



**PLANNING REPORT PURSUANT TO SECTION 42A OF THE
 RESOURCE MANAGEMENT ACT 1991**

FROM: SENIOR RESOURCE CONSENTS PLANNER
 LOUISE WOOD

TO: COMMISSIONER BILL WASLEY

SUBJECT: APPLICATION FOR A VARIATION OF CONSENT NOTICE AND LAND USE
 CONSENT

APPLICANT: BRUCE BARTLEY FAMILY TRUST

LOCATION: 36, 30 & 32 LOCHEAGLES RISE, KINLOCH

REFERENCES: 230066 [LAND USE] & 230067 [VARIATION OF CONSENT NOTICE]

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1 EXECUTIVE SUMMARY

- 1.1 Bruce Bartley Family Trust (the applicants) have lodged an application for a variation of consent notice in order to construct a large new dwelling exceeding the consent notice requirements of:
- maximum building coverage of 5%;
 - maximum building height of 7.5m and Reduced Level of Upper Limit of Building Envelope of 528.5m;
 - maximum earthworks site disturbance of 10%; and
 - a minimum building setback encroachment of a gatehouse structure
- The proposed buildings and bulk of the earthworks will occur on 36 Locheagles Rise, and mitigation planting is also proposed on the upper southeast embankments of 30 and 32 Locheagles Rise.
- 1.2 Extensive earthworks will be required for the development of the proposed large dwelling that will exceed the District Plan maximum earthworks cut and fill levels within and outside the setbacks on 36 Locheagles Rise and also within the southeast portion of No 32 Locheagles Rise. As such land use consent under the Taupō District Plan is also required.
- 1.3 The activity status of the variation of consent notice is discretionary under section 221(3) of the Resource Management Act 1991 (RMA); and the application for land use consent is discretionary under Rule 4a.2.9 of the Taupō District Plan.
- 1.4 Therefore the application is before the Commissioner for consideration and decision under sections 104 and 104B of the RMA to either grant or decline the application. If the Commissioner grants the application, he may impose conditions under section 108.
- 1.5 Actual and potential effects arising from the proposed development relate to:
- impacts of the large dwelling development on the character and amenity of the surrounding area;
 - landscape / visual impacts of the proposed dwelling;
 - outlook and privacy effects; and
 - earthworks effects.
- It is considered that the adverse effects of the proposed development can be mitigated to an acceptable level.
- 1.6 The proposal was publicly notified and a total of eight submissions were received. Two were in opposition, five in support and one is neutral / support.
- 1.7 It is recommended that the proposed variation of consent notice and land use consent application be granted, subject to conditions.

2 INTRODUCTION

- 2.1 My name is Louise Wood. I am employed as a Senior Resource Consents Planner by the Taupō District Council. I have a BSocSci (Resources and Environmental Planning Programme) from Waikato University. I have 25 years experience in the resource management field, mostly within New Zealand and also in London, UK. For 15 of those years I have worked for the Taupō District Council, where I process both subdivision and land use consents. I have assessed many consent applications around Kinloch and Taupō, and am very familiar with the planning environment of the area.

- 2.2 This report will provide the details of the proposal, a summary of the issues raised by submitters, an assessment of the relevant District and Regional Plans, an assessment of the environmental effects of the proposal, and an assessment of the proposal against the relevant statutory considerations.
- 2.3 I can confirm that I have read and that I understand the Code of Practice for Expert Witnesses contained within the Environment Court Practice Note and that I agree to comply with it. I can confirm that I have considered the material facts that I am aware of that might alter or detract from the opinions expressed here. I also confirm that the opinions that I have expressed in my evidence are mine, unless I have specifically stated that I have relied on others in forming my opinions. Taupō District Council's Development Engineer Nick Beacock has also assessed the proposal and his engineering recommendations are included in the assessment. A peer review of the applicant's Landscape Character Assessment was also undertaken by Boffa Miskell and those findings are also relied upon in this assessment.

3 CONSENT HISTORY / BACKGROUND

Land Use Consent RM030286

- 3.1 Land Use consent RM030286 was granted in January 2004 for the Locheagles residential development consisting of 184 dwellings, a commercial centre, reserves, walkways and associated infrastructure of roading, wastewater, a water reservoir and landscaping for the entire development. The Locheagles development has been completed to date in accordance with the original Land Use Consent RM030286.
- 3.2 The Development Plan shown at [Figure 1](#) was conceptual, with the identified building locations being indicative only. Earthworks for the development were also considered under the Land Use consent and there are conditions relating to control of sediment and construction management, which require a management plan to be submitted addressing earthworks for each Stage of development. Resource consent 109324 was obtained from Waikato Regional Council to undertake soil disturbance, roading, vegetation clearance and cut and fill activities in a high risk erosion area.
- 3.3 The Locheagles development is designed to progress in a staged manner over time, over five stages. This is demonstrated in the consented 'Indicative Staging Plan' at [Figure 2](#) below. Stage 1 was for 71 dwelling sites and a commercial node, Stage 2 was for 55 dwelling sites, Stage 3 was for 35 dwelling sites, and Stage 4 was to have 24 dwelling sites, along with associated roads, Rights of Way and reserves. Subdivision consents were to be obtained for each stage.

Bulk and Location Controls

- 3.4 For the established Lower LochEagles developments of Stages 1A and 1B, the consent notice imposed on these titles imposes the provisions of the District Plan that was operative at the time of the consent notice being imposed – which was 2004 and the Proposed District Plan was in place, applying the Residential Environment provisions (largely unchanged from the current provisions) but with specific lower height limits of 6m and 5.5m. The same is applied to Stages 2A and 2B, but with the height limit of 5.5m.
- 3.5 Condition 16 of the land use consent states that future development of all allotments will be '*subject to the building performance standards of the relevant District Plans in force within the District, unless otherwise amended by the design controls listed in Table 1 of the evidence provided at the hearing..*'. Table 1 is included below and it is noted that for Stage 3 the

maximum height limit is 5.5m (Mid and Upper LochEagles), although there is no specification for building coverage or setbacks.

Table 1

Issue	Neighbourhood	Extent of Control	Applicable
Building location	Lots 54-60 Lower LochEagles, Mid and Upper LochEagles	Range of location controls 15 x 25 metres 20 x 30 metres 25 x 40 metres	Lots 54-60 (Lower LochEagles) subject to 15 x 25 metre control. Balance stages subject to one of 3 controls listed, dependent on final allotment dimensions
Building height	Stage 1A and 1B Lots 3,4,7,8,11,12,15,16,19 and 65-71 Lots 61-64 (Kenrigg Urban), Lots 1,2,5,6,9,10,13,14,17,18,21 and balance of Stage 1 Mid and Upper LochEagles	Existing Plan standards Max height 6 metres Max height 5.5 metres Max height 5.5 metres	All allotments as listed
Fencing	Lots 4,7,8,11,12,15 Kenrigg Urban, Lots 54-60 (Lower LochEagles) and Mid and Upper LochEagles	Open post and rail on boundary fencing, max 900 mm high	Fencing covenant on all allotments in LochEagles. Fencing control on Lots 4,7,8,11,12,15 applicable to rear boundary only. Does not apply to Lot 72 (commercial/community land)
Accessory Buildings	Lots 54 – 60 (Lower LochEagles), Mid and Upper LochEagles	No accessory buildings positioned outside defined building platform	All allotments as listed
Colours/ Materials	Lots 54-60 Lower LochEagles, Mid and Upper LochEagles	Colour reflectivity palette (25% roof, 35% wall) Materials control	All allotments as listed
Vegetation Removal	All residential and balance allotments where amenity planting undertaken	Maintenance and retention. No subsequent earthworks within planted areas.	All allotments where vegetation planted as required part of approved landscape plan for staged subdivision approvals.
Subdivision and building restriction	Kenrigg Urban, Lower, Mid and Upper LochEagles	No further subdivision and one habitable dwelling/building per title	Not applicable to Lot 72

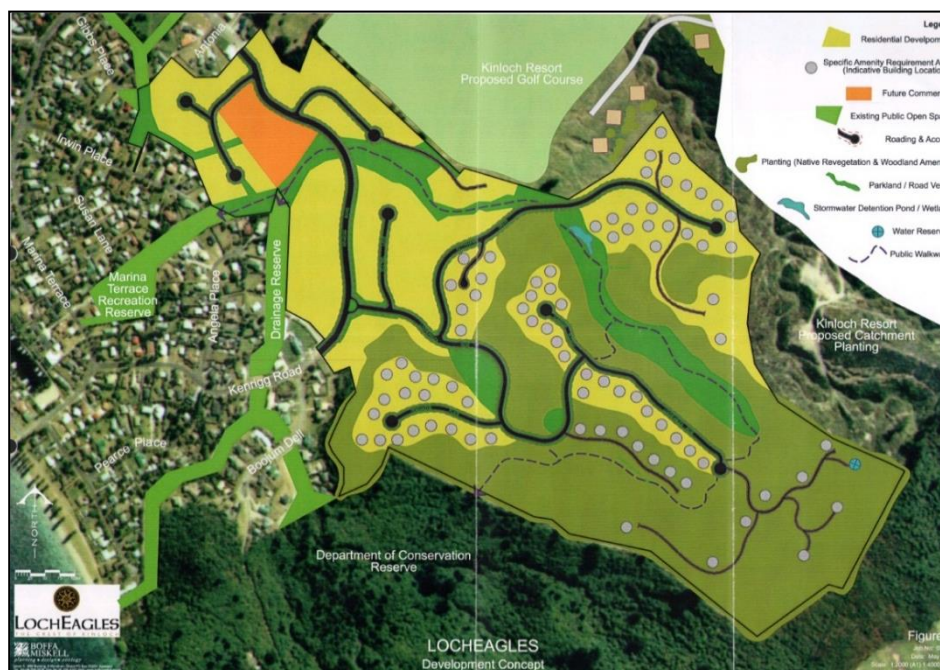


Figure 1: Development Concept Plan

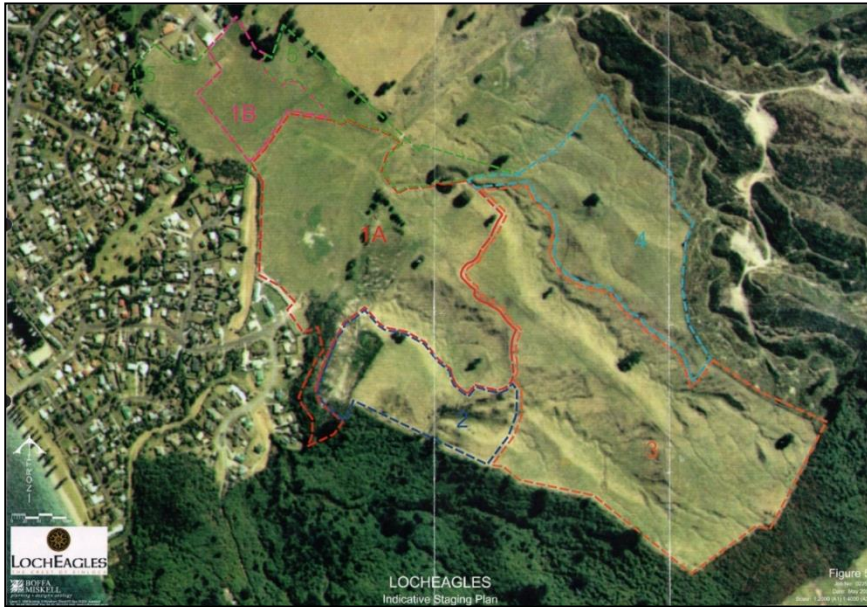
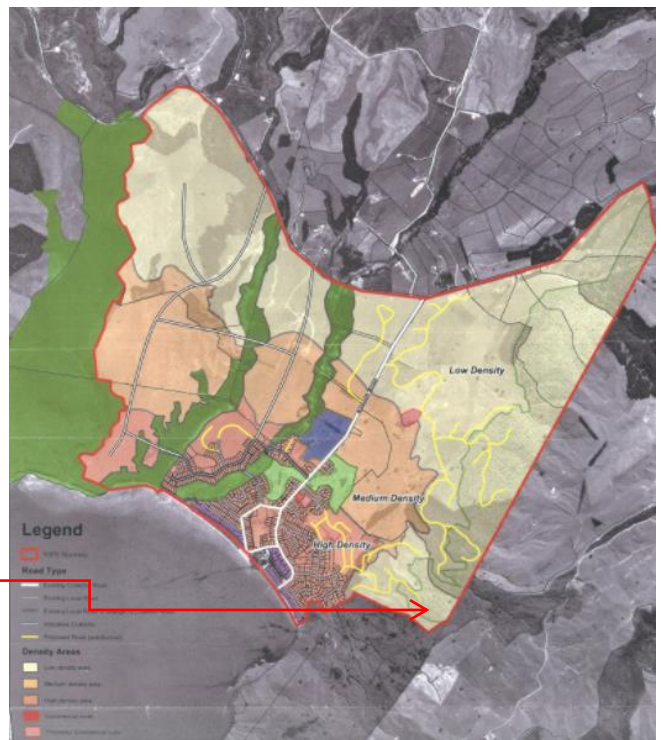


Figure 2: Indicative Staging Plan

Kinloch Community Structure Plan

3.6 The Kinloch Community Structure Plan (KCSP) was issued in September 2004 and was developed through community consultation with the purpose of providing guidance and direction to developers and the community regarding new subdivision development within the Kinloch area and to enable sustainable management of future growth. The KCSP recommends a radial density pattern of higher density to the south, medium density through the central band and low density to the north and east (as shown on the Density Plan at Figure 3 below). The KCSP identified the LochEagles site as being high density on the lower, western area, medium density on the central area and low density on the upper, eastern area.

3.7 For new subdivision and development, minimum and average lot sizes are required which vary depending on which density area the development is within. These particular provisions derived from the KCSP were adopted into the District Plan which became operative in 2007. It is noted that this was some years after the Locheagles consents were authorised, being January 2004.



Application Site



Figure 3: Kinloch Structure Plan Density Map

- 3.8 The KCSP provides direction for where more intensive densities of built development are proposed and requires that these are clustered and integrated into the landscape with a strong framework of tree and shrub planting.
- 3.9 The KCSP also provides strong direction towards the landscape context of Kinloch referring specifically to the headlands at either end of Kinloch bay, the lower hill slopes of the Kinloch valley, the skyline, the Whangamata, Okaia and Otaketake Stream scenic reserves and the Lake Taupō water front. These areas are to be protected from the effects of development.

Subdivision Consents RM030287 & RM040665

- 3.10 Concurrent to the Land Use consent, Subdivision consent RM030287 was granted for Stages 1A and 1B of the development consisting of 71 residential lots. These Stages are complete and consist of 71 residential lots around an extension to Kenrigg Road, Kestrel Lane and Kittyhawk Drive.
- 3.11 Stages 2A and 2B were granted subdivision consent RM040665 on 8 July 2005 for 55 residential lots around Peregrine Place and are also completed.

Subdivision Consent RM130119

- 3.12 Subdivision consent RM130119 was granted August 2013 for a 19 lot subdivision as Stage 3 of the Locheagles development. A variation to RM030286 variation 'B' was also granted to change the Staging within Stage 3 slightly, to increase the number of lots within Stage 3 and to alter the bulk and location requirements on some of the lots. The approved scheme plan is shown at Figure 4 below with the application site highlighted.
- 3.13 The subdivision consent also authorised buildings on the larger Lots 1 to 8 (at the eastern portion of Stage 3) to have a maximum height of 7.5m as opposed to 5.5m, and Lots 30 to 37 to have a maximum height of 6.5m. This is 2m and 1m greater height than consented under the original Locheagles land use consent RM030286. The remaining lots were left unchanged from

the consented 5.5m height limit. Building coverage exceeding the maximum 2.5% within the Kinloch Rural Residential Environment was authorised for up to 5% on Lots 1 to 8, and up to 30% on Lots 9 to 37.



Figure 4: Approved Scheme Plan Stage 3

3.14 As part of this subdivision, each lot was earthworked to create a building platform. For Lots 1 to 8 (including the application site Lot 1) this involved the creation of building pads of approximately 900m² in area representing approximately 15% of each lot with its location chosen to match the existing natural contours of each lot i.e. the natural terraces that existed. The final Reduced Level of the Lot 1 building platform (the application site) following the earthworks is RL 518m.

3.15 A consent notice with the following conditions was imposed on the larger Stage 3A lots as follows:

- One dwelling only .
- Building Envelope – reduced level of upper limit of building envelope 528.5m, maximum building height 7.5m.
- A set building platform.
- Reflectivity limits for colours and materials of cladding and roof.
- No further subdivision.
- Foundation requirements.
- Maximum building coverage of 5%.
- Maximum earthworks disturbance at any one time of 10%.
- Limits to water supply pressure.

3.16 A copy of the consent notice is at Appendix A. It is noted that the maximum RL of 528.5m a horizontal reduce upper level limit, and the height limit is 7.5m which is a ‘rolling’ height level that follows the contours of the existing ground levels. Most of these lots within Stage 3 have been developed with dwellings apart from two allotments within the upper Stage 3A subdivision.

Subdivision Consent RM170127

3.17 Stage 4 was granted subdivision consent RM170127 July 2017 for 64 residential lots around upper Kittyhawk Drive and Blackhawk Close. A variation to RM030286 variation 'C' was also granted to increase the number of lots within Stage 4 and to alter the bulk and location requirements. This subdivision is completed and most allotments now have dwellings.

4 DESCRIPTION OF THE SITE AND GENERAL LOCALITY

Subject Sites

4.1 The subject sites are located at 30, 32 and 36 Locheagles Rise, Kinloch. The legal descriptions of each site are as follows:

- 36 Locheagles Rise – Lot 1 DP 474891
- 30 Locheagles Rise – Lot 4 DP 474891
- 32 Locheagles Rise – Lot 3 DP 474891

4.2 The main proposed development of the dwelling and associated earthworks is to occur on No 36 Locheagles Rise (outlined in blue at Figure 5), however some earthworks and mitigation planting of the embankment to the southeast of Nos 30 and 32 Locheagles Rise (shown by the orange area at Figure 5) are also to be carried out. Hence those sites are also part of the proposal site.

4.3 The main application site of No 36 Locheagles Rise is 1.14ha in area and is located on the eastern slopes of Kinloch overlooking the settlement and Lake Taupō to the west. The site is located at the eastern most elevated part of the Locheagles subdivision and is accessed off a Right of Way from the end of Locheagles Rise public road.

4.4 The topography of the site slopes from the southeast down to the northwest, however a building platform forms a level large area at the central portion of the site that was constructed as part of the Stage 3A subdivision development. The site is currently vacant apart from two shipping containers near the east boundary. The site has services (water, power, wastewater).



Figure 5: Aerial of Application Sites

4.5 The site was formed through subdivision consent RM130119 as part of Stage 3A of the three stage subdivision. A building envelope on the site was established as part of the subdivision implementation shown as 'BA' on the Title Plan shown at [Figure 6](#) below. The envelope is set back approximately 5m from the northwest boundary, 10m from the southwest and southeast boundaries and 10-15m from the northeast boundary.

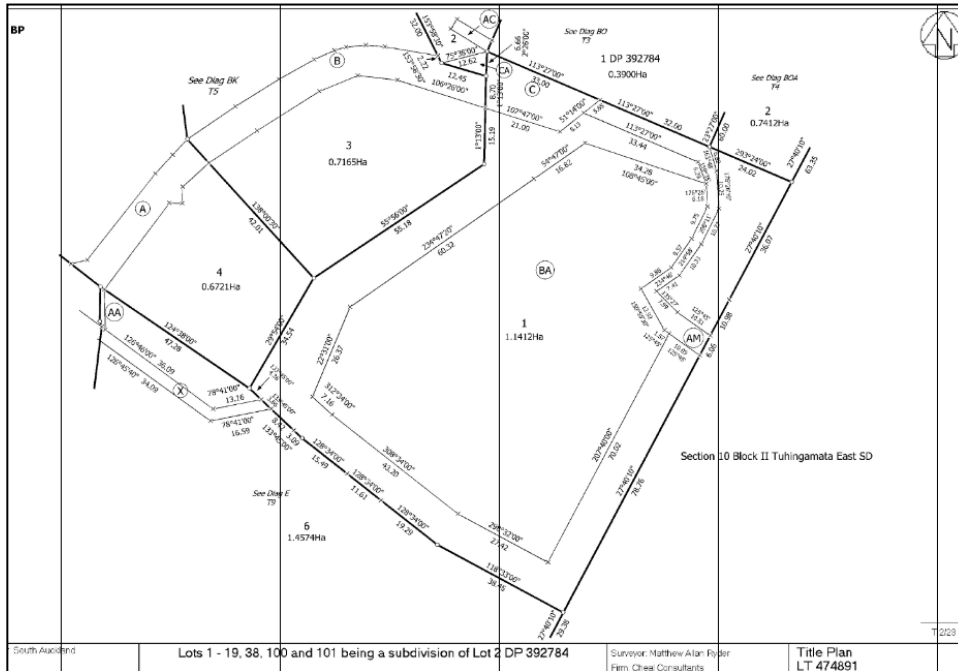


Figure 6: Title Plan DP 474891

4.6 Within the Locheagles subdivision are large tracts of Council recreation reserve extending down to the northwest and west and these reserve areas are generally following the steeper areas of the subdivision. These reserves have been extensively planted in natives which are now fully mature and provide considerable amenity for this area of Kinloch.

4.7 The main application site of No 36 Locheagles Rise adjoins five properties. Three of the properties at 30, 32 and 33 Locheagles are large lot residential sites to the west and south and two of the three sites contain dwellings. No 32 Locheagles Rise is still vacant for future development. To the north the site adjoins Lot 1 DP 392784 which is Council’s Locheagles Rise Local Purpose Reserve containing a water reservoir. The site also adjoins the rear portion of No 34 Locheagles Rise to the north. To the east is the large Department of Conservation reserve.

Surrounding Area

4.8 Further to the south is the Whakarua Headland which is mainly in mature native vegetation. To the west is the Kinloch village and southwest is Lake Taupō. An aerial image of the application sites and wider area is shown at [Figure 7](#).

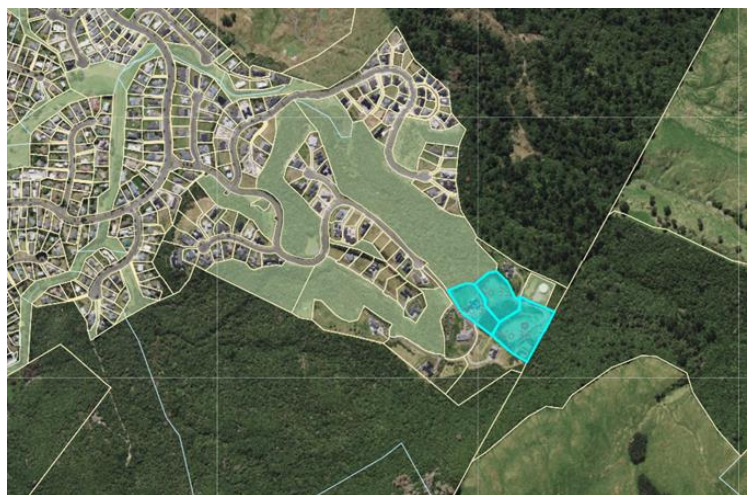


Figure 7: Aerial of Wider Area

5 PROPOSAL DESCRIPTION

5.1 The proposal involves the construction of a large dwelling on the site of No 36 Locheagles Rise. The applicants also have an agreement with the landowners of the properties below at Nos 30 and 32 Locheagles Rise to carry out earthworks and landscaping on the southeast embankment of these sites as part of the proposed development. The proposal is described under the following headings:

Proposed Dwelling

5.2 The proposed dwelling will be a large two storey dwelling split across different levels, benched into the existing site topography. The site plan is shown at [Figure 8](#) with the building footprints shown by the orange and roof areas shown by the green. The proposed dwelling will have total floor area of 1476m² over four different floor levels described below. The overall length of the proposed dwelling will be 85m from north to south. The full set of plans is at Appendix B.

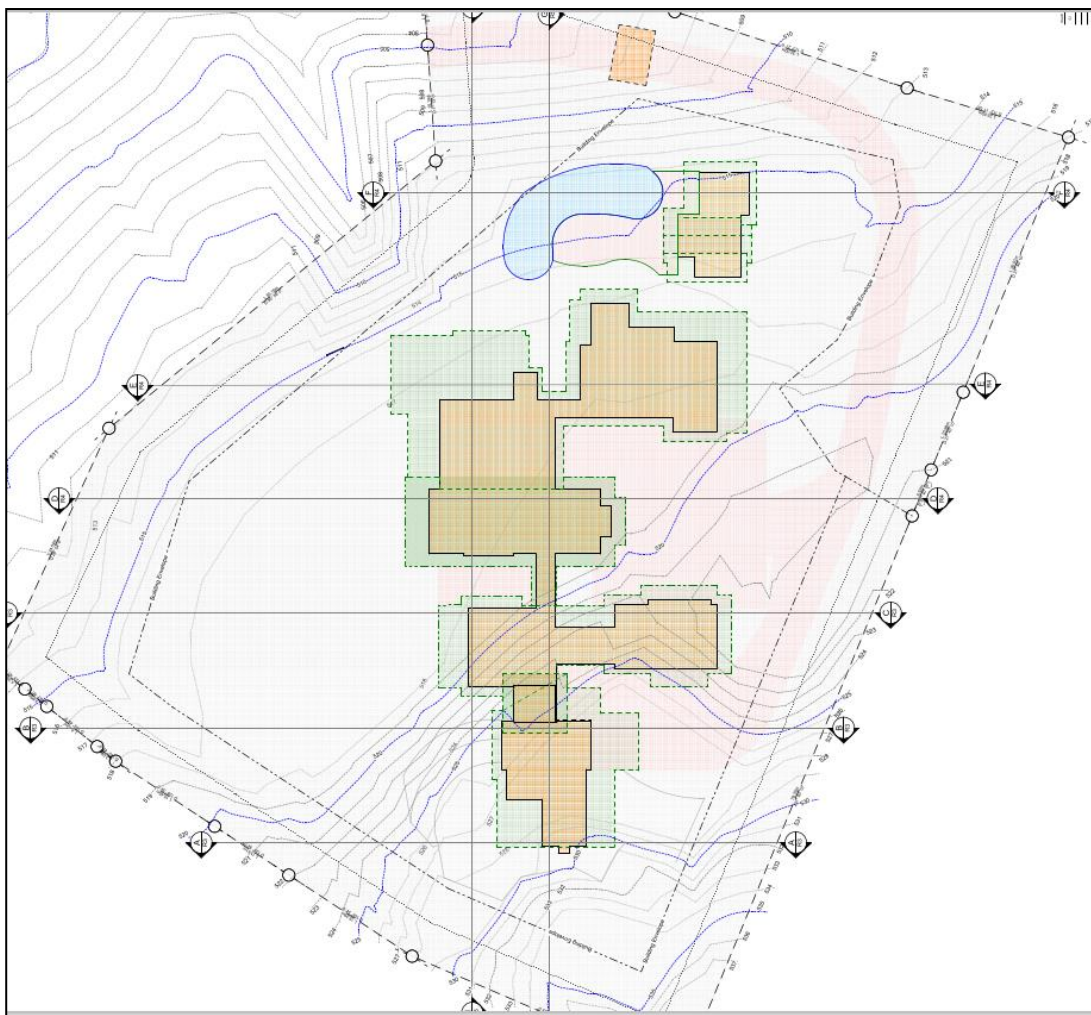


Figure 8: Site Plan

Main Floor

5.3 The main ground floor level will be 867m² and will consist of the main entry / foyer and stairs to second level, kitchen, dining, living, master bedroom and ensuite, two offices (one small office and one larger office including a boardroom), a bedroom, bathroom, chill room, lift / stairwell to up to second level, garage and mud room.

Second Floor

- 5.4 The second level floor will be 411.5m² and will consist of a stair landing from the main level below, hallway, two bedrooms, a bunk room, lounge, four bathrooms, lift / stairwell to down to main level and up to the bothy apartment, garage and mechanical / storage rooms.

Bothy / Apartment Floor

- 5.5 The bothy or apartment level floor will be 177m² and will consist of two bedrooms, two bathrooms and a living, dining, kitchen, and lift / stairwell down to second level and up to the tower.

Tower Floor

- 5.6 The tower level floor is 21m² and is accessed from the stairwell at the bothy level. This floor contains seating.

Layout / Height

- 5.7 The proposed dwelling is set out in a north-south alignment and orientated with the living spaces to the west for the views to the lake and mountains. The northern portion of the dwelling will be constructed on the level area of the site, with the southern portion of the dwelling at a higher level where the topography slopes upwards to the south.

- 5.8 The lower red dashed line at Figure 9 below depicts existing ground level and the upper dashed red line depicts the 7.5m height limit. The horizontal highlighted line depicts the RL 528.5m height limit. The infringements of the height limits are shown by the highlighted areas at [Figure 9](#). The proposed dwelling will be constructed mostly in cut with the highest point being the tower at RL 533.74m or 9.6m height above existing ground level. Both the bothy / apartment level and tower exceed the maximum RL level of 528.5m. The rest of the dwelling complies with the maximum RL but the apex of some of the rooflines and the chimneys exceed the maximum 7.5m height by up to 2.6m.

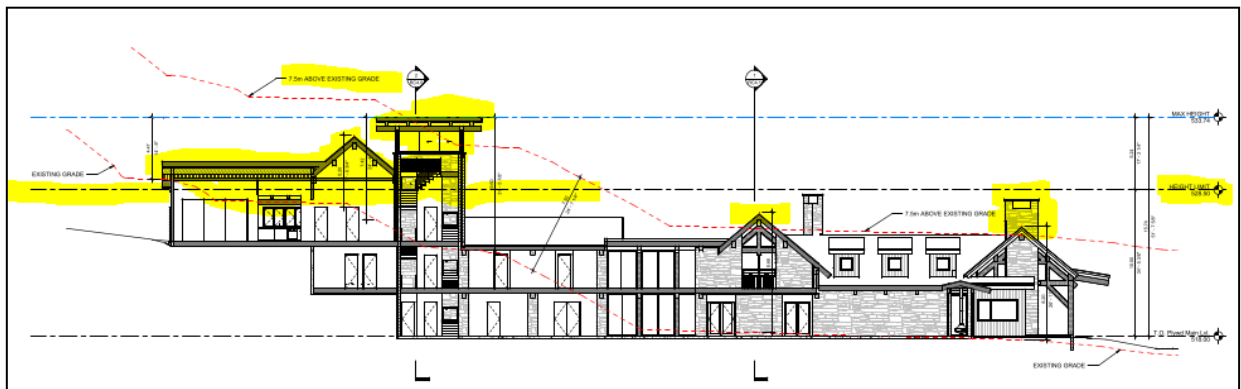


Figure 9: Section through Proposed Dwelling (South to North)

Covered Areas

- 5.9 There are four patios, and an outdoor living space located beneath the eaves of the proposed dwelling building. The proposed dwelling, the covered areas and the two other detached buildings result in building coverage of 2130m². The total covered roof areas of the proposed buildings is shown by the green outlined area on the site plan at [Figure 8](#) above.

Exterior Colours / Materials

- 5.10 The proposed dwelling and two other detached buildings are to be constructed in recessive colours and materials including stone and timber, as shown at [Figure 10](#).



Figure 10: Western Perspective of Proposed Dwelling

Other Buildings

- 5.11 There are also two other detached buildings, being a covered pool area to the north of the proposed dwelling of 73m² and a gatehouse building over the driveway near the vehicle entrance of 50m².

Services

- 5.12 The proposed dwelling will be connected to Council's reticulated water and wastewater networks. Stormwater will be disposed of onsite.

Vehicle Access

- 5.13 A formed driveway will curve along the north and east portion of the site into a large parking courtyard in front of the entrance and garaging at the main floor level. A driveway will also extend from that level to the south and west up to the garage at the bothy / apartment floor level.

Earthworks

- 5.14 Substantial earthworks are required to cut the proposed dwelling into the site topography and to landscape the areas to the west of the dwelling within Nos 30 and 32 Locheagles Rise. Earthworks volumes are approximately 8700m³ of cut and 1100m³ of fill. The maximum depths of cut and fill are expected to be around a maximum of 7m cut and 1.5m fill for the building platform mainly around the southern portion of the proposed dwelling and site, and up to a maximum of 5m fill for the depression within No 32 Locheagles Rise. This requires a land use consent under the District Plan earthworks provisions.

- 5.15 An earthworks cut/fill plan for the application site and the proposed fill plan are shown below at [Figure 11](#). The cut/fill plan colours all represent cut with the greatest cuts being the various purple shades mainly occurring at the southeast portion of the site. The hatched orange area represents the paving or decking area.

- 5.16 The proposed dwelling and earthworks site disturbance do not comply with the conditions of the consent notice and as such a variation is sought for the main application site of No 36 Locheagles Rise.

5.17 An Earthworks Management Plan for these works is contained at Appendix C.

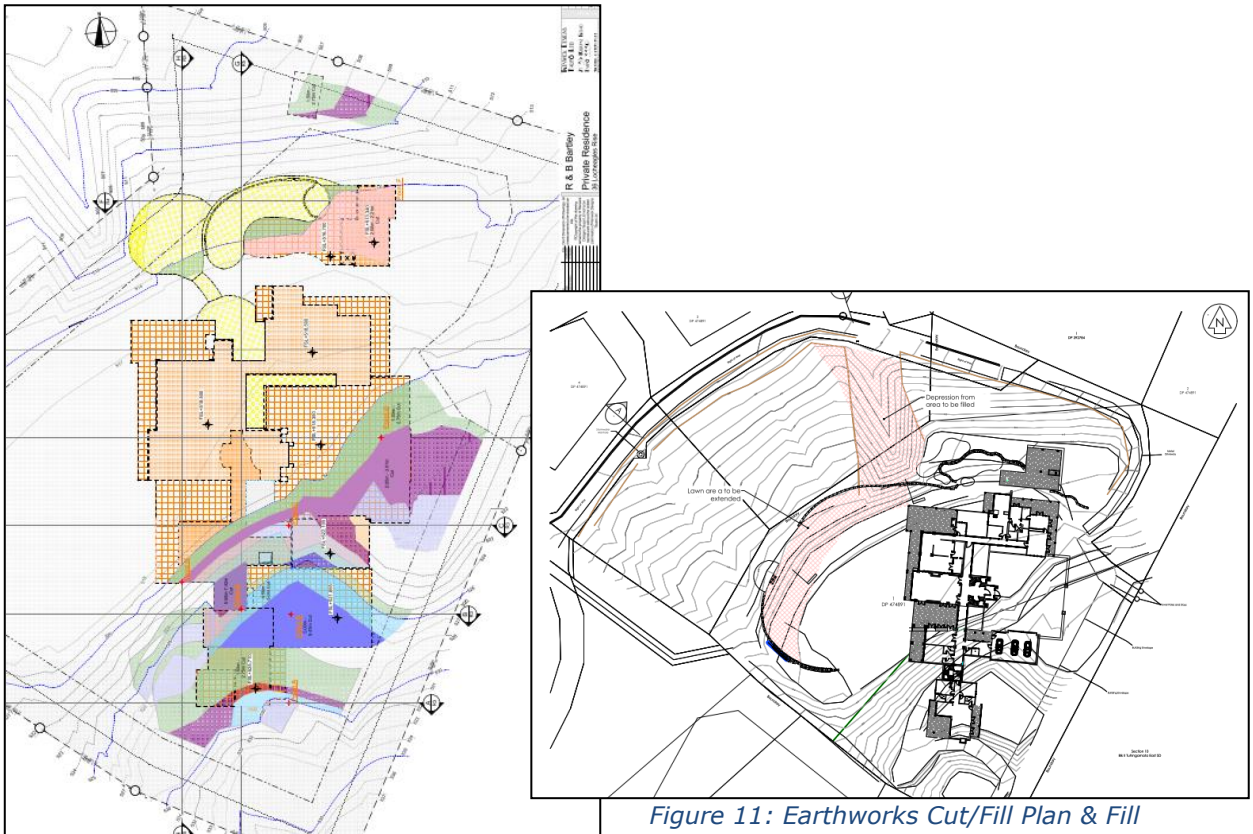


Figure 11: Earthworks Cut/Fill Plan & Fill Plans

Landscape Planting

5.18 The planting plan for this proposal has been recently amended, after the close of submissions, to address the findings of the Boffa Miskell peer review. The latest planting plan is shown at Figure 12 below, and a full copy of this Planting Plan is at Appendix D.



Figure 12: Planting Plan

5.19 The proposed planting is on the eastern embankment of Nos 30 and 32 Locheagles Rise below the proposed dwelling, around the periphery of the proposed dwelling and along the edge of the Scenic Reserve. A number of trees have been incorporated into the design of varying native species that will grow to around 10m – 20m in height. The garden around the dwelling will include a level lawn area to the west of the proposed dwelling, a swimming pool to the north, a network of grassed walkways, garden ponds, and a firepit.

Consent Notice Variation

5.20 The proposed consent notice variations are described in the following tables:

36 LOCHEAGLES RISE – LOT 1 DP 474891				
Consent Notice Condition			Proposed Variation of Conditions	
2. Maximum building height and minimum building setbacks shall be determined from the following schedule. Maximum building height is controlled by the more restrictive ¹ of the 'Reduced Level of the Upper Limit of Building Envelope' or the Maximum Building Height' described in the following schedule:			2. Maximum building height and minimum building setbacks shall be determined from the following schedule. Maximum building height is controlled by the more restricted of the 'Reduced Level of the Upper Limit of Building Envelope' or the Maximum Building Height' described in the following schedule:	
BUILDING HEIGHT RESTRICTIONS				
Purpose	Shown on DP 474891	Servient Tenement	Reduced Level of Upper Limit of Building Envelope	Maximum Building Height
Building Envelope	BA	Lot 1 hereon	528.5m	7.5m
6. Maximum building coverage of the allotment shall be 5%.			6. Maximum building coverage of the allotment shall be 5% <u>with the exception of the dwelling and other buildings authorised by RM230067 with building coverage of 18.6%, exceeding this limit by an additional 13.6%.</u>	
7. Maximum earthworks disturbance of the allotment at any one time while redeveloping shall be 10%.			7. Maximum earthworks disturbance of the allotment at any one time while redeveloping shall be 10% <u>with the exception of the earthworks authorised by RM230067 with earthworks disturbance of up to 60%, exceeding this limit by an additional 50%.</u>	

5.21 A new consent notice condition is also proposed for the three sites in regard to the proposed planting, given that planting is proposed on both the main application site of 36 Locheagles but

¹ The two height limits are actually two different measures – the RL being a horizontal height limit based on that maximum RL; and the 7.5m height limit being a 'rolling' height limit that follows the existing ground contours. As such, both limits apply and no one limit is more restrictive than the other.

also on the southeast embankment of Nos 30 and 32 Locheagles Rise. The new consent notice condition is as follows:

'The established planting required by Variation of Consent Notice RM230067 shall be maintained in a healthy standard in perpetuity so as to achieve and maintain the maturity heights stated within the approved Planting Plan by Hudson Associates held on Council File RM230067.'

6 CONSENT NOTICE REQUIREMENTS

6.1 Section 221(3)(a) of the Act allows a landowner to apply to vary or cancel any condition specified in a consent notice, and states that sections 88 to 121 of the RMA apply as if the application were an application for resource consent as a discretionary activity. While the applicant (Bruce Bartley Family Trust) does not own Nos 30 and 32 Locheagles Rise, there are private lease agreements in place for the areas on those sites to be earthworked and planted as part of the proposal and written approval has been obtained by the owners of these sites. As such, this section 221(3)(a) requirement is deemed to be met.

7 TAUPŌ DISTRICT PLAN REQUIREMENTS

7.1 The site is zoned Kinloch Rural Residential Environment as identified on Planning Map C4 of the District Plan and shown at [Figure 13](#) below. The site has the following overlays:

- Amenity Landscape Area ALA66 – Whakaroa Hills
- Kinloch Landscape Area

7.2 The adjoining Department of Conservation (DOC) land to the east is zoned Rural Environment and has overlays Outstanding Landscape Area OLA65 – Whakaroa, and Significant Natural Area SNA309 – Whakaipo Bay Scenic Reserve. The site also adjoins Local Purpose Reserve – Locheagles Water Reservoir (Designated site D115).

7.3 Locheagles Rise where it provides access to the application site is a private Right of Way.

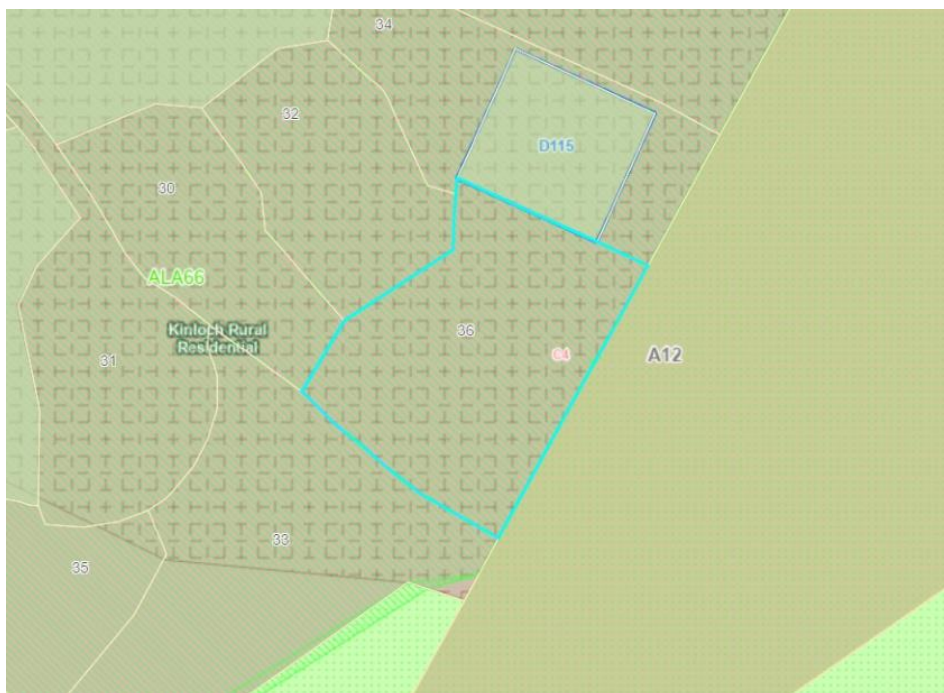


Figure 13: District Plan Map

7.4 The proposal fails the following rules/performance standards in the Taupō District Plan:

RESIDENTIAL ENVIRONMENT (Section 4a)		
Performance Standards & Development Controls (4a.1)		
Performance Standard	Requirement	Proposal
4a.1.13 Maximum Earthworks Outside Building Setback	1.5m vertical ground alteration outside the minimum building setback in a new face or cut and/or fill	<p><i>36 Locheagles Rise</i> The proposed development will involve earthworks cut of up to a maximum of 7m, exceeding the 1.5m ground alteration limit by an additional 5.5m.</p> <p><i>32 Locheagles Rise</i> The proposed development will involve earthworks fill of up to 4.8m depth exceeding the 1.5m ground alteration limit by an additional 3.3m fill.</p>
4a.1.14 Maximum Earthworks Inside Building Setback	0.5m vertical ground alteration within the minimum building setback requirement	<p><i>36 Locheagles Rise</i> The proposed development will involve earthworks cut of up to 4.29m within the southwest boundary setback and earthworks fill of up to 6m depth within the northwest boundary setback area, exceeding the 0.5m ground alteration limit by an additional 3.8m cut and 5.5m fill.</p> <p><i>32 Locheagles Rise</i> The proposed development will involve earthworks fill of up to 6m depth within the southeast boundary setback area, exceeding the 0.5m ground alteration limit by an additional 5.5m fill.</p>
General Rules (4a.2)		
Rule	Requirement	Proposal
4a.2.9	Any activity which does not comply with two or three development control performance standards for permitted activities including (where a standard contains more than one control) two or three parts thereof, or is not a permitted, controlled activity or restricted discretionary activity is a discretionary activity .	The proposal triggers the two general performance standards as noted above, therefore this rule is applicable.

7.5 Overall, the application for land use consent must be assessed as a **discretionary activity** in accordance with Taupō District Plan Rule 4a.2.9.

7.6 The consent notice variation is also to be assessed as a **discretionary activity** in accordance with section 221(3) of the RMA.

8 PUBLIC NOTIFICATION

8.1 The application was notified in accordance with Section 95A of the RMA as the proposal has the potential to have effects on the environment that are more than minor. The application was publicly notified in the Taupō Times on 24 November 2023 and in the New Zealand Herald on 27 November 2023. Notice was also served directly on interested parties including iwi / hapu groups and statutory bodies.

9 SUBMISSIONS

9.1 The submission period closed 15 January 2024. A total of eight submissions were received. A copy of the submissions is contained in Appendix E of this report.

Submission Details

9.2 The submissions received are listed in the following table. The stated position of the submitters is provided in the table together with whether they wished to be heard at the hearing in support of their submission.

Table 2 – Submission Details

Submitter Name	Position & Reason(s) (Support / Neutral / Oppose)	Heard
Mark Comber	Oppose – proposed dwelling is not in keeping with original spirit and nature of the Kinloch village; is a monstrosity; goes against established rules and desires of the Kinloch community.	No
Julie Jennings	Oppose – proposed dwelling will be prominent at top of Locheagles Rise; light pollution; will appear as two dwellings; exceeds height with multiple levels; does not follow resource consents that adhere to the KCSP; precedent; not in keeping with character of dwellings in Kinloch village.	No
Heritage New Zealand	Neutral / does not oppose	No
Brigid Eady	Support	No
Rachel Gibson	Support	No
Jenkins, Jack	Support	No
Patrick Kane	Support	No
Anthony Mitchell	Support	No

9.3 Pursuant to section 100 of the Act, there is no obligation to hold a hearing given that there are no submitters who wish to be heard, nor does Council consider it necessary to hold a hearing.

10 FURTHER INFORMATION

- 10.1 Following the close of submissions, further information was requested pursuant to section 92 of the RMA to request a more comprehensive mitigation planting plan as per the recommendations of the Boffa Miskell peer review of the Hudson Associates Landscape and Visual Assessment (LVA). A revised planting plan was submitted from Hudson Associates and subsequently confirmed as sufficiently addressing the Boffa Miskell recommendations. The revised planting plan is included under Appendix D of this report and this is the plan that is referred to in the following effects assessment.

11 ACTUAL AND POTENTIAL EFFECTS (Section 104(1)(a))

- 11.1 As a discretionary activity for both the proposed variation of consent notice and land use for earthworks, all actual and potential effects of the activity must be considered. The key effects of the proposal relate to:
- character and amenity
 - landscape/visual impact
 - privacy and outlook
 - earthworks

Each of these key effects are discussed in turn below.

Character & Amenity

- 11.2 The Locheagles development extends up to the southeast from the northeast, lower residential area of Kinloch up into the foothills of the Whakaroa Hills. The pattern of this subdivision is generally standard residential allotments on the lower level adjoining the Kinloch township, and decreasing in density with elevation to the southeast. The application site is located within Stage 3 which is at the very top of the subdivision around 1km from the Kinloch township (measured from the Kinloch Marina) elevated above the township.
- 11.3 The zoning of the application site and surrounds at the eastern end of Locheagles is Kinloch Rural Residential which expects minimum allotment sizes of 2ha, however the Locheagles Land Use consent was granted prior to the KCSP zoning came into effect and the consent determined a much higher density of development and resulting character that is quite different to the District Plan current zoning. That said, the KCSP desires a radial pattern of decreasing density from the original village out to the north, northeast and east, and the Locheagles subdivision does decrease in density with the sites generally increasing in area up to the east.
- 11.4 The application site is at the easternmost point of the Locheagles subdivision and is within the 'Upper Locheagles' portion of the development described as consisting of very low density 'rural residential' allotments of approximately 1ha, with a total of eight dwelling sites. The original application describes the sites within the Upper Locheagles area to be 'situated within extensive native / woodland revegetation of the upper lands, so that dwellings can effectively blend with the vegetated surroundings'.
- 11.5 The staged development of the Locheagles area has largely rolled out very consistently with the direction and principles of the masterplan. On Stage 3A at the easternmost point of the subdivision, the Locheagles masterplan envisages a low density, large lot development with considerable open space between relatively low height buildings. This is due to the elevated nature of this part of the Locheagles development making this land visible from more distant locations.

- 11.6 The principle of a dwelling on the application site and its effects have already been dealt with through the original masterplan consent, including occupation and night light associated with future residential activity at the bulk and location levels specified of 5% building coverage and 7.5m maximum height. The proposal is to develop the site with a residential dwelling and therefore the activity in of itself is consistent with the expectation of the Locheagles masterplan. However the proposed dwelling is significantly larger than any dwelling within Locheagles (or the wider Kinloch area) with building coverage of 2130m² or 18.6%.
- 11.7 I note that the application site is at the top, eastern portion of the Locheagles subdivision and from the top of the Locheagles Rise public road, a private road extends up to the eight large sites which is gated at that point. The eight sites accessed off the private road are all more than 1ha in area and six of the sites have been developed with dwellings, with two remaining undeveloped (including the application site).
- 11.8 The two submissions in opposition raise concerns about the proposed dwelling not being in keeping with the character of development in Kinloch, and not being consistent with the directions of the KCSP.
- 11.9 I note that the Locheagles masterplan consent was authorised prior to adoption of the KCSP, which means the consent notice conditions came from the direction of the masterplan rather than the KCSP. The consent notice restrictions are the same for the eight sites within the upper, eastern gated enclave and the intent of the consent notice conditions is to have buildings well spaced apart from each other as well as at different elevations across the hillside.
- 11.10 The layout of the eight lots is such that the existing dwellings are well separated from each other and are all at different elevations. The combination of the adjoining reserves to the south and east and the two Locheagles vegetated gully reserves extending to the northwest, has resulted in a very low density, open character, framed by dense, vegetated landforms around the enclave.
- 11.11 In relation to character, I acknowledge that the proposed dwelling will be significantly larger than the existing dwellings within the Locheagles subdivision and in the remainder of Kinloch, and that there is inconsistency with the character of development that has established in Kinloch both through other masterplan developments and the KCSP.
- 11.12 That said, I consider that there are a number of factors that contribute to the potential adverse effects of the proposal's inconsistency with the established Kinloch character being mitigated to an acceptable level. The first are the design elements that have been incorporated into the proposed dwelling such as significant modulation and variation in its facades and roofline, along with the utilisation of natural materials such as stone and timber.
- 11.13 Although the length of the proposed dwelling will be substantial at some 86m from north to south, the design modulation will assist significantly to break up the building bulk. This is demonstrated by the western facing façade of the proposed dwelling (the only façade visible from Kinloch to the west) shown at [Figure 14](#) below where the longest façade will be 11.8m and the building is stepped with large roof overhangs, a mixture of materials, a range of roof pitches / angles, such that there are no long, dominant facades.



Figure 14: Western Perspective of Proposed Dwelling

- 11.14 Furthermore, a significant portion of the building extends to the east, behind the more visible western façade meaning that the visibility of the full bulk of the proposed dwelling is limited to that one western façade due to the elevation of the site.
- 11.15 There is also a comprehensive planting plan for the proposal that includes planting on the southeast embankment of Nos 30 and 32 Locheagles Rise below the proposed dwelling, around the periphery of the proposed dwelling and along the edge of the Scenic Reserve. The planting plan incorporates a number of trees and shrubs of varying native species that will grow to between 2m up to 8m – 12m in height. The planting plan was reviewed by the Boffa Miskell landscape architect and concluded to achieve softening of, and break up of the scale and mass of the proposed dwelling, providing integration with the wider landscape patterns.
- 11.16 Lastly, I consider the location and topography of the site to be a significant factor in minimising adverse effects on the character of the area. The site is at the easternmost point of the Locheagles subdivision and Kinloch village itself and is well elevated above most of the Kinloch village (by some 160m). The site also adjoins the scenic reserve to the southeast which forms the very dominant vegetated backdrop of Whakaroa Hill which rises to a ridge height of 660m behind the application site, which is some 303m above the central Kinloch village (area of the marina).
- 11.17 Within the eastern portion of the Locheagles subdivision are also large, extensive reserve areas that extend from the upper slopes down to the west. These reserves contain dense, native vegetation that was established in the early years of the Locheagles development and provide considerable amenity to this eastern hillside.
- 11.18 In summary, although the proposed dwelling will have a prominent presence on the elevated site, the combination of:
- the design elements of the proposed dwelling,
 - the proposed planting to be implemented,
 - the sites position and elevation above most of Kinloch with the elevated Whakaroa Hill vegetated backdrop behind and reserve areas below, and
 - the sites significant separation of some 1.3km to central Kinloch (marina),
- are all considered to provide mitigation such that the more than minor character and amenity effects of the proposal on the wider Kinloch area will be acceptable in this instance. On this basis, I consider that the concerns raised by the two submissions in opposition are adequately addressed.

Landscape & Visual Effects

- 11.19 The proposal is for a very large dwelling exceeding the building coverage limit of 5% (up to 18.6%), maximum height of 7.5m (up to 9.6m), and for earthworks cut and fill well exceeding the limits. The application site is also within the Kinloch Landscape Area and the Amenity Landscape Area ALA66 – Whakaroa Hills, as such there may be adverse visual and landscape effects from the proposal. A photo montage of the proposed dwelling is shown at [Figure 15](#) below with yellow arrows indicating the proposed dwelling; and the proposed dwelling footprint is shown on an aerial image at [Figure 17](#) below.
- 11.20 I note that the gatehouse structure encroaching into the northern building envelope setback was not considered to have any adverse landscape or visual effects given its small scale and limited visibility of the structure.
- 11.21 A Landscape Visual Assessment (LVA) was prepared by Hudson Associates and submitted with the application. Given the scale of the proposal, it was considered that a peer review of the LVA was necessary to provide expert advice for my assessment. This review was undertaken by Boffa Miskell Ltd.
- 11.22 Both assessments conclude that the proposed dwelling will be visible from a considerable distance across Kinloch given the elevated nature of the site and substantial scale of the proposed buildings. Although it was acknowledged in both assessments that the distance of those views does reduce the level of adverse landscape / visual effects. It is noted that the montage at [Figure 15](#) is taken at a relatively close position near the top of the Locheagles Rise public road. The photo location is shown at [Figure 16](#).



Figure 15: Montage of Proposed Dwelling as viewed from Locheagles Rise

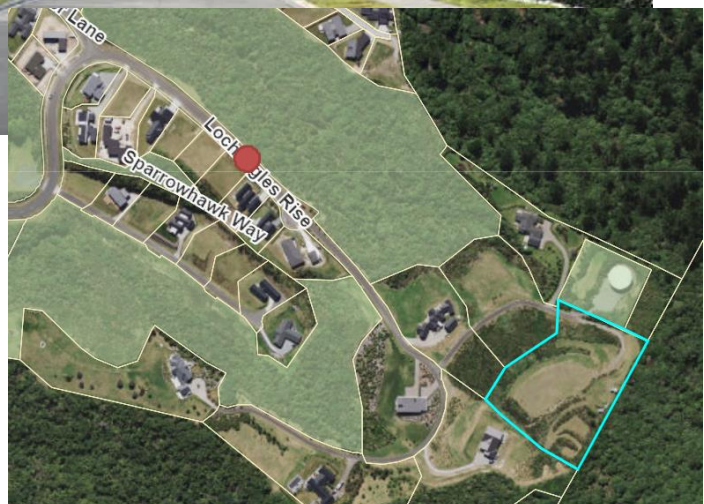


Figure 16: Location of Photo

11.23 The Boffa Miskell review stated that planting plays a significant role in this proposal and has the potential to break down the perceived scale of the building and facilitate its integration into the surrounding environment, mitigating adverse landscape and visual effects of the proposal both on the wider area as well as on the Kinloch Landscape Area and ALA66. The original Locheagles development application also highlights the potential for the area to include low density housing thoughtfully integrated within a 'robust framework of trees and native vegetation'.

11.24 The review recommended that a comprehensive mitigation planting plan be prepared to effectively mitigate the anticipated level of effects and such a plan should incorporate:

- vegetation that serves to visually soften and blend the retaining structures into the landscape,
- includes trees that reduce scale and mass of the building, and
- has comprehensive planting around the building to integrate it into the broader landscape patterns.

The review went on to say that without such planting measures there are likely to be a range of landscape visual effects that would be more than minor.

11.25 As stated earlier in this report, following the close of submissions, further information was requested for a revised planting plan from Hudson Associates. Following submission of a revised planting plan from Hudson Associates, the Boffa Miskell reviewer concluded that the revised plan was a substantial improvement on the original planting plan, that the species and number of trees would reach appropriate heights to enable a break up of the scale and mass of the proposed buildings, and that the planting circles the building and provides good integration with the wider landscape patterns.

11.26 The two submissions in opposition raise concerns about the proposed dwelling being a 'monstrosity', being very visually prominent on its elevated site and creating light pollution / night sky effects. However, I consider that the potentially more than minor adverse landscape / visual effects of the proposal will be mitigated to an acceptable level, based on:

- the presence of existing modifications within the area (landcover modification, residential development)
- the proposed materiality, and modulation of the proposed buildings
- the proposal will be aligned with the landscape patterns being residential and will not disrupt the wider rural or ecological landscape patterns
- the dwelling will have extensive planting in the foreground and circling it as proposed in the revised planting plan that will integrate with the existing revegetation patterns already established within the wider area, particularly considering the vegetated backdrop of the site
- the dominant backdrop of Whakaroa Hill assists with mitigating the height of



Figure 17: Footprint of Proposed Dwelling on Site

the proposal

- the proposed dwelling will result in a small increase in residential lighting in the broader context that will be inconsequential.

- 11.27 I acknowledge that there may be some temporary adverse visual effects until the proposed planting around the dwelling becomes well established. To provide some mitigation of these temporary visual effects, a recommended condition of consent requires the implementation of the planting on the embankment below the application site (on Nos 30 and 32 Locheagles Rise) following completion of the earthworks in this area, given that it is quite separate from the building / construction area of the proposed dwelling which is wholly within No 36. This should enable the planting within the foreground area to become established during the duration of the construction, rather than leaving it until completion of the construction works. The remainder of the planting around the proposed dwelling would still have to be implemented following completion of the building construction works.
- 11.28 The timing of the proposal some 20 years after the Locheagles masterplan consent was approved is beneficial given that the vegetation within the Locheagles reserves is very well established and the application site is only one of two sites not yet developed on this upper Locheagles area. This provides considerable integration of the proposed development as noted earlier in this report.
- 11.29 I note that if this proposal had been lodged in the earlier stages of the Locheagles subdivision, the proposed dwelling would have been very prominent and difficult to integrate into the surrounding landscape given that the vegetation would have been very low height and sparse, and it would likely have been the first building up on the hill, exacerbating its prominence. The passing of time has meant that there is now significant built form and well established vegetation which now enables this proposed dwelling to be integrated into the landscape.
- 11.30 Following the advice of the Boffa Miskell peer review, I consider that the potential more than minor adverse landscape / visual effects can be mitigated to an acceptable level and the concerns raised by the two submissions in opposition are considered to be addressed.
- 11.31 Should the commissioner decide to approve consent, I recommend a number of conditions including adherence to the submitted plans; adherence to the exterior colour schemes and materials of all buildings as shown on the plans; establishment of the planting specified in the planting plan; and maintenance of the planting on an ongoing basis.

Outlook & Privacy Effects

- 11.32 The proposed dwelling will be visually prominent at the top of the Locheagles subdivision due to its substantial scale. The topography of the area means that the building envelopes of the other sites within the Locheagles development to the west are lower than that of the application site by at least 10m-20m. There is also substantial separation between the application site building envelope and the building envelopes on the other sites with around 30m separation to the nearest dwelling and much greater separation to all other nearby sites. It is also noted that written approval has been obtained from the landowners of 30, 31, 32 and 33 Locheagles Rise to the southwest of the application site therefore the effects on them must be disregarded pursuant to section 104(3)(a(ii) of the RMA.
- 11.33 Furthermore the vast majority of the sites within Locheagles subdivision and wider Kinloch are developed with dwellings that are orientated to the west-southwest, away from the application site. That said, the Whakarua Hills are a significant landform dominating the eastern skyline

from Kinloch. In this regard the proposed dwelling may have effects on the broader outlook currently enjoyed from properties within lower Kinloch. However, I consider that given the substantial distance, intervening topography, vegetated reserves and the significant Whakarua Hills backdrop, these outlook effects are not considered to be significant. As such, the proposed dwelling is not considered to have adverse impacts on the privacy or outlook currently enjoyed by other sites in this area.

- 11.34 In summary, it is considered that the privacy and outlook effects of the proposal will be minimal.

Earthworks Effects

- 11.35 The proposed development requires extensive earthworks cut and fill and will disturb up to 60% of the site, well exceeding the 1.5m and 0.5m cut fill limits of the District Plan both within and outside the setbacks on 36 and 32 Locheagles Rise, as well as the 10% site disturbance limit of the consent notice on 36 Locheagles Rise. The purpose of these consent notice conditions is to minimise significant changes to the existing landform and to minimise nuisance effects and sediment runoff etc. off site.
- 11.36 The application site was significantly modified to create the existing building platform area during the construction of Stage 3A of the Locheagles subdivision and this has formed the 'original' ground level due to these works being carried out at the time of subdivision. The building platform earthworks were authorised at the time of subdivision for Stage 3 and created large building platforms of some 900m² envisaging that this area would be more than sufficient for future buildings on these large Upper Locheagles lots.
- 11.37 The southern corner of 36 Locheagles Rise site will be the location of maximum cut as shown in the image below. This is to enable the bothy, garage and tower to be constructed in cut into the landscape. Fill will be used to extend the front lawn area and fill in the depression within 32 Locheagles Rise below No 36 (on which the proposed dwelling is to be constructed).
- 11.38 The ground levels at the eastern boundary and the site's relationship with the adjoining DOC reserve will be unchanged as the proposed earthworks are mainly confined to the southwest and northwest areas of the site of No 36. In terms of the other adjoining sites, the ground levels will be largely unchanged apart from within the site to the northwest (32 Locheagles Rise) where filling will occur to make a consistent contour along the slope below the building platform.
- 11.39 The finished ground levels will reflect the contour of the adjoining sites. The proposed earthworks will not adversely impact on the stability of neighbouring properties, nor the DOC reserve as the cut faces will be retained by engineer designed walls which will form part of the proposed building. The stormwater flow patterns will be maintained as generally stormwater flows in a northerly direction and this will be maintained.
- 11.40 The proposed earthworks are mostly in cut to enable the southern portion of the substantial scale proposed dwelling to be set into the existing slope. The proposed earthworks cut is significant at a maximum of 7m (5.5m more than permitted) and will result in the building façade being extended below natural ground level by the same amount. Given the large scale of the proposed dwelling the resulting façade will be a maximum of 15m in height (the tower façade) from the resulting ground level after the cut. This could result in adverse visual dominance effects off site, however the revised planting plan will establish significant trees in

the foreground and circling the proposed dwelling such that these effects are considered to be mitigated to a minimal level.

- 11.41 In terms of earthworks management, an Earthworks Management Plan has been submitted with the application and this demonstrates the methodology for managing erosion and sediment during the earthworks phase of the development. I note that the Earthworks Management Plan addresses the works within No 36 and No 32 to the northwest. These methods include having dirty and clean water bunds, stabilising the entrance, all boundaries with the Right of Way bunded and/or silt fencing installed, clean water bunds along southwest boundary, decanting earth bunds etc. Adherence to these methods is considered to ensure that any nuisance effects that could result from the earthworks will be minimised to a minor level.
- 11.42 In summary, I consider that the effects of the proposed earthworks can be managed to a minimal level.
- 11.43 Should the commissioner decide to approve consent, I recommend a number of conditions including notification of when earthworks are due to commence; a site inspection to ensure all measures of the Earthworks Management Plan are in place; and adherence to the measures included in the submitted Earthworks Management Plan.

Summary of Effects

- 11.44 Overall, I consider that the actual and potential effects of the proposal on the environment, being those effects that relate to:
- character and amenity
 - landscape/visual impact
 - privacy and outlook
 - earthworks
- can be mitigated to an acceptable level.

12 TAUPŌ DISTRICT PLAN OBJECTIVES AND POLICIES (Section 104(1)(b)(vi))

Residential Objectives and Policies (3a)

- 12.1 The Residential Environment within the Taupō District encompasses a variety of residential areas with the predominant activity being residential. The valued elements of the Residential Environment include an attractive streetscape; a reasonable ratio of private to public open space; a degree of consistency in the size, scale, density, and style of buildings; a need for privacy; shared access to outlook, sunlight or views; low levels of environmental effects such as traffic movements, noise, vibration, odour, dust; and a safe traffic environment.
- 12.2 The Residential Environment objectives and policies which are considered relevant to the proposal are discussed below.
- 12.3 **Objective 3a.2.1** states *“The maintenance and enhancement of the character and amenity of the Residential Environment”*. Policy 3a.2.1.i states *“Maintain and enhance the character and amenity of the Residential Environment by controlling the bulk, location and nature of activities, to ensure activities are consistent with a residential scale of development, including an appropriate density and level of environmental effects”*.

- 12.4 Policy 3a.2.1.v states that *“Any relevant Structure Plans, strategies or guidelines should be taken into account in the design of any development within the residential environment.”* Policy 3a.2.1.ix states *“Avoid, remedy or mitigate adverse effects of subdivision, use and development in the residential areas on cultural, historic, landscape and natural values, as identified through the provision of this Plan.”*
- 12.5 The proposal is for a very large dwelling that is larger in size than the typical scale of development in Kinloch, however the proposal is for a single dwelling on the site as anticipated by the consent notice and as such does not increase the density of development. The effects assessment on character and amenity concludes that the combination of:
- the design elements of the proposed dwelling,
 - the proposed planting to be implemented,
 - the sites position and elevation above most of Kinloch with the elevated Whakaroa Hill vegetated backdrop behind and reserve areas below, and
 - the sites significant separation of some 1.3km to central Kinloch (marina),
- are all considered to provide mitigation such that the character and amenity effects of the proposal on the wider Kinloch area will be mitigated to an acceptable level in this instance.
- 12.6 The site is within the Kinloch Landscape Area and Amenity Landscape Area ALA66 – Whakaroa Hills. The DOC reserve land to the east is also Outstanding Landscape Area OLA65 – Whakaroa, and Significant Natural Area SNA309 – Whakaipo Bay Scenic Reserve. The proposal is considered to incorporate mitigation measures (as listed above) that will ensure that any adverse effects on these landscape value areas are mitigated to a minimal level. The site’s relationship with the adjoining DOC reserve will be unchanged as the proposed earthworks are mainly confined to the southwest and northwest areas of the site; and the proposed dwelling is well distanced from the boundary with the DOC reserve. As such the landscape and natural values of OLA65 and SNA309 will be unaffected by the proposal.
- 12.7 The KCSP is relevant to the proposal given that the site is within the structure plan area. The site is within the Kinloch Rural Residential Environment, however the Locheagles masterplan consent was granted before the KCSP zoning came into effect and the consent determined a much higher density of development such that the resulting character is quite different to the District Plan current zoning. Nevertheless, it is considered that the KCSP has been taken into account in terms of the elements of the building design and proposed planting, that will ensure the integration of the proposed building into the landscape.
- 12.8 In summary the proposal is considered to be consistent with the relevant Residential Environment objectives and policies.

Landscape Values Objectives and Policies (3h)

- 12.9 **Objective 3h.2.1** seeks to protect Outstanding Landscape Areas (OLAs) from inappropriate subdivision, use and development which may adversely affect the Landscape Attributes, and Policies 3h.2.1.i-iii and vi seek to *“ensure development is located and designed in a way that protects Landscape Attributes of Outstanding Landscape Areas”*; *“that protects these areas from more than minor adverse visual effects of earthworks”*, *“that avoids built structures that will have more than minor adverse visual effects on OLAs”*, and *“remedy or mitigate adverse effects of development on OLAs.”*
- 12.10 The application site adjoins DOC reserve land to the east that is also OLA65 – Whakaroa. The site’s relationship with the adjoining DOC reserve will be unchanged as the proposed

earthworks are mainly confined to the southwest and northwest areas of the site; and the proposed dwelling is well distanced from the boundary with the DOC reserve. The OLA itself is a significant landform and the steep vegetated slope forms a large backdrop to the proposal, and to Kinloch.

- 12.11 Although the proposed dwelling exceeds the maximum building coverage and height limits, the scale of the OLA behind the proposed dwelling is significant and the OLA attributes of this large landform will be maintained. The Boffa Miskell review concluded that the proposed planting around the dwelling will significantly assist to integrate the dwelling into the surrounding landscape. Furthermore, with the modulated design and materials of the proposed dwelling as well as the mitigation planting proposed, will serve to break up the bulk and sprawl of the building, minimising adverse effects on the Landscape Attributes of the OLA to the east.
- 12.12 **Objective 3h.2.2** seeks to maintain the Landscape Attributes of Amenity Landscape Areas (ALAs), and Policies 3h.2.2.i and iii seek to “ensure development is located and designed to maintain the Landscape Attributes of ALAs”, and “*Manage the scale and intensity of subdivision, use and development in Amenity Landscape Areas to avoid, remedy or mitigate more than minor effects on the Landscape Attributes...*”.
- 12.13 The site is within the Kinloch Landscape Area and Amenity Landscape Area ALA66 – Whakaroa Hills. The proposal is considered to incorporate mitigation measures (as listed above) that will ensure that any adverse effects on these landscape value areas are mitigated to a minimal level.
- 12.14 In summary, the proposal is considered to be consistent with the relevant Landscape Values objectives and policies.

Conclusion on Objectives & Policies

- 12.15 In conclusion, I consider the proposal to be consistent with the relevant Taupō District Plan objectives and policies of the Residential Environment and Landscape Values.

Kinloch Community Structure Plan

- 12.16 The KCSP was issued in September 2004 and was developed through community consultation with the purpose of providing guidance and direction to developers and the community regarding new subdivision development within the Kinloch area and to enable sustainable management of future growth. The KCSP recommends a radial density pattern of higher density to the south, medium density through the central band and low density to the north and east.
- 12.17 For new subdivision and development, minimum and average lot sizes are required which vary depending on which density area the development is within. Additionally, specific coverages for Kinloch were recommended to reflect the historical built form. These particular provisions derived from the KCSP were adopted into the District Plan and became operative in 2007.
- 12.18 The KCSP provides direction for where more intensive densities of built development are proposed and requires that these are clustered and integrated into the landscape with a strong framework of tree and shrub planting. The KCSP also provides strong direction towards the landscape context of Kinloch referring specifically to the headlands at either end of Kinloch Bay, the lower hill slopes of the Kinloch Valley, the skyline, the Whangamata, Okaia and Otaketake Stream scenic reserves and the Lake Taupō waterfront. These areas are to be protected from the effects of development.

- 12.19 The KCSP also shows indicative roading links and that where new development occurs, consideration is to be given to establishing these road linkages to provide for traffic volumes from new development.
- 12.20 As mentioned above, the founding Locheagles masterplan was granted just as the KCSP process was commencing. Therefore a residential development over this area has already been assessed and consented to that does not conform exactly to the intent of the KCSP. However the Locheagles masterplan does mimic the strategy outlined in the KCSP for decreasing densities over rising topography and significant re-vegetation.
- 12.21 Overall I consider the proposal not to be inconsistent with the KCSP.

Plan Changes 38-43

- 12.22 District Plan Changes 38-43 were notified on Friday 14 October 2022 and cover:
- 38 Strategic Directions – replaces the ‘Significant Resource Management Issues’ chapter with six key strategic or significant resource management matters for the Taupō District: (Tangata Whenua, Fresh Water Quality, Urban Form and Development, Climate Change, Strategic Infrastructure and Natural Values and Landscapes)
 - 39 Residential Building Coverage – increases maximum building coverage limit in most residential environments from 30% to 35%
 - 40 Taupō Town Centre – Changes to building height provisions, temporary activity rule and verandah requirements over service lanes
 - 41 Deletion of Fault Lines
 - 42 General Rural and Rural Lifestyle Environments – full review of Rural Environment and removal of the Mapara Valley Structure Plan Area and Environments
 - 43 Taupō Industrial Environment – zoning of additional land for Taupō Industrial Environment
- 12.23 Submissions closed 9 December 2022 and were notified for further submissions which closed 7 April 2023. Hearings have been held in August and September 2023, no decisions have been released as yet, apart from Plan Change 39 – Residential Environment building coverage.
- 12.24 The only Plan Change relevant to the proposal is Plan Change 38 Strategic Directions (none of the plan changes apply to the KCSP area). Plan Change 38 is relevant to the application given that these will be the Strategic Directions that apply to all zones across the Taupō District. Under section 86A of the Act, a rule in a proposed plan has legal effect only once a decision on submissions relative to the rule has been made and publicly notified. That said, section 86B states that sections 86B-G do not affect the weight that a consent authority may give to objectives and policies before the plan changes become operative; and section 104(1)(b)(vi) requires that the consent authority must have regard to the provisions of a proposed plan (which includes plan changes).
- 12.25 As no decision has been released as yet on Plan Change 38, it is considered that no weighting should be given to the change in relation to the application at this time.

13 NATIONAL ENVIRONMENTAL STANDARDS (Section 104(1)(b)(i))

- 13.1 There are nine National Environmental Standards (NES) that have been prepared under sections 43 and 44 of the Resource Management Act 1991 and are in force as regulations. These cover air quality, human drinking water, telecommunications facilities, electricity

transmission, plantation forestry, freshwater, marine aquaculture, outdoor storage of tyres and management of contaminants in soil.

NES for Assessing and Managing Contaminants in Soil to Protect Human Health

13.2 This NES addresses the assessment and management of the actual and potential adverse effects of contaminants in soil on human health from particular activities. The proposal involves the soil disturbance is considered as an activity under the NES, when it takes place on a piece of land described under Regulation 5(7) which reads:

(7) *The piece of land is a piece of land that is described by 1 of the following:*

(a) *an activity or industry described in the HAIL² is being undertaken on it:*

(b) *an activity or industry described in the HAIL has been undertaken on it:*

(c) *it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.*

13.3 The site is a vacant, large residential site that is within a residential subdivision area and has not had, or is having, an activity or industry described in the HAIL carried out on the site. Nor is the site identified within the Taupō District Plan as being 'contaminated' or 'potentially contaminated'. Therefore the land on which the proposed soil disturbance is to take place, is not a piece of land that has had a HAIL undertaken on it and is not covered by Regulation 5(7).

13.4 Notwithstanding Regulation 5(7), Regulation 5(8) of the NES relates to production land³. The site is not production land therefore the land on which the proposed activity is to take place, is not covered by Regulation 5(8).

13.5 For the above reasons, it is considered that the NES regarding contaminants in soil does not apply to the consideration of this application.

13.6 No other NES's are applicable to the proposed development.

14 NATIONAL POLICY STATEMENTS (Section 104(1)(b)(iii))

14.1 There are six National Policy Statements (NPS) that have been prepared under section 52(2) of the Resource Management Act 1991 and enable Government to prescribe objectives and policies for matters of national significance which are relevant to achieving the sustainable management purpose of the Act. These cover urban development, freshwater management, renewable electricity generation electricity transmission, highly productive land and the NZ Coastal Policy Statement.

14.2 None of the NPSs are relevant to the proposal.

15 REGIONAL POLICY AND PLAN PROVISIONS (Section 104(1)(b)(v))

15.1 The Waikato Regional Policy Statement is a high-level, broad-based document containing objectives and policies the purpose of which is to provide an overview of the resource

² The current edition of the Hazardous Activities and Industries List

³ Production land is defined in the NES:

(a) *Means any land and auxiliary buildings used for the production (but not processing) of primary products (including agricultural, pastoral, horticultural, and forestry products):*

(b) *Does not include land or auxiliary buildings used or associated with prospecting, exploration, or mining for minerals.*

management issues of the region and to achieve integrated management of the natural and physical resources of the Region. The proposal is considered to be consistent with the Regional Policy Statement.

- 15.2 The Waikato Regional Plan contains the relevant rules, objectives and policies for activities undertaken within the Region. The provisions of specific relevance to this application relate to the appropriate management of earthworks and the maintenance of water quality, through the management of stormwater. Resource consent was required for earthworks in a high-risk erosion area as there will be soil disturbance activities exceeding 1000m³ in volume in a high risk erosion area (slopes greater than 25 degrees).
- 15.3 Resource consent AUTH145517.01.01 was issued by Waikato Regional Council for the earthworks disturbance in July 2023. The application states that no other consents are required.
- 15.4 Therefore the proposal has addressed the regional policy and plan provisions.

16 OTHER MATTERS (Section 104(1)(c))

Te Kaupapa Kaitiaki

- 16.1 Te Kaupapa Kaitiaki is a high level plan for the Taupō catchment. Its purpose is to identify the significant issues, values, vision, objectives and outcomes. It is a strategic document. It is underpinned by Ngāti Tūwharetoa Perspectives in the form of two principal Kaupapa referred to as Nga Pou e Toru and Te Kapua Whakapipi. They represent the aspirations, vision, and outcomes of Ngāti Tuwharetoa for settlement and present and future development. Particular regard must be given to Te Kaupapa Kaitiaki when processing an application for resource consent.
- 16.2 Of direct relevance to this proposal are the following objectives:
- Te whanake – Sustainable Development
 - Te oranga me nga hua o te taiao – Health and benefits of the environment
- 16.3 The site is zoned for residential use and the proposal is for a residential dwelling, which is a sustainable use of the land. There are no identified cultural sites within or nearby the application site. The location of the site is elevated and away from any water courses, reducing the risk of flooding, inundation, erosion and land subsidence.
- 16.4 In summary, the proposal is considered to be consistent with the objectives of Te Kaupapa Kaitiaki.

Ngāti Tuwharetoa Iwi Management Plan

- 16.5 The Ngāti Tuwharetoa Environmental Management Plan provides a background to and identifies key resource-based issues for Ngāti Tuwharetoa. The vision of the management plan is for Ngāti Tuwharetoa to assert their custodial and customary right of tino rangatiratanga over their respective taonga, and Tuwharetoa collectively, will sustain and protect the life force of all tribal and inherited taonga.
- 16.6 The application site is zoned for residential development and has no identified / known waahi tapu, waahi taonga sites identified by the District Plan or on NZ Arch Site. The issues and policies contained within the document have been assessed, and the proposal is considered to be consistent with this iwi management plan.

Raukawa Environmental Management Plan

16.7 Te Rautaki Taiao a Raukawa is a statement of Raukawa issues, aspirations and priorities in relation to the environment. The proposal is consistent with Land – Whenua chapter in that the land use is suitable for the soil type, the proposed dwelling will be connected to community water and wastewater services and the future landscaping on the site will improve the biodiversity of the property. Generally the proposal is consistent with the relevant objectives.

Precedent

16.8 One of the submitters in opposition raises the concern of precedent, in that if the decision is to approve this application it will mean all other applications for similar proposals will be approved as well.

16.9 I consider that the potential for precedent to result from this proposal (should it be approved) is extremely low. This is due to the application site characteristics and nature of the proposed development as well as the proposed mitigation measures. The site is very large at 1.14ha in area and is elevated above Kinloch at the far eastern end of the Locheagles subdivision. The site backs onto the large, vegetated Whakarua Hills which form a substantial backdrop to the proposed development. There is no other site within the KCSP area that has these types of characteristics.

16.10 The proposed development is for a very large dwelling at 18.6% building coverage (2124m²) and it is most unlikely that any future applications will be received for anything close to this size. Furthermore, each application is assessed on a site specific basis on its merits and there is no reason to suggest that a similar application would be assessed and/or decided upon in the same manner.

17 STATUTORY PROVISIONS

17.1 Section 104 of the Resource Management Act 1991 ('RMA') outlines the criteria that the consent authority must have regard to, subject to Part II of RMA.

17.2 Section 104 requires that, subject to Part II of RMA, Council must have regard to the following matters;

- Any actual and potential effects on the environment of allowing activity; and
- Any relevant provisions of a national environmental standard;
- Other regulations
- Any relevant provisions of a national policy statement
- Any relevant provisions of a regional policy statement, or proposed regional policy statement;
- Any relevant provisions of a plan or proposed plan; and
- Any other matters the consent authority considers relevant and reasonably necessary to determine the application.

These matters have been discussed in the preceding Sections 11 to 16 of this report.

17.3 Section 104(2) of RMA allows the Council to disregard any adverse effects on the environment where the plan permits an activity with that effect (the 'permitted baseline'). It is considered that the permitted baseline is not applicable to the assessment of this proposal given that principally the application is for a variation of consent notice which supersedes the District Plan provisions.

- 17.4 Section 104(3)(b) of RMA requires that if a person has given their written approval to the proposal, the Council can not consider any adverse effects on that person. Written approval has been obtained from the landowners of 30, 31, 32 and 34 Locheagles Rise. As such, the effects of the proposal on these parties cannot be considered.
- 17.5 Section 104B provides that the consent may be granted or refused, and, if consent is granted, that conditions may be imposed on the consent under section 108.

18 PART II MATTERS

- 18.1 In Part II of the Resource Management Act 1991, Section 5 sets out the purpose and principles of RMA for the sustainable management of natural and physical resources. The proposal establishes a new dwelling on the site for residential purposes which can be adequately serviced and is a sustainable use of the land resource.
- 18.2 As concluded under Section 8 of this report, the adverse effects proposed development are considered to be avoided, remedied or mitigated. Therefore I consider that the proposal achieves the purpose of RMA.
- 18.3 Section 6 sets out Matters of National Importance. It is considered that the relevant matter of national importance is:
(b) the protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:
- 18.4 The site is within the Kinloch Landscape Area and Amenity Landscape Area ALA66 – Whakaroa Hills. The DOC reserve land to the east is also Outstanding Landscape Area OLA65 – Whakaroa. The proposal is considered to incorporate mitigation measures that will ensure that any adverse effects on the value of these areas are mitigated to a minimal level. The site’s relationship with the adjoining DOC reserve will be unchanged as the proposed earthworks are mainly confined to the southwest and northwest areas of the site; and the proposed dwelling is well distanced from the boundary with the DOC reserve. As such the outstanding natural features and landscapes are considered to be protected.
- 18.5 Section 7 sets out additional matters to which those persons exercising functions under RMA in relation to managing the use, development and protection of natural and physical resources shall have particular regard to. The relevant matters in relation to this application as follows:
(b) The efficient use and development of natural and physical resources.
(c) The maintenance and enhancement of amenity values.
(f) Maintenance and enhancement of the quality of the environment.
- 18.6 The proposed dwelling design and the proposed planting will achieve maintenance and enhancement of the amenity values of the site and area. This will ensure that the quality of the environment is maintained. The proposal demonstrates an efficient use of the land resource.
- 18.7 Section 8 requires Council to take into account the Principles of the Treaty of Waitangi. The proposal will not affect the ability to achieve the principles of the Treaty.
- 18.8 It is therefore considered that the proposal is consistent with principles of Part II of RMA.

19 CONCLUSIONS

- 19.1 The applicants have applied for a variation of consent notice in order to construct a large new dwelling exceeding the consent notice requirements of:
- maximum building coverage of 5%;
 - maximum building height of 7.5m and Reduced Level of Upper Limit of Building Envelope of 528.5m;
 - maximum earthworks site disturbance of 10%; and
 - a minimum building setback encroachment of a gatehouse structure
- The proposed buildings and bulk of the earthworks will occur on 36 Locheagles Rise, and mitigation planting is also proposed on the upper southeast embankments of 30 and 32 Locheagles Rise.
- 19.2 Extensive earthworks will be required for the development of the proposed large dwelling that will exceed the District Plan maximum earthworks cut and fill levels within and outside the setbacks on No 36 Locheagles Rise, and also within the southeast portion of No 32 Locheagles Rise. As such land use consent under the Taupō District Plan is also required.
- 19.3 The activity status of the variation of consent notice is discretionary under section 221(3) of the RMA; and the application for land use consent is discretionary under Rule 4a.2.9 of the Taupō District Plan.
- 19.4 Actual and potential effects arising from the proposed development relate to:
- impacts of the large dwelling development on the character and amenity of the surrounding area;
 - landscape / visual impacts of the proposed dwelling;
 - outlook and privacy effects; and
 - earthworks effects.
- 19.5 The proposal was publicly notified and a total of eight submissions were received. Two were in opposition, five in support and one is neutral / support.
- 19.6 The proposal has been assessed, in light of the submissions and against the relevant criteria stipulated under section 104 of the RMA. The proposed dwelling will be significantly larger than an anticipated by the consent notice requirements however there are factors that will mitigate any adverse effects to an acceptable level.
- 19.7 These include the design of the dwelling with significant modulation, and natural exterior colour schemes and materials (such as stone and timber), the proposed planting below and around the proposed dwelling and the site location elevated above Kinloch to the east with the large, vegetated backdrop of Whakaroa Hills behind. These factors soften and break up the building form and integrate the proposed development into the surrounding landscape.
- 19.8 It is considered that the proposal is consistent with the relevant Taupō District Plan provisions, the regional policy and plan provisions, and Part II of the RMA. The adverse effects of the proposal will be minor, or if more than minor, can be mitigated to an acceptable / minimal level.
- 19.9 Therefore, on the basis of the information available at this time, I conclude that the proposed variation of consent notice and land use consent should be granted, subject to conditions. A list

of recommended conditions and draft consent notice variation certificates are at Appendix F, and I note that these have been agreed to by the applicant.

20 RECOMMENDATIONS

A. THAT PURSUANT TO THE REQUIREMENTS OF SECTION 104, 104B, 108 AND 221(3) OF THE RESOURCE MANAGEMENT ACT 1991, THE TAUPŌ DISTRICT COUNCIL GRANTS CONSENT SUBJECT TO CONDITIONS TO THE APPLICATION FOR VARIATION OF CONSENT NOTICE (RM230067) BY BRUCE BARTLEY FAMILY TRUST ON THE PROPERTIES DESCRIBED AS 36, 32 AND 30 LOCHEAGLES RISE, KINLOCH, BEING LOT 1 DP 474891, LOT 3 DP 474891 AND LOT 4 DP 474891, TO:

CONSTRUCT A LARGE NEW DWELLING EXCEEDING THE CONSENT NOTICE REQUIREMENTS OF:

- **MAXIMUM BUILDING COVERAGE OF 5%;**
- **MAXIMUM BUILDING HEIGHT OF 7.5M AND REDUCED LEVEL OF UPPER LIMIT OF BUILDING ENVELOPE OF 528.5M;**
- **MAXIMUM EARTHWORKS SITE DISTURBANCE OF 10%; AND**
- **A MINIMUM BUILDING SETBACK ENCROACHMENT OF A GATEHOUSE STRUCTURE**

B. THAT PURSUANT TO THE REQUIREMENTS OF SECTION 104, 104B AND 108 OF THE RESOURCE MANAGEMENT ACT 1991, THE TAUPŌ DISTRICT COUNCIL GRANTS CONSENT TO THE APPLICATION FOR LAND USE CONSENT (RM230066) BY BRUCE BARTLEY FAMILY TRUST ON THE PROPERTIES DESCRIBED AS 36 AND 32 LOCHEAGLES RISE, KINLOCH, BEING LOT 1 DP 474891 AND LOT 3 DP 474891, TO:

CARRY OUT EARTHWORKS ASSOCIATED WITH THE DEVELOPMENT OF A LARGE DWELLING THAT WILL EXCEED THE MAXIMUM CUT AND FILL VERTICAL GROUND ALTERATION LIMITS WITHIN AND OUTSIDE THE SETBACKS

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Report reviewed and approved
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