

Rule 25.51.1(a) - Building coverage

This permitted rule requires that total building coverage does not exceed 2% of the site area, or 5 00m², whichever is the larger.

Lot 8 contains the former clubroom / academy (Cardrona) building) which has an area of about 725m² or 7.5% and fails to comply.

Rule 25.52.1(a) & (b) – Non residential building

This rule states that Construction or alteration of a non-residential building is a permitted activity if:

- (a) the gross floor area of any non-residential building does not exceed 400m², and
- (b) the gross floor area of any non-residential building on a site of less than 2ha does not exceed 250m².

Lot 8 contains the former clubroom / academy (Cardrona) that has an area of about 725m² and fails to comply with (a) & (b).

Lot 9 contains the former pro golf shop /café and utility shed that has a combined area of about 483m² and fails to comply with (a) & (b).

Rule 25.54.1(a) – Building setbacks allotments 1.6ha or more

The rule states Construction or alteration of a building on an allotment 1.6ha or more is a permitted activity if the building is set back at least:

- (a) 25m from every boundary other than a road boundary.

Lot 10 former greenkeepers dwelling is wholly contained in the 25m setback being some 10.0m from the common boundary with Lot 8 and fails to comply.

Rule 25.55.1(a) - Building setbacks allotments 5000m² to less than 1.6ha

This rule requires construction or alteration of a building on an allotment between 5000m² and less than 1.6ha, is a permitted activity if the building is set back at least 12m from every boundary other than a road boundary.

Lot 3 shed infringes the 25m eastern side yard by up to 20m and fails to comply with (b).

Lot 8 contains the former golf clubrooms / academy building (non - habitable building) that is approximately 10.0m from the proposed eastern boundary and fails to comply with (a).

Assessment Comment

All the above infringements area created by proposed cadastral boundaries around existing structures in the local environment. The proposed shed within Lot 10 was approved pursuant to LUC0192/19 approved December 2018 and the existing buildings pursuant to a 1986 approved planning departure Ref 10/6/302 and LUC0190/05 approved in January 2005.

The site local environment is not rural in nature. The cluster of buildings better reflects a rural based commercial activity albeit that is not the character of the buildings. With the exception of the golf pro shop building, the structures cannot be viewed from the public road given it is elevated above the road and screened by mature boundary plantings. The golf pro shop has a very narrow public road view shaft. To the south is the former golf course that clearly reflects its golf origins but remains open in character and very well planted. The building coverage and setback infringements has no discernible additional effects on the existing character or amenity of the site or unreasonably compromises the amenity values or character of the zone and neighbouring properties. This is because of their continuing existence in the local environment without any dominating effect on the neighbours land. Existing vegetation limits glare or power light spill. The applicant is also the land owner so that approval is implicit.

B - SUBDIVISION – ODP SUBSTANTIVE ISSUES

Rule 25.70A.1(a) - Subdivision generally

The rule provides that the subdivision creates no more than one additional certificate of title from each existing viable certificate of title that existed prior to subdivision, other than utility and access allotments.

This subdivision seeks to create eight (8) additional records of title.

Rule 25.72.1(a) – Allotment Boundaries

Subdivision is a restricted discretionary activity if the boundary of every allotment is drawn so that existing buildings comply with the permitted activity rules relating to building coverage, setbacks, and daylight angles, except to the extent of any non-compliance that existed lawfully prior to the subdivision. These matters have been assessed above to have no discernible effects as a result of this application.

Rule 25.74.1(a), (b) & (c) – Allotment size

Subdivision is a restricted discretionary activity if:

- (a) The parent certificate of title is at least 20ha; and
- (b) Every child certificate of title has a minimum net site area of 8000m² and a maximum of 1.6ha, except for an access allotment or a utility allotment, and
- (c) No more than one certificate of title produced by the subdivision has an area greater than 1.6ha,

RT SA/10B/282 fails to comply with an area of less than 20ha. Lots 6 & Lot 9 have areas in excess of 1.6ha and fails to comply.

Rule 25.75.1(a) - Frontage

The rule states that subdivision is a restricted discretionary activity if every allotment with a road boundary, other than an access allotment, access leg, or utility allotment, has a width at the road boundary of at least 60m.

Lot 9 has frontage of 50m and fails to comply.

Rule A21.1(b) - Access and Entrances

This requires that no more than 4 allotments share a private access.

Lots 1 – 7 inclusive will share a private way – ROW A & B and fails to comply. ROW B allows up to five allotments and ROW A eight allotments.

Table 4 Road Type

ROW A serves a maximum of eight (8) allotments requiring a minimum width of 20m. ROW A proposed width is 10m and fails to comply.

PDP

Table 14.12.5.15 Access and road conditions (Rural and Country Living Zones).

This rule requires an access lot up to 8 allotments rather than a ROW.

Assessment Comment

With regard to Rule 25.72.1(a) – Allotment Boundaries, these matters have been assessed above to have no discernible effects as a result of this application.

With regard to Rule 25.75.1(a) – Frontage this rule requires a road boundary of at least 60m. Lot 9 has frontage of 50m and fails to comply. Frontage is that part of a Record of Title area that abuts a road and is used to provide a crossing to land, noting, frontage is not a necessity to provide access, since this can lawfully be achieved by way of easement. Frontage is also utilised in planning as a traffic safety mechanism that allows separation between crossings and provide specified distances from intersections. Frontage in combination with shape factor and other bulk and location provisions also help to provide amenity by securing a minimum lot dimension that seek to improve onsite amenity. The relevant discretionary assessment matters are:

- safety and efficiency of vehicle access and road network;
- amenity values and rural character.

The environmental adverse effects are less than minor because:

- i. Lot 9 has a frontage of 50m that utilizes a combined entrance approved by NZTA that is fit for purpose.
- ii. The use of the combined entrance has a positive effect for both traffic safety and road side amenity. The access area is well landscaped and maintained. The single crossing avoids new crossings and separation distances.

The remaining substantive subdivision infringements are set out below that are discussed in the context of the wider proposal and effects, if any, on the environment.

- (a) Rule 25.70A.1(a) - Subdivision generally. The rule provides that the subdivision creates no more than one additional certificate of title from each existing viable certificate of title that existed prior to subdivision, other than utility and access allotments. This subdivision seeks to create eight (8) additional records of title.
- (b) Rule 25.74.1(a), (b) & (c) – Allotment size. Subdivision is a restricted discretionary activity if:
 - The parent certificate of title is at least 20ha; and
 - Every child certificate of title has a minimum net site area of 8000m² and a maximum of 1.6ha, except for an access allotment or a utility allotment; and
 - No more than one certificate of title produced by the subdivision has an area greater than 1.6ha,

RT SA/10B/282 (containing 4.0494ha) fails to comply with an area of less than 20ha. Lot 6 & Lot 9 has areas in excess of 1.6ha and fails to comply. Lot 6 contains 1.75ha and Lot 9 1.8ha.

- (c) Rule A21.1(b) - Access and Entrances the rule requires that no more than 4 allotments share a private access. Lots 1 – 7 and Lot 10 inclusive will share a private way ROW A & B and fails to comply. ROW A provides up to eight allotments and ROW B five allotments. Table 4 Road Type. ROW A serves a maximum of eight (8) allotments requiring a minimum width of 20m. ROW A proposed width is 10m and fails to comply. PDP

Table 14.12.5.15 Access and road conditions (Rural and Country Living Zones). This rule requires an access lot up to 8 allotments rather than a ROW.

RMA Section 104D gateway test can be satisfied and consent granted if pursuant to s104D(1)(a) the adverse effects of the activity on the environment will be minor or pursuant to s104D(1)(b) the activity will not be contrary to the objectives and policies of the relevant plan and any relevant proposed plan. The remaining substantive infringements are not assessed to have any adverse effects on the local rural environment that are more than minor, the effect are less than minor and on this basis the application may be granted. The assessment below considers that due to special circumstances the application is not inconsistent with relevant objectives and policies.

The essence of the relevant rural zone objectives and policies is to achieve anticipated environmental outcomes related to biodiversity, ecosystems and habitats; land transport; amenity values and rural character and in doing so the protection of rural zone high quality soils and their versatility as well as avoiding reverse sensitivity.

Anticipated environmental results include:

- Avoidance or mitigation of land uses or developments resulting in removing or modifying indigenous vegetation or habitats and restoration of lowland habitat.
- Improved land transport, traffic and pedestrian safety.
- Efficient movement of people and Land transport network is sustainably managed and not compromised by subdivision, land use and development.
- Subdivision, use and development consistent with existing or planned roading network capacity and design.
- Reduced conflicts between land use activities and developments, and road users.
- Avoidance of any significant land use effects such as noise, dust, smoke, odour, spray drift, lighting, litter, electromagnetic radiation, vermin or traffic effects, on surrounding land compared to ambient levels in the environment.
- Minimal conflicts between adjoining land uses.
- Maintain appropriate pattern of subdivision consistent with the land uses on and around the land being subdivided and maintains development density and open space characteristics of the locality.
- Maintenance of a high degree of amenity value in living environments.
- Maintenance of rural character of unmodified rural environments including distinctive aspects of localities.
- Rural character of already modified rural localities not further compromised.

In determining whether or not these outcomes are achieved an appreciation of the current local environment and landscape is necessary.

LANDSCAPE ANALYSIS

This application has made the case that special circumstances apply because there are strong distinguishing features that make it obviously 'out of the ordinary' and 'unique'; and Council need not have a concern about granting consent causing future difficulty in processing likely similar applications. Underpinning this approach is the knowledge that although zoned rural, the site does not exhibit all the attributes of a rural environment such as post and wire fences, purpose-built farm buildings and scattered dwellings; livestock grazing or cropping operation; tracts of unmodified natural features, indigenous vegetation, streams, rivers, wetlands and ponds and associated noises and smells.

In an effort to determine the effects of this development on the local environment a tree survey and drone video and extracted still frames and mapping is provided to:

1. Identify external viewpoints to proposed internal allotment locations.
2. Identification of the sites visual quality.
3. The visual absorption capability of the site.
4. Identification of the landscape character and any modification and degree of change.

Landscape Context and Character

The site falls within a wider rural context bounded by SH23 in the north and rural land beyond and the Hamilton City Council Taitua Arboretum to the south. East is also predominately rural with the exception of Stonebridge farm park although not adjoining the site sits atop a dominate ridgeline containing some thirteen dwellings that overlook in an easterly directly or in the case of a cluster of three dwellings near the south east corner face northward. To the west the landscape is low lying extending to a western ridgeline upon which a single farm dwelling is visible.

The land was once a golf course that still contains significant planting and remains reminiscent of fairways leading to now disestablished greens with multiple water hazards.

The eastern and southern boundary is well planted with mature trees. In the five years of the applicant's ownership 70,000 additional and significant plantings has been undertaken and the site continues to be planted. Of note is that the entire western boundary has been replanted with Redwoods and native species; ponds and wetlands have been created. In places some mature trees have been removed due to age and dangerous limbs and immediately replanted. Appendix 11 contains a tree survey identifying species planted and a location map.

This appendix also contains a letter from Bunny Mortimer that explains he and his brother John Mortimer extensively planted the farmland for the purpose of a golf course. The Mortimer's also created the Taitua Arboretum that was gifted to the Hamilton City Council. It is important to note that the subject site is not and was not intended to be an arboretum. An arboretum nowadays may be referred to as a botanical garden that according to the Oxford Dictionary means *'an establishment where plants are grown for scientific study and display to the public.'*

This fact is stated for two reasons. The first to clearly establish the site as a former golf course and secondly it is not intended to be an arboretum / botanical garden. The site will remain private and although containing a variety of tree species (and only one very rare tree - #53) is not for scientific study.

The site remains representative of a former golf course that has retained some similarity with the rural zone such as the predominance of natural features over built features but only insofar as natural features refers to vegetation (trees) planted to create a golf course outline, and where low ponding areas were retained as water hazards. Within the larger 41.0ha Lot 2 DPS 12627 there remains a very high ratio of open space (but not productive pasture,

crops or indigenous vegetation) in relation to areas covered by buildings. This is not so for Lot 1 DPS 12627 4.0ha allotment that contains significant buildings.

Visual Effects Assessment

The attached drone video footage along with the still frames contained in Appendix 12 focus mainly on the eastern and south eastern boundary. This is where the predominating semi urban environment exists created by Stonebridge farm park. The farm park has thirty three (33) dwellings separated along a private road of which thirteen (13) are located on a prominent west facing ridgeline that has the potential to overlook the site (numbers 14 – 26 Stonebridge Estate (private road)).

The drone footage was taken just off the site eastern site boundary at the level of the ridgeline to best represent the visual dwelling aspects. There are four (4) east boundary drone video locations representing the full gambit of ridgeline (dwelling) views. This is achieved because each video location sweeps a full 180° arc from the north to the south. It is very evident that, except one dwelling at 14 Stonebridge Estate, all visual aspects to the proposed allotment building platforms are totally impaired by existing boundary and internal site mature vegetation. Building platforms cannot be identified because of the thicket of trees. Appendix 12 contains still video frames showing this mitigating effect.

Number 14 Stonebridge Estate will have direct view shaft to the building platform within Lot 4. This is because the mature trees on the edge of the upper slope (RL38.5m) east of the platform and within the site have been removed (see video screen shot photograph page 2). This location has again been planted with Pittosporum and Redwoods to ensure mitigation of visual effects. Pittosporum can grow up to 3.0m within 2 - 3 years and 5.0m at maximum height. In New Zealand Redwoods can achieve 1.4m in the first or second year of growth.

Number 13 Stonebridge Estate has an elevation of RL50m and Lot 4 building platform RL27.5m. The distance between Number 4 Stonebridge Estate and Lot 4 building platform is approximately 194m. The upper planted slope is RL38.5m some 98m from the center of Lot 4 building platform. The resulting effect is that 6.0m high vegetation on the upper slope will wholly screen the Lot 4 building platform and any dwelling constructed at the maximum 10.0m district plan height. It is more likely that a two story dwelling would reach a height of around 7.0m – 7.5m and be wholly screened at much lessor vegetative height (see landscape cross section - Lot 4 Building Platform Mitigation).

Notwithstanding the mitigation undertaken, the Record of Title SA10B/683 Lot 2 DPS 12627 has an area of 41.6ha with the permitted ability to construct two dwellings on the site pursuant to rule 235.46.1(b). Currently this Record of Title contains a consented shed. It is therefore not unreasonable or fanciful that the existing shed be converted to a dwelling and the second dwelling located on the proposed Lot 4 building platform creating a permitted baseline effect. Given this proposal, the environment upon which effects should be assessed is therefore the existing and reasonably foreseeable future environment that a dwelling is located within Lot 4 building platform the effects of which do not required mitigation but nonetheless in situ replacement plantings have a significant mitigation effect.

The western adjoining farm dwelling on the mid ridgeline (RL35m) faces east to the site. Western site boundary drone footage from near this location shows no building platform to be visible.

There are no visible proposed building platforms that are visible to public spaces i.e., State Highway 23.

The proposed building platforms are therefore screened from view by existing vegetation and in the case of Lot 4 time and vegetative growth will result in mitigation screening. The existing and planted golf course - like western boundary threshold is maintained and enhanced by the 70,000 plantings to date within the site and on the boundaries. This results in no discernible additional adverse effects in terms of the current site amenity when viewed externally from the west.

Onsite lowland area plantings will serve to enhance lowland systems that is consistent with biodiversity and habitat objectives noting the enhancement to the six (6) golf course water hazards created on site. The ponds are not degraded indigenous wetlands. The intention of planting is to create a local environment to enhance local amenity values that is reflective of the already modified local environment that is consistent with amenity values objectives and policies.

Rural Amenity

The site has not been utilised for rural productive activity since the lawful conversion to a golf course in the late 1970's. The site does not exhibit rural landscape character and amenity rationally associated with a productive farming environment. At best the site maintains open space where that 'space' characterises golf course fairways and not farm land. Moreover both the LUC and the agriculture suitability reports confirm the site not to be high quality versatile soils or likely to be converted to viable productive rural land.

The objectives and policies that seek to ensure the land is used for rural productive purposes and hence results in rural effects, are significantly undermined as a result. Rural characteristics were lost upon conversion. The agriculture suitability report confirms that conversion back to rural productivity and therefore anticipated rural amenity is unrealistic. This would require a significant investment to clear fairway tree lines that may result in a more rural environment but has no effect on the soil type and poor versatility required for productive farming.

The site being poor in terms of rural productivity and unlikely reconversion has positive effects for Stonybridge residents. The lack of noises and smells associated with large numbers of animals being farmed including intensive farming, extensive areas of plants, vines or fruit crops, plantation forests and farm forests, are unlikely. The current park like environment that has existed for decades is maintained. Internally the applicant is not proposing to allow any fencing of internal allotment boundaries to maintain the open space and park like surrounds.

Additional Dwellings and Structures

The effects of the proposed additional dwellings that would result as a consequence of approving this application are more residential in nature and sympathetic with Stonybridge residents. Lot 2 DPS 12627 contains 41.6194ha with the permitted right pursuant to Rule 25.46.1 for up to two dwellings. This site contains no current dwellings so the potential additional number of dwellings is six (6).

Pursuant to Rule 25.52.1 nonresidential building, the maximum gross floor area of each building does not exceed 500m² and Rule 25.52A.1 provides for building to be used for productive rural activities is 1000m². The total maximum building coverage pursuant to Rule 25.51.1 is 2% of the site area or 500m² whichever is the larger. Two percent of 41.6ha is approximately 8320m². Therefore as a permitted baseline Lot 2 DPS 12627 reasonably could contain two dwellings and two additional nonresidential buildings plus at least one structure associated with a productive rural activity. That results in five (5) structures within Lot 2 DP 12627 and only three structures short of the proposed eight building platforms.

It has already been established that visually, from any external private or public vantage point, there is no adverse visual effect due to existing and / or recent plantings. Reasonably the permitted baseline might result in five structures at least one could be 1000m². The three additional structures can visually and easily be absorbed into the local environment.

The respectable separation distances of the building platforms to external dwellings are equal to or in excess of the maximum 25.0m Rural zone setbacks and therefore permitted and consistent with rural amenity expectation. The additional separation between platforms and plantings further serves to mitigate increased perceived residential effects. Given the allotment areas proposed it is expected that performance standards such as building height, daylight admission, coverage, non-residential buildings realistically can be achieved.

Residential effects may include residential noise and internal traffic movement.

Noise

Rural zone noise rule 25.17.1 provides that any activity is a permitted activity if it is designed and conducted so that noise from the activity measured at any other site does not exceed:

50dBA (L10), 7am to 7 pm any day, and
45dBA (L10), 7pm to 10pm any day, and
40dBA (L10), and 65dBA (Lmax) at all other times.

The proposed development is comparable with the Country Living Zone. Here the permitted Rule 27.18.1 noise levels are:

50 dBA(L10), 7am to 7pm, Monday to Saturday, and
45 dBA(L10), 7pm to 10pm, Monday to Saturday, and
40 dBA(L10), and 65 dBA(Lmax) all other times and Public Holidays.

The Country Living noise levels are marginally more restrictive in the weekends than the rural zone. This will have a positive effect on the local and wider environment.

Glare and Lighting

Country Living Zone 27.21.1 provides that any activity is a permitted activity if light spill from artificial lighting, other than a streetlight, navigation light or traffic signal, does not exceed 10 lux measured vertically at any other site. Rural zone Rule 25.22.1 also requires 10 lux measured vertically at any other site. The local environment subsequent to this development being approved is unchanged.

Earthworks & Filling and Using Imported Fill

This application proposes no earthworks other than that potentially associated with resource consent conditions.

Dust Smoke Fumes and Odour

Rural zone 25.23.1 states that any activity is a permitted activity if:

- (a) there is no objectionable or offensive dust, smoke, fumes or odour having adverse effects at any other site, and
- (b) stockpiles of loose material are contained or maintained to prevent dispersal of material into the air,

The Country Living Zone Rule 27.22.1 has the same requirement and therefore the proposed development will result in no change.

Internal Access Road

Part of the existing environment is a metaled access road constructed by the applicants to assist farm machinery access when [failed] attempts were made to farm the site. The internal access location largely sits marginally east of the identified 100year flood level. The subdivision plan indicates the access road to be secured by rights of way. It is acknowledged that the proposed rights of way are contrary to the OPD Rule A21.1(b) that requires an access allotment; a minimum width of 20m and 4.0m seal width where it serves eight allotments.

In the context of the site an access allotment and 20m width serves no practical use. To require 20m only results in loss of land to Lot 10 with no obvious benefit. The site is not the expected rural farm subdivision it has its own character that is better suited to variation of ownership and legal access arrangement. The proposed 10m right of way is more than adequate to meet infrastructure requirement noting that the applicant has a preference for wireless communication and off grid power and there is no reticulated Council water supply. The proposed right of way secures future access to convey water, electricity, gas, computer media and telecommunications if desired in the future and when available to connect i.e., water, gas and fibre.

Given the character of the site, the environmental rural outcomes of the district plan rural objectives and policies, the applicant is seeking that the right of way remains metal and is not sealed. Other than NZTA requiring additional sealing at the road intersection to protect the state highway surface from stone damage, the need to seal the remainder of the rights of way will change the visual character of the site from rural to more urban.

Sealing of the internal access results in farm park more urban 'up market' environment very similar to Stonybridge Estate. This outcome is not associated with the rural environment and notably farm parks have no place in current district planning documents. A metal road, although may result in dust during drier periods, dust nuisance outside of the external boundaries is avoided due to separation distance and extensive vegetation that contains dust and mitigates (filters and lowers) wind speeds reducing dust uptake.

OTHER MATTERS

Development Contributions

Development contributions are expected pursuant to Council policy for eight (8) additional allotments noting the absence of council reticulated water, stormwater and wastewater.

Iwi Consultation

Neither the ODP nor the PDP identifies the site being subject to any cultural & heritage overly.

CONCLUSION

When an application is made for a non-complying activity the consent authority must first determine whether the section 104D 'gateways test' is satisfied – the consent authority may only consider granting consent if it is satisfied that, either (a) The adverse effects of the activity on the environment will be minor or (b) The activity will not be contrary to the objectives and policies of the relevant plan and any relevant proposed plan.

The substantive issue of this application is that the site is not characteristic of rural land within the Waikato District and Region. The land is more representative of a now defunct golf course due to the existing structures, landform and golf fairway planting characteristics. The site has strong distinguishing features that make it obviously 'out of the ordinary' and 'unique' exhibiting special circumstances. A comparison with existing golf courses within the district has shown that a number of golf courses have the potential for reconversion to rural productivity. A comparison with productive rural land is of little consequence or relevance. The site has no conversion potential to productive rural land. This is due to the poor soil

quality and low soil versatility; the prohibitive conversion costs and Regional policy restricting reconversion.

It is responsible to consider landscape character as:

- (a) represented and perceived as a continuum;
- (b) as the interaction of nature and culture;
- (c) as an outcome that inherently contributes to the quality of people's lives.

The site has travelled the continuum from farm land to golf course and now to a more realistic use as low density rural country living. The proposed country living is not representative of previous farm park developments because the site area and number of proposed dwellings are comparatively low. Indeed it is not unreasonable to conclude that given the permitted baseline only three additional structures would result within the site. Given the described characteristics of the site, the additional structures can be easily absorbed into the local environment.

The visual effects to adjoining properties and public places is less than minor and where replacement mitigation planting will result in full visual obfuscation. The development has the unique ability to merge the characteristic of the site and provide a park like environment for low density country living. The site will contribute to the quality of future owner lives not only in terms of the visual appreciation of the local environment but also being off grid for power and self - sufficient in terms of water, storm water management.

Overall the proposal has a very low environmental / ecological footprint less than that of productive rural land. The effects of this proposal are less than minor, so minor "that it is not likely to matter" even though the activity may be contrary to the operative and/or proposed plans, thus satisfying section 104D 'gateways test'. It is concluded the consent authority may grant this noncomplying resource consent after considering all the matters in section 104(1).

ASSESSMENT OF THE ACTIVITY AGAINST THE MATTERS SET OUT IN PART 2

Part 2 Section 5 sets out the purpose of the Resource Management Act (the Act) as sustainable management. Section 5 (2)(a)-(c) inclusive, defines sustainable management. Part 2 also includes section 6 Matters of National Importance. In achieving the purpose of this Act, sustainable management shall recognise matters of national importance set out in section 6 (a)-(g) inclusive. In addition, an application for resource consent shall have regard to Section 6 Other Matters (a)-(j) inclusive and Section 7 shall take into account the principles of the Treaty of Waitangi. RMA Section 73 requires that a district plan is prepared at all times. Section 72 states the preparation, implementation, and administration of district plans is to assist territorial authorities to carry out their functions in order to achieve the purpose of the Act. There is established a hierarchy of policy and plans under the RMA to achieve an integrated approach to achieving the purpose of the Act. District plans must not be inconsistent with regional plans and must give effect to national policy statements (including the New Zealand Coastal Policy Statement) and regional policy statements. District Plans contain objectives, policy and rules (and standards) as one method to achieve the purpose and principles of the Act. Section 31(2) of the Act provides for methods to include the control of subdivision. Given the accepted hierarchy, it follows that compliance with stated rules and standards for subdivision will achieve the purpose and principles of the Act. Where there is non compliance, a specific assessment of effects is provided to show whether any adverse environmental effects may be avoided, remedied or mitigated.

The assessment of environmental effects for the proposed subdivision concluded that the application creates effects that are less than minor and is in part consistent with rural zone relevant objectives and policies acknowledging that special circumstances exist thereby

supporting the Acts sustainable management purpose. The subdivision allows the continued sustainable use of the land resource for a low density rural living that is appropriate for the this site within the Rural Zone.

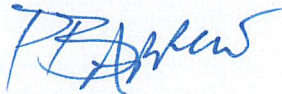
In reaching this conclusion, it is recognised that the subdivision is not affected by any matters of national importance in Section 6. The result of the subdivision will achieve other matters contained in Section 7, specifically the continued efficient use and development of natural and physical resource (the land) and the maintenance and enhancement of the quality of the environment (rural character and amenity). The subdivision is not considered to be contrary to any of the accepted principles of the Treaty of Waitangi identified by New Zealand courts. The land associated with this application is not subject to any known Maori ancestral lands, customary rights or waahi tapu, and other taonga.

We submit this application for consideration and look forward to receiving consent in due course. We ask however, that draft conditions are prepared for review by the applicant prior to issuing consents.

If you have any queries, please do not hesitate to contact the writer.

Yours faithfully

McCRACKEN SURVEYS



Philip Barrett
Resource Management Consultant MNZPI