

10 March 2023

Ministry for the Environment  
Attn: Max Gander-Cooper  
via email

Dear Max

**Further Information for Kings Quarry Fast-Track Referral Application (COVID-19 Recovery (Fast-track Consenting) Act 2022)**

Thank you for your email dated 6 March 2023 which set out four queries arising from your review of the above application. The queries are set out in *italics*, with our responses below.

*Please provide an explanation of the relationship between the applicant and Pebblebrook Properties Limited*

Kings Quarry Limited and Pebblebrook Properties Limited have the same directors and have shareholders in common. Kings Quarry Limited has a 100-year lease to use the land for quarrying from Pebblebrook Properties Limited.

*Some analysis of the instruments on the project records of title, and comments on whether they will affect the applicant's ability to deliver the project*

The Records of Title for the site are subject to three interests (all submitted with the referral application as Attachment 2). These are summarised in **Table 1** below:

**Table 1: Summary of Title interests.**

Interest	Affected Title	Relevance
12393024.4 Mortgage to AJR Finance Limited	NA14C/635 NA14C/636 NA763/6 NA580/182 NA13D/1128 455035	The mortgage will not affect the applicant's ability to carry out the quarry expansion.
Limited as to Parcels	NA763/6 NA580/182 NA13D/1128	'Limited as to Parcels' identifies that when the first title for the land was issued, the land boundaries and/or area could not be guaranteed due to the land survey information available.  The quarry plans will be prepared based on surveys such that it will be confirmed that all works are undertaken within confirmed site boundaries.  This will not affect the ability to carry out the quarry expansion given the scale of the site and that any discrepancies in boundaries are not typically significant.



Interest	Affected Title	Relevance
8316412.4 Covenant Under Section 240 Resource Management Act 1991	NA763/6 455035	This covenant requires that three of the parcels of land are held together and cannot be disposed of separately without the consent of Auckland Council. There is no intention to transfer, lease or dispose of the land separately and therefore this will not affect the applicant's ability to carry out the quarry expansion.
8316412.1 Consent Notice pursuant to Section 221 Resource Management Act 1991	455035	This consent notice requires that appropriate resource consents be obtained for the construction of a crossing over the Waitoki Stream to gain access to Allot 78 Psh Kaukapakapa. This crossing was consented as part of the Stage 1 works and will have been constructed by the time the Stage 2 works are undertaken. This will not affect the applicant's ability to carry out the quarry expansion.

*Either a copy of the ecological assessment for the project or an analysis to support the statement that "No natural wetlands are expected to be present"*

Refer to the freshwater ecology memo provided as **Attachment 1**. The section titled 'Freshwater Ecology' reads *"No ecosystems extents indicative of natural wetlands (palustrine or riverine ecosystems) were observed within the ZOI [Zone of Influence], and floodplain data does not indicate the ZOI to be saturated enough to support a riverine wetland on the boundaries of the streams. No wetlands are expected to be present due to the high shade and steep topography of the ZOI"*.

*An explanation of how you expect the project to pass the gateway tests in RMA section 104D.*

Section 32 of the COVID-19 Recovery (Fast-track Consenting) Act 2020 ('FTCA') states that section 104D of the Resource Management Act 1991 applies to a panel's consideration of a consent application for a referred project.

To be able to grant consent to a non-complying activity, the authority must be satisfied that either the adverse effects of the activity on the environment will be minor (section 104D(1)(a)), or the proposed activity will not be contrary to the objectives and policies of a proposed plan or plan (section 104D(1)(b)). This consideration is commonly known as the 'threshold test' or the 'gateway test'.

If either of the limbs of the test can be passed, then the application is eligible for approval, but the proposed activity must still be considered under section 104. There is no primacy given to either of the two limbs, so if one limb can be passed then the 'test' can be considered to be passed.

In this case, the non-complying activity status arises from the proposed reclamation of streams within the Significant Ecological Areas ('SEA') overlay. If the site was not subject to this overlay, the reclamation of streams would be a discretionary activity. All the other activities proposed are controlled or restricted discretionary, other than the continued use of the accessway within the Rural Production zone (discretionary) and reclamation of a river under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (discretionary).

Our assessment against both tests is set out below:



#### Adverse Effects of the Activity (section 104D(1)(a))

The project is considered to not result in any long-term, adverse effects on the environment that are more than minor, noting that significant mitigation and offsetting are proposed and the site is earmarked on the whole for quarrying activities via its Special Purpose – Quarry zoning. Key potential adverse effects are addressed in general below and discussed in more detail in the referral application:

- Land disturbance effects – can be managed through appropriate erosion and sediment control measures and site management such that any adverse effects will be less than minor;
- Groundwater diversion – based on separation distances and the location of neighbouring buildings and structures, adverse effects associated with any drawdown and settlements related to groundwater diversion are anticipated to be less than minor;
- Rural character and visual amenity – noting the Quarry zoning of the site, some change in the landscape must be expected, however these effects will be mitigated by the progressive rehabilitation of the quarry pits as part of each stage of the works such that any adverse effects are anticipated to be no more than minor;
- Dust – can be managed through a Quarry Management Plan such that any adverse effects will be less than minor;
- Noise – can be managed to comply with the Auckland Unitary Plan ('AUP') limits such that any adverse effects will be less than minor;
- Archaeology – there is an archaeological site, which the pit and overburden areas can be designed to avoid such that there are no adverse archaeological effects;
- Transport – the upgrades already consented for Stage 1 can accommodate Stage 2, and internal accessways can be appropriately designed for intended use such that any adverse effects will be no more than minor;
- Cultural values – consultation was undertaken with iwi as part of Stage 1, and will be continued for Stage 2. It is anticipated that any issues will be able to be resolved;
- Greenhouse gas emissions – as noted above, significant benefits are identified and it is anticipated that any adverse effects will be no more than minor;
- Ecology – the effects management hierarchy will be applied in relation to adverse effects associated with the removal of the regenerating native vegetation and streams, and it is anticipated that with the proposed mitigation and offsetting, the applicant intends to achieve a no net loss outcome such that overall, any adverse effects will be no more than minor.

Having regard to the above, it is anticipated that any adverse effects will be no more than minor.

#### Objectives and Policies (section 104D(1)(b))

The objectives and policies in the following AUP chapters are considered to be relevant to the proposal:

- H28 Special Purpose – Quarry Zone;
- H19 Rural – Rural Production Zone;



- D9 Significant Ecological Area Overlay;
- E2 Water Quantity, Allocation and Use;
- E3 Lakes, Rivers, Streams and Wetlands;
- E11 and E12 Land Disturbance;
- E14 Air Quality;
- E15 Vegetation Management and Biodiversity;
- E27 Transportation; and
- E28 Mineral Extraction from Land.

All of the applicable objectives and policies in the above chapters are set out in **Attachment 2** with supporting assessment. The ones we consider to be particularly relevant are summarised below, in the following order:

- H28 Special Purpose – Quarry Zone;
- E28 Mineral Extraction from Land;
- D9 Significant Ecological Area Overlay; and
- E3 Lakes, Rivers, Streams and Wetlands.

#### *H28 Special Purpose – Quarry Zone*

The zone objective and policies seek for mineral extraction activities to be carried out efficiently, while significant adverse effects are avoided, remedied, or mitigated. The zone also specifically provides for compatible land uses within or adjoining the zone, including mineral recycling activities and the manufacture of raw products using raw materials from mineral extraction activities.

The proposal is for mineral extraction activities and the effects management hierarchy will be applied to ensure that significant adverse effects are avoided, remedied and mitigated, and any residual effects are offset. Given that the SEA overlay applies to the majority of the site (as discussed in more detail below), it is not possible to avoid adverse effects entirely, however the more valuable areas of vegetation have been avoided. The adverse effects that are not able to be avoided will be mitigated and offset through the covenanting and weed and pest management of the remaining bush on the site. To address any remaining adverse effects, the applicant will explore either revegetation or other enhancement options that can ensure a ‘no net loss’ outcome is achieved. While the objectives for this zone do not specifically contemplate offsetting, offsetting is specifically addressed through the objectives and policies for the SEA overlay, waterbodies, and vegetation management and these should be considered in the round.

The quarry operations will be managed carefully to ensure that adverse effects associated with the proposal is largely internalised within the site and the implementation of the Quarry Management Plan will ensure that good site practices are implemented to avoid where practicable or otherwise remedy and mitigate potential adverse effects on the environment.

Overall, the proposal is considered to be consistent with the objectives and policies of the zone.

#### *E28 Mineral Extraction from Land*

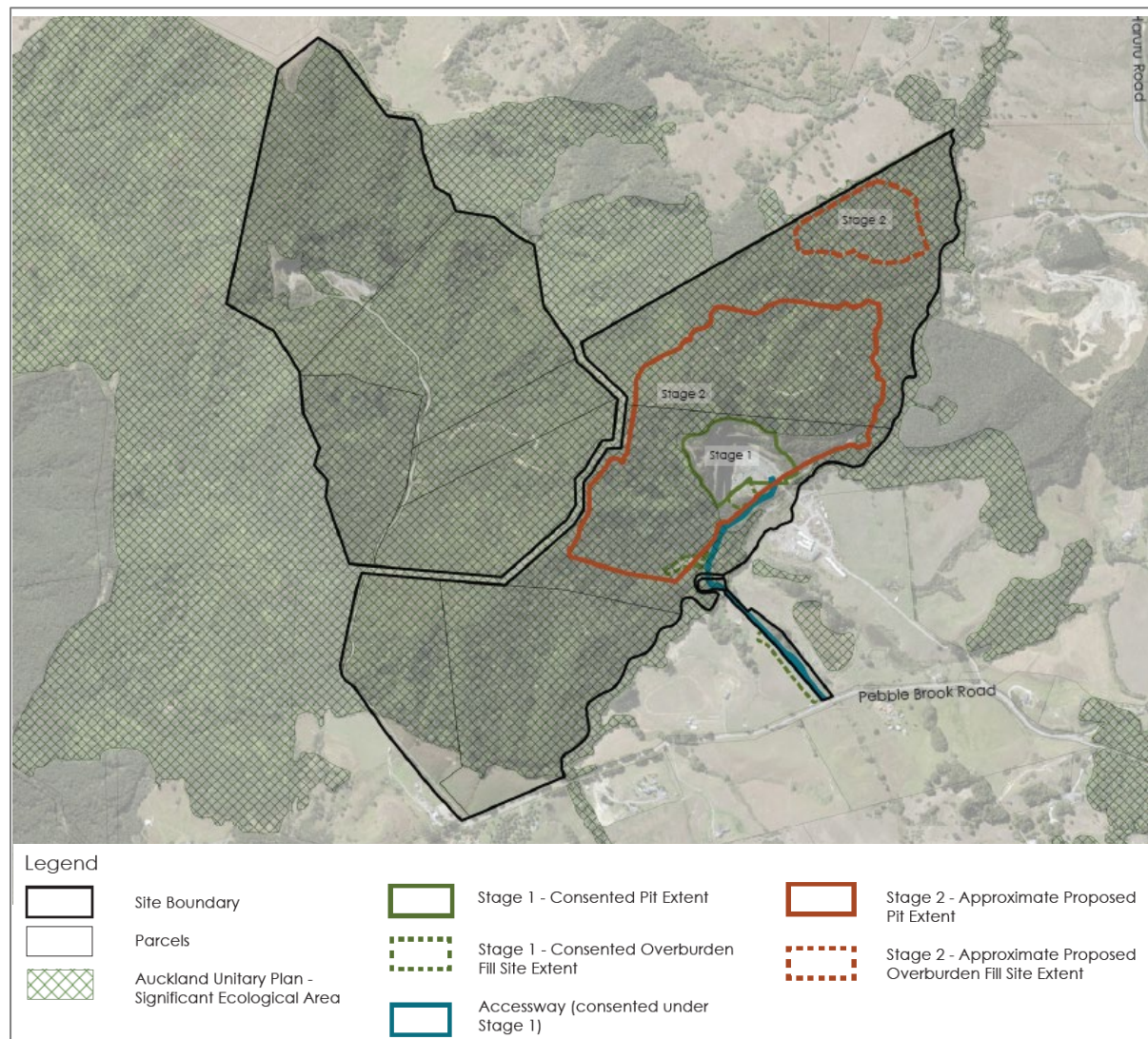
The objectives and policies for mineral extraction from land seek for mineral extraction and its delivery to be efficient and meet the needs of Auckland while avoiding, remedying and mitigating adverse effects. They set out that, where practicable, new mineral extraction activities should be avoided where there are natural



and physical resources that have been scheduled in the AUP, but that where that is not practicable, consideration should be given to:

- (a) the benefits likely to be derived from the mineral extraction activities;
- (b) any reduced transport effects from having a mineral extraction site closer to the area of demand;
- (c) the extent to which significant adverse effects can be avoided;
- (d) and the extent to which adverse effects can be remedied, mitigated or, where not mitigated, can be offset.

In this case, the subject site is subject to a scheduled natural resource (being the SEA overlay) and it is not practicable to entirely avoid adverse effects on the SEA because it covers almost all of the quarry site as shown in **Figure 1** below. Quarrying activities have been carried out on the site since the 1930s such that this is not considered to be 'new' mineral extraction activities and the site has been used for quarrying since before the regenerating bush developed on the land and was scheduled as SEA.



**Figure 1: Extent of SEA overlay across the site.**



Given that it is not practicable to avoid the SEA on the site, consideration is given to the matters listed in (a)-(d) as follows:

- As set out in the referral application, the proposal is considered to have a number of benefits as well as reduced transport effects, as follows:
  - Based on current production figures, it is clear that the Auckland region does not have enough aggregate production capacity to support itself currently, with supply currently only meeting 56% of demand. As Auckland's economy grows, demand for aggregate material will increase into the future from 13.1m tonnes currently, to between 17.6m and 19.5m tonnes annually by 2043. Auckland's supply deficit will continue to worsen if the region's total production remains at the 2019 level (7.39m tonnes). The widening gap between supply and demand is a significant issue for the Auckland region;
  - Reducing Auckland's substantial supply deficit by increasing the amount of local aggregate available. As such, Auckland would become less reliant on sourcing aggregate from the Waikato and other parts of New Zealand, at a lower cost. This would also help to reduce pressure on Waikato's quarries as they will also face future increases in demand locally;
  - In pure cost terms, the extension of Kings Quarry is expected to generate:
    - Total value added to the economy of approximately \$285.7m (undiscounted), with approximately \$137.7m of this being direct impacts;
    - Total construction aggregate transport cost savings of approximately \$406.9m for Auckland's construction sector; and
    - Total emissions cost savings of approximately \$22m.
  - In addition to the above economic benefits, the quarry is also projected to have a significant impact on employment. The lifecycle employment impact is projected to sustain around 1,290 Full Time Equivalents ('FTEs');
  - A reduction of 12,105 tonnes of CO<sub>2</sub> equivalent greenhouse gas emissions could be achieved annually through transport-related savings. To provide context, this equates to ~0.35% of New Zealand's total heavy vehicle CO<sub>2</sub> equivalent GHG emissions, using Ministry of Transport data from 2019 as a base year. For a single project, this is a significant benefit;
- It is considered that significant adverse effects can be avoided as described in the above section '*Adverse Effects of the Activity (section 104D(1)(a))*'.

Having regard to the above, it is considered that the proposal is consistent with the objectives and policies for mineral extraction.

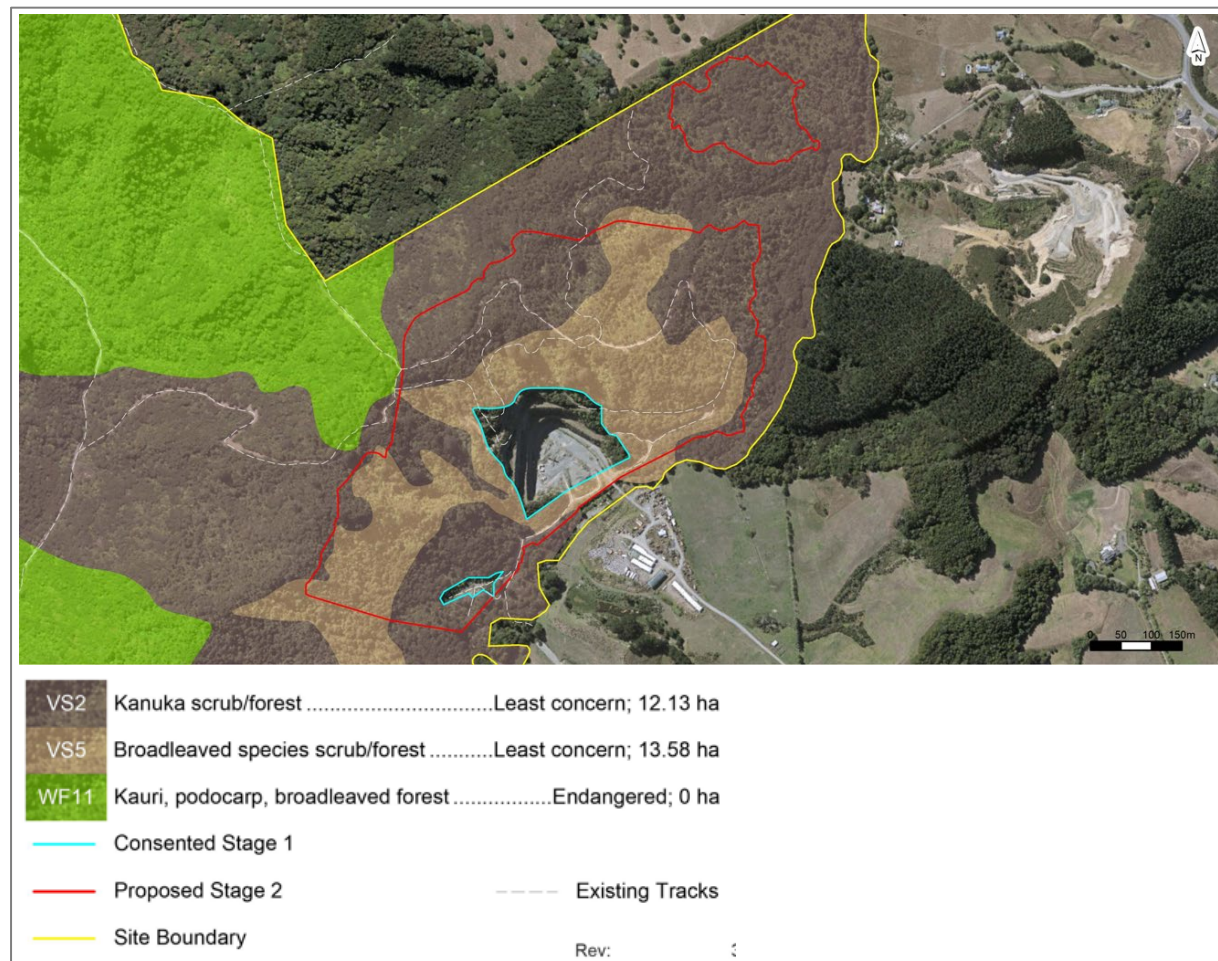
#### *D9 Significant Ecological Area Overlay*

The SEA overlay objectives and policies seek to protect and enhance areas of significant indigenous biodiversity value by avoiding adverse effects as far as practicable, and where avoidance is not practicable, and minimising, remedying, mitigating and offsetting those adverse effects (in that hierarchy).



In this case, as noted above, it is not practicable to entirely avoid adverse effects on the identified indigenous biodiversity values of the SEA because it covers the majority of the quarry site as shown in **Figure 1** above.

However, the adverse effects have been minimised by avoiding the highest value mature forest on the site entirely, instead removing vegetation that is classified as ‘least concern’ as shown in **Figure 2** below. None of the vegetation classified as ‘endangered’ is proposed to be removed.

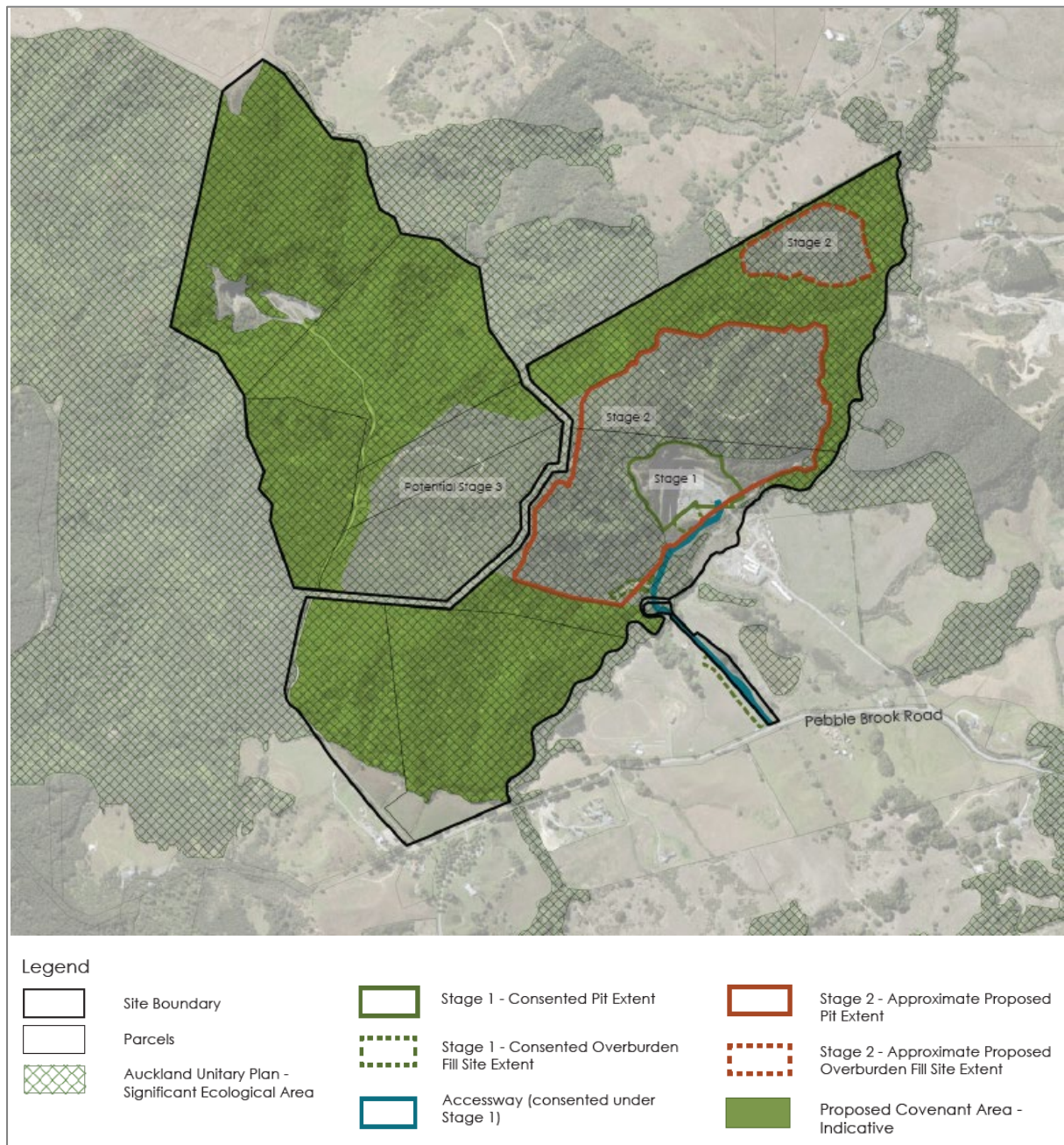


**Figure 2: Vegetation types proposed to be removed.**

The effects management hierarchy will be applied to the effects arising from the vegetation and stream removal, and the applicant intends to achieve a ‘no net loss’ outcome. It is proposed to covenant approximately 90ha of the vegetation on the remainder of site as shown in **Figure 3** and undertake weed and pest management of these areas.

This enhancement will mitigate and offset effects of the vegetation removal associated with Stage 2. To address any remaining adverse effects, the applicant will explore either revegetation or other enhancement options that can ensure a ‘no net loss’ outcome is achieved. It is considered to be important and appropriate for the specific details of the offsets to be able to be detailed through the consenting process. This will ensure that there is sufficient flexibility to enable appropriate offsetting to deliver no net loss, following more detailed survey work.





**Figure 3: Proposed covenant shown in green.**

Overall, adverse effects will be addressed through the effects management hierarchy and mitigated and offset to achieve a 'no net loss' outcome. As such, it is considered that the proposal will not be contrary to the objectives and policies of the SEA overlay.

### E3 Lakes, Rivers, Streams and Wetlands

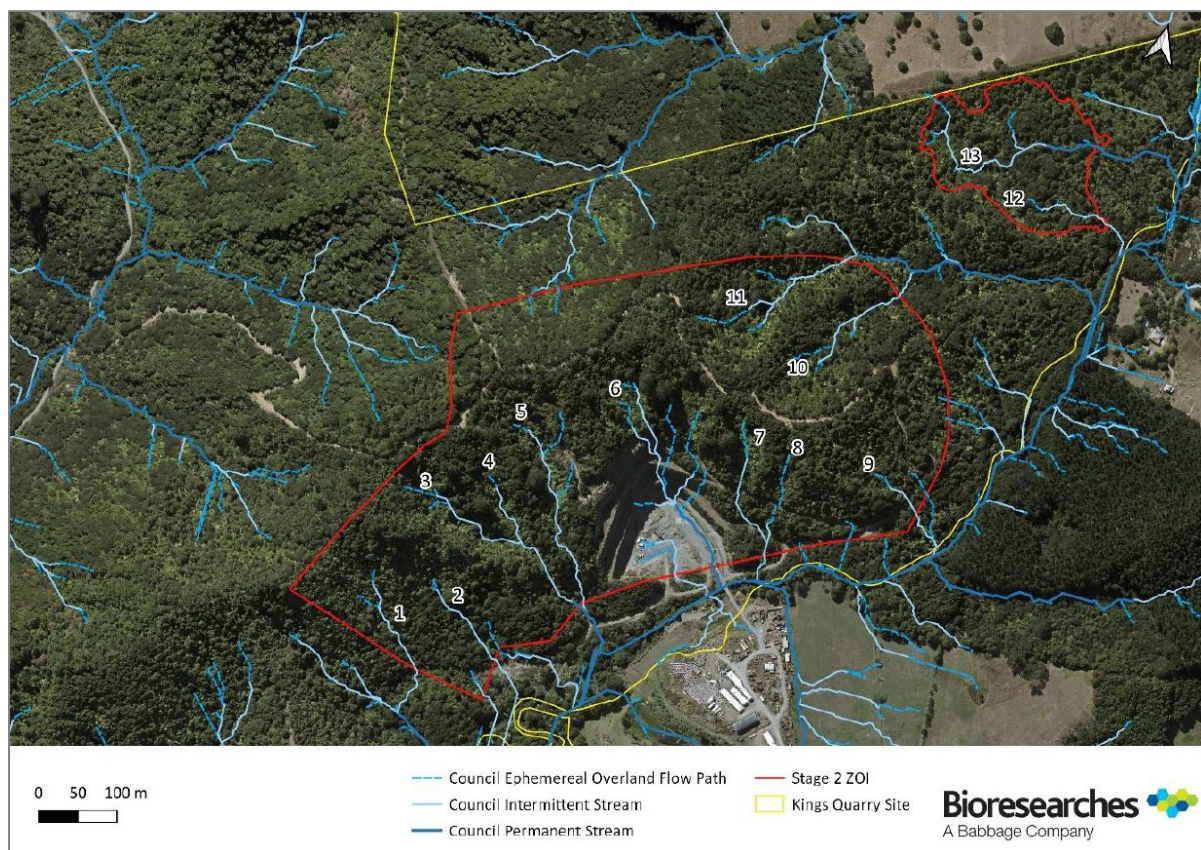
The objectives and policies for lakes, rivers, streams and wetlands seek for these waterbodies with high natural values to be protected, restored, maintained or enhanced, and for significant residual adverse effects that cannot be avoided, remedied or mitigated, to be offset where this will promote the purpose of



the RMA. The provisions also seek for reclamation to be avoided unless there is no practicable alternative. As it relates to the SEA, the provisions seek to avoid significant adverse effects and avoid where practicable or otherwise remedy or mitigate adverse effects on waterbodies within the SEA overlay.

Stream removals will be required within the quarry pit and overburden areas. Work has been undertaken over the past two months to survey these streams but has been hampered by the recent flooding and cyclone events. As soon as the waterbodies have recovered to more typical levels, the assessment will be able to be refined. At this stage, it is indicated that 13 streams are present within the pit and overburden area, predominantly 'intermittent' in nature and that they are at minimum, of moderate ecological value. No natural wetlands are expected to be present.

As shown in the image from the freshwater memo, **Figure 4** below, there will be streams throughout the site, and therefore it is not considered practicable to entirely avoid stream removals and still undertake mineral extraction activities, as intended by the zoning, on the land. There is therefore not considered to be a practicable alternative to reclamation. Significant adverse effects will be avoided as the applicant intends to achieve a 'no net loss' outcome through enhancement of other waterbodies and other measures. It is considered to be important and appropriate for the specific details of the offsets to be able to be detailed through the consenting process. This will ensure that there is sufficient flexibility to enable appropriate offsetting to deliver no net loss, following more detailed survey work.



**Figure 4: Predicted waterbodies present within the proposed expansion and overburden disposals. Source: Bioresearches.**



Overall, it is considered that the proposal will not be contrary to the objectives and policies for lakes, rivers, streams and wetlands.

#### *Summary*

Overall, when considering the policy framework in the round it is considered that the proposal is not contrary to the objectives and policies of the AUP.

#### *Conclusion*

In summary, it is considered that the proposal will be able to meet both gateway tests under the RMA with effects being no more than minor, and the proposal not be contrary to the applicable objectives and policies of the AUP.

We trust that the above addresses your queries, however please do not hesitate to contact me should you require any further information.

Yours sincerely | Nāku noa, nā

**Barker & Associates Limited**



**Sarah Rendle**

Associate

s 9(2)(a)



**Nick Roberts**

Managing Director

s 9(2)(a)

#### **Attachments:**

Attachment 1: Freshwater Ecology Memorandum

Attachment 2: AUP Objectives and Policies Assessment