

EXECUTIVE SUMMARY

Weston Lea Limited, representing the Peacocke family, proposes to develop a major new settlement at Peacocke, Hamilton, to be called Amberfield.

The site has a unique combination of characteristics in that it extensively bounds the Waikato River, can accommodate a whole new community of well over 2,000 people and will be in reach of the city's key destinations. Its scale, proximity and setting ranks amongst the rarest combination of attributes in New Zealand.

The application seeks consents from both the Hamilton City Council and Waikato Regional Council. The proposal is to subdivide a total of 867 fee simple lots from the site, including two 'super lots' for future residential and commercial development, one commercial lot and two rural balance lots. The subdivision will be completed in stages. The total site subject to the subdivision consent application comprises approximately 139ha of land. Excluding the rural balance lots that will be created west of Peacockes Road and south of Stubbs Road, the site that will be subject to urban development and subdivision comprises approximately 105ha.

This Assessment of Environmental Effects summarises detailed information and assessments that have been prepared for the whole site to fulfil the subdivision requirements of the Hamilton City District Plan, including urban design, landscape, visual, ecological, cultural impact, archaeology, geotechnical, and contaminated site assessments, an Integrated Transport Assessment, stormwater management, sub-catchment integrated catchment management plan, and infrastructure design reports. This information provides an overarching vision in the form of a Master Plan and will guide the future development of the site.

The Hamilton City Council consents include subdivision consents and land use consents for enabling works supported by a Master Plan. The Waikato Regional Council consents are for enabling activities including earthworks, streamworks, a bridge within the subdivision, and stormwater discharges.

Amberfield's location beside the Waikato River also signals its importance to the various hapu of Waikato-Tainui iwi, including the status of the river in their historical occupation of Kirikiriroa (Hamilton) and the significance of the water and soil resources to their well-being. This AEE records the consultation with mana whenua undertaken by Weston Lea to identify and address matters of importance.

A total of 862 residential lots are provided for in the subdivision, including 41 'parent lots' which are anticipated for further medium density subdivision in the future bringing the total number of anticipated dwellings to 909 across the site, excluding the future suburban centre. A further 50 to 76 dwellings are anticipated within the future suburban centre, which will also provide for between 5,000m² to 10,000m² of retail or employment uses. Lot sizes vary from over 700m² down to approximately 200m²,¹ and anticipated building heights vary from one storey to two storeys. Areas of indigenous biodiversity and most indigenous trees are retained, and a network of open spaces are provided with approximately 5.0ha of neighbourhood and local amenity parks, an archaeological / cultural reserve of 1.6ha, and a further 22.5ha of esplanade and gully reserve areas. A well-connected street network comprises a range of street types to respond to traffic needs and living conditions. Bus routes are envisioned along Peacockes Road, and possibly

¹ Note that the achievement of these smaller lot sizes below 400m² will be subject to future medium density housing consents.

linking through the subdivision in the future. Extensive provision is made for cycling and walking both along the street network and public open space.

The AEE has assessed all resources of significance on the site and surrounds. Intensive work has been undertaken on two such resources – historic heritage and the Hamilton South long-tailed bat population and habitat. Despite the inclusion of all the land within an active urban zone, heritage resources in the form of modified soils and features relating to early Maori cultivation of the area extend across the site. The long-tailed bat roosting areas extend up and down the Waikato River riparian margin of the site, but there is also evidence of bat movement corridors across the site.

Mitigation strategies for the effects of urban development on both these resources have been proposed. Whilst the cultivation areas will largely be lost to urban development, the archaeological / cultural reserve will preserve a representative remnant and other mitigation that reaffirms the whakapapa of Waikato-Tainui will be part of the urban design and development.

Development has avoided the riparian margin of the Waikato River and Weston Lea has committed to bat sensitive design measures to mitigate the effects on the bat population that resides both on and off-site. The future of the Hamilton South bat population is also a policy initiative of both Councils, and together with other interested parties, such as the Department of Conservation and Waikato-Tainui, Weston Lea will also be contributing to wider off-set measures to ensure the ongoing health and well-being of this population.

Amberfield is to proceed ahead of the public provision of key infrastructure such as a new bridge linking the subdivision to the Wairere Drive extension and connection to the city's wastewater network. These projects are potentially part of the government's Housing Infrastructure Fund initiative. Public investment will provide impetus to the Peacocke Structure Plan and wider area. Weston Lea's development of Amberfield has proceeded on the basis that the subdivision does not need them in order to avoid adverse effects on either the safety or efficiency of the road network, the efficient operation of the wastewater network or increased network overflows during high rainfall events.

The proposed primary form of stormwater disposal and treatment from the sub-catchment will be via retention and soakage. Only in more extreme rainfall events will a secondary pipe network be utilised to discharge stormwater to local open space and the river.

With the exception of adverse effects on heritage values, and taking into account the mitigation being offered by Weston Lea on all effects areas, the adverse effects are assessed as being no more than minor.

The proposed subdivision and development has been assessed against the relevant provisions of the District and Regional Plan documents and the higher-level policy statements. These documents contain a generally consistent policy approach to a range of common themes including development form and density, the provision and arrangement of open space, protection and enhancement of significant natural areas, habitats and species, protection and enhancement of historic heritage, provision of appropriate transport and Three Waters infrastructure, management and response to natural hazards, management of soil contamination and the amenity effects of development. Overall it is concluded that the proposal is not contrary to the relevant objectives and policies of the District or Regional Plans.

Taking all matters into account it is considered that this proposal meets the tests of sustainable management and that the resource consents sought should be granted, subject to the information provided in the applications and appropriate conditions of consent.

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* A copy of the Awa reports are attached as Appendix R to this report. These reports refer to the Adare development which was the former name for this project

1. INTRODUCTION

This Assessment of Environmental Effects (**AEE**) relates to an application by Weston Lea Limited (**Weston Lea**) for the subdivision and development (to be known as Amberfield) of land adjoining the western bank of the Waikato River in Peacocke, Hamilton (Figure 1.1). The land is within the Peacocke Structure Plan area, which has an overall area of approximately 720ha.

The application to Hamilton City Council (**HCC**) seeks to subdivide a total of 867 fee simple lots from the site, including two 'super lots' for future residential and commercial development, one commercial lot and two rural balance lots. The subdivision will be completed in stages. The total site subject to the subdivision consent application comprises approximately 139ha of land. Excluding the rural balance lots that will be created west of Peacockes Road and south of Stubbs Road, the site that will be subject to urban development and subdivision comprises approximately 105ha.

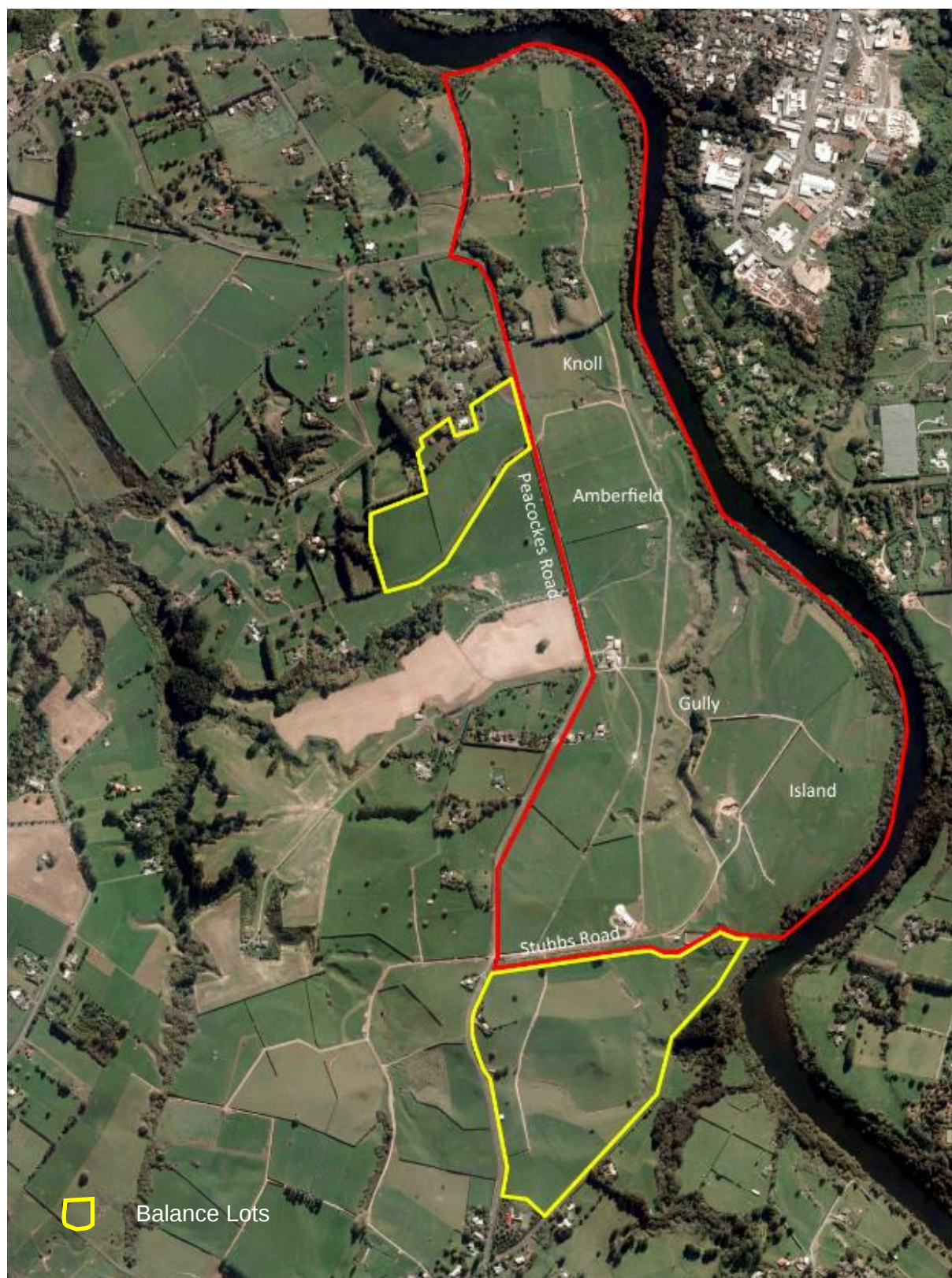
This AEE summarises detailed information and assessments that have been prepared for the site to fulfil the subdivision requirements of the Chapter 5 Peacocke Structure Plan provisions in the Operative Hamilton City District Plan (**District Plan**), including urban design, landscape, visual, ecological, archaeology, cultural impact, geotechnical, and contaminated site assessments, an Integrated Transport Assessment, stormwater management, and infrastructure design reports. This information provides an overarching vision and will guide the future development of the site. Many components of the information have also been provided in relation to the District Plan's requirement for a Sub-Catchment Integrated Catchment Management Plan (**SC-ICMP**), which has been prepared contemporaneously with this application. The information requirements of Chapters 5 and 23 and Appendix 1.2.2.3 for a Master Plan have also been fulfilled.

The application to Waikato Regional Council (**WRC**) seeks resource consents associated with the development of the site relating to earthworks, stormwater discharge, a bridge and reclamation of the beds of streams. Erosion and sediment control plans are included as part of the engineering drawings and the effects associated with the activities for which consents are required under the Waikato Regional Plan (**Regional Plan**) are contained within the ecological, cultural impact, geotechnical, stormwater management and infrastructure reports.

Amberfield will provide significant opportunities to enhance the relationship of Hamilton's urban area with the Waikato River. Its location within 4 kilometres of the Hamilton Central Business District also provides significant opportunities to enhance the economic, social and cultural well-being of the Central City.

Amberfield's location beside the Waikato River also signals its importance to the various hapu of Waikato-Tainui iwi, including the status of the river in their historical occupation of Kirikiriroa (Hamilton) and the significance of the water and soil resources to their well-being. This AEE records the consultation with mana whenua undertaken by Weston Lea to identify and address matters of importance. It also summarises consultation with the wider public and interested parties.

Figure 1.1: Amberfield Land



2. REASONS FOR CONSENT AND APPLICATION DETAILS

Applicant Details:	Weston Lea Limited ² Attention: Andrew Duncan, Development Manager c/- Deloitte 24 Anzac Parade Hamilton East HAMILTON 3216
Site Address:	Peacockes Road, Hamilton
Legal Description:	Lots 1 and 2 DPS 81210 (SA66A/99), Lots 3 and 4 DPS 81210 (SA66A/100), Lot 1 DP 36935 (SA5D/1211), Part Lot 6 and Lot 8 DP 34164 (SA4B/788), Lot 5 DP 17475 (SA718/181), Allotment 87, Part Allotments 93 and 94 Te Rapa Parish (SA528/20), Lot 1 DPS 78023 (SA60A/826), and Pt Lot 10 DPS 7724 (SA7D/254) owned by Hamilton City Council
District Plan:	Hamilton Operative District Plan
Zoning:	Peacocke Character Zone Natural Open Space Zone Transport Corridor Zone Peacocke Structure Plan Significant Natural Areas (Nos. 48 and 54) Waikato River Bank Stability Area Waikato River and Gully Hazard Area Group 2 Significant Archaeological, Historic and Cultural Site (No. A100 – Borrow Pits (S14/176)) Designation (No. A106 – Southern Links) Conical Obstacle Limitation Surface
Regional Plan:	Waikato Regional Plan

2.1 Overview

The proposal requires subdivision and land use consents from Hamilton City Council under the District Plan, as specified in Table 2.1, and the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health. A consent is needed from Hamilton City Council as requiring authority for works within an area designated for road

² The land is owned by The Adare Co. Limited contactable at the same address.

works as part of the Southern Links project. Resource consents are also required from Waikato Regional Council under the Regional Plan.

This AEE provides a statutory assessment in terms of the Resource Management Act 1991 (**RMA**) and the relevant planning documents, including the Operative Hamilton City District Plan, the Operative Waikato Regional Plan, and the Operative Waikato Regional Policy Statement. Detailed assessments of the relevant rules in the District Plan and Regional Plan are contained in Appendix B. The resource consent requirements are summarised below.

Table 2.1: Consent Requirements

District Plan			
Rules and Status:	Activity	A: Subdivision	
		Fee simple subdivision within the Peacocke Character Zone, not in compliance with the requirement to provide a transport corridor connection across the Waikato River to join the existing transport network, pursuant to Rules 23.3 Table 23.3c (v)(c) and 23.6.11(c) and (i) as a Non-complying Activity; And for subdivision not meeting general and specific standards: - Some lots not containing a 15m diameter circle outside the front yard (Rule 23.7.1(l), (o) and (y)) - Subdivision within the Peacocke Character Zone Hill Area with a minimum lot size less than 800m² (Rule 23.7.1(o)). - Some transport corridor front lot boundaries less than 15m wide in the Hill Area (Rule 23.7.3(a)) - Some transport corridor front lot boundaries less than 10m wide in the Terrace Area (Rule 23.7.3(b)) - Some rear boundary lengths of front lots less than 10m in length (Rule 23.7.3(c)) - Two instances of more than 6 lots being accessed from a private way (Rule 23.7.3(d)) - Four instances where private ways are greater than 50m in length (Rule 23.7.3(h)) - One instance of more than one private way accessing from a cul-de-sac (Rule 23.7.3(j)) - One pedestrian accessway more than 80m in length (Rule 23.7.3(l)) - Three locations where pedestrian accessway widths do not meet the standard for required width (Rule 23.7.3(m)) - Some vehicle crossings that do not meet the required distance between vehicle crossings on the same transport corridor frontage (Rule 25.14.4.1(a))	

- Some vehicle crossings that do not meet the minimum separation distance between any vehicle crossing and a transport corridor intersection (Rule 25.14.4.1(c))

For subdivision of an allotment containing a Significant Natural Area

Rule 23.3(xii)

Discretionary Activity

For the creation of more than 40 allotments requiring the preparation of an Integrated Catchment Management Plan

Rules 25.13.3(b) and 25.13.4.1(b)

Restricted Discretionary Activity

For the creation of four or more allotments requiring the preparation of a Water Impact Assessment

Rules 25.13.3(a) and 25.13.4.6

Restricted Discretionary Activity

For subdivision in the Peacocke Special Character Zone requiring the preparation of a Broad Integrated Transport Assessment and a new transport corridor

Rule 25.14.3(a) and (b)

Restricted Discretionary Activity

The subdivision application is accompanied by a Master Plan provided as information in support of the fee simple subdivision application in accordance with Rule 23.6.11 and Volume 2, Appendix 1.2.2.3.

B: Land Use

Land use activities to facilitate urban development in accordance with this Application, including:³

i. Walkways and cycleways

Rule 5.3.3.3 Activity Status Table 5.3.3.3 (pp)

Discretionary Activity

ii. Some of the proposed retaining walls which will be constructed as part of the subdivision works will exceed the maximum height standards for walls

Rule 5.4.8

Restricted Discretionary Activity

iii. New works not in accordance with the function of the transport corridor as defined in Volume 2, Appendix 15-5: Transport Corridor Hierarchy Plan and Definitions in relation to the formation of Peacockes Road and Stubbs Road

³ The activity status for each component triggering the need for a resource consent is identified.

Rules 18.4 Activity Status Table 18.4(c) and 18.6.1

Discretionary Activity

- iv. One subsoil drain for geotechnical purposes which has an outlet within Significant Natural Area 54

Rule 20.3 Activity Status Table 20.3(g)

Non-Complying Activity

- v. Lot 299 (being a lot for a dwelling) within the Waikato Riverbank and Gully Hazard Area.

Rule 22.3 Activity Status Table 22.3(h) and (bb)

Discretionary Activity

- vi. Earthworks within the Waikato Riverbank and Gully Hazard Area.

Rule 22.3 Activity Status Table 22.3(p)

Discretionary Activity

- vii. Earthworks within a Special Character Zone exceeding maximum volumes in a 12 month period

Rule 25.2.4.1(g)

Restricted Discretionary Activity

- viii. Stormwater detention, treatment and/or soakage facilities to service more than 1 site

Rule 25.7.3 (qq)

Restricted Discretionary Activity

- ix. For road works outside the existing Transport Corridor Zone (and therefore a new transport corridor) on Peacockes Road

Rule 25.14.3

Restricted Discretionary Activity

The land use applications are accompanied by a Master Plan provided as information in accordance with Rules 5.3.3.1(a) and (d), 5.3.3.2(d), and Volume 2, Appendix 1.2.2.3.

C: Master plan land use consent

For the land use activities identified in **B.** consolidated into a separate single master plan land use consent

Rule 5.3.3.1(a) and 5.3.3.2(d)

Discretionary activity

Regional Plan

Rule and Activity Status:

- A.** The discharge of stormwater into water, and/or into or onto land which does not comply with Rules 3.5.11.4 as the catchment is greater than 1ha.

Rule 3.5.11.8

Discretionary Activity

- B.** A bridge over the southern gully

Rule 4.2.8.2

Controlled Activity

- C.** Reclamation of the bed of streams

Rule 4.3.4.4

Discretionary Activity

- D.** Earthworks in a High Risk Erosion Area

Rule 5.1.4.15

Discretionary Activity

Other Consents

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS)

Soil Disturbance: Exceeds the maximum volumes for soil disturbance under Regulation 8(3) of the NES-CS, therefore defaults to Regulation 11

Discretionary Activity

Land Use Change: No Detailed Site Investigation has been undertaken, therefore defaults to Regulation 11

Discretionary Activity

Part 8 of the Resource Management Act: Designations

Section 176(1)(b) consent from Hamilton City Council as requiring authority to undertake works within the Southern Links designation in relation to Peacockes Road, subdivision of land and the construction of a section of the wastewater main connection to the Far Eastern Interceptor

2.2 Overall Activity Status and Bundling

The Amberfield application is a comprehensive application for subdivision and development of land. Certain activities require consideration under both the District Plan and the Regional Plan. For these reasons the applications for consent are bundled and considered overall as a **non-complying activity** (being the most restrictive activity classification).

Notwithstanding, the aspects of the proposal requiring subdivision and land use consent are assessed in terms of the relevant objectives and policies of the District Plan and those aspects requiring regional consent are assessed in terms of the relevant objectives and policies of the Regional Plan.

2.3 Master Plan Approach

The provisions of Chapter 23 (Subdivision) of the District Plan anticipate the provision of a Master Plan in support of an application for subdivision and approval of the Master Plan as part of the subdivision consent. In particular, Rule 23.6.11 states “[a] *Master Plan is required as part of the subdivision consent information requirements (refer Volume 2, Appendix 1.2.2.3)*”.

The provisions of Chapter 5 (Special Character Zones – land use) also anticipate approval of a Master Plan. In particular, Rules 5.3.3.1(a) and 5.3.3.2(d) are standards requiring the approval of a Master Plan. Weston Lea considers that Rules 5.3.3.1(a) and 5.3.3.2(d) are satisfied through approval of the Master Plan provided in support of the application for subdivision consent. Notwithstanding, Weston Lea also seeks the approval of the Master Plan in support of the applications sought for land use consent through Chapter 5.

It is acknowledged that certain provisions under Chapter 5 could be applied in a manner held to be ultra vires by the Environment Court in the Queenstown⁴ and Auckland⁵ Framework Plan decisions. Those decisions held that:

(a) Plans (including Framework Plans, Comprehensive Development Plans and Master Plans) are not activities for which consent can be obtained; and

(b) An activity’s status is derived from the RMA and its subsidiary planning instruments. Activity status cannot be determined by whether (or not) another resource consent has been granted. This does not preclude a plan specifying different activity classification depending on whether an application for consent is supported by Master Plan information or not.

Weston Lea has adopted an intra vires approach to the provision of its Master Plan information under Chapters 23 and 5. In particular, the Master Plan information prepared in accordance with Volume 2 - Appendix 1.2.2.3 - is provided in support of the separate applications for subdivision consent and land use consents (as described under Table 2.1 above). In this manner the Master Plan may be approved pursuant to the subdivision and land use consent applications.

While Weston Lea considers it unnecessary (as the Master Plan will be approved by way of the subdivision consent and land use consent) it also separately seeks a Master Plan land use consent pursuant to Rule 5.3.3.2(d) in order to address the Hamilton City Council's position that a master plan is an express requirement of the District Plan.

Appendix 1.2.2.3 requires the Master Plan to contain information about the transport network, infrastructure and servicing, natural environment network, open space network, land use, detailed development response (with respect to urban form) and staging. These matters are all summarised in this AEE and addressed in detail in the technical reports contained in the appendices to this AEE.

⁴ *Queenstown Airport Corporation v Queenstown Lakes District Council* [2014] NZEnvC 93

⁵ *Re Auckland Council* [2016] NZEnvC 56, (2016) 19 ELRNZ 425

2.4 Neighbourhoods

Appendix 1.2.2.3 includes the following statement:

Master Plans shall be prepared in accordance with the neighbourhoods identified in Appendix 2-3 and the Peacocke Structure Plan (refer to Volume 1, Chapter 3: Structure Plans).

The significance of this is that while the subdivision, and the supporting Master Plan, covers two whole neighbourhoods in Appendix 2-3 (being Neighbourhoods 3 and 7), it also relates to parts of two other neighbourhoods (being Neighbourhoods 6 and 8). The reason for the requirement for a Master Plan to relate to whole neighbourhoods is unclear in the District Plan. An integrated planning approach would suggest that the purpose of the requirement is to avoid a situation where resource consents for subdivision and development are sought for small sites without the context of surrounding land uses and supporting infrastructure. Notwithstanding the inclusion of two part neighbourhoods, the applicant considers that 105ha comprises a large land area, and that the parts of Neighbourhoods 6 and 8 that are included are also substantial land areas (Figure 2.2). Consequently, neighbourhood areas and the information provided by the subdivision application and Master Plan are consistent with that integrated planning approach.

2.5 Sports Park

Figure 2.1 of Appendix 2 Structure Plans indicates the location of an Active Recreation area or sports park in the southern part of the Amberfield subdivision. The scheme plan layout currently depicts approximately 100 residential lots in this area. However, these lots, and the surrounding road network, have been designed to accommodate a future sports park of approximately 7ha. The development of the sports park will be a Council initiative and its inclusion in a later stage of development will allow time for decisions to be made in consultation with the Council about the park's open space role, required size and design features. Weston Lea's approach to ensuring that the land is available for Council development, if it is required for a park, is consistent with the Peacocke Structure Plan provisions and with the associated objectives and policies.

A sports park would be classed as 'general recreation' in terms of the Peacocke Special Character zone and would require resource consents for its development. No consents for the sports park are being sought as part of this application.

2.6 Notification

Weston Lea seeks public notification of the application for subdivision and land use consents to the Hamilton City Council pursuant to section 95A(2)(b) of the RMA.

In relation to the application for regional consents from the Waikato Regional Council, Weston Lea seeks that these consents proceed on a non-notified basis. Public notification of the application is not required because:

- i. Subject to any further information requests being answered, there is no mandatory reason for public notification (section 95A(2));
- ii. Public notification is not required by any rule or National Environmental Standard (section 95A(4));

- iii. The adverse effects of the activities (being stormwater discharge, a bridge, reclamation of streams and earthworks) on the environment will be or are likely to be no more than minor (section 95A(7));
- iv. No special circumstances exist in relation to the application (i.e stormwater discharge, a bridge, reclamation of streams and earthworks) that warrant it being publicly notified (section 95A(9)).

Further, limited notification is not required because:

- v. The proposed subdivision and development is not on or adjacent to land that is subject to a statutory acknowledgement (section 95B(2));
- vi. No person is affected as the adverse effects of the stormwater discharge, bridge, reclamation of streams and earthworks on any person are less than minor (section 95A(8)).

2.7 Lapse Period

The subdivision and development for which consents are sought is extensive and is to be undertaken in stages over several years. The RMA provides a default period of five years for the development to be given effect to. It is possible that not all parts of the development will have been given effect to within a five-year period. Weston Lea seeks an eight year lapse period for the consents sought from both HCC and WRC.

2.8 Heritage New Zealand Pouhere Taonga Application

Weston Lea is applying to Heritage New Zealand (**HNZ**) for an authority to carry out works over the entire Amberfield site. It is anticipated that this application will be well advanced if not determined before the Council makes a decision on the current RMA applications. An HNZ application requires an assessment of the archaeological, Māori, and other relevant values of the archaeological site to be modified or destroyed, as well as details of consultation with tangata whenua. The consultation undertaken, the cultural impact assessment and the assessment of archaeological values for the RMA applications supports the HNZ application. It is understood that HNZ anticipate that the reserve has a covenant over it in relation to its heritage status.

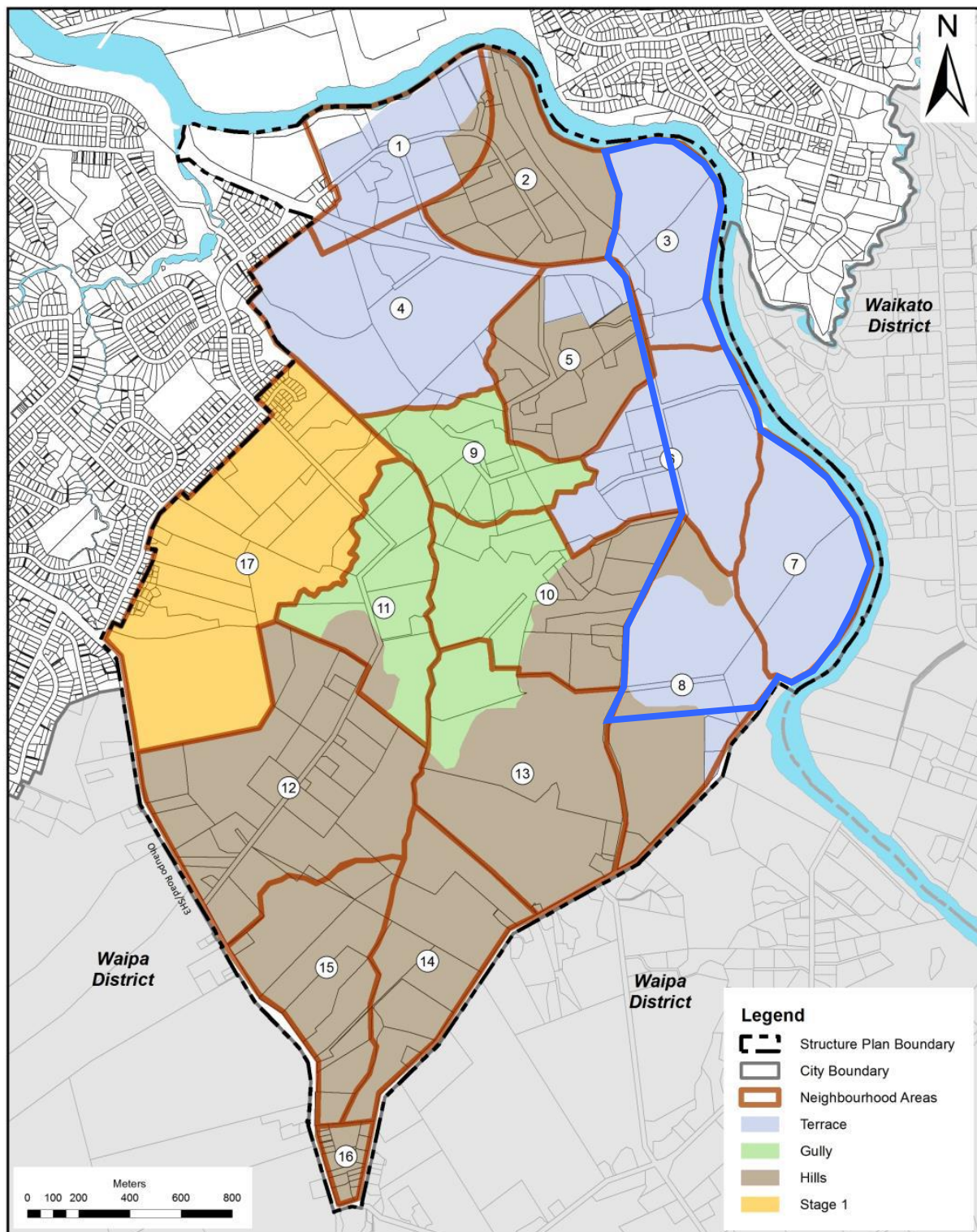
2.9 Wildlife Act Authority

The long-tailed bat is 'absolutely protected' under the Wildlife Act 1953 (s63(1)(c)). A Wildlife Act Authority to potentially disturb long-tailed bats as part of construction works will be sought. An authority is also likely to be required for lizard management.

2.10 Balance Lots

The scheme plan of subdivision includes balance lots for land held within the same parent title as that being subdivided (Figure 1.1). It has been confirmed with HCC planning staff that a Master Plan and ICMP is not required to cover rural balance lots that will be created as a result of the subdivision proposal.

Figure 2.2: Master Plan Neighbourhoods within Amberfield Subdivision



3. DESCRIPTION OF PROPOSED SUBDIVISION AND DEVELOPMENT

3.1 Overview

Weston Lea, representing the Peacocke family as the long-term land owners since the 1880's, proposes to develop a major new settlement at Peacocke, Hamilton, to be called Amberfield.

The site is a unique combination of characteristics in that it extensively bounds the Waikato River, can accommodate a whole new community of well over 2,000 people and, with a new bridge in the future, will be in reach of the city's key destinations. Its scale, proximity and setting ranks amongst the rarest combination of attributes in New Zealand.

The site presents the opportunity to create a highly liveable community that embraces the river, nurtures the environment and celebrates the stories of those who have gone before. Hamilton's economy will be enhanced by providing attractive living conditions for high net worth individuals who create jobs, as well as for those entering the market at affordable levels. The recent government housing infrastructure funding (**HIF**) initiatives will if adopted by HCC allow the Peacocke Structure Plan and wider area to be developed over time.

A total of 959 to 985 dwellings are envisioned of which 909 are provided for in the subdivision and 50 to 76 are anticipated within the future retail and commercial neighbourhood centre (Figure 3.1). Lot sizes vary from over 700m² down to approximately 200m²,⁶ and anticipated building heights vary from one storey to two storeys. An illustrative version of the neighbourhood centre suggests it can accommodate some 5,000m² to 10,000m² of retail or employment uses. This is to be finalised in due course when market preferences are refined, in the subdivision plan it is defined by two super lots. Further resource consents will be required before these super lots can be developed. Areas of indigenous biodiversity and most indigenous trees are retained, and a network of open spaces are provided with 5.0ha of neighbourhood and local amenity parks, an archaeological / cultural reserve of 1.6ha, and a further 22.5ha of esplanade and gully reserve areas.

A well-connected street network comprises a range of street types to respond to traffic needs and living conditions. Bus routes are envisioned along Peacockes Road and possibly linking into The Island, and area distinguished by its location to the east of a north-south gully (The Gully). Extensive provision is made for cycling and walking.

3.2 Urban Design Guidance and Assessment

Hamilton Urban Design Advisory Panel

Weston Lea presented the proposed subdivision to the Hamilton Urban Design Advisory Panel on 14 March 2018. The Panel commended Weston Lea for a *"well prepared and comprehensive submission, which addressed the key VISTA (the Hamilton Urban Design Guide) issues of connectivity and access, sense of place, lifestyle and sustainability"*. It considered that the *"proposed layout is closely linked to the site's natural and cultural features - where landform is clearly a strong design prompt – skillfully overlaid with a mix of open spaces, vehicular, cycle and pedestrian networks, and a range of building typologies."*

⁶ Note that the achievement of these smaller lot sizes below 400m² will be subject to future medium density housing consents.

The Panel provided comments about further design development on the following matters:

- The location of higher density housing;
- Housing typologies and residential design;
- On-street parking locations;
- The coordination of activities that use road reserve space such as pedestrian and cycle facilities, planting and stormwater management; and
- Communal facilities and the archaeological reserve.

These matters have all been given further consideration in the finalisation of design since March.

District Plan Subdivision Design Guide

The subdivision design has been prepared in accordance with the contents of the District Plan Subdivision Design Guide in Appendix 1.4. An assessment against the elements of Appendix 1.4.1 and 1.4.2 is provided in Appendix C.

3.3 Staging of Development

Indicative staging has been developed and is identified on the Scheme Plans. The staging is indicative in that it will be flexible to enable release of land for development and titles as market demand dictates. Infrastructure will be developed progressively to meet the servicing needs of each stage.

It is intended to commence development in the northern part of the site, followed by The Island, and the last of the residential development adjacent to and south of the neighbourhood centre.

The first stage will be developed from the northern entry street. From this street several clusters of different lot size categories located along this street or side streets can be pursued at different development speeds in order to respond to market conditions. Any existing buildings on the site will be removed as the stages proceed.

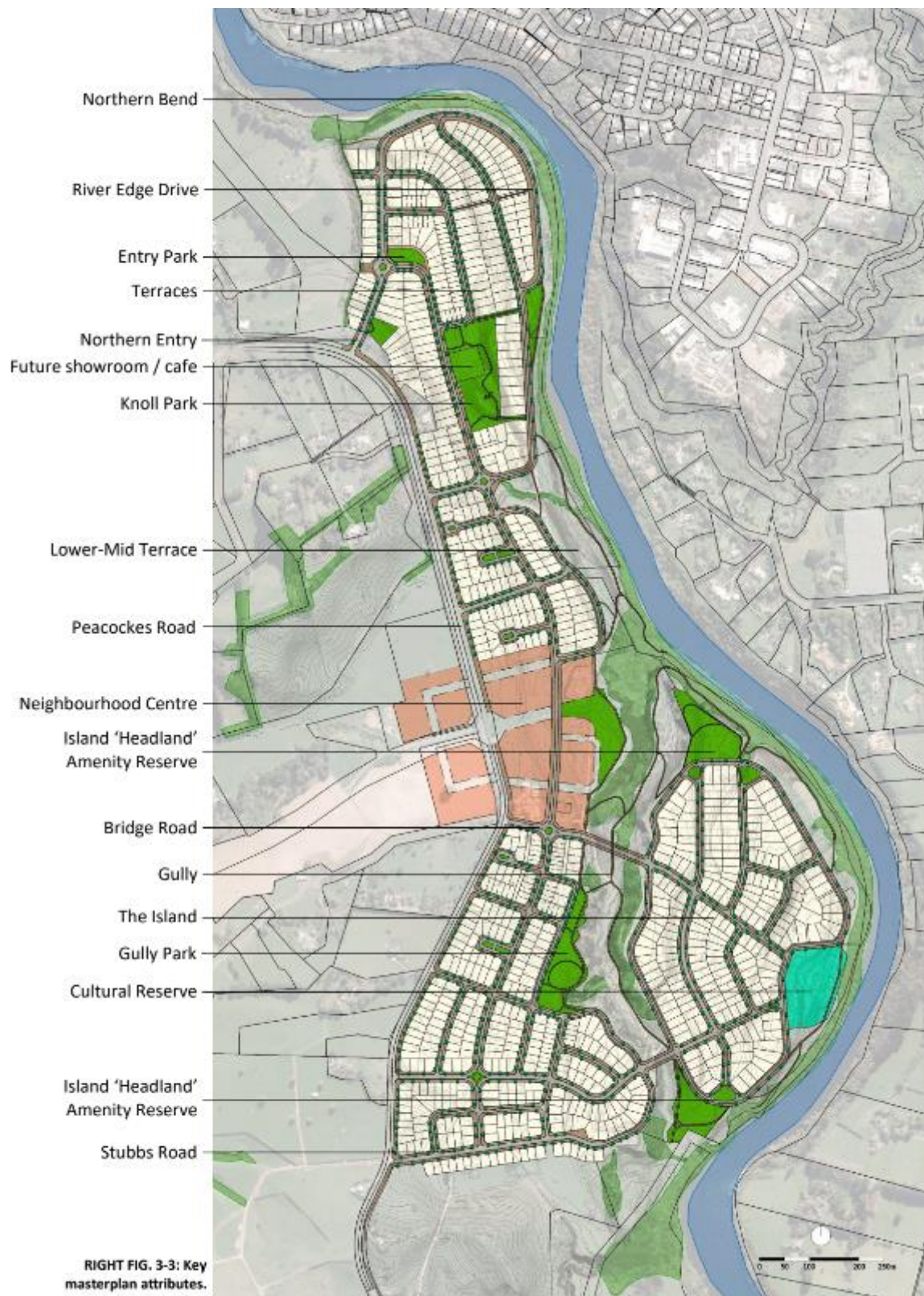
Parts of the later stages (Stages 9 and 10) have been depicted for the subdivision of approximately 113 lots. As noted in Section 2.5, this area has been earmarked for a possible major sports park, consistent with the Peacocke Structure Plan.

3.4 Urban Form

Chapter 3.4 of the District Plan states “the vision for the Peacocke area is that it will become a high quality urban environment that is based on urban design best practice, social well-being, and environmental responsibility. Council’s goal for Peacocke is that development will respond positively to its natural setting and built form to develop a number of well-connected neighbourhoods based on an urban development concept that respects and restores the area’s natural environment.”

In implementing this vision, the conceptual framework seeks to reconcile two fundamental dynamics. The first dynamic is that of nature, the river, the land, and the history of all who have inhabited the land. This dynamic is represented by the north-south tending roads, which are sinuous and flow with the contours, and echo the flow of the river. Their design allows for the earth to be touched lightly, natural water flows to be maintained, and the movement of soil during bulk earthworks to be limited to well below the average.

Figure 3.1: Amberfield Proposed Subdivision



The second dynamic is that of human intervention and urbanism. This dynamic is represented by the east-west tending roads, direct and straight, purposefully connecting the user within and across the site between Peacockes Road and the river, accessing the neighbourhood centre and bringing residents and visitors alike across The Gully to the cultural reserve.

The site naturally divides itself into four distinctive neighbourhoods (Figure 3.2). These neighbourhoods are very similar to the Peacocke Structure Plan neighbourhoods in Figure 2-3 of the District Plan as follows (see Figure 2.1):

Table 3.1: Neighbourhoods

Amberfield Neighbourhood	Figure 2-3 Neighbourhood
The North	Neighbourhood 3
Central	Neighbourhood 6
The South	Neighbourhood 8
The Island	Neighbourhood 7

Figure 3.2: Amberfield Neighbourhoods



3.4.1 The North

The northern terraces are a natural starting point for the project given their proximity to the rest of Hamilton. The terraces step down toward the north and east to the river. Toward the south the topography climbs to form a knoll, which affords long distance views. The key elements of the planning for this neighbourhood are:

- The northern entry is framed by mature trees and features an entry park;
- Streets will follow the contours in order to absorb the level differences between terraces where the land is too steep for roads;
- Wide pedestrian links will provide good walk and cycle access;
- The four north-south streets will allow for several house types and sizes to be progressed independently of each other. This will induce great diversity, and flexibility to respond to changes in market conditions;
- A low speed lane will line the river edge, with parking and adjacent paths for walking and cycling, ensuring that the river edge is truly public and safe;

- The existing homestead with its mature trees and lawns will be incorporated with the adjacent knoll to form a high-quality destination park, possibly attracting visitors from beyond the settlement;
- The street network will re-connect with Peacockes Road at an entry further south. During construction this will serve as the construction access, allowing construction to progress toward the south leaving new inhabitants undisturbed; and
- On the neighbourhood's western side dwellings will front onto Peacockes Road to provide an attractive interface. In some instances, cul-de-sacs will be applied to minimise rear lots.

3.4.2 The Centre

The mid-section of the site is long and narrow, bounded by Peacockes Road to the west. It perches above the lower terraces, which are unbuildable for geotechnical reasons. The area will be bisected by a future east-west arterial which will link through to State Highway 3 and the airport to the south. The intersection with Peacockes Road will form an important crossroad, the ideal setting for a neighbourhood centre. The Central Precinct will act as a hub linking all areas together, the north, the south, and the island to the east. It will be the area with the highest diversity of use and a place for the whole community. The key elements of the planning for this neighbourhood are:

- At its core the neighbourhood centre has the opportunity for a series specialty shops and supermarket;
- The neighbourhood centre will be highly walkable with small public spaces, an area for markets and a village park or green which will connect to the open space network that links with the river and the network of shared paths; and
- Consistent with the District Plan (Section 3 Built Environment), more people will be located within easy walking distance of the centre. It is anticipated that future applications will provide for medium density housing, such as terrace and town houses and potentially low-level apartments in the immediate vicinity to the north and south of the centre.

Note that the design of the neighbourhood centre and its open spaces are illustrative only, this area is defined by two superblocks in the subdivision application and will be dealt with through a future application. However, some indication of the mix of uses is as follows:

- Retail and employment activities: between 3,000m² and 6,600m² of retail and between 2,100m² and 3,300m² of employment activities;
- Open spaces include a compact square at the intersection of the main street and the north-south local road; and a public space for markets and events at the eastern end of the mainstreet. This space, likely featuring a mixture of hard and soft landscaping, will connect through to the larger, more vegetated public open space on the gully edge;
- Community uses, potentially including a hall for hire, associated with the public space; and
- Residential activities both above ground floor retail and employment activities and terrace housing and low-rise apartments in the centre periphery.

The indicative urban design for the neighbourhood centre also spans across to the western side of Peacockes Road, as envisaged by the Peacocke Structure Plan and the concept plan therein (Figure 3.4.3a).

3.4.3 The South

This area stretches from below the neighbourhood centre at the bridge road to Stubbs Road in the south. The middle part is relatively flat with rolling hills beyond. The key elements of the planning for this neighbourhood are:

- Smaller lots will be concentrated toward the northern end close to the neighbourhood centre;
- Larger lots along the gully and park edges to the east;
- On the neighbourhood's western side dwellings will front onto Peacockes Road to provide an attractive interface. In some instances, cul-de-sacs will be applied to minimise rear lots;
- An eastern edge that will be lined with paths for walking and cycling that overlook the gully separating this area from The Island;
- A residential park centrally located above the gully; and
- If a sports park were to be accommodated it would be located in the mid-section alongside Peacockes Road.

3.4.4 The Island

Historically the Waikato River bifurcated at this point to form an island. Subsequent changes in flow have left a largely dry gully with a small stream at its base that defines this area. The key elements of the planning for this neighbourhood are:

- The Island will have two road connections. These roads will be projected very directly across the island to the Archaeological Reserve, emphasising its importance, and as an encouragement to visitors to traverse the island;
- The northern road will be over a bridge which will dip down into the valley in sympathy with the landform, and the southern road will be at a lower level over a culvert;
- The Archaeological Reserve will preserve examples of food cultivation techniques by Māori in pre-European times. It will be located in the cultural context of the nearby Nukuhau Pa, just to the south of the site;
- Residential densities will be kept at moderate levels so as to not concentrate too many people in this more remote neighbourhood. While walking distances to the neighbourhood centre are reasonable, they are on undulating levels;
- A low speed lane and paths for walking and cycling, linking into the wider walking and cycling network, will bind the perimeter of the island;
- Two small parks will be located on the northern and southern tips of the Island, affording views to the north and south over the river respectively, echoing the Māori mantra of 'Waikato of a hundred chiefs, at every bend a chief'; and
- The street design will allow for a bus route on and off the Island.

3.5 Lot Characteristics

Table 2.1 identifies that there are a number of lots that do not meet the standards of Section 23 of the District Plan. This section addresses these various non-compliances and the reasons for them.

3.5.1 Lot shapes, boundary lengths, private ways and access

A number of specific lots spread throughout the development do not comply with subdivision standards in Chapter 23. These are listed in Table 2.1 and repeated for convenience below:

- There are 13 lots located on corner sites which are not capable of containing a 15m diameter circle outside the front yards (Rule 23.7.1(l) (o) and (y))
- Subdivision within the Peacocke Character Zone Hill Area with a minimum lot size less than 800m² (Rule 23.7.1(o)). Prior to the subdivision earthworks being undertaken, the area where these lots will be subdivided predominantly has a slope of greater than 5 degrees. Therefore the minimum lot size of 800m² is applicable to the subdivision consent application.
- Some transport corridor boundaries of front lots are less than 15m wide in the Hill Area (Rule 23.7.3(a))
- Some transport corridor front lot boundaries are less than 10m wide in the Terrace Area (Rule 23.7.3(b))
- Some rear boundaries of front lots are less than 10m in length (Rule 23.7.3(c))
- There are two instances of more than 6 lots being accessed from a private way (Rule 23.7.3(d)). This includes the jointly owned access lots servicing Lots 31-38 and Lots 839-842 and 849-853.
- There are four instances where private ways are greater than 50m in length (Rule 23.7.3(h)). This includes the jointly owned access lots servicing Lots 31-38, Lots 824-826, Lots 836-838 and Lots 839-842 and 849-853.
- There is one instance of more than one private way accessing from a cul-de-sac (Rule 23.7.3(j)). This is the jointly owned access lots servicing Lots 824-826 and Lots 836-838.
- There is one pedestrian accessway more than 80m in length (Rule 23.7.3(l)). This is the pedestrian access reserve Lot 1505.
- There are three locations where pedestrian accessway widths do not meet the standard for required width (Rule 23.7.3(m)). The pedestrian access reserve Lots 1503, 1504 and 1505 are all 10m wide whereas the required width is 12m.
- There are some lots, such as those having frontage to cul-de-sac turning heads, where compliance cannot be practically achieved with the standards in Table 15-1a for minimum distance between vehicle crossings (Rule 25.14.4.1(a)).
- There are some lots along Peacockes Road (proposed minor arterial) and other local roads where compliance cannot be practically achieved with the standards in Table 15-1c for minimum distance between a vehicle crossing and transport corridor intersection (Rule 25.14.4.1(c)).

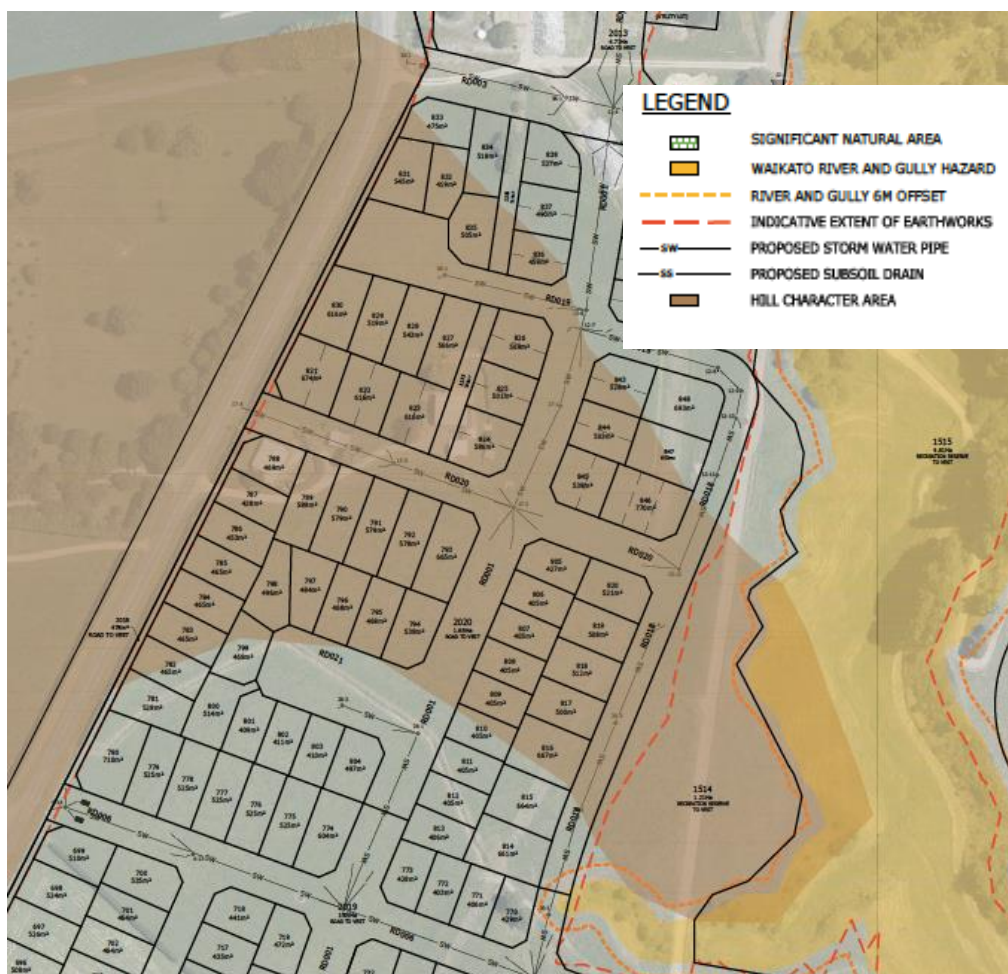
These non-compliances result from the specific constraints and geometry of the subdivision layout and are not considered to have any adverse effects on the overall amenity of the subdivision.

3.5.2 Hill Area

Lots 781-799, 805-810, 816-836 and 843-846 are all either wholly or partly located within the only part of Amberfield that is within the Hill Area of the Peacocke Structure Plan area (Figure 2-3 of Appendix 2 of the District Plan) and as depicted on Figure 3.3. Prior to the subdivision earthworks being undertaken, the area where these lots will be subdivided predominantly has a slope of greater than 5 degrees. However, subsequent to earthworks all of this area will have a slope of less than 5 degrees.

It is anticipated that all of these lots will meet the density, permeable area and maximum site coverage specified in Tables 5.4.1(b), 5.4.2 and 5.4.3 for lots in the Hill Area with slopes less than 5 degrees.

Figure 3.3: Hill Area within Amberfield Subdivision



3.6 Transport

The movement system integrates vehicle, public transport, cycle, and pedestrian movements. The street network does most of the work, as all streets will accommodate vehicular, cycle and pedestrian movement. A separate system of recreational walking and cycling connections will run along the riverbank and along the central gully. The aims for the movement network, consistent with District Plan requirements, include the following:

- An efficient movement network that is integrated with land uses, is legible, and has a high degree of connectivity.
- Liveable streets that balance pedestrian, cycle and vehicular demands.
- The promotion of community life and safety through strong visual connections between buildings, streets, and public spaces.
- Early consideration of rubbish removal and access by emergency and service vehicles.

3.6.1 Local street network

The internal street network will have a 'flat' hierarchy (Figure 3.4). This is due to the long and narrow shape of the site defined by the river to the east and Peacockes Road to the west, and the high degree of connectivity and therefore dispersal of traffic. In terms of the District Plan, only Peacockes Road has a status beyond being a local transport corridor. It is a proposed minor arterial transport corridor (District Plan Appendix 15, Figure 15-5e). The remaining roads are all local transport corridors. The local street network consists of Peacockes Road, two types of local roads and three types of minor local roads as follows:

- Peacockes Road – It is proposed that Peacockes Road will be upgraded under the HIF to an appropriate urban standard minor arterial road. This will involve the easing of the bend in the existing road at the northern end of the Amberfield subdivision and the construction of a wider road formation between the new road associated with the new river bridge and the neighbourhood centre. The widening will be largely on the eastern (Amberfield) side of the existing road reserve and will proceed in stages adjacent to the site as development progresses. If the HIF-related upgrading has not occurred prior to subdivision then alternative upgrading will occur to collector road standard with vertical and horizontal alignment consistent with that of the future minor arterial road, including a 9m carriageway with kerb and channel, kerbside parking/bio-retention facilities and a shared path and berm on the eastern side. The road formation is 29m wide overall.
- Local Road – 20m wide, running from north to south, one block east of Peacockes Road;
- Local Road with Cycle Lanes – 20m wide, connecting Peacockes Road, which will feature an off-street cycle path, and the recreational cycling and walking routes along the river and the gully. This road type will also loop through the island to make allowance for a possible bus route;
- Minor Local Road (parking both sides) – 16.4m wide, is widely applied through the street network. It will mainly provide property access and will have a very limited through-traffic function;
- Minor Local Road (single parking lane) – 14.1m wide, used for very short dead-end streets; and
- Minor Local Road (park edge) – 13.5m wide, applied to locations along public open spaces, notably the river bank and gully edge.

The street network will be laid out in a deformed grid pattern, resulting from the 'natural and historic' north-south connections combining with the 'urban' east-west connections. This grid pattern provides for a highly connected network that will be efficient and legible, as connections between destinations will be direct and as short as possible.

Multiple cross intersections will be provided, to further assist with legibility. Detailed design includes small off-sets in the carriageways of the give-way legs of the intersection, in order to signal the priority situation and avoid conflict between crossing vehicle movements. In four instances these cross intersections will take the form of a roundabout, due to the function of the streets involved.

All roads have been designed in accordance with the Hamilton City Council Infrastructure Technical Standards - Section 3 Transportation standards. In principal, the proposed finished site levels and vertical road geometries have been designed to generally follow the existing underlying terraced terrain to respect the existing landform and to maintain views to the Waikato River and beyond. Road levels have been set to minimise the amount of earth worked material to be removed offsite.

A parking ratio of 1 carpark for every 3 residential lots has been provided throughout the development in the preliminary engineering design. This ratio will be maintained as a minimum at detailed design stage.

3.6.2 Arterial network connections

The arterial roads in the Peacockes Structure Plan area have been planned as part of the long term Southern Links project (Figure 3.5). This includes a south-western bypass of Hamilton City linking to both SH3 and SH1 to the south. Figure 3.3 indicates the Southern Links project road network designations and the other major future roading projects that are committed for funding and construction as part of the Hamilton arterial road network in the general vicinity of the Peacockes Structure Plan area.

There are two major projects under way of significance to the Peacockes Structure Plan area. Firstly, the Waikato Expressway is currently under construction which forms a bypass of the Hamilton urban area for SH1 on the eastern side of the city. This will reduce the traffic volumes on the section of SH3 (Ohaupo Road and Normandy Avenue) from which access to the Amberfield subdivision will be obtained. Secondly, a Wairere Drive link, which will complete an inner circular route to SH1 in the vicinity of the Hamilton Gardens, is programmed for early completion and construction has been started. This link will allow for the future construction of a new link and river bridge connecting to the Peacockes area. In relation to the local network linking the proposed development to the CBD it is relevant to note the Council improvements proposed for the Waterford Street and the Norrie Street intersections.

Within the Peacockes area the Southern Links project allows for a north-south arterial formed as an extension of Cobham Drive and linking all the way to the southwestern links bypass and on to SH3. The Wairere Drive link and new river bridge is part of a route that links to the north-south arterial at the northern end of the Peacockes area.

3.6.3 Section 176 RMA Approval from Requiring Authority

As listed in Table 2.1, Weston Lea requires an approval from Hamilton City Council as requiring authority for works within the existing designation over Peacockes Road. This designation (No. A106 – Southern Links) applies to the alignment of Peacockes Road adjacent to the subdivision to a point just south of the location of the proposed neighbourhood centre (See inset Figure 3.4).

There will also be an east-west arterial linking from a new intersection on SH3 south of Dixon Road to the neighbourhood centre proposed on Peacockes Road as part of the Amberfield

development. The initial section of the East-West Arterial will be constructed to allow development of Stage 1B of Peacockes and to provide existing traffic with better access to SH3. This will reduce the amount of traffic from this area using the Waterford-Peacockes-Bader route at peak times and leave more capacity on this route for traffic generated by the Amberfield subdivision.

3.6.4 Walking and cycling

Figure 3.5 depicts an indicative network of cycleways / footpaths proposed to service the Amberfield subdivision and to link with the wider network of paths proposed under the Peacockes Structure Plan. A shared path along the eastern side of the upgraded section of Peacockes Road will link to an off-road shared path along the eastern side of the remaining rural section Peacockes Road between the northern edge of the Amberfield subdivision and the existing urban boundary.

This path will be generally 2.5m wide and will be constructed along the grass berm. It will be separated as far as practical from the existing road carriageway to provide optimum safety for pedestrians and cyclists. To encourage the choice of these active modes for travelling to the existing urban area (which will reduce traffic volumes) and to further improve safety, it is proposed that the path should be sealed and provided with street lighting.

The eastern part of the site will accommodate a recreational walking and cycling route along the river, and also the edges of the gully will accommodate walking and cycling routes. These will potentially form part of the Te Awa River Ride in the future along the Waikato River, from Ngaruawahia in the north to Karapiro in the south.

The street network has been designed to facilitate cycling on all streets. Due to the connected nature of the street network, vehicular traffic will be dispersed over the network, resulting in traffic volumes that will be low enough for safe cycling conditions on the general travel lanes mixed with vehicles. However, in order to facilitate even more convenient and safe connections between the shared path along Peacockes Road and the recreational routes along the river and the gully, on-street dedicated cycle lanes of 1.8m width are proposed on five key east-west streets.

The street network has been designed to facilitate walking along all streets. All typical street cross sections will have a footpath of at least 1.5m, and in some instances 2.0m, 2.5m or 3.0m in width. In most cases the parking / tree / storm water zone will provide a buffer between the pedestrian and moving vehicles. Supplementing the pedestrian network along streets will be the recreational routes along the river and the gully, and the two non-vehicular pedestrian connections to Peacockes Road.

Figure 3.4: Local Street Network

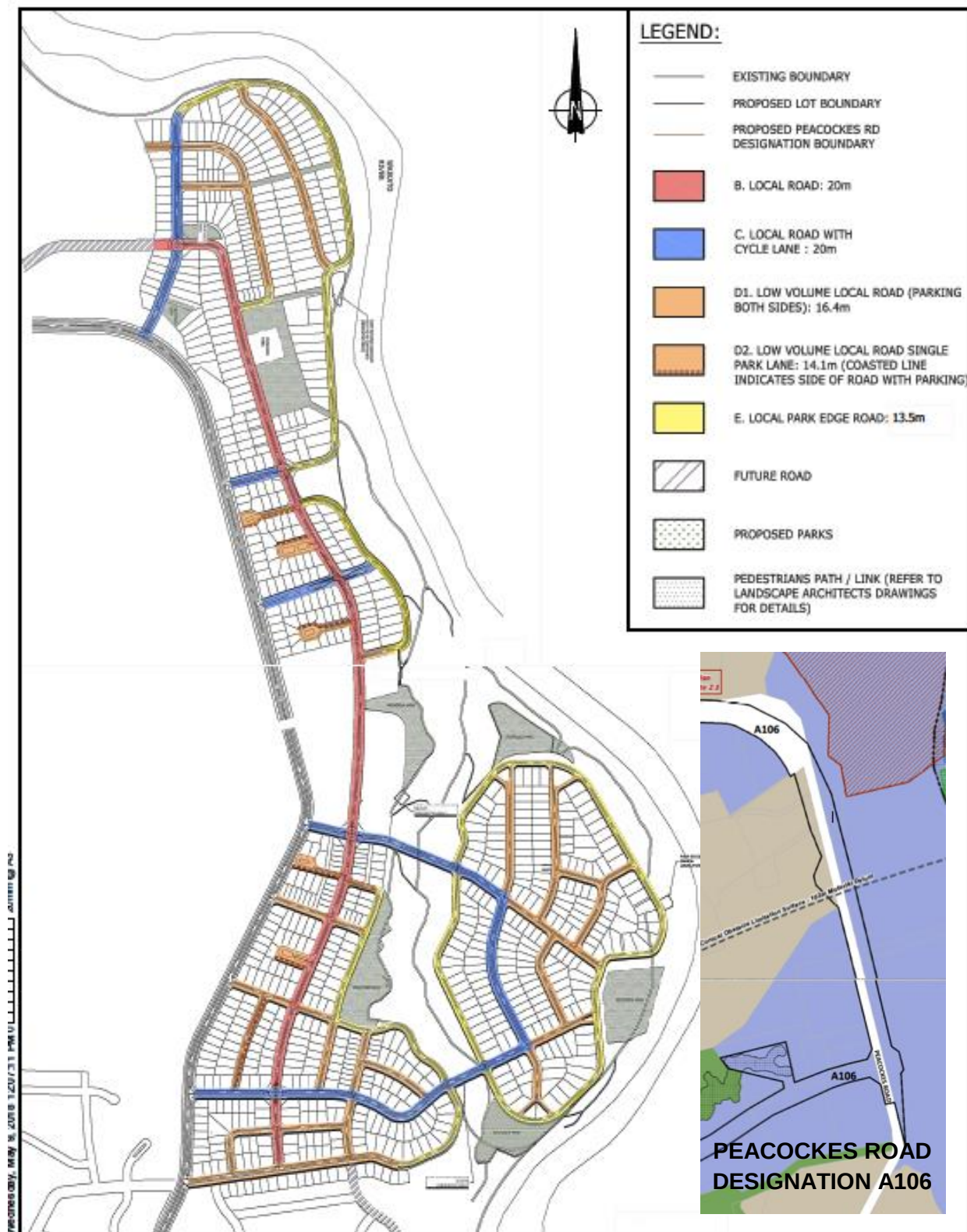
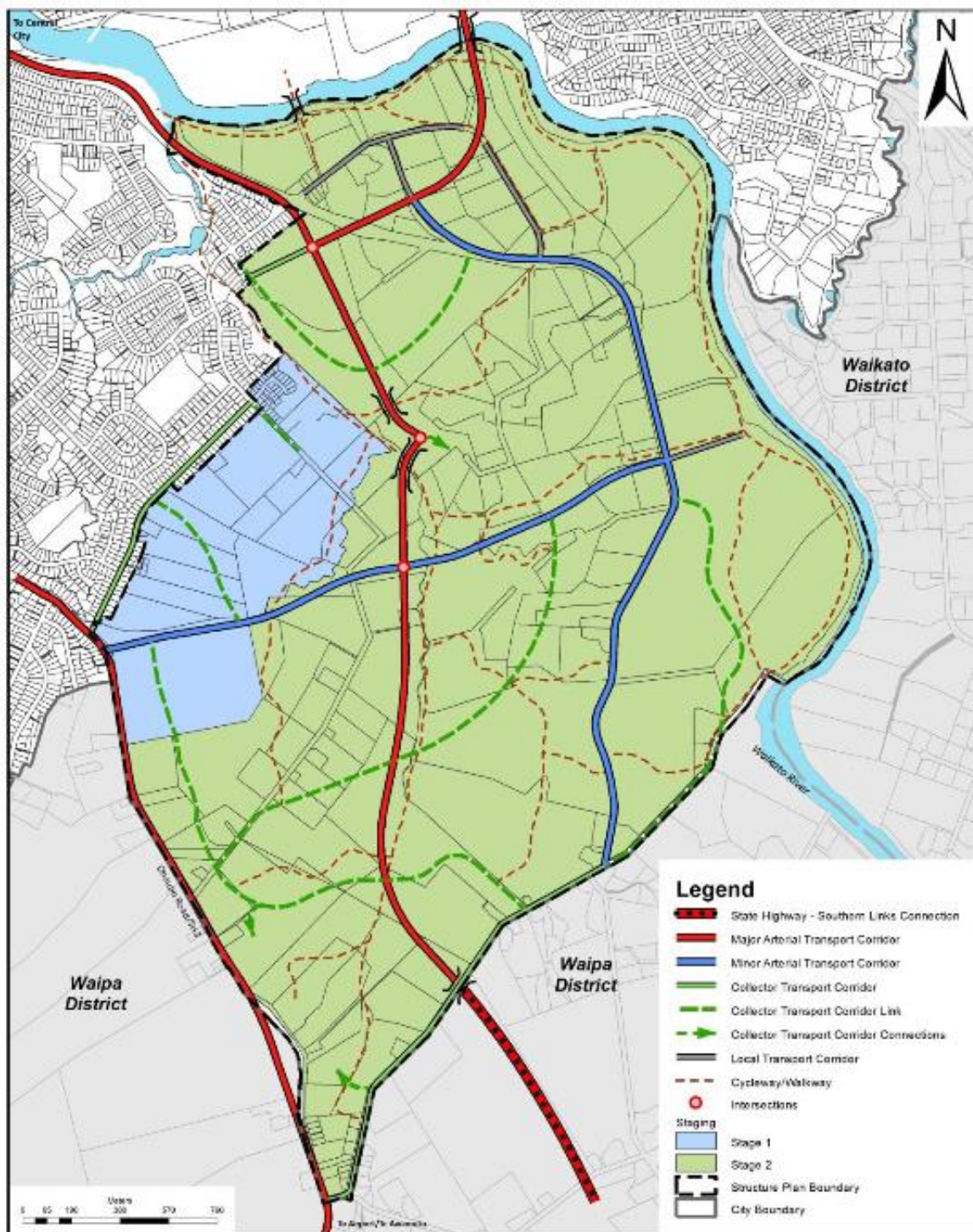


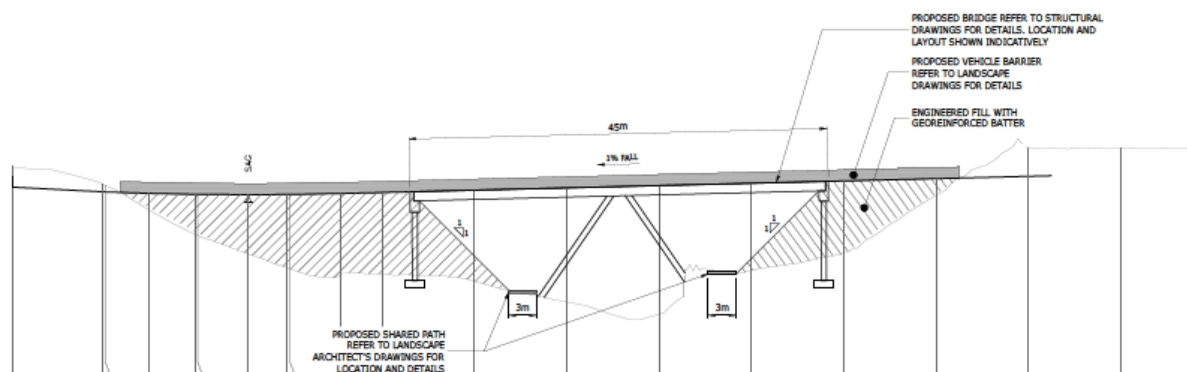
Figure 3.5: Arterial Road Network (Southern Links)



3.6.5 Bridge to The Island

The northern entry to The Island and access to the Heritage Reserve will be via a two-lane bridge over The Gully. The bridge will be approximately 45m long and have two supports within the gully but not within the watercourse. The bridge will slope slightly (~1%) from west to east in sympathy with the landform. Underneath the bridge will run a shared pathway on each side of the watercourse.

Figure 3.5: Proposed Bridge to The Island



3.7 Wastewater

A summary of the proposed transmission and local wastewater network is as follows.

3.7.1 Transmission network

Weston Lea are advancing their Amberfield development ahead of Council's timeframe for the construction of the reticulation to connect the Peacockes Structure Plan area to the Far Eastern Interceptor. This connection has been assessed on the basis that Weston Lea would construct a pumping main to the river (280mm diameter) and install an interim pipe beneath the River (280mm diameter) to near Cobham Drive. A 6km pipeline (355mm diameter) from the river to Crosby Road would be constructed in partnership with Council.

No additional storage at the main Amberfield pump station above the normal 6 - 9 hours storage requirement specified in Council's ITS is required because the Far Eastern Interceptor does not have capacity constraints.

The Amberfield pipe beneath the Waikato River would only be used until Council had completed the proposed Southern Links bridge and installed a pipe on the bridge. At that time the Amberfield pipeline under the River would be decommissioned but still maintained in a potentially operational mode so that it could be used in an emergency, if a problem arose with the pipe on the bridge.

An alternative to the above scheme is a connection to the Western Interceptor. However, this solution requires a pumping main to Lorne Street of approximately 4.5km and a storage system at the Amberfield development of approximately 3,000m³. The storage system would require specific management practices to avoid operational problems such as septicity in the wastewater during prolonged storage periods.

3.7.2 Local network

The wastewater generated within the development will be collected by a conventional gravity reticulation system complying with Hamilton City Council's Infrastructure Technical Specifications (ITS). Due to the slope of the site and its long narrow shape, it is not feasible to drain all the development area to a single collection point by gravity. The existing gully through a large part of the middle of the development area also creates a separated wastewater sub-catchment on the island area to the east. It is therefore proposed to construct

three smaller local wastewater pump stations that will convey the wastewater towards a single collection point and main pump station in the northern area of the site.

The smaller pump stations (within Lots 1101, 1102 and 1103) will have emergency storage tanks to manage wastewater flows at times of power failure, stand-by pumps in case of pump failure and telemetry to ensure automated operation and monitoring. The large main Amberfield pump station at the northern end (within Lot 1100) will also have a stand-by emergency electrical generator to ensure the pumps can operate in a prolonged power failure.

The pump station facilities will include an odour treatment bio-filter at each station to avoid nuisance to neighbours from offensive odour. All pumps will be submersible pumps and thus there is not expected to be noticeable noise emitted from the pump stations. The pump stations will form part of Council's public infrastructure once they become operational as part of the development of each stage with the development.

3.8 Water Supply

3.8.1 Transmission network

The main water treatment plant for Hamilton is situated to the north west of the Amberfield subdivision. The plant produces water at an average head of 70m for transmission around Hamilton. Depending on the head loss through the main pipe to the development, with the completion of the filling main into the existing Hamilton South Reservoir, this head and quantity is sufficient to supply properties below the 50m contour.

3.8.2 Local network

There are currently two small diameter (63mm) water mains supplying rural properties in the Amberfield area. These are not sufficient to supply the proposed development, as the head loss to supply the design flows for even a few hundred lots would be too high. It is also not possible to provide for firefighting water supply through these mains, as again the head loss would be too high to achieve the flow rates required.

The main water treatment plant provides enough water and head to supply the first 1,000 lots of the Amberfield development but there is no pipeline to transfer the required flow to the area. A 3.3km long, 250mm diameter water supply main together with a 1.4km long, 150mm diameter rider main is proposed to be installed for the first 1,000 lots. These mains will likely be sufficient to serve beyond 1350 lots, assuming further development of the Hamilton City ring main network in the Peacocke Structure Plan area.

Rainwater harvesting using tanks on each private lots are currently proposed. Other techniques such as greywater recycling technologies and low flow plumbing fittings, can be implemented using planning controls in the District Plan for on-site water efficiency measures; however these techniques are not presented in detail within this application.

3.9 Other Utilities

The existing overhead Peacockes Road services will be replaced with new in-ground services including; electricity, communications, new gas and trunk water main in the eastern berm of Peacockes Road. The common utility services trench will be installed to contain these services at sufficient depth and location suitable for both the existing berm levels and future levels to avoid future realignment at a later date.

All roads including Peacockes Road, that will contain a common utility service trench, will meet the District Plan requirements of having adequate width to accommodate services with required separation between service types.

All service providers have been supplied with an indicative scheme plan layout. WEL Networks (electricity), Chorus and Ultrafast (telecommunications) and First Gas (gas) the network utility operators have all confirmed the site can be serviced based on the lot yields provided.

3.10 Stormwater

The proposed primary form of stormwater disposal and treatment from the sub-catchment will be via retention and soakage. Stormwater from roof and impervious lot areas, where feasible, will be to an on-site soakage devices. Road run-off will be treated and disposed of via a network of linear under-drained bio-infiltration devices incorporated into the road profiles on roads with gradients less than approximately 5%. Roads with gradients steeper than this, which include roads with gradients up to 12.5%, will utilise a rain garden solution.

It is proposed to use rainwater retention (rainwater tanks) incorporated with the soakage solution as preferred in the HCC stormwater management disposal hierarchy. Run-off from the roof will be directed to a rain-tank connected via an overflow into a lot soakage device. Sizing of the rainwater tanks will meet the requirements of Three Waters Management Practice Note HCC 06: Detention Tanks.

Run-off from the impervious lot area will also be directed into the lot soakage device where feasible. Sizing of the soakage device will meet the requirements of Three Water Management Practice Note HCC 03: Soakage and is based on the maximum permeable allowances in the District Plan.

General run-off from the lot pervious area, and sections of the driveway, where due to location this cannot be directed to the lot soakage device, will be directed into the primary stormwater management system located within the road reserve.

This solution will manage stormwater as close to the point of origin as possible reducing the need for collection and conveyance infrastructure. The key objective of maintaining recharge and groundwater levels is considered best practice and most importantly results in a runoff volume loss discharged to the Waikato River. Returning runoff to ground aligns strongly with the cultural and spiritual aspects of managing rainwater runoff close to where it falls at source.

The primary stormwater management system will comprise the following key elements;

- Linear under-drained bio-infiltration devices;
- System protection, from sediment load during the construction phase;
- Secondary overflow; and
- Rain gardens, for steeper gradients, augmented where possible by soakage trench systems to maximum discharge to ground, before being conveyed within the road corridor to low points and then managed within broad flat sided swales through the riparian margin to the Waikato River.

In the event of an overflow of these primary devices, a secondary, conventional piped network has been designed, with flows in excess of a 10-year storm event directed down carriageways to adjacent waterways. This network will be installed at the beginning of each stage in order to protect the elements of the soakage system from sediment load during initial earthworks.

The outfall structures for the secondary network will need to discharge within the riparian margin, and thus within the Waikato River Gully Hazard Area. Site inspection of potential outfall locations has indicated that the outfalls can be site in areas of low value vegetation. Further, the pipes will be drilled from within the site and the outfall construction activity can be approached from the river edge, avoiding most effects of construction activity on the riparian margin. A construction management plan will be prepared specifically for this aspect of development.

3.11 Open Space and Reserves

A network of open spaces is proposed for the development including neighbourhood parks, passive recreational areas and corridors, and active recreation facilities for organised sports. The location of these spaces has been chosen to provide a multi-functional, active, safe, and pleasant micro climate, a strong sense of place and identity that combines historic and contemporary references, retain valuable natural characteristics including vegetation, landform and / or views, and offer high quality opportunities for community recreation.

3.11.1 Neighbourhood parks

Neighbourhood parks have been distributed within easy walking distance from all residential areas consistent with 3.4.3.1(g) of the Peacocke Structure Plan provisions. They include a park at the northernmost entrance to the site, The Knoll – a local highpoint providing unobstructed views in all directions, an open space in association with the future neighbourhood centre, a space above the central gully and two spaces located in strategic observations points at the northern and southern end of The Island.

All such spaces are connected to the riverbank open space system and the wider active movement network.

The Knoll open space will incorporate an area surrounding an existing dwelling that Weston Lea proposes to develop (either using the existing building or a new one) as a café and as a sales office for the development period. At the time of subdivision it will not therefore be vested as reserve with the remainder of the The Knoll, but will be a fee simple lot with a covenant securing its long-term use for these purposes and preventing further subdivision of the lot. Any land use consents required for these uses will be sought at a later date.

3.11.2 Passive recreation areas

The passive recreation areas comprise the river and gully edges. Along these edges a public corridor will be established to accommodate a shared cycling and walking route that can connect with the Te Awa River Ride in the future. Existing vegetation will be largely retained and enhanced. As these banks will be steep in most places, the exact location for the paths will vary in elevation and distance from the streets along these edges. However, frequent connections, sometimes in the form of a spur, will be established between the street network and the recreational route along the river and gully in order to optimise access to these assets for all residents. Detailed design measures will address accessibility, safety and security aspects.

3.11.3 Active recreation areas

The Southern Downs neighbourhood allows for the accommodation of sports fields in the southwest of the site, in line with the Peacocke Structure Plan. Although urban blocks and

residential lots are currently depicted by the scheme plan in this area, these can be replaced by an approximately 7ha sports fields area, as identified by the Council. This would contain several sports fields and courts for the various codes, clubrooms, and a car park. The location is selected based on its relatively flat landform, reducing the need for earthworks and / or large retaining structures required to create level playing fields. Also, the location in close proximity to Peacockes Road has been a key consideration. No consents for the sports park are being sought as part of this application.

3.12 Earthworks

As described in more detail in Section 4, the site's existing topography encompasses a number of broad river terraces with steep transition between these terraces and the large, steep free face slopes close to the Waikato River.

A key element of the earthworks design has been to reduce the level of soil disturbance within the site and in particular near unstable areas along the riverbank and within The Gully, during all stages of the development.

The District Plan recognises these areas of instability by denoting the Waikato Riverbank and Gully Hazard Area. This area generally follows the riparian margin of the Weston Lea land, however due to the scale of the relevant planning maps (Features Maps 57B and 65B) it is difficult to be certain that development is completely clear of these areas. Consequently, consent has been sought for earthworks, retaining wall structures and for a single dwelling within the Waikato Riverbank and Gully Hazard Area. The extent of the Waikato Riverbank and Gully Hazard Area is shown on the District Plan Overlay Drawings in Appendix U.

The extent of secondary earthworks required (at the dwelling construction stage) will be reduced by contouring the land during the initial bulk earth working phase in a manner that provides suitable building platforms, reducing the need for retaining walls or other extensive cut and fills to enable building construction. This earthworks design approach has also been reflected in the proposed stormwater management, which has tried to match the site's current catchment areas, overland flow paths and discharge points as closely as possible.

It is anticipated that there will be close to a cut-to-fill earthworks balance across the site (780,000m³ cut v 630,000m³ fill). A surplus of excess cut material will be utilised to landscape reserve areas and areas with high water tables as preload to reduce the risk of long term settlement.

With the likely staging of development, each progressive stage will be bulk earth-worked to get as close to an earthworks balance as possible. However, for most stages an exact cut-to-fill balance will not be achievable, therefore earthworks will need to extend into the adjacent stage to borrow fill material or place surplus cut material to avoid material being transported off site.

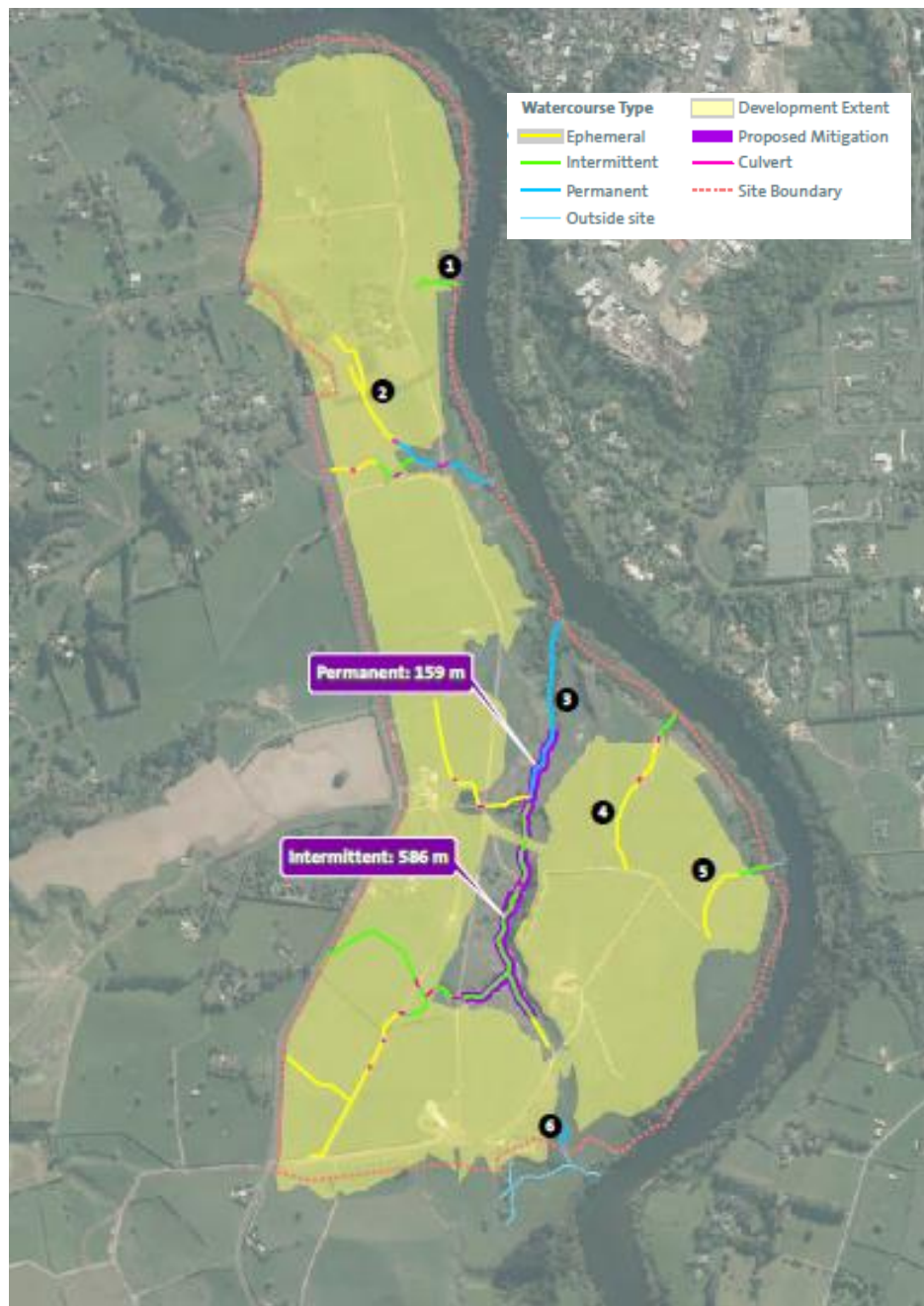
A number of erosion and sediment control measures are proposed to be implemented for the duration of siteworks to generally accord with the Waikato Regional Council Guidelines. Typical erosion and sediment control devices will be utilised by the earthwork contractor on site to minimise and control any sediment runoff from the site.

3.13 Modification to Streams

The urban form and earthworks described above will require significant modification to existing site streams (Figure 3.5). However, this is largely limited to ephemeral and intermittent stream lengths of negligible ecological value. For the 192m of intermittent stream of higher values, albeit still considered to be of low ecological value, and the 27m of permanent stream, also of

low ecological value, the applicant proposes to enhance 586m of intermittent stream and 159m of permanent stream within The Gully (watercourse 3 in Figure 3.5). The enhancement will be the subject of a detailed stream mitigation plan that will include channel creation, culvert removal and riparian planting.

Figure 3.5: Modification and Mitigation of Streams



4. EXISTING ENVIRONMENT

4.1 Overview of the Existing Environment

The site that will be subject to urban development comprises approximately 105ha of presently pastoral dairy farming land located some 4km the south of the Hamilton CBD, bordered by Peacockes Road to the west and the boundary of the Waikato River to the east. The site forms the eastern portion of the Peacocke Structure Plan an approximately 720ha area identified for future urban development in the District Plan.

The Peacocke Structure Plan area adjoins established suburban areas of Fitzroy and Glenview in the north, with the southern portion extending into rural lands in the Waipa District. Ohaupo Road to the west and Peacockes Road in the east join to form the southern apex of the Structure Plan area.

To the north across the Waikato River from the Peacocke Structure Plan area, lies the Hamilton Gardens, the City's widely recognised Botanic Garden and to the east the suburban area of Riverlea. South east of Riverlea, beyond the Mangaonua Gully and Hammond Park, there is a pocket of industrial land accessed by Riverlea Road, this industrial area extends through to the Waikato River corridor opposite the northern portion of the site.

Further south, across the Hamilton City/Waikato District boundary is land which has been developed for rural / large lot residential with some properties facing west onto the river corridor. These properties are accessed from Riverglade Drive, Riverfields Lane, and accessways off Newell Road. Consequently, the river fronting properties on the east side of the river at this point contain large houses in a range of forms and architectural styles.

The site is strongly defined and influenced by the Waikato River corridor, however the river itself is seldom visible from within the site being set well down in the landscape in a deeply incised and generally well-vegetated corridor. Some limited views down to and / or along the river corridor do enable views to the water but more generally it is the treed escarpment that signals the presence of the river.

As recognised within the character areas defined as part of the Peacocke Structure Plan the area comprises land with different physical / topographical characteristics being: Terrace, Gully and Hill areas. Apart from a small area in the south that is within the Hill character area, the majority of the subject site lies within the 'Terrace' character area.

The site generally slopes from Peacockes Road towards the Waikato River with Peacockes Road being at a level that varies generally from RL45m to RL50m. The land within the development along the River edge, sits at a level of generally between RL20m and RL30m. There is also a natural fall towards the north, consistent with the gradient of the River.

The distinctive aspect of the site's topography is the The Gully that runs generally north south connecting to the river corridor at its northern and southern 'ends'. The Gully depth and width varies but it is up to approximately 20m deep in places. It separates The Island, an oval shaped area of land some 24 ha in area from the main part of the site. The Island area forms a naturally discrete neighbourhood within the wider site.

4.2 Waikato-Tainui: Cultural Context

The Waikato-Tainui confederation of hapu descends from the Tainui Waka with over thirty-three hapu (sub tribes) and approximately seventy thousand registered beneficiaries. The main rohe (boundary) of significance covers the Waikato region from Taupo and Mokau in the south through to Tamaki Makaurau (Auckland).

Waikato-Tainui's tribal parliament, Te Whakakitenga o Waikato Incorporated is the sole trustee of the tribal group and has approximately one hundred and twenty members representing approximately sixty-eight Marae.

Amberfield has extensive pre-European Maori history, including traditional occupation of land that was fought over and shared by a number of different hapu over time. The whakapapa / traditional history of the area (whilst not exclusive) connects mainly to four hapu; Ngati Wairere, Ngati Tamainupo, Ngati Haua and Ngati Mahanga. These hapu are bound by their cultural rules and responsibilities to protect and safeguard the spiritual and physical aspects of the environment including the Waikato River.

Their vision for the river as expressed in Te Ture Whaimana o te Awa o Waikato (The Vision and Strategy for the Waikato River) is:

“for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come.”

This vision is underpinned by the whakatauki (proverbial saying) of King Tawhiao, the second Maori King;

Tooku awa koiora me oona pikonga he kura tangihia o te mataamuri

(The river of life, each curve more beautiful than the last)

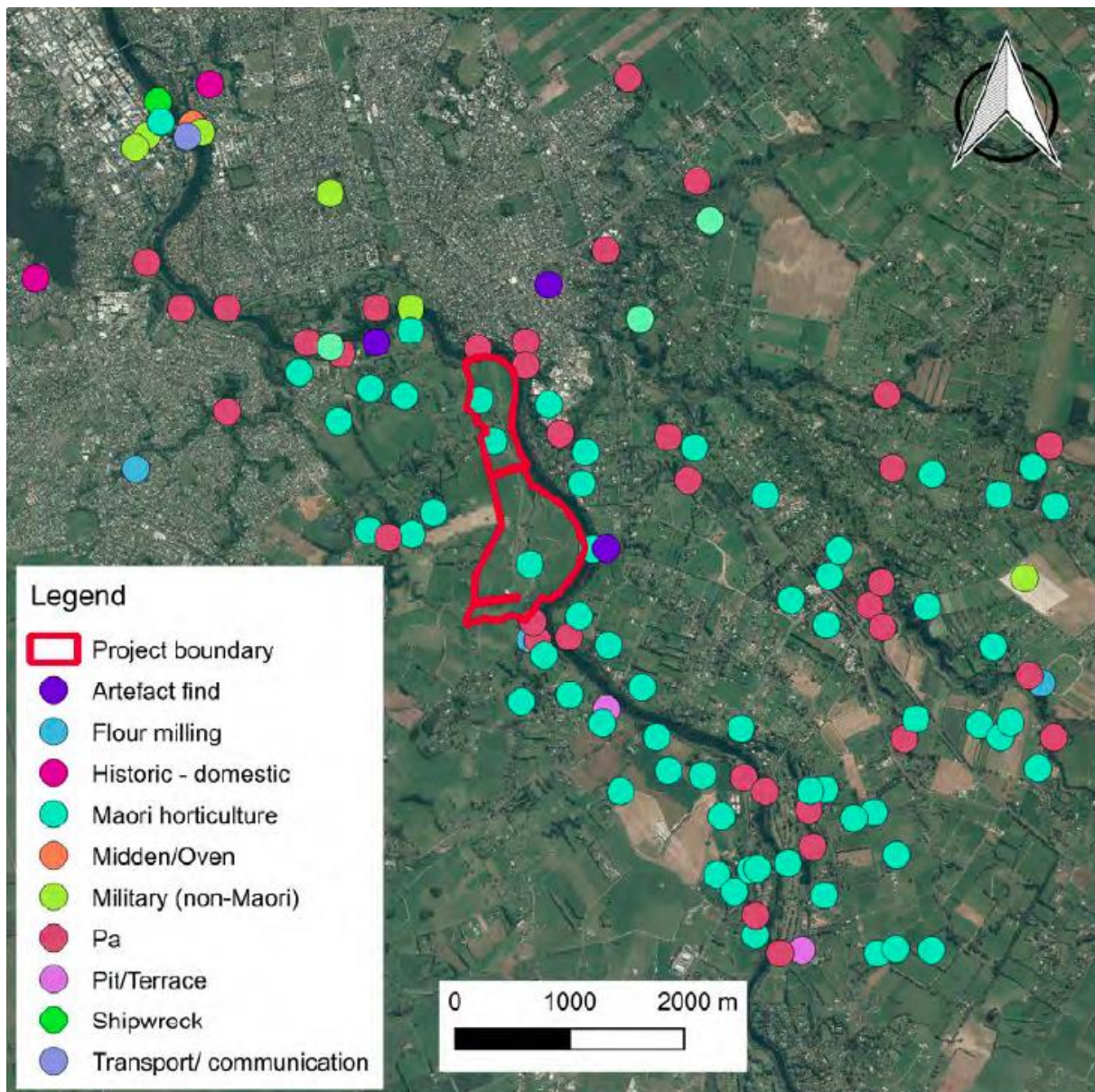
The streams in the wider Kirikiriroa (Hamilton) rohe flow to the Waikato River. The Vision and Strategy to return the Waikato River to a level of abundance for generations to come is considered to apply to activities within the wider catchment. This includes urban and rural development, water use, water discharge, water take and recreational use.

4.3 Archaeological Values

The site lies within an archaeologically rich landscape, stretching from the Hamilton CBD to Tamahere in the south, with at least 110 archaeological sites recorded within a 4 km radius of the site. The two commonest types of site are pa (33 sites) and sites based on Maori horticulture (61 sites). Known pa are distributed exclusively along the riparian margins of the Waikato River and its tributaries. Maori horticulture sites occur no further than 3 km from the river and mostly within 1 km and are better preserved south of the CBD and outside of Hamilton's suburbs (Figure 4.1).

Because many of the Maori horticultural sites have been recorded through examination of historic aerial imagery, it is important to note that the visible surface features are usually part of larger archaeological gardening systems. Consequently, these features are best considered a proxy for gardening soils, growing features, associated occupation areas and ancillary archaeology (e.g. crop storage pits) that may also be present within the same system, yet lie outside of presently recorded site boundaries.

Figure 4.1: Archaeological Sites within 4km of Amberfield



Pa are a major component of the archaeological landscape surrounding the development area. One important pa, the Nukuhau Pa, lies just outside the south east boundary of the Amberfield development, while at least five other pa are less than 500m from the development area across the Waikato River. Within 1.5km of the development area, there are an additional four pa sites. Of all these pa, only Nukuhau pa is in good condition.

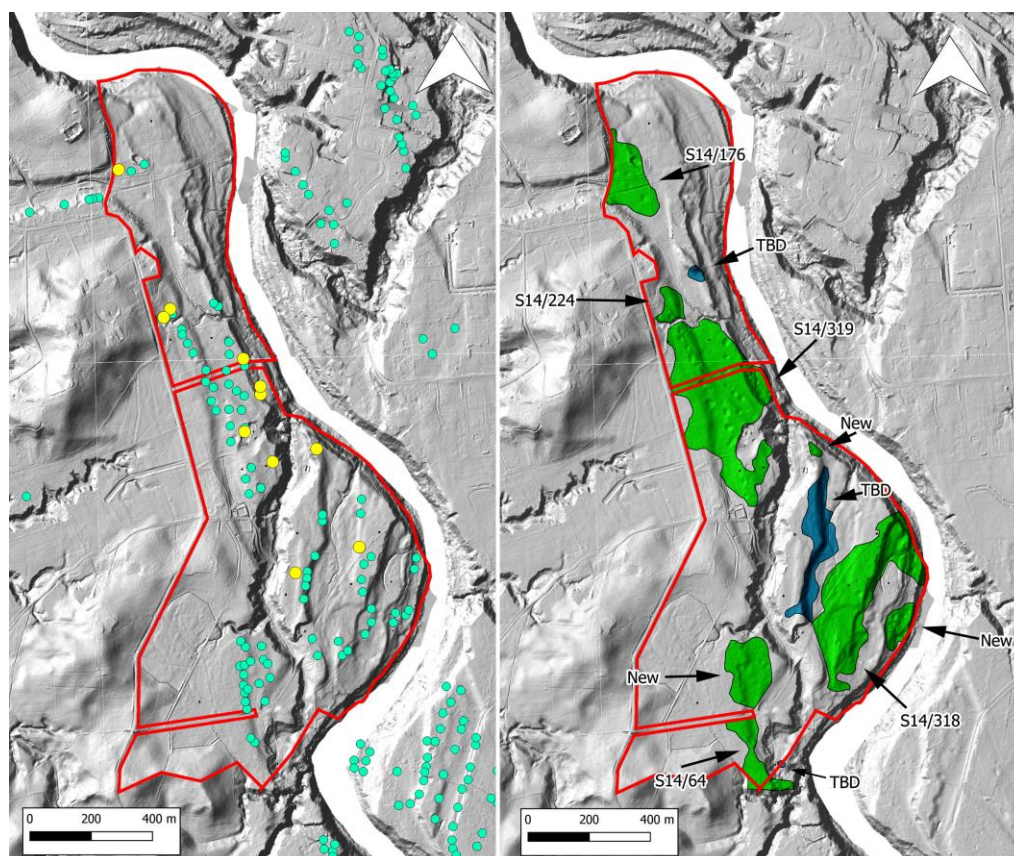
As noted earlier, the location of these fortified sites corresponds to the distribution of waterways in the area. The pa are generally located on headlands or above waterway escarpments and include features such as ditch and bank systems, terraces, borrow pits and made soils.

Historical and archaeological sources confirm that Maori were cultivating a suite of tropical or semi-tropical domesticated plants when Europeans arrived in New Zealand, most prominently among these was the kumara. Soils modified for gardening Polynesian cultigens have been identified in a number of places in New Zealand, however the largest concentration of such Maori-made soils is found in the inland Waikato, where the area of these soils probably equals or exceeds that of the other areas combined.

In the Waikato, Maori garden sites are identified by two defining features that make these sites so visible compared to pre-European Maori gardens in most of the rest of New Zealand; the presence of borrow pits, and soils heavily modified by the addition of sand and gravel; as well as charcoal. Sand and gravel material was excavated from the borrow pits and used to modify the loams and pumice-based alluvial soils of the area. The borrow pits are near circular depressions usually between 1m and 4m deep (archaeological investigations indicate they were typically 3m - 5m deep originally) and often 100m² - 300m². Even to form one garden would have been an energy intensive activity but considering that there were probably over 3000ha of these gardens in the inland Waikato, some understanding of the importance of these sites for tangata whenua can be gained.

Site investigations have revealed eight discrete Maori horticultural soil areas, spread across the entirety of the Amberfield subdivision. These sites range in size from 11.5ha to 1270m². In addition to these sites, at least 12 previously unrecorded potential borrow pits were documented (Figure 4.2).

Figure 4.2: Soil survey sample points and interpretation of soil distribution



KEY

soil survey sample points



unrecorded borrow pits



horticultural soil areas



Figure 4.3: Profile of geotechnical test pit



4.4 Historical Development and Existing Land Use

The site has been farmed since the late 1860s. However, aerial photos indicate that by the 1940s farm infrastructure was still quite limited. Development by that time included farm drains, pig-keeping activities and two small sand quarries. A cluster of farm buildings existed next to Peacockes Road and there were a couple of farmhouses.

Since the advent of dairy farming, particularly over the last 30 – 40 years land development and building have included a network of farm access roads and tracks, dairy infrastructure including a milking shed, implement sheds, and an effluent pond. The sand quarries have been significantly enlarged and larger residences have been constructed.

For land so close to the Hamilton urban area, it has nevertheless retained a large measure of rural character.

4.5 Surrounding Neighbourhoods and Land Uses

The proposed development lies within a peri-urban context with urban neighbourhoods and land uses to the northwest and north across the river and rural pastoral land use to the south.

Bader, Fitzroy, Glenview, Deanwell, and Melville are existing suburbs which lie to the west of Peacocke. Riverlea is located on the opposite side of the Waikato River, at the north eastern end of Peacocke, with Hamilton East adjacent to the Hamilton Gardens.

Industrial land lies to the northeast of Peacocke, across the Waikato River, and accessed through Riverlea.

The area of Tamahere which is southeast of Peacocke on the opposite side of the Waikato River is located in the Waikato District and is zoned rural residential. The area is developed with large houses located on large sections of land.

The area south and southwest of Peacocke is rural land located in the Waipa District.

The following summary refers to Figure 4.4, with features noted under each subheading.

Local Centres (red: a, b, c, d, and e)

Existing local centres adjacent to the growth area are located at Fitzroy (a), Bader (b), Glenview (c), Hamilton East (d), and Hillcrest (e).

Supermarkets (blue: f, g, h, i and j)

Current supermarkets are Pak 'n Save (h) and Countdown (i) in the CBD, New World at Glenview (j) and New World at Hillcrest (f). Consideration is being given to the possibly of an additional supermarket in the Peacocke Area but it is considered unlikely in the short term.

Schools (orange: k, l, m, n, o and p)

The following schools are located nearby Glenview Primary School (k), Melville Primary School (l), Melville Intermediate School (m), Melville High School (n), Deanwell School (o), and St Pius X (p). North of the river nearby schools are Hillcrest Normal School (q), and Silverdale Berkdale Normal Middle School (r). Consideration is being given to the possibly of an additional school in the Peacocke Area.

Large open spaces (green: s)

A series of large parks and playing fields (s) are located to the west of the growth area and over the river to the north. Consideration is being given to the possibly of additional sports parks in the Peacocke Area.

The environment (purple: t and u)

The geographic conditions across the growth area are varied with more extreme variations of topography, and concentrations of vegetation in the centre. Vegetation is sparse in the eastern area (the site), with the exception of the river edge and parts of the Mangakotukutuku Gully (t). The growth area has several stormwater catchments. The catchment in the area of the site is bound by Peacockes Road in on the west and Stubbs Road in the south. A colony of Bats (u) are located on the eastern bank of the river, at night they use the river to navigate.

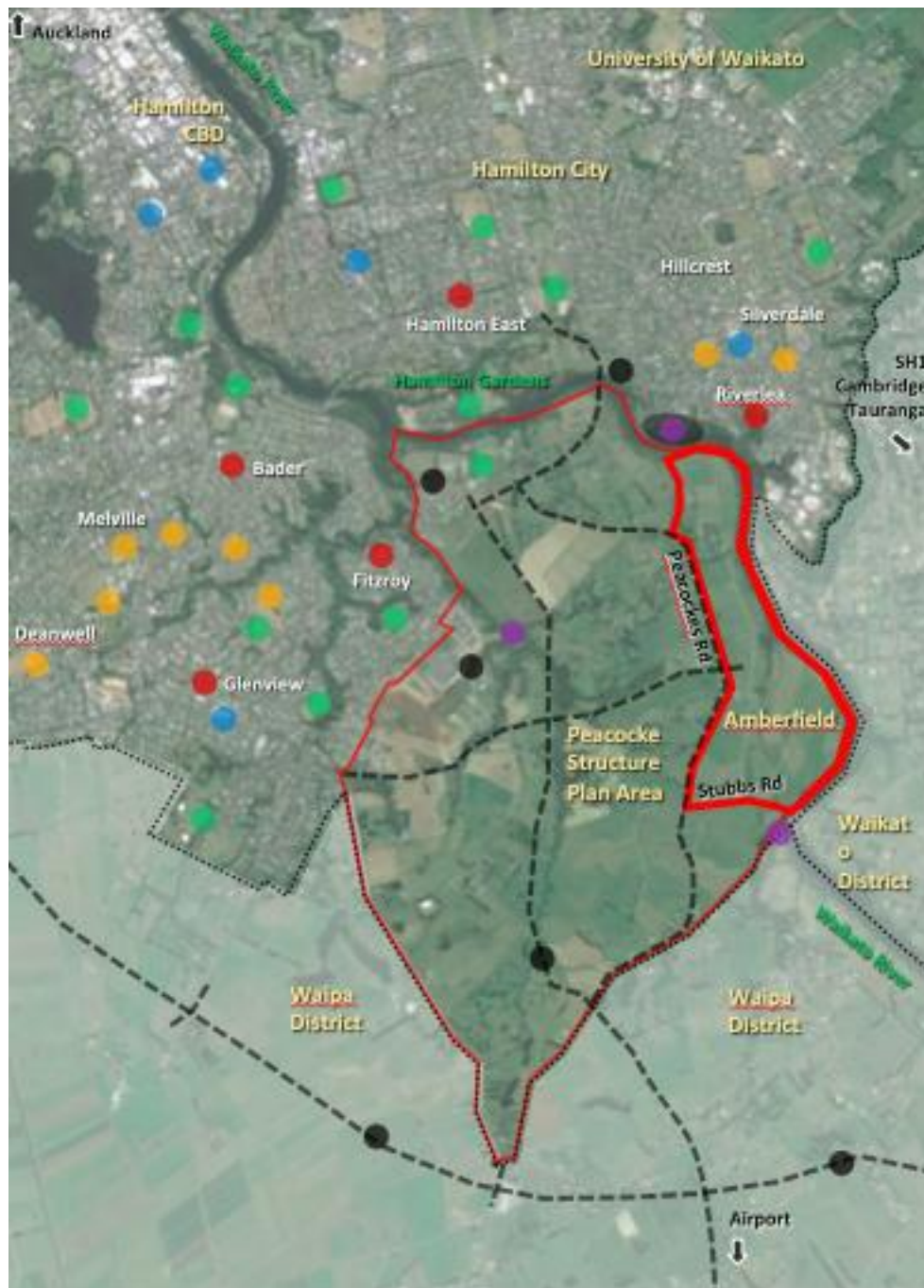
Heritage (purple: v)

Māori in pre-European times were settled along the banks of the Waikato River, where they developed techniques associated with the cultivation of food especially kumara. These included the use of borrow pits to condition the soil, of which some 50 are located on the site. The Nukuhau Pa (v) is located just south of the site on the river edge.

Transport network (black: w, x, y and z)

Current access to the growth area from the CBD is Bader Street (w), and Dixon Road (x) from the suburbs to the west. A future bridge (y) to the north over the Waikato River will give easy access to the university, research areas, and the Hamilton Gardens. At a city-wide scale the 'Southern Links' project (z) will form a bypass which links the CBD, Airport and SH1 together. The southern end of the Peacocke growth area will connect into this network. The growth area is bisected by two arterials, with Peacockes Road providing access to Amberfield including bus and cycle travel. Additional cycle links will run along this road as well as the river edge.

Figure 4.4: Land Use Context



4.6 Soils, Geology and Contamination

The site encompasses a number of broad river terraces with steep transition slopes between terraces and down to the Waikato River. As noted above, a gully cuts through the central-southern portion of the site. Site soils can be broadly classified into the following soil units:

- Sand – Fine to coarse sand, found to be very loose to very dense. This is predominantly high pumice content sand.

- Silt and Clay – cohesive soils generally silt and clay rich with variable sand content, found to be soft to hard.
- Very Dense Soils – most likely comprising very dense gravel.

While soil types are commonly interbedded with one another, sandy soils are generally found in greater thicknesses and frequency in the eastern portion of the site, with cohesive (silt and clay) soils being more prominent in the western portions of the site.

Groundwater levels observed in boreholes and inferred from cone penetrometer tests ranged from 0.0m depth to over 7.2m depth, with no apparent pattern between elevation and water level. Due to the interbedded nature of site soils, it is considered likely that the cohesive layers could form aquitards, trapping water at various elevations within the soil's column.

The site geology indicates that the majority of the site can expect limited to minor liquefaction and marginal to moderate lateral spreading in a 1 in 150-year design earthquake.

Steep site slopes show widespread evidence of soil creep and shallow soil failure, particularly near to the Waikato River and the gully. These conditions are addressed in relation to ground stability effects later in this AEE.

The site has also been assessed for the presence of soil contamination on the basis that historic farming activity may have introduced contaminants that would be inappropriate in a future residential environment. A Preliminary Site Investigation (**PSI**) indicated that a number of activities on the Hazardous Activities and Industries List (**HAIL**) are suspected to have been, or currently are, present on the site in localised areas. These include hydrocarbon and chemical storage, asbestos building materials, an electrical transformer, lead based paints, and general waste and wastewater disposal areas.

4.7 Hydrology, Water Quality and Aquatic Ecology

The hydrology of the Amberfield area is strongly influenced by the free draining soils and river terrace topography of the site. This can be compared with the much more incised topography of the Mangakotukutuku Gully and stream in the western part of the Peacocke's Structure Plan area. Consequently, with the exception of the watercourse in The Gully, the site watercourses comprise mainly short lengths of ephemeral and intermittent waterways. Most of these have been created or enhanced for localised drainage such as springs.

The watercourse in The Gully referred to above, collects farm drains that cross the paddocks off Peacockes Road to the west before becoming a more naturally aligned intermittent watercourse and dropping to the gully floor. Within the gully floor there is approximately 380m of permanent watercourse.

Of the other watercourses affected by the proposed development there are two in the northern part of the site that comprise a total of approximately 180m of intermittent stream and 200m of permanent stream collectively.

The riparian vegetation of most stream lengths is open pasture based vegetation with more developed, permanent riparian cover as the stream approaches the Waikato River.

The Waikato River and the site streams show moderate to good dissolved oxygen concentrations and water temperature, neutral pH levels and low turbidity. These parameters for the streams are likely to fluctuate daily and with seasons, but in general provide favourable conditions for stream biota.

The nutrient profile results show elevated concentrations across the three waterways. Total nitrogen, total organic nitrogen, dissolved reactive phosphorus and total phosphorus were all above applicable guidelines for the site streams, with the phosphorus also elevated within the Waikato River. These results indicate that there is some current potential for biological harm to stream biota.

Aquatic fauna in the streams is low in abundance and dominated by species that are tolerant of a habitat with likely moderate to severe organic enrichment. A fishing survey identified two short finned eel in two separate streams. No fish or koura were located.

4.8 Flood Hazard

Flood hazard information for the Waikato River has been obtained from Waikato Regional Council in the form of reduced levels (RL's). The level of flooding differs based on location as the river falls towards the sea. In Table 4.1, the higher RL relates to the southern location, the lower RL the northern location. The RLs effectively grade down from south to north between these two locations. The RLs provided correspond to two events. Firstly, a 1% AEP flood event in the Waikato River, excluding the effects of climate change, and secondly, a Karapiro dam break scenario. In the absence of any levels associated with a climate change event an allowance of 1 metre is to be adopted to the flood hazard levels in Table 4.1, and related flood extents, for a design level.

Table 4.1: Flood Event Levels

Scenario	Southern (RL)	Northern (RL)
1% AEP flood event	19.1m	18.5m
Dam break scenario	27.0m	26.3m

4.9 Terrestrial Ecology and Significant Ecological Areas

4.9.1 Vegetation

Prior to human settlement the low terraces adjacent to the Waikato River, and the river terrace and gully scarps, would once have been characterised by totara-matai-kowhai forest, with kahikatea-pukatea-swamp maire forest on the gully floors. Historic clearance has removed almost all of the original indigenous vegetation, which is now restricted to the steep river and gully banks and some isolated plantings.

Within the site there are two Significant Natural Areas (**SNA**) (Figure 4.5):

1. SNA 54: a 3.3ha kanuka/mahoe-privet forest that runs 1.2km along the Waikato River. This SNA is described as having moderate ecological value; and
2. SNA 48: a 2.4ha kanuka-privet-mamaku forest described as having high ecological value.

The Waikato River riparian area on the site is vegetated for its entire length and consists of several different vegetation types with the dominant canopy trees changing between kanuka, Chinese privet, tree privet and mahoe along the river. The majority of the vegetation types are dominated by pest plant species, contain little sub-canopy vegetation and support few or no native plants to provide succession to established native canopy trees such as kanuka. A similar assemblage of vegetation exists within The Gully scarp.

Other vegetation within the site includes small, planted areas, shelterbelts and ornamental gardens associated with two dwellings.

Overall, the kanuka dominated vegetation (3.37ha) and the area of planted native vegetation and kanuka (1.89ha) along the Waikato River are considered to have High ecological value with regard to vegetation. This riparian vegetation is of particular importance due to its buffering role for the river, and the associated bat habitat. All other areas, which include small areas of planted native trees and areas of predominately non-native vegetation, are of Low ecological value with regard to vegetation.

The extent of the two SNA areas relative to the proposed development are shown on the District Plan Overlay Drawings in Appendix U.

4.9.2 Bats

Previous bat monitoring undertaken across Hamilton City clearly demonstrates that the rural-urban fringe to the south of city, within which the project site is located, is core habitat for the Hamilton long-tailed bat population. Of the bat monitoring that has been undertaken in close proximity to the project site, bat activity in Hammond Bush, located directly across the Waikato River from the north-eastern part of Amberfield, appears to be key roosting habitat (Figure 4.7). Surveys undertaken in the Mangaonua and Mangakotukutuku Gullies located to the east and west of the site respectively also recorded regular bat activity but generally at lower levels compared to Hammond Bush.

Site surveys using automatic bat monitors (**ABM**) showed that, in general, the highest levels of bat activity were recorded along the SNA river margins (approximately 20 passes per night at a location directly opposite Hammond Bush) (Figure 4.5). The next highest levels were recorded along shelterbelts of tall stature exotic trees extending into the site (approximately 10 passes per night) (Figure 4.6).

The remainder of the ABMs recorded either low or very low levels of activity (averaging between 1.01 – 5 or 0.1 – 1 passes per night respectively), while three ABMs located in the southern extent of the site did not record any bats.

Multiple potential roost trees were identified within the site, these included mature exotic trees namely willow, pine and alder trees either with cavities and/or loose bark. Also present are mature kanuka trees with loose bark. Based on the activity results and the known habitat use categories, the site as a whole, and the northern extent of the site in particular is used by long-tailed bats for foraging and possible periodic roosting. The patterns of activity indicate that the site provides connectivity between the Hammond Bush - Mangaonua Gully area and the Mangakotukutuku Gully, all of which are key remaining habitat features for long-tailed bats.

Given the Threatened – Nationally Critical threat status of long-tailed bats, and the above findings on their use of the habitats available onsite, the ecological value of the site for long-tailed bats has been assessed as Very High.

Figure 4.5: Significant Natural Areas 48 & 54 within Amberfield

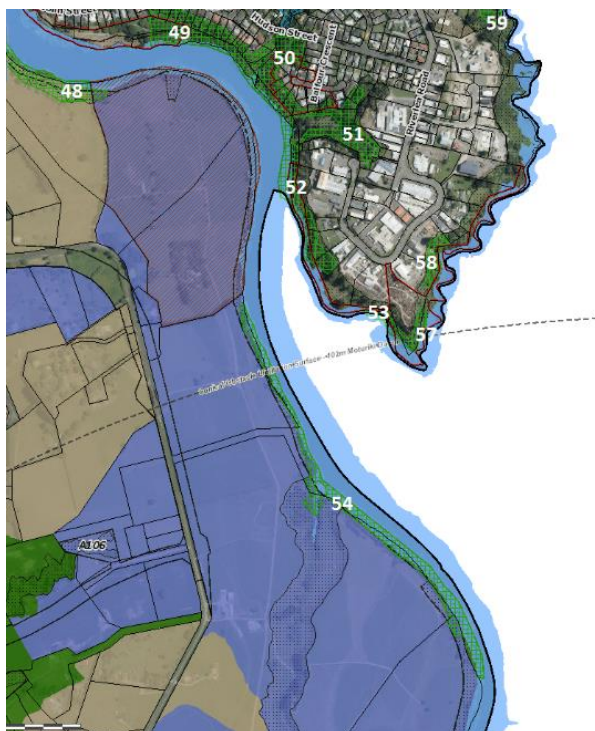


Figure 4.6: Shelterbelt with high bat activity



Figure 4.7: Bat habitat and automatic bat monitor on Waikato River



4.9.3 Herpetofauna and avifauna

It is likely that native copper skinks are present on the site but it is unlikely that any native gecko or any threatened or at risk herpetofauna species are present. There are many areas of potential habitat for copper skink throughout the site. Micro-habit features preferred by copper skink including leaf litter, natural and artificial debris, areas of long grass, and areas of dense vegetation are variable across the site.

Copper skinks are not threatened and are relatively common in low numbers throughout the wider Hamilton area. For these reasons, the site's ecological value for herpetofauna is assessed as Low.

The site avifauna species assemblage consists of common native and non-native species. No threatened or at risk species were detected at any time during the site investigations. Any at risk species that could utilise the site are likely to be relatively rare visitors and would be primarily associated with the Waikato River. As such, the riparian vegetation along the river is considered to be of Medium-High ecological value for avifauna, with the remainder of the site having Low ecological value for avifauna.

4.10 Existing Roads, Traffic and Transport Facilities

Peacockes Road is a rural sealed road and classified as a proposed minor arterial road in the District Plan. Waterford Road and Norrie Street are collector roads, as is the continuance of these routes through to Dixon Road and Bader Street respectively to the major arterial of State Highway 3 (Ohaupo Road and Normandy Avenue).

The rural section of Peacockes Road consists of a 6m wide (approximately) sealed carriageway without kerb and channel, with minimal gravel shoulders and large grass berms within a 20m wide road reserve. Other than the sweeping bend at the northern end of the subdivision site, the alignment of Peacockes Road adjacent to the subdivision is generally straight and runs in a north-south direction. To the north of the site the road proceeds through two bends before arriving at the existing urban boundary at Waterford Road.

The existing traffic volume on Peacockes Road just beyond the existing urban boundary is approximately 1500vpd. In the morning peak there is a strongly tidal movement with some 140vph travelling towards the city and only some 20vph travelling in the reverse direction. This is indicative that Peacockes Road serves a rural residential catchment which primarily has destinations in the city and that there are very few through traffic movements using Peacockes Road to travel to destinations to the south. As the road network links through to State Highway 3, as described above, the traffic volume builds gradually to some 8000vpd.

There are currently no bus services running down the rural section of Peacockes Road passing the Amberfield subdivision site. In the vicinity of the Peacockes Structure Plan Area there is an existing bus route that loops through the Bader Street/Peacockes Road/Waterford Road route to a terminal at Dixon Road. This route has a frequency of 30 minutes and operates between 7am and 9pm.

The rural section of Peacockes Road does not have any facilities for cyclists or pedestrians. Currently cyclists share the 6m wide road carriageway with motor vehicles and there are no footpaths. The urban road network to the north has footpaths, at least on one side. There is an existing network of cycleways and off-road shared paths linking to and crossing the section of Peacockes Road north of Waterford Road and also linking to Bader Street. These paths connect at the SH1 river bridge to the path along Cobham Drive leading to the CBD.

5. ASSESSMENT OF ENVIRONMENTAL EFFECTS

5.1 Overview of Assessment

Pursuant to Schedule 4 clause 2(3) and clause 6 of the RMA, an application for resource consent shall include an assessment of any actual or potential effects that the activity may have on the environment, and the ways in which any adverse effects may be mitigated.

Schedule 4 clause 2 (3)(c) of the Act specifies that an assessment of effects shall be in such detail as corresponds with the scale and significance of the actual or potential effects that the activity may have on the environment.

This section of the AEE summarises the findings of the expert assessments that have been listed in Appendices above. An overall summary of adverse effects is provided in Section 5.12, with a consideration of the positive effects of the development incorporated into the Part 2 analysis in Section 7.12.

5.2 Significance of the Waikato River Receiving Environment

A pervasive theme of this assessment is the significance of the Waikato River. As noted in Te Ture Whaimana o Te Awa o Waikato, the primary direction-setting document for the river and its catchments, the Waikato River is the river of life that sustains abundant life and a prosperous community.

The historic and strategic importance of the river to early occupation by Maori is evident in the distribution of pa sites along the riparian margins of the Waikato River and the proximity of Maori horticulture sites. These characteristics are important to the cultural and archaeological assessments.

The river margins along most of the site are identified Significant Natural Areas, not just for their vegetation and the buffer they provide to the importance water resource, but also for the habitat they provide for the long-tailed bat, now a Threatened – Nationally critical species. The retention and enhancement of these margins are addressed in several assessments.

The river has historically been, and remains, a corridor for movement. The transport effects section addresses its potential future role in active transport, mainly along the riparian margin of the river.

Finally, the river is a visual, landscape and recreational focus for the city. The proposed development is a unique opportunity for access to the river for inhabitants of Peacocke and the wider population.

5.3 Landscape Effects

The Peacocke Structure Plan has already signalled the prospect of a change to the character of the landscape, in this case the shift from rural to urban. This change has been put through a public planning process and the community's views taken into consideration at the time of the decisions on the Plan. In areas of anticipated landscape change it is not so much the change in the landscape from rural to urban that is to be assessed but how well the proposed development responds to and delivers on the expectations for that development, as set out in the Plan.

The change from a largely open, pastoral, rural landscape to an urbanised low and medium density, predominantly residential urban area will be transformational and initially dramatic

both within the series of phases of physical construction and in respect of the changed landscape, its visual characteristics and amenity.

The proposed development will however retain important components of the existing landscape most particularly the landform and vegetation within the Waikato River Esplanade Reserve and the overall nature of the topography sloping east, down toward the river corridor. The main north-south streets have a sinuous curving alignment, reflecting the parallel river, and the series of short east-west streets are oriented to visually and physically connect east, wherever possible, to the open space corridor of the river. The retention of the main gully system separating The Island from the land to the west and north as an open space, ecological and recreational corridor will maintain this feature of the landscape and physically separate the residential development on The Island.

Other characteristics of landscape change and design include:

- The modification of some of the existing waterways within the site through earthworks. The limited catchments of these waterways are not significant features of the landscape, but their loss will be mitigated including from onsite enhancement of riparian areas retained within the extensive open space network.
- The proposed retention of the natural hillock landform feature (The Knoll) (see Figure 1.1) and associated open space that supports the mature exotic trees located around the existing farm homestead in the middle northern part of the site.
- The proposed archaeological reserve located adjoining the Waikato River Esplanade Reserve, will maintain an area of unmodified topography which also expresses the cultural history of the site as an agricultural landscape. The two 'headland' parks on The Island are also sited to maintain the attributes of the landform and the connection of the public to the cultural values and the landscape corridor attributes of the river as a key landscape feature of the development.
- A widened river esplanade within the development will establish a significant open space and recreational amenity along the river corridor with high levels of public access connecting public roads and adjacent residential development with cycleways and walkways, including potentially a section of Te Awa River Ride.

The lack of significant vegetation generally across the site, and the retention of key native and exotic vegetation within the site, including all the vegetation along the river corridor, will avoid landscape effects due to the loss of significant vegetation.

Initially the scale of change in the landscape is likely to generate moderate to low adverse landscape effects, however this will reduce to low and transition to positive as the urban area becomes established and the quality amenity of the form of the development and its response to the features of the landscape is realised.

The landscape impact resulting from the physical construction works will comprise a greater level of transient adverse landscape effects, assessed to be moderate adverse landscape effects, due to the extent and timeframe of the earthworks. These effects are however temporary in nature and can be expected as a result of development. The nature of the site, the approach to development (i.e. the desire to work with the natural landform whilst enabling urban residential development and access roads that meet Council's development standards) and the proposed relatively minor extent of per lot earthworks assist in reducing the duration of the earthworks and related adverse landscape effects.

Overall landscape effects are assessed as **no more than minor**.

5.4 Visual Effects

The assessment of visual effects has identified four main viewing audiences as follows:

5.4.1 People travelling north or south along Peacockes Road

Existing views across the rural landscape are largely prevented due to the presence of roadside hedges and in the north by woodland planting. Future houses will front the eastern side of the road, some with direct access and others accessed from the east-west side streets. There will also be a series of small open space areas providing for pedestrian and cycle access where vehicular connection to the local arterial is not permitted. Over time, the travel experience for road users, many of whom will be accessing the locality as part of their own to / from home travel experience, will be that of high quality urban streetscape including a well considered public realm. No adverse visual effect is anticipated.

5.4.2 People in boats on the Waikato River

The Waikato River in this locality is set down in the landscape with steep embankments either side of the defined river corridor. On the subject site, the river banks are almost entirely vegetated with very limited views into the area proposed for development. This vegetation will be retained in its entirety and will lie within the Esplanade Reserve. Additional planting will occur adjacent to the retained vegetation such that the river corridor will remain strongly vegetated.

Views of the development from the River will be limited and comprise only a very small proportion of the overall development. This is due to both the natural topography and the attendant cover of existing and proposed riparian vegetation, and to the proposed setback nature of future urban development.

Low adverse visual effects will result from the presence of adjacent urban development whilst the visual presence of the public esplanade reserve will generate low to moderate beneficial visual effects.

5.4.3 People on properties on the opposing banks of the Waikato River

The land to the east of the river opposite the subject site supports a range of residential development and a pocket of industrial / employment land in Riverlea, as described previously. The permanent residents of houses overlooking the subject land from large lot or rural residential properties that line the eastern side of the river, comprise the more sensitive viewing audience for the proposal.

The existing outlook west across the River from properties in the east currently comprises an attractive rural landscape outlook with the river corridor vegetation in the foreground, the terraced dairy land pasture of the site in the middle ground and rural hill country - west of Peacockes Road - forming the more distant skyline. These, across the River, views will change as a result of the proposed development with the middle ground accommodating the proposed suburban residential subdivision.

People will look across the River to their adjacent opposing portion of the site rather than seeing the full development. Some viewers, dependent on their individual outlook across the

subject land, will benefit from the retention of features including the grove of trees in the north of the site, the hillock landform and associated mature trees around the northern neighbourhood reserve.

Visual change should not be unexpected for people residing within an existing partially urban / residential catchment due to the 'future urban' Peacocke Structure Plan and intended urban growth of the city south. While the change will be substantial, the visual effects are considered to comprise a low to moderate - low adverse visual effect given the consistent fore and middle ground components of the view and the distance across the river corridor to the view.

5.4.4 People in the surrounding rural area

In addition to those views from properties across the river to the east, there are locations, particularly on more elevated land, to the south, west and north of the subject site that will have the potential to view parts of the proposed development. Some of this land is also within ownership or control of the applicant. For persons on these properties there will be a significant change to the relatively narrow strip of land between Peacockes Road and the river. However, the change is likely to be anticipated by this viewing audience given their location within the Structure Plan area and is assessed as a low adverse visual effect.

Overall, visual effects are assessed as being **no more than minor**.

5.5 Natural Hazard Effects

The key natural hazard effects relate to flooding and land stability.

A flood hazard assessment has been undertaken which has established flood hazard levels for the site to be adopted for development. These levels incorporate a 1m additional height to the predicted 1% Annual Exceedence Event for the minimum freeboard height for residential development. This level has been adopted for the development.

The flood hazard assessment also considered the Karapiro dam break scenario. However, this information is not for planning guidance and is held primarily for emergency response purposes.

The proposed earthworks for the site have responded to the soil and geological conditions summarised in Section 4.6. The variance in soils requires monitoring of soil moisture during earthworks and cut slopes to vary in steepness in response ((1V:3H above the water table and 1V:4H at or below the water table). Spreading and drying of wet soils may also be required.

In relation to slope stability land beyond a 1V:3.2H setback line in relation to the Waikato River Valley and The Gully can be considered protected against slope instability. Development not so protected will require remedial earthworks or retaining structures.

Overall, it is considered that the site to be geotechnically suitable for the proposed development, and any land stability and natural hazard effects will be **no more than minor**.

5.6 Effects of Hazardous Substances

The potential for hazardous substances to be present on the site was established in a Preliminary Site Investigation. Given the identification of these potentially hazardous activities on-site, further intrusive investigation work is proposed by way of a Detailed Site Investigation (DSI), for which consent is sought, to assess the extent of contamination, establish a remedial action plan, if necessary, as part of initial land development. This investigation would focus on existing farm buildings, waste storage and disposal areas, the electrical transformer, and

include a site wide soil sampling to establish whether the application of superphosphate has resulted in an accumulation of cadmium.

In summary, to the extent that the site has existing hazardous substances, the overall result will be the identification of these and the removal or alternative treatment of them to enable urban development. This will be a positive effect for the environment and the future population (i.e. definitely **no more than minor** in a section 104D sense).

5.7 Effects on Terrestrial Ecology

Effects on vegetation, bats, herpetofauna and birdlife are summarised as follows.

5.7.1 Vegetation

The proposed development will not directly impact any of the vegetation of high ecological value and maintains a set-back from both the Waikato River riparian strip and the minor gully to the south to preserve the native vegetation currently onsite. There will be some loss of non-native vegetation within the farmland and thinning of an area of low value privet-alder vegetation on the proposed archaeological reserve riverbank in the south of the site to allow for views of the river. There will be eight stormwater discharge outlets (including one subsoil drain) which will extend into the Waikato Riverbank and Gully Hazard Area as well as one subsoil drain which will extend into SNA 54. Associated pipes will be drilled and the outlets can be sited at detailed design stage to have minimal impact on vegetation along the riverbank. Construction of the outlets will occur from the river to minimise disturbance to the riverbank. This can be managed through development of specific measures within a Construction Management Plan. Overall, this represents a very low level of effect on the ecological values of the vegetation itself.

There is a significant opportunity to enhance the ecological value of the area. This would primarily be comprised of:

- Amenity and buffer planting (4.7ha) area along the river bank to supplement the existing riparian vegetation; and
- Riparian and gully planting (13.2ha) mainly within The Gully.

These areas will be of predominately native plantings, with some non-native species that provide amenity values and habitat values for native fauna. The areas will be planted for the purpose of enhancing the ecological value of the area, and provide a net benefit in terms of vegetation values, they are not required to mitigate any effects on ecological values. Accordingly, the effects are **no more than minor**.

5.7.2 Bats

The concept plan for the development of the Amberfield site has sought to avoid, as much as practicable, direct habitat impacts on long-tailed bats within the site's footprint such as vegetation removal and encroachment on the Waikato River and minor gully corridors. The relative levels of activity recorded do not indicate that bats are likely to be regularly roosting within the development footprint, rather, they are commuting and foraging within it.

However, development will permanently increase anthropogenic disturbance in the form of increases in lighting, roading, noise, and housing densities. This is a potentially significant impact as suitable long-tailed bat habitat is now highly restricted in Hamilton City. Furthermore, as long-tailed bats are known to be sensitive to anthropogenic disturbance such as lighting

and noise, a residential development of the density proposed is likely to make the site effectively permanently impermeable to bats, meaning they will no longer be able to continue to forage or disperse across or within the site at all.

The overall level of the ecological effect of the project on long-tailed bats, without mitigation, is considered to be Very High. This represents a high level of effect on ecological or conservation values and in the absence of total avoidance, intensive mitigation and remediation actions are proposed in order to achieve a no more than minor effect on the bat population.

The difference between off-site mitigation and off-setting when considering the bat population needs further explanation. These alternatives have been given fairly extensive consideration by the Courts. The first point is that for the purposes of a section 104D non-complying activity assessment, positive effects including off-setting are not able to be taken into account. Further, when considered later in the section 104 analysis, positive effects are able to be considered, but only when offered by the applicant as *Augier* conditions, and are not able to be conditioned by the consent authority otherwise.

Returning to the difference between off-site mitigation and off-setting, the High Court decision in the Denniston Coal proposal is the leading case on this matter.⁷ The Court found that "mitigation" by definition must be to address the effects at the point of impact. It stated that the RMA distinguishes between mitigation of adverse effects caused by the activity for which resource consent is being sought, and positive effects offered by the applicant as an offset to adverse effects caused by the proposed activity.

Consistent with this approach is the following findings of the Environment Court in considering the question of how to assess the value of mitigatory actions:⁸

The practical answer is usually that if the proposed remedial or mitigatory action is the repair of damage of the same kind as the adverse effects of the activity, it is easier to accept as not only relevant, but reasonably necessary as well. Similarly, if the proposed remedy is also in the same area, landscape, or environment then its benefits, compared with the costs of the proposed activity, are more easily seen. Conversely, if the offered environmental compensation is too far in distance, kind or quality from the adverse effects caused by the proposed activity then it may be no longer reasonably necessary, but merely expedient for the developer to offer.

This passage is considered to be very instructive for the current application. Given that the Hamilton South bat population ranges widely along the Waikato River riparian margin and the forested valleys of its local tributaries the "point of impact", referring to the High Court's use of this phrase, is considered to be much wider than the Amberfield site. The bat survey demonstrates that roosting and the intensity of bat activity is not located within the Amberfield site. Consequently, the mitigation activity is to be within the "same area, landscape or environment", but not all within the Amberfield site.

On-site mitigation to avoid the direct and indirect effects on bats, bat sensitive design will be used including such initiatives as:

⁷ *Royal Forest and Bird Protection Society of New Zealand v Buller District Council and West Coast Regional Council and others*, [2013] NZHC 1346, Fogarty J.

⁸ *JF Investments v Queenstown Lakes District Council* EnvC C48/2006. Paragraph 37

- A vegetated setback from key bat habitat features on site including:
 - the margin of the Waikato River;
 - if practicable a portion of the shelterbelt within The Knoll park; and
 - The Gully,
 with the vegetation used in the above setbacks being selected and planted to maximise screening of the above features from anthropogenic disturbance;
- Street, building and reserve lighting will be avoided wherever possible. If unable to avoid, lighting design will follow guidelines for bat sensitive lighting;
- Street lighting will also be avoided along the two road crossings that bisect The Gully if practicable or alternatively carefully designed to minimise effects on bats;
- The upper reaches of The Gully will be revegetated with species that include tall stature trees. There is the potential for this vegetated corridor to be extended beyond The Gully and the project site to the south providing a second continuous vegetated corridor from the Waikato River across the structure plan area to the Mangakotukutuku Gully as shown in the Peacock Structure Plan as 'future reserve' (See Map Appendix 2-1 of the District Plan).
- Where suitable, plantings will include tall stature native and exotic trees known to be used by long-tailed bats as roosts. Such species could include native podocarps, eucalyptus species, oak, poplars and willows. It is be noted however, that these trees will be unlikely to provide roost cavities for a minimum of 50 years and therefore cannot be considered mitigation in the short-term.
- Where earthworks will not later encroach on these areas, buffer plantings should be established as early as is practicable.
- Developing a bat management plan that addresses the potential effects on bats related to the felling of potential roost trees, where this cannot be avoided, and temporary construction disturbance effects on bats.

Notwithstanding the implementation of the above mitigation the residual effects on the bat population is still considered to be more than minor. Consequently, additional off-site mitigation, consistent with the Courts' findings on what can be considered mitigation, as opposed to an off-set benefit, is required. At the time of preparation of this AEE, the mitigation and offsetting required to address the effects of the development on the long-tailed bats is being finalised and is dependent on some additional work currently being carried out. In addition to the mitigation initiatives listed above, mitigation off-site, but within the Hamilton South long-tailed bat broader habitat, is proposed. These initiatives can include creation of new habitat, development or enhancement of existing habitats, predator control, and legal or physical protection of existing habitat. Weston Lea is continuing engagement with relevant stakeholders including the Department of Conservation, Hamilton City Council and Waikato Regional Council to assist in determining the appropriate level of off-site mitigation and offsetting and the most effective initiatives to be employed in this context.

While the implementation of the mitigation described above for the indirect effects on the long-tailed bat population on the development site and the off-site mitigation will further reduce the overall effect of the development, given the current uncertainty as to the outcome, the effects are considered to be **more than minor**.

5.7.3 Herpetofauna

As with bats, the concept plan for the development of the Amberfield site has sought to avoid direct impacts on copper skink habitat as much as practicable. However, the development will still have potential impacts on copper skinks, including direct injury, mortality, and loss of habitat. Notwithstanding these effects the overall level of ecological effect is ranked as Very Low.

Mitigation of effects is in the form of a Lizard Management Plan in support of a Wildlife Act Authority to capture, handle, transfer and (incidentally) kill protected wildlife as part of construction. Lizard management methods detailed in this plan will focus on an incidental capture protocol and the creation of habitats that support the copper skink. With the proposed additional riparian and gully plantings within the area the development will likely have a net benefit for copper skinks within the site. Accordingly, the effects on herpetofauna are **no more than minor**.

5.7.4 Avifauna

The proposed development is likely to cause only a minor, short-term disturbance to the bird species present within the site. The proposed thinning of the area of riparian vegetation on the Waikato River has been assessed as having a low level of effect on avifauna ecological values, while the remaining clearance of site low ecological value vegetation is assessed as having a very low ecological effect.

As with lizard habitat, the proposed additional riparian and gully plantings within the development will likely have a net benefit for birdlife within the site. Accordingly, the effects on avifauna are **no more than minor**.

5.8 Effects on Water Quality

Effects on water quality can derive from the loss of streams, stormwater run-off both during site development and from urban activities, and from wastewater overflows. The effects on site streams are considered in Section 5.9 in relation to aquatic ecology.

The approach taken with both stormwater management and wastewater overflows is to avoid these flows to the river, other than for stormwater during an extreme event.

Erosion and sediment control measures have been described as being in general accordance with the WRC guidelines. Water quality of the receiving environment will be protected by the range and capacity of the measures adopted, adopting a precautionary approach, such as the sizing of sediment ponds at 3% of catchment size. Immediately following completion of a stage of earthworks, or as soon as necessary, exposed areas will be stabilised. Common methods of stabilisation that will be utilised on this site include sowing grass, hydro-seeding, geotextiles, straw mulching or co-polymer sprays.

It is considered that with the adoption of well-tested measures for the local environment that sediment control can be implemented to ensure that effects of runoff during construction on receiving waterways will be **no more than minor**.

The change in land-use across the site will result in an increase in connected impervious area, which will have an impact on both the volume and location of run-off and an alteration to the overland flow regime entering watercourses. It will also result in changes to groundwater recharge and distribution. While the mechanism of watercourse recharge will change from

pre-development conditions the proposed soakage solution returns flow to ground as close to the source as possible. This, as close as possible, replicates the pre-development mechanisms of recharge.

For stormwater not initially retained on-site for re-use, the soakage solution has been described above incorporating on-site soakage devices, within road under-drained bio-infiltration devices, and rain gardens. Only for a rainfall event beyond the 10% Annual Exceedence Probability will stormwater not be catered for by this infrastructure. The excess water in this event will run down roads and a reticulated network to low points and thereafter discharge to the river. In these large events, the discharge from roads will be via overland flow and the discharge from pipes will be to one of a series of outlet structures.

At the project outset a key parameter for the Council, WRC and iwi has been the avoidance of additional wastewater network overflows to the Waikato River and tributaries. This approach was in response to the existing situation of numerous such flows during wet weather events, where stormwater enters and overwhelms the wastewater network.

Consequently, no wastewater network overflows was a requirement of any wastewater solution for the Amberfield development. As described in Section 3.5, whether the transmission network adopts the Far Eastern Interceptor or Western Interceptor option, the system has been designed to avoid any network overflows to the river. This has been through adopting an overall adequate system capacity, with peak storage provision as necessary.

As a consequence of the approaches to stormwater and wastewater management it is considered that there may well be an improvement of water quality within the site streams, and although unlikely to be detected, the water quality of the Waikato River as a result of the development. This is achieved through:

- The avoidance of stormwater run-off from the development during site development other than during extreme weather events;
- The adoption of a soakage approach for urban development ensuring rainwater enters the ground close to where the rain falls currently, and otherwise reaches the river via an overland flow or piped reticulation at preferential points during extreme events. The conversion to urban use will reduce the amount of nutrients currently entering the site waterways, and the soakage devices have been found to be effective (at a 70% level) for treating urban contaminants, mainly from roads, such as copper, lead, zinc and hydrocarbons;
- A nil discharge approach for wastewater network overflows; and
- The mitigation of stream lengths lost through the enhancement of 587m of intermittent stream length and 159m of permanent stream length in The Gully.

Overall, effects on water quality are expected to be **no more than minor** and potentially positive.

5.9 Effects on Aquatic Ecology

The proposed development results in the loss of stream lengths, including the associated freshwater ecological values, in several watercourses. The magnitude of effect is considered to be moderate, albeit that these stream lengths are largely a mixture of ephemeral and intermittent watercourses with low ecological values. The development proposals mitigate for the loss of intermittent and permanent waterway with at least low ecological value through

the enhancement of the stream in The Gully, as noted above. It is considered unnecessary to mitigate for ephemeral / intermittent habitat where freshwater habitat values are negligible.

The magnitude of effect on aquatic ecological values from stormwater discharge (to retained tributaries and the Waikato River) is predicted to be negligible as the stormwater treatment systems are designed to treat stormwater to the permitted standards outlined in the Waikato Regional Plan.

With the implementation of the stream mitigation proposals and the approach being taken to stormwater management will result in effects on aquatic ecology being **no more than minor**.

5.10 Effects on Matters of Significance to Maori

The Peacocke area is of historic, cultural and spiritual significance and important to tangata whenua and is considered a wāhi taonga area. This connection reaffirms the identity, whakapapa and enduring relationship tangata whenua has with the land and waterways in the project area. The protection and enhancement of heritage, cultural and traditions is vital to their continued well-being.

The key aspects of the development that have the potential for cultural effects are as follows:

- The destruction of archaeological sites;
- The potential for additional wastewater discharges to the Waikato River;
- The potential for sediment-laden discharges from land development and stormwater discharges from the future urban development; and
- Opportunities for enhancement of cultural connections to the land and water of the site.

The mitigation of these actual and potential effects and the opportunities for enhancement is to be achieved through the ongoing input of the Tangata Whenua Working Group (**TWWG**). The focus for TWWG, which the applicant endorses, is to create a pathway for restoring the mauri of the area via five key pou/mitigation objectives in relation to the Hamilton South area, namely:

I. Rangatiratanga: the active involvement of tangata whenua in the development;

II. Waahi Taonga: the protection and enhancement of 'whakapapa' cultural connectivity and indigenous place-making, and sites of significance;

III. Nga Wai Ora: the protection and enhancement of freshwater, waterways, springs and wetlands;

IV. Mahinga Kai – customary food and resource species and biodiversity; and

V. Kotahitanga: working to improve partnership outcomes with tangata whenua

These objectives are to be achieved through the following measures:

- The TWWG continuing to work with the developer on the current and future applications for resource consent on the potential effects identified above;
- The creation of the heritage reserve and its identification as a place of significance, marked with a pouwhenua, and other cultural symbolism;
- To reaffirm 'whakapapa' through cultural narrative within the development by using traditional mana whenua names, use of some indigenous plant species in riparian

restoration, street trees and open space planting, design that reflects contemporary Maori culture, cultural monitoring and guidance during earthworks, and timely use of appropriate karakia and other cultural protocols;

- Adopting the techniques and best practicable options of the stormwater and wastewater management processes to maintain and improve water quality;
- The development of a subdivision design guideline to require and/or encourage the incorporation of innovative low impact urban design by future development, including rainwater collection, landscaping, low energy/water fittings, insulation and solar or alternative energy sources/systems, as well as solar hot water system;
- The restoration of the natural stream in The Gully;
- The mitigation of the effects on bats within the development site and the identification of opportunities and implementation of an offsite mitigation plan within the Hamilton South bat habitat, and attention given to wider biodiversity gains for native birds, insects and lizards in revegetation;
- Include capacity building outcomes for Waikato-Tainui young people through education and commercial opportunities.

With the implementation of these measures, notwithstanding the effects identified above, in particular the destruction of archaeological sites, the TWWG support the proposal. It is noted that some of these measures are outside the scope of matters that can be addressed in conditions of consent. Despite this, the applicant acknowledges and confirms a commitment to continue to engage with the TWWG in respect of these matters.

5.11 Cultural Effects

The archaeological features identified and therefore the archaeological values relevant to the development all relate to Maori occupation. The sites identified are all sites of Maori horticultural activity and form typical elements of the Waikato Horticultural Complex, which is a distinctive technological adaptation to the problems of growing tropical cultigens in a temperate climate. Pa form the other mainstay of this archaeological landscape, and while there are a number surrounding the development area at what was a relatively high density none are directly affected by the development.

The nature of the development means that all but approximately 0.15% of the identified archaeological deposits will be destroyed. The remainder will be protected in a reserve.

The effect will, therefore, be adverse for the archaeological sites and the already significantly diminished local (southern Hamilton and Tamahere) archaeological landscape at a moderate level (i.e. in terms of section 104D, **more than minor**). The proposed mitigations methods, in particular the proposal for the heritage reserve, are designed to off-set/mitigate this effect. The importance of these proposals to achieving consistency of the development with the relevant objective and policies of the District Plan are addressed below.

5.12 Traffic Effects

Traffic effects are concluded to be **no more than minor** taking into account the minor effect of increased traffic from the development on the connecting routes to the CBD from the proposed development, the improvements to Peacockes Road, the high quality provisions for

active modes on and off the road network and planning for future public transport. The following sections provide a summary of these aspects.

5.12.1 Effects on wider traffic network

The development will have little effect on the major intersections in the area with levels of service generally being maintained.

The levels of service at intersections along the Peacockes Road-Norrie Street-Bader Street route retain an acceptable level of service even without the Council improvements being proposed at the Waterford Street and at the Norrie Street intersections.

When development traffic is added, the Normandy Avenue / Lorne Street intersection is expected to degrade from Level of Service D to Level of Service E in the morning peak because of increased northbound traffic volumes added by the development. However, this effect is not anticipated to occur until approximately 70% of the Amberfield development is completed and occupied dwellings are generating traffic. Accordingly, whilst a mitigation approach is available through the construction of an additional left turn lane from the south (Normandy Avenue into Lorne Street) it is considered that the mitigation should not be considered in the short term given that it is possible that other roading improvements (in particular the Waikato River bridge) may have been implemented before the subdivision is completed in which case the upgrade will not be justified. Consent conditions can be imposed to require the upgrades to be undertaken at the appropriate time if other roading improvements haven't been implemented by that stage.

5.12.2 Road safety

There are a number of locations and sections of routes where existing safety issues have been identified for improvement through consultation with Council. These include:

- Intersection improvements and traffic calming measures planned by the Council at the Waterford Road / Peacockes Road intersection and along the Peacockes Road-Norrie- Bader Street route;
- The construction of the shared path along the rural section of Peacockes Road and the existing urban area;
- The upgrading of Peacockes Road adjacent to the subdivision, including addressing specific horizontal and vertical alignments and visibility issues.

5.12.3 Active modes

Currently facilities for active modes in the vicinity of the proposed development are virtually non-existent. Consequently, the introduction of high quality facilities for walking and cycling within the development will have positive effects for users. The development's internal network will be connected to the existing urban area through the shared path along the rural section of Peacockes Road, as noted, and safety improvements that are proposed by the Council along the Peacockes Road-Norrie Street-Bader Street route.

5.13 Amenity Effects of Land Development

The principal amenity effects of land development are noise and dust.

In relation to dust it is noted that earthworks will be occurring over the dry months, consequently dust generation and erosion by wind from un-stabilised site areas may potentially be an issue. Dust will be suppressed by the contractor, and there are various methods that may be employed such as water carts, wheel washes, sprinkler systems, mulch or co-polymer sprays.

Noise is also an effect generated by early site development stages from earthworks and infrastructure installation. Nuisance noise is dependent on noise levels generated and the distance to the receiver. In this case the site is fortunate in that the nearest external receptor points are generally well separated from the noise generating activities. Site operations will be governed by the noise limits in NZS6803:1999 for construction noise.

It is considered that the application of dust suppression at source and other techniques and compliance with construction noise limits will result in these effects being **no more than minor**.

5.14 Noise in the Urban Environment

In relation to Amberfield site and the upgrade of Peacockes Road, the noise assessment for the Southern Links used the noise criteria from both NZS 6806 and Hamilton City Operative District Plan, and used NZS 6806 to establish mitigation measures.

Under NZS 6806, “a new road is any road which is to be constructed where no previously formed legal road existed” and “an altered road means an existing road that is subject to alterations of the horizontal or vertical alignment”. Short sections of road connecting a new/altered road to the existing road network are often considered as altered roads. Although the upgrade of Peacockes Road involved horizontal and vertical alterations to the existing road, given the expected increase in traffic volumes (<2,000 vpd to 17,300 vpd in 2041) the noise assessment (which was prepared on behalf of HCC) took a conservative approach and used the New Road Category A criteria of 57 dB LAeq(24h).

The noise assessment showed that under NZS 6806, the calculated noise levels at 84 Weston Lea Dr (60.7dB) and 361 Peacockes Rd (60.3 dB) would not comply with the New Road Category A criteria. The noise assessment considered mitigation options, but concluded that the do-minimum (no noise mitigation) is the ‘Best Practicable Option’ and would result in acceptable increases above the future existing environment. Section 6.1.2 of NZS 6806 states that “where it is inconsistent with the adoption of the best practicable option to achieve the criteria of Category A, the criteria of Category B shall apply”. Accordingly, the Best Practicable Option for the Southern Links proposal would comply with the New Road Category B criteria of 64 dB LAeq(24h).

In relation to the Hamilton City Operative District Plan at the time (i.e. the predecessor district plan), the noise assessment confirmed that the calculated noise levels would comply with the 62 dB LAeq(24h) noise limit and confirmed that again the do-minimum is the Best Practicable Option.

Given that Rule 25.8.3.4 of the current Hamilton City Operative District Plan requires compliance with NZS 6806 and the proposed upgrade of Peacockes Rd can comply with the New Road Category B criteria, it is considered that the upgrade of Peacockes Rd complies with Rule 25.8.3.4.

5.15 Overall Conclusions on Adverse Effects

Section 4 of this AEE has described the existing environment. That environment, together with any activities that can be undertaken as of right as permitted activities and unexercised resource consents, is the environment against which to measure the extent of adverse effects. The permitted activities of the Peacocke Special Character Zone are limited generally to residential (one house per lot) and rural production activities. None of the activities would involve wide scale changes to the landform, as is the case with the current proposal. There are also no unexercised consents for the site.

This section of the AEE has assessed each of the potential adverse effects of the proposed development on the existing environment. With two exceptions, being the more than minor adverse effects on archaeological features (garden soils and borrow pits) and the heritage values that these features embody, and the effects on the Hamilton South long-tailed bat population, it is concluded that the adverse effects of the proposed development are no more than minor.

The effects on archaeological features are extensive over the site and the site will be intensively modified with earthworks. These changes to the landform are not an incidental or minor aspect of the development that can be avoided. The expert assessment of these effects is that the extent of modification and destruction of the garden soils and borrow pit sites cannot be directly mitigated.

The effects on the long-tailed bat are largely indirect, however given the critical nature of the Hamilton South bat population, a precautionary approach to effects assessment has been taken. It is yet possible that a mitigation strategy can further reduce the post-mitigation effects level to being no more than minor.

The overall conclusion is therefore that effects are more than minor.

6. CONSULTATION

6.1 Overview

In preparing this application for consent, Weston Lea has consulted extensively with Mana Whenua and a range of stakeholders that includes special interest groups and the community in the south Hamilton area. The purpose of this consultation was to:

- Involve stakeholders, and
- Address the legislative requirements of the applications for resource consent under the RMA.

Details of the consultation process, including methodology and parties consulted, are set out below.

6.2 Statutory Context

6.2.1 Resource Management Act 1991 (RMA)

The Resource Management Act 1991 (RMA) states that an Assessment of Effects on the Environment submitted in support of a resource consent application should include an identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of persons consulted (Schedule 4 RMA 6(1)(f) *identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted*).

However, section 36A of the RMA clarifies that consultation is not mandatory by either an applicant or the local authority with respect to a resource consent application. However, best practice would normally incorporate consultation within project development and pre-application stages, particularly for large projects such as this one.

The RMA provides for consultation with tangata whenua under sections 6(e), 7(a) and 8. Section 6(e) requires an applicant to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga. Section 7(a) requires an applicant to have particular regard to kaitiakitanga. Section 8 requires an applicant to take into account the principles of the Treaty of Waitangi.

6.2.2 Consultation with Tangata Whenua

Consultation with tangata whenua was guided by Waikato-Tainui to engagement with two representative groups, Te Ha o te Whenua o Kirikiriroa Committee and Nga Mana Toopu o Kirikiriroa. The record of consultation and outcomes is recorded in detail in the Cultural Impact Assessment.

6.2.3 Consultation with Interested Parties

Weston Lea and its consultant team have had meetings with a range of parties with a special interest in or responsibility for resource management in particular aspects of the environment as follows:

Department of Conservation

Hamilton DoC personnel were consulted in relation to the bat monitoring programme and the results obtained. Ongoing contact has been maintained to discuss options for mitigation, given

DoC's involvement in other projects for which off-site mitigation will be necessary, such as the implementation of Southern Links by NZTA and the Council.

Project Echo

Members of Project Echo were met with to provide the bat monitoring results and discuss mitigation strategies.

New Zealand Transport Agency

Weston Lea's transportation consultants met with NZTA staff in September 2017 to discuss traffic modelling, the overall implementation of arterial roading in Hamilton South, the effects of traffic generation on the state highway network and proposed mitigation required.

6.2.4 Information Provided to Local Persons

Prior to lodgement of the application Weston Lea met with direct neighbours within the SC-ICMP area and held an information event for local persons.

SC-ICMP Landowners

Table 1.2.2.6b in Appendix 1 of the District Plan requires *"A list of the key stakeholders associated with the catchment (or sub-catchment), details of the consultation undertaken, and details of their respective views on providing for new stormwater diversion and discharge activities with the catchment (or sub-catchment)"*. Efforts have been made to consult all owners of land within the sub-catchment boundary as they have been identified as key stakeholders in the SC-ICMP.

The Adare Co owns the majority of land within the SC-ICMP boundary. There are six titles that are all partially located within the sub-catchment area, all of which are located west of Peacockes Road to the southwest of the proposed development site. The six titles are owned by four different landowners. Despite best efforts, contact was unable to be made with the absentee owner of 462 Peacockes Road. However, all other landowners were successfully contacted and consultation meetings with them were held. The landowners consulted were the owners of the properties at 474, 476 and 490 Peacockes Road, 504 Peacockes Road and 462 Peacockes Road. A summary of responses provided at the consultation meetings follows:

- All of the landowners were generally supportive of development occurring and noted that it had been in the planning for Peacocke for a long time.
- All of the landowners were interested in the expected timeframes for the Adare development, particularly with respect to the extension of utility services and road upgrades along Peacockes Road.
- The owner of 462 Peacockes Road advised that some of the lower lying area of the northern part of her property floods. The area that she identified as being flood prone is in the Mangakotukutuku Catchment. She considers that the flooding is due to previous filling of a gully on the land holding to the north of her property which she considers has prevented natural drainage flows from her land to the gully. She also identified that stormwater from the Adare property backs up and floods through a culvert into her property following heavy rain.
- One landowner noted there have been traffic accidents along Peacockes Road in the vicinity of their property, including a fatality. They consider road improvements to be important as part of the development to ensure safety, including addressing the existing substandard vertical geometry.

- One landowner is concerned at the potential for Peacockes Road to become a 'race track' for boy racers. The owner considers that providing access to lots directly off Peacockes Road is likely to be unsafe.
- Two landowners identified that they consider that the development will worsen congestion at the intersections of Bader Street and Normandy Ave and Normandy Ave and Lorne Street. They noted congestion is already bad at those intersections at peak periods. One of the owners also said congestion at the intersection of Bader St, Norrie St and Peacockes Road is also bad at peak periods and she considers it is likely to get worse with the traffic from the proposed development added.
- One of the landowners considers that lots down to 400m² are very small for single detached dwellings. They would prefer to see larger lots created as part of the subdivision.

The matters raised above are addressed within this AEE and within the supporting technical assessments.

Public Information Evening

A public information evening was held from 4-7pm on 16th May 2018. The information evening was advertised to the public through a mail drop to a wide area (including Peacockes and parts of Bader, Riverlea and Tamahere) and through advertisements in the Waikato Times. A large turnout of people attended the public information evening. Although not all attendees completed the sign-in register, the project team estimated a total turnout of approximately 200-300 people over the course of the evening. Feedback provided to the project team was generally positive towards the proposed development. Common issues that were discussed were:

- There was strong support for the design approach of having roads fronting onto the river edge reserves.
- There was strong support for the proposed open spaces, particularly their size and proposals to provide shared paths along the river and gully and to retain existing vegetation within the park near the northern entrance (Lot 1500) and within 'The Knoll' (Lot 1506).
- Some people commented that having a community hub (such as the potential café within Lot 25) in the early stages of the development would be a good asset for the local community.
- Some people raised concerns regarding the traffic effects of the proposed subdivision, particularly access to/from the CBD via Bader St/Normandy Rd/Lorne St and the capacity of those intersections to accommodate additional traffic from the development.
- There was a lot of interest in the timing for the proposed subdivision and the timing for other subdivision and development elsewhere in Peacocke.
- There was a lot of interest in progress by Hamilton City Council with the HIF funding and with Southern Links. A number of people were interested in knowing more about Southern Links, such as the location of the future bridge over the Waikato River.
- A number of people who were landowners in Peacockes were interested in the ability to subdivide their own properties.

7. STATUTORY ASSESSMENT

7.1 Overview

This section of the report assesses the proposed activities against the key provisions of the RMA and the relevant provisions of the statutory policy statements and plans. It also comments on other relevant legislation.

7.2 Resource Management Act 1991

The RMA sets out the legal framework for the sustainable management of natural and physical resources in New Zealand. The directly relevant sections of the RMA in relation to the assessment of the proposed activities are:

- Part 2 – Purpose and principles: specifically Sections 5 – 8 which establish the over-riding purpose of RMA and matters which all decision makers and persons exercising functions and powers must recognise and provide for or have particular regard to; and
- Part 6 – Resource consents: specifically Section 104 which prescribes matters that regard has to be given to when considering resource consent applications; and Sections 105 and 107 in relation to discharges.
- Part 8 – Designations: specifically section 176 in relation to the use of land along Peacockes Road that is designated for roading purposes within the Southern Links designation.

In all cases, the assessment is based on the information presented earlier in this report and supported by the accompanying technical reports. The matters in Part 6 are addressed first below, incorporating the matters for Part 8 therein, with the matters in Part 2 used as an overall summary to this assessment.

7.2.1 Resource consent requirements and activity status

Section 2 above identified the relevant rules of each plan in relation to the proposed activities. The overall activity status for the proposed activities is non-complying. Accordingly, the application must pass through at least one of the two limbs of the "gateway test" under section 104D of the RMA. The "gateway test" and section 104D is addressed further at section 7.9 below.

7.3 Section 104 Assessment

The matters a consent authority must have regard to when considering a resource consent application are set out in section 104(1) of the RMA. That section states:

- (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*
 - (b) *any relevant provisions of—*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*

- (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

All of these matters are to be considered in the context of the applications made and all the considerations are “subject to Part 2”. The actual and potential effects of the subdivision and development on the environment, in accordance with section 104(1)(a), are set out in Section 5 of this AEE.

The relevant statutory planning documents pursuant to section 104(1)(b) are as follows:

- i. National Policy Statement Freshwater Management 2014;
- ii. National Policy Statement on Urban Development Capacity 2016;
- iii. Te Ture Whaimana o Te Awa o Waikato (The Vision and Strategy for the Waikato River)
- iv. Waikato Regional Policy Statement (**WRPS**);
- v. Waikato Regional Plan;
- vi. Hamilton Operative District Plan; and
- vii. Waikato Tainui Environmental Plan (Tai Tumu, Tai Pari, Tai Ao);
- viii. Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

An initial review of the relevant provisions of the documents i. to vii. above pursuant to section 104(1)(b) demonstrates a hierarchy of policy and planning documents that have consistent themes. This is not unexpected as a regional policy statement must give effect to any national policy statement and the Waikato Tainui Environmental Plan, and in turn a regional plan and a district plan must give effect to any national or regional policy statement. As a consequence the provisions of the relevant policies and plans are somewhat repetitive, but as the hierarchy descends the provisions become more detailed and specific to the natural and physical resources relevant to this application.

The approach taken in this AEE is to briefly address the higher order provisions and then to address the consistent themes adopting a thematic approach with the principal reference being to the District Plan and the Regional Plan. A further assessment of each objective and policy of the District Plan and Regional Plan are included for reference in Appendix A.

The consistent themes recognised in these documents are as follows:

- Development form and density;
- Provision and arrangement of open space;
- Protection and enhancement of significant natural areas, habitats and species;
- Protection and enhancement of historic heritage;
- Provision of appropriate transport infrastructure;
- Provision of appropriate Three Waters infrastructure and management of stormwater;
- Management and response to natural hazards;

- Management of contamination; and
- Amenity effects related to development processes.

The higher order provisions are briefly reviewed as follows:

7.4 National Policy Statement Freshwater Management 2014

Pursuant to section 104(1)(b)(iii) the consent authority must have regard to the provisions of the National Policy Statement – Freshwater Management (**NPS–FW**). The NPS – FW sets out objectives and policies that direct local government to manage water in an integrated and sustainable way, while providing for economic growth within set water quantity and quality limits. It is considered that the proposal is consistent with these objectives and policies.

7.5 National Policy Statement on Urban Development Capacity 2016

The National Policy Statement on Urban Development Capacity 2016 (**NPS-UDC**) was promulgated to ensure that urban areas, particularly high growth urban areas such as Hamilton City, provided sufficient capacity for residential and business growth. The NPS-UDC objectives seek that growth is provided for in a responsive and coordinated way.

The timing of the NPS-UDC is such that both the WRPS and the District Plan were well advanced in the process to becoming operative when it was introduced. Nevertheless, in relation to the regional growth targets in the WRPS (Policy 6-15) and the provisions for growth in the District Plan, such as the Peacocke Structure Plan, these documents appear to have given effect to the key NPS-UDC objective of ensuring sufficient capacity.

NPS-UDC policies (such as PA1) anticipate that for short term capacity (within three years) that this capacity must be feasible, zoned and serviced with development infrastructure. Notwithstanding that the Peacocke Structure Plan area has been zoned for urban development for several years, it currently does not have infrastructure that will enable its full development. Nevertheless, the policies also anticipate that local authorities work with providers of development infrastructure to achieve integrated land use and infrastructure outcomes.

7.6 Te Ture Whaimana o Te Awa o Waikato

The Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (the Settlement Act) gives effect to the Deed of Settlement signed by the Crown and Waikato-Tainui on the 17 December 2009.

The Settlement Act has an overarching purpose to restore and protect the health and wellbeing of the Waikato River for future generations.

Section 9(2) of the Settlement Act confirms that the vision and strategy for the Waikato River (Te Ture Whaimana o Te Awa o Waikato) applies to the Waikato River and activities within its catchment affecting the Waikato River.

As well as being deemed part of the WRPS in its entirety pursuant to Section 11(1) of the Settlement Act, the vision and strategy prevails over any inconsistent provision in a national policy statement and Sections 11 to 15 of the Settlement Act prevail over Sections 59 to 77 of the RMA. Section 40 of the Act also requires a consent authority to have regard to the Waikato Tainui Environmental Plan (Tai Tumu, Tai Pari, Tai Ao) if it considers that Section 104(1)(c) of the RMA applies to that plan. The relevant provisions of the plan have been assessed in Section 7.10 below. The key matters addressed in the “Vision” document in relation to this application are summarised in Table 7.1.

It is considered that the relevant national policy statements and the WRPS are consistent with these objectives, however to the extent that they are not, the provisions of Te Ture Whaimana o Te Awa o Waikato prevail.

Table 7.1: WRPS and Te Ture Whaimana o Te Awa o Waikato Key Natural Environment Matters

Matter to be Addressed	Waikato Regional Policy Statement	Schedule 2 - Vision and Strategy for Waikato River
The health and wellbeing of the Waikato River, including significant sites, fisheries, flora and fauna and those relationships associated with the river, is restored and protected; and	Objectives 3.4, 3.8 and 3.19 and Policies 8.5, 11.1 and 11.2	Objectives (3) a, b, c, d, e, g, i, and j
Protect, maintain or enhance the full range of ecosystem types, significant indigenous vegetation and the significant habitats of indigenous fauna	Objectives 3.4, 3.8 and 3.19 and Policies 8.5, 11.1 and 11.2	Objectives (3) a, b, c, d, e, g, i, and j
The restoration of water quality to enable safe drinking, swimming and fishing		Objective (3) k
Maintain or improve water quality, including by managing discharges in a manner that avoids, remedies or mitigates adverse effects on water quality and the health, safety and wellbeing of people and communities	Objective 3.14 and Policy 8.3	
The recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities		Objective (3)h
The management of discharges to land to ensure the level of contamination does not present significant risks to human health and the environment	Policy 14.3	
Recognise and provide for the relationship of tāngata whenua with the environment, the role of tāngata whenua as kaitiaki and avoid, remedy or mitigate significant adverse effects on ancestral lands, water (including the mauri of water), sites, wāhi tapu and other taonga	Objectives 3.9 and 3.14 and Policies 4.3, 10.1, 10.2, and 10.3	Objectives (3) b, c, d, and m
The natural character values of rivers, wetlands and their riparian margins are preserved and enhanced	Objectives 3.16, 3.21 and 3.22 and Policies 12.2 and 12.3	Objective (3) l
Protect and enhance public access to rivers and their riparian margins to enable a range of opportunities	Objectives 3.16 and 3.23 and Policy 12.4	Objective (3) l

7.7 Waikato Regional Policy Statement

The WRPS recognises the significant issues in the natural and built environment for the region. In Chapter 2, the WRPS addresses significant issues to iwi in recognition of Te Ture Whaimana o Te Awa o Waikato. In relation to the natural environment the key matters are identified in Table 7.1, alongside those of Te Ture Whaimana o Te Awa o Waikato.

Key matters in relation to the built environment are identified in Table 7.2. These include policies on the adoption of the Future Proof settlement pattern and anticipated growth densities.

Table 7.2: WRPS Key Built Environment Matters

Matter to be Addressed	Waikato Regional Policy Statement
Development of the built environment in an integrated and sustainable manner which provides for environmental, social, cultural and economic wellbeing, while protecting regionally significant infrastructure	Objectives 3.1, 3.9 and 3.12 and Policies 4.1, 6.1, 6.14 and 6.15
The effects of natural hazards on people, property and the environment are managed by reducing the risks from hazards to acceptable or tolerable levels	Objective 3.24 and Policies 6.1, 13.2 and 13.3

The proposed development is consistent with these objectives and policies and the matters they raise, which are addressed in greater detail in Section 7.8.

7.8 Statutory Assessment of Main Policy Themes

7.8.1 Development form and density

The NPS-UDC recognises the national significance of the need to enable urban environments to develop and change, and provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments. The WRPS Policy 6.15 'Density targets for Future Proof area' states that Hamilton City shall "seek to achieve compact urban environments that support existing commercial centres, multi-modal transport options, and allow people to live, work and play within their local area". In doing so, this policy identifies a gross density target for Hamilton Greenfields urban areas such as the Peacocke Structure Plan Area of 16 households per hectare. This target is repeated in Policy 3.3.1(b) for Structure Plan Areas in the District Plan. While this target must be assessed overall for the Peacocke Structure Plan area, Amberfield contains much of the more easily developed Terrace Land where this density may be achieved.

Notwithstanding that target there are significant portions of the total 105ha site that are required for the 'structuring elements' to achieve other environmental outcomes. These include protection of the Waikato River riparian margin and related habitat areas, the protection of historic heritage through the reservation of an archaeological site, required neighbourhood and walking and cycling open space and avoidance of unstable and steeper land areas. There is also land required for roading. This reduces the available land to approximately 50ha. The proposed up to 985 household units have an average size of 544m², resulting in a density of

18 households per hectare, across the 50ha. It is also noted that if the major sports park is to be purchased and developed by Council, then the above numbers would reduce respectively to approximately 43ha and 872 households, still with an average size of 544m².

The proposed development therefore meets the national, regional and city policies on density. However, it is not just the efficient use and the achievement of a compact urban area that is important but the 'form' of the development. In particular the relationship between households and the structuring elements that must be considered. The policies of Chapters 3 Structure Plans and 5 Special Character Zones in the District Plan seek the following outcomes:

- Development should avoid the need for large scale earthworks and land modification of landforms;
- Significant vegetation should be retained;
- The form of the development should respond to natural features;
- Development should not 'turn its back' or privatise the edges of major open spaces and natural features such as the river;
- Strategic views and landscape features are protected;
- The form of the development should support active transport modes; and
- Development should demonstrate consistency with the urban design guide.

The development described above in Section 3, and the assessment in Section 5, demonstrate that each of these policies is satisfied.

7.8.2 Provision and arrangement of open space

Further to the above more general policies on urban form, Chapter 3 in the District Plan has more specific requirements on open space. The key policies require that open spaces are provided to meet the Council's Open Space Plan and are to be connected and co-located with stormwater areas, cultural and heritage sites, Significant Natural Areas and walkways and cycleways along the river.

As described in Section 3, the open space plan for the development is a significant structuring element and comprises neighbourhood parks, passive recreation areas, and active recreation areas. These areas collectively meet the District Plan policies as they:

- Retain the Waikato River riparian frontage including the Significant Natural Areas;
- Are co-located with downstream components of the stormwater management system;
- Utilise existing topographic features such as The Knoll neighbourhood park;
- Provide for the recognition of historic and cultural values of the site through the proposed cultural reserve on The Island.

7.8.3 Protection and enhancement of significant natural areas, habitats and species

The proposed development avoids the mapped Significant Natural Areas along the Waikato River riparian margin, as required by Policy 20.2.1d in the District Plan. Outside this area, and The Gully, the site has very little vegetation of value. The development involves significant enhancement planting including 4.7ha along the riparian margin and 13.2ha within the The Gully. This planting will increase overall vegetation diversity and habitat values for the copper skink, bird species and other terrestrial fauna.

In terms of aquatic habitat, the development mitigates direct effects on the Waikato River through retention of the riparian margin, the proposals for stream habitat mitigation and the careful approach to wastewater and stormwater management as described previously and further assessed below. These approaches are consistent with the outcomes sought in Objective 3.1.2 on the management of water bodies in the Regional Plan, and, in particular 3.1.2k concerning the management of non-point source discharges of nutrients, faecal coliforms and sediment and the relationship of tangata whenua with the river (3.1.2i and j).

The major matter for consideration with respect to the site's ecological values is the avoidance and mitigation of adverse effects on the long-tailed bat, a threatened species, and its habitat. The relevant policies of Chapter 20 in the District Plan in this regard are extensive and overlapping as follows:

20.2.1c

The particular values and characteristics that make an area a Significant Natural Area shall be protected from adverse effects by having regard to:

- i. The character and degree of modification, damage, loss or destruction that will result from the activity.*
- ii. The duration and frequency of effect (e.g. long-term or recurring effects).*
- iii. The magnitude or scale of effect, including effects on ecological processes supporting or provided by the Significant Natural Area.*
- iv. The irreversibility of effect.*
- v. The resilience of the area to assimilate change.*
- vi. The opportunities to minimise pre-existing or potential adverse effects (e.g. restoration or enhancement), where avoidance is not practicable.*
- vii. The probability of effect.*
- viii. Cumulative effects.*
- ix. Need for, or purpose of, the works.*

20.2.1d

Adverse effects of development on the City's Significant Natural Areas shall be avoided.

20.2.1e *The reduction, fragmentation and isolation of indigenous ecosystems and habitats shall be avoided.*

20.2.1f *The loss or disruption of corridors or connections linking indigenous ecosystems and habitat fragments shall be avoided.*

20.2.1g *The loss or disruption to migratory pathways in water, land or air shall be avoided.*

20.2.1i

The loss or disruption of protective buffering of indigenous ecosystems shall be avoided.

20.2.1j

The loss of ecosystem services shall be avoided.

20.2.1k

The loss, damage or disruption to ecological processes, functions and ecological integrity shall be avoided.

20.2.1l

The loss or reduction of the cultural and spiritual association with indigenous biodiversity which are held by tangata whenua shall be avoided.

20.2.1n

The loss of habitat that supports indigenous species classified as at risk or threatened shall be avoided.

20.2.1o

Significant Natural Areas shall be restored and enhanced to meet at least the 10% threshold for habitat sustainability.

20.2.1p

Develop a local indigenous biodiversity strategy to identify opportunities to restore and enhance biodiversity in Hamilton City.

The proposed development generally avoids the site SNAs (other than one sub-soil drain) (Policy 20.2.1d) and Policy 20.2.1c refers to restoration and enhancement, where avoidance is not practicable. The other policies have a strong directive to avoid adverse effects.

The actual and potential effects of the proposed development on the long-tailed bat population that resides along the Waikato River margins, the Mangokotukutuku Gully and other nearby habitat areas has been described in Section 5.7.2 above. The relevant area of 'effect', and any related mitigation strategies, must take in all these areas, as the Hamilton South bat population ranges widely over a large area, albeit concentrating its activities on the habitat of greatest value being the forested valleys of the Waikato River and its tributaries.

Although the population does not appear to be roosting within the Amberfield development area, they fly across and forage within it. The development therefore reduces the habitat area of a threatened species and disrupts migratory pathways and connections linking habitats, which is contrary to the above policies.

However, this reduction and disruption must be considered in the context of its overall habitat, as opposed to the development site itself, the mitigation package that the applicant is proposing, the residential development that is anticipated for the Amberfield development site and the wider Peacocke area and other policies in the WRPS and Chapter 20.

The WRPS, responding as it must to section 6(c) of the RMA on the "*the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna*", has given extensive consideration to indigenous biodiversity in the region. The wording of the main policy

is fairly general as follows:

3.19 Ecological integrity and indigenous biodiversity

The full range of ecosystem types, their extent and the indigenous biodiversity that those ecosystems can support exist in a healthy and functional state.

However, Policies 11.1 and 11.2 that respond to this objective establish a menu of responses. Policy 11.1 includes the following:

- a) working towards achieving no net loss of indigenous biodiversity at a regional scale; and*
- b) the re-creation and restoration of habitats and connectivity between habitats;*
- d) supporting (buffering and/or linking) ecosystems, habitats and areas identified as significant indigenous vegetation and significant habitats of indigenous fauna; and*
- j) the consideration and application of biodiversity offsets.*

In other words, the WRPS clearly establishes a policy framework that provides for mitigation, not just avoidance. Section 75(3) of the RMA establishes the relationship between the WRPS and the District Plan. It simply says that the District Plan must “give effect to” the WRPS. The term “give effect to” was examined in depth by the Supreme Court in the *King Salmon* case (albeit in the context of the relationship between the NZCPS and a plan change). The Court stated:

“Give effect to” simply means “implement”. On the face of it, it is a strong directive, creating a firm obligation on the part of those subject to it. As the Environment Court said in Clevedon Cares Inc v Manukau City Council:

[51] The phrase “give effect to” is a strong direction. This is understandably so for two reasons:

[a] The hierarchy of plans makes it important that objectives and policies at the regional level are given effect to at the district level; and

[b] The Regional Policy Statement, having passed through the [RMA] process, is deemed to give effect to Part 2 matters.”

The relevant provisions of the District Plan have been referred to above. Many of the policies refer to avoidance and the predominance of such policies is inconsistent with the WRPS approach, albeit it is noted that the WRPS was finalised after the District Plan. Nevertheless, Policy 20.2.1c states: *“particular values and characteristics that make an area a Significant Natural Area shall be protected from adverse effects”*. The protection of significant habitats of the long-tailed bat is a recognised and important role of the SNAs. The existing vegetation of SNAs 48 and 54 provides for bat habitat. In assessing this protection the degree of modification or loss that results, and the *“...opportunities to minimise pre-existing or potential adverse effects (restoration and enhancement)...”* must be had regard to (Policy 20.2.1(c)). This approach is more consistent with WRPS policies in 11.1 and 11.2 that envisage the mitigation of the on-site adverse effects on the bat population.

In contrast to the singularly protective outcomes sought for the SNAs, the balance of the development area is identified for urban development and is unencumbered by any overlays that seek protection of natural values. There is consequently an inconsistency between the provisions of the District Plan that enable urban development within the Peacocke Structure Plan area and those that seek the protection of significant habitats of indigenous fauna.

As noted, the SNAs within the site are not being reduced, and are in fact to be enhanced. There is to be buffer planting along the existing riparian vegetation, particularly in the northern extent of the site which is in proximity to key adjacent habitats of the Waikato River, Hammond Park and the lower reaches of the Mangaonua Gully, and along the edges of The Gully. Furthermore, lighting strategies are to focus bat sensitive light design within public areas such as reserves and streets adjacent to these areas and open space areas within the site that have suitable separation from residential areas.

Notwithstanding these mitigation proposals, the applicant accepts that there exists a residual adverse effect to be mitigated so as to ensure the overall habitat of the bats in Hamilton South is maintained and enhanced. Consequently, the applicant proposes to identify an area or areas to be subject to mitigation strategies that are outside the development area, but within the Hamilton South bat population's habitat. At the time of preparation of this AEE the details of the off-site strategy have yet to be finalised. However, the following matters are anticipated to be included in the wording of a resource consent condition on a Bat Management Strategy:

- The specification of an, at least qualitative, outcome for the maintenance and enhancement of the Hamilton South bat population to the extent that more than minor adverse effects on this population from the Amberfield development are avoided or mitigated;
- The identification of a mitigation area or areas, in particular roosting habitat and associated commuting corridors, and the legal means of securing these areas as ongoing bat habitat so as to ensure the value of the mitigation effort; and
- The specification of the mitigation activities including pest management and vegetation restoration within the mitigation areas.

The ability of an individual developer to implement the above strategy and achieve the desired outcome is difficult given the extent of the Hamilton South bat habitat, the spread of that habitat over private and public space, and the state of knowledge about the habitation and movement of bats within that habitat. This difficulty is recognised in the Local Indigenous Biodiversity Strategy (LIBS) Pilot Project: Source to the Sea⁹, which in commenting on the focus placed on SNAs states:

While these sites are critical dimensions in biodiversity management, ecosystems supporting biodiversity cross the landscape and sites seldom operate in isolation from their surrounding environment (biota moves in and out of such areas, while water, nutrients and energy flow through sites). Managing biodiversity is not simply about managing defined areas of vegetation in isolation from their surrounding context. So to maintain biodiversity we need to partner with others to manage ecological networks at district and regional levels.

District Plan Policy 20.2.1p anticipates that the Council will:

20.2.1p

Develop a local indigenous biodiversity strategy to identify opportunities to restore and enhance biodiversity in Hamilton City.

The explanatory statement states:

⁹ Local Indigenous Biodiversity Strategy (LIBS) Pilot Project: Source to the Sea prepared by M Vare for Waikato Regional Council, July 2016
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In order to provide the most appropriate combination of regulatory and non-regulatory tools to help restore and enhance biodiversity in Hamilton City, an Indigenous Biodiversity Strategy will be developed and adopted in accordance with the Waikato Regional Policy Statement. This will occur in partnership with the Waikato Regional Council, tangata whenua, landowners and other key stakeholders, with development of the policy to commence no later than 2016.

While, to date, no Indigenous Biodiversity Strategy has been prepared by the Council, Policy 20.2.1p identifies that it is the Council that is expected to take the lead in its preparation.

A further part of the applicant's mitigation strategy is therefore to contribute in a monetary way to research and strategy development by the Council, the Waikato Regional Council, the Department of Conservation and other parties with expertise and interest in the bat population. The applicant is aware of other developments in the Hamilton South area that will potentially have a much more significant impact on the bat population than Amberfield, due to their location. These developments include the future development in the western part of the Peacockes Structure Plan area and the Southern Links transport network, both of which will affect the Mangakotukutuku Gully.

These developments will require a similar delivery mechanism for bat mitigation as described above. The implementation of the mitigation strategy would be best administered through an independent, enduring trust body established for this purpose. The establishment of a suitable delivery mechanism could potentially form part of the Council's Indigenous Biodiversity Strategy.

Finally, it is noted that Policy 20.2.1l states:

The loss or reduction of the cultural and spiritual association with indigenous biodiversity which are held by tangata whenua shall be avoided.

This policy affirms the involvement of iwi in the current project and its effects on indigenous biodiversity. The mitigation strategy as outlined above has been presented to iwi in the consultation process. The Tangata Whenua Working Group endorses the strategy.

Taking into account the actual and potential effects of the project on the Hamilton South bat population, the overall policy framework, the nature of the habitat, the specific commitments of the applicant to mitigation and the need for an integrated response as recognised by the District Plan it is concluded that the development will not be contrary to the objectives and policies in Chapter 20.

7.8.4 Protection and enhancement of historic heritage

Section 5.11 above describes the extent of archaeological sites within the development area, the significance of these sites and the extent to which sites S14/64, S14/176, S14/224, and S14/318 - S14/319 will be destroyed. Chapter 19 Historic Heritage's key objective is to protect significant archaeological and cultural sites from damage or destruction. This objective is supported by Policy 19.2.4a, which states:

Subdivision, use and development shall be managed to avoid damage to archaeological and cultural sites where they exist, or are likely to exist.

The proposed destruction of the above sites is contrary to this policy.

Nevertheless, as with the effects on bats above, in the context of an operative zoning for urban development and the widespread nature of the archaeological sites over large portions of the Amberfield development area, there is an inconsistency in the District Plan objectives.

Policies 19.2.4d is important in resolving this inconsistency. The policy states:

The relationships of tangata whenua with sites of spiritual, cultural or historical significance shall be recognised and provided for.

The applicant recognised early in the subdivision design process that the site would contain pre-European horticultural sites that form a major element of the archaeological landscape of the Hamilton Basin. It was also recognised that these sites were of great spiritual, cultural and historical significance to local iwi. Consequently, consultation with the TWWG was commenced and the contents of a mitigation package were agreed that would enable the relationship of iwi with these sites to be recognised and provided for. The content of this package has been described above in detail, but in summary comprises:

- Identification of all archaeological sites;
- The establishment of an archaeological or heritage reserve on the river's edge of The Island, pursuant to a conservation plan consistent with the principles of the International Council on Monuments and Sites (ICOMOS);
- Obtaining an archaeological authority from Heritage New Zealand for a substantive investigation to record the archaeological deposits that are affected;
- Cultural recognition through place, trail and street names;
- A series of interpretative records developed in conjunction with manawhenua;

These measures are consistent with Policy 19.2.4e on the recording of features and on-site marking, and with Policy 19.2.1c on adhering to the conservation principles of ICOMOS.

Importantly, the inclusion of these measures has enabled the TWWG to support the overall urban design and development Master Plan. Despite the destruction of sites that will occur, the overall conclusion is that the proposed development is not contrary to the objectives and policies of Chapter 19.

7.8.5 Provision of appropriate transport infrastructure

Chapters 3 Structure Plans, 23 Subdivision, 25 City-wide (including Transportation and Urban Design) all contain objectives and policies that require the provision of appropriate transport infrastructure. Chapter 23 provides an overall objective on infrastructure and policies (Policy 23.2.4a) for all infrastructure as follows:

- i. Provides an adequate level of infrastructure and services appropriate for the proposed development.*
- ii. Takes into account and shall not compromise the infrastructural needs of anticipated future development.*
- iii. Does not occur unless appropriate infrastructure and/or infrastructure capacity is available to service the proposed development.*
- iv. Ensures that the capacity, efficiency, performance and sustainability of the wider infrastructure network is not compromised.*
- v. Uses public infrastructure ahead of private infrastructure where appropriate.*

Policy 3.3.2a in Chapter 3 expresses a desire for similar outcomes.

Collectively key themes for transport infrastructure in these chapters include:

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- The preparation of an Integrated Transport Assessment;
- Consistency with the Structure Plan;
- The integration of land use and transportation;
- Connectivity with adjacent areas;
- Opportunities for efficient public transport, walking and cycling;
- Ensuring the safety, efficiency, and long term sustainability of the transport network; and
- The avoidance or minimisation of adverse effects on the transport network;

Integrated transport modelling has been undertaken using the WRTM to ensure efficient operation of the road network and integration with the existing and future road network. Modelling indicates that a range of safety mitigation measures is needed along the existing street network to the north. An upgrade of the Lorne Street/Normandy Avenue intersection is also needed for the full development of Amberfield. However, this will only occur in the future scenario if the key components of the Southern Links network (including a new bridge over the Waikato River) are not constructed before the subdivision is completed.

In general, the transportation infrastructure associated with the subdivision is consistent with the Peacockes Structure Plan and with long term planning for future infrastructure. Appropriate infrastructure has been provided to ensure efficient and safe traffic access and effective integration with surrounding areas and the wider transportation network. In particular the proposal supports safe and efficient passenger transport and walking/cycling with provision for a bus route along Peacockes Road and an extensive network of walkways/cycleways. This will help to minimise the effects on existing and planned transport infrastructure.

The existing alignment and connectivity of Peacockes Road to the wider network has been used to orientate the secondary street network proposed for the subdivision with a series of side roads linking to roads running parallel with Peacockes Road and/or the Waikato River. In planning the layout of the internal street network opportunities for improved safety, accessibility, connectivity, amenity and efficiency have been taken with small roundabouts and off-set cross-roads as well as landscaping, berms and kerbside parking. Provision has also been made for local road connectivity with adjacent undeveloped sites.

The street pattern has been designed to be permeable with a network that is generally a grid and also contains through-site linkages. As well as being safe and efficient, the transportation network is considered to be affordable, sustainable, and responsive. In the latter regard, specific consideration has been given to the effective staging of the development of the subdivision and the provision of on-street car parking to improve the integration of the infrastructure with land use.

It is considered that the proposed development is consistent with these provisions.

7.8.6 Provision of appropriate Three Waters infrastructure

Chapters 3 Structure Plans, 23 Subdivision, 25 City-wide (including Three Waters) and Objectives 3.1.2, 3.5.2 and Policy 3.5.3 of the Regional Plan all contain relevant objectives and policies on appropriate infrastructure for the management of water, wastewater and

stormwater. The provisions of the District Plan require that an Sub-catchment Integrated Catchment Management Plan be prepared for the development. This process has proceeded in parallel with master planning so that the proposed infrastructure is in accordance with the SC-ICMP (Policies 3.3.3a and 3.3.3b). In addition to the general policies in Chapter 25 quoted above in Section 7.2.7, the policies of Chapters 3, 23 and 25 have the following key themes:

- New urban development minimises effects on the city's existing networks;
- Sustainably manage effects on the city's natural and physical resources;
- Water supply meets consumption, hygiene, water-sensitive design and fire-fighting requirements;
- Wastewater is managed to minimise effects on public health, the environment and cultural values;
- Ensuring that the wastewater treatment systems associated with residential development will have careful management in terms of their location, suitability and capacity;
- Development minimises effects on surface and groundwater sources, aquatic habitats and riparian margins;
- The restoration of site streams;
- Water-sensitive techniques are used to reduce demand on water supplies, wastewater disposal and to manage stormwater;
- Three Waters infrastructure caters for the potential effects of climate change; and
- Stormwater management adopts a drainage hierarchy of retention for re-use, soakage, detention and gradual release to a watercourse.

The SC-ICMP responds comprehensively to all of these policy requirements. In particular, reference is made to the Strategic Objectives in Sections 1.7.1 and 1.7.2 of the SC-ICMP, which express the District Plan provisions in a manner specific to the Amberfield development. The SC-ICMP demonstrates how the proposed Three Waters infrastructure responds to these objectives for stormwater (SC-ICMP Section 7), wastewater (SC-ICMP Section 8), and water supply (SC-ICMP Section 9).

In relation to stormwater management and discharge structures, it is noted that at-source management is consistent with Regional Plan Policy 3.5.3.7 and that the structures will be constructed in a manner that is consistent with Regional Plan Objective 4.2.2 and Policy 4.2.3 in relation to natural character, bank stability, and effects on fish, navigation and public access.

The SC-ICMP demonstrates that the proposed development is consistent with these provisions.

7.8.7 Management and response to natural hazards

Chapter 22 objectives and policies address natural hazards, seeking to avoid or mitigate adverse effects of such hazards on people, property and the environment. Addressing the risks

of erosion, subsidence, slippage and inundation in subdivision and development is also required by Objective 23.2.1 and the related policy.

The key potential hazards are flooding and land stability.

The adoption of design levels, including a 1m allowance for climate change, is consistent with the District Plan provisions.

Land instability has also been assessed in relation to being a potential natural hazard. As with flooding, the development design response has been to avoid areas of instability such as along the Waikato River margin and edges of The Gully. Development in these areas is possible but will require a specific engineering response.

7.8.8 Management of contamination

Policy 23.2.1a requires that *“any risks associated with soil contamination are appropriately remedied as part of the subdivision process.”*

The application seeks consent for a DSI that will assess the risks associated with the potentially contaminated areas identified in the PSI. The likely outcome for the DSI is a remedial action plan that will specify the removal or alternative treatment of the contaminants found so as to make the site safe for urban development.

The proposed development is therefore consistent with this policy.

7.8.9 Amenity effects related to development processes

Amenity effects related to land development, not already addressed above, are noise and dust effects. Objective 25.2.2.1 and the related objective seek that sediment, noise and dust are minimised. Taking into account the approach to earthworks, including the control of dust generating sources, and compliance with standard construction noise limits, it is considered that the development activities will be consistent with these policies.

7.9 Section 104D

Section 104D of the RMA provides that resource consent for a non-complying activity may only be granted if either (a) the adverse effects of the activity on the environment will be minor or (b) the activity will not be contrary to the objectives and policies of the relevant plan. This is frequently referred to as the "gateway test." The gateway test is considered separately in relation to both the District Plan and Regional Plan.

Based on the conclusions in Sections 5.14 above, the application does not pass the first limb of section 104D(1)(a) in relation to adverse effects of certain activities requiring resource consent under the District Plan.

Therefore, to be further considered, the application must pass the second limb under section 104D(1)(b) and not be contrary to the relevant objectives and policies. The assessment of the relevant objectives and policies above has focussed, as it must in terms of section 104D(1)(b), on the provisions of the District Plan and the Regional Plan. While all relevant provisions have been addressed, specific consideration of the provisions on historic heritage (Chapter 19) and natural values as these relate to long-tailed bat habitat (Chapter 20) are discussed in more detail here due to the directive nature of the provisions therein. Both chapters contain policies that seek the avoidance of adverse effects and protection of these resources. Nevertheless, taking into account all of the provisions in each of these chapters and the on and off-site

mitigation that is proposed for the long-tailed bat, a conclusion has been reached that the proposed development is not contrary to the objectives and policies.

There has been much judicial analysis of section 104D(1)(b), and its predecessors, however the following passage from the *Akaroa Civic Trust*¹⁰ case is apposite to the current situation:

We consider that if a proposal is to be stopped at the second gateway it must be contrary to the relevant objectives and policies as a whole. We accept immediately that this is not a numbers game: at the extremes it is conceivable that a proposal may achieve only one policy in the district plan and be contrary to many others. But the proposal may be so strong in terms of that policy that it outweighs all the others if that is the intent of the plan as a whole. Conversely, a proposal may be consistent with and achieve all but one of the relevant objectives and policies in a district plan. But if it is contrary to a policy which is, when the plan is read as a whole, very important and central to the proposal before the consent authority, it may be open to the consent authority to find the proposal is contrary to the objectives and policies under section 104D... The usual position is that there are sets of objectives and policies either way, and only if there is an important set to which the application is contrary can the local authority rightly conclude that the second gateway is not passed.

Taking this passage into account, it must be observed that “*central to the proposal*” are the provisions in Chapters 3 and 5 of the District Plan that enable the development of the Peacocke Structure Plan area. No part of the site is, *a priori*, excluded from development. The inclusion of the borrow pit areas within Schedule 8C of the District Plan does not restrict earthworks, and even within the SNA overlay earthworks and development may be consented. However, a development proposal must consider all of the values of the existing environment and provide for them, including by way of mitigation proposals, to achieve sustainable management.

Even if it was to be concluded that the proposed development was contrary to the provisions of Chapters 19 and 20, it is considered that when the context of the development is considered against the District Plan as a whole, **the proposal is not contrary to the objectives and policies of the District Plan as a whole and therefore passes through the section 104D(1)(b) gateway.**

The above analysis has focussed largely on the District Plan objectives and policies given the focus of the thematic analysis on the subdivision and land development. The Regional Plan objectives and policies relevant to earthworks, stream-works and stormwater management are nevertheless referred to above and commented on in Appendix A. The overall conclusion is that the regional activities pass both of the “gateway tests” of sections 104D(1)(a) and (b).

7.10 Other Matters

Section 104 (1)(c) requires that the consent authority have regard to “any other matter the consent authority considers relevant and reasonably necessary to determine the application”. Such matters typically include documents prepared under other legislation and relevant Council policy documents. A significant proposal such as Amberfield should have regard to the following two strategic documents for the Waikato region and Hamilton.

7.10.1 Waikato Tainui Environmental Plan (Tai Tumu, Tai Pari, Tai Ao)

Waikato-Tainui Environmental Plan (**WTEP**), Tai Tumu Tai Pari Tai Ao is a long-term development approach to building the capacity of Waikato-Tainui marae, hapu, and iwi including growing the tribal estate and managing natural resources.

¹⁰ *Akaroa Civic Trust v Christchurch City Council* [2010] NZEnvC 110 at [74].

Whilst the WTEP contains objectives and policies on a range of resources (see **Appendix A** to this AEE), those on the Waikato River and for the protection of historic heritage are most relevant to the current application. Amongst these are:

1. Ensure that the highest level of recognition is given to the restoration and protection of the Waikato River; and

6. Recognise and protect waahi tapu and sites of significance to Waikato-Tainui and other Waikato River iwi (where they so decide) to promote their cultural, spiritual and historic relationship with the Waikato River.

The wording is similar to the expression of recognition and protection to be given to these resources in the regional and district planning documents assessed above. As concluded in Section 5.10 and 7.8.4, the river is being protected and heritage resources are being managed to promote the relationship of iwi with the river.

7.10.2 Future Proof

The Future Proof Strategy (**FPS**) is a non-statutory strategy document adopted by Waikato Regional Council, Hamilton City Council, Waipa District Council, Waikato District Council, tāngata whenua and the New Zealand Transport Agency in 2009. The FPS was promulgated to address some of the challenging issues associated with growth in the Hamilton sub-region. Since adoption, FPS has been in an implementation phase and a number of actions have been completed, including embedding the FPS in relevant statutory documents. In 2015 a review of the FPS was undertaken with the updated FPS adopted in November 2017.

The Peacocke Structure Plan Area is identified as one of the Hamilton greenfield growth areas. Development of Peacockes Stage 2, which includes Amberfield, is considered to be dependent on securing the HIF funding, enabling approximately 3000 dwellings in the overall area. Key projects identified in the FPS are the Southern Links –Wairere Drive Extension including a new bridge over the Waikato River into Peacockes and a strategic wastewater solution. Amberfield does not rely on the HIF funded projects.

7.11 Section 105

Under section 105(1), in considering an application for a discharge permit, the consent authority must, in addition to the matters in section 104(1), have regard to the following:

(a) the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and

The potential discharges of concern are stormwater discharges during construction and the resulting urban development. Both of these discharges are of a temporary and occasional nature, being related to extreme rainfall events. The sensitivity of the receiving environments has been described in Section 4.7.

(b) the applicant's reasons for the proposed choice; and

(c) any possible alternative methods of discharge, including discharge into any other receiving environment.

The approach to controlling stormwater during construction is standard and complying with the more stringent requirements of Waikato Regional Council guidelines. The proposed approach to stormwater management for the ensuing urban development is to rely largely on disposal at source, utilising the well-drained soils of the local environment for soakage. Reliance on

discharge to site waterways and the Waikato River is for extreme events only. The approach is consistent with the objectives and policies and preferred methods of the Regional and District Plans.

7.12 Section 107

Section 107(1) prohibits the granting of discharge permits, if allowing the discharge of a contaminant into water, or onto or into land in circumstances which may result in the contaminant entering water if, after reasonable mixing, the discharge is likely to give rise to all or any of the following effects in the receiving waters:

- (c) *the production of any conspicuous oil or grease films, scums or foams, or floatable or suspended materials:*
- (d) *any conspicuous change in the colour or visual clarity:*
- (e) *any emission of objectionable odour:*
- (f) *the rendering of fresh water unsuitable for consumption by farm animals:*
- (g) *any significant adverse effects on aquatic life.*

During extreme event rainfall, particularly during construction, there is the potential for stormwater discharges to carry some sediment leading to some discolouration in the receiving waters. However, such a discharge is likely to be when the river is turbid from other run-off within its catchment. Under section 107(2) a discharge permit may be granted allowing any of the above effects if it is of a temporary nature. Accordingly, the proposed discharge is not prohibited by section 107.

7.13 Part 2 and Overall Conclusion

The provisions of section 104 are all "subject to Part 2", which means that the single purpose and principles of the Act are paramount. Section 5 provides the overarching requirements of sustainable management and relevant matters in sections 6 and 7, which are addressed more specifically in the statutory planning provisions and which have been analysed above, include:

- 6(c) *the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- 6(d) *the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- 6(e) *the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:*
- 6(f) *the protection of historic heritage from inappropriate subdivision, use, and development:*
- 6(h) *the management of significant risks from natural hazards:*
- 7(a) *kaitiakitanga:*
- 7(c) *the maintenance and enhancement of amenity values:*
- 7(f) *maintenance and enhancement of the quality of the environment:*

The purpose of the RMA (section 5) is to promote the sustainable management of natural and physical resources. The Act defines "sustainable management" as:

... managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—

- (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

The application of section 5 to resource consent applications can involve an overall judgement of whether a proposal would promote the sustainable management of natural and physical resources, and that judgement allows for the comparison of conflicting considerations and the scale and degree of them and their relative significance or proportion in the final outcome.

In practice, there are two general elements of “sustainable management” in the context of section 5 that must be considered when assessing the resource consent application. They are:

- Enabling people and communities to provide for their social, economic and cultural wellbeing; and
- Safeguarding environmental quality and avoiding, remedying or mitigating adverse effects.

Section 3 of this AEE describes a development that will enable social, economic, environmental and cultural wellbeing, not just for its future occupants but for the wider population of Hamilton/Kirikiri. The provision of approximately 1000 households in close proximity and to the south of the Hamilton CBD provides the double positive effect of supporting the growth and intensification of the CBD and balancing the predominance of growth to the north. This will improve the overall urban structure of the city. The development of Amberfield provides a unique combination of living opportunities alongside the Waikato River, in a modern environmentally designed subdivision, significant open space and active mode linkages, with ready access to the CBD and other employment locations. Other positive effects include the enhancement of the riparian and gully areas through significant planting and impetus being given to the Hamilton South bat habitat restoration programme.

With respect to the requirement that adverse effects be “avoided, remedied or mitigated”, case law has established that it is not required that all effects be avoided, or that there is no net effect on the environment, or that all effects are compensated for in some way. Nevertheless, this AEE and the supporting documents demonstrate that the applicant has worked intensively to ensure that the adverse effects on significant natural and heritage resources have been mitigated. Importantly, in relation to heritage effects, which are considered to be more than minor in terms of section 104D(1)(a), the mitigation proposals have gained the support of Waikato-Tainui, as represented by TWWG.

There is currently some legal uncertainty as to whether an overall broad judgement under Part 2 applies to resource consent applications. Some decisions suggest that Part 2 cannot be used to override specific plan provisions unless there is incompleteness, ambiguity, or illegality in the relevant planning document.¹¹

¹¹ *R J Davidson Family Trust v Marlborough District Council* [2017] NZHC 52; *Environmental Defence Society Inc v New Zealand King Salmon Company Limited* [2014] NZSC 38.

In this case, applying the planning provisions without recourse to Part 2 or applying an overall broad judgement approach under Part 2 lead to the same conclusion that, taking all matters into account it is considered that this proposal meets the tests of sustainable management and that the resource consents sought should be granted, subject to the information provided in the applications and appropriate conditions of consent.

GLOSSARY OF KEY TERMS

Act	means the Resource Management Act 1991
AEE	means this Assessment of Environmental Effects
Amberfield	means the proposed Amberfield subdivision
Application	means this application for subdivision and land use consents
CBD	means the Hamilton Central Business District
Central Precinct	means the central hub linking all areas together – the north, the south and The Island
City	means Hamilton City
Council	means Hamilton City Council
District Plan	means the Operative Hamilton City District Plan
DSI	means Detailed Site Investigation
East-West Arterial	means the east-west arterial linking from a new intersection on SH3 south of Dixon Road to the neighbourhood centre proposed on Peacockes Road as part of the Amberfield development
FPS or Future Proof	means the Future Proof Strategy adopted by WRC, HCC, Waipa District Council, Waikato District Council, tāngata whenua and the New Zealand Transport Agency in 2009
HAIL	means Hazardous Activities and Industries List
HCC	means Hamilton City Council
HIF	means the recent government housing infrastructure funding initiatives
HNZ	means Heritage New Zealand Pouhere Taonga
ICOMOS	means the International Council on Monuments and Sites
ITA	means the Broad Integrated Transport Assessment prepared in support of this application
ITS	means Hamilton City Council's Infrastructure Technical Specifications
Master Plan	means information prepared in accordance with Appendix 1.2.2.3 of the District Plan and in the case of this application it includes the application,

	assessment of environmental effects and reports provided in support of the application
NES-CS	Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011
NPS-FW	means the National Policy Statement for Freshwater Management 2014
NPS-UDC	means the National Policy Statement on Urban Development Capacity 2016
NZCPS	means the New Zealand Coastal Policy Statement
Panel	means the Hamilton Urban Design Advisory Panel
Peacocke Structure Plan/Structure Plan	means the Peacocke Structure Plan Area as shown on Appendix 2: Structure Plans of the Hamilton City Council District Plan
PSI	means Preliminary Site Investigation
Regional Plan	means Waikato Regional Plan
River	means the Waikato River
RMA	means the Resource Management Act 1991
SC-ICMP	means Sub-Catchment Integrated Catchment Management Plan prepared in support of this application
SNA	means Significant Natural Areas
Southern Links	Southern Links designation and roading project
Te Ture Whaimana o te Awa o Waikato	means Te Ture Whaimana o te Awa o Waikato (The Vision and Strategy for the Waikato River)
The Gully	means the gully aligned north-south in the central to southern part of the Amberfield site that separates the area known as The Island from the main part of the site
The Island	means an area of land measuring approximately 24ha in area alongside the Waikato River that is separated from the main part of the site by The Gully
The Knoll	A small hill in the northern part of Amberfield
The Settlement Act	means the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

The Vision and Strategy	means Te Ture Whaimana o te Awa o Waikato (The Vision and Strategy for the Waikato River)
TWWG	means the Tangata Whenua Working Group
VISTA	means the Hamilton Urban Design Guide
Waikato-Tainui	means the Waikato-Tainui confederation of hapu
Waikato Expressway	means the Waikato Expressway that is currently under construction and which forms a bypass of the Hamilton urban area for SH1 on the eastern side of the city
Wildlife Act Authority	means a Wildlife Act Authority under the Wildlife Act 1953
Weston Lea	means Weston Lea Limited
WRC	means Waikato Regional Council
WRPS	means the Waikato Regional Policy Statement
WRTM	means the Waikato Regional Transportation Model
WTEP	means the Waikato-Tainui Environment Plan, Tai Tumu Tai Pari Tai Ao

APPLICATION FORMS