



Thames-Coromandel District Council

Totara Valley Road Upgrades – Phase 2A WRC Consents



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Date 12 September 2022

Kinetic Environmental Ref Totara Valley Road Upgrades

Version Final

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1 Introduction

Kinetic Environmental Consulting Limited (Kinetic Environmental) on behalf of Thames-Coromandel District Council (TCDC) seek approval to upgrade the western half of Totara Valley Road, from the intersection with the Ngati Maru Highway/State Highway 25 (SH25) to the eastern side of Sawmill Road (the Project).

To enable the proposed works, TCDC seeks resource consents from Waikato Regional Council (WRC).

This report is prepared in support of an application to upgrade the western half of Totara Valley Road, for which the resource consents are sought. The report describes the nature of the proposal in detail and assesses it against the relevant provisions of the Resource Management Act 1991 (RMA) and the Waikato Regional Plan (Regional Plan). This report and the Assessment of Environmental Effects (AEE) have been prepared in accordance with Section 88 and the Schedule 4 of the RMA.

2 Site Description

2.1 General Location

The Site is located approximately 1.8km north of Kopu and 2.4km south of Thames, as seen in Figure 1. The Waihou River is located 650m to the west of the Site.

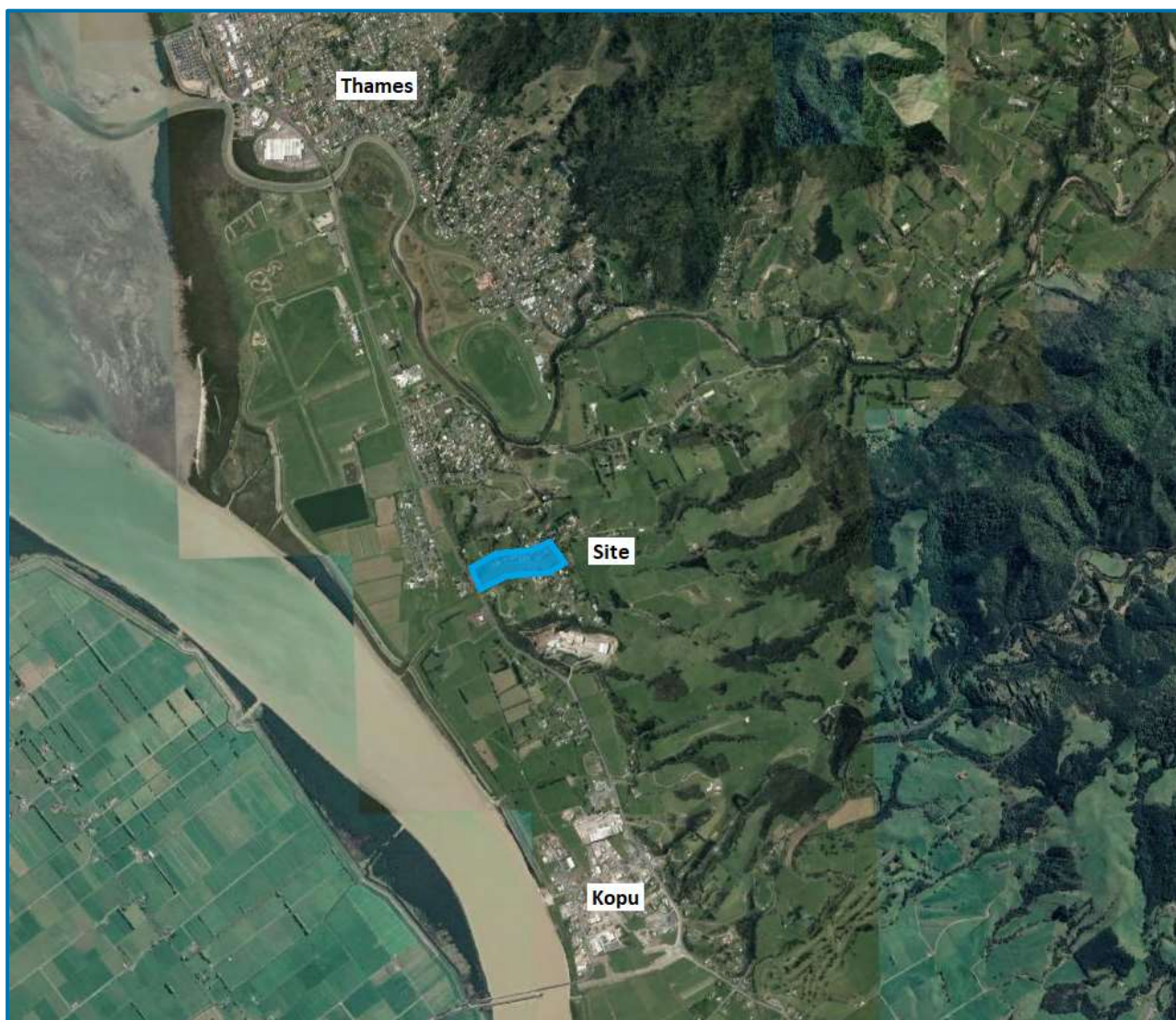


FIGURE 1: General Location



2.2 Site and Surrounding Environment

The Site starts at the intersection with SH25 in the west and ends on the eastern side of Sawmill Road. The northern extent of the Site is within the Totara Valley Road corridor, while the southern extent of the site extends into the adjacent properties and along Sawmill Road for a short distance (refer to Figure 2).

Totara Valley Road is a no exit road that extends east from SH25. The SH25/Totara Valley Road intersection is controlled by a stop sign and markings and has small shoulders on both sides and no righthand turning bay into Totara Valley Road. There is a bus shelter on the southern corner of Totara Valley Road.

The formation of Totara Valley Road is sealed to approximately 5m wide and is un-marked from the intersection with SH25 to approximately 150m east of Sawmill Road, where the remaining eastern formation comprises of gravel. Totara Valley Road is generally flat between the SH25 intersection and Sawmill Road but does increase in height and undulates east of Sawmill Road. Totara Valley Road does not currently include any footpaths or kerb and channel. There are several existing swales, drains and culverts beside and across Totara Valley Road, all of which convey water from the road to the watercourses on the southern side of the road, through the culvert under SH 25 and ultimately to the Waihou River.

Although most of Totara Valley Road is zoned Residential under the Thames-Coromandel Proposed District Plan (District Plan), there are a small number of properties on the southern side of the Totara Valley Road/Sawmill Road intersection zoned Recreation Passive and the properties at the eastern end of Totara Valley Road are zoned Rural. The properties and development around the middle of Totara Valley Road generally consists of a mixture of rural-residential and residential sized and used properties.

The NZ Archaeological Association's (NZAA) and TCDC's SMART Maps identify two pā to the north of the Totara Valley Road intersection (NZAA no's. T12/35 - headland pā and T12/1158 - pā) and midden (T12/1020 - predominantly pipi and cockle).

The unnamed stream west of the Site is designated by WRC for soil conservation and river control, drainage and flood protection under the District Plan (WRC1).

The Proposed District Plan planning maps identify that areas to the south of Totara Valley Road are in Low, Medium and High Flood Hazard Areas, a Floodway and Overland Flow Areas A, B and C.

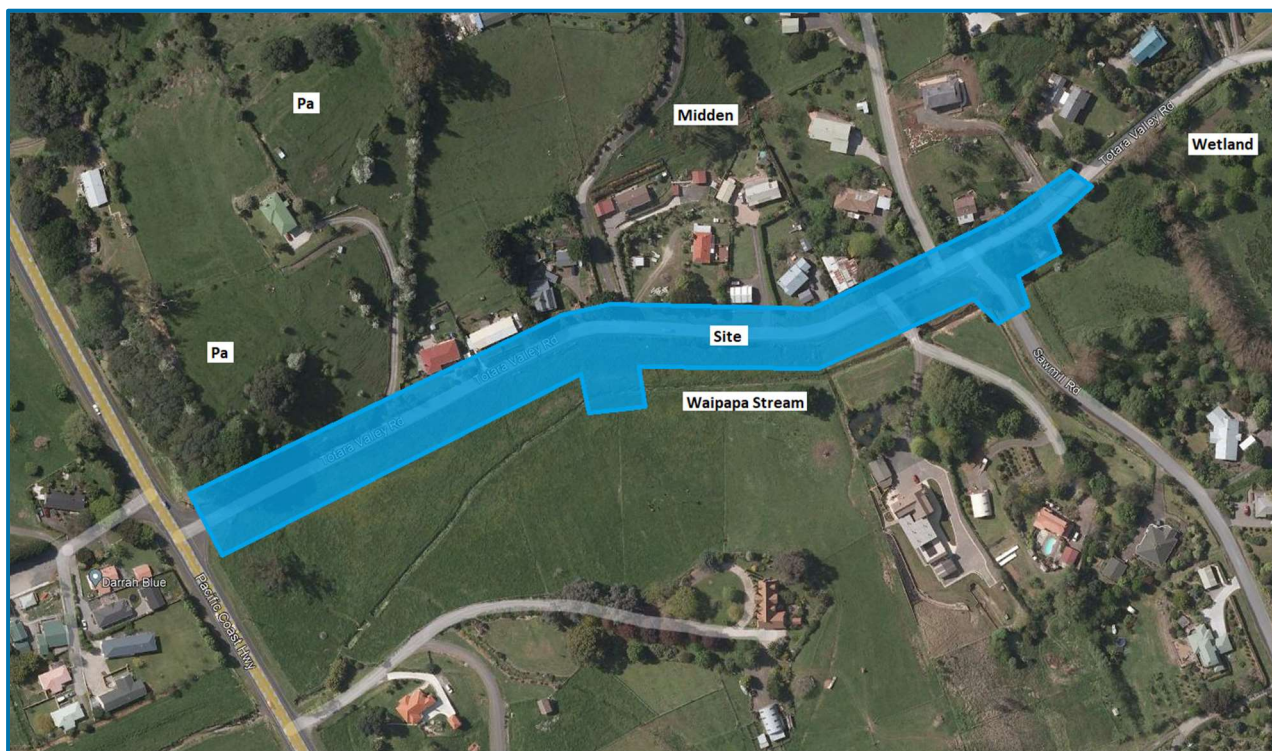


FIGURE 2: Site and Surrounding Environment

3 Project

TCDC propose to upgrade Totara Valley Road, Thames by widening and realigning Totara Valley Road itself, constructing a footpath along the southern side of the road, and installing services to enable the future residential subdivision and development of the area. The proposed Site Plans and Cross Sections are attached in **Appendix A**.

The key proposed works include:

- Approximately 11,000m³ of overburden/cleanfill and 4,000m³ of earthworks/soil disturbance.
- Installation of kerb and channel, subsoil drainage, nine culverts under Totara Valley Road and footpath (225mm – 1200mm diameter), catchpits, manholes, rock riprap outlet protection, head walls.
- Two 2m x 3m box culverts are required to be installed in the Waipapa Stream, one to create a new road to a proposed development and the second to replace the existing culvert under Sawmill Road. The culvert installation is planned to be completed in low river level conditions.
- Installation of new wastewater mains and laterals enabling the connection of Totara Valley Road properties (existing and future developments) to the Thames wastewater system.
- Upgrade of water supply mains and laterals (where required) to enable the connection of all of the Totara Valley properties (existing and future developments) to the Thames water supply.
- Supply, placing and compaction of GAP65 subbase, AP40 Basecourse.
- Pavement cement stabilisation, footpath construction, final compaction, trimming, prep for seal and chip sealing

3.1 Draft Construction Methodology

The proposed works are anticipated to be undertaken by the contractor as follows:

- Construct and maintain trafficable metal across entranceways acting as a stabilised construction entrance/exit, and a provisional wheel wash area or turn around bay. Final locations are to be approved by the Engineer.
- Install perimeter controls to:
 - a. Keep clean water clean and
 - b. Direct sediment laden runoff within site. e.g. diversion drains, silt fences and decanting earth bunds around catch-pits, and along the southern length of the site to retain or direct sediment laden runoff within the site to approval disposal areas and in accordance with the staged Construction Methodology Plan
- Rapidly stabilise the earth bund with coconut matting, and hydroseed once the bund is complete.
- Monitor weather forecast and plan works accordingly.
- The construction will be staged to minimise the area of disturbance, retaining as much existing vegetation as possible, and/or progressively reinstate. This will reduce the amount of exposed area at once, and subsequently reduce the risk of sediment run-off.
- Stockpile areas for topsoil will be agreed with the Contractor and kept above the flooding levels, and stabilised or utilised as required.
- Where topsoil has been cut or placed, establish quick growing and/or perennial vegetation as soon as possible to provide temporary and/or permanent stabilisation.

3.2 Erosion and Sediment Control

Erosion control will prevent sediment generation and discharge from the earthworks site, a draft erosion and sediment control plan is attached in **Appendix B**.

A cut and cover approach will be used where possible, and it is expected the fill material is a clean run of pit type material so should have minimal sediment generation.

The bund and coffer dam locations are draft only and the contractor may wish to adjust them to suit their methodology, with approval from the engineer.

The existing stormwater culverts will remain in place to keep clean water run-off out of the work site. The runoff will flow from the north side of Totara Valley Road to outlet into the existing paddock drains in the south.



3.3 Lapse

In accordance with section 125 of the RMA, TCDC seeks a lapse of 15 years to allow for the designation and property processes, a reduction in demand for residential properties or changes in funding.

4 Reason for the Applications

This section sets out the documents and rules relevant to the proposal and which trigger resource consent under. Refer to **Appendix C** for a full assessment against the relevant documents and rules.

4.1 National Environmental Standard for Freshwater

The National Environmental Standards (NES) for Freshwater regulates activities that pose risks to the health of freshwater and freshwater ecosystems, by setting requirements for carrying out certain activities that pose risks to such environments.

The following resource consent is required under the:

Table 1 below contains the NES for Freshwater regulation which triggers the need for resource consent:

NES for Freshwater		
Regulation	Activity Status	Proposed Activity
<u>45(4) – Discretionary Activity – Construction of Specified Infrastructure.</u> The taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland is a discretionary activity if it is for the purpose of constructing specified infrastructure.	Discretionary	Replacement culvert under Sawmill Road is approximately 70m from the wetland to the north-east.

TABLE 1: NES for Freshwater Resource Consent

Therefore, the proposal is a **Discretionary Activity** under the NES for Freshwater.

4.2 Waikato Regional Plan

The following features are identified on the Site by WRC:

- Surface Water (Unnamed River).
- Priority 1 Stock Exclusion

Table 2 below contains the Regional Plan rules which trigger the need for resource consent (refer to **Appendix C** for a full assessment):

Waikato Regional Plan		
Rule	Activity Status	Proposed Activity
<u>3.6.4.17</u> Coffer Dams	Controlled	The temporary use of coffer dams in accordance with the standards and terms of Rule 3.6.4.17.
<u>5.1.4.15</u> Soil Disturbance, Roading, Tracking, Vegetation Clearance, Riparian Vegetation Clearance in High Risk Erosion Areas	Discretionary	4,000m ³ of earthworks/soil disturbance, some of which is within high risk erosion areas.
<u>5.2.5.3</u> Large Scale Overburden Disposal	Discretionary	11,000m ³ of overburden/cleanfill disposal, some of which is within high risk erosion areas.

TABLE 2: Regional Plan Resource Consents

Therefore, the proposal is a **Discretionary Activity** under the Regional Plan.



4.3 Thames-Coromandel District Plan

A separate notice of requirement to designate the Site for the proposed works. Accordingly, an outline plan or outline plan waiver will be required from the District Council to undertake the works.

5 Consultation

TCDC initially contacted Ngāti Maru in relation to the Totara Valley Road upgrades 27 November 2020. Ngāti Maru met with TCDC, Kinetic Environmental and Pinnacles Civil on 4 December 2020 and the various phases of the upgrades were discussed.

Ngāti Maru have undertaken a Cultural Values Assessment (CVA) for the Totara Valley Road project, pages 59-64 of the CVA (as requested by Ngāti Maru) are attached in **Appendix D**. Ngāti Maru have confirmed a neutral position in relation of the Project and that while the area and waterways may contain wāhi tapu and sites of significance, current information and records indicate that the sites should not be directly affected.

Below is a summary of the CVA recommendations:

1. Give effect and adhere to the recommendations of the 1999 Māori Values Assessment (MVA) report.
2. Continue to recognise and provide for:
 - The relationship of the Marutūāhu people with their culture and traditions.
 - Prevention and protection of any wāhi tapu which are or may be affected.
 - The Mana whenua, Mana Moana and Kāitiakitangā of the Marutūāhu people in the Region.
3. First rights of refusal to Ngāti Maru should artwork be required for the Project.
4. Forward all plans and other documents that relate to TCDC's core operations in the Region to Ngāti Maru.
5. Make provision for cultural monitors to oversee earthworks activities and any other monitoring.
6. Set a program, areas and task for cultural monitoring.
7. (Repeat of recommendation 6).
8. Rates for cultural monitoring.
9. Should kōiwi or taonga be uncovered, Ngāti Maru in consultation with others will determine the future of any such features.
10. TCDC, partners or agents recognise Ngāti Maru as owner of the CVA.
11. The CVA is not released to third parties without the prior written consent of Ngāti Maru.
12. TCDC, partners or agents give effects to the recommendations of the CVA.

TCDC has confirmed they accept the above recommendations and that such measures can be included in the Project's contract documentation.

Consultation with Ngāti Maru is ongoing in terms of the future phases of the Totara Valley Road project.

6 Assessment of Actual and Potential Effects on the Environment

Section 88 and Schedule 4 of the RMA require TCDC to assess any actual or potential effects that the proposal may have on the environment and the ways in which any adverse effects may be mitigated. Schedule 4 of the RMA requires that the assessment is in such detail as corresponds with the scale and significance of the actual and potential effects that the activity may have had on the environment.



6.1 Erosion and Sedimentation Effects

The proposed earthworks/soil disturbance and overburden/cleanfill disposal activities will widen and realign Totara Valley Road. The proposal has the potential to have adverse effects on the Waipapa Stream through the uncontrolled discharge of sediment and other contaminants into the waterway.

To mitigate the potential adverse effects, erosion and sediment control measures will be put in place to retain the sediment on the Site, and away from the stream and adjacent properties as outlined in detail in the attached Erosion and Sediment Control Plan provided in **Appendix B**. As such, the WRC guidelines on erosion and sediment control will be adhered to by the Applicant and the contractor during construction. This will include measures such as minimising erosion and retaining sediment on site, through the use of cut and cover operations, coconut matting, a stabilised entrance, silt socks around inlets, filter media around new catchpits, diversion channel and bund, and decanting earth bund.

Overall, by ensuring the WRC guidelines for managing erosion and sediment loss are met, the effects of the earthworks and cleanfill activities will be less than minor.

6.2 Dust Effects

Earthworks/soil disturbance and overburden/cleanfill disposal activities have the potential to result in adverse dust effects on the surrounding area.

To reduce the potential of dust becoming airborne and adversely affecting the surrounding environment, a stabilised pad of aggregate on a filter cloth base will be located at any point where traffic will be entering or leaving the construction site to prevent site access points from becoming sediment sources and to help minimise dust generation and disturbance of areas adjacent to the road frontage. In addition, open earthworks and cleanfill areas can be kept damp with watercarts and/or covered to reduce the likelihood dust becoming airborne.

Given the above, the potential adverse dust effects of the Project are considered to be less than minor.

6.3 Waipapa Stream Effects

As detailed in Section 3, nine culverts ranging from 225mm to 1200mm are proposed under Totara Valley Road and footpath, and two 2m x 3m box culverts are required to be installed in the Waipapa Stream. To undertake the works in the Waipapa Stream, the contractor may use coffer dams to create suitable work areas.

In accordance with the Regional Plan, if coffer dams are used, they will be maintained in structurally sound conditions at all times and removed entirely upon completion of the works. During construction, no contaminants will be released into the Waipapa Stream and any erosion occurring will be remedied as soon as practicable.

The proposed culverts have been designed to convey a 1 in 100 year flood event without overtopping sawmill road, and not increased flood levels on neighbouring sites. The box culverts proposed in the Waipapa Stream will not obstruct fish passage as they will be laid at the existing grade of the stream (approximately 1.32% and 1.49%). In addition, the discharge of suspended solids is expected to comply with the Regional Plan permitted standards. All construction materials and equipment will be removed from the stream at the end of the culvert alterations.

Based on the above information, it is considered that the potential adverse effects of the proposed culvert will be less than minor in nature.



6.4 Wetland Effects

Brian T. Coffey and Associates Limited (Coffey and Associates Ltd) assessed the Totara Valley Road area for wetlands and identified Wetlands A-C in Figure 3 below, refer to the Assessment of Wetland Values in **Appendix E** for more detail.



FIGURE 3: Totara Valley Road Wetlands (Assessment of Wetland Values Figure 2)

As identified in Section 4.1 above, the replacement culvert under Sawmill Road is approximately 70m from the Wetland C. While the proposed works are within the 100m specified in Regulation 45(4) of the NES for Freshwater, they will be downstream of the wetland, the proposed culvert will replace the existing culvert, and be placed to the existing stream grade. Accordingly, the proposed works are unlikely to have any adverse effects on Wetland C.

Therefore, it is considered that the Project will have less than minor effects on wetlands.

6.5 Historic and Cultural Effects

As identified in Section 2 above, the Site is adjacent to two former pā sites (NZAA no's. T12/35 - headland pā and T12/1158 - pā) and midden (T12/1020 - predominantly pipi and cockle).

Sian Keith Archaeology (SKA) has undertaken an ArchScreen for the proposal, which included a desktop archaeological assessment of the area, site visit and test pits (refer to **Appendix F**). The desktop information identifies that the majority of recorded archaeological sites in the area consist of midden sites. The closest recorded archaeological site to the proposal is the headland pā (T12/35), which comprises a single transverse ditch and bank across the neck of small ridge, and a number of terraces and midden deposits. The earliest aerial photographs (1944) show the area predominantly in pasture, with orchards established on the higher ground on the surrounding ridgelines. The western portion of Totara Valley Road has not changed greatly since 1879, and the eastern portion was constructed between 1944 and 1961. The limited development within the road reserve and surrounding properties suggests that there has been limited ground disturbance within the project area.

During their site visit, SKA observed shell midden actively eroding down the hillslope into the road reserve in the area of proposed SH25 road widening north of Totara Valley Road. However, the shell midden area will not be affected by the Project. Two test pits were dug along the areas and the soil profiles of both pits consisted entirely of modern fill to depths of 50cm below the existing ground surface, suggesting the area has been considerably built up in the past to create a flat area immediately adjacent to the natural hillslope. The exposed soil profile to the south of Totara Valley Road comprises of a very thin topsoil layer overlying the natural subsurface gley soils.

SKA recommend that Phase 2 of the Totara Valley Road upgrades is carried out under an archaeological authority, given there is potential to encounter previously unrecorded archaeological material during the works. Heritage New Zealand Pouhere Taonga has granted archaeological authority 2023/045 for road widening works between the SH25 intersection and the road adjacent to 49 Totara Valley Road.

As identified in Section 5 above, Ngāti Maru have undertaken a CVA for the Totara Valley Road upgrades and have confirmed that while the area and waterways may contain wāhi tapu and sites of significance, current information and

records indicate that the sites should not be directly affected. Ngāti Maru have made 12 recommendations to mitigate the potential cultural effects of the Project and TCDC confirmed they accept the recommendations.

Accordingly, provided the works are carried out in accordance with Ngāti Maru's recommendations and the requirement of the archaeological authority, it is considered that the proposal will have less than minor effects on historic and cultural sites.

6.6 Positive Effects

As identified in section 3 above, the purpose of the proposal is to enable the future residential subdivision and development of the Totara Valley Road area. Once complete, the proposed works will create a safer and more efficient road network arrangement which will enable additional residential development along Totara Valley Road and Sawmill Road, in accordance with their Residential zoning.

6.7 Conclusion

In summary and subject to the proposed mitigation measures, it is considered that any adverse effects from the proposed earthworks and culvert alterations will be less than minor.

7 Notification

Section 95A to 95E of the RMA sets out the requirements for notification. The following sub-sections are an assessment of the RMA for the determination of what form of notification is required.

7.1 Section 95A – Public Notification Assessment

Section 95A of the Act provides the ability for a consent authority to publicly notify a resource consent application.

Public notification is not mandatory as the applicant does not request notification. Furthermore, public notification is not required under section 95C, and the application does not include the exchange of recreation reserve land.

Public notification is not precluded as a result of a rule of a national environmental standard. Furthermore, the application is not for a controlled activity, a subdivision, a boundary activity or a prescribed activity.

Public notification is not required as a result of a rule of a national environmental standard. An assessment as per section 95D of the RMA is undertaken in Section 7.2 below and it is not concluded that the effects of the proposal will be more than minor.

There are no special circumstances that would require this application to be publicly notified.

7.2 Section 95D Assessment

Section 95D outlines matters that must or may be disregarded by a consent authority when deciding if adverse effects are likely to be more than minor for the purpose of section 95A(8)(b).

In relation to this proposal, the consent authority is required to disregard the following:

- Effects upon the land over which the activity will occur as well as adjacent to that land, and
- Trade competition effects.

As this application is for a Discretionary Activity, all relevant effects may be considered. As concluded in the assessment of effects in Section 6, the adverse effects are not likely to be more than minor. On this basis, the proposal does not require public notification.

7.3 Section 95B – Limited Notification Assessment

If an application is not publicly notified, Section 95B of the RMA provides a number of steps for a consent authority to follow to determine whether limited notification is appropriate.



Certain groups and affected persons must be notified if the application affects customary rights, or customary marine title, and/or the land is subject to a statutory acknowledgement. In this case, these matters are not applicable.

Limited notification is not precluded as this application is not:

- Subject to a rule or national environmental standard that precludes limited notification,
- A controlled activity, and
- Is not a prescribed activity.

Consideration of whether there are any affected parties in accordance with section 95E is undertaken in Section 7.4 below. It is noted that this activity does not include a boundary activity and is not an activity prescribed under section 360H(1)(b).

There are no special circumstances that would require this application to be limited notified.

7.4 Section 95E – Consent Authority decides if a person is affected

Section 95E provides criteria as to how a consent authority determines whether a person is affected for the purposes of limited notification. The consent authority must decide that a person is an affected person if the activity's adverse effects on the person are minor or more than minor (but not less than minor).

As identified in Sections 5 and 6 above, TCDC has consulted with Ngāti Maru and confirmed that the works are to be carried out in accordance with their recommendations. Accordingly, it is considered that the proposal will have less than minor effects on historic and cultural sites.

Therefore, the effects of the proposal will be less than minor and no parties are considered to be affected by the proposal.

8 Relevant Planning Documents

Section 104(1)(b) of the RMA outlines the policies and planning matters that a consent authority must have regard to when considering an application for a resource consent, subject to Part 2. The below sections are the relevant matters and a discussion of how the proposal reflects these matters.

8.1 National Policy Statement for Freshwater Management

The National Policy Statement for Freshwater Management 2020 (Freshwater NPS) provides local authorities with direction on how to manage freshwater under the RMA. The Freshwater NPS applies to all freshwater (including groundwater) and, to the extent they are affected by freshwater, to receiving environments (which may include estuaries and the wider coastal marine area).

Freshwater National Policy Statement
Objective 2.1(1) <i>The objective of this National Policy Statement is to ensure that natural and physical resources are managed in a way that prioritises:</i> a. first, the health and well-being of water bodies and freshwater ecosystems b. second, the health needs of people (such as drinking water) c. third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.
Policies 2.2 1 – Freshwater is managed in a way that gives effect to Te Mana o te Wai. 2 – Tangata whenua are actively involved in freshwater management (including decision-making processes), and Māori freshwater values are identified and provided for. 3 – Freshwater is managed in an integrated way that considers the effects of the use and development of land on a whole-of-catchment basis, including the effects on receiving environments. 4 – Freshwater is managed as part of New Zealand's integrated response to climate change. 5 – Freshwater is managed through a National Objectives Framework to ensure that the health and well-being of degraded water bodies and freshwater ecosystems is improved, and the health and well-being of all other water bodies and freshwater ecosystems is maintained and (if communities choose) improved.



Freshwater National Policy Statement
6 – <i>There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.</i>
7 – <i>The loss of river extent and values is avoided to the extent practicable.</i>
8 – <i>The significant values of outstanding water bodies are protected.</i>
9 – <i>The habitats of indigenous freshwater species are protected.</i>
10 – <i>The habitat of trout and salmon is protected, insofar as this is consistent with Policy 9.</i>
11 – <i>Freshwater is allocated and used efficiently, all existing over-allocation is phased out, and future over-allocation is avoided.</i>
12 – <i>The national target (as set out in Appendix 3) for water quality improvement is achieved.</i>
13 – <i>The condition of water bodies and freshwater ecosystems is systematically monitored over time, and action is taken where freshwater is degraded, and to reverse deteriorating trends.</i>
14 – <i>Information (including monitoring data) about the state of water bodies and freshwater ecosystems, and the challenges to their health and well-being, is regularly reported on and published.</i>
15 – <i>Communities are enabled to provide for their social, economic, and cultural wellbeing in a way that is consistent with this National Policy Statement.</i>

TABLE 3: Freshwater National Policy Statement – Objectives and Policies

Comment: The potential effects on the Waipapa Stream as a result of the earthworks and culvert works are proposed to be managed via erosion and sediment controls in accordance with WRC's guidelines. It is assumed that conditions of consent will require the consent holder to provide a final erosion and sediment control plan to WRC for approval prior to starting works. Therefore, subject to appropriate erosion and sediment controls being installed, the health and well-being of the waterways on the Waipapa Stream will be maintained.

As identified in Section 5 above, Ngāti Maru has been involved in the proposal and consultation is on-going. The proposal will not result in any effect on natural inland wetlands, outstanding water bodies, habitats of indigenous freshwater species, or habitats of trout and salmon.

According, the proposal is considered to be consistent with the objective and policies of the Freshwater NPS.

8.2 Waikato Regional Policy Statement

The Waikato Regional Policy Statement (Waikato RPS) sets out the objectives and policies to achieve the purpose of the RMA and address the significant resource management issues of the Region.

The RPS provides the direction regarding the use, development and protection of the Region's natural and physical areas and outlines the policies and methods to achieve these objectives. The following objectives and policies are considered relevant to this proposal.

Waikato Regional Policy Statement
Objective 3.9 – Relationship of Tāngata Whenua with the Environment <i>The relationship of tāngata whenua with the environment is recognised and provided for, including:</i> b) <i>the role of tāngata whenua as kaitiaki.</i>
Objective 3.12 – Built Environment <i>Development of the built environment (including transport and other infrastructure) and associated land use occurs in an integrated, sustainable and planned manner which enables positive environmental, social, cultural and economic outcomes, including by:</i> c) <i>integrating land use and infrastructure planning, including by ensuring that development of the built environment does not compromise the safe, efficient and effective operation of infrastructure corridors;</i>
Objective 3.14 – Mauri and Values of Fresh Water Bodies <i>Maintain or enhance the mauri and identified values of fresh water bodies including by:</i> a) <i>maintaining or enhancing the overall quality of freshwater within the region;</i>
Objective 3.18 – Historic and Cultural Heritage <i>Sites, structures, landscapes, areas or places of historic and cultural heritage are protected, maintained or enhanced in order to retain the identity and integrity of the Waikato region's and New Zealand's history and culture.</i>
Policy 4.3 – Tāngata Whenua



Waikato Regional Policy Statement
<i>Tāngata whenua are provided appropriate opportunities to express, maintain and enhance the relationship with their rohe through resource management and other local authority processes.</i>
Policy 6.3 – Co-ordinating Growth and Infrastructure <i>Management of the built environment ensures:</i> c) <i>the efficient and effective functioning of infrastructure, including transport corridors, is maintained, and the ability to maintain and upgrade that infrastructure is retained.</i>
Policy 8.3 – All Fresh Water Bodies <i>Manage the effects of activities to maintain or enhance the identified values of fresh water bodies and coastal water including by:</i> a) <i>reducing:</i> i) <i>sediment in fresh water bodies and coastal water (including bank instability) that is derived from human based activities;</i> iii) <i>microbial and nutrient contamination;</i> iv) <i>other identified contaminants; and</i>
Policy 10.2 – Relationship of Maori to Taonga <i>Recognise and provide for the relationship of Tāngata whenua and their culture and traditions with their ancestral lands, water, sites, wāhi tapu and other taonga.</i>
Policy 1032 – Effects of Development on Historic and Cultural Heritage <i>Manage subdivision, use and development to give recognition to historic and cultural heritage and to integrate it with development where appropriate.</i>

TABLE 4: Waikato Regional Policy Statement – Objectives and Policies

Comment: As tāngata whenua, Ngāti Maru have been involved in the Project, and provided opportunities to express, maintain and enhance the relationship with their rohe and their role as kaitiaki. Given Ngāti Maru will carry out iwi monitoring and works will occur under an archaeological authority, the potential effects on cultural heritage will be appropriately managed.

As the proposal will provide widen Totara Valley Road and provide a footpath, it will improve the safety, efficiency and effectiveness of the transport corridors.

The overall quality of the Waipapa Stream will be maintained by the proposal. Subject to erosion and sediment control measures in accordance with WRC's guidelines being in place prior to works, the amount of sediment and other contaminants will be reduced to appropriate levels.

Accordingly, the proposal is considered to be consistent with the above objectives and policies of the Waikato RPS.

8.3 Waikato Regional Plan

The Regional Plan contains specific policies and implementation methods to achieve the purpose of the RMA and address the resource management issues and objectives for the region. The following objectives and policies are considered relevant to this proposal.

Waikato Regional Plan – Water Module
Objective 3.1.2 – Water Resources <i>The management of water bodies in a way which ensures:</i> c. <i>The avoidance of significant adverse effects on aquatic ecosystems</i> i. <i>That significant adverse effects on the relationship tangata whenua as Kaitiaki have with water and their identified taonga such as waahi tapu, and native flora and fauna that have customary and traditional uses in or on the margins of water bodies, are remedied or mitigated</i> j. <i>The cumulative adverse effects on the relationship tangata whenua as Kaitiaki have with water their identified taonga such as waahi tapu, and native flora and fauna that have customary and traditional uses that are in or on the margins of water bodies are remedied or mitigated.</i>
Policy 3.2.3.1 – Management of Water Bodies <i>Manage all water bodies to enable a range of water use activities, whilst ensuring that a net improvement in water quality across the Region is achieved over time through:</i>



Waikato Regional Plan – Water Module	
b. Maintaining overall water quality in areas where it is high, and in other water bodies, avoiding, remedying or mitigating cumulative degradation of water quality from the effects of resource use activities. e. The positive benefits to people and communities arising from use or development of water resources and by taking account of existing uses of water and the associated lawfully established infrastructure.	
Policy 3.2.3.4 – Waikato Region Surface Water Class	
Enable the use of all surface water bodies in the Region, provided that:	
a. Any significant adverse effects on existing aquatic ecosystems are avoided, remedied or mitigated. c. Any conspicuous change in visual colour or clarity is avoided, remedied or mitigated. d. The water body is not tainted or contaminated to the extent that it is unpalatable or unsuitable for consumption by humans after treatment (equivalent to coagulation, filtration and disinfection).	
Policy 3.2.3.8 – Reasonable Mixing	
The zone of reasonable mixing is the area within which a discharge into water (including any discharge that occurs subsequent to a discharge onto or into land) does not need to achieve the standards specified in the water management class for the receiving water body. The size of the mixing zone must be minimised as far as is practicable and will be determined on a case-by-case basis, including consideration of the following matters:	
b. River flow rate and flow characteristics. c. The design of the outfall. d. The depth, velocity and rate of mixing in the receiving water body. e. Existing contaminant concentrations in the receiving water body both upstream and downstream of the discharge point and the assimilative capacity of the water body. f. The frequency of the discharge. g. The speed with which any contaminants will be diluted. h. The ability of the discharger to alter the location of the discharge and the mixing characteristics of the outfall so as to ensure that adverse effects of the discharge beyond the zone of non-compliance are not inconsistent with the purpose for which the water body is being managed. i. Whether the discharger has taken all practicable steps to minimise the concentration and volume of contaminants at source. j. Any effects of the mixing zone on other users of the water body. k. The extent of adverse effects within the mixing zone.	
Objective 3.5.2 – Discharges	
Discharges of contaminants to water undertaken in a manner that:	
a. Does not have adverse effects that are inconsistent with the water management objectives in Section 3.1.2	
Policy 3.5.3.1 – Enabling Discharges to Water that will have only Minor Adverse Effects	
Enable through permitted and controlled activity rules, discharges to water that due to their nature, scale and location will:	
a. Avoid adverse effects on surface water bodies that are inconsistent with policies in Section 3.2.3 of this Plan b. Not increase the adverse effects of flooding or erosion on neighbouring properties c. Ensure that any adverse effects of sediment on aquatic habitats are confined to a small area relative to the habitat as a whole or are temporary, and the area will naturally re-establish habitat values comparable with those prevailing before commencement of the activity	
Policy 3.5.3.6 – Tangata Whenua Uses and Values	
Ensure that the relationship of tangata whenua as Kaitiaki with water is recognised and provided for to avoid significant adverse effects and remedy or mitigate cumulative adverse effects on:	
a. The mauri of water.	

TABLE 5: Waikato Regional Plan – Water Objectives and Policies

Comment: The proposal will avoid significant adverse effects on the aquatic ecosystems of Waipapa Stream through the use of appropriate erosion and sediment control measures in accordance with WRC's guidelines. No waahi tapu, or native flora and fauna that have customary and traditional uses in or on the margins of the Waipapa Stream have been identified during consultation with Ngāti Maru.

Any discharges as a result of the proposal are anticipated to comply with the Regional Plan permitted activity standards and conditions. Therefore, adverse effects on Waipapa Stream and neighbouring properties (flooding and erosion) above those permitted by the Regional Plan will be avoided.

Waikato Regional Plan – River and Lake Bed Module
Objective 4.2.2 – River and Lake Bed Structures The use, erection, reconstruction, placement, alteration, extension, removal or demolition of structures in, on, under or over the beds of rivers and lakes managed in a manner that: b) does not have adverse effects on water quality, flow regimes, aquatic ecosystems and wetlands that are inconsistent with Water Management Objective 3.1.2 c) does not obstruct fish passage for trout and indigenous fish to complete their life cycle e) there is no increase in the adverse effects of flooding
Policy 4.2.3.1 – Enable Low Impact Structures Enable through permitted activity rules the use, erection, reconstruction, placement, alteration, extension, removal or demolition of structures, in, on, under or over the beds of rivers or lakes which: a) do not significantly adversely affect bed stability b) do not significantly degrade water quality, flow regimes and aquatic ecosystems, in a manner that is inconsistent with the policies in Section 3.2.3 c) do not obstruct fish passage for trout and indigenous fish e) do not increase the adverse effects of flooding on neighbouring properties g) avoid significant adverse effects on the relationship tangata whenua as kaitiaki have with river and lake beds
Policy 4.2.3.2 – Management of Structures Control through resource consents the use, erection, reconstruction, placement, alteration, extension, removal and demolition of those structures in, on, under or over river and lake beds that: a) cause or accentuate the significant adverse effects of destabilisation of the beds and the banks of rivers and lakes, or b) have the potential to cause significant adverse effects on water quality, flow regimes and aquatic ecosystems in a manner that is inconsistent with the policies in Section 3.2.3 of this Plan, or d) obstruct fish passage for trout and indigenous fish, or f) increase the adverse effects of flooding on neighbouring properties, or h) cause significant adverse effects on the relationship tangata whenua as kaitiaki have with river and lake beds, or

TABLE 6: Waikato Regional Plan – River and Lake Bed Objectives and Policies

Comment: The proposed culverts will not have an adverse effect on water quality, aquatic ecosystems, fish passage or flood levels. Appropriate erosion and sediment control measures in accordance with WRC guidelines will reduce the amount sediment entering Waipapa Stream during construction. The two new box culverts will not obstruct fish passage more than the existing stream as they will have same grade slope. The wider cross section will also enable the culverts to flow more water and reduce the effects of flooding on the neighbouring properties upstream.

Waikato Regional Plan – Land and Soil Module
Objective 5.1.2 – Accelerated Erosion A net reduction of accelerated erosion across the Region so that: b) there are no adverse effects on water quality, aquatic ecosystems and wetlands that are inconsistent with Water Management Objective 3.1.2 c) there is no increase in the adverse effects of flooding or land instability hazards e) significant adverse effects on the relationship tangata whenua as Kaitiaki have with their identified ancestral taonga such as ancestral lands, water and waahi tapu are avoided
Policy 5.1.3.1 – Managing Activities that Cause or Have the Potential to Cause Accelerated Erosion and Encouraging Appropriate Land Management Practices Through permitted activities and non-regulatory methods manage activities that cause or have the potential to cause accelerated erosion, with particular regard to: a) the potential for the activity to adversely affect the purpose of the water management classes as identified in the policies in Section 3.2.2, and the coastal marine area c) the erosion potential of soil when it is disturbed or vegetation is cleared d) the potential to increase the adverse effects of flooding e) the potential to adversely affect waahi tapu and archaeological sites or other identified sites of importance to tangata whenua as Kaitiaki f) the potential to adversely affect natural character of the coastal environment and the margins of rivers, lakes and wetlands and areas of significant indigenous vegetation and significant habitats of indigenous fauna²⁸ h) the potential to damage property and infrastructure.

TABLE 7: Waikato Regional Plan – Land and Soil Objectives and Policies

Comment: Erosion and sediment from the proposal will be reduced by control measures in accordance with WRC guidelines until appropriate ground cover has re-established. Accordingly, erosion and sediment from the proposal will not result in an adverse effect on water quality or aquatic systems beyond those anticipated by the Regional Plan. As stated above, the wider box culverts will reduce the effects of flooding upstream.

Ngāti Maru have been consulted and will carry out iwi monitoring, in addition to the works occurring under an archaeological authority. Accordingly, the potential effects on ancestral taonga will be avoided.

8.3.1 Waikato Regional Plan Objectives and Policies Summary

The proposal is therefore considered to be consistent with the above objectives and policies of the Regional Plan.

9 Resource Management Act 1991

The RMA governs the use and development of New Zealand's natural and physical resources. Sections of the RMA particularly relevant to this application are outlined and assessed below.

9.1 Part 2 matters

Part 2 of the RMA is the framework against which all the functions, powers and duties under the RMA are to be exercised for the purpose of giving effect to the Act. Section 5 sets out the purpose of the RMA whereas sections 6, 7 and 8 are intended to give guidance as to the way in which the purpose is to be achieved.

In relation to the assessment of Part 2 insofar as resource consent applications are concerned, reference is made to the Court of Appeal's decision in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, which was released on 21 August 2018. The Court of Appeal held that the Supreme Court's rejection in *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38 ("King Salmon") of the "overall broad judgment" approach in the context of plan provisions applied in the particular factual and statutory context of the NZCPS which, the Supreme Court confirmed, already reflects Part 2 and complies with the requirements of the RMA. The Court of Appeal did not consider that the Supreme Court in *King Salmon* "intended to prohibit consideration of Part 2 by a consent authority in the context of resource consent applications (paragraph [66])".

In the context of resource consents, the Court of Appeal determined that:

- a) RMA decision makers should usually consider Part 2 when making decisions on resource consents (this is the implication of the words "subject to Part 2" in section 104); and
- b) However, doing so is unlikely to advance matters where the relevant plan provisions have clearly given effect to Part 2, or where it is clear that the plan is "competently prepared" with "a coherent set of policies" such that there is no need to refer to Part 2.

In the present application, it is considered that the Regional Plan contains a coherent set of policies which gives effect to the Waikato RPS. In that sense, the coverage of Part 2 in the Regional Plan is most likely complete. In addition, both of these documents have been amended or become operative after *King Salmon*, meaning that they can both be considered as competently prepared. As such, there is no definitive need to provide an assessment of the proposal against Part 2.

In the interest of completeness however, and in case the Regional Council determine that it is appropriate to revert to Part 2, an assessment against the same is provided below.

9.1.1 Section 5

The overriding purpose of the RMA is 'to promote the sustainable management of natural and physical resources'. This is defined in section 5(2) as meaning:

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

- (a) *Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonable foreseeable needs of future generations; and*



- (b) *Safeguarding the life-supporting capacity of air, water, soil and ecosystems; and*
- (c) *Avoiding, remedying or mitigating any adverse effects on the environment.*

The Project will meet the reasonable foreseeable needs of future generations as it will enable future residential development in the Totara Valley Road area in accordance with the District Plan. It will not affect the ability of natural and physical resources to meet the needs of future generations, as there will be no on-going adverse effects once the works are completed. Any adverse effects of the proposal on the environment will be mitigated to appropriate levels by erosion and sediment control measures in accordance with WRC guidelines, and Ngāti Maru involvement and archaeological authority measures during the construction phase.

As such, the purpose of the RMA is considered met.

9.1.2 Section 6

Section 6 requires a number of key matters of national importance to be recognised and provided for. These include the protection of outstanding natural features and landscapes from inappropriate subdivision, use and development, the protection of indigenous vegetation and fauna, and the relationship of Māori and their culture and traditions with their ancestral lands, water, waahi tapu sites and other taonga.

The pā and midden sites to the north of the Site will be protected by iwi monitoring by Ngāti Maru, as well as the works being carried out under archaeological authority measures.

As such, the proposal is not considered inconsistent with Section 6.

9.1.3 Section 7 – Other Matters

Section 7 sets out other matters that Council is to have particular regard to in achieving the purpose of the Act. The key matters of relevance to this application are:

- (b) *The efficient use and development of natural and physical resources.*
- (f) *Maintenance and enhancement of the quality of the environment.*
- (h) *The protection of the habitat of trout and salmon.*

The Project is an efficient use of natural and physical resources as the majority of works are within the existing road corridors and will enable the Totara Valley Road area to be further developed in accordance with its Residential zoning. Subject to erosion and sediment control measures in accordance with WRC guidelines, Ngāti Maru involvement and archaeological authority measures during construction, the quality of the surrounding environment will be maintained.

Overall, the proposal is considered consistent with Section 7.

9.1.4 Section 8

Section 8 requires the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) to be taken into account in the consideration of any resource consent application. The principles include:

- Partnership.
- Participation.
- Protection.

As discussed in Section 5 above, TCDC has consulted with Ngāti Maru in relation to the Project and confirmed that representatives can participate during the construction phase (iwi monitoring) to protect the pā and midden sites to the north of the Site and any unknown cultural heritage items/features in the Site area. In addition, construction works will be carried out under archaeological authority measures.

Therefore, the proposal is considered consistent with the principles of the Treaty of Waitangi.

9.2 Section 104B – Determination of Applications for Discretionary Activities

As the proposal is a discretionary activity pursuant to Rule 3.5.4.5 of the Regional Plan, in accordance with section 104B of the RMA, a consent authority:

- (a) May grant or refuse the application; and



- (b) If it grants the application, may impose conditions under section 108.

10 Conclusion

As identified in Section 4 of this report, the proposal is to be assessed as a Discretionary Activity being the most onerous activity status.

Overall, the potential adverse effects of the proposed coffer dams, culverts and earthworks can be appropriately mitigated via erosion and sediment control measures in accordance with WRC's guidelines, recommendations by Ngāti Maru, and archaeological authority requirements during construction.

This report has considered the proposal in terms of the relevant planning documents, particularly the National Policy Statement for Freshwater Management, Waikato Regional Policy Statement, the Waikato Regional Plan and the Resource Management Act 1991. The proposal is not considered to be inconsistent with the above documents.

Accordingly, it is requested that the proposal be assessed on a non-notified basis and subsequently granted subject to reasonable conditions.



Appendix A Site Plans and Cross Sections



Appendix B Draft Erosion and Sediment Control Plans



Appendix C Rules Assessment



Appendix D Cultural Values Assessment



Appendix E Wetland Assessment



Appendix F ArchScreen



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