

Notification and substantive report for an application for resource consent under the Resource Management Act 1991



Discretionary activity

1. Application description

Application number:	BUN60375349 (Council Reference) LUC60375390 (s9 land use consent) LUS60385497 (ss13 & 14 streamworks permit) WAT60375391 (s14 water permit) DIS60380084 (s15 discharge permit)
Applicant:	Watercare Services Limited
Site address:	584 Sandspit Road, Warkworth and 297 Hamilton Road, Snells Beach
Legal description:	Pt Lot 2 DP 571 – 584 Sandspit Road Lot 5 DP 518032 – 297 Hamilton Road
Site area:	59.284ha – 584 Sandspit Road 75.5954ha – 297 Hamilton Road

Auckland Unitary Plan (Operative in part)

Zoning and precinct:	<i>584 Sandspit Road</i> Rural – Mixed Rural Zone Coastal – General Coastal Marine Zone Rural – Rural Coastal Zone, Whangateau to Waiwera coastal area
	<i>297 Hamilton Road</i> Rural - Rural Coastal Zone, Whangateau to Waiwera coastal area Coastal - General Coastal Marine Zone Rural - Countryside Living Zone
Overlays, controls, special features, designations, etc:	<i>584 Sandspit Road</i> Natural Resources: Significant Ecological Areas Overlay - SEA-M2-76a, Marine 2 Natural Resources: Significant Ecological Areas Overlay - SEA_T_6684, Terrestrial Natural Resources: Natural Stream Management Areas Overlay [rp] Natural Heritage: Outstanding Natural Landscapes Overlay [rcp/dp] - Area 43, West Mahurangi Harbour

Natural Heritage: High Natural Character Overlay
[rcp/dp] - AREA 58, Mahurangi River southern
escarpment

Controls: Arterial Roads

Controls: Coastal Inundation 1 per cent AEP Plus 1m
Control - 1m sea level rise

Controls: Macroinvertebrate Community Index - Native

Controls: Macroinvertebrate Community Index – Rural

297 Hamilton Road

Natural Resources: Significant Ecological Areas Overlay
- SEA-M1-76b, Marine 1

Natural Resources: Significant Ecological Areas Overlay
- SEA_T_2413, Terrestrial

Controls: Coastal Inundation 1 per cent AEP Plus 1m
Control - 1m sea level rise

Controls: Macroinvertebrate Community Index - Exotic

Controls: Macroinvertebrate Community Index - Native

Controls: Macroinvertebrate Community Index - Rural

Controls: Subdivision Variation Control - Rural, Algies
Bay Countryside Living

Designations: Designations - 9347, Wastewater
Purposes - Sewage Treatment and Disposal,
Designations, Watercare Services Ltd

Designations: Designations - 9363, Snells Beach
Wastewater Treatment Plant, Designations, Watercare
Services Ltd

2. Locality Plan



Figure 1: 584 Sandspit Road, Warkworth, Source: Auckland Council GIS



Figure 2: 297 Hamilton Road, Snells Beach, Source: Auckland Council GIS

3. The proposal, site and locality description

Sarah Blair of Beca Limited has provided a description of the proposal and subject sites on pages 4-15 of the Assessment of Environmental Effects (AEE) titled: *Warkworth to Snells Transfer Pipeline project: Bulk Earthworks at 584 Sandspit Road and 297 Hamilton Road*, dated April 2021. As part of the application process WSL has provided seven formal responses to further information dated 4 June 2021, 17 June 2021, 24 June 2021, 28 July 2021, 1 September 2021, 16 September 2021 and 15 October 2021. These responses, along with various emails, have amended aspects of the proposal from that originally submitted.

Having undertaken a site visit on 6 May 2021, I generally concur with the description of the proposal, as amended, and the sites.

In summary, the applicant, Watercare Services Limited (WSL) proposes to undertake bulk earthworks to establish two temporary launch platforms at 584 Sandspit Road and 297 Hamilton Road, a temporary access road at 584 Sandspit Road, and to reinstate these areas on completion of works. The works are the second stage of a three stage project to install a 5km long underground wastewater transfer pipeline from Warkworth to Snells Beach which is more fully described in Section 4 below. The launch platforms will provide a hardstand area to support the launch of a Tunnel Boring Machine (TBM) at the surface. WSL chose to submit this bulk earthworks application separately, and prior, to the application for installing the pipeline as detailed design regarding the pipeline was still being undertaken. However, the pipeline application (known as RC3) has now been submitted and is being assessed at the same time as this application for bulk earthworks.

The launch platform towards the rear of 584 Sandspit Road and the access road will be within a construction area of 2.94 hectares (excluding stockpile areas). The launch platform will initially be established to provide the first drive of the TBM, then altered in layout to provide for the third drive of the TBM. A temporary 37m long culvert will be installed in an intermittent stream within the works area to convey overland flow paths and stream water¹. The launch platform at 297 Hamilton Road will be within a construction area of 2.21 hectares (excluding stockpile area) and provide for the second drive of the TBM.

The temporary access road of 6m wide and 1.5km long and two associated vehicle crossings accessing Sandspit Road and Hamilton Road will be established providing access to the launch platform site of 584 Sandspit Road. The access road will run along the boundary with 4 Hamilton Road. The works to establish this access road include vegetation removal within the riparian area of a permanent stream and installing a temporary bridge over that stream at the road boundary². Two temporary culverts will also be installed under the access road to provide for overland flow paths. Access to the launch platform at 297 Hamilton Road will be via a private gravel road from Hamatana Road.

Erosion and sediment control measures will be in place throughout works at both sites, and aggregate will be brought on to the sites to establish the hardstand working areas of the platforms and the temporary access road. All disturbed soil will be retained on the sites in stockpiles or as earth bunds (except for any contaminated soil found at 297 Hamilton Road), so

¹ The intermittent stream was found to be greater in length following the Council site visit and therefore a bridge construction proposed in the AEE has been amended to a culvert by way of the fifth s92 response and now requires resource consent.

² The section 92 responses clarified that references in the AEE to a permanent easement and access road were incorrect, and that a temporary bridge over the permanent stream would be installed, instead of a culvert

that it can be used for reinstatement purposes on completion of the works. In particular, the western part of the 584 Sandspit Road launch platform (within the Outstanding Natural Landscape) will be reinstated to the same contours and ground form as is existing. The access road will also be reinstated on completion of works including removal of the vehicle crossings, the bridge and culverts, and riparian replacement planting undertaken adjacent the permanent stream.

The works do not involve the establishment of any structures, apart from as described above.

The works at the launch platform sites will be from 7.00am to 7.00pm Monday to Friday and 7.30am to 7.00pm Saturdays, works on the access road and truck use of the access road at 584 Sandspit Road will be from 7.30am to 6.00pm Monday to Saturday. No construction works will occur on Sundays or public holidays.

As all earthworks will be retained on site (except contaminated soil at 297 Hamilton Road), traffic movements associated with the works will be limited. These traffic movements relate to trucks bringing aggregate and other materials (e.g. culverts), and construction worker vehicles (cars, vans, utes). At 584 Sandspit Road, aggregate deliveries will be approximately 105 heavy vehicles (210 movements) over 7 days for the platform, and 170 heavy vehicles (340 movements) over three weeks for the access road. Due to the location of the temporary vehicle crossing at 584 Sandspit road, these truck movements will be restricted. When exiting the site all trucks (except for special deliveries) are required to turn left onto Sandspit Road, while to enter the site they must turn left into Hamilton Road then right into the site. The operation of this vehicle access will be managed in accordance with a construction traffic management plan (CTMP).

It is anticipated that it will take approximately seven months to build the access road, and initial launch platform at 584 Sandspit Road, a further five months to alter the launch platform to provide for the next tunnel drive and approximately two months to reinstate the site, being an anticipated total of 14 months of earthworks associated with this application. When including the tunnelling activities that are subject to a separate resource consent the overall length of the project at 584 Sandspit Road is anticipated to be 28 months. At 297 Hamilton Road the proposed works are anticipated to take approximately 11 months to build the launch platform with a further four months to undertake site reinstatement. When including the tunnelling activities subject to a separate resource consent this site will be in operation for an anticipated period of 25 months. The applicant notes that if winter earthworks are required (due to the timing of when consents are issued) this may prolong the duration of works.

WSL have reviewed the conditions of consent recommended by the Council specialists and accept and offer these (apart from some formatting and language matters as noted in the file, and the proposed Lizard Management Plan condition discussed further below). WSL have also provided a draft CTMP for the operation of the access point for 584 Sandspit Road. This CTMP will be used for both this application and the pipeline application. Draft Erosion and Sediment Control Plans (ESCPs) for both sites have also been submitted. These conditions, the CTMP and ESCPs form part of the application and are proposed to avoid, remedy and mitigate adverse effects of the development.

4. Background

Specialist Input

The proposal has been reviewed and assessed by the following specialists:

- Mereene Mathew – Senior Development Engineer;
- Fiona Harte – Senior Specialist, Earth, Streams & Trees;
- Richard Simonds – Consultant Senior Geotechnical Engineer;
- Rue Statham – Senior Ecologist;
- Gavin Donaldson – Senior Arborist
- Paul Crimmins – Senior Specialist, Contamination;
- Bin Qiu – Senior Specialist, Noise;
- Andrew Temperley – Consultant Transport Planner; and
- Katrina Hunt – Principal Planner North-West, Auckland Transport;

Project Background

In March 2017 resource consents were obtained for Stage 1 of the Warkworth and Snells Beach/Algies Bay Wastewater Treatment Plant Project which included an ocean outfall, three pump stations and a new sub-regional Wastewater Treatment Plant at Snells Beach (Council Reference: LUC60011889, REG-67901). Stage 2, approved in July 2019, was for the conveyance network, being a pipeline installed by trenching following Sandspit Road, as well as remaining approvals for the pump stations (Council Reference BUN60330590).

Since that time and through design refinement it has been determined to change the alignment of the transfer pipeline between Warkworth and Snells Beach, reducing its length, and no longer needing the two pump stations on Sandspit Road. In particular, the pipeline will now be constructed using trenchless technology generally under private land rather than a trench within the road corridor.

Project Consents

As outlined in the AEE, resource consents have been granted for modifications to the wastewater pump station at Lucy Moore Memorial Park, 1 Bertram Street, Warkworth approved in 2017. In addition, the consents provided for tree removals to address the modified pump station design and cater for the future installation of the reception shaft at this site (assessed under the pipeline consent described below). These consents (Reference LUC60330594-A, WAT60330596-A and TRE60366403) were granted on 17 December 2020 on a non-notified basis and are known as the Stage 1 Resource Consent (RC1) by WSL.

The Stage 3 Resource Consent (RC3) is being assessed concurrently by the Council (Reference BUN60381802) to this application. The application is for the installation of the underground wastewater pipeline by a TBM utilising the two launch platforms at 584 Sandspit Road and 297 Hamilton Road and extracting the tunnel spoil from these sites. In addition, consent is sought for the establishment of temporary reception shafts at Lucy Moore Memorial Park (1 Bertram Street) and the road reserve at 99 Hamilton Road, and inspection shafts at 584 Sandspit Road, 46 Hamilton Road and 232 Hamilton Road.

As part of the wider project an area of Council reserve on Dawson Road, Snells Beach has been utilised by WSL contractors. Resource consent LUC60379161 was granted on 20

July 2021 on a non-notified basis, to continue the use of this land until 1 October 2024 as a construction yard laydown area and construction site offices. Specifically, the yard will store the pipes that will be installed by the TBM under RC3.

Correspondence from Neighbours

Both the Council and WSL have been contacted by legal representatives acting on behalf of the owners of 4, 4C and 103 Hamilton Road in regard to this resource consent application and that for the transfer pipeline. The Council has furnished the parties with copies of the applications as lodged and the further information responses from

WSL.

On behalf of the trustees of SA & KA Bowers 2021 Family Trust, the owner of 4C Hamilton Road, in a letter dated 29 June 2021, Tompkins Wake Lawyers have advised (in summary):

- the property was purchased in December 2020 and a dwelling is intended to be relocated on to the site in July/August 2021 for two of the trustees to semi-retire to;
- written correspondence from Greenwood Roche on behalf of WSL has been received advising that 'inevitably' 4C Hamilton Road ought to be considered an affected person;
- the project, in particular the proposed Easement Road (access road) will have significant effects on the owners and occupiers of the property particularly during the lengthy three year construction period.

Following receipt of the Fifth Response Section 92 letter, which discussed consultation with the owners of 4 and 4C Hamilton Road, Steve Bowers (owner of 4C Hamilton Road) on 6 September 2021 advised WSL and Council that the letter was a misrepresentation of the facts. Peter Nicoll of WSL provided a response to Mr Bowers via email on 10 September 2021.

Bronwyn Carruthers, Barrister, on behalf of John and Lisa Hauser the owners of 4 Hamilton Road, in a letter dated 23 July 2021 has advised (in summary):

- Titles for the recent 4 lot subdivision of 4, 4A, 4B and 4C Hamilton Road (known as the Hauser Subdivision) were issued in November 2020, enabling a dwelling as a permitted activity to be established on each of 4A, 4B and 4C Hamilton Road, with 4C Hamilton Road now sold and being developed;
- the extent of consultation stated with the owners of 4 Hamilton Road is misleading;
- due to the significant effects from both the location and use of the access road and the night time tunnelling in proximity to the existing and future dwellings of the 'Hauser Subdivision' land they must be notified;
- the applications should be processed and considered together so a proper consideration of all relevant matters can be undertaken;
- updated traffic and noise assessments should be provided by WSL addressing the effects on the existing and future dwellings in the Hauser Subdivision and the safety of vehicle movements.

Ms Carruthers on 7 September 2021 advised Council that the comments made in the WSL Fifth Response letter were premature and should not be relied on for considering notification. On 10 November 2021 Ms Carruthers provided a further letter confirming her position that the Hausers were adversely affected by the proposal and must be notified of both applications.

Derek Nolan, QC, on behalf of Hon. Nicholas Davidson QC, the owner of 103 Hamilton Road, in a letter dated 1 November has advised (in summary) and in relation to this application:

- the separation of the applications is of concern, and they should be considered holistically as they are intertwined as to be symbiotic. The subject application should be limited notified at the same time as RC3.

The resource management matters raised by the parties have been considered, as relevant to this application, in the assessment below. It is also confirmed that building consent (BCO10328937) was issued on 27 July 2021 for the establishment of a relocated dwelling on 4C Hamilton Road.

5. Reasons for the application

Resource consents are required for the following reasons:

Land use consent – s9 – LUC60375390

Auckland Unitary Plan (Operative in part)

District land use (operative plan provisions)

E36 Natural hazards and flooding

- To divert the entry or exit point, piping or reducing the capacity of any part of an overland flow path is a restricted discretionary activity under rule E36.4.1(A41). The exit point of the overland flow path at 297 Hamilton Road will be temporarily diverted, overland flow paths will be temporarily piped and likely have temporary reduced capacity at both sites.
- All other infrastructure in the 1 per cent annual exceedance probability (AEP) flood plain and/or in overland flow paths is a restricted discretionary activity under rule E36.4.1(A56). At 584 Sandspit Road the proposed temporary bridge is in the 1 per cent AEP flood plain and culverts are proposed within overland flow paths.

E25 Noise and Vibration

- To undertake works that do not comply with the permitted activity standards as the construction works will last longer than 20 weeks and a 5dBA reduction to the limits is not being applied as required by Standard E25.6.27(4) is a restricted discretionary activity under rule E25.4.1(A2).

E26 Infrastructure

- To undertake general earthworks at 584 Sandspit Road of approximately 34,000m² and 30,000m³ cut and 11,000m³ fill (total 41,000m³) as the earthworks are greater than 2,500m² and 2,500m³ in a rural zone this is a restricted discretionary activity under rules E26.5.3.1(A97) and (A97A) respectively.
- To undertake general earthworks at 297 Hamilton Road of approximately 40,000m² and 122,000m³ cut as the earthworks are greater than 2,500m² and 2,500m³ in a rural zone this is a restricted discretionary activity under rules E26.5.3.1(A97) and (A97A) respectively.

- To undertake general earthworks that fail to meet the following standard and are a restricted discretionary activity under rule C1.9(2):
 - The proposal involves earthworks that will be greater than 5m² and 5m³ within the riparian margins of intermittent and permanent rural streams at 584 Sandspit Road not meeting Standard E26.5.5.2(12)(b).

584 Sandspit Road, Warkworth only

- To undertake vegetation alteration or removal within a riparian area that does not comply with Standards E26.3.5.1 to E26.3.5.4 is a restricted discretionary activity under rule E26.3.3.1(A77). The vegetation removal at 584 Sandspit Road in the riparian margin is between 49m² and 239m² and may require the removal of trees over 6m in height or 600mm in girth therefore not meeting Standard E26.3.5.2(1) and (3).
- To undertake general earthworks of approximately 3,450m² within an Outstanding Natural Landscape Overlay, as the earthworks are greater than 2,500m² and 2,500m³ is a restricted discretionary activity under rule E26.6.3.1(A118).
- To undertake general earthworks of approximately 180m² within the High Natural Character overlay, as the earthworks are greater than 10m² and 5m³ is a restricted discretionary activity under rule E26.6.3.1(A117).

E27 Transport

584 Sandspit Road, Warkworth only

- To construct a new vehicle crossing where a Vehicle Access Restriction applies under Standards E27.6.4.1(2) or E27.6.4.1(3) where the site accesses an Arterial Road is a restricted discretionary activity under rule E27.4.1(A5).
- Parking, loading and access which is accessory but which does not comply with the standards for parking, loading and access is a restricted discretionary activity under rule E27.4.1(A2). The proposal does not meet the following standard:
 - To establish a vehicle crossing of approximately 15m width where a maximum of 9m is permitted when utilised for heavy vehicles in rural zones under Standard E27.6.4.3(T156).

Regional land use (operative plan provisions)

- To undertake general earthworks of approximately 32,000m² on land with a slope greater than 10 degrees and/or that is within the Sediment Control Protection Area at 584 Sandspit Road, as the earthworks are greater than 2,500m² is a restricted discretionary activity under rules E26.5.3.2(A106) and (A107).
- To undertake general earthworks of approximately 40,000m² on land with a slope greater than 10 degrees and/or that is within the Sediment Control Protection Area at 297 Hamilton Road, as the earthworks are greater than 2,500m² is a restricted discretionary activity under rules E26.5.3.2(A106) and (A107).

National Environmental Standard for Assessing and Managing Soils to Protect Human Health 2011 (297 Hamilton Road, Snells Beach)

- To undertake soil disturbance that is of a volume and for a duration exceeding the permitted activity threshold of regulation 8(3) where HAIL activities have occurred, and

a Detailed Site Investigation has not been submitted is a discretionary activity under Regulation 11.

Water Permit – s14 – WAT60375391

- To undertake the diversion of groundwater caused by an excavation that does not meet the permitted activity standards is a restricted discretionary activity under rule E7.4.1(A28).
- To undertake dewatering associated with a groundwater diversion authorised as a restricted discretionary activity is a restricted discretionary activity under rule E7.4.1(A20).

Streamworks consent (ss 13 & 14) – LUS60385497 (584 Sandspit Road, Warkworth)

- To install a new structure, being a culvert of 37m in length being more than 30m in length within an intermittent stream is a discretionary activity under rule E3.4.1(A33).

Discharge permit – s15 – DIS60380084 (297 Hamilton Road, Snells Beach)

- To undertake soil disturbance of more than 200m³ in excess of 2 months and the level of soil contamination may exceed the Permitted Activity soil acceptance criteria of Standard E30.6.1.4 and no Detailed Site Investigation or Contaminated Site Management Plan has been submitted is a discretionary activity under rule E30.4.1(A7).

The reasons for consent are considered together as a discretionary activity overall.

6. Status of the resource consents

Where a proposal:

- consists of more than one activity specified in the plan(s); and
- involves more than one type of resource consent or requires more than one resource consent; and
- the effects of the activities overlap;

the activities may be considered together.

Where different activities within a proposal have effects which do not overlap, the activities will be considered separately.

In this instance, the effects of the proposed resource consents will overlap for each site, and discretionary activity resource consent is required for activities at each site, thus they are considered together as a discretionary activity overall.

7. Public notification assessment (sections 95A, 95C-95D)

Section 95A specifies the steps the council is to follow to determine whether an application is to be publicly notified. These steps are addressed in the statutory order below.

Step 1: mandatory public notification in certain circumstances

No mandatory notification is required as:

- the applicant has not requested that the application is publicly notified (s95A(3)(a))
- there are no outstanding or refused requests for further information (s95C and s95A(3)(b)), and
- the application does not involve any exchange of recreation reserve land under s15AA of the Reserves Act 1977 (s95A(3)(c)).

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

The application is not precluded from public notification as:

- the activities are not subject to a rule or national environmental standard (NES) which precludes public notification (s95A(5)(a)); and
- the application does not exclusively involve one or more of the activities specified in s95A(5)(b).

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

The application is not required to be publicly notified as the activities are not subject to any rule or a NES that requires public notification (s95A(8)(a)).

The following assessment addresses the adverse effects of the activities on the environment, as public notification is required if the activities will have or are likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

Adverse effects assessment (sections 95A(8)(b) and 95D)

Effects that must be disregarded

Effects on persons who are owners and occupiers of the land in, on or over which the application relates, or of land adjacent to that land

The council is to disregard any effects on the persons who own or occupy the land in, on, or over which the activity will occur, and on persons who own or occupy any adjacent land (s95D(a)). The land adjacent to the subject sites is listed in the following tables.

Table 1 – 584 Sandspit Road Adjacent Land

Address

526 Sandspit Road	528 Sandspit Road	513 Sandspit Road
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591 Sandspit Road	4 Hamilton Road	6 Hamilton Road
4A Hamilton Road	4B Hamilton Road	4C Hamilton Road

Note: The properties of 4A, 4B, and 4C Hamilton Road are accessed by a Right of Way over 4 Hamilton Road and are therefore considered adjacent.

Table 2 – 297 Hamilton Road Adjacent Land

Address

309 Hamilton Road	232 Hamilton Road	316 Hamilton Road
108 Lawrie Road	104 Lawrie Road	30 Grange Street
52 Grange Street	91 Grange Street	99 Grange Street
107 Grange Street	114 Grange Street	120 Hamatana Street
122 & 124 Hamatana Street		

Any effect on a person who has given written approval to the application

The following persons have provided their written approval and any adverse effects on them have been disregarded:

Table 3

Address	Legal description	Owner / occupier
297 Hamilton Road	Lot 5 DP 518302	Owners
584 Sandspit Road	Pt Lot 2 DP 571	Owners

Effects that may be disregarded

Permitted baseline

The permitted baseline refers to the effects of permitted activities on the subject site. The permitted baseline may be taken into account and the council has the discretion to disregard those effects where an activity is not fanciful. In this case the permitted baseline is of limited relevance given the scale of the earthworks being undertaken on both sites. However, it is recognised that both the Rural - Mixed Rural Zone and the Rural – Rural Coastal Zone not only provide for outdoor farming and horticulture but also for farm and forestry quarries, mineral prospecting, mineral exploration, on-site primary produce manufacturing and forestry providing they meet permitted activity standards (but not cleanfills or landfills as suggested by the applicant). As such the zones do anticipate a level of activity and associated noise, vehicle movements and access tracks (and associated earthworks) to occur and therefore a level of potential amenity disturbance to neighbours.

In addition, it is recognised that the following are permitted activities:

- The installation of culverts in the intermittent stream and overland flow path associated with the access road at 584 Sandspit Road are a permitted activity under Chapter E3 and the National Environmental Standards for Freshwater 2020.

- The removal of vegetation from rural zoned sites and the road corridor that is not within a riparian yard, significant ecological area or outstanding natural landscape is a permitted activity under rule E26.4.3.1(A90).

Assessment

Receiving environment

The receiving environment beyond the subject site includes permitted activities under the relevant plans, lawfully established activities (via existing use rights or resource consent), and any unimplemented resource consents that are likely to be implemented. The effects of any unimplemented consents on the subject site that are likely to be implemented (and which are not being replaced by the current proposal) also form part of this reasonably foreseeable receiving environment. This is the environment within which the adverse effects of this application must be assessed.

The receiving environment of each site is as described in Section 2 of the AEE and expanded below.

With regard to 584 Sandspit Road, the surrounding rural environment generally consists of rolling pastoral farmland and lifestyle blocks with areas of vegetation. The area is dotted with residential and farm buildings typical of such environments, in particular the dwellings of 4 and 6 Hamilton Road are in proximity of the boundary with 584 Sandspit Road and their vehicle accesses are at the intersection of Sandspit and Hamilton Roads. The dwelling and vehicle access of 653 Sandspit Road is opposite the location of the proposed vehicle access from 584 Sandspit Road. The receiving environment also includes the recent subdivision that has created 4A, 4B and 4C Hamilton Road. This subdivision has enabled, as a permitted activity, the establishment of one dwelling per new lot and therefore dwellings on these lots form part of the receiving environment (and it is noted 4C Hamilton Road is likely to have a dwelling relocated on to the property very shortly). The opposite side of the Mahurangi River consists of rural lifestyle blocks that extend out from the residential area of Warkworth.

In terms of 297 Hamilton Road, the site consists of a large pastoral farm holding that extends up in elevation from the adjacent estuary. The site is adjacent the upgraded Snells Beach wastewater treatment plant and a building materials and timber industrial yard (Hamatana Timber Ltd, 120 Hamatana Road). Access via the end of Hamatana Road visually appears as a long private gravel driveway, however it is public and provides access to this site, 120 Hamatana Road and the wastewater treatment plant. The main residential area of Snells Beach is to the west across the estuary, while an area of countryside living is to the north of the site, being Grange Road. The sealed part of Hamatana Road contains commercial and industrial activities on the northern side, and community facilities on the southern side.

As the resource consent for the installation of the pipeline is still being assessed by the council the effects of this do not form part of the receiving environment.

Adverse effects

Effects of disturbing contaminated soils

Beca on behalf of WSL has undertaken a preliminary site investigation (PSI) of the proposed works area at both 584 Sandspit Road and 297 Hamilton Road. The PSI has concluded that

there is no reason to indicate “*that contamination is likely to be present which will create a risk to human health or the environment on*” 584 Sandspit Road. The PSI has however concluded that at 297 Hamilton Road there is an area of unmanaged fill material in the south-eastern portion of the site which is a HAIL activity. In addition, there is an industrial facility directly northeast that milled and stored treated timber historically and therefore is also a HAIL activity. As such there is the potential for contamination to be present within this area that may result in a risk to human health and the environment. The PSI recommends soil sampling, soil handling procedures, including managing groundwater, and the removal of the contaminated soils/fill off site.

Paul Crimmins, in his memo dated 15 June 2021, has reviewed the proposal and agrees that the only potential area of contamination relates to the works area at 297 Hamilton Road. Mr Crimmins advises that a Detailed Site Investigation (DSI) should be undertaken within the eastern extent of the works area to identify any contaminants at levels exceeding the relevant assessment criteria and a Contaminated Site Management Plan (CSMP) prepared to detail how soil and groundwater can be disposed of appropriately. He advises that as the discharge consent has been applied for on a precautionary basis, if following the DSI, the soils are not at elevated contaminated levels then the discharge permit should be surrendered. However while there is low risk of contaminants outside of this area, Mr Crimmins advises that the draft Erosion and Sediment Control Plan (ESCP) which includes management measures to mitigate effects on the environment from the discharge of contaminated soils needs to be supplemented with a Contaminated Site Management Plan (CSMP) that will contain specific measures to mitigate risks. Mr Crimmins has recommended a number of conditions including the DSI and CSMP, the applicant has reviewed these conditions and accepted these. Overall, Mr Crimmins concludes that providing the applicant undertakes further sampling and submission of the DSI and CSMP and works in accordance with the conditions of consent potential adverse effects will be avoided, remedied or mitigated.

I accept the assessment made by Mr Crimmins and taking into account the offered conditions of consent, consider that the proposal will have less than minor adverse effects on the environment in regard to disturbance of contaminated soils.

Effects of land disturbance

The proposal requires earthworks to establish the launch platforms at both sites and to establish the access road at 584 Sandspit Road. At 584 Sandspit Road the earthworks will consist of 27,000m³ cut and 11,000m³ fill over an area of 2.2ha for the launch platform and a further 3,000m³ cut over an area of 1.2ha for the access road. The earthworks at 297 Hamilton Road will total 122,000m³ over an area of 5.0ha (including stockpiles). The establishment earthworks at 584 Sandspit Road will be undertaken over a period of seven months, following completion of the first TBM drive a further five months will be spent shifting the launch platform, and following the final TBM drive reinstatement earthworks will take a further two months. The earthworks at 297 Hamilton Road will be undertaken over a period of 11 months to establish and four months to reinstate, with the tunnel drive occurring in between. All soil will be stockpiled on the sites to be used for reinstatement, except that any contaminated soil found at 297 Hamilton Road will be taken off site to an appropriate facility.

McConnell Dowell, the applicant’s appointed works contractor, has prepared draft ESCPs for both sites which include a construction methodology for the works areas, including the establishment of the temporary bridge over the permanent stream at the 584 Sandspit Road

entrance, installation of culverts, and plans that detail the environmental controls. The environmental controls include the use of clean water and dirty water diversion bunds, silt fences, decanting earth bunds (DEBs), sediment retention ponds (SRPs) and chemical treatment. A final ESCP for each site will be submitted prior to works commencing.

Fiona Harte (memo dated 23 September 2021) has reviewed the proposal and advises that the works have the potential to result in discharges either directly, or indirectly via adjacent streams, to the coastal marine area of the Mahurangi Harbour from both sites. Ms Harte considers that the proposed environmental control measures are appropriate and in accordance with good practice. She advises that a chemical treatment plan as a consent condition will be necessary to ensure sediment laden water is impounded and treated to a high standard prior to discharging to the sensitive receiving environment. In addition, the earthworks should be limited to the earthworks season (1 October – 30 April) due to the increased risk that may occur outside these months. However if work is required during winter consent conditions will require further information to ensure effects are appropriately managed. The applicant has agreed to these conditions. Overall Ms Harte concludes that providing the works are undertaken in accordance with the submitted documentation and accepted conditions of consent, as well as the guidance outlined in Guidance Document 05, the “*resulting effects of sediment discharges will be appropriately managed and mitigated*”. Mereene Mathews (memo dated 5 November 2021) considers the assessment by Ms Harte sufficient and does not raise any concerns. In addition I note that the erosion and sediment control measures will suitably control dust so that it does not discharge beyond the site boundaries.

Overall, taking into account the submitted information, specialist assessments and the conditions offered and accepted by the applicant, I consider that the earthworks will result in less than minor adverse effects on the quality of the receiving environment.

Effects on natural hazards

The earthworks will involve the infilling of some overland flowpaths and installing temporary culverts within other overland flow paths. The applicant advises that the infilling of the overland flowpaths will be managed by the proposed clean water diversions however these may result in temporary reduced capacity of the overland flow. The ESCP and Flood Risk Assessment provided by the applicant have confirmed the proposed culverts are of sufficient dimension to cater for the 1% AEP flood level and will therefore not result in upstream flooding, particularly for the neighbouring property at 4 Hamilton Road. In addition, the proposed temporary bridge will not affect the flood capacity of the existing flood plain at the Sandspit Road frontage.

Ms Mathew has reviewed the extent of earthworks proposed and the potential effects on overland flow paths and flood plains. In regard to 584 Sandspit Road, she agrees with the applicant that the proposed culverts are of acceptable sizing, that the entry and exit points of the overland flow paths will be maintained and the temporary bridge will not block the flood plain. In terms of the overland flow path being diverted at 297 Hamilton Road to a new temporary exit point, Ms Mathew advises given its small size (commencing within the site) and the size of the site there is adequate area on site to manage the overland flow and there will not be adverse effects on the site or neighbouring sites.

From the assessment provided by the applicant and Ms Mathew I consider that the proposal may at the most result in a temporary reduction in capacity of some overland flowpaths, however there will be no decrease in upstream capacity or increased flooding, nor will there be

any adverse effects resulting on neighbouring sites. As such I consider that the proposal will have less than minor adverse effects in regard to natural hazards, specifically overland flow paths and flooding.

Effects of dewatering and diversion of groundwater

Due to the depth of the excavations for the launch platforms there is the potential to affect groundwater. In the case of both sites the dewatering will take longer than 30 days and the diversion will be longer than 10 days.

From the assessments provided by Beca, the excavation depth at 584 Sandspit Road will be approximately 6m to 8m above the groundwater table and unlikely to induce adverse groundwater effects. However, there is the potential for perched groundwater to be affected.

In terms of 297 Hamilton Road the excavation is anticipated to extend below the groundwater table and in addition this location is in the vicinity of buildings and streams. Beca have undertake modelling of the potential extent of drawdown and consider this is likely to be constrained due to the nearby streams. They do not expect any mechanical movement at the nearest building and damage associated with settlement will be negligible. However, a building survey is recommended of the adjacent timber yard building.

Richard Simonds, memo dated 8 October 2021, has reviewed the proposal and notes that there are no existing buildings, structures or public services in the vicinity of the 584 Sandspit Road launch platform. He concurs with the assessment undertaken by Beca in relation to 297 Hamilton Road, and in particular that a groundwater and settlement monitoring and contingency plan (GSMCP) is not required, but that a pre and post excavation detailed condition survey of the adjacent building at 120 Hamatana Road should be undertaken. The applicant has agreed to this and offered the conditions of consent, particularly conditions that require actions in the unlikely event of changes in settlement risk to unexpected geology, groundwater flows and actual retaining wall performance. Overall Mr Simonds concludes *“Provided the take and diversion of groundwater are undertaken in the manner described in the application material and summarised above, and subject to the proposed conditions, the potential adverse effects of the activity on the environment and on neighbouring properties are considered likely to be less than minor”*.

Taking into account the specialist assessments and the conditions offered by the applicant, I conclude that the proposed groundwater take and diversion will result in less than minor adverse effects on the environment.

Effects of temporary bridge and vehicle access in riparian margin

The proposed temporary construction entrance for 584 Sandspit Road will require the installation of a temporary steel bridge across a permanent stream. The bridge will require the removal of between 49m² and 239m² of riparian vegetation (50m² is permitted under Standard E26.3.5.2(3)). The applicant's ecologists in section 92 responses Five, Six and Seven have assessed the proposal and advise the *“riparian vegetation within 10m of permanent stream consists of mixed exotic and native trees, shrubs, and ground cover. The shrub tier (2-5m) forms a continuous canopy with occasional emergent trees. Of these emergent trees, two poplars, one kanuka and one totara are estimated to be at or greater than 6m in height within and immediately adjacent to the clearance area.”* With regard to trees of 6m or more height these will be retained if possible, (with works in the dripline), but removal may be required. The

applicant has offered as conditions of consent to undertake replacement riparian planting following removal of the bridge. The wording of these conditions will ensure that the planting is commensurate with the quality and quantity of vegetation lost and will include weed and animal pest management control. Overall, the ecologists consider the area has moderate ecological value and the proposed removal of generally shrub species will have a low magnitude of effects resulting in a low overall level of effect.

Rue Statham and Gavin Donaldson, in the memo dated 1 November 2021 from Mr Statham, have reviewed the proposed vegetation removal and replacement planting and advise providing an arborist is involved during installation works to ensure the trees are protected if possible and that the replacement planting is native and eco-sourced the loss of vegetation is acceptable. Overall, taking into account the necessity of the work and the proposed replacement planting I consider that the proposal will have less than minor adverse effects in regard to removal of riparian vegetation.

The proposed vegetation removal has the potential to disturb native lizards. The applicant's team consider the likelihood of finding native lizards is fairly low due to the nature of the riparian vegetation, however they recognise there are colonies in the wider area. Based on this, the small scale of vegetation clearance proposed and the extent of vegetation along the stream a Scouting and Rescue Condition has been offered by the applicant that will require a survey to be undertaken prior to works commencing and then the removal and relocation of the native lizards during clearance. The applicant's ecologist considers this methodology appropriate for the scale and potential effects.

When undertaking the site visit Mr Statham confirmed the presence of lizards however could not determine if these were native or plague skink. Based on this information and that the applicant had not undertaken an accurate survey of the site or provided a detailed outline of methodologies proposed as part of the application, Mr Statham considers that a Lizard Management Plan (LMP) is more appropriate to manage potential effects. He also notes that the removal of the bridge will require further works that may disturb lizards that come back into the area, hence the LMP will be able to suitably address the future potential impact on these lizards.

I am of the opinion that given only a high-level assessment has been undertaken by the applicant at this stage and Mr Statham has visual evidence of lizards at the site, that it is appropriate for an LMP to be a condition of consent to ensure ongoing protection of lizards. However, taking into account the Scouting and Rescue condition offered by the applicant which does afford a degree of protection to lizards, I consider that there will be no more than minor adverse effects from the vegetation removal on lizards.

Effects of works in streams

The proposal, as amended by the s92 responses, includes installation of a 37m long temporary culvert in an intermittent stream within the launch platform area at 584 Sandspit Road. In addition, as permitted activities, a culvert will be installed in an intermittent stream (and a second overland flowpath) as part of the access road establishment and a temporary bridge installed over the permanent stream at the accessway entrance.

The proposed culvert within the launch platform area is necessary to enable access over the intermittent stream, above this point the stream becomes ephemeral and/or overland flow paths. Beca in the Ecological Assessment submitted with the application and updated in the Fifth

section 92 response has provided an assessment of the intermittent stream and the effects on the ecological values. They conclude that there is limited seasonal habitat for fish and no habitat upstream, stream works will also be undertaken during summer when the environment would not support native fish. Due to the temporary nature of the culvert and the reinstatement, the overall work will within the short term have negligible effect on the freshwater environment.

Ms Harte has reviewed the proposal and visited the area of works. From this review she has confirmed the extent of ephemeral, intermittent and permanent streams on the sites. She agrees with the applicant's assessment in the Third section 92 response that there are no wetlands present. With regard the intermittent stream and the proposed 37m culvert, Ms Harte advises that there is no meaningful riparian vegetation and unrestricted stock access has "*led to significant degradation of water quality, habitat and stream function*". She considers the stream to have low ecological value, however if enhancement measure were undertaken these could increase to moderate. Overall Ms Harte concludes that in terms of the proposed culvert "*the magnitude of effect to be low, when accounting for the temporary nature of effects and the small section of stream that will be impacted along its available length on site*".

Ms Harte advises that it is necessary to ensure the reinstatement of the stream bed is undertaken in a timely manner as this remediation is a factor of her overall conclusion that effects can be adequately managed and mitigated. WSL have proposed a stream reinstatement plan and agreed to the timing of the works. Taking into account the specialist assessments and offered conditions of consent, I conclude that the proposed temporary culverting of the stream will result in less than minor adverse effects on the stream's ecological values.

Effects on landscape and natural character

A portion of the works area of the launch platform for the second drive at 584 Sandspit Road will be within an area identified as an Outstanding Natural Landscape (ONL) being the West Mahurangi Harbour and an area of High Natural Character (HNC) being the Mahurangi River southern escarpment. The proposed works will involve modifying this landform to enable the construction of the launch platform and creation of a temporary topsoil stockpile that will be hydroseeded. The area will be reinstated following completion of works. Boffa Miskell on behalf of WSL have undertaken a Natural Character, Landscape and Visual Effects Assessment (LVA) in regard to the proposed works and its effects on the ONL and HNC area. Cross sections have also been provided showing the extent of cut and fill within these areas.

The LVA has identified the following mitigation measures that will occur as part of the proposed works:

- earthworks will be minimised as far as practicable;
- the temporary stockpile will be hydroseeded to reduce visual amenity effects from distant viewing audiences in elevated portions of Warkworth;
- areas of disturbance will be appropriately recontoured to match adjacent topographical characteristics; and
- once recontoured, areas will be topsoiled and hydroseeded.

The LVA notes that the area of works is small in terms of the scale of both the HNC and ONL and relates only to an area of land that is already in pastoral farmland; no mature trees require removal, and the nearby Significant Ecological Area is not affected. As such the works are generally outside the most sensitive areas of the overlays.

The LVA has considered the effects of the works on the HNC area and concludes that there will be very low temporary adverse effects on abiotic attributes and biotic attributes and experiential effects will be very limited and no more than low adverse during construction. Following completion of works, and reinstatement, they consider there will be very low neutral effects on the HNC area. In terms of the ONL it is concluded there will be very low temporary adverse effects and once reinstated and hydroseeded the effects will be low neutral.

Taking into account the findings of the LVA, and the mitigation measures proposed, I consider that the proposed earthworks will have less than minor adverse effects on the natural character and landscape values associated with the overlays during the proposed works. Following completion of works, and recontouring and hydroseeding I consider that the proposal will have almost negligible adverse effects such that it will be visually indistinguishable from the current situation.

Effects on archaeological sites

The proposed works at 584 Sandspit Road are in proximity of an identified archaeological site (No. R09/281 on the New Zealand Archaeological Association) which is also identified on the Council's Cultural Heritage Inventory. There are a number of other identified archaeological sites along the banks of the Mahurangi River. WSL in their First s92 Response have identified that the works may be close to this site however it is difficult to confirm the accuracy of the location of the site. WSL have confirmed that they will engage an archaeologist and their contractor will obtain a precautionary Authority to Modify from Heritage New Zealand prior to works. WSL also confirm that they will comply with the Accidental Discovery Protocol standards of the AUP(OP).

Taking into account the measures proposed by WSL, particularly the engagement of an archaeologist and that it appears likely there is separation between the works area and archaeological site, I consider that there is unlikely to be any adverse effects on archaeological values from the proposed works.

Effects on cultural values

The proposed works, and in particular the modification of the ONL, diversion of groundwater and works in the sensitive receiving environment of the stream, have the potential to result in adverse effects on cultural values.

WSL have advised in an email dated 9 April 2021 that there has been ongoing engagement with mana whenua regarding the overall project. In 2017 through the WSL Kaitiaki Forum, all 19 iwi groups of Tamaki Makarau were engaged with regarding the consents for the pump station, and in 2018 for the pipeline consent from Warkworth to Snells (via the road corridor). In 2018 there was further engagement regarding the proposed construction methodology to cross under the stream. At that stage four iwi groups advised of a direct interest in the entire project being Te Kawerau a Maki, Ngati Manuhiri, Te Runanga o Ngati Whatua and Ngaati Whanaunga. In March 2021 Ngati Maru also indicated interest. WSL state that *"Most recent communication and updates have been provided to the iwi that have self identified. Te Kawerau a Maki, Ngati Manuhiri, Te Runanga o Ngati Whatua, Ngaati Whanaunga, and Ngati Maru. NWoK defer to Manuhiri but are provided with progress updates. Ngati Manuhiri have been actively involved and provided response to the Lucy Moore consents. Ngati Maru, and Ngaati Whanaunga attended a site visit last week and have no comment but would like to be kept informed as the project progresses"*.

In addition to this consultation, and as reflected in the application, accepted conditions of consent and assessment by council's specialists, the proposed works will be suitably managed so that they will not result in adverse discharges to the surrounding environment, particularly the sensitive receiving environment of the Mahurangi River and estuaries.

Overall, taking into account the engagement that has, and continues to occur, and that no concerns have been raised by iwi to Council regarding the project, I consider that it can be concluded the proposal will have less than minor adverse effects on cultural values.

Transport effects

The proposal involves the establishment of a temporary access for 584 Sandspit Road at the intersection of Sandspit Road and Hamilton Road; Sandspit Road is an Arterial Road. The access will involve utilising the grassed road berm to provide an entrance and exit from Hamilton Road and a left turn exit only on to Sandspit Road. At the site boundary the proposed access will be 15m in width; from there the proposed access road will extend over a temporary bridge and be 6m wide for a length of 1.5km to the launch platform site. The existing gravel access road extending from Hamatama Road will be utilised to access the launch platform site at 297 Hamilton Road.

While the spoil from the launch platform excavations will be retained on site, trucks will be required to bring in the aggregate to form the access road and hardstand areas of the launch platform as well as the machinery, culverts and sediment control measures for the works areas. As such there is the potential for adverse effects on the safe and efficient operation of the road network, particularly in relation to Sandspit Road.

WSL in their First s92 Response have provided high level information on the vehicle movements on the proposed access road at 584 Sandspit Road, which covers traffic movements of both RC2 and RC3. In the Second s92 Response there is an assessment of the operation and safety of the proposed vehicle entrance. Additional information regarding traffic movements and their effects have been provided subsequently covering both RC2 and RC3.

During the application processing both Andrew Temperley and Katrina Hunt raised concerns regarding the safe operation of the proposed vehicle access for 584 Sandspit Road for truck movements, as the existing Sandspit Road/Hamilton Road intersection does not meet visibility standards. As a result of this WSL have provided a draft CTMP for the operation of this accessway and proposed various mitigation measures including:

- a temporary reduction in speed limits;
- advisory warning signs;
- appropriate briefing of site-specific conditions and risks to drivers of vehicles to/from site;
- vegetation trimming on the northern side of Sandspit Road (to the east of the site) to improve visibility / sight distances;
- rolling blocks for higher-risk delivery movements; and
- manual traffic control for higher risk delivery movements.

Ongoing monitoring is proposed so that measures can be adapted to address unforeseen safety issues.

In addition, WSL have confirmed that heavy vehicle traffic (except as addressed below) will be limited at the Sandspit Road access to only turn left out of the site onto Sandspit Road via the new slip lane. Otherwise all vehicles will enter and exit the site via the eastern part of the vehicle

access onto Hamilton Road, with heavy vehicles only able to enter the site from a left onto Hamilton Road (i.e. no right turn from Sandspit Road). However, pipe delivery trucks (subject of the RC3 application) and special delivery trucks will be able to turn right at the Hamilton Road/Sandspit Road intersection. While the heavy vehicle movements associated with the current consent will not be significant, WSL confirms that as part of the overall project they will limit access through the Hill Street intersection at Warkworth to be outside of peak weekday hours (7.00 – 9.00am and 4.00pm – 6.00pm) and the Saturday peak (11.00am – 12.00pm).

Mr Temperley (memo dated 24 November 2021) and Ms Hunt (memo dated 22 November 2021) have assessed the effect of the proposed vehicle access onto Sandspit Road and consider that the proposal is manageable providing the proposed measures offered by WSL are in place, and adverse effects on the safety and operation of the road network will be minor. It is also confirmed that the volume of traffic generated from this vehicle crossing can be catered for within the network.

Mr Temperley has also considered the width of the proposed vehicle crossing, being approximately 6m wider than anticipated by the AUP(OP). He notes that there is little or no pedestrian activity near the site access, given its rural context. As such the excess width is acceptable due to accommodating the swept path of articulated trucks to access the site.

With regard to the access and use of 297 Hamilton Road, while both Mr Temperley and Ms Hunt have addressed the operation of this as part of the current application, RC2, they note it is the large trucks such as tunnel spoil removal trucks and pipe delivery trucks that may affect the operation of the roundabout at Mahurangi East Road/Hamatana Road which are the subject of the RC3 application. However, in the event articulated truck and trailers access the site as part of RC2, both Mr Temperley and Ms Hunt recommend an on-site observer at the roundabout to ensure pedestrian safety and that road damage is monitored and repaired. WSL have accepted these as conditions of consent. Based on this both conclude that the adverse effect on the safe operation of the road network will be no more than minor

Mr Temperley also confirms that the construction traffic will not adversely impact local bus routes, nor, given the locations, will there be adverse impacts on cyclists.

Overall, taking into account the offered conditions and restrictions by the applicant, along with the specialist assessments, I conclude that the proposal will have minor adverse effects on the safe and efficient operation of the surrounding road network.

Cumulative effects

Cumulative effects are those effects that arise over time or in combination with other effects. As the proposal is for temporary works, albeit over 28 months, appropriate controls will be in place during works to avoid, remedy or mitigate adverse effects on the receiving environment and the ground will be reinstated on completion of works. As such, I do not consider there will be any cumulative effects that arise over time.

There is the potential for the combination of effects of the activity subject to this application, particularly the noise and traffic effects as a result of the earthworks activity, to result in adverse cumulative effects. In addition, this application is being processed concurrently with the RC3 (pipeline) application and I therefore consider it appropriate to consider the effects of the entire project and whether cumulative effects arise from the combination of the activities across these two applications. In particular, the current application RC2 is effectively the establishment and

reinstatement phases of the overall project. I recognise that often bulk earthworks applications for large scale developments are considered separately to the consents for the physical development. However, in this case the bulk earthworks of RC2 will run into and in regard to the launch platform at 584 Sandspit Road, mix with, the works proposed as part of RC3. While the length of time of the individual stages of the bulk earthworks are not unreasonable and similar to many construction (even small scale), projects, taking into account the overall project and length of activity on the sites, 28 months and 25 months respectively there is the potential for cumulative adverse effects to arise from the combination of both projects.

When discounting the adjacent land I am of the opinion that there will be negligible adverse cumulative effects both in regard to the combination of effects of this application and when combined with RC3. The works will be suitably managed through the ESCPs, CTMPs and various conditions of consent so that there will not be adverse discharges to the receiving environment, and the noise, on-site traffic and earthworks activity will only have effects on adjacent sites. As the truck movements on the road will be spread over the works period, and there is sufficient capacity in the road network, there will not be a combined adverse effect from this. The separation distance between the two work sites will also not result in cumulative effects.

Adverse effects conclusions

Overall, from taking into account the information and assessments provided by the applicant, Council's specialists assessments and my own, as well as the offered and accepted conditions of consent I consider that the proposal will have minor adverse effects on the environment.

Step 4: public notification in special circumstances

If an application has not been publicly notified as a result of any of the previous steps, then the council is required to determine whether special circumstances exist that warrant it being publicly notified (s95A(9)).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make notification desirable, notwithstanding the conclusion that the activities will not have adverse effects on the environment that are more than minor.

In this instance I have turned my mind specifically to the existence of any special circumstances and conclude that there is nothing exceptional or unusual about the application, and that the proposal has nothing out of the ordinary run of things to suggest that public notification should occur. In particular works to enable the installation of network utilities to cater for growing populations cannot be said to be out of the ordinary or unusual.

Public notification conclusion

Having undertaken the s95A public notification tests, the following conclusions are reached:

- Under step 1, public notification is not mandatory.

- Under step 2, there is no rule or NES that specifically precludes public notification of the activities, and the application is for activities other than those specified in s95A(5)(b).
- Under step 3, public notification is not required as the application is for activities that are not subject to a rule that specifically requires it, and it is considered that the activities will not have adverse effects on the environment that are more than minor.
- Under step 4, there are no special circumstances that warrant the application being publicly notified.

It is therefore recommended that this application be processed without public notification.

8. Limited notification assessment (sections 95B, 95E-95G)

If the application is not publicly notified under s95A, the council must follow the steps set out in s95B to determine whether to limited notify the application. These steps are addressed in the statutory order below.

Step 1: certain affected protected customary rights groups must be notified

There are no protected customary rights groups or customary marine title groups affected by the proposed activities (s95B(2)).

In addition, the council must determine whether the proposed activities are on or adjacent to, or may affect, land that is subject of a statutory acknowledgement under schedule 11, and whether the person to whom the statutory acknowledgement is made is an affected person (s95B(3)).

Within the Auckland region the following statutory acknowledgements are relevant:

- Te Uri o Hau Claims Settlement Act 2002
- Ngāti Manuhiri Claims Settlement Act 2012
- Ngāti Whātua Ōrākei Claims Settlement Act 2012
- Ngāti Whātua o Kaipara Claims Settlement Act 2013
- Te Kawerau ā Maki Claims Settlement Act 2015
- Ngāti Tamaoho Claims Settlement Act 2018
- Ngāi Tai Ki Tāmaki Claims Settlement Act 2018

In this instance, the proposal is not on or adjacent to and will not affect land that is subject to a statutory acknowledgement and will not result in adversely affected persons in this regard.

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

The application is not precluded from limited notification as:

- the application is not for one or more activities that are exclusively subject to a rule or NES which preclude limited notification (s95B(6)(a)); and
- the application is not exclusively for a controlled activity, other than a subdivision, that requires consent under a district plan (s95B(6)(b)).

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

As this application is not for a boundary activity, there are no affected persons related to that type of activity (s95B(7)).

The following assessment addresses whether there are any affected persons that the application is required to be limited notified to (s95B(8)).

In determining whether a person is an affected person:

- a person is affected if adverse effects on that person are minor or more than minor (but not less than minor);
- adverse effects permitted by a rule in a plan or NES (the permitted baseline) may be disregarded; and
- the adverse effects on those persons who have provided their written approval must be disregarded.

Adversely affected persons assessment (sections 95B(8) and 95E)

Disregarding those persons who have provided their written approval, the following assessment is made regarding the adverse effects on any person:

Effects of contaminated soils disturbance on human health

As identified in the section 95A assessment above, there has been HAIL activities at or adjacent the works area of 297 Hamilton Road, therefore there is a potential risk to human health. Mr Crimmins advises that soil sampling is required however there is a relatively low probability that the additional sampling will identify significant health risks taking into account the results of samples taken at the neighbouring Snells Beach Wastewater Treatment Plant in earlier investigations. A CSMP is recommended to outline health and safety measures in response to any contaminants identified as well as detailing soil disposal measures to avoid spreading potentially contaminated soils to sites where sensitive activities may occur. Mr Crimmins concludes that the DSI and CSMP and following the recommended conditions of consent will avoid, remedy and mitigate potential adverse effects on human health. I accept Mr Crimmins assessment and consider as WSL have accepted and offer the recommended conditions of consent that the works will have less than minor adverse effects on human health.

Effects of land disturbance

The proposed earthworks will be suitably managed by erosion and sediment control measures, and appropriately sized culverts. such that there will not be adverse effects on any adjacent property in terms of adverse dust or flooding. Ms Mathew has not raised any concerns regarding the proximity of earthworks to adjacent properties, e.g. 4 Hamilton Road for the access road and 120 Hamatama Road for the launch platform. In addition WSL is a network utility operator and the infrastructure is a network utility, therefore ensuring the stability and integrity of the works rests with WSL and is not a matter that Council has the scope to assess. As such I consider the earthworks disturbance will not result in adverse effects on any particular person.

Effects of noise and vibration

The proposed construction of both launch platforms and the access road have the potential to result in adverse noise effects due to the location, machinery and the length of the works period.

Marshall Day on behalf of the applicant has provided an assessment of the likely noise levels from the various activities associated with the launch platform and access road construction as part of the First s92 Response, additional assessment has been provided as part of the Fifth Response. These assessments confirm the noise levels of the various machinery utilised to establish the launch platforms and access road and the distance from the works area where a 75dBA noise level will be achieved. The noisiest machinery, being a chainsaw will meet the 75dBA threshold 76m from the works area, however this will be of short term and very intermittent duration. The typical machinery, bulldozers and truck & trailers, will meet this level at 50m and 18m respectively.

In terms of the launch platform construction at 297 Hamilton Road, the nearest activity is the industrial yard on the adjacent site of 120 Hamatana Road, approximately 40-50m from the works area. The nearest dwellings are approximately 350m away on Grange Street. In regard to 584 Sandspit Road, the nearest dwellings are between 42m and 70m from the access road and between 220m and 1035m from the launch platform, being the existing and future dwellings of 4, 4A, 4B, 4C and 6 Hamilton Road.

Following discussion, and due to the proximity of the Hamilton Road dwellings, the applicant has agreed to limit any works, including the use by truck and trailers, on the access road to 7.30am – 6pm Monday to Saturday. Works on the main launch platform at both sites are able to commence at 7.00am Monday to Friday. and 7.30am on Saturdays. In addition WSL has offered as conditions of consent that if noise complaints are received investigation by an appropriately qualified person will be undertaken and a site specific construction noise management plan (SSCNMP) must be prepared and implemented to manage this noise source.

Bin Qiu has assessed the proposal, memo dated 9 November 2011, and advises that for works longer than 20 weeks in duration the AUP(OP) requires a 5dBA reduction in construction noise limits, that is during the daytime there is a permitted construction noise level of 70dBA instead of 75dBA. He advises that MDA have not used these adjusted noise limits.

From the assessment provided Mr Qiu considers that there are likely to be noise levels of up to 74 db LAeq at the existing dwellings of 4 and 6 Hamilton Road as these are the closest to the proposed access road. However, the access road is linear and the construction of it expected to be of short duration (it is understood this could be as little as 15 days). Bulldozers working on this road will comply with the 70dBA noise levels when 60m away from a dwelling, and as such the noise exceedances will be of short duration and intermittent. In addition Mr Qiu notes "*it is a general understanding that a change noise [of] level within 1-2dB is not perceptible to human hearing*". As such Mr Qiu considers that given the small increase in noise levels and the linear nature of the works the noise levels will be very similar to those of complying construction noise levels. In terms of the launch platform at 584 Sandspit Road, the distance from any dwelling (a minimum of 220m from 4C Hamilton Road) will ensure that the audible noise will be up to 55 dB LA eq and lesser for the dwellings further away.

As noted the launch platform at 297 Hamilton Road is in close proximity of an industrial yard. Again the noise levels are likely to exceed the relevant 70dBA standard but only by up to 2dBA. Given the non-sensitive nature of the industrial activity Mr Qiu considers the noise levels not

unreasonable for this neighbour. The 350m separation distance to the Grange Street residential properties ensures compliance with the noise levels.

Despite the above Mr Qiu does recognise that the works area, particularly at 584 Sandspit Road are within the rural environment. Within rural zones the daytime noise limit for activities is 55dBA and mobile plant is exempt from complying with this standard. Taking into account the information provided by MDA and the distance to the nearest receivers of 584 Sandspit Road, the general works at the launch platform will be within the zone noise limits. While the construction noise of the access road will exceed this limit Mr Qiu considers because of the moving nature of the works along this linear corridor it will only be intermittent and potentially only for two days for each receiver. As such in Mr Qiu's opinion "*the predicted construction noise may still be consistent with, and comparable to, the general rural noise environment*".

I have considered the specialist assessments, the length of works associated with this application, the receiving environment and the permitted activities that can occur in the zone, including mineral exploration and forestry, as well as the ability to establish a dwelling and associated accessway. Based on all of this I consider that while there will be a disturbance to the owners and occupiers of the directly adjacent properties to 297 Hamilton Road and 584 Sandspit that the noise will be temporary and result in less than minor adverse effects on these persons. In addition, due to the separation distance, no other person will be adversely affected in regard to noise.

Transport effects

The proposal has the potential to result in adverse effects on persons, particularly those who own or occupy adjacent properties due to the size and amount of construction traffic. In terms of the subject application, as the earthworks will generally be retained on site there is significantly less traffic than could occur. However, contractor vehicles and material delivery trucks (including those delivering aggregate for the platforms and accessway) will still be necessary. From the WSL traffic assessment of RC3 it is anticipated there will be two truck movements per hour and/or five light vehicle movements per hour for each site.

In terms of 297 Hamilton Road, the volumes while being noticeable to the adjacent property at 120 Hamatana Road, given this is an industrial activity and the number of truck movements, will not affect the operation of this activity to any significant degree. While the truck movements will also be noticeable on Hamatana Road, the volume of traffic will not adversely affect the ability for people to access and use the industrial, commercial, community and recreational activities on this street such that I consider no person will be adversely affected.

In regard 584 Sandspit Road, the proposed temporary access is in close proximity to the existing vehicle accesses for 4 and 6 Hamilton Road. The access for 4 Hamilton Road also provides access to 4A, 4B and 4C Hamilton Road. The applicant's traffic engineer considers in the First s92 Response "*Neighbouring road users (from 4 and 6 Hamilton Road) should exercise caution when travelling to/from their property*" and will need to be notified in advance of works and kept regularly informed. While in the traffic assessment provided for RC3 it is stated "*The residents of 4 and 6 Hamilton Road will be impacted by the construction of a new access road adjacent to their existing access road for the launch site*". Mr Temperley also considers, that despite the low likelihood of vehicle conflict, it appropriate for these residents to be notified. Taking into account the proximity of the proposed vehicle entry/exit point on Hamilton Road to this existing crossing, the assessment made by the applicant's specialist and the potential

disruption for persons utilising this access I consider that the owners and occupiers of 4, 4A, 4B, 4C and 6 Hamilton Road will be affected to at least a minor degree. I do not consider any other person affected due to the generally low volume of traffic and the location of the vehicle crossing. In particular, due to the separation of the proposed crossing from the driveway at 653 Sandspit Road and the volume of truck movements I do not consider these persons to be adversely affected.

Effects on amenity

Visual amenity

The LVA by Boffa Miskell has identified the likely viewing audience of the proposed works in the ONL and HNC overlays. Due to the existing topography, vegetation and existing built environment of Warkworth, views of this area are limited to people in a small area in the most elevated portions on the southern side of the Mahurangi River. While there will be a degree of change during the earthworks period, given the separation distances, the retained and unaffected remaining parts of the ONL and HNC which are much greater in extent, and that the change is for a temporary period only, I conclude that the proposal will have less than minor and temporary adverse visual effects on these viewing audiences.

In regard to the adjoining neighbours to 584 Sandspit Road, the closest being 4C Hamilton Road, the applicant has provided by email of 27 September 2021 a cross section that shows due to the topography of the land that the launch platform is generally in a valley and as such there will be minimal visibility of the works area. However, there will be some visibility of vehicles moving on the access road, these will be most obvious during the access road establishment which is for a temporary period and not atypical of construction activity or other activities that could occur as of right on rural zoned land. Overall, I consider that the earthworks will result in less than minor adverse visual effects on any particular person, including those who own/occupy 4C Hamilton Road and 4, 4A, 4B and 6 Hamilton Road for the same reasons.

The proposed vegetation removal, vehicle crossings and bridge crossing at 584 Sandspit Road property boundary will be a visible change to this part of the road frontage. The applicant has designed the vehicle entrance to minimise the extent of vegetation removal and has proposed a replacement planting plan that will enhance the extent of native species within this area following completion of works. The proposed bridge will generally be at ground level and therefore not visibly dominant. I consider the entrance area will clearly appear as a construction site and given its temporary nature, generally only visible to traffic passing the site (i.e. transitory), it will result in adverse effects on visual amenity for any person that are less than minor.

The earthworks at 297 Hamilton Road will be visible from a large area due to being at a low point in the topography. However the location is separated from residential properties and in an area of generally industrial and rural activities. Taking into account the temporary nature of the works and the reinstatement proposed, I consider adverse visual effects will be less than minor and temporary in nature.

General amenity and amenity values

The proposed activity has the potential to result in adverse effects on the general amenity and therefore amenity values enjoyed by persons as part of their residential dwelling, and particularly for those persons who own or occupy property within close proximity to the works

area. While rural environments are not pristine natural areas and it is anticipated there will be a level of activity and use of heavy machinery on pastoral farms, the proposed scale and extent of activity associated with the subject consent, particularly the movement of vehicles along the temporary access road at 584 Sandspit Road has the potential to result in adverse effects on amenity for the owners and occupiers of the adjoining properties. However, when considering the permitted baseline, the truck volumes, and the noise levels, I do not consider that any person's amenity is adversely affected to a minor or more degree.

When considering the nature of the industrial activity at 120 Hamatana Road I do not consider the amenity of those owners and occupiers will be affected. Nor any other person due to the relative separation distances.

Cumulative effects

As described above the combined traffic and noise effects of the bulk earthworks and the combination of RC2 and RC3 has the potential to result in adverse cumulative effects. In my opinion given the nature of the projects these potential cumulative effects will only occur on the owners and occupiers of the neighbouring (adjacent) properties.

In regard to 297 Hamilton Road, given the location of works and the industrial activity at 120 Hamatana Road directly adjacent the works area, while there will be 25 months of works adjacent I do not consider this will result in adverse effects on the owners and occupiers of this property. In terms of persons who own or occupy dwellings, e.g. 114 Grange Road, while there will be up to 25 months of audible noise due to the topography and separation I do not consider any person will be adversely affected in relation to cumulative effects.

In terms of 584 Sandspit Road, the project will last for 28 months, and during this time there will be ongoing noise and truck movements associated with the earthworks and then the tunnelling. The bulk earthworks at the launch platform will be six days a week 7.00am to 7.00pm, followed by tunnelling being undertaken 24 hours a day seven days a week. Trucks removing the tunnel spoil will use the access road between 7.30am and 6pm Monday to Friday and 7.30am to 4pm Saturdays. While it is recognised that the noise limits are complied with, and that the permitted baseline includes forestry and farm quarries, I consider that the overall effect of the combined project will result in adverse effects on the property owners and occupiers of 4, 4A, 4B, 4C, 6 Hamilton Road that are at least minor due to the audible noise, truck movements and ongoing works along the property boundary. I do not consider any other person is affected by the cumulative effects of both projects due to the separation from the works area and the permitted baseline.

Summary

From the assessment undertaken above, I conclude that the owners and occupiers of the following properties are adversely affected to at least a minor degree by the proposal:

- 4, 4A, 4B, 4C and 6 Hamilton Road.

Step 4: further notification in special circumstances

In addition to the findings of the previous steps, the council is also required to determine whether special circumstances exist in relation to the application that warrants it being notified

to any other persons not already determined as eligible for limited notification (excluding persons assessed under section 95E as not being affected persons).

Special circumstances are those that are:

- Exceptional, abnormal or unusual, but something less than extraordinary or unique;
- outside of the common run of applications of this nature; or
- circumstances which make limited notification to any other person desirable, notwithstanding the conclusion that no other person has been considered eligible.

In this instance I have turned my mind specifically to the existence of any special circumstances under s95B(10) and conclude that there is nothing exceptional or unusual about the effects of this application, and that the proposal by itself has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. In addition, the assessment in Step 3 was able to consider the effects on any person.

I recognise that just because a member of the public raises an interest in an application this is not a reason to determine they are affected or should be notified. However, I also recognise that some of the owners of the properties which the proposed pipeline will traverse under have been given an expectation through the correspondence with lawyers acting on behalf of WSL (a Council Controlled Organisation) that they ought to be considered to be affected persons. This is not a common occurrence with applications. Yet the applications to Council both state the adverse effects are less than minor. It is not known if all property owners received such a letter, however the lawyers acting for 4 and 103 Hamilton Road (Mr & Mrs Hauser & Mr & Mrs Davison respectively) have advised that their clients did. In my view, it would be desirable in these circumstances to limited notify these persons.

I have recommended that RC3 is limited notified to all of the landowners who have the pipeline traversing their property, as well as other persons whom I consider will have at least minor adverse effects on them. Watercare has elected to seek consent for the two components of this project separately. Given the overlapping nature of the two applications, I consider it would be somewhat artificial, and ultimately problematic, if parties are only notified about one application and not the other. In particular, the current RC2 application establishes the platforms and access road to enable RC3 to occur and therefore the effects of development of the access will only occur if the application for the pipe works is granted. Therefore, the project should be assessed in a holistic way, which is consistent with case law including as discussed in the Urban Auckland High Court and Protect Aotea Environment Court decisions³.

Overall, I consider that these applications are unique in that they have been artificially separated when the effects and the activities are in reality intertwined. I therefore consider that it is appropriate to use special circumstances to ensure that the same persons are notified of this application as those for RC3.

Limited notification conclusion

Having undertaken the s95B limited notification tests, the following conclusions are reached:

- Under step 1, limited notification is not mandatory.

³ Urban Auckland v Auckland Council [2015] NZHC 1382 and Protect Aotea v Auckland Council [2021] NZEnvC 140

- Under step 2, there is no rule or NES that specifically precludes limited notification of the activities, and the application is for activities other than that specified in s95B(6)(b).
- Under step 3, limited notification is required as it is considered that the activities will result in adversely affected persons.
- Under step 4, there are special circumstances that warrant the application being limited notified to other persons.

It is therefore recommended that this application be processed with limited notification.

9. Notification recommendation

Limited notification

For the above reasons under section 95A this application may be processed without public notification.

However, under section 95B, limited notification is required as the owners and occupiers of the following properties are adversely affected or there are special circumstances warranting notification of these persons:

- Puhinui Scenic Reserve
- 360 Sandspit Road
- 526 Sandspit Road
- 4 Hamilton Road
- 4A Hamilton Road
- 4B Hamilton Road
- 4C Hamilton Road
- 6 Hamilton Road
- 48 Hamilton Road
- 50 Hamilton Road
- 114 Hamilton Road
- 86 Lawrie Road
- 103 Hamilton Road
- 108 Lawrie Road
- 178 Hamilton Road
- 200 Hamilton Road
- 43 Rivendell Place

Accordingly, I recommend that this application is processed limited notified.



Jennifer Valentine
Consultant Planner
Resource Consents

Date: 25 November 2021

Approved for release

Sections 95A and 95B recommendation approved for release to the duty commissioner for determination.

A handwritten signature in blue ink, consisting of a large, vertical oval shape followed by a horizontal line with a small flourish at the end.

Warwick Pascoe
Principal Project Lead
Resource Consents

Date: 25 November 2021