

# terra

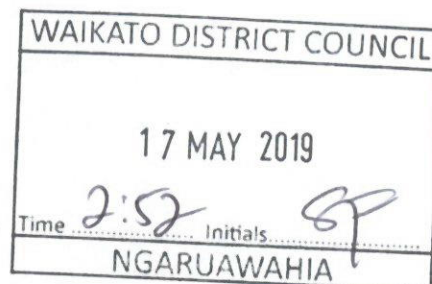
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17 May 2019

Consents Team Leader  
Waikato District Council  
District Office  
15 Galileo Street  
Ngaruawahia



Dear Sir/Madam,

**RE: LAND USE CONSENT APPLICATION, UNDER SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991, FOR A COMMERCIAL DEVELOPMENT AT 561 HOROTIU ROAD, TE KOWHAI.**

Please find enclosed a resource consent application, on behalf of the Applicant Quattro Properties Limited, for a commercial development at 561 Horotiu Road, Te Kowhai.

Also enclosed is a completed application form, assessment of effects report and various attachments.

The required deposit for lodgement of the application will be made upon receipt of an invoice.

I trust that this application satisfies the requirements of s88 and Schedule 4 of the Resource Management Act and will be accepted for processing on this basis.

I encourage you to contact me on 022 129 3897 or [jodie.hansen@terragroup.co.nz](mailto:jodie.hansen@terragroup.co.nz) should you require anything further.

Kind Regards,

**JODIE HANSEN**  
**INTERMEDIATE PLANNER**  
BEP, Int.NZPI



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Land use consent application, under Section 88 of the Resource Management Act 1991, for a new commercial complex at 561 Horotiu Road, Te Kowhai



Prepared for:  
**Quattro Property Holdings Ltd**

Prepared by:

A handwritten signature in blue ink, appearing to read "Jodie Hansen".

Jodie Hansen  
Intermediate Planner  
17 May 2019  
Terra Consultants (CNI) Limited

## EXECUTIVE SUMMARY

This application has been prepared by Terra Consultants on behalf of the Applicant, Quattro Property Holdings Ltd, for property at 561 Horotiu Road, Te Kowhai. The purpose of this application is to obtain land use resource consent for a new commercial complex, comprising seven tenancies.

The site is located within the Country Living Zone and is proposed to be rezoned to Business under the Proposed District Plan currently progressing through Council. The proposal represents an efficient use of well-situated land for commercial purposes, which are currently lacking in the growing settlement of Te Kowhai.

Overall, the proposed commercial development is considered to be a suitable use and development of the land, in a manner that will be compatible with the receiving environment and consistent with the expectations of the local community; providing a high-quality commercial node not currently present in Te Kowhai.

The application includes the following:

- The details of the proposal.
- A relevant statutory and district plan assessment.
- An assessment of environmental effects.

The supporting information attached in the appendix includes:

- Appendix A: Record of Title
- Appendix B: Waikato District Council pre-application meeting minutes
- Appendix C: Consent application plans
- Appendix D: Operative District Plan rules assessment
- Appendix E: Operative District Plan Objectives and policies assessment
- Appendix F: Proposed District Plan Objectives and policies assessment
- Appendix G: Three waters report
- Appendix H: Acoustic report
- Appendix I: Integrated Transportation Assessment
- Appendix J: Neighbours locality map
- Appendix K: Written approvals



## 1.0 APPLICATION AND PROPERTY DETAILS

<b>Applicant/Proprietor:</b>	Quattro Property Holdings Limited
<b>Physical address:</b>	561 Horotiu Road, Te Kowhai
<b>Legal Description:</b>	Lot 28 DP 522977 (RT 831028)
<b>Total Site Area:</b>	5,029m <sup>2</sup>
<b>Instruments:</b>	<ul style="list-style-type: none"><li>• 11132886.3 Consent Notice (s221)</li><li>• Subject to a right (in gross) to drain water in favour of Waikato Regional Council created by Easement Instrument 11132886.4</li><li>• Land Covenant 11294173.9</li></ul>
<b>Zoning and Overlay</b>	Country Living Zone  No other overlays or features

## 2.0 SITE AND LOCALITY

### 2.1 General

The subject site is a 5,029m<sup>2</sup> land holding located on Horotiu Road approximately 70m north of the Westvale Lane and Horotiu Road intersection.

The site is flat with no obvious gradient. The site is currently vacant of development, having recently been subdivided from the large landholding to the east. The site is currently vegetated along the northern boundary. A Waikato Regional Drain traverses the site along the eastern boundary.

With respect to the surrounding area, the development pattern is a mixture of rural and residential land uses. To the north, east and west of the site is rural-residential living, with a residential node to the south. The land to the east has recently been subdivided into rural-residential lots, which are currently under development. To the south, directly adjoining the site, is a large consented café located within a relocated church.



## 2.2 Locality Plan



Figure 1: Aerial photo of site and immediate surrounds.

## 2.3 Site Photos

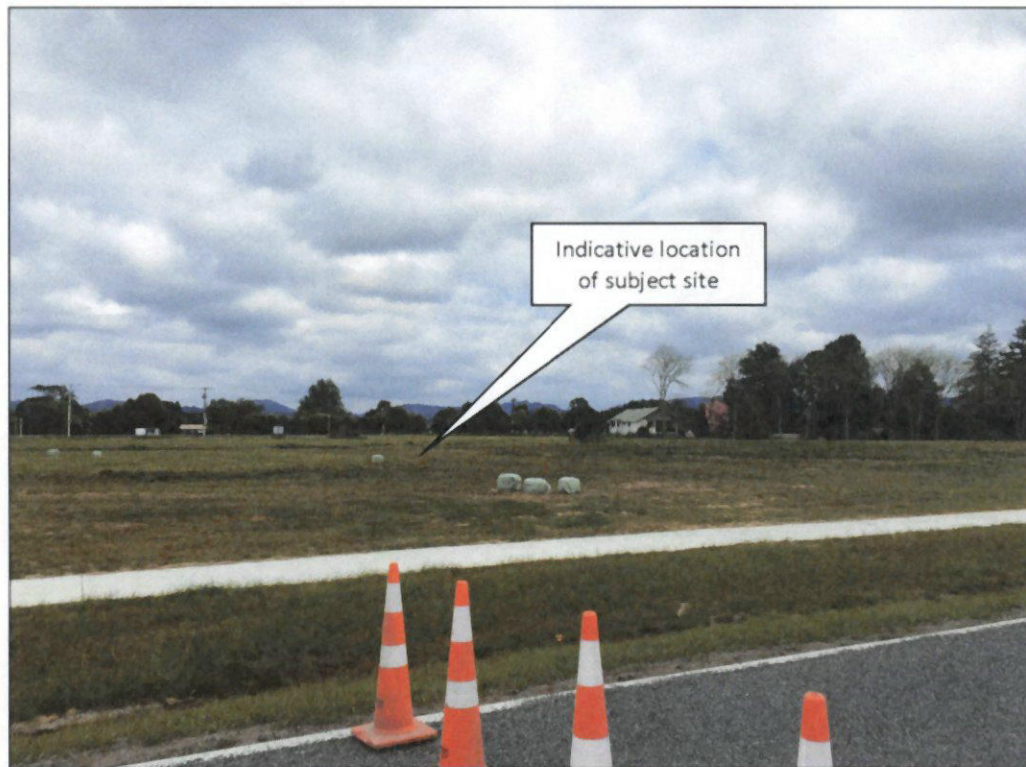


Figure 2: Indicative location of subject site looking west from within the adjoining property to the east.

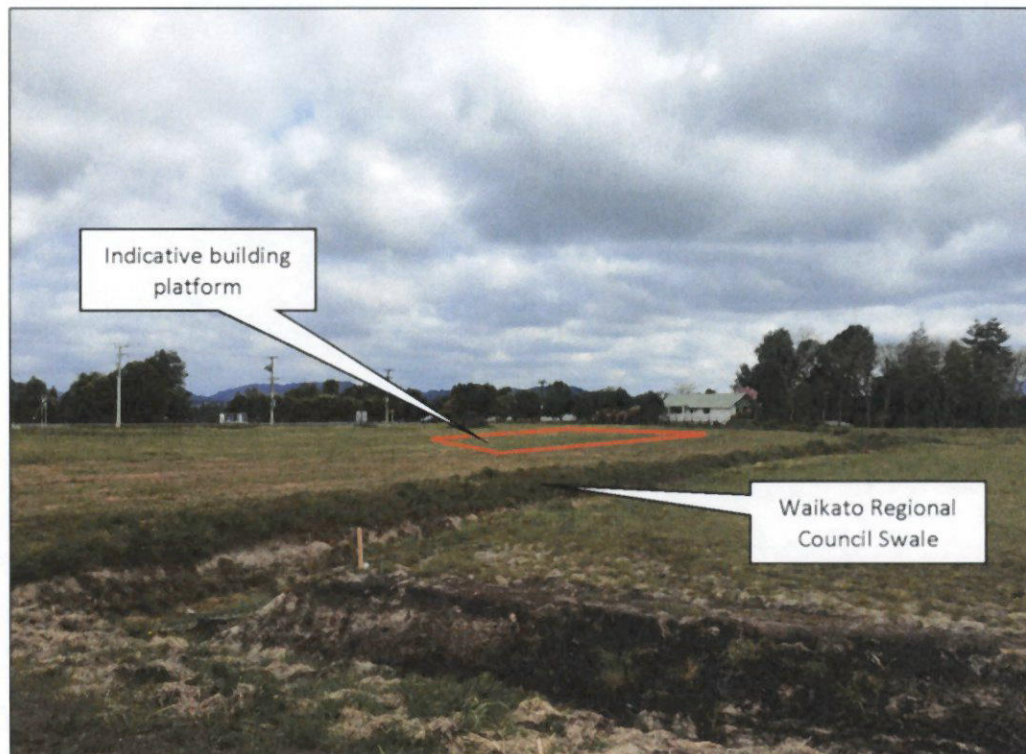


Figure 3: Indicative location of building platform within the subject site looking northwest.





Figure 4: View of the subject site looking east from the opposite side of Horotiu Road.



Figures 5 & 6: Looking north (left) and south (right) along Horotiu Road from the subject site.



## 2.4 District Plan Zoning

### 2.4.1 Operative Waikato District Plan

Under the Operative Waikato District Plan (ODP), the site is zoned Country Living. See Figure 7 below.



Figure 7: Operative District Plan Zoning

All adjoining sites are similarly zoned Country Living, with a small node of Living Zone to the south and Rural Zone to the north of the subject site.

Horotiu Road is classified as an Arterial Road under Appendix A of the ODP. Within the vicinity of the site Horotiu Road has a posted speed limit of 100km/hr. Horotiu Road is subject to Councils Speed Limited Bylaw review, which seeks to reduce the speed limit to 50km/hr toward the intersection of Ngaruawahia Road.

### 2.4.2 Proposed Waikato District Plan

Under the Proposed Waikato District Plan (PDP) the site is zoned Business, as is the adjoining site to the south (comprising the consented café). The site is not subject to any applicable policy overlays or areas of natural significance.

The site, as identified under the PDP, is illustrated in Figure 8 as follows.



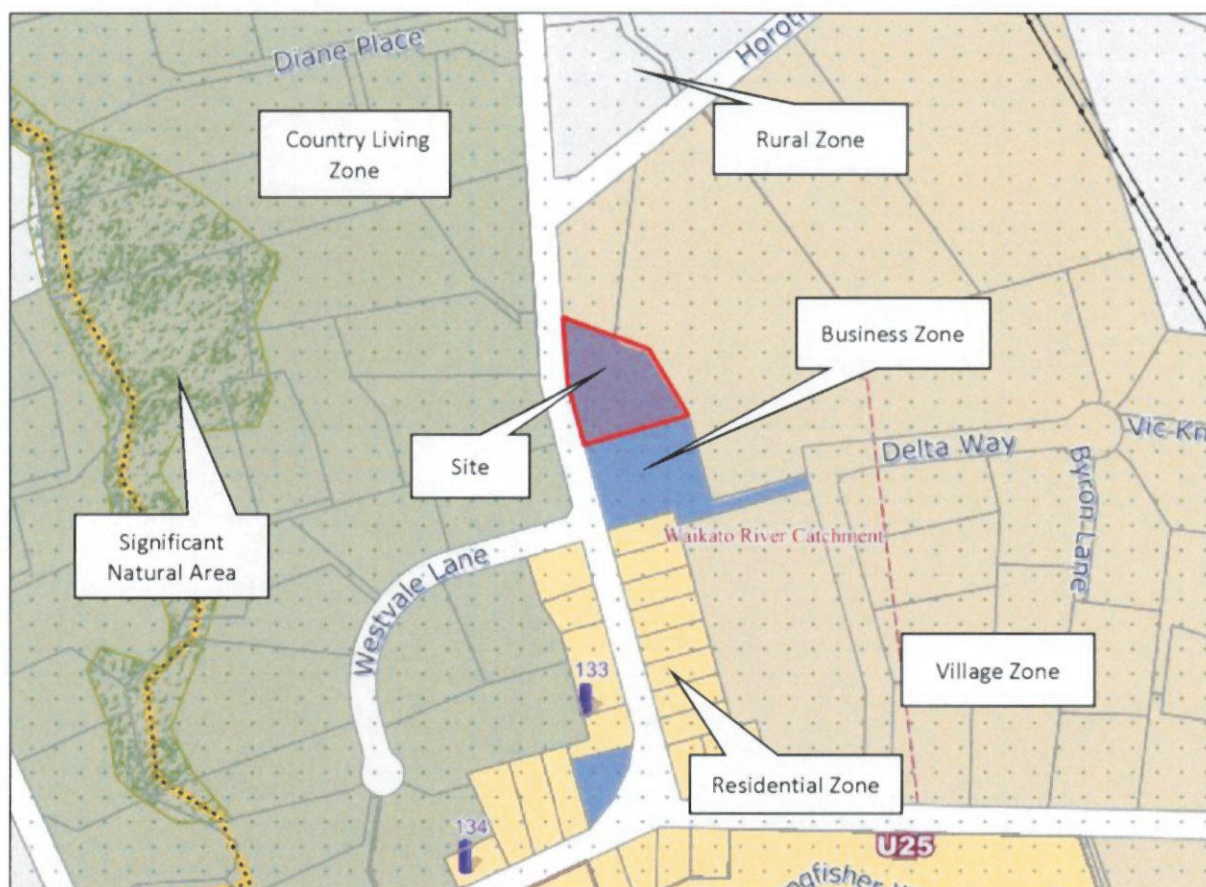


Figure 8: Proposed District Plan Zoning

At the time of drafting this assessment, the PDP is open for further submissions, with the summary of submissions released on the 29 April 2019. Only matters relating to Environment Court orders and rules for the protection of water, soil, air, significant indigenous vegetation (including significant habitats for fauna), historic heritage or aquaculture activities have immediate legal effect under s86B RMA.

Having reviewed the summary of submissions, I understand that there are no submissions opposing the proposed re-zoning of this site to Business. In accordance with 86F(1)(a), 'a rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions on the rule has expired and, in relation to the rule, no submissions in opposition have been made.' The proposed re-zoning of the site is already beyond legal challenge in the context of s86F(1)(a). However, we understand that there are several submissions opposing rules within the PDP Business Zone chapter. It is understood that the re-zoning and rules cannot be viewed in isolation from one another. In which case, despite the re-zoning of the site not being opposed, none of the provisions of the PDP are considered to have any legal weight at this time.

Notwithstanding the above, the objectives and policies of the PDP are required to be considered pursuant to s104(1)(b). An assessment of the relevant PDP objectives and policies are included as Appendix ...

## 2.5 Consultation

### 2.5.1 Waikato District Council

A resource consent pre-application meeting was held with Council planning, policy and land development engineers on the 24<sup>th</sup> October 2018 to discuss the merits of the proposal and any specific information requirements for the resource consent. The following is a summary of the principal issues:

- Council noted that, at the time of lodgement, a traffic impact assessment and acoustic assessment should be provided to supplement the application to determine the effects on the receiving environment. Both aforementioned reports have been provided.
- Information as to the hours of operation, bulk and location and any proposed planting / fencing, and assessment of affected persons shall be provided as part of the consent application. Details of this are included within Section 6 of this report.
- Council stated that the site is un-serviced and therefore onsite servicing will be required for the proposal.

Overall, the pre-application meeting gave recognition to the future rezoning of the site, and the status of the PDP at the time, with more scrutiny given to the application under the Country Living provisions. Our assessment has given consideration to both zones. A copy of the pre-application meeting minutes has been included as Appendix B.

## 3.0 PROPOSAL

The application is for the development of the site with a commercial activity; comprising both retail and food and beverage activities.



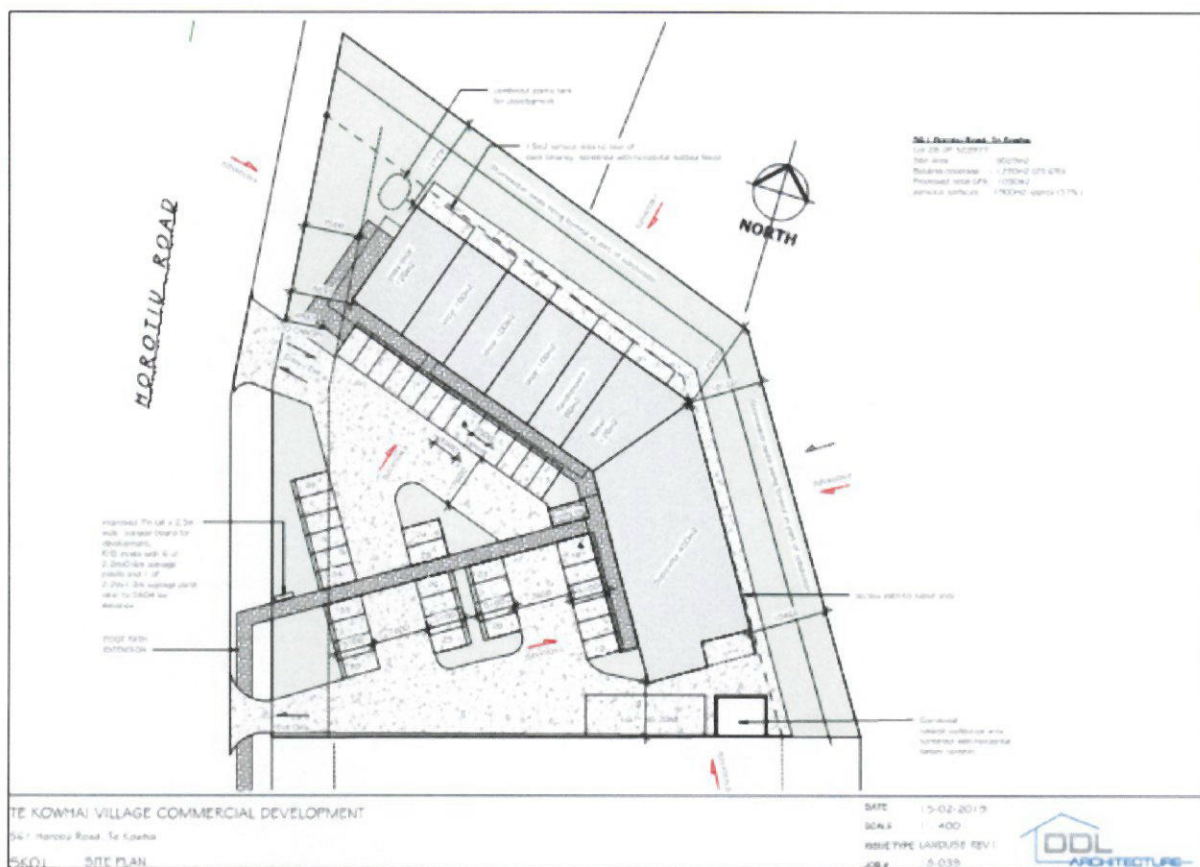


Figure 9: Proposed site plan

The commercial development comprises a single level building with a floor area of 1,290m<sup>2</sup> generally following the northern and eastern boundaries.

The building will comprise seven retail tenancies, including a hairdresser, pizza shop, superette and a number of other small-scale retail outlets. The following hours of operation are applicable to each respective outlet seven days a week (Monday to Sunday):

- Takeaway / pizza outlet – 10am to 10pm
- Retail and hairdressers – 8am to 6pm
- Superette – 7am to 10pm

The takeaway outlet will have an outdoor seating area to the north of the building and will be for the exclusive use of patrons. For the purposes of this application, no outlet will it be licensed under the Sale and Supply of Alcohol Act, however, such elements are not intended to be precluded in the future, subject to further consent processes.

The external façade will comprise a mixture of concrete and slatted timber weatherboard finishes. Generous landscaped areas are proposed along the road frontage, within the car parking area and along the rear boundary for the site.

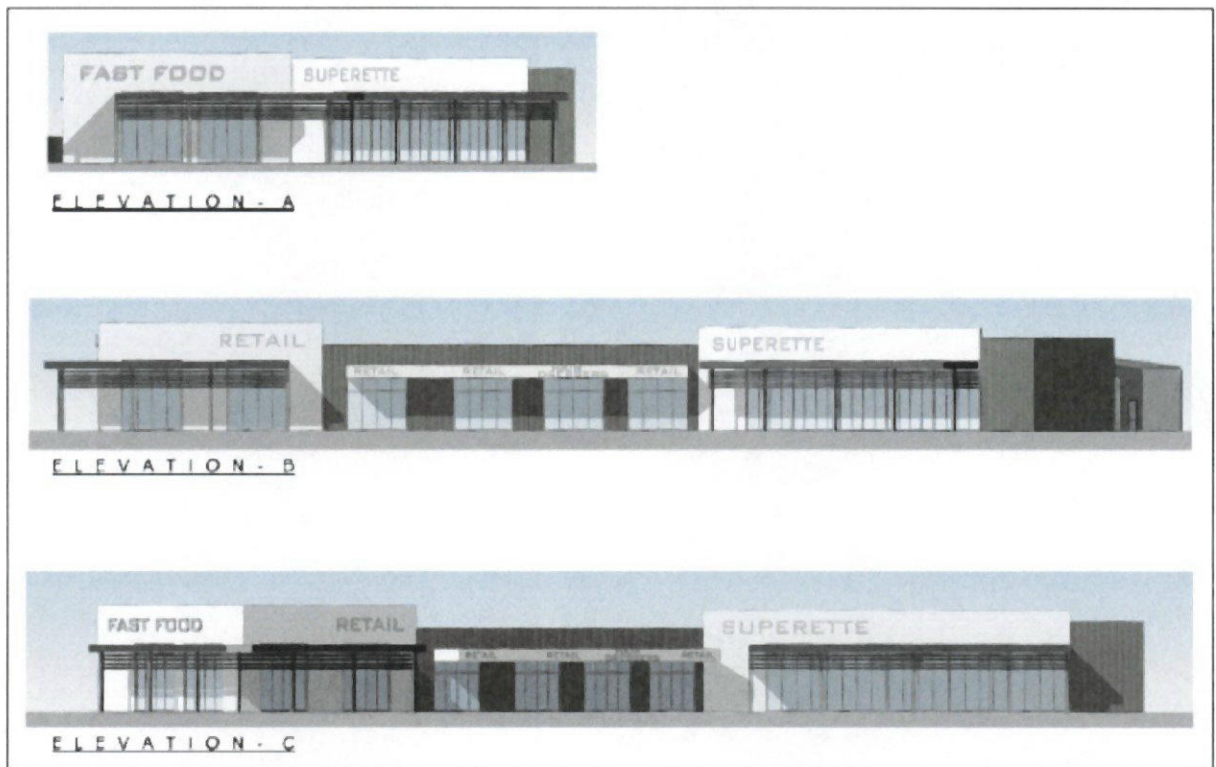


Figure 10: Proposed northern and eastern elevation.

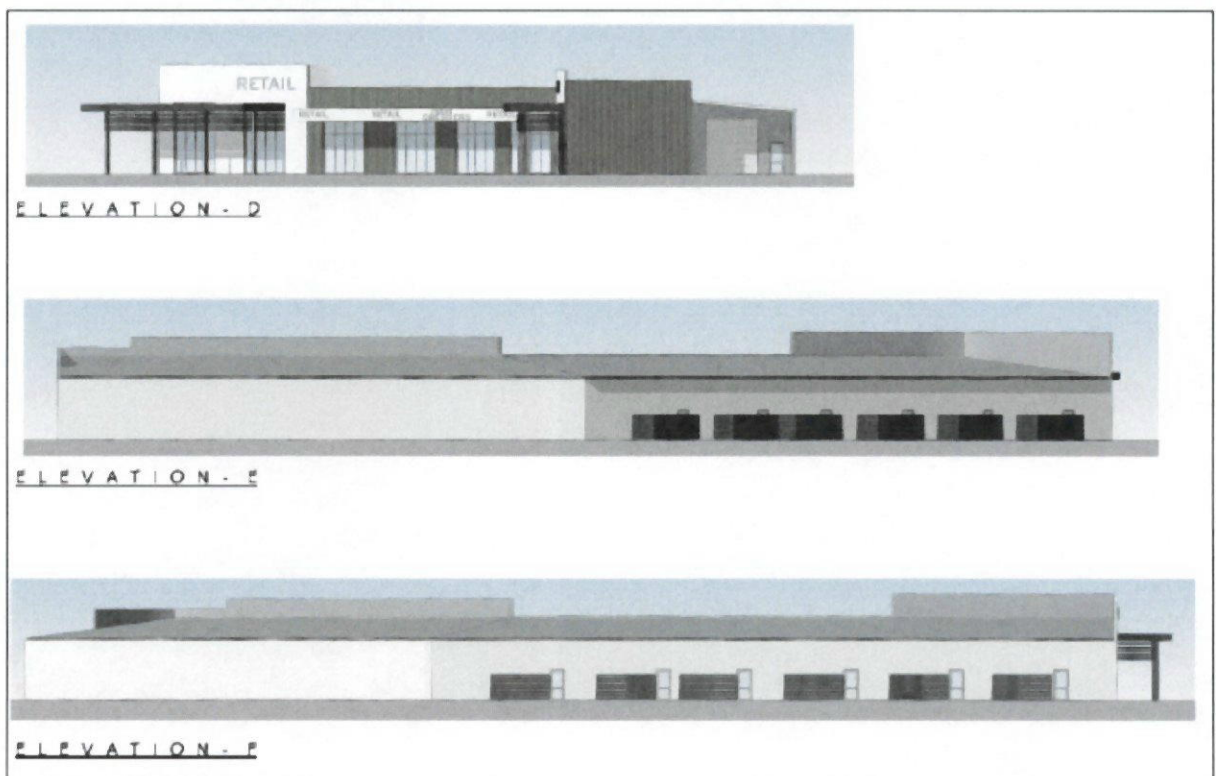


Figure 11: Proposed elevations D – F; being the northern, western and southern elevation.

All carparking associated within the commercial activity will be located to west of the building, nearest the Horotiu Road boundary. 39 car parking spaces will be provided, including two accessible spaces. Sufficient space has been provided onsite to provide the required 4 bicycle spaces to cater for the activity. One loading zone has been provided along the southern boundary, nearest a communal refuse area. The loading zone is located nearest the superette, which is likely to have the highest loading demand. Nonetheless, all other outlets will have access to the area.

Vehicle access to the site is provided via two proposed crossings onto Horotiu Road. The northernmost crossing will be entry and exit, allowing for two-way flow. The southern crossing is an exit only and will primarily cater for service vehicles to allow for more efficient onsite manoeuvring for heavy goods vehicles. Pedestrian access is also provided onsite via formed footpaths, providing safe passage for patrons between outlets and to cars. The pedestrian footpath will extend to allow for an interconnection between the subject site and the consented café to the south.

As stated above, a communal refuse area is provided to the south of the superette, adjacent the southern boundary. Each unit is provided with a small outdoor area that will be fenced with timber slats to screen the use of these areas. Primary refuse facilities will, however, be via the communal area which is accessible to collection services.

A freestanding sign, comprising a maximum height of 7m and a width of 2.5m, is proposed to be located between the northern and southern vehicle entrances. The sign has been designed to avoid disrupting sightlines, by providing signage boards no lower than 2.05m above ground level. The proposed signage comprises several sandwich boards, with six being 2.2m x 600m and one being 2.2m x 1.2m. The overall area of signage is 10.56m<sup>2</sup>. Refer to Figure 9 as follows which illustrates the proposed signage.



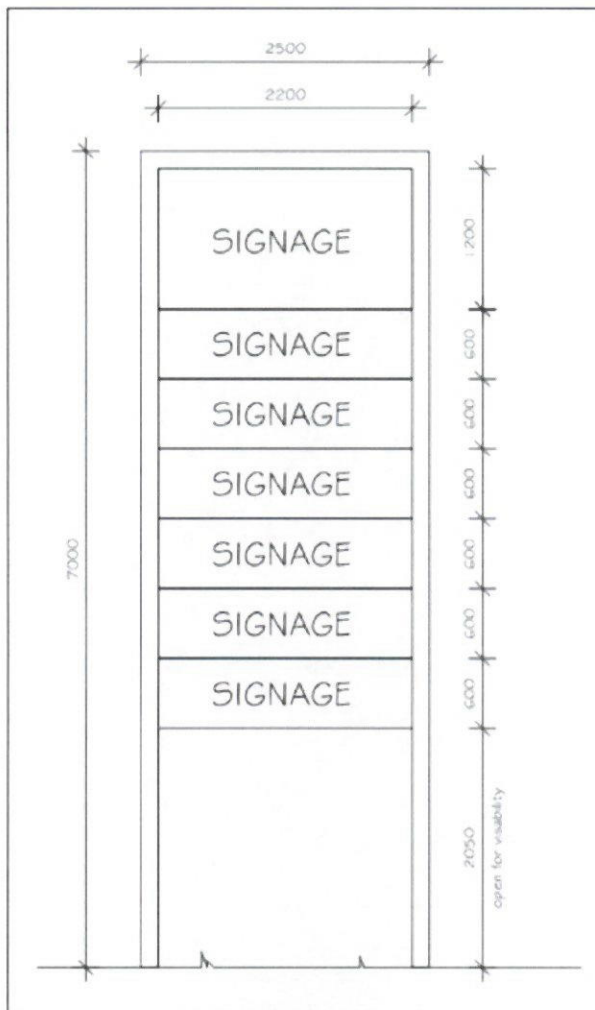


Figure 9: Proposed freestanding sign.

Te Kowhai is not provided with reticulated services meaning three waters must be managed on site. Effluent will be disposed of via an improved effluent system that has been described in the report prepared by Wainui Environmental Ltd included as Appendix G. The volume of effluent expected to be generated by the commercial activity has been estimated to be 3m<sup>3</sup>, which complies with the permitted thresholds of the Waikato Regional Plan (refer to Rule 3.5.7.6 of the Waikato Regional Plan). Wainui Environmental has also confirmed that stormwater management can be facilitated by way of an underground soakage system. It is noted that a large stormwater swale, which is part of the Waikato Regional Council drainage network, is located along the northern and eastern boundaries. The swale will convey all secondary overland flow during storm events that exceed the design loading of the soakage system, as will be the case with development of all lots within this subdivision. Water supply will be provided via two 25,000L water tanks.

## 4.0 PLANNING FRAMEWORK

### 4.1 Waikato District Plan

The Waikato District Plan was made operative on the 20<sup>th</sup> March 2017. The Proposed Waikato District Plan (PDP) was notified on the 18 July 2018 and is presently open for further submission. As noted in Section

2.4.2 above, the provisions of the PDP do not have any legal weighting at the time of drafting this assessment, with the exception of those with immediate legal effect. Accordingly the proposal has been assessed against the relevant rules of the ODP.

## 5.0 REASONS FOR CONSENT

### 6.1 Operative Waikato District Plan

A thorough assessment of the proposal against the Country Living Zone rules has been included as Appendix D. In summary, this proposal triggers resource consent under the following rules:

- Rule 27.10 – Type of activity – The proposal is for a commercial activity – **Discretionary activity.**
- Rule 27.16 – Access, vehicle entrance, parking, loading and manoeuvring space – The proposed vehicle crossings area unable to meet the required sight and separation distances required in Appendix A, with onsite car parking unable to meet the required manoeuvring depth – **Restricted Discretionary Activity.**
- Rule 27.17 – Vehicle movements – the estimated traffic generated by the proposal is between 984vpd – 1,388vpd, where 30vpd is permitted – **Discretionary Activity.**
- Rule 27.18 – Noise –the proposal does not comply with the noise limits applicable at the site boundary – **Discretionary Activity.**
- Rule 27.4 – Earthworks – The proposal seeks to undertake approximately 1,600m<sup>3</sup> over 5,000m<sup>2</sup> exceeding the permitted thresholds – **Discretionary Activity.**
- Rule 27.36 – Signs – The combined total of signage, including the proposed freestanding sign and signage attached to buildings, has a total area of 37.56m<sup>2</sup> – **Discretionary Activity.**
- Rule 27.37 – Signs and effects on traffic – The proposal comprises several tenancies, each tenancy will have an advertising board which will exceed the number of characters and symbols permitted – **Discretionary Activity.**
- Rule 27.47 – Building coverage – the proposal results in a total building coverage of 25.6% where 10% is permitted – **Discretionary Activity.**
- Rule 27.48 – Building setbacks on allotments 1,050m<sup>2</sup> or more – The building will encroach the eastern and southern boundaries by 5m; with a 12m setback being required – **Discretionary Activity.**

Overall, the application is classified as a **Discretionary Activity** under the Country Living Zone provisions of the ODP, being the highest activity status indicated by the rules above.

## 6.0 ACTUAL AND POTENTIAL EFFECTS (SECTIONS 104(1)(A) & 106)

### 6.1 Statutory Matters

When considering an application for a Discretionary activity the consent authority must have regard to Part 2 of the RMA ("Purposes and Principles" – sections 5 to 8), and sections 104, 104B, and 108 of the RMA.

Subject to Part 2 of the RMA, when considering an application for resource consent council must, in accordance with s104(1) of the RMA, have regard to:

- any actual and potential effects on the environment of allowing the activity;
- any relevant provisions of a NES, other regulations, national policy statement, a regional policy statement or proposed regional policy statement; a plan or proposed plan; and
- any other matter a council considers relevant and reasonably necessary to determine the application.

As the application is classified as a Discretionary activity overall, the consent authority is not restricted in the exercise of its discretion when assessing the proposal.

The following assessment fulfils the requirements set out in section 104 and includes an analysis pertaining to the statutory requirements to give effect to the relevant plans and assess the environmental effects of the activity.

### 6.2 Assessment of Actual and Potential Effects on the Environment

Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. It is anticipated that any effects that may arise from the proposal would fall into the following categories:

- Character and Amenity
- Transportation
- Infrastructure and drainage
- Earthworks and Construction

#### 6.2.1 Character and Amenity

It is noted that the proposed re-zoning of the site to Business has not been opposed by any submitter. Accordingly, it is not a matter of if the re-zoning will occur but when and in what form these new Business Zone rules will emerge. While I appreciate that there is no weight that can be applied to the PDP zoning, I consider it is still relevant that this future zoning and character of development be noted as a preface to this assessment.

The proposal seeks to construct a new 1,290m<sup>2</sup> commercial building, comprising seven retail and eatery outlets. The building is proposed to be placed along the northern and eastern side boundaries, with the car parking located between the building and the front (road) boundary. The site is currently zoned as Country Living under the ODP, however is proposed to be rezoned to Business under the PDP.



The subject site currently comprises a vacant small block of land, having been subdivided for the intention of containing a future commercial development; complementary to the adjoining café site to the south. Within the wider contextual environment, the adjoining land to the east comprises a consented subdivision for the purposes of residential living on approximate 5,000m<sup>2</sup> lots. As such, the receiving environment is changing, to accommodate a higher density of development for residential purposes.

The location of the commercial site is considered to be relatively discrete in the context of the wider environment. Aside from views of the building from Horotiu Road (west), the building is otherwise concealed from the surrounding development north, via a range of shelterbelts and large pockets of dense vegetation. The café and proposed development complement each other, creating a commercial node within the Te Kowhai settlement, providing a level of goods and services within a more remote area not currently served with such amenities. It is noted that within the Te Kowhai area, particularly expressed throughout the ODPs objective and policies and within the Te Kowhai Structure Plan, that retail and commercial development is encouraged within the settlement, and primarily within the subject site and wider environment; In light of the scale of development occurring on the adjoining western and southern sites requiring commercial servicing. Within the Structure Plan it is noted that the site and that adjoining to the south and east indicated as future town centre; being suitable at meeting the needs of the community and providing commercial support.

The proposed commercial development results in two yard encroachments with respect to the eastern and southern boundaries. The owners and occupiers of the properties at 571 Horotiu Road and 714 Te Kowhai Road have provided their written approval, and as such any effect on these properties shall be disregarded.

The eastern boundary, adjoining the consented residential subdivision, will have views of the rear of the building, which is provided with fencing to obscure views of external areas and to create a level of privacy between the sites. In addition, the eastern boundary is not the primary building frontage, and as such it reduces any noise, lighting and advertising visible to the adjoining site. The southern boundary adjoins the consented café development, which will contain an internal pedestrian link between the activities. In any event, the Applicant has sought and obtained the written approval of the adjoining property owner. Therefore, no effects may be considered relevant on these two parties.

The proposal exceeds the maximum 10% permitted building coverage, where 25.6% is proposed, being 15.6% above the permitted threshold. However, given the buildings orientation onsite, following the north-eastern and easternmost boundaries, and the design of the building comprising a single level, the bulk appearance of the building is reduced; particularly with respect to the adjoining property to the north. Given how the building is sited, primary views are from the adjoining transport corridor, rather than the northern property which is limited to a side profile of the building. As disused, the alignment of the adjoining road network, in addition to the existing level of dense landscaping within the adjacent sites, further reduces the visual bulk of the building. Landscaping will be undertaken within the subject site to provide visual screening and maintain privacy for adjoining sites, in addition to providing a cohesive, well thought-out design. In any event, the scale of the building is significantly reduced by the generous setbacks from adjoining the adjoining properties to the north and east and via the proposed landscaping within the subject site.

The proposal is a modest design, achieving compliance with the maximum height and daylight admission to further reduce any perceived bulk and dominance effects. Overall the bulk and location of the building is considered compatible with the future pattern of development of the wider surrounds and anticipated scale of development.



The proposal includes both a freestanding sign and attached signage to each tenancy. The intent of the signage is to identify the activities occurring on site. Although the signage results in a non-compliance with maximum permitted thresholds with respect to the Country Living Zone, it is noted that the proposed signage is of a scale that is proportionate to the commercial development. The freestanding sign within the front yard setback, located between the two vehicle crossings, has been designed to allow vehicles unrestricted views along Horotiu Road by providing all signage at least 2.2m above ground. The freestanding sign will not be illuminated with flashing lights or be a nuisance to road users, nor will it mimic any road sign.

The building has been purposefully sited to have the car parking area located between the front boundary and the building, to achieve the required front yard setback and to create a level of separation between the development and the public interface. This area provides a generous landscaped buffer between the building and car parking area and their relationship with the adjoining transport network. In any event, the proposed landscaping will align with the existing pattern of landscaping observed within the adjacent sites to the east. In addition, the proposed layout allows for functional access to the site, providing practical onsite circulation for patrons. Accordingly, the building is considered to provide adequate separation to the road and adjoining properties to maintain spaciousness between the public realm and adjoining development and provide for opportunities for landscaping as mitigation of visual effects of the building.

The building is complemented by a parking area that comprises a concrete surface with marked car parking spaces. The concrete surface will be broken up by several grassed areas to break up the onsite circulation and to delineate aisles of parking. The parking is located along the western side of the building, extending along the frontage of the building. While it is acknowledged that the parking area is expansive, and such features are not common within the Country Living Zone, I consider that the proposed landscaping will provide a suitable degree of screening of parking area to mitigate the visual effects of the parking area. The edge of the car park seal is set back from the road boundary providing a level of depth for planting to screen the car park. The curving alignment of the road reserve also assists in eliminating direct views of the site and along the driveway into the parking area by passers-by. This is further mitigated via the proposed landscaping, which softens the expanse of the hard surfaces.

The service area for the commercial development will be located to the rear of the building, with small areas serving each tenant which are enclosed by a timber slated fence. The fence will ensure that the outdoor service areas, which will include refuse bins for temporary storage, will be appropriately screened from view of the wider environment. In addition, a communal refuse area is provided nearest the south eastern corner, accessible by all tenancies, however allowing easier access to the superette; being the likely tenant with the largest waste. The communal area will also be enclosed via a 1.8m high close board fence, obscuring views to observers. The location of the area, being obscured by the location of the building, further reduces views of the communal space.

The proposed commercial activity will attract people to the site in numbers not generally anticipated within the Country Living Zone. This attraction of people will give rise to adverse character and amenity effects relating to the movement of people onto and within the site and the activities of people once on the site, such as potential noise and privacy effects. Such effects are considered to be limited to the immediate environment and will be discussed later in Section 6.3 of this report.



#### 6.2.1.1 Character and Amenity – Acoustic Effects

The Applicant has obtained an acoustic report prepared by Earcon to determine the acoustic effects of the proposed development. A copy of this report is included as Appendix H. I don't intend to duplicate the content of Earcon's report in the body of this assessment, however, I will briefly summarise the comments below.

Earcon have considered the proposal in light of the operative Country Living Zone and in accordance with the hours of operation and anticipated daily vehicle movements outlined in Section 2 of this report. The Earcon report concludes that, with the implementation of noise attenuation fencing, that levels will achieve that specified in the ODP at each boundary. However, under the proposed Business Zoning, no noise attenuation will be required, as the proposal will meet the Business Zone limits.

In anticipation of the proposed Business Zone, and the change in the contextual environment (with the café to the south) it is considered that providing acoustic fencing, particularly along the southern boundary, will detract from the open space character the proposal is trying to achieve. In addition, the proposal seeks to provide a connection to the adjoining café, with the introduction of a pedestrian link, allowing the two sites to interact. As such, the written approval of the adjoining sites to the east and south has been sought and obtained, provided for as Appendix J of this report, and therefore negating any effect on these parties.

In summary Earcon support the proposal, and conclude that, given the proposed hours of operation and use of the adjoining site to the south, the overall effects of the proposal will be less than minor.

Overall, in my view, any actual or potential adverse character and amenity effects of the proposal on the wider environment, as derived from the building and associated structures, will be less than minor.

#### 6.2.2 Transportation

The Applicant has obtained an integrated transportation assessment prepared by CKL. A copy of this report is included as Appendix I. I don't intend to duplicate the content of CKL's report in the body of this assessment, however, I will briefly summarise the salient points.

CKL considers that the proposed traffic generation of the commercial activity will be able to be readily accommodated by the existing roading network without any discernible effects on its safe and efficient operation.

CKL have assessed the proposed vehicle entrance arrangement, and conclude that the effects as a result of the non-compliance with sight and separation distances will be less than minor. Furthermore, with the recent reduction in speed environment, being 50km/hr, further reduces the potential for conflict. Sufficient queuing space is provided on site. CKL considers that the proposal provides more than the required number of parks to meet the operational parking demand and that specified by the ODP for the commercial activity and that the layout of car parking is safe and efficient in light of the non-compliance with manoeuvring.

Overall, CKL has concluded that it considers there are no traffic engineering reasons why resource consent should not be granted for this proposal. On this basis, it is my view that any actual or potential adverse traffic effects on the wider environment will be less than minor and of a degree that can be considered acceptable.

### 6.2.3 Infrastructure

The settlement of Te Kowhai has no reticulated drainage services. Accordingly, all three waters management must be undertaken on site.

The Applicant engaged Wainui Environmental to prepare a three waters assessment of the development and provide concept designs for these on-site services.

Stormwater will be managed onsite via an underground soakage system, with soakage being a viable option for the subject site. All stormwater produced from the roof area and hardstand surfaces will be conveyed to the soakage system, with overflow to be discharged to the lowest catch pit. The system will be located near the existing swale, towards the rear of the building, or within the vehicle manoeuvring area, with the location to be confirmed at Building Consent stage.

Wainui Environmental has assessed the effluent disposal requirements for the proposed commercial development. The report estimates a total effluent output of 3m<sup>3</sup> per day. This total volume achieves that permitted by the Waikato Regional Plan, in accordance with Rule 3.5.7.6. To cater for demand, Wainui Environmental recommend an advanced secondary treatment system with disposal to ground via a conventional bed, based on the soil conditions. Grease traps shall be provided to the proposed pizza outlet and hairdressers to buffer flows and prevent unwanted material entering the wastewater system.

Wainui Environmental have recommended that potable water supply be provided onsite via 2 x 25,000L to cater for the development. The water tanks will likely be partially or fully buried and likely to be located to the south of the superette.

Soils testing was undertaken at the time of subdivision, with any additional measures to be undertaken prior to Building Consent stage.

By way of a summary, Wainui Environmental has confirmed that the site can readily accommodate the appropriate three waters management measures for the proposed commercial activity in a manner which is sustainable and will not give rise to any significant adverse effects on the environment.

On this basis, it is my view that any actual or potential adverse infrastructure effects will be less than minor and can be readily mitigated by conditions of consent.

### 6.2.4 Earthworks and Construction

Earthworks required for the development are unable to comply with the permitted thresholds provided under the District Plan. However, the works will essentially be a site scrape, with some cut and fill required where any slight topographical changes are apparent. Based on the total area to be developed (including the access, manoeuvring area and other impermeable surfaces) it is estimated that earthworks will comprise a volume of approximately 1,600m<sup>3</sup>. The earthworks will be undertaken over an area of approximately 5,000m<sup>2</sup>; being the site area. Although the volume and area of earthworks proposed are unable to meet the permitted thresholds, the site is generally flat in topography, and will exhibit a similar topography once developed. No significant changes are proposed to the topography of the land, with no retaining required to cater for any proposed cut or fill. In summary, the earthworks are considered comparable given the size of the site.

It is estimated that around 200 truck movements (assuming single units) will be required to transport all of the excavated material from site, or 12-14 trucks per day over a two-week period. In my view, this volume



of traffic is not considered to be significant and given it is only over a relatively short period, will not give rise to any significant adverse amenity effects. Appropriate traffic management will be employed during this brief period of earthworks.

During the entirety of the earthworks period, suitable erosion and sediment control measures will be implemented and maintained to ensure their ongoing performance. These will be maintained until such time as the site is in an erosion resistant state. Such measures may include silt fences and stabilised construction entrances. Roads will also be swept clean of any soil material as required.

The potential effects associated with construction are considered to be typical of this type and scale of building project and will be limited to noise and construction traffic, primarily. Noise effects can be suitably mitigated by observing regular working hours. All construction traffic can be accommodated on site within the driveway and vehicle circulation spaces. Likewise, deliveries of materials can occur within the site, as required.

It is considered that any effects associated with the construction and earthworks will be minimal and temporary and can be appropriately mitigated by the installation of site specific erosion and sediment control measures.

Overall, it is our opinion that the proposed earthworks will result in adverse effects that are less than minor and readily mitigated by site management conditions of consent.

#### 6.2.5 Overall Assessment

Overall, it is considered any actual or potential adverse effects of the proposal, including effects on residential character and amenity, traffic effects, infrastructure and earthworks and construction will be less than minor.

### 6.3 Assessment of Potentially Affected Parties s95E

A map illustrating the properties which are adjacent to the commercial development has been included in Appendix J. The following is an assessment of effects on these specific parties. The owners and occupiers of Properties 1 & 2 have provided their written approval for the application. Accordingly, any effects on these parties have been disregarded.

#### 6.3.1 Acoustic Effects

The applicant has obtained an acoustic assessment report from Earcon. A copy of this report is included as Appendix H. Earcon has estimated the noise generated by the commercial activity during the proposed hours of operation. It is understood that activities of this nature have been well observed in operation, therefore the estimates of noise by this method is considered to be a reasonably robust approach.

Earcon has concluded that the noise generated by the commercial development will comply with the specific noise limits applicable to the Country Living Zone, being a noise level of 50dBA (L10) between 7am and 7pm any day, 45dBA (L10) between 7pm to 10pm any day and 40dBA (L10) and 65dBA (Lmax) at all other times; except for Properties 1 & 2 whom have provided their approval. These measurements have been assessed based on the sites adjoining boundaries; refer to Section 5.2 Table 1 of the Earcon report for a detailed assessment of the predicted cumulative noise levels.

Based on the estimates of noise provided by Earcon, I am satisfied that the noise generated by the commercial activity will fall within the permitted baseline of noise effects and can therefore be considered to be less than minor and acceptable.

### 6.3.2 Earthworks and construction effects

The potential effects associated with earthworks and construction are considered to be typical of this type and scale of building project and will be limited to noise, dust and construction traffic, primarily. Noise effects can be suitably mitigated by observing regular working hours. All construction traffic can be accommodated on site within the driveway and vehicle circulation spaces. Likewise, deliveries of materials can occur within the site, as required. It is estimated that around 200 truck movements (assuming single units) will be required to transport all of the excavated material from site, or 12-14 trucks per day over a two-week period; compliant with the 30 vehicle per day permitted traffic generation. All vehicles can be accommodated onsite, likewise with material deliveries.

During the entirety of the earthworks period, suitable erosion and sediment control measures will be implemented and maintained to ensure their ongoing performance. These will be maintained until such time as the site is in an erosion resistant state. Such measures may include silt fences and stabilised construction entrances. Roads will also be swept clean of any soil material as required.

Overall it is my view that any potential adverse effects related to earthworks and construction on the adjacent property owners will be less than minor, of a temporary nature and readily mitigated by relatively standard site management conditions.

### 6.3.3 Property 3 – 8 Westvale Lane

Property 3 is located on the opposite side of Horotiu Road from the site. The dwelling within this property is setback approximately 60m towards the rear of the property, with vehicle access onto Westvale Lane.

The dwelling within Property 3 is orientated towards Westvale Lane, with little to no interaction with Horotiu Road. The north-eastern corner of Property 3 is densely vegetated with an existing cluster of mature trees, which largely obscures any view of the subject site, as well as the existing row of trees that follows the entirety of the Horotiu Road boundary. Essentially, in order to view the commercial development from this property, the owners may have to go out of their way to do so. This point, in addition to physical separation and access location, means that any potential visual or traffic related amenity effects will be insignificant and determined to be less than minor.

### 6.3.4 Property 4 – 564A Horotiu Road

Property 4 is located on the opposite side of Horotiu Road from the site. The dwelling on this property is setback approximately 75m towards the rear of the property, with vehicle access from Horotiu Road. A dense hedge to a height of approximately 2m runs along the road frontage of this property; comprising a mixture of mature tree species. As such, views of the commercial development from Property 4 are limited and, at best, filtered through vegetation within the site.

With respect to visual effects, I am satisfied that these will not be significant given the generous separation distances and screening offered by existing vegetation and proposed dense landscape planting. The scale of the building, while greater than the expectations of the Country Living zone, aligns with the scale and



character of the café site, which is presently under development, and aligns with the future Business zoning of the land, under which a building of this scale is permitted.

The commercial building is a single level building, compliant with the underlying zone height control. As such, the proposed building is not considered to be visually obtrusive with respect to Property 4. From this property there is no appreciable link between the proposed building and existing buildings within Property 4, in terms of potential cumulative visual effects. From Property 4, any visual experience of the parking and service areas are primarily screened from view; with only fleeting views applicable at best.

The traffic generated by the commercial development is not expected to give rise to significant adverse amenity effects on this property. It is noted, from CKL's report, that Horotiu Road carries around 4,200 vehicles per day, meaning vehicle traffic past this site is already a common occurrence. The additional 984-1,388 daily movements will not give rise to significant adverse effects because individual traffic movements, whether passing traffic or as a result of the commercial development, will be difficult to discern from Property 4; primarily as views are obscured and intermittent in nature. It is also highly unlikely that the full number of anticipated vehicle movements will be past Property 4 given this will be split over both the north-bound and south-bound approaches to the site. In addition, the commercial development will utilise two vehicle accesses; dispersing the number of onsite vehicles leaving the site resulting in a lesser effect on Property 4 which is located nearest the southern entrance. It should be noted that a proportion of these movements will be from traffic already passing through Te Kowhai, being movements unrelated to the activity itself – stopping in at the commercial activity incidental to such a trip rather than being exclusively a destination activity.

Overall, it is my view that any adverse effects on Property 4 will be less than minor and readily mitigated by the purposeful design and layout of the site, spaciousness of the locality and effects generated by the existing environment.

#### 6.3.5 Property 5 – 560A Horotiu Road

Property 5 is on the opposite side of Horotiu Road from the site. The dwelling on this property is setback approximately 35m towards the rear of the property, with vehicle access from Horotiu Road. Property 5 portrays similar visual mitigation as Property 4; detailed above. Property 5 is provided with two dense hedges along the eastern boundary at a height of approximately 2m, as well as dense treeline along the common boundary with Property 4. As such, views of the commercial development from Property 4 are limited and, at best, filtered through vegetation within the site.

As with Property 4, Property 5 expresses similar visual opportunities of the commercial development. As such, with respect to visual effects, I am satisfied that these will not be significant given the generous separation distances and screening offered by existing vegetation. As discussed, the size and scale of the building is not considered to be out of character with the expectations of the surrounding locale, and in particular the proposed rezoning to Business; which aligns with the existing pattern of land use represented by the consented café to the south. As such, the proposed building is not considered to be visually obtrusive with respect to Property 5. From this property there is no appreciable link between the proposed building and existing buildings within Property 5, in terms of potential cumulative visual effects. From Property 5, any visual experience of the parking and service areas are primarily screened from view; with only fleeting views applicable at best.

The scale of the building, while greater than the expectations of the Country Living zone, aligns with the scale and character of the café site, which is presently under development, and aligns with the future Business zoning of the land, under which a building of this scale is permitted.

Per the details specified in Section 6.3.4 relating to traffic, which will not be repeated here, the CKL report confirms that the Horotiu Road network is able to cater for the proposed development, with less than minor effects. The additional daily vehicle movements on Horotiu Road, whether passing traffic or as a result of the commercial development, will be difficult to discern from Property 5; primarily as views are obscured and intermittent in nature. It is noted that Properties 5-7 share a common access. In addition, the commercial development will utilise two vehicle accesses; dispersing the number of vehicles leaving the site resulting in a lesser effect on Property 5 which is located nearest the northern entrance. It should be noted that a proportion of these movements will be from traffic already passing through Te Kowhai, being movements unrelated to the activity itself – stopping in at the commercial activity incidental to such a trip rather than being exclusively a destination activity.

Overall, it is my view that any adverse effects on Property 5 will be less than minor and readily mitigated by the purposeful design and layout of the site, spaciousness of the locality and effects generated by the existing environment.

#### 6.3.6 Property 6 – 560B Horotiu Road

Property 6 is located on the western side of Horotiu Road, opposite the proposed commercial development. Property 6 is a rear site, accessed via a long driveway with the existing dwelling onsite setback approximately 82m from the road boundary. Much like Properties 4 & 5, the road boundary of Property 6 is largely screened by vegetation, with the dwelling onsite being largely obscured from view; barely being visible from the road reserve. As such, any views of the proposed commercial development will be extremely limited from within Property 6, and will be similar in effect to a road user; being only fleeting moments. As such, with respect to visual effects, the proposal and Property 6 are considered to have sufficient separation that the two activities will not coincide with one another.

The scale of the building, while greater than the expectations of the Country Living zone, aligns with the scale and character of the café site, which is presently under development, and aligns with the future Business zoning of the land, under which a building of this scale is permitted.

As discussed above, Property 6 is largely obscured from the adjoining Horotiu Road reserve, with the existing dwelling onsite being setback substantially from the road boundary. As such any effects on Property 6 will be limited by the proposed daily vehicle movements anticipated by the commercial activity. It is noted that Properties 5-7 share a common access. With respect to the common access, it is highly unlikely that the full number of anticipated vehicle movements will go past this entrance given vehicle movements from the proposal will be split over both the north-bound and south-bound approaches to the site. It should be noted that a proportion of these movements will be from traffic already passing through Te Kowhai, being movements unrelated to the activity itself – stopping in at the commercial activity incidental to such a trip rather than being exclusively a destination activity. at the commercial activity incidental to such a trip rather than being exclusively a destination activity.

As discussed above, Property 6 is largely obscured from view with respect to the Horotiu Road reserve and comprises a rear site with the dwelling setback substantially from the road boundary.



Overall, it is my view that any adverse effects on Property 6 will be less than minor and readily mitigated by the purposeful design and layout of the site, spaciousness of the locality and effects generated by the existing environment.

#### 6.3.7 Property 7 – 560C Horotiu Road

Property 7 is located on the western side of Horotiu Road, located northwest of the proposed commercial development. Property 7 is located in excess of 70m from the nearest boundary with the subject site. Much like properties 4-6, Property 7 is heavily vegetated by way of the existing onsite hedge along the front (road) boundary as well as that provided within the neighbouring sites. As such, views of the commercial development from Property 7 are restricted, largely obscured through existing vegetation within the site.

Properties 5-7 share a common access. With respect to the common access, it is highly unlikely that the full number of anticipated vehicle movements will go past this entrance given vehicle movements from the proposal will be split over both the north-bound and south-bound approaches to the site. It should be noted that a proportion of these movements will be from traffic already passing through Te Kowhai, being movements unrelated to the activity itself – stopping in at the commercial activity incidental to such a trip rather than being exclusively a destination activity.

Overall, it is my view that any adverse effects on Property 7 will be less than minor and readily mitigated by the purposeful design and layout of the site, spaciousness of the locality and effects generated by the existing environment.

#### 6.3.8 Property 8 – 557 Horotiu Road

Property 8 is an adjoining property located immediately north of the subject site. Property 8 contains an existing dwelling with access onto Horotiu Road. Property 8 is unique in that it is bounded by numerous areas of dense vegetation; particularly along the northern, eastern and western boundaries and partially along the southern boundary. The existing dwelling is located immediately adjacent the shared boundary, with the southern side of the dwelling essentially being the back of the house; with minimal windows or outlook. The area between the dwelling and boundary is south facing and occupied by a partially buried water tank; limiting its accessibility and usefulness.

The new building comprises a single level and is orientated to follow the north-eastern and easternmost boundaries, with a compliant setback from Property 8. In addition, Property 8 adjoins the rear of the commercial building, therefore reducing potential privacy effects, as the commercial frontage is on the southern side of the building where patrons will primarily be limited too. Given the height, scale and orientation of the building, Property 8 is provided with views limited to the northernmost profile; being primarily the end of the building and therefore the narrowest view of the building. As such, the full bulk of the building is not visible from Property 8.

The principal habitable and outdoor living spaces for Property 8 are orientated to the north, away from the site. While there is a view of the building available from behind the dwelling, the area from which views are attainable is an area expected to be seldom used by the occupants of the dwelling (perhaps limited to times of section maintenance, for example). Essentially, in order to view the commercial development from this property, the owners might have to go out of their way to do so. This point, in addition to a complaint separation distance, also means that any potential privacy effects upon this property will be insignificant.

The proposal makes allowance for landscaping to be undertaken within the subject site to provide additional screening above what is existing within Property 8. By providing landscaped areas, in addition to the minimum 12.7m setback, it is considered that a sufficient level of separation, privacy and open space character will be maintained.

With respect to traffic related amenity effects, I am satisfied that these will be the same or less than those experienced by Properties 4-7, with the additional vehicle movements able to be readily accommodated within the existing road network, per CKLs recommendations. The vehicle entrance to Property 8 is sufficiently separated from the entrances to the commercial activity ensuring no significant traffic safety effects; in accordance with the ODP separation requirements.

Overall, it is my view that any potential adverse effects upon Property 8 will be less than minor and readily mitigated by the proposed landscaping mitigation and orientation of Property 8.

## 7.0 RELEVANT POLICY STATEMENTS, PLANS OR PROPOSED PLANS (SECTION 104(1)(B))

Section 104(1)(b) of the Act sets out that when considering an application for resource consent, the Council shall have regard to any relevant provisions of policy statements or plans or proposed plans. The Operative Waikato District Plan, Proposed Waikato District Plan and the Resource Management Act 1991 are considered relevant to the consideration of the proposal. The relevant provisions of these statutory documents are assessed in these sections.

### 7.1 Part II of the Resource Management Act

The purpose of the Resource Management Act (subsequently referred to as 'the Act') is stated in Part II of the Act, which includes the following sections:

5. Purpose
6. Matters of national importance
7. Other matters
8. Treaty of Waitangi

Section 5 states that the purpose of the Act is "to promote the sustainable management of natural and physical resources". Sustainable management is defined as "managing the use, development and protection of natural resources in a way or at a rate which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety."

This is to be achieved while sustaining the potential of natural and physical resources for future generations, safeguarding the life supporting capacity of air, water, soil, and eco-systems, and avoiding, remedying or mitigating any adverse effects on the environment.

Sections 6 include matters such as:

- the protection of outstanding natural features and landscapes from inappropriate subdivision;
- the protection of significant indigenous vegetation and fauna habitats;



- The protection of historic heritage from inappropriate subdivision, use, and development;
- the relationship of Maori to their ancestral taonga.

Section 7 includes other matters such as:

- Kaitiakitanga
- the efficient use and development of natural and physical resources (i.e. is of sound design)
- the maintenance and enhancement of amenity and quality of the environment (i.e. will have positive environmental effects)
- the protection of natural and cultural heritage

Section 8 states that the Council must also take into account the principles of the Treaty of Waitangi. In accordance with Section 31 of the Act, it is the function of territorial authorities to give effect to the Act. The Act states that a District Plan must be prepared at all times (s73), and that the purpose of a District Plan is to *“assist territorial authorities to carry out their functions in order to achieve the purpose of the Act.”*

In consideration of the part 2 matters set out above, it is my view that the proposal represents a sustainable use of the site, as the site is ideally situated within the wider Te Kowhai settlement. The proposal also aligns with the receiving environment, which comprises a consented café to the south and country living to the east. Furthermore, proposal aligns with Councils aspirations for the area, with the subject site proposed to be rezoned to Business. In addition, there are no areas of outstanding natural features or landscape, nor are there areas of significant indigenous vegetation. The site is not of significance to Maori.

Section 88 of the Act outlines the information required for resource consent applications, as does the Fourth Schedule in regard to an assessment of effects of the proposed activities. When considering a resource consent application, subject to the matters set out in Part II of the Act, the Council must have regard to matters set out at Section 104 of the Act, (i.e. any actual and potential effects of allowing the activity, any written submissions, District Plan controls, Regional Plan and NZ Coastal Policy Statement).

The following is an assessment of the additional statutory provisions considered to be relevant to the proposal.

## 7.2 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC)

The subject site is not known to have been occupied by any activities listed on the Ministry for the Environment’s Hazardous Activities and Industries List (HAIL). Furthermore, the site has been subdivided in accordance with the NESC requirements. Accordingly, the site is not considered to be a ‘piece of land’ therefore, the provisions of the NESC are not considered to be relevant.

## 7.3 Operative and Proposed Waikato District Plan

As stated earlier within this report the PDP is currently in the further submissions phase, with the summary of submissions having only recently been released. As such, no rule under the District Plan, unless given immediate legal effect pursuant to Section 86B or has not been submitted on in opposition, is considered to have legal weighting. As the proposal is not subject to any rule that has immediate legal effect under 86B,

and with the Business Zone provisions having been submitted against, it is considered that more weighting be applied to the ODP.

An assessment of the proposal against the relevant provisions of the Operative Waikato District Plan has been included in Appendix D - Rules and Appendix E – Objectives and Policies.

## 7.4 Other Statutory Matters

Section 88 of the Act outlines the information required for resource consent applications, as does the Fourth Schedule in regard to an assessment of effects of the proposed activities. When considering a resource consent application, subject to the matters set out in Part II of the Act, the Council must have regard to matters set out at Section 104 of the Act, (i.e. any actual and potential effects of allowing the activity, any written submissions, District Plan controls, Regional Plan and NZ Coastal Policy Statement).

In summary, the Act allows for the use and development of resources only if it can be shown that these resources will be used in a sustainable manner and that any adverse effect on the environment will be minor. It is considered that the proposal will promote sustainable management of natural and physical resources.

## 8.0 NOTIFICATION ASSESSMENT (SECTIONS 95A-95E)

Section 95 of the Resource Management Act sets out the notification and affected persons provisions to be considered in relation to applications for resource consent. The below provides an assessment against the notification steps provided under the RMA.

### 8.1 Public Notification

Pursuant to Section 95A of the RMA Amendment Act, the proposal is precluded from public notification, as per the below:

*(1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to publicly notify an application for a resource consent.*

*Step 1: mandatory public notification in certain circumstances*

*(2) Determine whether the application meets any of the criteria set out in subsection (3) and, —*

*(3) The criteria for step 1 are as follows:*

*(a) the applicant has requested that the application be publicly notified;*

*(b) public notification is required under section 95C:*

*(c) the application is made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.*

#### Comment

No rule under District Plan requires the public notification of the resource consent, nor is public notification requested.

*Step 2: if not required by step 1, public notification precluded in certain circumstances*



*(4) Determine whether the application meets either of the criteria set out in subsection (5) and,—*

*(a) if the answer is yes, go to step 4 (step 3 does not apply); and*

*(b) if the answer is no, go to step 3.*

*(5) The criteria for step 2 are as follows:*

*(a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;*

*(b) the application is for a resource consent for 1 or more of the following, but no other, activities:*

*(i) a controlled activity;*

*(ii) a restricted discretionary or discretionary activity, but only if the activity is a subdivision of land or a residential activity;*

*(iii) a restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity;*

*(iv) a prescribed activity (see section 360H(1)(a)(i)).*

*(6) In subsection (5), residential activity means an activity that requires resource consent under a regional or district plan and that is associated with the construction, alteration, or use of 1 or more dwellinghouses on land that, under a district plan, is intended to be used solely or principally for residential purposes.*

#### **Comment**

The proposal is for a Discretionary land use activity not associated with a residential activity. Therefore, the proposal is not precluded from public notification.

#### Step 3: if not precluded by step 2, public notification required in certain circumstances

*(7) Determine whether the application meets either of the criteria set out in subsection (8) and,—*

*(a) if the answer is yes, publicly notify the application; and*

*(b) if the answer is no, go to step 4.*

*(8) The criteria for step 3 are as follows:*

*(a) the application is for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification;*

*(b) the consent authority decides, in accordance with section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.*

#### **Comment**

The proposal is not precluded from public notification, as per Step 2 above. The proposal does not trigger any rule or national environmental standard that requires public notification. The proposal does not result in effects on the environment that are more than minor, as per Section 6 of this report.

#### Step 4: public notification in special circumstances

*(9) Determine whether special circumstances exist in relation to the application that warrant the application being publicly notified and,—*

- (a) if the answer is yes, publicly notify the application; and*
- (b) if the answer is no, do not publicly notify the application, but determine whether to give limited notification of the application under section 95B.*

**Comment:**

In the context of this application, the proposal triggers the Discretionary activity status overall, however given the assessment of effects provided in Section 6 of this report, it is considered the effects on the environment are less than minor. Furthermore, the specific nature of the infringements, and the means by which the associated adverse effects are mitigated, are reasonably anticipated. Accordingly, it is my view that there are no elements of this proposal that could be considered unique or exceptional. Therefore, there are no special circumstances to consider in relation to this proposal.

## **8.2 Limited Notification**

Pursuant to Section 95B of the RMA Amendment Act, the proposal is precluded from public notification, as per the below:

- (1) A consent authority must follow the steps set out in this section, in the order given, to determine whether to give limited notification of an application for a resource consent, if the application is not publicly notified under section 95A.*

*Step 1: certain affected groups and affected persons must be notified*

- (2) Determine whether there are any—*
  - (a) affected protected customary rights groups; or*
  - (b) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity).*
- (3) Determine—*
  - (a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and*
  - (b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.*
- (4) Notify the application to each affected group identified under subsection (2) and each affected person identified under subsection (3).*

**Comment:**

The subject site is not located within the coastal marine area, nor is it subject to any statutory acknowledgement. As such, the proposal does not require the notification to any of the parties identified in Step 1.

*Step 2: if not required by step 1, limited notification precluded in certain circumstances*

- (5) Determine whether the application meets either of the criteria set out in subsection (6) and,—*
  - (a) if the answer is yes, go to step 4 (step 3 does not apply); and*
  - (b) if the answer is no, go to step 3.*



*(6) The criteria for step 2 are as follows:*

- (a) the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification;*
- (b) the application is for a resource consent for either or both of the following, but no other, activities:*
  - (i) a controlled activity that requires consent under a district plan (other than a subdivision of land);*
  - (ii) a prescribed activity (see section 360H(1)(a)(ii)).*

**Comment:**

The proposal is not precluded from limited notification under any NES, nor is it an application for a controlled or prescribed activity.

*Step 3: if not precluded by step 2, certain other affected persons must be notified*

*(7) Determine whether, in accordance with section 95E, the following persons are affected persons:*

- (a) in the case of a boundary activity, an owner of an allotment with an infringed boundary; and*
- (b) in the case of any activity prescribed under section 360H(1)(b), a prescribed person in respect of the proposed activity.*

*(8) In the case of any other activity, determine whether a person is an affected person in accordance with section 95E.*

*(9) Notify each affected person identified under subsections (7) and (8) of the application.*

**Comment:**

The proposal does not meet the definition of a boundary activity, nor are the effects of the proposal deemed to be more than minor as specified under s95E. A thorough assessment of the actual and potential effects of the proposal is detailed in Section 6 of this report. In summary, it is my opinion that any actual or potential adverse effects of the proposal will be less than minor. Furthermore, the proposal promotes is in keeping with the built environment currently expressed on the subject site. As such, no persons are considered to be adversely affected by the proposal.

### **8.3 Summary**

Overall in our opinion this application satisfies the relevant provisions of section 95 of the RMA and can lawfully be assessed without notification or the requirement of written approvals from any persons.

## **9.0 APPLICATIONS FOR DISCRETIONARY ACTIVITIES – S104B**

Section 104B of the RMA states that a consent authority may grant or refuse consent for a Discretionary activity. If it grants consent, it may impose conditions under s108. A thorough assessment of the proposal has been undertaken in previous sections of this report. Overall it has been concluded that the proposal is a reasonable development of the land with any adverse effects that may result being of an acceptable nature and scale. Furthermore, the proposal is considered to be consistent with the relevant objectives and policies. Accordingly, it is my view that resource consent should be granted for this consent.

## 10.0 CONCLUSION

This land use consent application is for the construction of a commercial development comprising several tenancies within the Country Living Zone. As discussed, the site is an efficient use of the subject site, aligning with Councils aspirations for the area; driven by the rezoning of the land to Business. The surrounding land use, which is transitioning to residential living, further supports the need for the commercial node and softens the effects on the receiving environment; which is currently being developed.

Overall, it is my opinion that any actual or potential adverse effects on the environment will be less than minor overall and that no special circumstances exist in relation to this activity. Our assessment concludes that this proposal is consistent with the relevant objectives and policies and assessment criteria of the ODP.

Pursuant to Section 95 it is my opinion this application should be processed without the need for notification or the written approvals of any persons.

Accordingly, the statutory requirements of Section 104 and 104B of the RMA are satisfied. On this basis, I am of the opinion that consent can be granted for the proposal subject to appropriate conditions.