

Hans Bay Settlement, Lake Kaniere
Application for Subdivision and Land use Consent
Lake Kaniere Development Limited

Eliot Sinclair
surveyors | engineers | planners

APPLICATION FOR RESOURCE CONSENT

Hans Bay settlement, Lake Kaniere

Lake Kaniere Development Limited

		Unit 4, 502 Wairakei Road PO Box 4597 Christchurch 8140 New Zealand 03 379 4014
QUALITY CONTROL CERTIFICATE		
All relevant information is identified, has been reviewed and is approved for release.		
Prepared by:	 Paul Thompson Resource Management Planner	Bsc(Hons), MA, Assoc. NZPI
Directed and approved for release by:	 Bruce Sinclair Registered Professional Surveyor	Bsc, MNZIS
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Limitations

This report has been prepared for Lake Kaniere Development Limited, according to their instructions, for the particular objectives described in the report. The information contained in the report should not be used by anyone else or for any other purposes.

Section 88 Resource Management Act 1991

To: Westland District Council
PO Box 704
Hokitika 7842

From: Lake Kaniere Development Limited
Sunny Bight Road
Lake Kaniere
Hokitika 7811

See address for service below.

1. **Lake Kaniere Development Limited is applying for the following resource consents:**

RMA Section	Activity	Period Sought
s.11	The subdivision of Lot 2 DP 416269 and Lot 2 DP 416832 into 51 allotments including allotments to vest as legal road and local purpose reserves.	unlimited
s.9(3)	The use of Lot 2 DP 416269 and Lot 2 DP 416832 and that portion of the unformed legal road heading north from Stuart Street bounded by the boundary of the Small Settlement Zone for the purposes of; construction and formation of legal road as part of Stage 1; clearance of native vegetation and formation of roading, accessway and drainage as part of Stage 2; and the clearance of native vegetation and formation of roading, accessway, drainage and earthbund with cut drain as part of Stage 3 of the development.	unlimited

2. A description of the activity to which the application relates is:

Lake Kaniere Development Limited propose to subdivide two fee simple titles at Hans Bay settlement, Lake Kaniere into a total of 51 allotments.

The proposed subdivision comprises 47 residential allotments; two allotments proposed to be vested as local purpose reserves; and two road allotment proposed to be vested in the Westland District Council.

Land use consent is also proposed for works associated with the subdivision including vegetation clearance, roading construction and extension to an existing earthbund and cut drain channel.

The proposal will be undertaken in three stages.

A detailed description of the proposal and Assessment of Environmental Effects is contained the attached report.

3. The names and addresses of the owners and occupiers of the land to which the application relates:

Lake Kaniere Development Limited
C/- Mr Ian Hustwick
Sunny Bight Road
Lake Kaniere
Hokitika 7811

4. The location to which the application relates is:

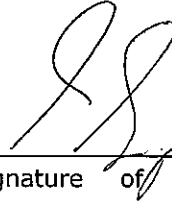
Hans Bay settlement, Lake Kaniere legally described as:

- Lot 2 DP 416269 held in fee simple estate under CFR 464909
- Lot 2 DP 416832 held in fee simple estate under CFR 464780

5. Additional resource consent from the West Coast Regional Council is required in relation to:

Future residential use of allotments that do not comply with Rule 77 *On-site discharge of sewage effluent* of the proposed Regional Land and Water Plan. Resource consent has not been applied for at the present time as this application does not propose to erect any dwellings and a condition of consent is recommended to be imposed to provide site specific details prior to the issue of the s.224 certificate by the Westland District Council for each stage of the development. Please refer to the attached report for further details.

6. Attached, in accordance with the Schedule 4 of the Resource Management Act 1991, is a description of the proposed activity and an assessment of the actual and potential effects the proposal may have on the environment.
7. Attached is any other information required to be included in the application by the Westland District Plan, the Resource Management Act 1991, or any regulations made under that Act.



Signature of applicant (or person authorised to sign on behalf of the applicant)

19 December 2011

Date

Address for service of applicant:

Eliot Sinclair & Partners Ltd
PO Box 4597
Christchurch 8140
Phone: 03 379 4014
Fax: 03 365 2449
Attn: Paul Thompson
Email: Paul.Thompson@eliot Sinclair.co.nz

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1 Introduction

1. Lake Kaniere Development Limited (the 'applicant') propose to subdivide land at Hans Bay settlement, Lake Kaniere.
2. The proposed subdivision comprises forty seven residential allotments, two allotments proposed to be vested as local purpose reserves and two road allotments proposed to be vested in the Westland District Council. The proposal will be undertaken in three stages.
3. Land-use consent is also proposed to undertake works associated with the subdivision.
4. The application has been assessed as a non-complying subdivision activity and a discretionary land-use activity. Overall, the application has been assessed as a non-complying activity.
5. The application has been prepared in accordance with Section 88 and the Fourth Schedule of the Resource Management Act 1991. It provides a description of the site and the proposal, an assessment of actual and potential effects that may arise from the proposal and an assessment of the proposal against the West Coast Regional Policy Statement and the Westland District Plan (the 'District Plan').
6. The following appendices are attached in support of, and form part of, the proposal;
 - Subdivision Application Plan and Typical Street Section Plans for the Stuart Street extension and for the Legal Road.
 - Geotechnical Engineering Assessment.
 - Vegetation and Habitats Assessment.
 - Stormwater, Wastewater and Water Supply Assessment.
 - Erosion and Sediment Control Plan.
 - Photographs of the legal road and the construction of the earthbund and channel.
 - Assessment of relevant Standards of the Westland District Plan.
 - Assessment of Policies 9.1 & 9.2 West Coast Regional Policy Statement.
 - Assessment of Policy 4.8C Westland District Plan.

2 Site description

2.1 The Wider Environment

7. The application site is located at the northern end of Lake Kaniere adjoining the residential settlement of Hans Bay.
8. Hans Bay is a small settlement of approximately 50 dwellings. These range between one and two storeys in height and the vast majority are used as holiday homes. It is understood there are approximately 5 permanent residents.
9. The settlement extends beside the lake along Hans Bay Road and away from the lake along Stuart Street and Punga Grove cul-de-sac. Most dwellings are on sections with well-established mature vegetation.
10. To the west and south dwellings back onto paddocks that merge into regenerating native vegetation. To the north and east the settlement is surrounded by native vegetation.
11. Further to the north, east and south is Crown land administered by the Department of Conservation (DoC) for conservation purposes. A DOC camp ground is located on the lake front to the south.
12. The surrounding landform climbs gently from an elevation of 140 metres (the current lake level) to approximately 200 metres to the east. The land then rises steeply towards the summit of Mt Tuhua at approximately 852 metres.
13. There is a locally steeper break of slope above Punga Grove comprising the edge of a glacial moraine terrace (the 'terrace slope'). The terrace slope is typically 20 metres in height with a 25-35 degree slope (1:2.1 – 1:1.4). This reduces in steepness and height to the east. Above the terrace slope the moraine forms a flatter terrace with gentle gradients at elevations ranging between approximately 20 metres to 60 metres above the lake.
14. Lake Kaniere is a Statutory Acknowledgement Area under Schedule 31 of the Ngai Tahu Claims Settlement Act 1998. In summary Schedule 31 states that Lake Kaniere is noted in Ngai Tahu tradition as a lake occupied by the explorer Raureka who according to tradition was the first to cross the Southern Alps from her village at Arahura. Raureka came up to Kaniere and eventually came across a pass which took her to the Canterbury Plains. Raureka led a Ngai Tahu party back across the Alps. Lake Kaniere was also an important mahinga kai used by parties crossing between the coasts. Tuna (eels) and weka were the main foods taken in this area. The tupuna had considerable knowledge of whakapapa, traditional trails and tauranga wake, places for gathering kai and other taonga, ways in which to use the resources of the lake, the relationship of people with the lake and their dependence on it, and tikanga for the proper and sustainable utilisation of resources. Because of its importance as a mahinga kai, the Crown set aside a reserve at the lake for Ngai Tahu. A copy of Schedule 31 is contained in **Appendix 1**.



Figure 1: Aerial view of Hans Bay Settlement and the Application Site pre-dating the construction works shown in Appendix 15.

2.2 The Application site

15. The application is located at Hans Bay settlement and comprises an area of 14.96 hectares. The land is legally described as:
 - Lot 2 DP 416269 held in fee simple estate under CFR 464909
 - Lot 2 DP 416832 held in fee simple estate under CRF 464780
16. A copy of the CFR are contained in **Appendix 2**. There is one registered interest, this being a right (in gross) to drain water over part of Lot 2 DP 416269.
17. Stuart Street presently terminates at the application site as an undersized cul-de-sac. A gravel trackway extends up to an earthbund and channel currently under construction. The remainder of the application site is generally occupied by second-generation indigenous vegetation other. There are no buildings or structures on the land. There are a number of intermittent flow channels, small watercourses and springs. These are shown on the Subdivision Application Plan contained in **Appendix 3** discussed further later in this report.
18. The application site is located within the Small Settlement Zone and Rural Zone of the Westland District Plan. A number of resource consents have been granted by the Westland District Council on the site. These relate to the subdivision of that part of the site generally within the Small Settlement Zone and associated activities; and the formation of the legal road adjoining Stuart Street, the construction of an earthbund, and associated activities. These are discussed further in section 6 of this report and are attached in **Appendices 8 & 9**.
19. A proposal to subdivide part of the application site (Lot 2 DP 416269) to create 10 allotments including 5 for residential purposes (Ref: 090017 & 090018) was withdrawn from consideration in 2010. Resource consent was not granted.
20. In addition a number of resource consents have been granted by the West Coast Regional Council on the site. Those of relevance to the proposal are summarised in **Appendix 10**.

3 Proposal Description

3.1 Description Overview

21. The applicant proposes to subdivide the application site to create;
 - Forty seven residential sized allotments;
 - Two allotments to vest as local purpose reserve in the Westland District Council; and
 - Two allotments to vest as road in the Westland District Council.
22. These are shown on the application plan contained in **Appendix 3**.
23. The subdivision will be undertaken in three stages:
 - Stage 1: Lots 1 - 7 and Lots 19 – 21 inclusive. In addition, Lot 48 will be vested as local purpose reserve in the Westland District Council.
 - Stage 2: Lots 8 – 13 and Lots 22 – 28 and Lots 32 – 39 inclusive. In addition, Lot 49 will be vested as road in the Westland District Council.
 - Stage 3: Lots 14 – 18 and Lots 29 – 31 and Lots 40 – 47. In addition, Lot 50 will be vested as local purpose reserve in the Westland District Council and Lot 51 will be vested as road in the Westland District Council.
24. In connection with the proposed subdivision, the following land-use activities are proposed;
 - Vegetation clearance to undertake site preparation works.
 - The construction of new roading on Stuart Street and the legal road, right of ways and access crossings.
 - Earthworks to construct new stormwater management infrastructure (including swales and drainage channels).
 - The construction of utility service infrastructure.
 - Earthworks to extend the earthbund and channel on Lot 50 to the north, including landscape planting restoration in accordance with consent No.100096.
25. It is not proposed as part of this application to obtain consent for the erection of new dwellings on the subdivision.
26. Conditions of consent and consent notices that are proposed below and identified in the course of the assessments contained later in this report are repeated in the recommendations contained in Chapter 10.2 of this report.

3.2 Allotment size and Dimensions

27. The proposed allotments comprise:

- Lots 1 - 4 & 6 – 18 are located in the Rural Zone and range in size from 5,000m² to 5,112m² (excluding access strips).
- Lots 19 – 47 are located in the Small Settlement Zone, range in size from 1,000m² to 2,402m² and are able to accommodate a 12m x 12m shape factor for building.
- Lot 5 has land within both the Small Settlement Zone and Rural Zone. The total allotment area is 5,000m² comprising 3,055m² within the Rural Zone, and 1,945m² within the Small Settlement Zone. The allotment is able to accommodate a 12m x 12m shape factor within the Small Settlement Zone portion.
- Lot 48 is located within the Rural Zone and has an area of 4,127m². This is proposed to be vested as a local purpose reserve in the Westland District Council.
- Lot 49 and Lot 51 are proposed to be vested as road to the Westland District Council.
- Lot 50 has land within both the Small Settlement Zone and Rural Zone with a total allotment area of 1.2377ha. Lot 50 is proposed to be vested as a local purpose reserve in the Westland District Council.

3.3 Geotechnical considerations

28. Geotech Consulting Ltd undertook a geotechnical natural hazards assessment of the application site in June 2007. The assessment recommended the following;

- A 70 metre no-build setback at the eastern boundary incorporating the construction of an earthbund and channel to mitigate potential slope instability from the steep land east of the site.
- An 8 metre no-build setback from the southern boundary to retain an adequate area for a protective bund to be built should this be required in the future in order to mitigate potential avulsion of the Tuhua Creek.

29. In view of the time that has passed the applicant requested Resource Development Consultants Ltd to peer review the Geotech Ltd report. Resource Development Consultants Ltd undertook an assessment in May 2011 and they have re-affirmed the appropriateness of the recommendations. A copy of both reports is contained in **Appendix 4**.

30. The proposed subdivision incorporates the mitigation recommended by the geotechnical reports. It is proposed that consent notices be imposed on Lots 17, 18, 36 – 45 inclusive to give effect to the no-build setbacks shown on the subdivision plan.

31. The construction of an earthbund and channel has already been consented. Construction is currently underway under consent No.

100096 and photographs of the work to date are included in **Appendix 7**. As the approved design does not extend fully to the north as previously consented under consent No. 070105 it is proposed to extend the earthbund and channel to be consistent with the geotechnical recommendations contained in the Geotech Consulting Ltd report (and as previously consented under consent No. 070105). Landscape planting restoration is proposed in accordance with consent No. 100096.

32. It is also proposed that the bund and channel to be vested in Council as a local purpose reserve. A right of way in gross is proposed on Lots 17 & 18 to provide access to the reserve for maintenance purposes. It is considered appropriate for Lot 50 to be vested as the earthbund and channel will provide natural hazard mitigation to both the proposed subdivision and potentially existing parts of the settlement. The earthbund and channel will provide benefits to the community wider than the proposal itself.

3.4 Access

33. Access to Stages 1, 2 and 3 will be from Stuart Street and the legal road adjoining Stuart Street.
34. Stage 1 of the subdivision will be accessed from the existing legal road. The portion of the legal road within the Small Settlement Zone requires consent as the applicant has given effect to consent No. 100096 which provides for upgrading the portion of the legal road within the Rural Zone. While the portion of the legal road within the Small Settlement Zone is consented under No. 070104 this consent has not been given effect to. Photographs of the work to date are included in **Appendix 7**.
35. The applicant has voluntarily agreed with the Westland District Council to upgrade the legal road to the standard of an urban street pursuant to consent No. 100096. This provides for a 6.0m road width bordered by two 1.0m shoulders tapering down to rock lined stormwater swales. On its western side a 1.4m wide footpath is provided from Stuart Street up to the point where the legal road turns to the west. A typical section of the approved road design under consent 100096 is contained in **Appendix 9**.
36. Stages 2 and 3 of the subdivision will be accessed from an extension to Stuart Street further to the east with a turning circle at its head. The road extension is comprised in Lot 49 & Lot 51 proposed to be vested in the Westland District Council. This will be formed to the standard of an urban road with an overall width of 15 metres. The proposed design provides for a 5.7m road width bordered by a footpath on its northern side and metalled shoulder on its southern side. The footpath is demarcated by a yellow line on the carriageway. Adjoining this are rock lined swales and landscape planting and the addition of a service strip provided for utility boundary boxes to be located to service the allotments. A typical section of the road design is shown in **Appendix 3**.

37. Right of ways are also proposed with provision for grass lined swales. The Rights of way all have a width of 6 metres.

3.5 Water Supply

38. There is no reticulated water supply within Hans Bay. Water supply for the existing dwellings is via roof collection and it is proposed future dwellings on the proposed allotments will obtain water in a similar manner. A full description of the water supply system is contained in **Appendix 6**.

3.6 Drainage

39. Existing flow paths are shown on the subdivision plan. The subdivision design will enable these to be maintained with only minor alignments.
40. Stormwater collected from impervious surfaces will be conveyed through the subdivision to either Stuart Street (Lots 49 & 51) and along the existing streams in the settlement or along a swale on the northern site boundary. A full description of the stormwater management system is contained in **Appendix 6**.
41. Drainage easements are proposed on the following allotments.
- Lots 1 – 4 inclusive to collect and convey additional post development stormwater to a drainage channel along the northern site boundary. Lot 5 will also have a right to drain water.
 - Lots 6, 8, 11 & 14 to convey drainage along the northern site boundary.
 - Lots 8, 9, 12 & 13 to convey drainage to the easement on the northern boundary.
 - Lots 28 – 31 inclusive to convey drainage to Stuart Street (Lot 49).

3.7 Effluent Disposal

42. All allotments will be serviced by on-site sewage treatment systems to be provided as part of building consent. Although no dwellings are proposed as part of this application an effluent disposal assessment has been undertaken and is contained in **Appendix 6**.

3.8 Telecommunications and Electricity

43. Chorus, a subsidiary of Telecom Ltd, have advised that its network can be extended to provide telecommunication connections for the proposal.
44. ElectroNet, a subsidiary of Westpower Ltd, have advised that power can be made available to service the proposed subdivision.
45. Correspondence received from Chorus and ElectroNet is provided in **Appendix 11**. It is proposed that cables will be placed underground.

3.9 Easements

46. The subdivision plan shows easements proposed within the site for the conveyance of water, electricity, telecommunications and computer media and the right to drain sewage and stormwater and to provide a right of way.
47. Easements in gross are also proposed for the maintenance of the reserve area contained in Lot 50, and the right to drain water in gross over several allotments.
48. Additional easements will be provided if necessary.
49. There is an existing easement to drain water in gross on Lot 48. As it is proposed to vest Lot 48 in the Westland District Council it is requested a certificate under s.239(2) of the Resource Management Act is issued in respect of the existing easement.

3.10 Vegetation Clearance and Protection

50. The proposed subdivision will involve vegetation removal, where this has not already taken place.
51. The removal of vegetation in the Small Settlement Zone is not specifically mentioned in the Westland District Plan and is considered to be a permitted activity pursuant to Section 9(1) of the Resource Management Act.
52. The removal of vegetation in the Rural Zone is required to construct the impervious areas of a section of road and two right-of-ways. This relates to a total area of approximately 3222m².
53. Temporary vegetation removal will also be required to construct drainage channels (discussed under 3.6 above). In addition, vegetation removal will take place for the extension of the earthbund and channel on Lot 50. On completion the bund and channel will be restored with landscape planting consistent with consent No. 10096.
54. It is not proposed as part of this application to obtain land-use consent for the erection of new dwellings on the subdivision. It is anticipated that future owners will obtain consent at the time details of future buildings and any associated vegetation clearance are known.
55. A vegetation and habitat assessment of the application site has been undertaken and is contained in **Appendix 5**. The assessment makes a number of recommendations which are discussed further in chapter 8 of this report. In addition, it is proposed to protect vegetation within Lot 48 by vesting this allotment as a local purpose reserve in the Westland District Council.

3.11 Development Contributions

56. The proposal will create 17 residential allotments in the Rural Zone and 29 residential allotments in the Small Settlement Zone. It is noted that the site currently comprises two existing Computer Freehold Registers (CFR 464909 & CFR 464780). In addition, it is requested that the

vesting of two local purpose reserves (comprising areas of 4,127m² and 1.238 hectares) be taken into account.

4 Alternatives considered

57. Schedule Four of the Resource Management Act requires where it is likely that an activity will result in any significant adverse effect on the environment, a description of any possible alternative locations or methods for undertaking the activity should be considered.
58. Although the Assessment of Environmental Effects (AEE) contained in this report has assessed the effects of the proposed development to be no more than minor and therefore an assessment of alternatives is not required, a number of alternatives have been assessed in developing the proposal and these are discussed below.
59. The following options were considered:
 - Option 1: Implementation of subdivision consent RC070104
 - Option 2: Cluster style subdivision design
 - Option 3: Low density urban and rural-residential design

4.1 Option 1: Implementation of consent RC070104 & RC070105

60. A number of variations have been granted to subdivision consent No. 070104 which provides for the subdivision of that part of the application site predominantly within the Small Settlement Zone to create 46 allotments plus allotments to vest as legal road, a utility lot and recreation reserve. This subdivision design involved residential allotments ranging in size from 400m² to 950m² to be serviced by reticulated sewage treatment and disposal. This involved infiltration trenches and a sewage plant located in the balance allotment. This is no longer considered the preferred option because it placed the sewage treatment plant within a no-build setback recommended by the geotechnical investigations and did not provide integration with the balance rural land despite the proposed roading inferring further development in the rural area. The higher density and smaller allotment area in the Small Settlement Zone is not considered to facilitate the retention of existing vegetation in keeping with the character of the existing settlement to the extent of the preferred option.

4.2 Option 2: Cluster style of development

61. A proposal to subdivide part of the application site (Lot 2 DP 416269) to create 10 allotments including 5 for residential purposes (No. 090017 & No. 090018) was withdrawn from consideration by the Westland District Council in 2010 and consent has not granted. A change of ownership followed and the applicant acquired the site.
62. A cluster style development has been dismissed as not being in keeping with the existing residential character of the Hans Bay settlement nor does it adequately respect residential amenity.

Community input has identified the importance of the area closest to Hans Bay Road for visual and amenity reasons. The applicant agrees that this area is important for the community, both its bush clad appearance and for screening and visual effect, and appropriate proposals should be put forward. The applicant has rejected a cluster style development for these reasons.

4.3 Option 3: Low density urban and rural-residential design

63. The site has a number of physical, environmental and social constraints. These include topographical (i.e. gradient), geotechnical, surface watercourses, vegetation and habitats, and amenity considerations. The alternative option of heavily modifying the geomorphological elements of the site (including waterways) was dismissed as being inappropriate and not in the best interests of the local community.
64. The design philosophy of the proposal has been to ensure the subdivision is sympathetic to the existing environment. This is achieved by ensuring allotment boundaries and roading patterns follow natural and physical features as much as practicable. Areas of landscape and/or vegetation habitats of importance have been identified and future building areas directed to other areas. The overall low density urban and rural-residential allotment areas are considered better able to respond to the bush clad character of the settlement and avoid impacts on watercourses and intermittent flow channels through the retention of natural flow paths and minimal modification.
65. From a stormwater runoff perspective, the volume of water to be discharged would require either piping or a roadside channel along Stuart Street. Preliminary investigations indicate that piping is cost prohibitive and community input rejected a kerb and channel design. Grass channels require continued maintenance from erosion due to the site gradient and their efficiency is not reliable due to the occurrence of obstructions. Though concrete lining offers a long term solution this is not in keeping with the existing informal character of the settlement and rock lined swales are consistent with the approved design for the legal road in the settlement.
66. Community input has informed the design of the preferred option, being the proposal contained in this application. The importance attached by the local community to the area occupied by Lot 48 has led to the view that this should be maintained in its present condition and this would be appropriately achieved by vesting as a local purpose reserve. Similarly, the construction of the earthbund and channel has wider community benefits and it is appropriate for this to be vested as a local purpose reserve.
67. The proposed design is considered to achieve an appropriate balance between the various site constraints, planning constraints and the preferences of the community. The proposal comprises the preferred option as described in this application.

5 Consultation

68. Local residents and the Westland District Council staff have been consulted on many occasions and given regular updates as the proposal has progressed.
69. The local community identified their preference for low density development of the surrounding area and support for the areas to be vested as local purpose reserves. Community input has also indicated a preferred road design that does not include kerbing; has approximately 6m widths with shallow swales each side. While a footpath has not been requested by the community, Council officers have indicated their preference for a footpath on safety grounds.

6 Permitted activities and the existing environment

70. In considering the actual and potential effects of a proposal on the environment, comparisons with the environment permitted by the District Plan or forming part of the existing environment can enable a balanced effects assessment to be made.
71. Appropriate comparisons can be made in relation to;
 - Activities permitted to take place under the District Plan.
 - Any implemented and enduring resource consents.
 - Any existing lawfully established activities.
 - Any unimplemented resource consents.
72. The below matters are considered to form part of the existing environment and/or form an appropriate permitted baseline assessment for consideration.

6.1 Activities permitted to take place under the District Plan

73. Section 104(2) of the Resource Management Act 1991 states that a consent authority may disregard an adverse effect of the activity on the environment if the plan permits an activity with that effect. Activities permitted to take place under the District Plan are commonly referred to as the permitted baseline.
74. Those elements of the proposal that are permitted under the District Plan are identified the *Assessment of Relevant Standards of the Westland District Plan* contained in **Appendix 9**.
75. Non-fanciful developments that could take place on the application site as of right in accordance with the District Plan are discussed in chapters 8 and 9 of this report.

6.2 Implemented and enduring resource consents

76. Implemented and enduring resource consents may also fall within the permitted baseline assessment. The following resource consent has been granted by the Westland District Council relating to the application site and has been given effect to.
- RC100096 dated 9 December 2010: Land use consent to form legal road and construct an earth bund (including debris catchment area) on legal road extending north from Stuart Street, Lot 2 DP 416269 and Lot 2 DP 416832, clear in excess of 2000m² of vegetation as part of this construction and erect a temporary portacom building on Lot 2 DP 416832.
77. The formation of part of the legal road adjoining Stuart Street within the Rural Zone and the construction of an earthbund and channel pursuant to consent No. 100096 comprise part of the existing environment.

6.3 Existing lawfully established activities

78. There are no existing lawfully established activities on the application site pursuant to s.10 of the Resource Management Act.

6.4 Unimplemented resource consents

79. Granted but as yet unimplemented resource consents may be relevant considerations in the determination of an application in terms of other matters considered relevant and reasonably necessary to determine the application pursuant to s.104(1)(c).
80. The following resource consents have been granted by the Westland District Council relating to the application site but at the present time they have not been given effect to.
- RC070104 dated 5 June 2009: Variation to subdivision consent to subdivide Part Rural Section 2310 and Part Rural Section 2235 into 44 allotments including allotments to vest as legal road, a utility lot and recreation reserve.
 - RC070105 dated 21 September 2007: Land use consent to use of Part Rural Sections 2235 and 2310 for the purposes of the construction and formation of legal road as part of the development of Stage 1A and Stage 1B of the development, and the clearance of native vegetation in excess of 2,000m² in relation to the formation of cut drain and fill bund required by condition of this consent.
81. Subdivision consent RC070104 is similar in nature to the proposal, involving a similar number of allotments albeit at higher densities and relating predominantly to the Small Settlement Zone. Though these consents do not represent the applicant's preferred option - as further discussed in section 4 of this report - the consents remain capable of being giving effect. Given the similarities with the proposal this notion is considered non-fanciful.

7 Statutory Assessment

7.1 Resource Management Act 1991

82. Section 9(3) of the Resource Management Act places restrictions on the use of land. Section 9(3) states;

Restrictions on use of land

(3) No person may use land in a manner that contravenes a district rule unless the use -

(a) is expressly allowed by a resource consent; or

(b) is allowed by section 10; or

(c) is an activity allowed by section 10A.

83. The proposal includes land-use activities that contravene rules of the District Plan as discussed under chapter 8.2 of this report. These matters are not presently authorised by resource consent and are not existing uses as defined by sections 10 and 10A. Accordingly, resource consent is required to authorise the activity.

84. Section 11(1) of the Resource Management Act also places restrictions on the subdivision of land. Section 11(1) states;

Restrictions on subdivision of land

(1) No person may subdivide land, within the meaning of section 218, unless the subdivision is—

(a) both, first, expressly allowed by a national environmental standard, a rule in a district plan as well as a rule in a proposed district plan for the same district (if there is one), or a resource consent and, second, shown on one of the following:

(i) a survey plan, as defined in paragraph (a)(i) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land;

or

(ii) a survey plan, as defined in paragraph (a)(ii) of the definition of survey plan in section 2(1), approved as described in section 228 by the Chief Surveyor;

or

*(iii) a survey plan, as defined in paragraph (b) of the definition of survey plan in section 2(1), deposited under Part 10 by the Registrar-General of Land; or
[...]*

85. The subdivision of land is not expressly authorised by the District Plan. Therefore, resource consent is required pursuant to Section 11(1)(a).

7.2 Westland District Plan

86. A detailed assessment of the proposal under the relevant provisions of the Westland District Plan is contained in **Appendix 12**.
87. The assessment identifies that the proposal does not comply with, or applies to, the following standards of the District Plan:
- *Rule 5.6.2.2C (Rural Policy Unit)*: Vegetation clearance on CFR 464780 in connection with the subdivision and the construction of the earthbund and channel is assessed as a discretionary (land use) activity.
 - *Rule 6.5A (Other Activities in all zones)*: The formation and construction of part of the legal road within the Small Settlement Zone is assessed as a restricted discretionary activity.
 - *Rule 6.5B (Other Activities in all zones)*: The formation, construction and vesting of Stuart Street (Lots 49 & 51) is assessed as a discretionary (land use) activity.
 - *Rule 7.3.2 (Minimum Zone Standards for Subdivision)*: Lots 19 – 47 inclusive and Lots 49 & 50 are assessed as a controlled activity (subdivision).
 - *Rule 7.3.3 (Minimum Zone Standards for Subdivision)*: Lots 1 – 4 inclusive and Lots 6 – 18 inclusive are assessed as a discretionary activity (subdivision).
 - *Rule 7.3.4 (Minimum Zone Standards for Subdivision)*: Lots 5 & 48 are assessed as non-complying activity (subdivision).
88. Accordingly, the proposal has been assessed as a non-complying subdivision activity and a discretionary land-use activity under the Westland District Plan.
89. Overall, the proposal has been assessed as a non-complying activity.

8 Assessment of Actual and Potential Effects on the Environment

90. It is considered that the following actual and potential effects on the environment may arise:
- Natural Hazards
 - Vegetation and Habitats
 - Landscape and Visual Amenity
 - Traffic
 - Land Drainage
 - Residential Amenity
 - Servicing of the Subdivision
 - Construction of the Subdivision
 - Historic and Cultural Values
 - Cumulative effects
91. These are discussed further below.
92. Conditions of consent and consent notices recommended in the course of the assessments are repeated together in Chapter 10.2 of this report.

8.1 Effects of Natural Hazards

93. The application site is not identified as an area of known natural hazard risk within the Westland District Plan or the proposed Regional Land and Water Plan.
94. As the alpine fault is a distance of approximately 6km, site specific geotechnical assessments have been undertaken and these have recommended the construction of an earthbund and channel and no-build setbacks to mitigate a potential natural hazard risk in the event of an earthquake on the alpine fault.
95. The bund and channel design is already consented. The proposed extension to the north is consistent with consent No. 070105, and consent No. 100096 under which the bund is currently being constructed. The proposed design and restoration landscape planting is consistent with consent No. 100096 considered to have a less than a minor effect.
96. The subdivision design provides for the bund and channel to be contained in its own discrete allotment (Lot 50). This makes good sense for on-going maintenance that may be required from time to time. In this regard it is proposed to vest Lot 50 as a local purpose reserve in the Westland District Council. This is considered appropriate since mitigation against the natural hazard risk may in such an event extend to the wider community as well as the proposed subdivision. Access is provided via a right of way in gross over Lots 17 and 18.

97. The subdivision design also includes the recommended no-build setbacks from the eastern and southern site boundaries. Sufficient space is available on the remainder of the affected allotments to easily provide the permitted shape factor for building. It is recommended that consent notices prohibiting building within the building setback lines shown on the application plan be imposed on Lots 14, 17, 18, 36 – 45 inclusive.
98. In view of the height and steepness of the terrace slope within Lots 1 – 5 inclusive it is further recommended that a consent notice be imposed over these allotments requiring an engineering geologist or geotechnical engineer advice on appropriate building location and foundation construction as part of any building consent. This is considered appropriate to avoid potential concerns relating to the stability of the terrace slope and to inform suitable building sites.
99. Overall, the proposal is considered to adequately mitigate potential natural hazards and will have a less than a minor effect. The proposal also has the potential to create a positive effect by affording protection to existing areas of the Hans Bay residential settlement from an existing natural hazard risk.

8.2 Effects on Vegetation and Habitats

100. The application site is largely occupied by regenerating bush. The assessment undertaken of the vegetation and habitats on the application site has identified the highest ecological value to be those areas occupied by Lot 48 and the terrace slope and its upper margin. The proposal to vest Lot 48 as a local purpose reserve will enable the existing habitat of this area to be retained and supported. The remainder of the application site is assessed to be of moderate to low value. None of the areas in the application area have been identified as having qualities that make them significant as defined in Policy 4.9D of the District Plan (refer to **Appendix 5**) and there are no notable trees on the site.
101. Potential effects on the ecology values of the site have been identified as principally relating to vegetation clearance and land drainage. The assessment has made a number of recommendations in this regard, which I will now consider.
102. Recommendation 5(a) of the assessment proposes vegetation on the terrace slope and its upper margin be protected where possible. In particular, trees with a stem diameter exceeding 400mm (as measured 1m above ground level). While highlighting the relative importance of the vegetation in these areas, the recommendation allows for some vegetation removal to take place (subject to the other recommendations).
103. Recommendation 5(b) proposes measures to avoid large-scale drainage of pakahi soils¹ found across the allotments in the Rural Zone. It is recognised that some changes are likely to take place to the

¹ Pakahi (or Pakihi) is a Maori term for poorly drained land that is acidic, low in nutrients and unsuitable for cultivation.

existing drainage pattern, notably from the construction of driveways and building platforms. This is consistent with the geotechnical investigations which recommended that organic rich material should be excavated and replaced as necessary by compacted gravel². Recognition is also given to the drainage channel proposed to be constructed through Lots 1 – 4 and Lots 6, 8, 9, 11 – 14. As this is intended to capture additional flows from post development runoff this is considered to be appropriate. To give practical effect to recommendation 5(b) it is proposed a consent notice be imposed limiting the placement of compacted gravel foundations per allotment to driveways and building platforms. This will impose control over, and adequately mitigate potential effects of the principal activities that could give rise to large-scale drainage.

104. Recommendation 5(c) proposes the retention of large indigenous trees outside areas where buildings will be sited (the 'building platform'). Recommendation 5(d) places a limit on the size of building platforms in the Rural Zone to 500m² plus driveways, view shafts and garden areas. By proposing a limit on the size of the building platform, recommendation 5(d) will discourage to a degree vegetation removal on the rural allotments. This is consistent with the approach taken in recommendation 5(a), which seeks to protect the terrace slope while anticipating that some vegetation removal might be required. This is considered appropriate given that none of the vegetation has been assessed as significant. Furthermore, rural residential development is anticipated in the Rural Zone and associated vegetation clearance described in Rule 5.6.2.2C allows the removal of indigenous vegetation in the Rural Zone³ up to 2,000m² per five years per site⁴ as a permitted activity.
105. The threshold in Rule 5.6.2.2C has been reached in relation to CFR 464780, however, it is still applicable in relation to CFR 464909 - this being the lower portion of the application site west of the legal road. Accordingly, Rule 5.6.2.2C presently allows vegetation removal to take place within this title which includes Lot 48 and the majority of the terrace slope and upper margin. As some intrusions have already taken place into the vegetation cover of the application area this is not considered fanciful.
106. The proposal to vest as local purpose reserve will enable Lot 48 to be retained in its present condition. Furthermore, as building platforms will not be located on the terrace slope recommendation 5(c) will to all intents protect all large trees on the terrace slope and upper margin. Lot 48, the terrace slope and upper margin are afforded greater protection by the proposal than exists at the present time. As such, the proposal provides a clear positive ecological effect in this regard and is supported.

² Geotech Report Ltd dated June 2007, para' 8.2.

³ Note: the removal of vegetation in the Small Settlement Zone is not specifically mentioned in the District Plan. Accordingly, this is considered to be a permitted activity under Section 9(1) of the RMA.

⁴ A 'site' is defined, amongst others, as being comprised in a separate title. Accordingly the application area comprises two sites for the purpose of this rule.

107. In relation to the title forming the upper portion of the site (CFR 464780) this includes the area occupied by the earthbund and channel currently under construction. The clearance of vegetation in connection with the bund and channel consented under No. 070105 and No. 100096 was assessed to be less than minor. For the purpose of Rule 5.6.2.2C the vegetation clearance that has taken place already exceeds the permitted threshold. As such any additional clearance of vegetation on CFR 464780 will automatically be assessed as a discretionary activity. The proposal involves additional clearance of vegetation in connection with the construction of road and right of ways in the Rural Zone. These works amounts to a total area of 3,222m². In addition a small amount of vegetation clearance will take place in connection with the drainage easements and also the extension of the bund and channel on Lot 50. It is noted that vegetation clearance can generally be avoided for the disposal of wastewater.
108. The extent of vegetation removal on each site will be determined by the location of the building platforms and the driveways, gardens, view shafts serving the building platforms. The recommended size for a building platform (500m²) in the Rural Zone is considered appropriate for rural residential living. Rural residential living recognises that the rural environment will continue to form part of the overall living environment. In consideration of the existing rural qualities of the application site within the Rural Zone it is considered unlikely that future residents will depart from a bush clad setting. It is anticipated that each land owner will wish to preserve as much of the bush setting as possible in order to provide screening and privacy for each site and maintain the rural environment. The large allotment sizes will enable vegetative cover to be retained on the balance of each site. The lower density of subdivision proposed in the Small Settlement Zone is better able to allow existing regrowth vegetation to be retained than under consent No. 070104. One of the benefits of a well-integrated subdivision is that the larger allotment sizes in the Small Settlement Zone and their propensity to promote the retention of vegetative cover will extend into the rural allotments.
109. Recommendation 5(e) of the vegetation and habitat assessment suggests native plantings should take place outside of garden areas in the Rural Zone. It is considered this level of control is more appropriate at the time resource consent is sought for any dwellings as landscape planting details may also accompany building designs. Council's discretion for controlled activity proposals includes visual and aesthetic values.
110. It is recommended that a consent notice be imposed on each rural allotment in accordance with recommendations 5(a) – 5(e) in the vegetation and habitats assessment.
111. Overall, the recommendations contained in the vegetation and habitats assessment provide an appropriate level of protection in relation to the more ecological sensitive values of the application site and maintenance of a predominance of vegetation. The effect of the proposal on vegetation and habitats is assessed to be less than minor.

8.3 Effect on Landscape and Visual Amenity

112. Hans Bay is the largest of three settlements located at the northern end of Lake Kanieri. The settlement is a contrasting area of landscape modification between the lake and outstanding natural landscape areas at elevations over 300m Above Sea Level⁵. The application site reaches an upper elevation of 197m ASL and does not have any landscape (or other) protection status.
113. Lots 19 – 47 inclusive are located entirely within the Small Settlement zone. The allotments range in size from 1,000m² to 2,402m² and are able to accommodate a 12m x 12m shape factor. All meet the minimum allotment size for a controlled activity subdivision (for non-sewered sites) with the majority considerably larger than the size of existing allotments in the settlement. The proposed allotments are also greater in size than the allotments consented under consent No. 070104 which provides for a total of 46 residential sites, ranging in size from 400m² to 900m². In comparison the proposal provides a lower density subdivision better suited for the retention of on-site vegetation and maintenance of bush cover. This is consistent with existing dwellings located on sections with well-established mature vegetation. The visual effects of the higher density subdivision under No. 070104 was assessed by Council to have a no more than minor effect as the Small Settlement Zone is intended to incorporate such development. On this basis the visual effect of Lots 19 – 47 is assessed to be less than minor.
114. Lots 1 – 4 and 6 – 18 inclusive are located entirely within the Rural Zone. The establishment of a complying new dwelling (one per site) in the Rural Zone requires resource consent assessed as a controlled activity. Though this application does not propose building on the allotments, and any such proposal would be subject to its own assessment of effects, this application is subject to an assessment of the potential visual effect of the proposed subdivision. In this regard it is also noted that the formation, construction and vesting of a road outside the existing road reserve that is not part of a controlled activity subdivision, and vegetation clearance on CRF 464780 are assessed as a discretionary activity.
115. Council's discretion on these matters includes visual and aesthetic effects. Other than Lot 50 on which the earthbund and channel is being constructed, the rural zoned areas of the application have not been built on and are generally vegetated albeit with vegetation removal having occurred in places. The area has been modified under past vegetation clearance and 'edge effects' from the adjacent settlement. To a large extent, visual effects of future use of the allotments will be reduced by the retention of vegetation screening facilitated by the relatively large site sizes. Vegetation on the terrace is indigenous secondary growth forest comprising rimu, matai and other native

⁵ Westland District Plan, Part 3:10 Landscape. Background: 'The following are examples of outstanding natural landscapes in the district; land above 300m, i.e. podocarp forest and mountains, Lake Ianthe/Matahi, Lake Mapourika, Lake Wahapo, Lake Moeraki, Lake Paringa, Saltwater Lagoon, Okarito Lagoon, Coastline'.

species to an approximate height of 3- 6 metres and several mature tall trees. The density of the vegetation provides considerable capacity within the landscape to absorb affected areas. To achieve desirable floor areas the large size of the allotments will also discourage two storey buildings, which tend to be more visually prominent. As the rural zone anticipates rural-residential development the complying allotment size and extent of existing vegetation provide ample opportunities for visual effects to be adequately mitigated. As mentioned earlier, Council retains the ability to further control the visual effects of dwellings at the time building details (including design and location) are known should it be deemed appropriate. The visual effect of the road and right of ways is further discussed under the traffic assessment of this report.

116. To maintain the rural character of the subdivision it is recommended the height and appearance of any fencing in the rural allotments is controlled to avoid an urbanised appearance to the rural boundaries between allotments, promote the transition from urban to rural and encourage vegetation screening. It is recommended that a consent notice be imposed on all rural allotments (Lots 1 – 18 inclusive) limiting fencing to a maximum height of 1.2 metres and the whole of the fence shall be at least 50% visually transparent. It is noted that the utility service cables will be placed underground.
117. The extension to the earthbund and channel on Lot 50 will be shaped and planted to recede into the wider mountainous backdrop in keeping with the rest of the earthworks. The visual effect of the entirety of the bund and channel has previously been assessed by Council to be no more than minor under resource consents No. 070105. The earthbund and channel will provide a suitable physical boundary to any future rural residential development and maintain a bush setting and forested backdrop.
118. Lot 5 contains land within the Small Settlement Zone and the Rural Zone. The total allotment area is 5,000m² comprising 3,055m² within the Rural Zone, and 1,945m² within the Small Settlement Zone. The portion within the Small Settlement Zone is greater than the minimum allotment area for a control activity subdivision. It is also able to accommodate a compliant 12m x 12m building shape. The portion of Lot 5 within the Rural Zone is less than the minimum allotment area for a discretionary activity subdivision and comprises a non-complying activity.
119. As discussed under section 4 of this report the applicant has considered alternative options. The area of the rural portion of Lot 5 could be increased in size by readjusting the boundaries of Lots 1 – 4 and reducing the size of Lot 48. While Lot 48 is also below the minimum allotment area for a discretionary subdivision application in the Rural Zone this allotment is proposed to be vested to the Westland District Council as a local purpose reserve. If the area of Lot 5 was increased to comply with the minimum allotment size in the Rural Zone Lot 48 would be reduced in size by 1,945m². This would reduce Lot 48 from an area of 4,127m² to 2,182m² - a reduction of 47%.

120. The value of the area occupied by Lot 48 from an ecological perspective has been discussed earlier. The local community has previously⁶ expressed the view that Lot 48 creates a visual buffer from the residential area of Hans Bay, contributes to the scenic character of the Scenic Drive around Lake Kaniere, and provides an attractive entranceway into Hans Bay settlement. An open grass area is located on the opposite side of Hans Bay Road between the road and the lake edge however there is no guarantee that this will be retained. The proposal to vest Lot 48 as a local purpose reserve is intended to enable this area to be retained in its existing condition consistent with the expectations of local residences. From a visual perspective it will maintain the relationship of the indigenous mature vegetation on the terrace slope and the settlement within a forested setting and provide visual continuity with wider regenerating forest areas.
121. A future owner of Lot 5 may choose to locate a dwelling in the Small Settlement Zone portion of the allotment or within the Rural Zone portion. A dwelling is able to be constructed as a permitted activity within the Small Settlement Zone subject to the requirements detailed in Table 5.3 of the District Plan. Consent No. 070104 (**Appendix 8**) provides for the creation of three residential sized allotments (Lot 44 645m², Lot 45 626m² and Lot 46 633m²) across the area of proposed Lots 5 and 19. The effect of Lot 46 encroaching into the Rural Zone was also assessed to be no more than minor under consent No. 070104. The proposal would provide for a lesser number of potential dwellings (up to two dwellings). This lower density is considered to enable a less intense development and a more appropriate transition from the urban to rural zone. It is noted that if the proposal is granted and given effect to then consent No. 070104 would no longer be able to be implemented.
122. In the event a future owner chooses to locate a dwelling in the Rural Zone portion of Lot 5, the overall lower density across Lots 19 & 5 is also considered to provide a more gradual transition from the urban to rural zone. Ample opportunities would remain for the retention of landscape screening, particularly within the terrace slope. A proposed complying dwelling would be assessed as a controlled activity. In accordance with Table 5.7 of the District Plan if the gross ground floor area of the dwelling exceeds 300m² this would be assessed as a full discretionary activity⁷. In both cases Council's discretion includes the location of access points, visual and aesthetic effects, and distance from existing activities which may have nuisance effects. There is ample opportunity for Council to introduce visual amenity safeguards at the time building details are known. As the allotment layout will comprise the existing situation there are not considered to be any potential reverse sensitivity effects to future owners of the nearest neighbouring allotment (Lot 4).
123. In considering the subdivision as a whole there is not considered to be any additional adverse cumulative effects on the landscape that would

⁶ s.42A report on applications Nos. 090017 & 090018.

⁷ Under Table 5.7 of the District Plan dwellings that exceed a gross ground floor area of 800m² would be assessed as a non-complying activity.

arise to those considered above. Rather any potential effect of Lot 5 is considered to be diminished when considered alongside the larger allotment sizes proposed in the Small Settlement Zone, which will bring about a significantly lower density in the core of the settlement than what could take place under consent No. 070104. Lot 5 is considered to provide a suitable transition from the Small Settlement Zone to the Rural Zone as part of a well-integrated development.

124. The overall lower density is considered to be more consistent with the relaxed and informal character of the settlement and will promote vegetation retention and screening. Overall, the effect on landscape and visual amenity is assessed as no more than minor.

8.4 Effect on Traffic

125. Access to stage 1 of the subdivision is provided from the legal road adjoining Stuart Street. The design and specification of the road has been approved by the Council and consent for the portion within the Small Settlement Zone has previously been granted. The effect of upgrading this section of road is considered to be less than minor.
126. The proposed road design to access stages 2 and 3 of the subdivision has also been informed by community consultation and discussions with Council officers. The community indicated they do not want kerb and channel preferring the use of swales and a road width of approximately 6 metres. The proposed design provides these details, albeit with a slightly narrower road width but follows the advice of Council officers. The rock lined swale is consistent with the approved roading details for the legal road and is necessary to avoid the erosion that would take place to a grassed lined swale at the gradients involved. These details are compatible with the existing road verges in the settlement that are unformed and with open drains.
127. The proposed design also provides a footpath on its northern side as requested by Council officers. The proposed design is considered appropriate for the level of service and will provide adequate provision for cyclists and pedestrians. The design does not provide for on-street parking however the proposed allotments, all above 1000m², provide ample provision for off-street parking.
128. The formation, construction and vesting of a road outside the existing road reserve that is not part of a controlled activity subdivision is a discretionary activity⁸. The road terminus is zoned Small Settlement and while it does not contain a legal road reserve the residential zoning anticipates an extension to Stuart Street in some form.
129. The route of the proposed road maintains the overall alignment of Stuart Street but introduces a number of gradual corners to an otherwise straight section of road. This increases the overall length of new road but decreases its gradient beneficial for the management stormwater within the preferred swale option. The avoidance of long straight sections road will have a traffic calming effect compatible with residential character and shared use of the road. The road includes a

⁸ Rule 6.5 of the District Plan.

section within the rural zone, however, visually the design better enables the road to be tucked away and screened from views from the lake.

130. Private rights of way are proposed to access several allotments. The District Plan does not specify the width of private right of ways however Rule 8.9.3.1 requires a 6 metre width for access strips in the Rural Zone. Access strips are for public access but a 6 metre width is considered appropriate to improve safety where shared use takes place. Further, this will enable stormwater drainage to be more easily provided within the driveway if desired along grass lined swales. The position of the intersections with Stuart Street will enable complying sight distances to be achieved.
131. The location of vehicle crossings under Rule 8.9.3(2) identifies that Lots 10, 13 & 18 have road frontages entirely within 50 metre of an intersection in the Rural Zone. No vehicle crossings are proposed as part of this application and future owners will be capable of compliance by positioning future vehicle crossings within 12 metres of the side boundary of the side furthest from the intersection. Resource consent will be required in the event of non-compliance (it is noted that resource consent is also required for the erection of a new dwelling⁹). The remainder of the allotments have boundaries beyond 50 metres of an intersection in the Rural Zone and are capable of compliance of compliance with the first part of this District Plan rule.
132. Overall, the proposed staging of the subdivision enables allotments to achieve legal access from existing roading already consented or via the proposed roading. The proposed roading extends logically from the existing roading network and the design is in keeping with the amenity and character of the settlement. In view of these matters the effects of the proposal on traffic is considered to be less than minor.

8.5 Effects of Drainage

133. The central principal of the stormwater management assessment contained in Appendix 6 is to maintain the current flow regime, which flows down Stuart Street and through Punga Grove. Flows generated by an increase in impervious areas as the subdivision develops are directed along the northern site boundary, the legal road and Hans Bay Rd before finally discharging at the same point under Hans Bay Rd as the flows through Punga Grove.
134. As the stormwater management system picks up drainage that presently flows through the settlement, the system will lead to an improvement at Punga Grove where flows currently exceed from time to time the capacity of a 450mm dia culvert. The stormwater management system will enable the flows through Punga Grove to be within the capacity of this culvert. This represents a positive effect.
135. Flows will continue to take place into the Lake Kaniere Scenic Reserve at the two existing points. There will be a small decrease in flows

⁹ District Plan Rule 5.6.2(B)

however this is marginal and considered to be a less than minor change.

136. The stormwater system includes a drain on Lots 1 - 4 inclusive which Lot 5 is also able to access. This is intended to divert stormwater away from the terrace slope and avoid any increased natural hazard risk given the previous occurrence of a small landslide in above Punga Grove. It is recommended a consent notice be imposed on Lots 1 – 4 requiring future dwellings to be built upslope of the drainage easement and a consent notice be imposed on Lot 5 requiring drainage from any future dwelling to be via the easement. This will achieve the same purpose for Lot 5 as to achieve compliance a future dwelling must also be located uphill of the easement.
137. The additional flows under Hans Bay Road require a new culvert to be placed besides the existing. It is recommended a condition of consent be imposed requiring installation of a 600mm pipe under Hans Bay road as part of Stage 1 of the development.
138. The series of rock and grass lined swales, drainage channels, longer flowpath routing and detention within wetland areas are well established water quality treatment measures. The proposal will not result in adverse effects on the water quality of Lake Kaniere and local watercourses.
139. Overall, drainage will not cause or exacerbate flooding of property and will not increase the flow in the receiving waterbody in exceedance of its carrying capacity. Accordingly, the effect of the proposal on drainage is assessed to be no more than minor.

8.6 Effect on Residential Amenity

140. The relaxed and informal character of the settlement is an important part of the residential amenity of the area. The low density nature of the proposal with its greater propensity for the retention of existing vegetation and new planting will enable the current rural bush clad appearance to be maintained. The road design incorporates existing features, such as the use of open drains and the ability for planting close to the carriageway that will also maintain this informal character. The scale and design of the proposed roading is considered to add to the residential qualities of the settlement.
141. The low-density nature of the proposal will protect privacy. As the principal views from residential properties tend to be towards the lake these will remain unaffected.
142. The proposal to vest Lot 48 as a local purpose reserve is intended to enable this area to be retained in its existing condition as a mixture of native bush and wetland. This is consistent with the aspirations of local residences. This is considered to be a positive effect.
143. Overall, the proposal is considered to have a less than minor effect on residential amenity.

8.7 Effects arising from Servicing the Subdivision

144. Potential effects from servicing the subdivision relate to effluent disposal, water supply, and electricity and telecommunications. These are discussed below. Potential effects during construction are assessed under section 8.8 of this report.

8.7.1 Effects of Wastewater Management

145. There is no existing sewer reticulation in Hans Bay settlement. The wastewater management assessment contained in Appendix 6 has investigated the suitability of the proposed allotments for the application to land of treated discharges as currently takes place in Hans Bay settlement.

146. The District Plan anticipates the disposal of effluent to ground in the Small Settlement Zone for sites equal to or greater than 1,000m². All the proposed allotments in the Small Settlement Zone meet this size requirement with many allotments being greater than 1,000m². Soil permeability testing in the Small Settlement Zone has confirmed the shape of the allotments are suitable to accommodate disposal fields in addition to the permitted activity shape factor of 12m x 12m for future dwellings.

147. The proposed allotments in the Rural Zone are considerably larger, being above 5,000m² in size, and comfortably provide sufficient space for effluent disposal even with the soils having potentially lower soakage rates. Future dwellings in the Rural Zone will require building consent and a separate resource consent from the Westland District Council assessed as a controlled activity with the matters over which control is reserved including the method of effluent disposal. Further, any effluent disposal to land that does not comply with the proposed Regional Land and Water Plan¹⁰ will require resource consent from the West Coast Regional Council.

148. The wastewater management assessment recommends a report be provided to the Westland District Council detailing how each allotment will dispose of effluent to land within its boundaries. This application does not propose to erect any dwellings and given that additional resource consents will be required prior to building in a number of the proposed allotments it is considered appropriate for this report to be submitted to the Westland District Council for approval prior to the issue of the s.224 certification. This will enable specifications for effluent disposal to be agreed once the allotment boundaries and any other relevant on-site consideration, including potentially the input and preferences of future property owners, are known.

149. The wastewater management assessment also recommends effluent disposal systems are designed by suitably qualified person(s); effluent fields for Lots 1 to 5 are located above the stormwater cutoff drain to be consistent with the purpose of the stormwater drain; and effluent fields for all allotments are located a minimum of 5m from allotment

¹⁰ In particular, Rule 77 *On-site discharge of sewage effluent*.

boundaries. These recommendations are supported and it is proposed these are introduced as a requirement of consent.

150. Overall, the application of effluent to land is anticipated by the District Plan and the proposed subdivision provides suitable allotment areas for land based systems. Any effects of effluent disposal are assessed to be insignificant.

8.7.2 Effects of Water Supply

151. It is proposed that future dwellings will be supplied via roof water collection tanks consistent with the method of water supply for the existing dwellings in the settlement. The assessment of water supply contained in Appendix 6 confirms that this comprises an appropriate method of water supply and compliance with the Drinking-Water Standards for New Zealand 2005 (Revised 2008) can best be demonstrated once details of building and water tank designs are known at the time of Building Consent. Overall, any effects relating to water supply are assessed to be insignificant.

8.7.3 Effects Electricity and Telecommunications

152. The utility service providers have confirmed there is sufficient capacity and availability to service the proposed subdivision. Overall, any effects of servicing are assessed to be insignificant.

8.8 Effects arising from Construction of the Subdivision

153. The construction phase of a development has the potential to create temporary adverse effects. The principal activities that will take place during construction will involve earthworks to extend the earthbund and channel on Lot 50; construct new roading, accessways and related infrastructure; and construct new stormwater swales and flow channels. A number of other construction related activities comprise permitted activities under the District Plan or under s.9(1) of the Resource Management Act¹¹.

154. Potential effects can be adequately mitigated by introducing measures to control sediment runoff and the creation of dust from exposed soils. It is recommended that a standard condition of consent be imposed requiring construction to take place in accordance with the Erosion and Sediment Control Plan contained in **Appendix 6**.

155. As construction traffic will occur mainly during weekdays and the majority of current residences are holiday homes the effects of construction traffic on existing residences are considered to be

¹¹ Rule 6.2 of the District Plan identifies the following activities as permitted activities. In summary, the modification of existing roads, the construction of pedestrian accessways, the installation of pipes for the conveyance of water or sewage, the construction of open drains and channels for the conveyance of water, the construction of culverts and the installation of equipment for the conveyance of electricity and telecommunications. In addition, the removal of vegetation and earthworks in the Small Settlement Zone is not specifically restricted in the District Plan and comprise permitted activities under Section 9(1) of the Resource Management Act.

generally insignificant. Notwithstanding, the applicant proposes to limit the speed of construction traffic on Stuart Street to 40km/h in the interest of safety and amenity.

156. Construction noise will be managed in accordance with construction noise standard NZS6803: 1999 *Acoustic - Construction Noise*.
157. Overall, the recommended mitigation measures are consistent with earlier consents and represent best practice. The staging of the development will limit the scale of works taking place at one time. The effects arising from construction are considered to be less than minor.

8.9 Effect on Historic and Cultural Values

158. No historic sites are identified on the application site in the Westland District Plan or the New Zealand Historic Places Trust register of historic places.
159. Lake Kaniere is identified as a Statutory Acknowledgement Area under Schedule 31 of the Ngai Tahu Claims Settlement Act 1998. Stormwater from the settlement currently discharges to the lake. The proposal includes measures for stormwater treatment to ensure discharges to the lake will have a negligible effect on water quality of Lake Kaniere.
160. The proposal as a whole is a greater distance from the lake than the existing settlement and will similarly have a negligible effect.
161. In the unforeseen event of accidental discovery of any items of historic or cultural value, the applicant will notify the local Runanga and the New Zealand Historic Places Trust and all work will stop immediately. It is recommended a note be attached to the consent.
162. Overall, the effect of the proposal on historic and cultural values is assessed to be less than minor.

8.10 Cumulative Effects

163. The proposed subdivision is assessed as a non-complying activity and accordingly there is the potential for cumulative effects to arise. The majority of the forty seven proposed residential allotments meet or exceed the minimum allotment area and the proposal generally achieves a high degree of compliance with the requirements of the District Plan.
164. Boundary adjustments to the non-complying aspect of the proposal, relating to Lots 5 and 48 being allotments in the Rural Zone below the minimum allotment size, could be made to enable Lot 5 to meet the minimum allotment size. The principal effect would be to reduce the size of Lot 48 to the detriment of the proposed local purpose reserve.
165. While Lot 5 is below the minimum area in terms of the Rural Zone it meets the minimum allotment size in the Small Settlement Zone and its total size also meets the minimum allotment size in the Rural Zone. The subdivision layout provides a gradual transition from higher density areas in the existing settlement to lower density areas and rural-residential areas in the Rural Zone. This is considered to promote both

a predominance of vegetation in keeping with the existing character and enable a well-integrated settlement.

166. In conclusion, the non-complying activity status of the proposal does not lie at the heart of the proposal which overall has a high degree of compliance and merit. The potential for cumulative effects is considered to be less than minor.

8.11 Conclusion

167. The assessments contained in this report conclude that potential adverse effects of the proposal on the existing environment will be no more than minor.

9 Objectives and Policies

168. The proposal has been assessed against relevant objectives and policies of the Regional Policy Statement and the District Plan.

9.1 West Coast Regional Policy Statement

169. The West Coast Regional Policy Statement was made operative on 10 March 2000. It is considered the objectives and policies of most relevance are contained in chapters relating to habitats and landscapes; natural hazards; water, soils and rivers.

9.1.1 Habitats and Landscapes

Objective 9.1: To protect areas of significant indigenous vegetation and significant habitats of indigenous fauna.

Objective 9.2: To protect the outstanding natural features and landscapes of the West Coast from inappropriate subdivision, use and development.

Objective 9.3: To preserve the natural character of wetlands, lakes and rivers.

Objective 9.4: To maintain and enhance public access to the coastal marine area, rivers, lakes and their margins.

*Policy 9.1: Preserve the natural character of the West Coast's wetlands, lakes and rivers and their margins and protect them, and outstanding natural features and landscapes, from inappropriate subdivision, use and development. In deciding whether subdivision, use and development are inappropriate matters to be considered will include the following ... [refer to **Appendix 10** which details the criteria together with an assessment of the proposal against Policy 9.1].*

*Policy 9.2: Recognise and provide for the protection of significant indigenous vegetation and significant habitats of indigenous fauna. Matters to be considered as a guide for decision making include those that follow, any one of which may determine whether areas of indigenous vegetation and/or habitats of indigenous fauna are "significant" ... [refer to **Appendix 10** which details the criteria together with an assessment of the proposal against Policy 9.2].*

170. Assessment of the proposal under policies 9.1 and 9.2 found the proposal avoids outstanding natural features and landscapes and significant indigenous vegetation and significant habitats of indigenous

fauna. It is proposal includes measures to afford protection to those areas identified as having higher values than the surrounding area.

171. The low density of the subdivision will promote the retention of existing vegetation in keeping with the character of the Hans Bay settlement. Adequate provision is also provided to safeguard and maintain the existing character of streams. In conclusion, the proposal is assessed to be not inconsistent with objectives and policies relating to the habitats and landscapes.

9.1.2 Natural Hazards

Objective 11: The protection of human life and the avoidance or mitigation of damage to property and environmental values resulting from natural hazards.

Policy 11.1: Promote appropriate responses when a natural hazard is possible, likely to occur or imminent including:

- a) Timely warning and advice;*
- b) Evacuation of people and stock from high risk areas;*
- c) Mobilisation of rescue and welfare groups; and*
- d) Identification of at risk areas.*

Policy 11.2: Recognise the risks to proposed and existing development from natural hazards and promote measures to reduce this risk to an acceptable level. Where necessary further development in hazard-prone areas will be restricted (refer Policy 1.3 [sic]).

Policy 11.3: Consult with people and communities directly affected when making decisions on levels of risk from natural hazards. When making decisions on levels of risk matters to be considered will include:

- a) The probability of occurrence, magnitude and location of events;*
- b) The potential consequence of an event including potential loss of life, injury, social and economic disruption, civil defence implications and cost to the community;*
- c) The measures proposed to avoid or mitigate the effects of the event, the degree of mitigation they will provide and effects on the environment from adopting such measures;*
- d) The benefits and costs of alternative mitigation measures; and*
- e) The possibility of locating activities away from areas at risk.*

172. The application site is not identified as an area of known natural hazard risk within the Westland District Plan or the proposed Regional Land and Water Plan. However, the assessments made have identified a potential earthquake related natural hazard risk that requires mitigation. The proposed mitigation has previously been accepted as appropriate mitigation under consents Nos. RC070104 and RC070105. The proposal could provide risk mitigation to existing areas of the Hans Bay settlement and therefore wider community benefits in this regard. Overall, the proposal is assessed to be not inconsistent with objectives and policies relating to natural hazards.

9.1.3 Water, Soils and Rivers

Objective 8.2.1: To maintain, and where water quality is degraded, enhance the quality of the region's surface, ground and coastal water resources by:

a) Recognising and providing for the relationship of Poutini Ngai Tahu and their cultural and tradition with their ancestral water;

b) Ensuring that land and water resources are used and managed so that their life supporting capacity, intrinsic, amenity, recreational and cultural values are maintained or enhanced by:

(i) Sufficient flow or levels in natural water bodies to achieve desired water quality; and

(ii) Avoid, remedy or mitigate the adverse effects of soil loss, erosion and the contamination of water bodies with chemicals, sediment, bacteria or nutrients.

Policy 8.2.4: To manage land use practices in order to avoid, remedy or mitigate the entry of soil, silt and other contaminants into the region's water bodies.

Objective 7.1: The sustainable management of soil to meet a range of uses, including the reasonably foreseeable needs of future generations and the prevention of further long-term degradation of the soil resource; and to maintain or restore the soil quality factors that contribute to its life supporting capacity including:

a) Soil depth, structure and fertility;

b) Soil fauna;

c) Organic matter;

and to retain soils of ecological, scientific or cultural value.

Objective 7.2: To avoid, remedy or mitigate degradation of water resources and aquatic ecosystems resulting from the instability, or use or development, of the beds and banks of rivers.

173. The proposal incorporates existing streams into the subdivision design with minimal alteration. Stormwater management will maintain flow rates in the existing streams within their capacity and provide treatment to maintain water quality in accordance with best practice. Techniques will be employed to avoid, remedy and mitigate the potential of dust and sediment erosion during construction. The proposal is assessed to be not inconsistent with the relevant objectives and policies relating to the water environment.

9.2 Westland District Plan

174. The Westland District Plan (the 'District Plan') was made operative in 2002. The proposal is located within the Small Settlement Zone and the Rural Zone.
175. The Small Settlement Zone covers existing small to medium sized settlements in the district. The zone provides for residential, recreational, community, commercial and industrial facilities necessary to service settlements and surrounding rural areas subject to a range of performance standards (rules) to protect amenity.
176. The Rural Zone relates to all non-urban land including rural-residential areas. Performance standards seek to minimise the effect of activities on the environment, including the location of activities and the impact on natural and physical resources.
177. The objectives and policies of the District Plan considered to be of most relevance relate to infrastructure and servicing, landscape and amenity, natural environments and ecosystems, and natural hazards. These are discussed below.

9.2.1 Infrastructure and Servicing

Objective 3.4.1: To ensure that all servicing activities are carried out in a manner, and in locations, which avoid, remedy or mitigate adverse environmental effects.

Policy 4.6A: The efficient provision and development of all future services and infrastructure within the District shall be encouraged.

178. The subdivision can be serviced efficiently. The assessment of environmental effects contained has also confirmed this can be undertaken in a manner that avoids, remedies or mitigates potential adverse environmental effects. It is noted the proposed 47 residential allotments is a similar number to the 46 residential allotments consented under No. 070104.

Policy 4.6B: The roading hierarchy shall be used as a factor in determining the acceptability of activities (including subdivision) which affect traffic flows or the road resource; and the standards of access required.

Policy 4.6C: The formation, construction and maintenance of any transport, communications or other service facilities should be carried out in a manner which maintains environmental quality.

179. The subdivision provides vehicular access from the existing road network. The roading design is appropriate for the standard of the existing road network, the anticipated levels of traffic generation and the aspirations of the local community to maintain the relaxed and informal character of the Hans Bay settlement. Sections of the proposed roading and access provisions will involve clearance of indigenous bush however this has been assessed to have a low ecological value and is offset by the low density integrated nature of the subdivision. Overall, the proposal is considered to be not inconsistent with the objectives and policies relating to infrastructure and servicing.

9.2.2 Landscape and Amenity

Objective 3.10.1: To ensure development does not impinge on the integrity of landscapes in Westland.

Objective 3.10.2: To maintain and protect the existing scenic and open and diverse character of Westland District, dominated by natural dynamic processes.

Objective 3.10.3: To ensure that land uses, buildings and development have regard to the natural landscapes in which they are located or seek to be located.

Policy 4.8B: The contribution of indigenous vegetation to the landscape character of the district shall be recognised and its clearance controlled.

*Policy 4.8C: Council will protect significant landscape areas, including natural features, in the District. All significant landscape areas shall meet the following criteria: [refer to **Appendix 14** which details the criteria together with an assessment of the proposal against Policy 4.8C].*

180. Assessment of the landscape setting of the application site against Policy 4.8C has found that the application site is not defined as a significant landscape area.

181. Part 3.10 of the District Plan discusses the background to the above objectives, and of relevance observes that:

'The Westland landscape is unique to New Zealand and provides an essential platform for the growing tourism industry. ... Tourist has become an integral part of the viability of a number of small community in the District. The landscape quality, individual stands of trees and natural features also contribute to amenities and environmental qualities enjoyed by local residents.

While protection of the integrity of the landscape is important, it must be recognised that the landscape often changes in an acceptable manner by development. ... The Westland landscape character is generally resilient to, and able to absorb change more readily than many other New Zealand landscapes, because of its generally forested character, the high rainfall climate and the fast re-growth rates. In addition, the vast majority of lands (some 86%) are in conservation estate, including the high skyline which dominates vistas from most locations within the District both north and south'.

182. The methods identified to give effect to the policies contained in Part 4.8 of the District include:

a. Subdivision design in rural areas shall be in sympathy with significant natural landscape features. Building platforms may be delineated to ensure such features are not obscured or compromised.

b. Decisions on Resource Consent application will recognise and provide protection of:

- Outstanding natural features or land forms.
- Significant indigenous vegetation.
- Outstanding or popular view points/key views.

c. Minimum site areas for subdivision in the rural area have been set in order to retain the predominantly open rural character of the District.

d. Part III of the Forests Act 1949, promotes sustainable forest management and provides some controls on vegetation clearance. However, large areas are exempt from the Act's provisions because these are managed under other legislation. Rules in the Plan managing indigenous vegetation clearance will reduce adverse effects on indigenous fauna and habitat, landscape character, amenity and intrinsic value and soil and water quality. Landowners are encouraged to manage indigenous vegetation in accordance with registered Sustainable Forest Management Plans or Permits.

e. Some 85% of the District's land area is managed under a conservation mandate, with tight controls over development with potential to impact on visual and

landscape values and/or natural features. This provides added level of environmental protection of this land.

183. The proposed subdivision provides a low density development and it is noted the Rural Zone relates to all non-urban land including rural-residential areas. The proposed allotments, roading network and drainage provisions have been designed in sympathy with the existing contours of the landscape and the informal character of the Hans Bay settlement. It is envisaged that the allotments will enable existing vegetation to be largely retained consistent with the existing character of the settlement. Recommendations are made to enable natural features of interest, namely vegetative areas of higher value, to be maintained and protected.
184. The proposal has a high degree of compliance with the minimum allotments areas in the Rural Zone. Method c. to the policies indicates these retain the predominantly open rural character of the District. Where a smaller area than the minimal allotment size is proposed (Lot 5) this is considered to be offset by its total allotment area, the existing vegetation and the well-integrated nature of the subdivision. The proposed local purpose reserve (Lot 48) will further help maintain the relationship of vegetation on the terrace slope and upper margin and the settlement in its forested setting and provide visual continuity with the wider forested area.
185. The land to the north, east and south of the application site is crown land managed by the Department of Conservation as a scenic reserve. Method e. is a relevant consideration in this regard.
186. It is anticipated, as is the case with existing properties within the settlement that the proposed subdivision will enable future development including the use of dwellings as holiday homes. The discussion contained in the background narrative in the District Plan to the relevant objectives and policies on the importance of tourism is also relevant. This notes that tourism has become an integral part of the viability of a number of small communities in the District. Hans Bay settlement appears to fall within this category. The proposal successfully identifies important landscape qualities and proposes measures to maintain and protect natural features of importance. The proposal will also enable access to areas of indigenous vegetation such as Lot 48 currently impenetrable for local residents thereby contributing to amenity as well as landscape qualities.
187. Overall, the proposal is consistent with the relevant objectives and policies relating to landscape and amenity.

9.2.3 Natural Environments and Ecosystems

Objective 3.7.1: To recognise and provide for the unique values and importance of natural environments and ecosystems in Westland.

Objective 3.7.2: To recognise that the people of the district can provide for their needs within the context of sustainable management.

Objective 3.7.3: To protect the integrity, functioning, and health of indigenous ecosystems and maintain the current diversity of indigenous flora and fauna.

Policy 4.9A: Adverse effects on the integrity, functioning and health of natural habitats and ecosystems and indigenous species shall be avoided, or where avoidance is not practical, remedied or mitigated.

Policy 4.9B: The protection and enhancement of areas of significant indigenous vegetation and habitats of indigenous fauna and outstanding natural features in the district will be encouraged.

*Policy 4.9D: Council will protect areas of significant indigenous vegetation and significant habitats of indigenous fauna and outstanding natural features in the District. Council will, in particular, target those indigenous vegetation types occurring in alluvial and coastal areas. All areas of significant indigenous vegetation and habitats shall meet one or more of the following criteria: [refer to **Appendix 5** which details the criteria together with an assessment of the proposal against Policies 4.9A, 4.9B & 4.9D].*

188. An assessment of the vegetation and habitats of the site against the criteria for significant indigenous vegetation or habitat of indigenous fauna contained in Policy 4.9D has been undertaken. The assessment has made a number of recommendations to afford protection to areas with the highest ecological values and these have been adopted by the proposal. The proposal also provides the opportunity to protect an area identified as containing higher ecological values (Lot 48) as generally promoted by Policy 4.9B. Lot 48 is known to have high local amenity values for local residents consistent with Objective 3.7.2. Overall, the proposal is assessed to be not inconsistent with the relevant objectives and policies relating to natural environments and ecosystems.

9.2.4 Natural Hazards

Objective 3.13.1: Rules for the avoidance and mitigation of natural hazards have been incorporated in the District Plan given that severe hazards pose a significant threat to the built environment and infrastructure of the District and people and communities.

Policy 4.14A: Development and subdivision for the purposes of accommodating and/or servicing people and communities should avoid areas of known natural hazard risk unless the risk of damage to property and infrastructure, community disruption and injury and potential loss of life can be adequately mitigated.

189. Assessment of the natural hazards risks has identified potential earthquake related hazards as requiring mitigation. The proposal is accompanied by detailed geotechnical investigations that have identified and reaffirmed the effectiveness of building setbacks and the construction of a bund and channel to adequately mitigate this risk. The proposal provides the recommended setback, completion of the earthbund and channel as initially recommended and for the bund and channel to be vested in Council. This is considered appropriate as mitigation from the risk of natural hazards may also accrue to existing parts of the Hans Bay settlement and provide wider community benefits beyond the proposal. Overall, the proposal is assessed to be consistent with the relevant objectives and policies relating to natural hazards.

9.2.5 Water Resource

Objective 3.11.1: To control land use and subdivision activities that may have adverse effects on the quality, instream values and availability of water resources and recognise the importance of water to the environment.

Objective 3.11.2: To avoid, remedy and/or mitigate the adverse effects of activities which utilise surface waters.

Policy 4.11A: Land based activities shall avoid, remedy or mitigate adverse effect on the water quality of rivers, lakes and streams.

190. The AEE and technical reports demonstrate that the proposal will adequately manage potential effects on water resources in keeping with methods used in similar situations in the locality. The proposal is assessed to be consistent with the relevant objectives and policies relating to the water resource.

9.2.6 The Land Resource

Objective 3.8.1: To avoid, remedy or mitigate adverse effects of land use activities on land and water resources.

Policy 4.7: Land and Soil Quality

Policy 4.7B: Land use activities in the rural area should avoid, mitigate and remedy their adverse effects on adjoining land uses, the community and ecosystems.

191. The AEE and technical reports demonstrate that the proposal will adequately manage potential effects on the land resource including measures to safeguard the integrity of watercourses and water quality in keeping with methods used in similar situations in the locality. Erosion control measures are proposed to adequately mitigate potential soil erosion during the construction phase. The proposal is assessed to be consistent with the relevant objectives and policies relating to the land resource.

9.2.7 The Built Resource

Objective 3.9.1: To identify, protect and enhance the distinctive Westland character of the District's settlements.

Policy 4.3: Location of Settlements

Policy 4.3A. Urban development should be located in areas of low natural landscape value, low natural hazard risk and areas that do not have high public servicing costs.

Policy 4.3B. The unnecessary intrusion of urban activities into the rural environment should be avoided.

Policy 4.3C. Subdivision for houses in the rural zone should not result in the creation of an unplanned new settlement.

Policy 4.3D. Any expansion of settlements beyond the current policy unit zone boundaries shall take into account the significant landscape and visual qualities of the area.

192. The background explanation to Objective 3.9.1 states that the built environment is generally managed in such a way that character is enhanced and tourist opportunities are maximised. The reasons identified include encouraging improvement in the visual appeal and amenities of settlements and recognising the importance of settlements as a tourist and visitor attraction; and to ensure that a range of lifestyle and living opportunities continue to be available in Westland. It is considered that the proposal achieves these for the following reasons.

193. The explanation identified under Policy 4.3 states that by concentrating future development in areas already modified and therefore less vulnerable to change, such as in and around existing settlements, the

value and integrity of, for example, other more pristine stretches of the coastline will be protected. The anticipated environmental outcomes identified under Policy 4.3 include;

- I. Built development sited in harmony and not in conflict with the surrounding environment, especially the landscape and visual values of the site and surrounds.
- II. Consolidate existing settlements and a general concentration of development in areas already modified by human activities.
- IV. Increased levels of community awareness of natural hazards and their potential impacts on communities and people.
- V. A reduction in the magnitude and scale of the impacts of natural hazards on community infrastructure and built resources.

194. The proposed subdivision abuts and extends the settlement of Hans Bay which it will form part of. The design and form of the proposal integrates with the existing settlement and provides logical staging of development and of the roading network in a manner that respects and complements the existing settlement pattern. The proposal to vest as local purpose reserve Lot 48 in response to the views expressed by local residents supports this view.

195. The proposed development located within the rural environment is limited to an area that has previously been logged and comprises a modified landscape. Mitigation measures are proposed to safeguard areas of vegetation with higher value than surrounding areas and limit the extent of vegetation clearance. The assessments contained in this report conclude that the proposed development responds to and is not in conflict with the landscape and visual and ecological values of the site.

196. The proposal will provide a clear and well defined new boundary to the Hans Bay settlement. The construction and landscaping of the bund and channel will effectively form the eastern settlement boundary. Beyond the proposed no-build setback areas against the eastern and southern boundaries the surrounding land comprises crown land managed by the Department of Conservation for conservation purposes. There are therefore no intensive or large rural activities with the potential to generate reverse sensitivity issues.

197. Furthermore, the likelihood of further development at Hans Bay expanding into the rural environment is considered to be remote. Permitted activities in the Rural Zone are those which have a clear and direct relationship with the land, i.e. agriculture, forestry, prospecting and reconnaissance exploration and recreational activities. The land above the terrace slope has very limited if any potential for farming purposes and is too small for forestry. The erection of a farm building is considered fanciful. The proposal provides an integrated development in the Rural Zone consistent with rural-residential activities that are anticipated. The proposal will enable similar land-use activities to be

established adjoining the existing settlement, compatible with the existing character and of low density to enable the settlement to continue to be 'nestled into' the forested setting.

198. The key consideration is whether the proposal is an appropriate addition to the settlement, having regard to the above objectives and policies. The proposal will sit unobtrusively within a retained forested landscape and will be largely screened from public viewing areas including Hans Bay Road and the existing community. The proposal is considered to achieve integrated management for the development while affording protection to the key interests of the site and its associated natural and physical resources.

199. Overall, the proposal is considered to achieve the key purpose of the objective and policies relating to the built resource.

9.2.8 Sustainable Communities

Objective 3.2.1: To establish levels of environmental quality for Westland which enable people and communities to provide for their social, economic and cultural well being, while meeting the principles of sustainable management of natural and physical resources.

Policy 4.4 Amenity

Policy 4.4A: The effects of activities which can have significant adverse effects on amenities and the well being of residents shall generally be avoided, remedied or mitigated.

Policy 4.4E: The effects of activities which can be seen as adversely affecting the overall environmental quality of the District shall be avoided.

Policy 4.7D: Subdivision for dwellings in the Rural zone should not be permitted where it will unreasonably restrict the operation of existing activities permitted as of right on adjacent sites.

200. The background to the objective explains that development should not occur where there will be a level of resource use or degradation at which severe or irreversible damage occurs. The proposal achieves this and will not give rise to reverse sensitivity effects. The proposal represents the type of activity one would expect in and close to the settlement and is assessed as consistent with the objective and policies relating to sustainable communities.

9.2.9 Conclusion

201. Overall, the proposal is assessed as being not inconsistent with or achieves the key purpose of objectives and policies of the West Coast Regional Policy Statement and Westland District Plan. Any degree of inconsistency is not considered to be opposed in nature, different to or opposite in policy amounting to being contrary or repugnant to those

objectives and policies. Rather the proposal contains a high of consistency and care to be in broad conformity with the objectives and policies.

10 Other Matters

10.1 Precedent and Plan Integrity

202. Given the non-complying status of this application it is appropriate to have regard to the issue of precedent, as well as the effect of granting consent upon the integrity of the District Plan and public confidence in its consistent administration. Case Law has established however, through the High Court in *Rodney District Council v Gould*¹², that concerns relating to plan integrity and precedent effect are not mandatory considerations. The Court held that they are matters that decision makers *may have regard to*, depending on the facts of a particular case including:

- Whether a proposal is contrary to the objectives and policies of the plan; and if so
- Whether in the circumstances of a particular case a proposal can be seen as having some unusual quality.

203. In this case the proposal is not contrary or repugnant to the objectives and policies. Furthermore, the proposal is sufficiently distinct and unusual to take it out of the generality of cases. Given these factors, the integrity of the District Plan is not challenged by this proposal and the proposal does not create a precedent.

10.2 Recommendations

204. Conditions of consent and consent notices set out in the proposal description and recommended in the course of the assessments contained in this report are set out together below for convenience.

205. The following matters are recommended;

10.2.1 Subdivision Conditions of Consent

1. Compliance with Application Information

1.1 The subdivision is to be undertaken in general accordance with the application and plans dated 14 December 2011.

2. Telecommunications and Electricity

2.1 All telecommunication and electricity cables shall be installed underground, other than at boundary box terminals.

3. Stormwater

3.1 The consent holder shall provide to the Westland District Council for approval design plans for stormwater disposal from Stage 1 prior to works being undertaken. These design plans shall include calculations of the stormwater design, any upgrades required and include details of a new 600mm pipe under Hans Bay Road.

¹² *Rodney District Council v Gould* (2005) 11 ELRNZ 165; [2006] NZRMA 217 (HC)

- 3.2 Future buildings on Lots 1 - 4 inclusive shall be located upslope of the drainage easement. This is an on-going condition for which a Consent Notice will be issued.
- 3.3 Any future dwelling on Lot 5 shall make use of the easement to drain water on adjoining Lot 4. This is an on-going condition for which a Consent Notice will be issued.
- 3.4 The consent holder shall provide to the Westland District Council for approval design plans for stormwater disposal from Stage 2 prior to works being undertaken. These design plans shall include calculations of the stormwater design and any upgrades required.
- 3.5 The consent holder shall provide to the Westland District Council for approval design plans for stormwater disposal from Stage 3 prior to works being undertaken. These design plans shall include calculations of the stormwater design and any upgrades required.
- 3.6 A suitably qualified Engineer shall certify that all approved works for each of stage of development have been undertaken and completed in accordance with the Westland District Council code of Practice for Engineering Works.

4. *Roading, Entranceways and Rights of Way*

- 4.1 The unformed legal road is to be designed, constructed, formed, sealed and certified in general accordance with the plan entitled 'Preliminary Rad Design - Legal Road' contained in the application and the Westland District Council Code of Practice for Engineering Works (Urban Street, Other).
- 4.2 Prior to the commencement of any works associated with the formation of the unformed legal road and the intersection with Stuart Street, the Consent Holder shall provide to the Council for approval a design and specification for construction.
- 4.3 Lot 49 is to be designed, constructed, formed, sealed and certified in general accordance with the plan entitled 'Typical Street Section B - Lake Kaniere' contained in the application and the District Council Code of Practice for Engineering Works (Urban Street, Other) and include a temporary turning circle.
- 4.4 Prior to the commencement of any works associated with the formation of Lot 49 the Consent Holder shall provide to the Council for approval a design and specification for construction.
- 4.5 Lot 51 is to be designed, constructed, formed, sealed and certified in general accordance with the plan entitled 'Typical Street Section B - Lake Kaniere' contained in the application and the District Council Code of Practice for Engineering Works (Urban Street, Other).

- 4.6 Prior to the commencement of any works associated with the formation of Lot 51 the Consent Holder shall provide to the Council for approval a design and specification for construction.
- 4.7 Entranceways to Lots 1 - 47 inclusive or the entrance crossings to the appropriate right of way shall be formed in accordance with the Westland District Council Code of Practice for Engineering Works.
- 4.8 Rights of way shall be formed in accordance with the Westland District Council Code of Practice for Engineering Works for access strips.
- 4.9 The Westland District Council Professional Services Department shall be contacted two working days before construction work commences.
- 4.10 A suitably qualified Engineer shall certify that all works have been undertaken and completed in accordance with the Westland District Council code of Practice for Engineering Works.

5. *Trees*

- 5.1 There shall be no removal of trees with a stem diameter exceeding 400mm measured 1.0 metre above ground level (at the time of subdivision) on that part of Lots 1 - 5 inclusive within 10 metres from the top of the terrace slope. This is an on-going condition for which a Consent Notice will be issued.
- 5.2 There shall be no removal of trees with a stem diameter of more than 400mm measured 1.0 metre above ground level (at the time of subdivision) on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of Westland District Plan, and Lots 6 - 18 inclusive other than within a building platform for the erection of a dwelling and any ancillary buildings. For the avoidance of doubt a building platform does not include an accessway. This is an on-going condition for which a Consent Notice will be issued.

6. *Building and Fencing*

- 6.1 No building shall be erected within the building setback area 8 m in width on Lots 36 - 45 inclusive as shown on the application plan. This is an on-going condition for which a Consent Notice will be issued.
- 6.2 No building shall be erected within the building setback area 70 m in width on Lots 14, 17 & 18 as shown on the application plan. This is an on-going condition for which a Consent Notice will be issued.
- 6.3 Building platforms for the erection of a dwelling and any ancillary buildings on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive shall be restricted to an area of 500m². For the avoidance of doubt a building platform does not include an accessway. This is an on-going condition for which a Consent Notice will be issued.

- 6.4 Fencing on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive shall have a maximum height of 1.2 metres and the whole of the fence shall be at least 50% visually transparent. This is an on-going condition for which a Consent Notice will be issued.
- 6.5 Dwellings erected on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive shall use pervious surfaces for all vehicular accessways. This is an on-going condition for which a Consent Notice will be issued.

7. Effluent Disposal

- 7.1 Prior to the issue of the s.224 certificate for each stage of development a report shall be submitted to the Westland District Council for approval detailing how each allotment will dispose of effluent to land within its boundaries. For each allotment the report shall;
- identify the need for, and where necessary obtain, resource consent from the West Coast Regional Council;
 - Boundary setback distances for effluent disposal fields;
 - Appropriate method(s) of effluent disposal; and
 - Be designed by a suitably qualified person(s).
- 7.2 The effluent fields for Lots 1 to 5 shall be located above the stormwater cutoff drain required under Condition 3 and the effluent fields for all allotments shall be located a minimum of 5m from allotment boundaries. This is an on-going condition for which a Consent Notice will be issued.

8. Drainage

- 8.1 The placement of compacted gravel foundations on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive shall be restricted to the construction of building platforms for the erection of dwelling and any ancillary buildings, and accessways. This is an on-going condition for which a Consent Notice will be issued.

9. Geotechnical Investigations

- 9.1 A suitably qualified engineering geologist or geotechnical engineer shall prepare a report on the suitability of the building location and foundation design as part of any application for resource consent to erect a dwelling on Lots 1 - 5 inclusive. This is an on-going condition for which a Consent Notice will be issued.

10. Land to be vested

- 10.1 Lot 48 being 4,127m² shall vest as local purpose reserve in Westland District Council as part of Stage 1.
- 10.2 Lot 49 being 2,728m² shall vest as legal road in Westland District Council as part of Stage 2.

10.3 Lot 51 being 1,731m² shall vest as legal road in Westland District Council as part of Stage 3.

10.4 Lot 50 being 1.237 hectares shall vest as local purpose reserve in Westland District Council as part of Stage 3.

11. Easements

11.1 Easements identified in the Memorandum of Easements on the application plan and any additional easements determined to be necessary shall be granted.

11.2 Easement A shall be cancelled as part of Stage 1.

12. As built confirmation

12.1 As built plans of all new utilities; stormwater; roading, entranceways and rights of way constructed and installed on the road reserve or easements in gross shall be deposited with the Westland District Council prior to the grant of a Section 224 Certificate.

13. Consent Notices

13.1 The following consent notice pursuant to Section 221 of the Resource Management Act 1991 shall be issued by Council:

Trees (Lots 1 - 4, pt Lot 5, Lots 6 - 18)

Any trees with a stem diameter exceeding 400mm measured 1.0 metre above ground level (at the time of subdivision) on that part of Lots 1 - 5 inclusive within 10 metres from the top of the terrace slope is to be protected.

Any trees with a stem diameter of more than 400mm measured 1.0 metre above ground level (at the time of subdivision) on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of Westland District Plan, and Lots 6 - 18 inclusive other than within a building platform for the erection of a dwelling and any ancillary buildings is to be protected.

Building and Fencing (Lots 1 - 4, pt Lot 5, Lots 6 - 18, Lots 36 - 45)

No building is to be erected within 8 metres of the southern boundary of Lots 36 - 45 inclusive.

No building is to be erected within 70 metres of the southern boundary of Lots 14, 17 & 18.

Building platforms for the erection of a dwelling and any ancillary buildings on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive will have a maximum area 500m². For the avoidance of doubt a building platform does not include an accessway.

Fencing on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 is to have a

maximum height of 1.2 metres and the whole of the fence shall be at least 50% visually transparent.

Vehicular ways on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive are to be constructed using pervious surfaces only.

Drainage

The placement of compacted gravel foundations on Lots 1 - 4 inclusive, that part of Lot 5 located in the Rural Zone of the Westland District Plan, and Lots 6 - 18 inclusive is to take place on building platforms for the erection of dwelling and ancillary buildings, and the construction of accessways only.

Future buildings on Lots 1 - 4 inclusive are to be located upslope of the drainage easement.

Any future dwelling on Lot 5 will discharge stormwater via the easement to drain water on adjoining Lot 4.

Geotechnical Considerations

Any future dwellings or ancillary buildings on Lots 1 - 5 inclusive shall be subject to specific engineering design of foundations and building location taking into account ground and slope stability on and below the allotment.

Effluent Disposal

Any future effluent field shall be located a minimum of 5m from the allotment boundaries.

Any future effluent fields on Lots 1 - 5 inclusive shall be located above the stormwater cutoff drain easement.

14. Duration of Consent

- 14.1 The period within which this consent may be given effect to shall be 5 years.

10.2.2 Land-use Conditions of Consent

1. Compliance with Application Information

- 1.1 The activity is to be undertaken in general accordance with the application dated 14 December 2011.

2. Earthbund and Channel

- 2.1 An earthbund and channel shall be erected in general accordance with Figures 1/1674 and 5/1674 contained in the Geotech Consulting Limited report dated June 2007.
- 2.2 A suitably qualified engineer shall certify the earthbund and channel have been constructed in accordance with the Geotech Consulting Limited report dated June 2007 on completion and deposit the certification to the Westland District Plan.

- 2.3 On completion the earthbund and channel shall be restored with landscape planting in accordance with the details approved under Condition 8 of consent No. 100096 dated 9 December 2010.

3. Construction

- 3.1 Construction shall take place in accordance with the Erosion and Sediment Control Plan dated 19 December 2011 and contained in the application.
- 3.2 During periods of high winds any exposed soils or road construction material shall be monitored and dust control mechanism (such as covering or watering) be utilised to avoid impact on surrounding residences.
- 3.3 Construction noise shall be managed in accordance with construction noise standard NZS6803: 1999 Acoustics-Construction Noise.
- 3.4 Construction traffic shall not exceed a speed limit of 40km/hour on Stuart Street and within the village of Hans Bay.

4. Duration of Consent

- 4.1 The period within which this consent may be given effect to shall be 5 years.

11 Part II of the Resource Management Act

206. Part II of the RMA contains the purpose and principles of the Act. When considering an application for resource consent, a consent authority must take into consideration the purpose and principles of the RMA.

207. Section 5 states that the purpose of the RMA is the promotion of sustainable management of natural and physical resources. Section 5(2) defines sustainable management to mean 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 wellbeing and for their health and safety while –

(a) sustaining the potential of natural and physical resources 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.’

208. Section 6 of the RMA sets out those matters of national importance that are to be recognised and provided for in achieving the purpose of the RMA. Of particular relevance Section 6 requires recognition and provision for:

(a) The preservation of the natural character of lakes and rivers and their margins and the protection of them from inappropriate subdivision, use and development;

(b) The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development.

(c) The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;

209. The proposal provides for intermittent and permanent streams in the application site and proposes best practice to protect their margins. The proposal has been subject to assessments that have identified that the proposal does not affect any areas of outstanding natural features and landscapes or significant indigenous vegetation and significant habitats of indigenous fauna.

210. Section 7 sets out ‘Other Matters’ that Council is to have particular regard to in achieving the purpose of the RMA. Of particular relevance Section 7 requires particular regard be given to:

(b) the efficient use and development of natural and physical resources;

(c) the maintenance and enhancement of amenity values;

(d) intrinsic values of ecosystems:

(f) maintenance and enhancement of the quality of the environment:

(g) any finite characteristics of natural and physical resources:

211. The proposal has been carefully designed in accordance with the natural and physical resources of the application site and respects the intrinsic value of ecosystems to promote the efficient use and development of the land resource. The proposal contributes to the maintenance and enhancement of amenity values and the maintenance and enhancement of the quality of the environment. Furthermore, the proposal appropriate safeguards any finite characteristics of the natural and physical resource.

212. It is considered that the granting of consent for the activity will achieve the purpose of the RMA, particularly in relation enabling the local community and future residents to provide for their social, economic, and cultural wellbeing by protecting the amenities of existing residents while sustaining the natural and physical resource of the area. Community consultation has played an important part in the development of the proposal.

213. On this basis, it is considered that Part II of the RMA will be achieved.

12 Section 104B & 104D Resource Management Act

214. Section 104B of the Resource Management Act states;

'104B. Determination of applications for discretionary or non-complying activities

After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—

(a) may grant or refuse the application; and

(b) if it grants the application, may impose conditions under section 108'

215. Section 104D of the Resource Management Act states;

'104D. Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of—

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.'

216. The assessments carried out in this application demonstrate that any actual or potential adverse effects on the environment will be no more than minor and the proposal is not contrary to the objectives and policies. For the above reasons, it is considered the application meets both the first and the second 'gateway' tests under Sections 104B and 104D and can be granted consent under Section 104 and Part II of the Act on its own merits.

13 Conclusion

217. Lake Kaniere Development Limited is applying for resource consent to subdivide land at Hans Bay settlement into a total of 51 allotments, comprising forty seven residential allotments, two reserve allotments and two road allotments.
218. The application has been assessed as a non-complying subdivision activity and a discretionary land-use activity. Overall, the application has been assessed as a non-complying activity.
219. An assessment of the actual and potential effects of the proposal contained in this report has found the proposal will have no more than a minor effect on the environment. The allotments areas largely meet or exceed the minimum allotments are identified in the relevant zones of the District Plan and provide for a low density development within the Small Settlement Zone.
220. Measures are proposed to adequately mitigate and avoid potential effects. Recommendations are made to afford protection to areas of vegetation and habitat interest above that provided under the permitted baseline. The proposal provides positive effects in relation to the proposed vesting of an area identified by the local community as being of interest as a local purpose reserve area. In addition, the construction of part and the vesting of an earthbund and channel that may afford natural hazards risk mitigation to existing areas of the settlement.
221. The proposal has been assessed against the West Coast Regional Policy Statement and the Westland District Plan. The proposal is assessed as being not inconsistent with or achieve the key purpose of objectives and policies. In particular the ability of the proposal to provide for future tourist opportunities while respecting the existing amenities and maintaining the character of the area is recognised by the District Plan. Any degree of inconsistency is not considered to be opposed in nature, different to or opposite in policy amounting to being contrary. The proposal provides for the social, economic, and cultural wellbeing of existing and future residents while avoiding, remedying and mitigating any adverse effects of activities on the environment.
222. It is concluded that the proposal meets Sections 104B & 104D of the Resource Management Act 1991 and can be granted consent under Section 104 and Part II of the Act on its own merits.
223. The applicant would welcome the opportunity to comment on any draft conditions of consent prepared by the Council.