

In the Matter of:

*The Resource Management Act 1991*

And

In the Matter of:

*An application under Section 88 of the  
Resource Management Act 1991 made by*

*Cames Ltd*

File Reference:

*RM190246*

## **DECISION ON NOTIFIED RESOURCE CONSENT APPLICATION**

*Pursuant to Section 104, 104B, 104D, 108 and 220 of the Resource Management Act 1991, the Kaipara District Council **grants** resource consent to:*

*Undertake a 3-lot environmental benefit subdivision of the application site.*

Location details:

*Address: Cames Road, Mangawhai*

*Legal Description: Lot 8 DP 537061 (RT 892402)*

## **CONDITIONS OF CONSENT**

*Pursuant to Sections 108 and 220 of the Resource Management Act 1991, RM190246 is granted subject to the following conditions:*

1. *The activity shall be carried out in accordance with the application formally received by Kaipara District Council ("Council") on 14 October 2019, the further information request satisfied on 7 November 2019, and the plan(s) attached to this consent as 'Attachment A', as follows:*

- a) Titled 'Proposed Subdivision of Lot 8 DP 537061, prepared by Pacific Coast Surveys, reference 1085 Revision 3, dated September 2019.*
- b) Landscape Plan prepared by Evolve Planning + Landscape Architecture reference 19008B dated 19 February 2020.*

*and the following documents:*

- c) Geotechnical Investigation prepared by Wiley Geotechnical, dated 30 September 2019.*

- d) *Landscape and Visual Assessment (LVA) report prepared by Evolve Planning and Landscape Architecture, dated August 2019*
  - e) *Ecological Environmental Benefits Assessment Report prepared by Rural Design, dated July 2019.*
  - f) *Cultural Impact Assessment report prepared by Environs Holdings Ltd dated 7 March 2017.*
2. *This consent (or any part thereof) shall not commence until such time as the following charges, which are owing at the time the Council's decision is notified, have been paid in full:*
- a) *All fixed charges relating to the receiving, processing, granting and monitoring of this resource consent under section 36(1) of the Resource Management Act 1991 (RMA); and*
  - b) *All additional charges imposed under section 36(5) of the RMA to enable the Council to recover its actual and reasonable costs in respect of this application, which are beyond challenge.*
3. *The consent holder shall pay any subsequent further charges imposed under section 36 of the RMA relating to the receiving, processing, granting and monitoring of this resource consent within 20 days of receipt of notification of a requirement to pay the same, provided that, in the case of any additional charges under section 36(5) of the RMA that are subject to challenge, the consent holder shall pay such amount as is determined by that process to be due and owing, within 20 days of receipt of the relevant decision.*
4. **Prior to the sealing of the Survey Plan pursuant to Section 223 the following conditions shall be complied with:**
- a) *The survey plan shall be generally in accordance with the plan of subdivision titled 'Proposed Subdivision of Lot 8 DP 537061, prepared by Pacific Coast Surveys, reference 1085 Revision 3, dated September 2019, and submitted in support of the application.*
  - b) *The survey plan shall show all necessary easements for the provision of access, drainage and utility services to all lots.*
  - c) *Written confirmation shall be provided from the appropriate network utility providers that satisfactory arrangements can be made for the separate provision of electricity, in particular with respect to any required easements for the proposed lots.*
  - d) *The survey plan shall show the proposed covenanted areas generally as indicated as Areas 'D', 'E', 'F', 'G', 'H', 'I', 'J' and 'L' on the plan of subdivision titled 'Proposed Subdivision of Lot 8 DP 537061, prepared by Pacific Coast Surveys, reference 1085 Revision 3, dated September 2019, as being land subject to Conservation Covenants pursuant to Section 77 of the Reserves Act or other instrument of similar effect to the approval of Council. The proposed covenanted areas shall be submitted to Council for approval.*

- e) *The survey plan shall show the stand of Kauri trees generally as indicated as Area 'K' on the plan of subdivision titled 'Proposed Subdivision of Lot 8 DP 537061, prepared by Pacific Coast Surveys, reference 1085 Revision 3, dated September 2019, as being land subject to consent notice.*
- f) *An Ecological Planting and Weed Control Management Plan (EPWCMP) shall be prepared by a suitably qualified ecologist and submitted to the Council for approval (in a certifying capacity) taking into account the recommendations of the Ecological Environmental Benefits Assessment Report prepared by Rural Design, dated July 2019 submitted in support of the application. The purpose of the EPWCMP is to ensure long term environmental benefit objectives are achieved. The EPWCMP shall, as a minimum, contain or provide for the following:*
- (i) Prior to planting, the removal or management of all invasive weed species and their replacement with native, eco-sourced species as specified in the Ecological Environmental Benefit Report prepared by Rural Design, dated August 2018, that will enhance ecological values of local habitat.*
  - (ii) A revegetation maintenance programme to be undertaken annually for at least five years, to include weed maintenance, inspection of plants for losses and replacement planting during the planting season.*
  - (iii) Works undertaken for maintenance should include watering, weed control, cultivation, control of pests and diseases, removal of litter, checking of stakes and ties, trimming, pruning, topping up mulch and other works required to ensure planting maintains healthy growth and form. The measures to be adopted to achieve, as far as is practicable 90% survivorship of planted species.*
  - (iv) The control of pests (including but not limited to rats, mustelids, possums and freshwater pests) to ensure, as far as practicable, that the ecological gains achieved via the EPWCMP are not compromised.*
  - (v) All plant material should be eco-sourced from the Rodney Ecological District preferably within close proximity to the site.*
  - (vi) A planting hygiene protocol to be imposed while all planting is being undertaken to ensure that plant diseases e.g. kauri dieback and myrtle rust are not brought to the site.*
- g) *The survey plan shall show the identified building areas on Lots 1, 2 and 3 as indicated on the plan of subdivision, titled 'Proposed Subdivision of Lot 8 DP 537061, prepared by Pacific Coast Surveys, reference 1085 Revision 3, dated September 2019 and submitted in support of the application. The survey plan is to include dimensions, area and boundary reference for accurate siting.*

- h) *The consent holder shall submit specification details and location of a delineated safety fence to be installed along the culvert between vehicle crossings to proposed Lots 1 and 3, for council approval and be approved.*

**5. Before a Certificate is issued pursuant to Section 224(c) of the Resource Management Act 1991, the following conditions are to be complied with:**

- a) *Written confirmation shall be provided from the appropriate network utility providers that electricity services are available to the boundary of the proposed lots.*
- b) *The approved Delineated safety fence shall be installed along the culvert between vehicle crossings to proposed Lots 1 and 3 as per the approved design under condition 4(h) and in accordance with Kaipara District Council Engineering Standards 2011.*
- c) *All works described in the approved Ecological Planting and Weed Control Management Plan (EPWCMP), required under condition 4(f), shall be implemented to the satisfaction of the Council or their delegated representative.*

*Written confirmation shall be provided from an ecologist confirming that the ecological environmental benefit works as described in the Ecological Planting and Weed Control Management Plan (EPWCMP), required under condition 4(f) of this consent, have been completed in full.*

- d) *Conservation covenants in accordance with Section 77 of the Reserves Act 1977 or alternative instrument of similar effect to the approval of Council shall be prepared for registration against the titles of the land depicted on the Survey Plan as being subject to a conservation covenant. The conservation covenant shall require compliance with the provisions listed in Schedule 2 of the approved Council conservation covenant document.*
- e) *All works described in the approved Landscape Plan prepared by Evolve Planning + Landscape Architecture reference 19008B dated 19 February 2020, shall be implemented to the satisfaction of the Council or their delegated representative. Evidence shall be prepared by a qualified and experienced landscape architect that the planting required has been implemented to the satisfaction of Council or their delegated representative.*
- f) *Consent Notices pursuant to Section 221 of the Act shall be prepared for registration against the title of Lots 1, 2 and 3 of the subdivision. The consent notices shall draw attention to and require compliance with respect to the following matters:*

- (i) *Earthworks, the location of buildings, building foundations and stormwater and wastewater disposal shall be subject to specific engineering design by a suitably qualified Chartered Professional Engineer having regard to any soil instability/saturation issues that may exist or arise as a result of the development. Design shall take into account the recommendations identified in the Geotechnical Investigation prepared by Wiley Geotechnical, dated 30 September 2019 and submitted to Council with subdivision consent RM190246.*
- (ii) *At the time of lodging a building consent for a habitable building on the lots and before issuing a Code of Compliance for that building, evidence of a driveway must be provided to the Council which meets the requirements of the Kaipara District Council Engineering Standards 2011.*
- (iii) *All planting on site shall be maintained in accordance with the approved Ecological Planting and Weed Control Management Plan (EPWCMP). Evidence of compliance with this requirement shall be provided to Council in writing by a suitably qualified ecologist five years from the date of issue of titles for RM190246.*

*Maintenance of planting will be monitored by Council for a period of five years from the date of completion of planting. There will be a Council charge for this monitoring payable by the lot owner.*

- (iv) *Ongoing weed and pest control shall be undertaken in accordance with the approved Ecological Planting and Weed Control Management Plan (EPWCMP) in perpetuity. Evidence of compliance with this requirement shall be provided to Council in writing by a suitably qualified ecologist five years from the date of issue of titles for RM190246.*

*Weed and pest plant control will be monitored by Council for a period of five years from the date of issue of titles for RM190246. There will be a Council charge for this monitoring payable by the lot owner.*

- (v) *The keeping of cats, mustelids and rodents on the lots is prohibited.*
- (vi) *Dogs shall not be kept on the lot unless the following conditions are complied with:*
  - 1. Prior to the keeping of a dog on the lot, the owner shall provide details of the dog, including registration number, to the Council's Team Leader Monitoring and Compliance for ongoing monitoring purposes; and*

2. Any dog kept on the lot shall be secured/contained at all times to ensure that they cannot roam into the covenant area on the lot or beyond the boundaries of the lot. Containment shall be demonstrated to the satisfaction of the Council's Team Leader Monitoring and Compliance and may be in the form of an "electronic pet containment fence", secure fenced area or dog run. For the purposes of this condition, "electronic pet containment fence" means a system installed or attached to the perimeter of a defined area (or wireless equivalent) which is designed to prevent dogs escaping by transmitting a digital or electronic signal to a receiver collar worn by the dog.
3. Ongoing compliance with this condition will be monitored by Council. There will be a Council charge for this monitoring payable by the lot owner.

- (vii) The planting undertaken in accordance with the approved Landscape and Amenity Planting and Management Plan under Condition 5(e) of resource consent RM190246 shall be maintained in perpetuity to the satisfaction of Council or their delegated authority. Should the vegetation be removed or die off, equivalent landscape planting is to be undertaken immediately for the purposes of softening the overall effect of the development and protecting rural amenity values in the area.

*Note: No plants listed in Section 6 of the Northland Regional Pest and Marine Pathway Management Plan 2017- 2027 7 are permitted.*

- (viii) All buildings must be located within the identified building areas shown on the survey plan.
- (ix) The following design guidelines shall apply to development on the lots and shall be confirmed via a design statement from a suitably qualified and experienced landscape architect in support of a building consent application:

**Building:**

- Proposed built development shall be undertaken within nominated building platform on Lots 1-3.
- Any dwelling is to be single story only with a height limit of 6 metres above existing ground level (rolling height method to be utilised),
- Any accessory buildings related to the dwelling and any ancillary infrastructure shall be located within 10 metres of the dwelling.
- Glazing to be non-mirrored.
- The houses and accessory buildings shall be constructed out of materials that complement the rural character and setting and shall be designed to fit in with the natural contours/topography of the site, including consideration of rooflines.
- Bulk and scale of dwellings shall be considered, building scale can be reduced by creating smaller built blocks or wings.

- *Buildings that link indoor outdoor spaces through courtyards, decks, pergolas are preferred.*
- *Any building on the lot is to be finished in the colours found on BS5252 complying with the following:*
  - *Hue (colour): all the colours from 00-24 are acceptable.*
  - *Reflectance Value (RV) and Greyness Groups: the predominant wall colours have a RV rating of no more than 60% for greyness groups A and B and no more than 40% for greyness group C;*
  - *Roofs: a RV rating of no more than 40% within greyness groups A, B and C.*

#### Fencing

- *Any fencing shall be restricted to rural fencing typology e.g. post and rail or post and wire fencing to complement the rural character of the site;*

#### Earthworks

- *Cut and fill batters shall be contoured to naturally fit into the original landscape*
- *Earthwork cut and fill batters shall be re-grassed and revegetated as soon as practical following earthworks.*

#### Lighting

- *Exterior lighting shall be discrete and pointed in a downward direction.*

#### Infrastructure Services

- *Where ground conditions allow water tanks shall be situated predominantly underground and located at the rear of the dwelling and screened if not located underground;*

#### Retaining Structures / Walls

- *Any retaining structures or walls shall be constructed of materials or finished in dark recessive colours or screened by vegetation.*

#### Accessways

- *Proposed accessways and driveways should follow the natural contour of the land and not be situated on any prominent ridgeline;*
- *Proposed Roads, accessways and driveways should suit the rural character of the site, chip seal or metal with natural swales is considered to be more suitable than concrete or asphalt, if concrete is used concrete with a black oxide additive or exposed aggregate finish is required.*

- (x) *Sufficient firefighting water supply shall be provided for any single residential dwelling on the lot(s) with a minimum volume of 10,000 litres and shall remain accessible and available all year round.*
  - (xi) *The stand of Kauri trees identified as Area 'K' on proposed Lot 2 shall be retained/maintained in perpetuity to the satisfaction of Council or their delegated authority.*
- g) *A solicitor's undertaking shall be provided to Council confirming that all consent notices and covenants prepared for registration under the relevant conditions of this resource consent will be duly registered against the new titles to be issued for the subdivision.*
- All consent notices and covenants to be prepared for registration under the relevant conditions of this resource consent shall be prepared by a Solicitor at the consent holder's expense and shall be complied with on a continuing basis by the subdividing owner and subsequent owners after the deposit of the Survey Plan unless specifically limited in time by any conditions of this resource consent.*
- h) *A cash contribution in lieu of reserves shall be paid based on 5 % of the assessed value of a "nominal" building site on Lots 2 and 3 of the subdivision, such value to be determined by a registered valuer appointed by Kaipara District Council, at the applicant's expense.*
- At the time of payment of the contribution, the valuation upon which the cash contribution is calculated shall be no more than 3 months old*
- i) *The consent holder shall pay all charges set by the Council under Section 36 of the Resource Management Act 1991, including any administration, monitoring and supervision charges relating to the conditions of this resource consent. The consent holder will be advised of the charges as they fall.*

## ADVICE NOTES

1. *The consent holder shall be required to pay to Kaipara District Council a Development Contribution under the Local Government Act 2002 of \$799.00 plus GST (if any) for each additional lot for roading in Kaipara District.*

*The proposed development will result in 2 additional allotments. The Total Development Contribution will be \$1598.00 plus GST (if any).*

*A copy of Council's policy on Development and Financial Contributions included within the Long-Term Plan 2018/2028 can be obtained from Council offices in Dargaville and Mangawhai or downloaded from Council's website [www.kaipara.govt.nz](http://www.kaipara.govt.nz).*



2. *All archaeological sites are protected under the provisions of the Heritage New Zealand Pouhere Taonga Act 2014. It is an offence under that Act to modify, damage or destroy any archaeological site, whether the site is recorded or not. Application must be made to the Heritage New Zealand for an authority to modify, damage or destroy an archaeological site(s) where avoidance of effects cannot be practised.*
3. *If subsurface archaeological evidence (shell, midden, hangi, storage pits, etc) should be unearthed during construction, work should cease in the immediate vicinity of the remains and the Heritage New Zealand should be contacted.*
4. *In the event of koiwi (human remains) being uncovered, work should cease immediately and the tangata whenua of Te Uri O Hau shall be contacted so that appropriate arrangements can be made.*
5. *The consent holder should implement, suitable measures to prevent depositing of earth on surrounding streets by trucks moving fill and other materials to and from the site.*
6. *The consent holder should institute appropriate measures to control or mitigate any potential dust nuisance.*
7. *The Consent Holder should obtain all other necessary consents and permits, including those under the Building Act 2004 for works prescribed in this consent and for works required under the Northland Regional Council consent.*
8. *The scope of this resource consent is defined by the application made to Council and all documentation supporting the application.*
9. *If you disagree with any of the above conditions, or additional charges relating to the processing of this application, you have a right of objection pursuant to sections 357A or 357B of the Resource Management Act 1991. Any objection must be made in writing to Council within 15 working days of notification of the decision.*

## RM190246 ASSESSMENT REPORT

### Processing Details:

Date Formally Received	14 October 2019	Date of Report	24 February 2020
Section 92 Request(s)	31 October 2019	Engineer Comments	24 February 2020
Date Information Received	7 November 2019	Date of Site Inspection	18 October 2019
Section 37	21 to 28 February 2020 (5 days) 4 to 6 March 2020 (3 days) 6 to 9 March 2020 for review of conditions		

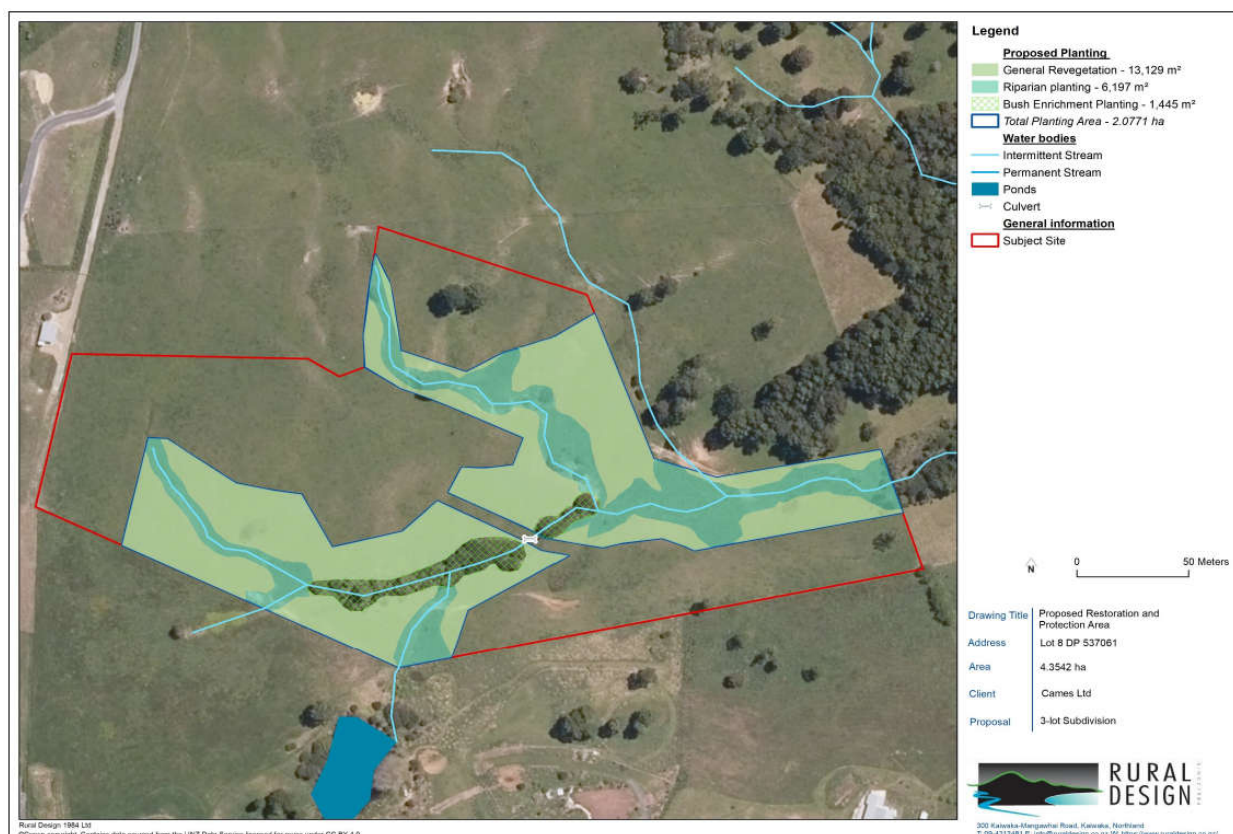
### External Distribution:

	Date Sent	Date Received	Comments
Northland Regional Council.	15 October 2019	-	-
Iwi	15 October 2019	17 October 2019	Cultural Impact Assessment completed in 2017
Department of Conservation	15 October 2019	-	-

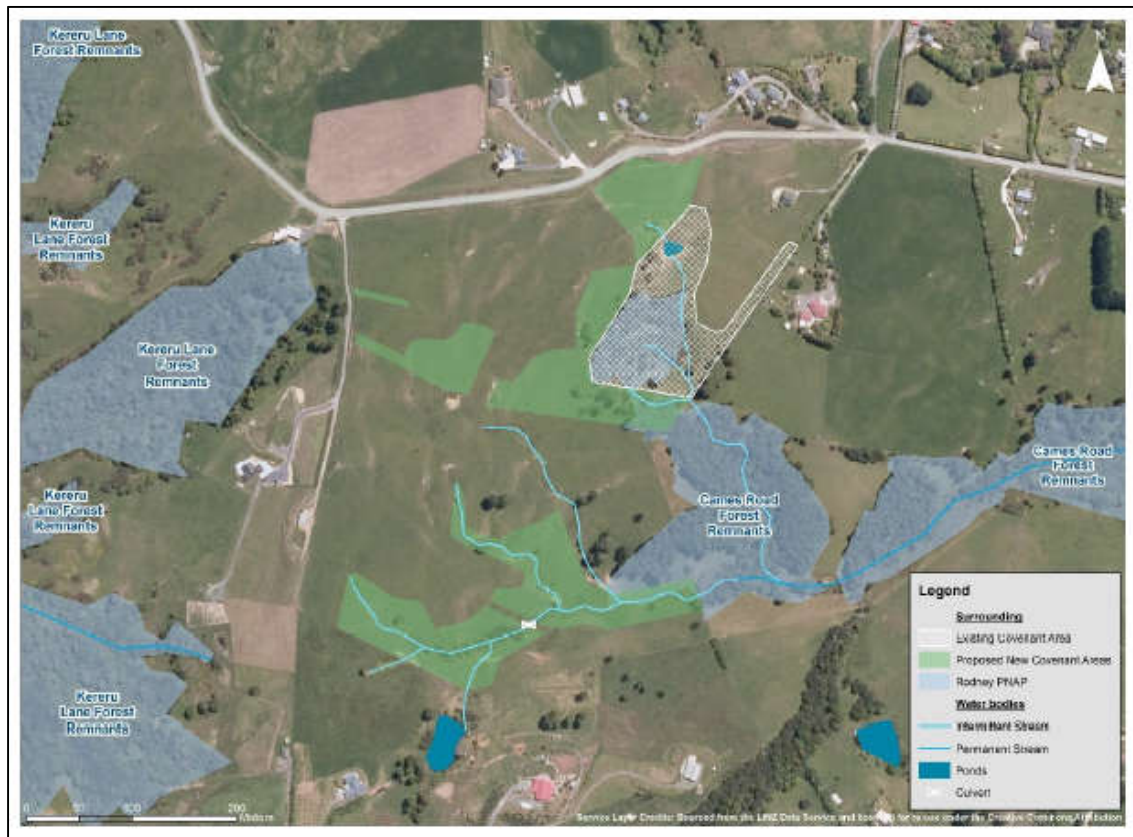
## 1 DESCRIPTION OF PROPOSAL

- 1.1 The applicant seeks resource consent to undertake a three-lot environmental benefit subdivision of the application site, being legally described as Lot 8 DP 537061 (RT 892402), resulting in net site areas as follows:
- 1.3109ha (Lot 1)
  - 4770m<sup>2</sup> (Lot 2); and
  - 2.5663ha (Lot 3).
- 1.2 All of the proposed lots will be accessed via existing individual vehicle crossings off the new (currently un-named) road vested with Council, which has been constructed to comply with the relevant Council Engineering Standards. At the time that the road was constructed, the applicant also constructed the vehicle crossings for the proposed lots. The existing vehicle crossings for proposed Lots 1 and 3 have a reduced separation distance less than the 30m required under the District Plan, therefore retrospective consent for these existing crossings is being sought as part of this application.

- 1.3 New dwellings are anticipated on each of the proposed lots but does not form part of this application. The provision of wireless telecommunications and wired power supply for these allotments form part of this application.
- 1.4 Future dwellings on the proposed lots would require on-site servicing.
- 1.5 The proposal includes the restoration/revegetation and formal protection of an approximate area of 2.07ha which includes a stream and associated riparian features, existing native vegetation as well as terrestrial dry bank slopes. The application site contains and adjoins a remnant bush area on the neighbouring property, classified as 'ROD025 – Cames Road Forest Remnants', which is shown in **Figures 1 and 2**.
- 1.6 The restoration/revegetated area is proposed to be formally protected in perpetuity by way of a conservation covenant and to be fenced. To ensure appropriate initial site preparation and weed control, a methodology is proposed. planting size, species and percentages, technique, weed/animal pest control in perpetuity. In addition, the applicant has offered a condition that cats and rodents are prohibited from being kept on the lots.
- 1.7 Design guidelines are proposed as mitigation measures for any future development which include building height and colour restrictions.



**Figure 1 – Proposed Revegetation and Protection Plan**

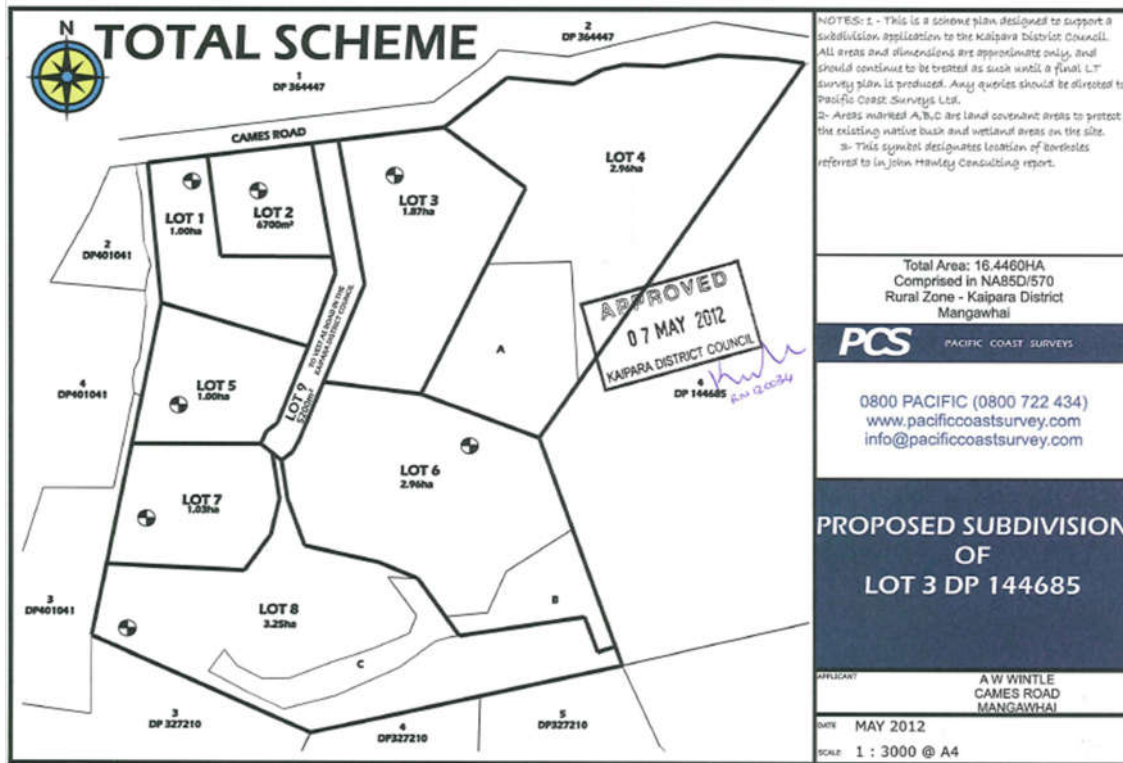


**Figure 2 – Proposed Revegetation/Restoration Areas in relation to other SNA**

## 2 CONSENT HISTORY

- 2.1 The application site was created through an 8-lot subdivision consent with road to vest (RM100055) which was approved by the Council in 12 August 2010 under the legacy Kaipara District Plan 2003 (the legacy District Plan), with a lapse date of 12 August 2015.
- 2.2 A further subdivision consent for the application site to undertake an 8-lot subdivision road to vest (RM120034) to be undertaken over two stages, which was approved by the Council on 7 May 2012 under the legacy Kaipara District Plan. The subdivision (RM120034) was submitted at a time when the currently operative District Plan was open for submissions and had no legal effect parts at notification, and under which the application was assessed as a non-complying activity. The resource consent application under the legacy District Plan was a discretionary activity given that natural features were protected, the average lot size was less than 4ha (refer to **Figure 3**).
- 2.3 Overall the subdivision (RM120034) was assessed as a non-complying activity, however, was approved on the basis that a previously granted but not yet implemented subdivision consent with a very similar layout (RM100055) formed the existing environment.

- 2.4 As part of Stage Two of consent RM120034 a conservation covenant area was created (11226637.3) over an existing area of native vegetation located in the south-western corner of the site on proposed Lot 8, being the current application site.



**Figure 3 – Approved Subdivision Plan (RM120034)**

- 2.5 The engineering plans for the road to vest, was altered at the time the survey plan was approved under the s223 process.
- 2.6 A variation under s127 was lodged to formalise this road realignment via an update to the survey plan of Stage 2 referenced RM120034A which was approved in April 2019 as shown in **Figure 4**.
- 2.7 The s127 application provided a new conservation covenant layout which included an existing All-Terrain Vehicle (ATV) access (with new culvert). This application also sought alternative telecommunications supply by way of wireless connections was proposed.
- 2.8 An Independent Commissioner issued this decision on the basis that the proposed building sites would align with those approved under the original subdivision consent, and the applicant offered conditions of consent that all principal dwellings on the lots are to be located on the identified house site locations as shown on the revised plan of subdivision. These meant that areas of open space will be retained throughout the development to ensure that the rural character and amenity values of the surrounding environment would be maintained.



- PROPOSED EASEMENTS**

PROPOSED	SHOWN	ANALYSIS	COMMENTS
1. EASEMENT FOR THE TRANSMISSION OF ELECTRICITY	2.	3.	4.
5.	6.	7.	8.

**ANALYSIS OF THE PROPOSED EASEMENTS**

**BOUNDARY LINES FROM PACIFIC COAST SURVEYS LTD SCHEME PLAN DATED MAY 2012**

**THAT LOTS 9 & 11 BE HELD IN THE SAME COMPUTER FREEHOLD REGISTER.**

**LEGEND**

  - WALL
  - PROPERTY LINE
  - FENCE
  - TOP OF WALL
  - TOP OF ROAD
  - ROADWAY
  - VEGETATION
  - GRAVEL
  - CONCRETE
  - PLANTING
  - PROPOSED EASEMENT
  - EXISTING LAND
  - SOIL
  - WATER

**SCHEME PLAN STAGE TWO**

**PACIFIC COAST SURVEYS**

**PROPOSED SUBMISSION OF**

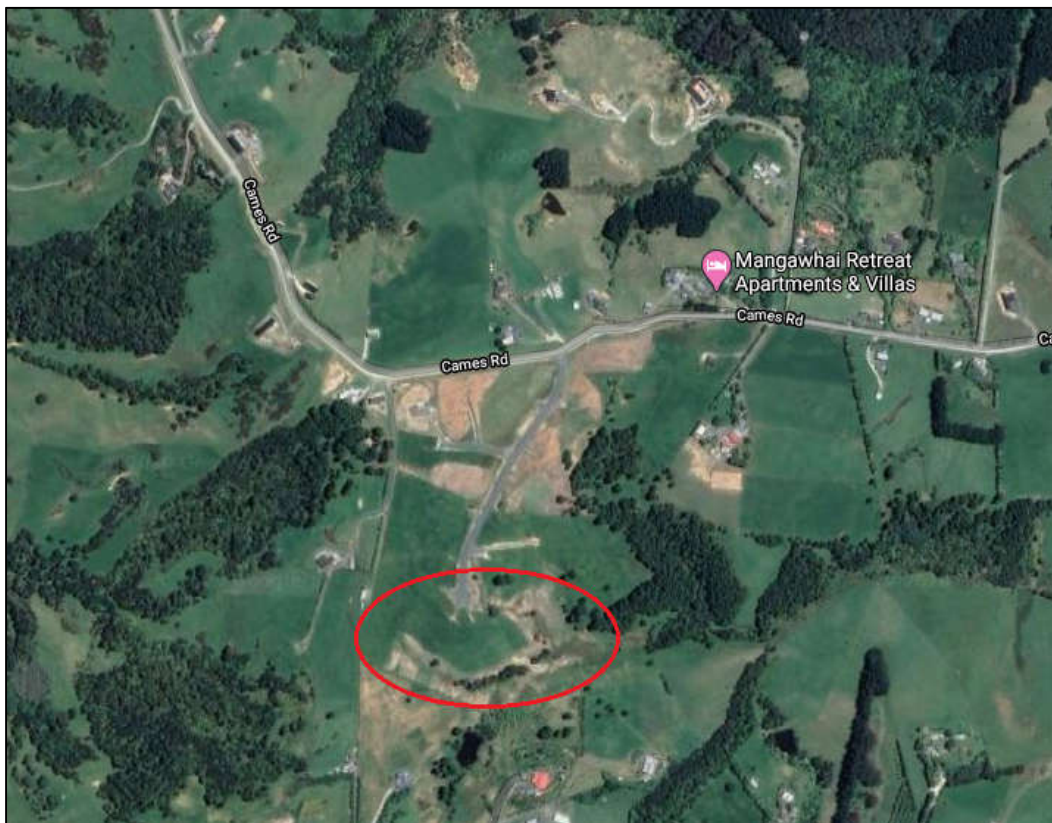
**LOT 10 DP E10868**

- Vehicle crossing details; and
- Consideration of traffic safety.

3.2 The further information requested was satisfactorily received 7 November 2019.

#### 4 SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

4.1 The site is currently held in one record of title, being legally described as Lot 8 DP 537061 (RT 892402) having an area of 4.4564ha, is located at the southern end of a new cul-de-sac vested with the Council off the southern side of Cames Road in Mangawhai.



**Figure 5 – Aerial Photograph of the application site circled in red**

- 4.2 The site is irregular in shape and is varied in topography, being located on a south facing slope from Cames Road which descends to a number of natural drainage patterns and gully systems with stream tributaries which eventually flow via the Hoteo River into the Kaipara Harbour. There are a number of intermittent streams which dissect the site and form distinct natural patterns.
- 4.3 The site currently remains free from development, with the majority maintained in pasture. There is an existing conservation covenant containing part of the natural drainage pattern/wetland located along the southern portion of the application site.

- 4.4 The Landscape and Visual Assessment (LVA) report prepared by Evolve Planning + Landscape Architecture, dated August 2019 submitted in support of the application describes the surrounding landscape context as follows:

*'The site is situated within existing rural residential type development which is generally interspersed with small stands of indigenous vegetation and larger areas of significant indigenous vegetation. Rural Residential development is predominant along Cames Road with sites within the 4000m<sup>2</sup>- 2ha range interspersed with larger sites which are either in pasture or indigenous vegetation.'*

*The sites southernmost boundary adjoins the Staniforth Road rural residential catchment which is predominantly rural residential in nature with lots ranging from 6500m<sup>2</sup> to 2.5ha with the majority of rural residential sites being in the 1ha or just under range. These sites generally have a view of the Hen and Chicken Islands and east coast.'*

I concur with this description.

## **5 KAIPARA DISTRICT PLAN (OPERATIVE 2013) RULE ASSESSMENT**

- 5.1 The following apply to the subject property:

Zoning: Rural

Overlays: -

Rules: 12.13.1 'Environmental Benefit'- The proposed subdivision would meet the requirements of Rule 12.13.1, each proposed allotment would be greater than 4,000m<sup>2</sup> and an approximate area of 2.07ha of proposed re-vegetation area would be permanently protected, however, the proposed subdivision does not comply with this rule as the development would not meet the requirements of Rules 12.10.25, 12.15.2 and 12.15.8 as outlined below.

12.15.2 'Road, Private Way Formation and Property Access' – The proposed development does not meet the requirement of Rule 12.10.25 as the vehicle crossings for proposed Lots 1 and 3 would not be separated 30m from each other.

12.15.8 'Telecommunications' – Wireless telecommunications are proposed to future dwellings within the proposed lots.

Rule 12.10.25 'Vehicle Access and Driveways' – The proposed development does not meet this requirement as the vehicle crossings for proposed Lots 1 and 3 would not be separated 30m from each other.

Status: Section 12.9.4 of the District Plan requires that any subdivision not in accordance with the Controlled, Restricted Discretionary or Discretionary Performance Standards listed in Sections 12.12, 12.13 and 12.14 of Chapter 12 is to be assessed as a Non-Complying Activity.



- 5.2 The site is not identified as being a contaminated site within the Northland Regional Council's Register of contaminated sites, nor has it previously been used for activities listed on the HAIL Register produced by the Ministry for the Environment. Therefore, consent is not required under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health.

## **6 NOTIFICATION ASSESSMENT**

- 6.1 A decision was made under delegated authority to process the consent on a publicly notified basis as per the Council's Notification Assessment Report dated 20 November 2019.
- 6.2 The application was publicly notified 10 December 2019, with the submission period closing 3 February 2020.
- 6.3 21 submissions in support and one neutral submission were received in response to the public notification of the application.
- 6.4 The neutral submission was received from Mr and Mrs Blundell, who raised a query about the physical address of the application site which has been addressed and the Blundell's have confirmed they do not wish to be heard in support of their submission.
- 6.5 Pursuant to Section 100 of the Resource Management Act 1991, a hearing need not be held if no person (including the applicant) requested to be heard or the consent authority considers that a hearing is necessary. In this instance, none of the submitters or the applicant have requested to be heard and the Council considers that a hearing is not necessary, therefore no hearing is required.

## **7 STATUTORY ACKNOWLEDGEMENTS**

- 7.1 The application site has not been recognised by the Crown, through a statutory acknowledgment, as significant to Te Uri o Hau. Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) and authorised to participate in the Resource Management Act 1991 proceedings.
- 7.2 Environs Holdings Limited is a subsidiary of Te Uri o Hau Settlement Trust (caretaker of Te Uri o Hau Claims Settlement Act 2002) authorised to participate in the Resource Management Act 1991 proceedings. The applicant has consulted with local iwi representatives (Te Uri O Hau). A Cultural Impact Assessment (CIA) was prepared dated 7 March 2017 based on the previous application for subdivision which created the application site (RM120034) and has been submitted in support of the application.

- 7.3 The applicant proposes to undertake all earthworks over summer and when undertaking site excavations ensure appropriate silt and sediment control measures are available through the duration of works. Accidental discovery protocols are also proposed to be adopted. These are also recommendations of the CIA, which will ensure any unknown cultural and historical values are not lost, and appropriately acknowledged and protected.

## 8 STATUTORY CONSIDERATIONS

### **Section 104(1)(a) - Actual & Potential Effects on the Environment**

#### 8.1 Permitted Baseline

The permitted baseline refers to activities permitted on the subject site including activities that could be conducted on the site without resource consent, and activities that could be carried out under a granted but unimplemented resource consent. Application of the permitted baseline test allows adverse effects arising from these activities to be disregarded and only adverse effects arising from the proposal over and above the permitted baseline are to be assessed.

For the site, the following activities are permitted by the zone:

- A single residential dwelling, complying with the relevant performance standards, and
- A commercial/industrial activity, complying with the relevant performance standards.

In relation to the proposed subdivision, there is no permitted baseline as all subdivisions in the Rural Zone require resource consent.

#### 8.2 Positive Effects

The proposal creates two additional rural-residential lot that will provide for the applicants and any future residents well-being.

Further, as part of this application, it is proposed to rehabilitate, revegetate and protect, an area of approximately 1.98 hectares of existing bush, bush buffer, and riparian features between two Significant Natural Areas (SNA) - Cames Road Forest Remnants (ROD025), and Kereru Lane Forest Remnants (ROD024) located either side of the application site. These are shown in **Figures 1 and 2**.

The restoration/revegetated area is proposed to be formally protected in perpetuity by way of a conservation covenant and be fenced. To ensure appropriate initial site preparation and weed control, a methodology is proposed.

An 'Ecological Environmental Benefits Report' prepared by Rural Design (Rural Design report) dated July 2019 has been submitted in support of this application. The Rural Design report considers that the proposed restoration and enhancement plantings recommended will achieve ecological restoration and improving ecological linkages with surrounding significant natural areas and enhance biodiversity values.

The Council's Consultant Ecologist, Dr Manu Bird, has reviewed the application and considers that both the existing covenant area on the site and the natural features either side of the application site are highly degraded, as a result of poor management i.e. stock access and little to no pest and weed control. However, he considers that the number of natural features on the site and the area to be permanently protected through revegetation and enhancement will result in environmental benefits; especially the rehabilitation of the elements (waterbodies) of the freshwater catchment.

Based on the findings of both Rural Design and Dr Bird, I consider that over time, the proposed subdivision development would result in positive ecological effects.

### 8.3 Rural and Landscape Character

Many factors come together to create rural character and distinguish rural areas from urban areas. This is particularly because of the size of the District, the physical variety in the natural environment and the diversity of activities undertaken within that environment.

In general, the elements that make up the 'rural character' include:

- Sense of openness;
- Low dominance of built form;
- Pasture and Commercial Forest Areas;
- Areas of indigenous vegetation and significant fauna; and
- Unmodified natural landforms.

It is of particular relevance to identify the scale of what can be expected in an area, and the legitimate expectations of amenity of those who choose to live there. The Rural Zone provides for a density of one residential dwelling per 12ha. The rural character of the traditional farming portions of the District comprises of sites that are generally larger than 12 hectares, and in many cases significantly larger than this. Such areas are dominated by pastoral farming activities with extensive areas of open space, as opposed to a more urbanised environment.

Combined with the performance standards for the zone, this provides for large areas of open space and a low intensity of development and built form. Such characteristics contribute to rural amenity values. When the form and density of land use activities are modified including creation of new subdivision patterns, these can adversely affect rural amenity values.

It is also relevant to place the current proposal within the context of the existing surrounding environment which appears to be at odds with the larger lot sizes peripheral to this area and anticipated within the Rural zone.

An Assessment of Landscape and Visual Effects Assessment prepared by Evolve Planning and Landscape Architecture Ltd (Evolve) dated August 2019 and submitted in support of the application which considers that:

*'The site is situated within existing rural residential type development which is generally interspersed with small stands of indigenous vegetation and larger areas of significant indigenous vegetation. Rural Residential development is predominant along Cames Road with sites within the 4000m<sup>2</sup> - 2ha range interspersed with larger sites which are either in pasture or indigenous vegetation.'*

The Evolve report further notes:

*'... that the proposed development is consistent with the rural residential pattern and consented development within the surrounding landscape and is consistent with the density requirements of the environmental benefit provisions.'*

The proposed native revegetation would enhance the natural features and patterns on the site which contribute to the sites landscape values. These features will be protected in perpetuity through proposed covenants creating ecological benefits, and over time enhancing the landscape values of the site. Further, the application includes mitigation measures to reduce the visual effects of future built form, including landscape planting, and a range of design guidelines.

The Evolve report and proposed landscape plans have been reviewed by the Council's Consultant Landscape Architect, Simon Cocker, who advises that he is in agreement with the conclusions of the report. Therefore, I concur with the findings of the submitted LVA, that as a result of the mitigation measures offered as part of the application, the proposed development can be absorbed by the application site and into the surrounding environment.

#### 8.4 Visual Effects

The Evolve report makes the following conclusion in relation to visual effects:

*'It is considered that the site is situated amongst predominantly rural residential development of a similar nature and scale to what is proposed. The proposed mitigation measures including building platform identification, height restriction, colour controls and extensive environmental benefit planting will ensure that the subject site and surrounding environment has the capacity to visually absorb the proposed development into the landscape with a change to a less than minor degree on the site and surrounds landscape values, natural character, rural character and amenity values.'*

As discussed previously in this report, the Evolve report and proposed landscape plans have been reviewed by the Council's Consultant Landscape Architect, Simon Cocker, who advises that he is in agreement with the conclusions of the report. Therefore, I concur with the findings of the submitted LVA, that as a result of the mitigation measures offered as part of the application, the proposed development can be visually absorbed by the application site and into the surrounding environment.

#### 8.5 Amenity Values

How a proposal will affect an environment's existing amenity values is a subjective matter that can only be determined after consideration of a variety of tangible and intangible environmental effects, including noise, traffic, site activity, neighbourhood character, built form, and existing and proposed vegetation.

The term 'amenity values' arises in Part 2 of the RMA and is defined to "those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes".

As part of the public notification of this application, no submissions in opposition have been received from surrounding property owners, therefore it is considered that amenity values of the existing environment would be maintained.

#### 8.6 Access and Traffic Generation

All of the proposed lots will be accessed via existing individual vehicle crossings off the new (currently unnamed) road vested with Council, which has been constructed to comply with the relevant Council Engineering Standards with no need of modification or upgrades.

At the time that the road was constructed, the applicant also constructed the vehicle crossings for the proposed lots. The Council's Development Engineer, Prasad Sappa, has assessed the application and considers that the crossings have been constructed in accordance with the Council's Engineering Standards and that due to the location of the crossings at the end of the cul-de-sac with complying sight distances, traffic safety will be maintained.

As two additional lots are being created by the proposed subdivision, the expected number of additional traffic movements is approximately 12 (consisting of six one-way vehicle movements per additional lot created). The Council's Development Engineer considers that Cames Road is able to cater for the additional traffic and that the sightlines at the intersection of the vested road and Cames Road meet the Council's Engineering Standards.

#### 8.7 Stability

A Geotechnical Investigation Report prepared by Wiley Geotechnical (Wiley) dated 30 September 2019 has been submitted in support of the application. The Wiley Report confirms that the land is unlikely to be subject to material damage by slippage; nor is the proposal likely to accelerate, worsen, or result in material damage to the land, other land or structure by slippage.

The Council's Development Engineer agrees with this and considers that with suitable works methodology stability of land will be maintained.

## 8.8 Servicing

There is no public stormwater reticulation available to the site. The Wiley Report recommends that stormwater overflow from the future development within the proposed lots is directed downslope via closed conduit towards the existing overland flow paths or a suitable subsoil level spreader be implemented to disperse stormwater runoff. The Wiley Report states that if the total impervious area being developed on any lot is greater than 15% specific stormwater design would have to be carried out with regards to attenuation to reduce post-development peak flow to pre-development rates before controlled flows are discharged to the land via diffuse discharge.

There is no public wastewater reticulation available to the site. The Wiley Report considers that the site is suitable for secondary wastewater systems with fenced effluent fields if the land is intended to be grazed.

The Council's Development Engineer has assessed the application, including the Wiley Report and considers that the proposed lots are of sufficient size to accommodate both on-site stormwater and wastewater treatment and disposal, subject to specific design relative to any soil instability/saturation issues that may exist or arise as a result of any future development.

In relation to water supply, drinking water would be provided by roof catchment collecting rainwater into a storage tank for any future dwellings.

Sufficient water for fire-fighting purposes would be made available for future dwellings on the proposed lots of at least 10,000 litres available within 90metres of the identified building platform that is available and accessible all year round. Further, sufficient water for fire-fighting purposes would be made available for any commercial or industrial buildings in accordance with the full criteria of SNZ PAS 4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice.

Given the above, it is considered that suitable services for drinking water, firefighting supply, stormwater and wastewater can be provided for the proposed allotments.

## 8.9 Utilities

Council's Development Engineer has assessed the application and determined that power is available to the boundary of the parent lot and has not raised any concerns about the provision of power to the proposed lots.

New conventional telecommunication connections are not proposed to be provided. Regardless, it has been confirmed that all lots are capable of being serviced by wireless or satellite technology. This is considered an appropriate alternative to wired connections which does not generate adverse effects.

Overall, any resulting adverse effects will be less than minor as appropriate and suitable utilities are available to service the subdivision, which will not constrain the respective utility networks.

#### 8.10 Reverse Sensitivity

The application site is located within a rural context, the surrounding area is characterised by a mixture of both rural-residential lots and larger rural landholdings, as noted in earlier parts of this report. Given that this is a subdivision proposal for future residential use, there would be no adverse effects on the viability of surrounding rural landholdings and activities, which already function well with several other 'lifestyle' allotments in close proximity.

#### 8.11 Cultural

The site is not identified as an 'Area of Significance to Maori', however the applicant has consulted with local iwi representatives (Te Uri O Hau). A Cultural Impact Assessment (CIA) was prepared dated 7 March 2017 based on the previous application for subdivision which created the application site (RM120034) and has been submitted in support of the application.

The applicant proposes to undertake all earthworks over summer and when undertaking site excavations ensure appropriate silt and sediment control measures are available through the duration of works. Accidental discovery protocols are also proposed to be adopted. These are also recommendations of the CIA, which will ensure any unknown cultural and historical values are not lost, and appropriately acknowledged and protected.

#### 8.12 Cumulative Effects

On-going and subsequent subdivision and development of land can potentially result in cumulative adverse effects as the volume and nature of development increases to the point of exceeding the carrying capacity of the environment to absorb these effects.

In this case, the proposal would result in two additional lots. It is considered that the surrounding environment can suitably accommodate this level of development with no more than minor adverse effects on rural character and amenity values on the wider environment. It is also acknowledged that the proposed development generally aligns with the intensity of development forecast by the 'Environmental Benefit' subdivision provisions of the District Plan which provides for extra development potential being up to three 'environmental benefit' lots with a minimum lot size of 4,000m<sup>2</sup>, where natural and cultural features are preserved.

While such subdivision rules currently exist in the District Plan, it is likely that small lots will continue to be pursued throughout the Rural zone in a similar pattern as proposed and for now that is envisaged and Therefore, in this instance it is considered that the permanent protection and management of vegetation assists to mitigate some of the adverse effects of the proposed subdivision.

Further, it is noted that as a result of previous and on-going development in the surrounding area, the immediate surrounding area is already characterised by smaller rural-residential/'lifestyle' allotments similar in nature to that proposed as part of this application, such that balance has already been 'tipped' and the proposed subdivision will create a development pattern which is consistent with that existing in the wider surrounding environment.

#### Conclusion

- 8.13 In summary, having assessed the effects of the activity, subject to compliance with conditions, it is considered that the proposed subdivision development is appropriate and future built development within the proposed lot can be integrated within the existing environment as a result of the proposed mitigation measures, including landscape planting and the implementation of design guidelines. Further, proposed revegetation planting would provide positive ecological benefits.

#### **Section 104(1)(b) - Provisions of Policy Statements and Plans**

- 8.12 The Operative Regional Policy Statement ("RPS") for Northland contains high level policy guidance for development. The subject site does not contain any significant features as defined by the RPS and therefore consideration of the RPS provisions is limited to matters under the following objectives:

- Objective 3.2 Region-Wide Water Quality
- Objective 3.4 Indigenous ecosystem and biodiversity
- Objective 3.6 Economic Activities – Reverse Sensitivity and Sterilization; and
- Objective 3.11 Regional Form

- 8.13 Several underpinning policies are also relevant to this application, including:

#### *Policy 4.4.1(3) Maintaining and protecting significant ecological areas and habitats*

*(3) Outside the coastal environment and where clause (1) does not apply, avoid, remedy or mitigate adverse effects of subdivision, use and development so they are not significant on any of the following:*

*(a) Areas of predominantly indigenous vegetation;*

*(b) Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes;*

*(c) Indigenous ecosystems and habitats that are particularly vulnerable to modification, including wetlands, dunelands, northern wet heathlands, headwater streams, floodplains and margins of freshwater bodies, spawning and nursery areas.*

- 8.14 As part of the application, it is proposed to protect and rehabilitate approximately 1.98 hectares of existing bush, bush buffer, and riparian features between two Significant Natural Areas (SNA) - Cames Road Forest Remnants (ROD025), and Kereru Lane Forest Remnants (ROD024) located either side of the application site, providing better ecological connections. The revegetated/restored area is to be fenced and formally protected by way of a conservation covenant being consistent with this policy.



Policy 5.1.1 - Planned and coordinated development

*Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:*

- (a) Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;*
- (b) Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;*
- (c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;*
- (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;*
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;*
- (f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils<sup>10</sup>, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and*
- (g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.*
- (h) Is or will be serviced by necessary infrastructure.*

*Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.*

Policy 5.1.3 - Avoiding the adverse effects of new use(s) and development

*Avoid the adverse effects, including reverse sensitivity effects of new subdivision, use and development, particularly residential development on the following:*

- (a) Primary production activities in primary production zones (including within the coastal marine area);*
- (b) Commercial and industrial activities in commercial and industrial zones;*
- (c) The operation, maintenance or upgrading of existing or planned regionally significant infrastructure; and*
- (d) The use and development of regionally significant mineral resources*

- 8.15 The RPS recognises that there are activities and land that should be protected from the negative impacts brought about through subdivision, as further development can result in incompatible land use, reverse sensitivity issues and sterilisation of productive land. The existing title is relatively small in area, with limited rural production values, therefore it is considered that the proposed development would not result in the sterilisation of productive land. The proposed development will not have adverse effects on the viability adjoining rural landholdings and activities, which already function well with several other 'lifestyle' allotments in close proximity.

- 8.16 Further, it is considered that the proposal will be in keeping with the character of the immediate locality and it is considered that the development would not result in adverse rural character and amenity effects.
- 8.17 Issues about water quality include the pollution of rural water bodies (including coastal waters) from contaminants in non-point discharges and stormwater runoff, including sediment from earthworks; and the effects on water quality of major land use changes and drainage. With appropriate conditions of consent, including the requirement of riparian planting, water quality issues can be addressed.
- 8.18 The National Policy Statement for Freshwater Considerations provides direction to local government about how they carry out their responsibilities under the Resource Management Act 1991 when it comes to matters of national significance which includes the management of freshwater through a framework that considers and recognizes Te Mana o te Wai as an integral part of freshwater management.

The Freshwater NPS directs regional councils, in consultation with their communities to set objectives for the state of freshwater bodies in their regions and to set limits on resource use to meet these objectives. The Freshwater NPS must be fully implemented no later than 31 December 2025 (or 31 December 2030 in certain circumstances) (Ministry for the Environment, 2017).

The proposal involves stock exclusion and the protection and enhancement of riparian features, which is consistent with the Freshwater NPS directives.

- 8.19 There are no other National or Regional Policy Statements relevant to this proposal. The proposal does not require any consent under the Proposed Regional Plan for Northland or the Regional Water and Soil Plan for Northland.

#### Kaipara District Plan 2013

- 8.20 Chapter 6: Ecological Areas

*Objective 6.5.1 To maintain and enhance the life supporting capacity of ecosystems, and the extent and representativeness of the District's indigenous biological diversity.*

*Objective 6.5.2 To maintain ecological values through the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna while allowing appropriate subdivision, use and development.*

*Objective 6.5.3 To promote active management of areas of significant indigenous vegetation and significant habitats of indigenous fauna.*

*Objective 6.5.4 To protect the natural character of the coast, rivers and lakes and their margins within the District by avoiding, remedying or mitigating the adverse effects of surface water activities.*

*Policy 6.6.2 By managing the scale, intensity, and location of subdivision and land development activities in areas of significant indigenous vegetation or significant habitats of indigenous fauna.*

As discussed previously in this report, it is proposed to protect and rehabilitate approximately 1.98 hectares of existing bush, bush buffer, and riparian features between two Significant Natural Areas (SNA) - Cames Road Forest Remnants (ROD025), and Kereru Lane Forest Remnants (ROD024) located either side of the application site. The revegetated/restored area is to be fenced and formally protected by way of a conservation covenant being consistent with these objectives and policies.

## 8.21 Chapter 12: Rural Zone

*Objective 12.5.2 To maintain the rural character and amenity, including the:*

- *Sense of openness;*
- *Low dominance of built form;*
- *Pasture and Commercial Forest Areas;*
- *Areas of indigenous vegetation and significant fauna; and*
- *Unmodified natural landforms.*

*Objective 12.5.4 To ensure that the servicing of new subdivision and development does not adversely affect the environment, in particular sensitive receiving environments.*

*Objective 12.5.5 To avoid, remedy or mitigate adverse effects on the quality of the rural environment without unduly restricting productive rural activities e.g. farming and forestry.*

*Objective 12.5.6 To provide for a range of activities in the Rural Zone which are located, designed and operated in such a way as to avoid, remedy or mitigate reverse sensitivity effects on existing land uses in the vicinity.*

*Objective 12.5.8 To provide for development of land with a range of allotment sizes that is appropriate to the character of the surrounding rural environment.*

*Policy 12.6.3a By allowing greater intensity of subdivision, or development in the Rural Zone where this is offset by protection, restoration, enhancement or establishment of natural features, vegetation and open space, where they significantly contribute to the natural environment values, natural character of the coastal environment, and rural character and amenity.*

*Policy 12.6.3c By providing for more intensive and innovative site-specific subdivision and development where this results in better environmental outcomes.*

*Policy 12.6.4 By requiring all subdivision to contribute to the retention of rural character and amenity.*

*Policy 12.6.5 By avoiding, remedying or mitigating the adverse effects of subdivision and development (including ribbon development) on the natural environment values of the rural area.*

*Policy 12.6.9 By avoiding, remedying, or mitigating adverse effects on the environment by requiring the landowner or developer to provide roading and on-site services for water supply, wastewater disposal or stormwater disposal for sites in the rural areas, unless the provision of reticulated services is identified as an alternative to on-site systems.*

*Policy 12.6.12 By requiring subdivision and development to demonstrate adequate service provision (including maintenance), and ensure the costs of any service upgrades are borne by the development.*

*Policy 12.6.13 By ensuring that where sites are not connected to a public water supply, wastewater disposal or stormwater disposal system, suitable provision can be made on each site for an alternative water supply or method of wastewater disposal or stormwater disposal, which can protect the health and safety of residents and can avoid any significant adverse effects on sensitive receiving environments.*

*Policy 12.6.14 By providing flexibility for subdivision and development density, as well as for a range of activities (industrial, commercial and residential etc.) that can be appropriately located in the Rural Zone and meet the environmental conditions appropriate to that Zone.*

*Policy 12.6.17 By requiring the provision of safe and practicable vehicular access from a public road to each site.*

The above objectives and policies also seek to manage, protect and enhance rural character, high amenity values and biodiversity values by limiting rural subdivision and development. This requires subdivision to result in the protection of significant vegetation, wetlands and wildlife habitats, or enhancement planting, which can offset some of the adverse effects of subdivision on the environment and landscape values.

The proposal is in accordance with these objectives and policies as it will enhance the rural character of the district by protecting and enhancing areas of indigenous vegetation, providing ecological connections and corridors, and ensuring the long-term preservation of native habitat. Proposed revegetation that will be formally protected and will maintain and enhance the rural character of the area, while creating ecological benefits, which will provide sufficient mitigation for any adverse effects.

No clearance of native vegetation is required to facilitate earthworks for the subdivision and the proposal has been designed to be hydrologically neutral.

Overall it is considered the density of development will not compromise amenity values and is considered to be generally consistent with the density and pattern of development existing within the immediate surrounding environment. It is noted that the District Plan and the RMA accept that there will be some effects of subdivision; whether they are adverse or not is a matter requiring specific consideration. However, the expectation is that what are generally considered to be adverse effects will be avoided where possible, and if avoidance is not possible then they will be remedied or mitigated.

In this case the subdivision layout has been designed to avoid adverse effects as much as possible. When completely avoiding adverse effects has not been possible, remedying or mitigating effects has been the approach taken. It is considered that the ecological protection and subsequent environmental gains, mitigates the adverse effects of a greater number of dwellings in the rural environment.

The proposed subdivision would create two additional lots, and the site sizes of the proposed lots are consistent with that provided for under the Environmental Benefit Rule (12.13.1).

The proposed development will not restrict the use of the surrounding properties for farming purposes and there will be land available for continued rural use and the resulting development will not adversely affect any existing rural practices on neighbouring sites.

The disposal of stormwater and wastewater can be adequately contained within the respective lot boundaries and an adequate supply of water for drinking and fire-fighting can be provided for on-site. The proposal will therefore avoid adverse effects on sensitive receiving environments and will protect the health and safety of residents.

Council's Development Engineer has assessed proposed development and considers that safe and practicable vehicular access is provided to each lot.

#### Conclusion

- 8.22 Overall and on balance, the proposal is considered to be consistent with the objectives and policies of the Plan.

#### **Section 104(1)(c) - Other Matters**

##### Contributions

##### Reserves Contribution

- 8.23 Section 22.10.6 of the Kaipara District Plan 2013 sets out the amount of reserve contributions for subdivision of land for principally residential purposes where lots can accommodate a residential dwelling at 5% of the value of a 4000m<sup>2</sup> building site on a rural lot. In this case, two additional lots are proposed and a contribution is necessary.

### Development Contribution

- 8.24 The Local Government Act 2002 provides the Council with the ability to charge development contributions for increased capacity on existing Council assets in accordance with Council policy. The consent holder would be required to pay to the Council a fee for each additional allotment at a value of \$799.00 plus GST for roading.

A contribution is required which is expected to be paid prior to the issue of the s224(c) certificate.

### Precedent

- 8.25 The matters of precedent and District Plan integrity are considered relevant. Council is required to consider whether approval of a non-complying activity would create an undesirable precedent. Where the District Plan's integrity is at risk from such a precedent, the Council is required to apply the 'True Exception Test'.
- 8.26 Strictly speaking, the granting of a consent does not constitute a legal precedent and each application is to be treated on its own merits. However, the matter of precedent in the general sense can be relevant, particularly where applications seek to infringe minimums or maximum detailed within the District Plan.

In such situations, it is legitimate for the consent authority to consider the precedent effect of granting an application, especially where it is likely that other similar applications will be made, with the expectation that consent will be granted as a matter of uniformity and fairness, with the 'precedent effect' described as a concern about plan integrity and consistent administration of the plan.

- 8.27 The proposed development is in general accordance with the Environmental Benefit Subdivision Rule 12.13.1 which encourages 'Environmental Benefits' be given in exchange for extra development potential by providing for lots at a minimum of 4,000m<sup>2</sup> when Environmental Benefits are created, or where natural and cultural features are preserved. Such applications are required to be supported by a report by a suitably qualified ecologist, confirming that the proposed area to be protected will strengthen existing ecological corridors and expand natural areas.

The proposal is only considered to be a non-complying activity due to the breach of Rules 12.15.2 'Road, Private Way Formation, 12.15.8 'Telecommunications' and Property Access' and Rule 12.10.25 'Vehicle Access and Driveways'.

Consequently, it is considered that the proposal would not create an undesirable precedent.

### Conditions

- 8.28 In this instance, conditions of consent are considered relevant and have been included within the decision of this consent that ensure that potential effects of the proposal are adequately addressed, and to ensure the subdivision development is undertaken as proposed within this application.

### **Section 104D – Non-Complying Activities**

- 8.29 Pursuant to Section 104D of the Resource Management Act 1991 if a proposal is a non-complying activity then it must pass at least one of the tests of either Section 104D(1)(a) or Section 104D(1)(b) before an application can be assessed to make a decision under Section 104B of the Resource Management Act 1991. If the application fails both tests of Section 104D then the application must be declined.
- 8.30 It is considered that, subject to appropriate conditions of consent, the proposal satisfies the threshold test of Section 104D because, as demonstrated in this report, the adverse effects on the environment will be no more than minor and, as concluded this report, the proposal will not be contrary to the Objectives and Policies of the Kaipara District Plan 2013. It is therefore concluded that the application meets both of the tests of Section 104D of the Resource Management Act 1991.
- 8.31 The application can be assessed against the provisions of Section 104B of the Resource Management Act 1991 and a substantive decision made.

### **Section 106 Assessment**

- 8.32 Pursuant to Section 106(1)(a) Council may refuse subdivision consent if the land is likely to be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. The site is not identified as susceptible to flooding in the Kaipara District Plan or the Northland Regional Council Hazard maps (Priority Rivers or Coastal Flood Hazard Zone).
- 8.33 Pursuant to Section 106(1)(c) Council may refuse subdivision consent if sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision. The proposed development provides for each allotment to gain access onto Cames Road existing vehicle crossings.

## **9 PART 2 MATTERS**

- 9.1 Part 2 of the Resource Management Act 1991 sets out the purpose and principles of the Act that Council should have regard to when considering proposals.

### **Section 5- Sustainable Management**

*(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*

*(2) In this Act, sustainable management means 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.*

In considering the provisions of Section 5, the proposed development is consistent with the character of the surrounding area, and with the topography and character of the site. The proposal would therefore use and develop the physical resources of the site in a manner that would continue to enable the applicant to provide for their future social and economic wellbeing.

At the same time the proposal sufficiently avoids, remedies or mitigates adverse effects on the roading network, sensitive receiving environments, amenity and rural-residential character of the surrounding environment.

#### Section 6 - Matters of National Importance

The proposal is considered to be consistent with the provisions of Section 6 as it does not detract from the natural character of the coastal environment and is not located within any outstanding natural landscape. The proposal does not restrict access to the coastal environment.

The proposal does not result in the removal of any vegetation. On the contrary, in accordance with 6(c), it is proposed to protect and rehabilitate approximately 1.98 hectares of existing bush, bush buffer, and riparian features between two Significant Natural Areas (SNA) - Cames Road Forest Remnants (ROD025), and Kereru Lane Forest Remnants (ROD024) located either side of the application site providing better ecological connections.

#### Section 7 - Other Matters

Pursuant to Section 7(b) particular regard shall be had to the efficient use and development of natural and physical resources. In this case, the proposed development is the subdivision of the application site and would not compromise the rural environment or generate any adverse effects, allowing for the efficient use of the physical resources of the site while avoiding adverse effects on the environment.

Pursuant to 7(c) particular regard shall be had to the maintenance and enhancement of amenity values. In this case, the proposal is consistent with the site's rural-residential character and would maintain the character and amenity values of the surrounding environment.

Pursuant to 7(g) particular regard shall be had to maintenance and enhancement of the environment. In this case, all stormwater and wastewater can be adequately contained within the proposed lots and would maintain the health of the surrounding environment.



## Section 8 - Treaty of Waitangi

Regard must be had to the principles of the Treaty of Waitangi as per Section 8. In this case, the proposal does not raise any treaty issues.

## **10 REASONS FOR THE DECISION**

- 10.1 The application meets both of the tests of Section 104D of the Resource Management Act 1991. The application can be assessed against the provisions of Section 104B of the Resource Management Act 1991 and a substantive decision made. In terms of Section 104(1)(a) of the Resource Management Act 1991, the proposed development has been clustered within an area which has the ability to absorb change due to the topographical nature of the site, surrounding land use and development patterns, and subject to compliance with conditions, including the proposed building design guidelines and landscape planting, any adverse effects of the activity on the environment can be mitigated, as discussed in Section 8 of this report.
- 10.2 In terms of Section 104(1)(b) of the Resource Management Act 1991, subject to compliance with conditions, it is considered that the proposal is consistent with the relevant objectives and policies of the Kaipara District Plan 2013, the Northland Regional Policy Statement and the Freshwater NPS as the proposed subdivision would result in the restoration and protection of riparian features and bush buffers through revegetation planting, which can offset some of the adverse effects of development on the environment and landscape values, as discussed in Section 8 of this report.
- 10.3 The proposal creates two additional rural-residential lots that will provide for the applicants and any future residents well-being.

The proposed development would also rehabilitate approximately 1.98 hectares of existing bush, bush buffer, and riparian features through revegetation planting.

- 10.4 In terms of Section 104(1)(c) of the Resource Management Act 1991, other relevant matters, including financial and development contributions, and conditions of consent have been considered in the determination of the application.
- 10.5 The proposed development is in general accordance with the Environmental Benefit Subdivision Rule (12.13.1) and is only considered to be a non-complying activity due to the breach of Rules 12.15.2 'Road, Private Way Formation, 12.15.8 'Telecommunications' and Property Access' and Rule 12.10.25 'Vehicle Access and Driveways'. These breaches will not have any implications on District Plan integrity.
- 10.6 In terms of Section 106 of the RMA, there are no known risks to the land being subdivided and adequate access can be provided to the proposed lots.

- 10.7 The Council has taken into account the relevant principles outlined in Sections 6, 7 and 8 of the Resource Management Act 1991 and it is considered that granting this resource consent achieves the purpose of the Act as discussed in Section 9 of this report.



*Reporting Planner*

*24 February 2020*

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*Kim Nathan*

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*Date*

*Signed:*



*Vishal Chandra*

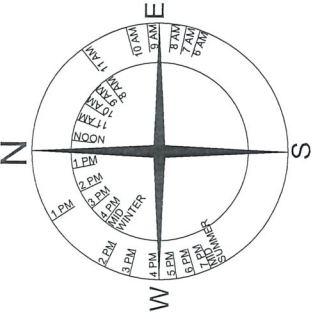
*Date: 9 March 2020*

*Planning Manager*

***Kaipara District Council***

*Signed under delegated authority pursuant to Section 34A of the Resource Management Act 1991.*





LEGEND

- MAJ CONTOUR
- MIN CONTOUR
- PROPERTY BDY
- FENCE
- RETAINING WALL
- TOP OF BANK
- BOTTOM OF BANK
- SANITARY SEWER
- STORMWATER
- FLOWLINES
- DRAIN
- GRAVEL
- CONCRETE/SEAL
- NEW PLANTINGS
- PROPOSED BUILDING SITE
- EXISTING LAND COVENANTS
- SEPTIC FIELD 400m²

NOTE:

- ANY QUERIES SHOULD BE DIRECTED TO PACIFIC COAST SURVEYS LTD.
- COORDINATES ARE IN TERMS OF MOUNT EDEN CIRCUIT 2000.
- VERTICAL DATUM ASSUMED.
- ALL PHOTO OVERLAY BOUNDARIES ARE INDICATIVE ONLY.
- MAJOR CONTOUR LINES ARE AT 1m INTERVALS.

AREA MARKED 'GG' IS AN EXISTING STORM WATER EASEMENT TO BECOME LAND COVENANT 1202m²

AREAS MARKED 'D' - 'J' AND 'L' ARE SUBJECT TO BE LAND COVENANTS.

D = 4621m²  
E = 1364m²  
F = 718m²  
G = 1963m²  
H = 234m²  
I = 485m²  
J = 3391m²  
L = 1722m²

Kaipara District Council  
09 MAR 2020  
APPROVED



PACIFIC COAST SURVEYS

0800 PACIFIC (0800 722 434)  
info@pacificcoastsurvey.com  
www.pacificcoastsurvey.com

SCHEME PLAN

CAMES ROAD, MANGAWHAI

CLIENT	CAMES LTD.
FILE	1085
REVISION	3
DATE	SEPTEMBER 2019
SCALE	1:1500 @ A3
COUNCIL FILE	RM
PAGE	3 OF 3

PROPOSED SUBDIVISION OF  
LOT 8 DP 537061



Key:



Infill Planting Area with larger grade trees



45 Litre Specimen Trees



LOT 1  
1.3109Ha

Plant Sizes for Infill Planting Areas - 1588.85m<sup>2</sup>

Refer to that Planting Schedule from EB report prepared by Rural Design for further detail regarding remainder of the site. Spacing 4m for 2L Grade

Spacing 2L grade	Common name	2L #	45L
<i>Coprosma robusta</i>	Karamu	9	
<i>Cordyline australis</i>	Cabbage Tree	9	
<i>Darcycarpus dacrydoides</i>	Kahikatea	9	4
<i>Myrsine australis</i>	Mapou	9	
<i>Hoheria populena</i>	Lacebark	9	
<i>Kunzea ericoides</i>	Kanuka	9	
<i>Leptospermum scoparium</i>	Manuka	9	
<i>Meliccytus ramiflorus</i>	Mahoe	9	
<i>Phormium tenax</i>	Flax	9	
<i>Pittosporum eugenoides</i>	Lemonwood	9	
<i>Podocarpus totara</i>	Totara	9	3
	Total	99	7
Note: 45L is a specimen trees and planted as per the attached plan.			

Note: Underlying Scheme Plan prepared by PCS  
Infill and Specimen Landscape Plan to be viewed in conjunction with the Landscape Plan prepared by Rural Design



INFILL / SPECIMEN TREE LANDSCAPE PLAN

Project Name: CAMES ROAD LIMITED

Address: LOT 8 DP 537061

Plan Reference Number: 19008B

Date: 2020 / 02 / 19

Scale: 1:20 @ A3

