



**NOTIFICATION AND DECISION REPORT FOR LAND USE CONSENT RM200018 & CHANGE OF  
CONDITIONS CONSENT RM020327C PURSUANT TO THE  
RESOURCE MANAGEMENT ACT 1991 ('THE ACT')**

## 1 BACKGROUND

### RM020327

On 12 December 2002 Land Use consent RM020327 was granted to construct and operate an international standard golf course (including a driving range and three fairways), a clubhouse, maintenance facilities, a lodge facility and 226 house sites now known as The Kinloch Club. The key conditions of this consent are a requirement for landscaping plans and implementation of the landscaping, a requirement for further investigations of fault lines on the site, maximum building coverage across the whole site of 3%, building exterior colours and materials to be natural and a maximum building height of 7.5m (for residential buildings and other club buildings).

In the original consent, up to 91 house sites and three practice fairways were consented on the land to the west of Kinloch Road, now known as The Poplars (the application site), and up to 31 house sites were consented on the land to the east of Kinloch Road (near the corner with Whangamata Road) now known as The Fairways. The original consent master plan is shown in Figure 1 below.

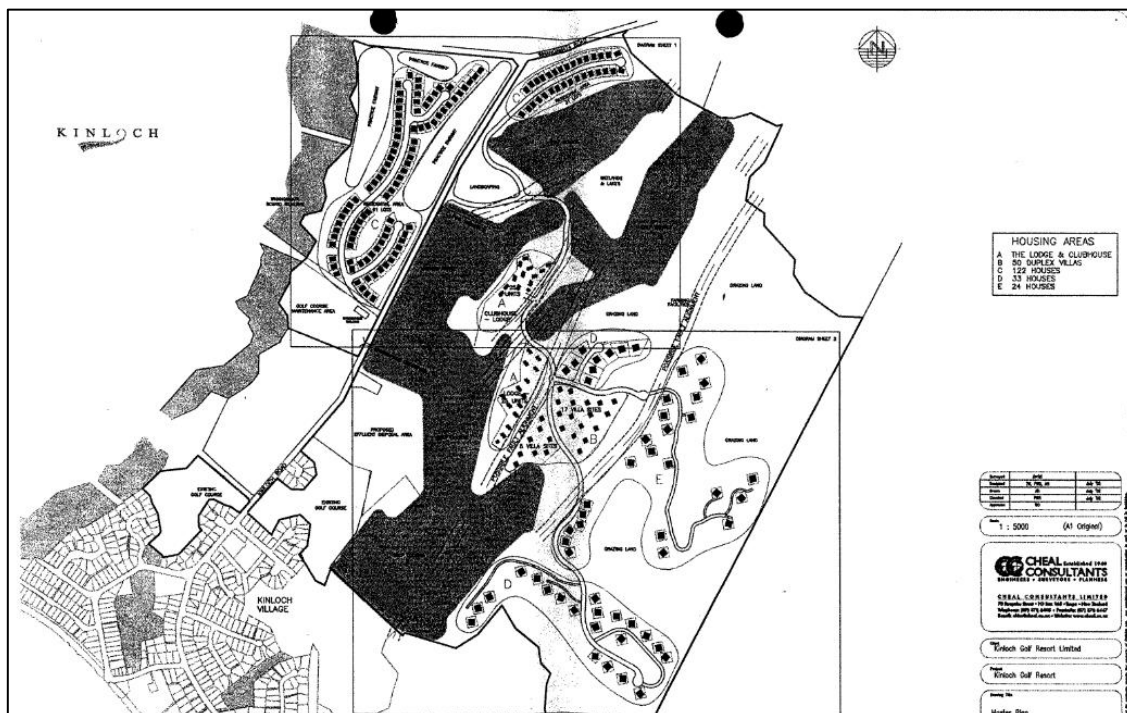


Figure 1: Approved Master Plan RM020327

There have been two variations to the original consent. In 2004, a variation was consented to alter the master plan to reduce the number of house sites on the west side of Kinloch Road (the Poplars) down to 52 from 91 and to have a nine-hole golf course instead of the three practice fairways, increase the house sites on east side of road (The Fairways) up to 54 from 31 alter the position of golf greens, add 15 house sites to 'lakeside' and 'hillside' locations and add a maintenance area. The revised plan is consented by this variation is shown in Figure 2 below.



*Figure 2: Approved Master Plan Variation 2004*

In November 2006, the master plan consent was varied to located a temporary clubhouse near the Kinloch Road frontage and to amend associated conditions.

Many aspects of the consented development have been implemented as follows:

- Earthworks for the entire master plan area and construction of the par 72 eighteen hole championship golf course including irrigation ponds and an equipment shed
- Practice facilities including putting green, grass tee driving range and chipping green with bunkers
- Clubhouse with café, locker rooms and pro-shop
- Roading throughout the site
- Landscaping
- Reticulated services extended to the residential sites on both sides of Kinloch Road
- 52 residential allotments on west side of Kinloch Road have been created, new titles issued and over half of the sites have dwellings constructed – known as The Poplars (the application site)
- 54 residential allotments have been created on the east side of Kinloch Road with new titles issued and four dwellings constructed – known as The Fairways
- The lodge and 10 accommodation units have been constructed and are operational

As such, the master plan Land Use consent (hereafter referred to as the 'master consent') has been fully given effect to and is enduring. Of note, is the 3% building coverage limit which applies across the whole 311ha area of the master consent, being the main Kinloch Golf Resort (or Kinloch Club as it is now known) and The Fairways on the eastern side of Kinloch Road and The Poplars on the western side of the road.

There have been subsequent subdivision consents to create golf course blocks and on some allotments consent notices were imposed to limit building coverage in accordance with the overall 3% limitation across the whole master plan site.

#### RM050304

In the master plan, this western area of the Kinloch Golf site was to be developed for 52 house sites and a nine-hole golf course. Subdivision consent RM050304 was granted December 2006 to create 52 residential lots and seven balance lots. This consent was in accordance with the change to the master plan consent RM020327 for this western area, now known as The Poplars.

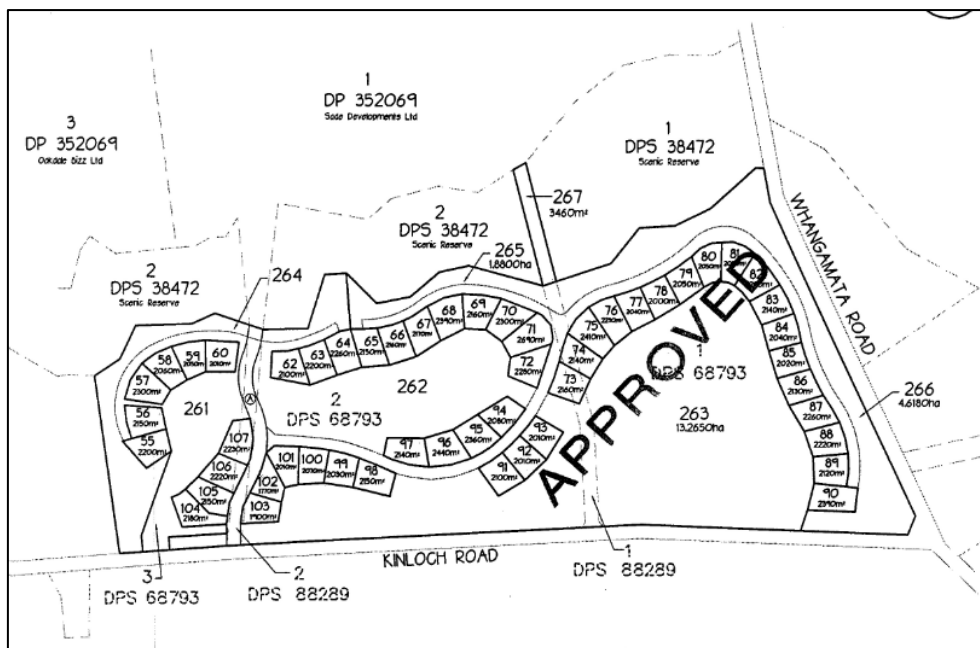


Figure 3: Approved Scheme Plan RM050304

As part of the above subdivision amalgamation conditions were imposed holding the larger Lots 261, 262 and 263 within the same title to become the nine hole golf course, and Lots 264-267 within the same title for the roadway and open space area around the periphery of the development. These amalgamation conditions were implemented.

To ensure the 3% building coverage limit as required by the master plan, a certain amount of building coverage was allocated to the 52 house sites and is applied via consent notice conditions on the house sites. The consent notice requirements are for:

- buildings setbacks
- building coverage & plot ratio
- building exterior colours and materials to be low reflectivity & natural colours
- building maximum height

No building coverage was allocated to the balance lots given that it was intended that they would become a golf course, or the roadway and open space area around the periphery of the house sites.

#### Kinloch Community Structure Plan

The Kinloch Community Structure Plan (KCSP) was issued in September 2004 (after the grant date of the master plan consent and variation) 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 below).

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 been adopted into the District Plan which became operative in 2007.

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 water front. These areas are to be protected from the effects of development.



Figure 4: Kinloch Structure Plan Density Map

#### RM180213/214

Land use and cancellation of consent notice consent was granted February 2019 to establish an outdoor education centre on the site at 261 Kinloch Road, being Lot 256 DP 391523. The site was originally set aside as a maintenance area for the Kinloch Golf Resort under the master plan RM020327 and subsequent subdivision consent imposed a consent notice stating 'the maximum building coverage on Lot 256 shall not exceed 350m<sup>2</sup>'. The purpose of the consent notice was to address the overarching condition requirement for no more than 3% across the whole master plan area.

Consent was granted to cancel this consent notice to allow the outdoor education facility to establish on the site. The outdoor education facility will have up to 3452m<sup>2</sup> building coverage. This building coverage must be taken into account in the 3% limit for the master plan.

#### Summary of Consent History

In summary, multiple subdivisions have occurred since the original master plan and also ownership of two Kinloch Golf blocks has changed, being The Poplars (the application site) and Lot 256 being the Hillary Outdoors site. Furthermore, the lodge and 10 accommodation units have been constructed within the Kinloch Golf site as per the master plan. There are still up to 110 house sites that are consented (of the 226) but are not yet constructed. The overall consented building coverage across the 311ha site now stands at 3.05%.

## 2 SITE DESCRIPTION

The application site is located at 500 Kinloch Road, Kinloch and is identified in the Figure below. Lots 261-263 are amalgamated and held under one title, shown in the purple colour. Lots 264-267 are also amalgamated and held under one title, shown by the green colour. The golf course was never established on Lots 261-263.



Figure 5: Aerial of Site

The application site allotments are described as follows:

| Record of title | Lot number | Area               | Description                                                                                                                            |
|-----------------|------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 348532          | 261        | 2.0213ha           | Open, undeveloped grass area to the south                                                                                              |
|                 | 262        | 4.0178ha           | Open, undeveloped grass area within central area                                                                                       |
|                 | 263        | 13.1899ha          | Open, undeveloped grass area to north and east adjoins Kinloch Road to the east                                                        |
| 348533          | 264        | 3.3256ha           | Open, grass area at south and southwest periphery including roadway, and central roadway                                               |
|                 | 265        | 2.1728ha           | Open grass area at central west area including roadway through centre                                                                  |
|                 | 266        | 4.6301ha           | Open, grass area at north and northwest periphery including roadway, contains mature landscape planting near north and west boundaries |
|                 | 267        | 3453m <sup>2</sup> | Strip of land adjoined by Whangamata Stream Scenic Reserve to north and south, densely vegetated                                       |

There are right of way easements over the roadways within the application site allotments in favour of the 52 residential sites. There are also a number of overland flow paths contains on each of the allotments.

The residential sites are around 2000-3000m<sup>2</sup> in area and are accessed off the sealed, single lane right of way off Kinloch Road. Of the 52 residential sites, almost all sites have building consent to be developed with a dwelling and well over half have been completed and a number are currently under construction.

The surrounding area is characterised by developing residential properties within The Poplars and The Fairways subdivisions on the east and west side of Kinloch, along with the golf course, lodge, club house and accommodation units on the east side of Kinloch Road. The application site Lots 264, 265 and 266 adjoin the Whangamata Stream Scenic Reserve to the west, which is a densely vegetated reserve, and Lot 266 adjoins Whangamata Road to the north.

### 3 DESCRIPTION OF PROPOSAL

#### ***Proposed Subdivision***

It is proposed to subdivide the application site Lots 261-267 into 12 rural-residential lots, private open space, road and a reserve to vest as set out in the following table.

| <b>Lot</b>   | <b>Area (ha)</b> | <b>Type</b>     |
|--------------|------------------|-----------------|
| 1            | 0.61             | Residential     |
| 2            | 0.81             | Residential     |
| 3            | 1.19             | Residential     |
| 4            | 1.23             | Residential     |
| 5            | 1.59             | Residential     |
| 6            | 1.86             | Residential     |
| 7            | 1.86             | Residential     |
| 8            | 1.91             | Residential     |
| 9            | 1.83             | Residential     |
| 10           | 1.86             | Residential     |
| 11           | 1.87             | Residential     |
| 12           | 2.00             | Residential     |
| 101          | 6.73             | Open Space      |
| 102          | 4.01             | Road            |
| 103          | 0.34             | Reserve to vest |
| <b>TOTAL</b> | <b>29.7028</b>   |                 |

Lots 101 and 102 will be transferred to the ownership of The Poplars Residents' Association Incorporated (TPRAI). Lots 103 will be vested in the Department of Conservation as scenic reserve. A new utility area will be created within proposed Lot 102 on the south side of the entrance to provide an area for rubbish disposal.

The scheme plan is shown below under Figure 6 below.

#### ***Services***

The water infrastructure is located within proposed Lot 102, the road lot, while the wastewater infrastructure is located on each of the allotments and services the other allotments created through RM050304 (the 52 residential sites). The water and wastewater infrastructure are protected by easements as registered on the Record of Title of each allotment subject to the easement. Proposed Lots 1 to 12 are subject to these easements and as such are able to connect to the public water and wastewater networks. Lot 10 may require a pressure / grinder pump at the time of dwelling construction due to the levels to the wastewater network.

The proposed subdivision will not alter the existing overland flow paths or stormwater swales on any of the proposed allotments. Each of the new residential lots are of a sufficient size for onsite stormwater disposal and all building envelopes are outside of the overland flow paths. Minimum floor levels will be provided for the building envelopes via consent notice to avoid 100 year flow paths and allow for sewer levels. Easements will protect the conveyance of stormwater.

Each of the proposed residential Lots 1 to 12 will be able to connect to the power and telephone services.

#### ***Access***

Proposed Lots 1 to 12 will be accessed off the existing private Right of Way (to be included in proposed Lot 102) off Kinloch Road, and are all capable of forming individual access crossings. A new Right of Way will be formed for access to lots 6 to 10. Existing access rights will be transferred to all new titles to ensure that this legal and physical access is maintained.

Any new vehicle crossings off the sealed private Right of Way will be sealed. The formation of these crossings will be required to respect the existing swales within the road formation. This detail will be specified in a consent notice on the titles. The Right of Way currently services 52 residential lots. With the proposal, this will increase to 64 residential lots and the road will remain private.

#### *Bulk & Location*

Indicative building envelopes are provided on Lots 1 to 12. On Lots 1, 2, 3, 4 and 5 the building envelope area will be 400m<sup>2</sup> and on Lots 6, 7, 8, 9, 10, 11 and 12 where the lots are greater than 1.8ha in area the building envelope will be 900m<sup>2</sup>. The envelopes comply with the 10m setback requirement of the District Plan and are clear of existing overland flow paths, existing easements and existing accessways. The building envelopes are set back at least 20m from the eastern boundary of proposed Lots 8, 9, 10, 11 and 12 due to the presence of the Poplar trees located adjacent to this boundary.



Figure 6: Proposed Scheme Plan

The building coverage on the proposed lots will be limited to:

- 305m<sup>2</sup> on Lot 1 and 4 (within a 400m<sup>2</sup> building envelope)
- 320m<sup>2</sup> on Lots 2, 3 and 5 (within a 400m<sup>2</sup> building envelope)
- 320m<sup>2</sup> for a dwelling and 110m<sup>2</sup> for ancillary buildings on Lots 6, 7, 8, 9, 10, 11 and 12 (within a 900m<sup>2</sup> building envelope)

In addition, the following bulk and location restrictions will be imposed:

- Building height of 4.5m maximum
- One single dwelling / household unit on each lot
- Exterior colour / materials not exceeding 37% reflectivity & natural colour schemes

#### *Utility Area*

A utility area is proposed at the left of the entrance to the development off Kinloch Road. This utility area will be within the land to be vested in TPRAI (Lot 102) and will be maintained by this group. It will enable the tidy collection of refuse and a safe place for the mail delivery.

Minor earthworks are required to contour this area and create a sealed vehicle access. A post and rail fence is proposed to be constructed around the entrance to the subdivision and the utility area.

#### *Activities on Lots 1-12*

The activities on the proposed residential lots will be restricted to residential only via private covenant. Commercial activities such as storage sheds, and noxious activities such as kennels, piggeries, mechanics etc. which can be a source of noise, odour and reduce amenity will be avoided by the covenant. All future

owners of the residential lots will be required to be members of the TPRAI and will have the covenant on their titles.

#### *Cancellation of Amalgamations*

In order to subdivide, the applicant seeks to cancel the two existing amalgamation conditions under section 241(3) of the RMA that holds Lots 261, 262 and 263 together in Record of Title 348532 and Lots 264, 265, 266 and 267 together in Record of Title 348533.

#### ***Change of Conditions to Master Plan RM020327B***

It is proposed to vary the master plan to:

- allow for an increase in building coverage (with the 3.05% overall limit at present) in regard to the future buildings on Lots 1 to 12
- remove landscaping requirements
- remove reference to the nine hole golf course; and
- reference Lots 1 to 12 as being subject to the Development Contributions Policy rather than the development levy applicable to existing lots within the master plan

As such the following conditions of the master plan RM020327B require changes:

- 1 That all works associated with the development of the Kinloch Golf Resort Limited Land use Resource Consent application shall be generally in accordance with master plan 9A and the subdivision scheme plan, titles "West Lots Scheme Plan Stages A-C". dated June 2005 and submitted with the application for a variation to conditions of land use consent (RM020327) dated 28<sup>th</sup> June 2005 and with plan no 2001 – 192-069 as submitted with the application for a variation to the conditions of consent (RM020327) dated 21<sup>st</sup> July 2006" and with the change of conditions application prepared by Cheal Consultants Ltd formally received by Taupō District Council on 28 January 2020 and the plans prepared by Cheal Consultants Ltd, dated June and November 2019, referenced:
  - Lots 1 to 12 and Lots 101 to 103 being a subdivision of Lots 261-267 DP 387034 – Drawing Number 18371-SC001 Rev C
  - Building Envelopes Sheet 1 of 2 – Drawing No 18371-SC004 Rev B
  - Building Envelopes Sheet 2 of 2 – Drawing No 18371-SC005 Rev B
  - Utility Access Concept Layout Plan Option 03 – Drawing No 18371-103 Rev A
  - Utility Access Earthworks Cut and Fill Plan – Drawing No 18371-201 Rev Band stamped 'Approved Plan for RM020327C'.
- 3 The maximum building coverage of buildings over the entire subject site shall not exceed 3.2%, with the additional 0.14% consented through a 12 lot subdivision of The Poplars under RM200018 and the approved change of conditions to the master plan RM020327C. The density and spacing between the 226 dwellings is to be in general accordance with the master plan 2001 – 192-000 and a comprehensive development plan of such be submitted to the satisfaction of the Manager: Resource Consents prior to granting of building consents.
- 12 The landscape and visual mitigation plan shall be submitted to the Council at the time of the 224 (c) application (release of titles) being made for the Stage 1 subdivision. Following receipt of written acknowledgement from the Council of its satisfaction of the plan, the consent holder shall implement and maintain the approved landscape and visual mitigation plan in accordance with the 'Implementation Staging Plan' required by Condition 11 (c) with the exception of The Poplars on the west side of Kinloch Road where the landscaping does not have to be implemented in accordance with the approved change of conditions to the master plan RM020327C. The 'implementation staging plan' may be modified by agreement between the consent holder and council.

- 34 A development levy shall be payable to the value of 0.5% of the total values of each of the residential buildings, clubhouse and lodge facilities. This levy shall be payable prior to the occupation of each of the houses, the use of the clubhouse and the lodge. [This does not apply to Lots 1 to 12 on the Poplars consented under RM200018, which are subject to the Development Contributions Policy.]
- 35 The development shall include the provision of recreational facilities for the resort, including:
- 18 hole golf course (the new golf course)
  - ~~3 practice fairways (associated with the new golf course)~~
  - Tennis court complex (Associated with the new golf course)
  - Bowling Greens (associated with the new golf course)
  - Petanque Courts (associated with the new golf course)

### 3 TAUPŌ DISTRICT PLAN

#### 3.1 Environment / Zoning

The site is zoned Kinloch Low Density Residential Environment over the southern third of the site, and Kinloch Rural-Residential Environment over the northern two-thirds of the site as identified on Planning Map C2 of the District Plan, and shown on Figure 5 below. Kinloch Road is classified as a District Arterial Road under the District Plan Roding Hierarchy. The Lombardy Poplar trees along Kinloch Road are Amenity trees, and Whangamata Stream Scenic Reserve to the west is Significant Natural Area – SNA 275.

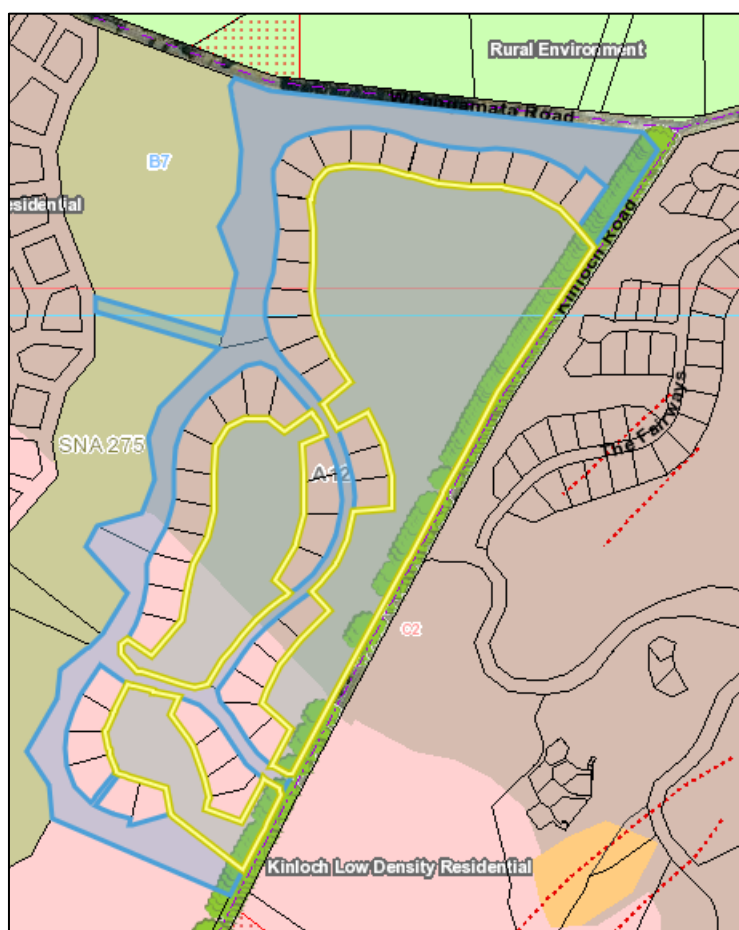


Figure 7: District Plan map

#### 3.2 District Plan Rules/Performance Standards

It is noted that under the Introduction section of the District Plan it refers to 'Properties Subject to Two Zones' and that were a subdivision is proposed, the most restrictive provisions will apply. This is the position taken in the following table.

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                                                                                                                                                                                                                      |
| <b>4a.1.14 Maximum Earthworks</b><br>Inside Building Setback                 | 0.5m vertical ground alteration within the minimum building setback requirement                                                                                                                                                                                                                                                      | Earthworks cut of up to 1m is proposed within the front 10m setback on proposed Lot 102 to create a vehicle access to the utility area. This exceeds the 0.5m limit by an additional 0.5m.                                    |
| <b>4a.1.16 Parking, Loading &amp; Access</b><br>In accordance with Section 6 | <i>6.5.7.i.b Maximum Number of Crossings – 1 per allotment</i>                                                                                                                                                                                                                                                                       | It is proposed to construct a second vehicle crossing within Lot 102 to access the utility area on Lot 102. This exceeds the maximum number of crossings by one.                                                              |
|                                                                              | <i>6.5.8.ii Minimum Standards for Driveways &amp; Accessways</i><br>– In accordance with Rules 4a.3.5 any single common driveway or accessway serving more than nine allotments in the Residential Environment, is to be vested as legal road.                                                                                       | The existing private road serves 52 residential lots. The proposed subdivision will create 12 additional residential lots increasing the total number to 64 without vesting the private road as public.                       |
| 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 <b>discretionary activity</b> . | The proposal triggers two performance standards as noted above, therefore this rule is applicable.                                                                                                                            |
| Subdivision Rules (4a.3)                                                     |                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                               |
| Rule                                                                         | Requirement                                                                                                                                                                                                                                                                                                                          | Proposal                                                                                                                                                                                                                      |
| 4a.3.5                                                                       | Any subdivision of land where more than nine (9) allotments share a single common access in the Residential Environment is a discretionary activity.                                                                                                                                                                                 | The existing private road serves 52 residential lots. The proposed subdivision will create 12 additional residential lots increasing the total number to 64, which exceeds the limit of 9. Therefore this rule is applicable. |
| Kinloch Subdivision Rules (4a.4)                                             |                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                               |
| Rule                                                                         | Requirement                                                                                                                                                                                                                                                                                                                          | Proposal                                                                                                                                                                                                                      |
| <b>4a.4.1.i.c Minimum Lot Size</b>                                           | 2 hectares                                                                                                                                                                                                                                                                                                                           | Proposed Lots 1 – 11 will be less than 2ha in area. Therefore the proposal does not comply with this rule.                                                                                                                    |
| <b>4a.4.1.ii.c Average Lot Size</b>                                          | 2.5 hectares                                                                                                                                                                                                                                                                                                                         | For proposed Lots 1 – 12 the average lot size is 1.5ha, 1ha less                                                                                                                                                              |

|               |                                                                                                                                                                                                                          |                                                                                                                                                                                               |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               |                                                                                                                                                                                                                          | than the required average lot size. Therefore the proposal does not comply with this rule.                                                                                                    |
| <b>4a.4.1</b> | Any subdivision within the Kinloch Structure Plan Area which creates allotments that are less than the minimum lot size, but not less than the average lot sizes identified in 4a.4.1 is a <b>discretionary activity</b> | Proposed Lots 1 – 12 will be less than the minimum <u>and</u> average lot sizes, therefore this rule is <u>not</u> applicable.                                                                |
| <b>4a.4.5</b> | Any subdivision within the Kinloch Structure Plan Area, which is not identified as a controlled or discretionary activity is a <b>non complying activity</b> .                                                           | All of the lots within the Kinloch Low Density and Kinloch Rural Residential Area Environments will be less than the minimum and average lot sizes, therefore this rule <u>is</u> applicable. |

With the 'bundling' method applied the most restrictive activity status shall apply, as such the application for subdivision must be assessed as a **non complying activity** in accordance with Taupō District Plan Rule 4a.4.5.

#### 4 SECTION 127 OF THE RMA

Under Section 127 of the Act, the consent holder may apply to the consent authority for a change or cancellation of conditions of consent. Sections 88 to 121 are to apply to the consideration of applications to change / consent conditions as if the application were for an application for resource consent for a discretionary activity. Only the effects of the change / cancellation of conditions can be considered.

As such the application to change the conditions of the master plan RM020327B must be considered as a discretionary activity pursuant to section 127 of the Act.

#### 5 NOTIFICATION ASSESSMENT

| 95A PUBLIC NOTIFICATION OF CONSENT APPLICATIONS |                                                                                                                                     |                                                                                       |
|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <b>Step 1</b>                                   | <b>95A(3) Mandatory public notification in certain circumstances</b>                                                                |                                                                                       |
|                                                 | (a) <i>The applicant has requested the application be publicly notified?</i>                                                        | <b>No</b> - The applicant does not request notification.                              |
|                                                 | (b) <i>Public Notification has been determined to be required under section 95C?</i>                                                | <b>No</b> - Section 95C is not relevant as no further information has been requested. |
|                                                 | (c) <i>The application is an application to exchange recreation reserve land under s.15AA of the Reserves Act 1977?</i>             | <b>No</b> - No exchange of reserve land is involved.                                  |
| <b>Process</b>                                  | <b>The answer is no, go to Step 2</b>                                                                                               | <b>NO</b>                                                                             |
| <b>Step 2</b>                                   | <b>95A(5) Public notification precluded in certain circumstances</b>                                                                |                                                                                       |
|                                                 | <i>The application is for an activity that is subject to a rule or National Environmental Standard that precludes notification?</i> | <b>No</b>                                                                             |

|         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                               |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|         | i. The application is a controlled activity?                                                                                                                                                                                                                                                                                                                                                                                                                                                             | No                                                                                                                                                                                                                            |
|         | ii. The application is a restricted discretionary or discretionary activity for: a subdivision of land; or a residential activity?                                                                                                                                                                                                                                                                                                                                                                       | No                                                                                                                                                                                                                            |
|         | iii. The application is a boundary activity?                                                                                                                                                                                                                                                                                                                                                                                                                                                             | No                                                                                                                                                                                                                            |
|         | iv. The application is a prescribed activity?                                                                                                                                                                                                                                                                                                                                                                                                                                                            | No                                                                                                                                                                                                                            |
| Process | 95A(4)(a) if the answer is yes, go to step 4 (step 3 does not apply); and<br>95A(4)(b) if the answer is no, go to step 3.                                                                                                                                                                                                                                                                                                                                                                                | NO                                                                                                                                                                                                                            |
| Step 3  | <b>95A(8) Public notification required in certain circumstances</b>                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                               |
|         | (a) The application is subject to a rule or National Environmental Standard that requires public notification?                                                                                                                                                                                                                                                                                                                                                                                           | No                                                                                                                                                                                                                            |
|         | (b) The consent authority pursuant to s.95D has determined that the adverse effects on the environment are more than minor?                                                                                                                                                                                                                                                                                                                                                                              | No - In terms of section 95D, the assessment concludes that the adverse effects of the proposal are not more than minor.                                                                                                      |
| Process | The answer is no, go to step 4.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | NO                                                                                                                                                                                                                            |
| Step 4  | <b>95A(9) Public notification in special circumstances</b>                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                               |
|         | Do special circumstances exist in relation to the application that warrant public notification? Special circumstances are those that are: <ul style="list-style-type: none"> <li>• Exceptional, abnormal or unusual, but something less than extraordinary or unique;</li> <li>• outside of the common run of applications of this nature; or</li> <li>• circumstances which make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.</li> </ul> | No - There is not considered to be anything exceptional or unusual about the application, nor does the proposed activity include anything out of the ordinary run of things to suggest that public notification should occur. |
| Process | The answer is no, public notification is not required.                                                                                                                                                                                                                                                                                                                                                                                                                                                   | NO                                                                                                                                                                                                                            |

| <b>95B LIMITED NOTIFICATION OF CONSENT APPLICATIONS</b> |                                                                                                                                  |                                                                                                                                                               |
|---------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Step 1                                                  | <b>95B(2) &amp; (3) Certain affected groups and affected persons must be notified</b>                                            |                                                                                                                                                               |
|                                                         | (a) Are there any affected protected customary rights groups?<br>(b) Are there any affected customary marine title groups?       | No - The site is not within the coastal environment therefore there are no customary rights groups or customary marine title groups affected by the proposal. |
|                                                         | (a) Is the proposed activity on or adjacent to, or may affect land that is subject to a statutory acknowledgement (Schedule 11)? | No - The site is not on or adjacent to or affecting land subject to a statutory acknowledgement.                                                              |

|                |                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                           |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | <i>(b) Is the person to whom a statutory acknowledgement made, an affected person under section 95E?</i>                                                                                                                                                                     | <b>No</b>                                                                                                                                                                                                 |
| <b>Process</b> | <b>There are no affected groups or persons under section 95B(2) and (3).</b>                                                                                                                                                                                                 |                                                                                                                                                                                                           |
| <b>Step 2</b>  | <b>95B(6) Limited notification precluded in certain circumstances</b>                                                                                                                                                                                                        |                                                                                                                                                                                                           |
|                | <i>(a) The application is for a resource consent for 1 or more activities and each activity is subject to a rule or national environmental standard that precludes limited notification?</i>                                                                                 | <b>No</b>                                                                                                                                                                                                 |
|                | <i>(b) The application is for a resource consent for either or both of the following, but no other, activities:</i><br>i. a controlled activity under a district plan (other than subdivision of land)<br>ii. a prescribed activity (see Section 360H(1)(1)(ii))?            | <b>No</b><br><b>No</b>                                                                                                                                                                                    |
| <b>Process</b> | <b>The answer is no, go to step 3.</b>                                                                                                                                                                                                                                       |                                                                                                                                                                                                           |
| <b>Step 3</b>  | <b>95B(7) &amp; (8) Certain other affected persons must be notified</b>                                                                                                                                                                                                      |                                                                                                                                                                                                           |
|                | <i>(a) There is an affected person under section 95E for a boundary activity?</i>                                                                                                                                                                                            | <b>No</b>                                                                                                                                                                                                 |
|                | <i>(b) There is an affected person under section 95E for any activity prescribed under section 360H(1)(b)?</i>                                                                                                                                                               | <b>No</b>                                                                                                                                                                                                 |
|                | <i>There is an affected person in accordance with section 95E?</i>                                                                                                                                                                                                           | <b>No</b> – For the reasons given in the section 95E assessment.                                                                                                                                          |
| <b>Process</b> | <b>There are no affected groups or persons under section 95B(7) and (8).</b>                                                                                                                                                                                                 |                                                                                                                                                                                                           |
| <b>Step 4</b>  | <b>95B(10) Further notification in special circumstances</b>                                                                                                                                                                                                                 |                                                                                                                                                                                                           |
|                | Do special circumstances exist in relation to the application that warrant notification of the application to any other persons not already determined to be eligible for limited notification (excluding persons assessed under section 95D as not being affected persons)? | <b>No</b> - There is nothing exceptional or unusual about the application, and the proposal has nothing out of the ordinary run of things to suggest that notification to any other persons should occur. |
| <b>Process</b> | <b>The application does not require limited notification.</b>                                                                                                                                                                                                                |                                                                                                                                                                                                           |

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| <b>95D EFFECTS ON THE ENVIRONMENT ASSESSMENT</b>                                                                                                                                                                                                                                                                                                                                                      |  |
| <i>A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—</i><br><i>(a) must disregard any effects on persons who own or occupy—</i><br><i>(i) the land in, on, or over which the activity will occur; or</i><br><i>(ii) any land adjacent to that land; and</i> |  |
| See the assessment under Section 6 of this report. The conclusion is that the effects of the activity on the environment will be no more than minor.                                                                                                                                                                                                                                                  |  |
| <i>(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and</i>                                                                                                                                                                                                                                                     |  |
| This section allows discretion for the application of what is commonly referred to as the ‘permitted baseline test’, so allowing recognition that activities may have similar or greater effects than a proposed activity.                                                                                                                                                                            |  |
| The permitted baseline test has not been applied in this instance.                                                                                                                                                                                                                                                                                                                                    |  |

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| <i>(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and</i>                                                                                                                                                                                                                                   |
| The proposal is not for a restricted discretionary activity.                                                                                                                                                                                                                                                                                                                                                                                                     |
| <i>(d) must disregard trade competition and the effects of trade competition; and</i>                                                                                                                                                                                                                                                                                                                                                                            |
| Trade competition and the effects of trade competition have been disregarded.                                                                                                                                                                                                                                                                                                                                                                                    |
| <i>(e) must disregard any effect on a person who has given written approval to the relevant application.</i>                                                                                                                                                                                                                                                                                                                                                     |
| Written approval has been received from: <ul style="list-style-type: none"> <li>▪ The Department of Conservation – in relation to the adjoining Whangamata Stream Scenic Reserve</li> <li>▪ The landowner of the Kinloch Club – as joint consent holder of the master plan RM020327 and the golf course to the east of Kinloch Road</li> <li>▪ The Poplars Residents Association Incorporated</li> </ul> Therefore effects on these persons must be disregarded. |
| <b>Section 95D conclusion:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>The effects on the environment are not more than minor.</b>                                                                                                                                                                                                                                                                                                                                                                                                   |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| <b>95E – AFFECTED PERSONS ASSESSMENT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <i>(1) For the purpose of giving limited notification of an application for a resource consent for an activity to a person under section 95B(4) and (9) (as applicable), a person is an <b>affected person</b> if the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but are not less than minor).</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p><i>Subdivision</i></p> <p>There are considered to be minor effects from the proposed subdivision on the following persons:</p> <ul style="list-style-type: none"> <li>▪ The Department of Conservation – in relation to the adjoining Whangamata Stream Scenic Reserve</li> <li>▪ The landowner of the Kinloch Club – as joint consent holder of the master plan RM020327 and the golf course to the east of Kinloch Road</li> <li>▪ The Poplars Residents Association Incorporated</li> </ul> <p>However as written approval has been received from these persons, then the effects on them cannot be considered.</p> <p>There are not considered to be any other affected parties to the proposed subdivision given the substantial separation distance and topography between the application site and any other property.</p> <p><i>Change of Conditions</i></p> <p>When determining who is adversely affected, Section 127(4) requires the consideration of every person who made a submission on the original application and who may be affected by the change of condition. The original application for the Kinloch Golf master plan was publicly notified and received 24 submissions – 8 in opposition, 8 in conditional support, 6 in unconditional support, 1 neutral, and 1 neutral conditional. The concerns raised were around infrastructure capability, increased population, protection of the Whangamata Stream Scenic Reserve, and character and amenity.</p> <p>The increase building coverage to 3.2% from 3.05% across the whole master plan area will allow the proposed 12 lots to be built on and this will accommodate around 33 people. It is considered that the effects of this population increase will be inconsequential in regards to the expected growth of Kinloch.</p> <p>The increase building coverage will not adversely affect the Whangamata Stream Scenic Reserve as the proposed building envelopes are at least 100m from the scenic reserve. As part of the proposed subdivision pen space adjacent to the reserve will be protected which provides a buffer to the scenic reserve.</p> |

It is not considered that the character and amenity of Kinloch will be adversely affected by the additional building coverage due to the limited views into the application site from the surrounding area and the low density nature of the development. Specified building envelopes, bulk and location controls and colour scheme requirements will ensure that the effects of the increased coverage are mitigated and the low density / rural-residential nature of the site and surrounds will be maintained.

The application site is already screened significantly from Kinloch Road by the poplar trees and the topography of the area. Existing planting has already been undertaken at the northern end of the subdivision adjacent to Kinloch Road and along the northern portion of the site. As such, the amendment to remove this landscaping is considered to have minimal adverse effects.

Lot 256 is consented to become an outdoor education facility (Hillary Outdoors). Lot 256 is located to the south of the application site and across the road. The additional 4850m<sup>2</sup> building coverage will be spread around the existing Poplars dwellings within an additional 12 dwellings and six possible outbuildings. The additional building coverage will be well screened from Lot 256 due to the separation between the sites and screening offered by the existing dwellings on the Poplars site and the poplar trees along the Kinloch Road road reserve. As such, the landowners of Lot 256 are not considered to be affected by the change of conditions to the master plan.

Written approval has been obtained from the landowners of Kinloch Club as the joint consent holder of the master plan, therefore the effects of the change of conditions on them cannot be considered. As such, there are not considered to be any effects on persons from the proposed change of conditions.

In summary, there are not considered to be any affected persons.

*(2) The consent authority, in assessing an activity's adverse effects on a person for the purpose of this section,—*

*(a) may disregard an adverse effect of the activity on the person if a rule or a national environmental standard permits an activity with that effect; and*

*(b) must, if the activity is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a national environmental standard reserves control or restricts discretion; and*

*(c) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.*

This section allows discretion for the application of what is commonly referred to as the 'permitted baseline test', so allowing recognition that activities have similar or greater effects than a proposed activity.

The permitted baseline test has not been applied in this instance.

The application is for a Discretionary and Non Complying Activity. As such, all actual and potential adverse effects of the activity have been considered.

There is not a relevant statutory acknowledgement under Schedule 11 for consideration.

*(3) A person is not an affected person in relation to an application for a resource consent for an activity if—*

*(a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the consent authority before the authority has decided whether there are any affected persons; or*

*(b) the consent authority is satisfied that it is unreasonable in the circumstances for the applicant to seek the person's written approval.*

*(4) Subsection (3) prevails over subsection (1).*

(3)(a) As per s.95E(a) the following parties have provided their written notice:

1. The Department of Conservation – in relation to the adjoining Whangamata Stream Scenic Reserve

2. The landowner of the Kinloch Club – as joint consent holder of the master plan RM020327 and the golf course to the east of Kinloch Road
3. The Poplars Residents Association Incorporated

#### **NOTIFICATION DECISION**

**The application is does not require public notification in accordance with section 95A and shall be processed as non-notified (without the need for limited notification) in accordance with Section 95B of the Act.**

### **6 ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT (SECTION 104, 104B & 104D)**

#### **104 Consideration of applications**

*(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, have regard to–*

*(a) any actual and potential effects on the environment of allowing the activity; and*

The key effects of the proposal relate to:

- character and amenity
- landscape/visual impact
- privacy and outlook
- traffic
- services/infrastructure
- subdivision
- earthworks
- change of conditions & cancellation of amalgamations

Each of these key effects is discussed in turn below.

#### *Character & Amenity Effects*

The proposal will create 12 rural-residential type allotments with an average area of 1.5ha per lot, which is less than the 2ha minimum and 2.5ha average lot size in the Kinloch Rural Residential Environment; and the proposed change of conditions is due to the future built form on the proposed lots resulting in an increase to the building coverage limit over the entire master plan area from 3.05% to 3.2%. It is considered that the effects of the proposed subdivision and change of conditions to the master plan on the wider Kinloch Rural Residential or Low Density Environments will be no more than minor, as explained below.

The application site consists of large, open, undeveloped lots that surround 52 low density lots that are on average 2000m<sup>2</sup> in area. Well over half of the low density lots have been developed with large, single level dwellings and some with detached sheds. For most of the low density lots the boundaries are not defined by fencing and the garden features of planting and so on, provide the site definition. The layout of the low density lots is lineal along the west, north and central portions of the site with the internal, single lane private road connecting the lots. They are well set back from Kinloch Road (apart from at the north end) and much of the built form is screened from Kinloch Road by the row of Poplar trees along the west side of Kinloch Road.

The Whangamata Stream reserve is to the west which and is between 50 – 150m width and contains mature, native vegetation providing a vegetated backdrop to the site. To the east, on the opposite side of Kinloch Road is the Kinloch Club golf course site with The Fairways residential subdivision at the northern portion of the site containing 54 lots, only four of which have been developed with a dwelling. The golf course is further to the south as is the lodge, clubhouse and 10 accommodation units which are up on an elevated, central area of the site. To the south is the residential Lisland Drive subdivision, and further to the south is the Kinloch village containing the original residential development down to the edge of Lake Taupō.

In summary, the application site and immediate surrounds do not exhibit the characteristics of the Kinloch Rural Residential Environment which anticipates larger 2-2.5ha sites, lower levels of built form and greater open space / lifestyle type developments on the northern portion of the KCSP area. This is because many of the consents that established the existing developments (the master plan, Te Kowhai Ridge and Locheagles) were granted prior to the KCSP coming into force, and as such have smaller, residential type development rather than the large, lot rural-residential developments anticipated by the zoning. With the earlier consents, the higher densities of development were granted due to the offset provided by surrounding balance land to be retained as open space (such as the golf courses on the master plan) and / or by landscaping.

The application site (the balance lots around the 52 low density lots) was consented for the purposes of a golf course over 18 years ago. A third golf course within Kinloch is no longer viable and the applicant considers that the most efficient use of this land is for residential purposes. It is considered that the proposed subdivision layout maintains a sufficient level of open space with proposed Lots 101 and 102 over the private road network and south, west and north peripheries of the site equating to around 10ha; and the building coverage being limited on the proposed 12 residential lots to also ensure a substantial amount of open space is retained on each of the lots.

The proposed 12 rural-residential sized lots will surround the existing residential Poplars development and the dwelling sites on the proposed lots will be well spaced apart. It is anticipated that the future dwellings / built form on the proposed lots will appear as if it is part of the existing Poplars development. Furthermore, all of the proposed building sites are well set back from Kinloch Road boundary and the existing poplar trees (protected as Amenity Trees under the District Plan) provide screening of the site from Kinloch Road. As such there are not considered to be discernible adverse effects on character and amenity of this area from the smaller lot sizes over and above the existing Poplars low density development.

The proposal also requires a change of conditions to the master plan due to the increased building coverage resulting from future buildings on the proposed 12 rural-residential lots, and due to the removal of landscaping requirements. The condition limits building coverage across the whole master plan site area of some 311ha to 3% (actually consented to 3.05%). The proposed subdivision will enable up to 4850m<sup>2</sup> of building coverage or an additional 0.14% over the entire master plan area. The effects of the proposed additional 0.14% over the entire master plan area of 311ha on the character and amenity of the area are considered to be inconsequential given the existing low density Poplars development and the proposed building envelope locations being well set back from Kinloch Road, along with the bulk, location and colour controls proposed for buildings on the lots.

The removal of the required landscaping requirements (in relation to the proposed lots) under the master plan is also not considered to result in adverse effects on character and amenity for the same reasons as mentioned above. Furthermore, the existing landscaping within proposed Lot 101 to the north and northwest of the site will be retained, and the existing Poplar trees along Kinloch Road are also afforded protection as Amenity trees under the District Plan and provide significant screening of the application site from Kinloch Road.

Residential amenity within the Poplars development will be maintained by the proposed bulk and location controls for future residential development as well as the covenants proposed limiting any activities on the site to be residential only and limiting any 'noxious' type of activities or commercial activities. A condition requiring evidence of such a covenant will be imposed.

In summary, the effects on the character and amenity from the proposal are considered to be no more than minor.

### *Visual / Landscape Effects*

The 29ha application site is presently an open, undeveloped site in grass, vegetation and with the private road network, set amongst a developed low density residential subdivision. The peripheries of the site are defined by vegetated edges with a landscaped bund to the north (within proposed Lot 101), the poplar trees along Kinloch Road boundary to the east, the Whangamata Stream Scenic reserve to the west and planting along the southern boundary (within proposed Lot 101).

This existing vegetation provides significant screening of the application site from Kinloch or Whangamata Roads. Any view into the site from the higher reaches of Kinloch Golf will be at a distance of at least 300m and viewed in the context of the surrounding dwellings, the background of Te Kowhai Ridge to the west and the wider, broader view. Furthermore, the building envelopes are well set back from the eastern boundary with Kinloch Road and building controls will be imposed limiting building height to single storey, on building coverage and colour schemes. Consent notice conditions are imposed on the proposed lots to enforce the bulk and location requirements.

The proposal will alter the vista from grass lands to some buildings interspersed with open spaces, however at a distance future dwellings on the proposed lots will not be discernible from the existing residential development. The poplar trees and topography provide significant screening from Kinloch Road and the landscape planting required by the master plan (proposed to be cancelled) along the eastern portion of the site is not considered necessary for the reasons given above. Therefore there are not considered to be any adverse landscape effects from the proposal and any visual impacts of the proposal are considered to be limited to the internal existing development, being the existing 52 residential sites.

There may be adverse visual effects from the proposed 12 future dwellings / buildings on the existing 52 residential sites and potentially on users of the Whangamata Stream Scenic Reserve to the west, however these are considered to be minor due to the setbacks, bulk and location being single storey in height, and colour controls and so on. Nevertheless, written approval has been obtained from the PRAI (to which all landowners are part of) and DOC therefore the effects on them cannot be considered.

In summary, there are not considered to be any adverse landscape effects and any adverse visual effects are considered to be no more than minor.

### *Privacy & Outlook Effects*

The proposed subdivision, and specified building platforms are not considered to result in adverse effects on privacy of the existing residential sites due to the large separation distances between them. Furthermore it is anticipated that landscaping will occur around future dwellings which will soften / screening between existing and future dwellings.

In terms of outlook, there will be minor adverse effects on the existing residential lots due to the change in open, grassland to built form from future dwellings on the proposed lots. The effects are considered as minor given the height restriction to single storey, and the position of the building envelopes to maintain outlook where possible from existing dwellings. A private covenant is also proposed that will limit vegetation height within 20m of the boundaries of the proposed lots to 2m. Nevertheless, written approval has been obtained from the PRAI (to which all landowners are part of) therefore the effects on them cannot be considered.

There are not considered to be any privacy or outlook effects on any other parties.

### *Traffic Effects*

The proposal will add another 12 users onto the existing private road within the application site that already serves 52 residential sites and will not be vested as a public road. The proposal will also involve the

construction of a second vehicle crossing onto proposed Lot 102 (the road lot), which exceeds the limit of one crossing per allotment, by one.

The additional 12 users on the existing private road is not considered to have adverse traffic effects. The road is fully sealed and has varying legal width from 15m to 20m. The formed width varies from 4-7m. The road is currently managed and maintained by the PRAI and this will continue as required by a condition of consent.

In terms of the traffic generation from the proposed 12 lots, this will create an additional 96 equivalent vehicle movements (based on 8 evm per dwelling). Council have an ongoing road widening programme in place for Poihipi Road and other rural roads west of Taupō as well as money set aside in the Long Term and Annual Plans to look at ways of improving the Norman Smith Street intersection and Wairakei Drive in Taupō. The West Kinloch Arterial (WeKA) designation (which is still active) provides for another road connection between Kinloch and Taupō. As such, there are not considered to be any adverse traffic effects on the wider Taupō road network from the proposal.

Within Kinloch, Kinloch Road is very straight with clear visibility in either direction and the road has sufficient capacity for the additional traffic generated by the proposal. The proposed second vehicle crossing is not considered to have any adverse effects and in fact will have positive effects in relation to the development of the utility area with a clear entrance and exit which will provide for safe movements of the school bus, postal delivery and rubbish collection vehicles.

In summary, the proposal is considered to have less than minor adverse traffic effects.

#### *Infrastructure / Services Effects*

The proposed 12 rural-residential lots are able to connect to both of the existing public water and wastewater networks ensuring that the lots will be adequately serviced and that any adverse effects on the quality of Taupō District's lakes, waterways and aquifers are avoided. The existing private road provide sufficient legal and physical access to Kinloch Road. Including the private road within one allotment (Lot 102) instead of three as the current situation, simplifies the legal status of the road and allows clear management of it by the PRAI.

The subdivision will not alter the existing overland flow paths. The stormwater from hard surface areas within the proposed lots is able to be disposed of within each lot. Protection of the gully systems will be via easement or consent notice. A consent notice will be imposed to ensure that new vehicle crossings to the proposed 12 lots onto the private road will protect the existing swales and watercourses on the sites.

Council's Development Engineer has confirmed that there is capacity within the Council infrastructure to service the proposed lots. Conditions of consent will ensure that the appropriate service connections are made and that the right of way easements are established for the proposed lots over the private road.

Therefore it is anticipated that the potential effects on the environment relating to servicing will be no more than minor.

#### *Earthworks Effects*

Earthworks of up to 1m cut will occur partly within the 10m front building setback within proposed Lot 102 in order to contour the utilities area. This is only over a small area of proposed Lot 102 in order to establish the new access and it is still well away from the Kinloch Road boundary to the east. The earthworks will not alter the existing ground levels significantly and will not change the ground level or relationship with the road boundary or boundary with any existing residential site. Given that the proposed earthworks will take place

within a very confined area and are minor in scale, no Earthworks Management Plan is considered necessary as the effects are considered to be less than minor.

#### *Subdivision Effects*

The design of the subdivision is such that Lots 1 to 12 surround the existing 52 residential sites, the private road throughout the site will be encompassed within Lot 102 and the open space around the peripheries of the site will be held within Lot 101. Both Lots 101 and 102 will be transferred to the PRAI to be maintained and managed by them.

No significant earthworks are required for the subdivision. Some minor works will be required for the construction of the access to Lots 6-10 and building platforms when dwellings are constructed which are likely to comply. The proposed lots can be adequately serviced as such there will be no adverse effects on water quality. There are no identified District Plan natural hazard notations, or areas of land contamination on or nearby the application site.

There are no identified District Plan areas of cultural, historical or landscape value on or nearby the proposed subdivision. The adjoining Whangamata Stream Scenic Reserve is also a Significant Natural Area (SNA) although there are not considered to be any adverse effects on the ecological values of the SNA given the substantial set backs of the proposed building envelopes from the western site boundary with the reserve.

#### *Change of Conditions to Master Plan & Cancellation of Amalgamations*

A change of conditions to the master plan consent RM020327 is required due to:

- the increase in building coverage resulting from the proposed subdivision;
- the proposal to not implement the landscape planting as required by the master plan conditions;
- the proposal to not implement the golf course as required by the master plan conditions; and
- to reference Lots 1 to 12 as being subject to the Development Contributions Policy rather than the development levy applicable to existing lots within the master plan

In order to subdivide, the applicant seeks to cancel the two existing amalgamation conditions under section 241(3) of the RMA that hold Lots 261, 262 and 263 together in Record of Title 348532 and Lots 264, 265, 266 and 267 together in Record of Title 348533. The amalgamations were imposed through the subdivision consent RM050304 as Lots 261, 262 and 263 were intended to become a nine-hole golf course and Lots 264, 265 and 267 were to be retained as open space around the periphery of the development, in accordance with the master plan.

The effects of the additional building coverage and not implementing the landscape planting have been discussed in the above 'Character and Amenity, and Visual / Landscape Effects' assessments. It was concluded that the additional 0.14% building coverage over the whole master plan site will not have any more than minor adverse visual and character and amenity effects, and there will not be any adverse landscape effects. This is due to the separation between the Poplars site and the Kinloch Golf site by Kinloch Road, and the building envelope positions and bulk / location and colours of future buildings on the proposed lots. In turn, the cancellation of amalgamation conditions will also have negligible effects for the same reasons.

The change in relation to the development contributions policy being applicable instead of the development levy is simply a correction to ensure that the applicant is aware that it is the policy that applies. There are no adverse effects from this change.

Written approval has been obtained from the landowner of the Kinloch Golf site, as a 'co-holder' of the master plan consent RM020327. Therefore the effects of change of conditions and cancellation of amalgamation conditions on them must be disregarded.

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| <p>In summary, the effects of the change of conditions as a result of the proposed subdivision and the consequential cancellation of amalgamation conditions are considered to be minimal, and the overall intent of the master plan is maintained.</p> <p><i>Summary of effects</i></p> <p>In summary, it is considered that any potential adverse effects on the environment of the proposed subdivision and change of conditions will be no more than minor.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p><i>(ab) any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and</i></p>                                                                                                                                                                                                    | <p>No measures to ensure positive effects on the environment to offset or compensate for any adverse effects are required.</p>                                                                                                                                                                                                                                                                                                                 |
| <p><i>(b) any relevant provisions of—</i><br/> <i>(i) a national environmental standard:</i><br/> <i>(ii) other regulations:</i><br/> <i>(iii) a national policy statement:</i><br/> <i>(iv) a New Zealand coastal policy statement:</i><br/> <i>(v) a regional policy statement or proposed regional policy statement:</i><br/> <i>(vi) a plan or proposed plan; and</i></p>                                                                                       | <p>No provisions of other documents in section 104(1)(b)(ii), (iii) &amp; (iv) are relevant to this proposed activity.</p> <p>Section 104(1)(b)(i), (v) &amp; (vi) are relevant and are discussed below in Section 7.</p>                                                                                                                                                                                                                      |
| <p><i>(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.</i></p>                                                                                                                                                                                                                                                                                                                                  | <p>See Section 7 below.</p>                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><i>(2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.</i></p>                                                                                                                                                                                                      | <p>The permitted baseline test has not been applied in this instance.</p>                                                                                                                                                                                                                                                                                                                                                                      |
| <p><i>3) A consent authority must not,—</i><br/> <i>(a) when considering an application, have regard to—</i><br/> <i>(i) trade competition or the effects of trade competition; or</i><br/> <i>(ii) any effect on a person who has given written approval to the application:</i></p>                                                                                                                                                                               | <p>Trade competition has been disregarded.</p> <p>Written approvals have been received from the following persons:</p> <ol style="list-style-type: none"> <li>1. The Department of Conservation</li> <li>2. The landowner of the Kinloch Club – as joint consent holder of the master plan RM020327</li> <li>3. The Poplars Residents Association Incorporated</li> </ol> <p>Therefore any effects on these persons have been disregarded.</p> |
| <p><i>(c) grant a resource consent contrary to—</i><br/> <i>(i) section 107, 107A, or 217:</i><br/> <i>(ii) an Order in Council in force under section 152:</i><br/> <i>(iii) any regulations:</i><br/> <i>(iv) wāhi tapu conditions included in a customary marine title order or agreement:</i></p>                                                                                                                                                               | <p>To grant the consent would not be contrary to s.104(3)(c).</p>                                                                                                                                                                                                                                                                                                                                                                              |

## 7 RELEVANT PROVISIONS (104(1)(b) and 104(1)(c))

### **104(1)(b)(i) National Environmental Standards**

There are six 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 and management of contaminants in soil.

#### *National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health*

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 a subdivision of land and minor soil disturbance. These activities are considered as activities under the NES, when they take 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 HAIL<sup>1</sup> 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.*

The application site is undeveloped, balance grassland around the existing 52 lot Poplars residential development. It 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 subdivision and 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).

Notwithstanding Regulation 5(7), Regulation 5(8) of the NES relates to production land<sup>2</sup>. 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).

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

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

### **104(1)(b)(v) Regional Policy**

The proposed activity is not considered to be inconsistent with the Regional Policy Statement or Regional Plan.

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<sup>1</sup> The current edition of the Hazardous Activities and Industries List

<sup>2</sup> 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.*

#### **104(1)(b)(vi) Taupō District Plan / Proposed Plan**

##### **Residential Environment – Section 3a**

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”*. The proposed Lots 1 – 12 do not meet the minimum or average lot size requirements for the Kinloch Rural Residential Environment. However the slightly smaller lots are not considered to detract from the character and amenity of the area, given the existing low density residential Poplars and Fairways developments and because 12 additional dwellings will appear as part of the Poplars development.

Future buildings on the proposed lots will be controlled as to position, bulk and location and will be substantially set back from Kinloch Road so as to appear as part of the existing Poplars development and will be well screened by the existing poplar trees along Kinloch Road. For the same reasons the change of conditions to increase building coverage across the whole master plan area will have minimal adverse effects on character and amenity. Therefore the proposal is consistent with Objective 3a.2.1.

Objective **3a.2.3** states *“To maintain and enhance the existing amenity and character of the Kinloch residential area and provide for appropriate residential development in the Kinloch Community Structure Plan Area.”* The associated policies 3a.2.3.ii and 3a.2.3.iv encourage development in the Kinloch Rural Residential Environment *“which reflects the intent of the Kinloch Community Structure Plan”* and that *“subdivision in the Kinloch Community Structure Plan Area should only occur where the resulting lots will be connected to community wastewater network infrastructure”*.

As proposed Lots 1-12 do not meet the minimum or average lot size requirements for the Kinloch Rural Residential Environment, the subdivision does not reflect the intent of the Kinloch Community Structure Plan which is for larger lot development in this zone than what is proposed. The proposed lots will be connected to the community wastewater network infrastructure therefore there will be no health or nuisance concerns as a result of this proposal. The proposed subdivision is therefore considered to be inconsistent with Objective 3a.2.3 policy 3a.2.3.ii and consistent with policy 3a.2.3.iv and its associated policies.

##### **Growth Management and Land Development – Section 3e**

Objective **3e.2.4** seeks to avoid degradation of Taupō District's lakes, waterways and aquifers from wastewater. The proposed lots will be connected to Council's wastewater reticulated service. Accordingly, the degradation of Taupō District's lakes, waterways and aquifers from wastewater is avoided and the proposal is consistent with Objective 3e.2.4.

Objective **3e.2.5** states *“Ensure land development does not detract from the amenity value or qualities of the local environment”*. As stated above, the proposed the slightly smaller lots are not considered to detract from the character and amenity of the area, given the existing low density residential Poplars and Fairways developments and because 12 additional dwellings will appear as part of the Poplars development. Future buildings on the proposed lots will be controlled as to position, bulk and location and will be substantially set back from Kinloch road and will be well screened by the existing poplar trees along Kinloch road. For the same reasons the change of conditions to increase building coverage across the whole master plan area will have minimal adverse effects on the amenity of the area. As such, the proposed subdivision does not detract from the amenity value or qualities of the local environment.

The Whangamata Stream Scenic Reserve are located to the west of the site and is an identified Significant Natural Area, however as stated, the subdivision will not have any impact on the surrounding area or the ecological values of the SNA. There are no features or areas of cultural, spiritual, historical or landscape value on or nearby the application site. Accordingly, the proposal is consistent with Objective 3e.2.5.

### Traffic & Transport – Section 3f

Objective **3f.2.1** seeks to ensure the safe and efficient operation of the roading network, and movement of traffic, including cyclists and pedestrians within the District. The additional 12 users of the private road without vesting it as public are considered to have inconsequential effects over and above the existing 52 users of the private road. A management structure is in place for the maintenance of the private road by the PRAI which will ensure its upkeep. The additional crossing is sufficiently separated from the existing crossing and Kinloch Road is wide and straight with good visibility from the proposed and existing crossings. Accordingly, the safe and efficient operation of the road network will be maintained and the proposal is consistent with Objective 3e.2.4.

### Conclusion – Objectives and Policies

The proposed subdivision is consistent with the majority of the relevant Objectives and Policies of the District Plan, apart from Objective 3a.2.1 3a.2.3 policy 3a.2.3.ii which requires an appropriate density of development (as the lots do not meet the minimum or average lot size requirement).

### Structure Plans & Plan Changes

The site is located within the Kinloch Community Structure Plan area. The objectives and policies relating to the structure plan and this proposed subdivision have been discussed in detail. There are no other policy documents considered to be relevant to the assessment of this proposal.

There are no other structure plans or other policy documents considered to be relevant to the assessment of this proposal.

## **8 SECTION 104D AND PART II ASSESSMENT**

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In Part II of the Act, Section 5 sets out the purpose and principles of the Act for the sustainable management of natural and physical resources by enabling people and communities to provide for their social, economic and cultural wellbeing and for their health and safety while avoiding, remedying or mitigating any adverse effects of activities on the environment.

The application will develop the balance land around the existing 52 residential lots as 12 rural-residential sized lots. This is a sustainable use of the land as a physical resource and will avoid adverse effects on the environment.

Section 6 sets out Matters of National Importance, none of which are relevant to the proposal.

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 are as follows:

*(a) kaitiakitanga.*

*(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.*

As stated above the proposal is considered to have negligible adverse effects on the amenity of the area, maintaining the quality of the environment and being an efficient use of the land resource.

Section 8 requires Council to take into account the principles of the Treaty of Waitangi. There are not considered to be any matters in relation to the principles of the Treaty that are relevant to the proposal.

It is therefore considered that the proposal is consistent with Part II of the RMA.

## **9 SECTION 106 ASSESSMENT**

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Section 106 of the Act enables the consent authority to refuse subdivision consent in certain circumstances:

- if there is a significant risk from natural hazards; or
- sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

The application site does not have any District Plan natural hazard notations identified on or nearby it, and sufficient provision has been made for legal and physical access to each allotment to be created by the subdivision. As such, it is appropriate to grant consent under section 106 of the Act.

## **10 CONCLUSION & RECOMMENDATION**

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The proposed activity is consistent with the relevant objectives and policies of the Taupō District Plan and any adverse effects on the environment will be no more than minor. Therefore it is recommended that the application to subdivide the site to create 12 rural-residential allotments; and to consequentially vary conditions of the master plan RM020327B, is **granted**.

**Report prepared by Louise Wood, Senior Resource Consents Planner.**

**Report reviewed by Heather Williams, Resource Consents Manager.**

**Report approved and recommendation adopted by Scott Devonport, Consents and Regulatory Manager, under delegated authority pursuant to Section 34 of the Resource Management Act 1991.**