NORTHLAND
PLANNING & DEVELOPMENT

Concession Application
Kingfish Lodge
South Head, Whangaroa Harbour

23 September 2022

Kiaora Darcy and Fleur,

Thank you both for all of our discussions to date. As noted, this has been an ongoing feat for some time now with various discussions made over the last couple of years, coupled with covid in between. To keep things progressing as discussed, we are seeking a concession via two stages. Stage 1 as proposed now seeks to cover those elements which can readily be dealt with. Stage 2 will be a latter application dealing with more complex historical issues and potentially more contentious issues which we are yet to resolve and require further discussion and input from various parties. Some of those existing structures which will be dealt with in a stage 2 application are existing structures and as such remain on the plans to acknowledge that they are present.

A previous concession had been lodged with the Department which was all encompassing. We seek to formally withdraw this application and replace this with this new concession document.

As discussed, if you require any further information, or any clarification on anything, please do not hesitate to contact me.

Regards,

Director/Senior Planner

NORTHLAND PLANNING & DEVELOPMENT 2020 LIMITED

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(2) No concession may authorise the owner of any land adjoining a marginal strip to use the marginal strip for farming purposes or forestry purposes or any purpose associated with or incidental to any farming or forestry carried out on the adjoining land; but nothing in the preceding provisions of this subsection limits or affects section 24H. 14

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Appendix 8 – Existing Structure History – *Bay of Islands Planning*

Appendix 9 – Historic Site Plan Pre & Post 1990 - *+ Map Architects*

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Appendix 11 – Site Plan with SW Infrastructure, *+ Map Architects*

Appendix 12 - FNDC Approved Resource Consent for Lodge Redevelopment – *FNDC*

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Appendix 14 - Archaeological Assessment – *Archaeology Solutions Limited*

Appendix 15 - Wastewater Report and Plan – *Ecogent Environmental Engineering Solutions*

Appendix 16 – Fisheries Reserve Research – [redacted]

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Appendix 18 – Email Correspondence – *Marae of Te Komanaga & Karangahape*

Appendix 19 – Email Correspondence – *Te Whanau Whero*

Appendix 20 – Title for Lot 1 DP 198828 – *LINZ*

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Appendix 22 – **Landscape Plan** - *+ Map Architects*

Appendix 23 – **Bollard Detail** - *+ Map Architects*

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Appendix 26 – Sea wall electrical plan - *+ Map Architects*

Concession Application

This application is based on the information and requirements contained within the Conservation Act.

1. 17S(a) Application:

1.1. The site is being redeveloped as luxury accommodation for both domestic and international travellers. The Lodge and the Northern accommodation wing will be available to accommodate guests and the boatshed will house staff working at the Lodge. Given that the access to the site is restricted to boats only, on-site accommodation for staff is required. Kingfish Lodge is currently occupied by a caretaker and his family.

1.2. There are a number of structures which existed prior to 1990, some post 1990 and others which have been amended since 1990. A Concession in the form of a Licence and Easements is sought for some structures which will remain on site post development including some new structures. Detail and research on those existing structures and when they were established can be found within the appendices to this application.

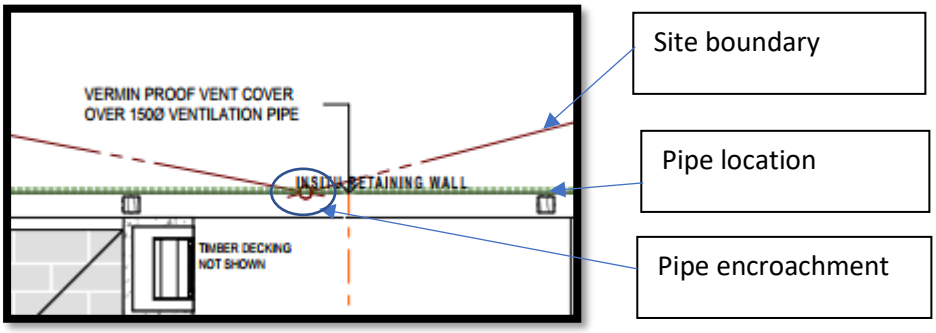
- **Existing buildings and structures remaining within the Marginal Strip which were constructed pre 1990 and are therefore considered as authorised structures – A concession is not required unless otherwise stated**
  - Existing landscaping, refer to old pictures and aerials which have been provided within the appendices.
  - Part of the captain suite within the north accommodation building.
  - Part of the decking outside of the North accommodation wing.
  - Two existing transformers – *note that as these may require an upgrade they have been included as part of this proposal, see below.*
  - Pathway in front of the recreational deck which was formerly decking.

  Photos of some of these structures and features are included within Appendix 8 and a plan showing their extent has been included within Appendix 9.

- **Existing buildings and structures being removed from the Marginal Strip - A concession is not required**
  - Wastewater system - The existing wastewater infrastructure will be decommissioned and replaced with an updated system. In 1990 the Brown and Thomson plan indicated that the majority of infrastructure was located within the marginal strip. This was upgraded post 1997 where it appears the majority of the infrastructure has now been relocated within the Kingfish Lodge site. This is with the exception of the wastewater pump station. This new proposal will see updated wastewater infrastructure being installed with almost all new components being installed within the Kingfish Lodge site. There will be a slight encroachment of pipeline into the marginal strip and the pipeline will run along the front of the deck. As the deck will be flush with the boundary where is kicks in there will be a very small encroachment into the marginal strip. This will be the only portion of

wastewater infrastructure to remain within the marginal strip post redevelopment. (Easement)

Refer to Appendix 9 for existing location of wastewater infrastructure, and Figures 5 & 7 within Appendix 8 for additional wastewater detail. Refer to Appendix 10 for proposed location of wastewater infrastructure which illustrates a very minor encroachment of the pipeline.



- **Existing buildings and structures remaining within the Marginal Strip which were constructed post 1990 – A concession is now sought to authorise these structures**
  - Stairs within seawall. While the seawall is considered to be outside of the marginal strip, part of the stairs which protrude into the land are considered to be located within the Marginal Strip. The latest seawall upgrade which included the construction of the stairs was completed in 2017/18 and as such the stairs will be subject to the concession application. (Licence)
  - Concrete boat ramp – Established 2017. (Licence)

For Sea wall location please refer to Appendix 11 – Site Plan. For the concrete boat ramp please refer to Appendix 21 which depicts its full extent.

- **New/replacement structures within the Marginal Strip - A concession is now sought to authorise these structures**
  - Gobi forecourt for manoeuvring of vehicles (Licence). *As shown within Appendix 21.*
  - Extension of boat ramp to new boatshed (Licence). *As shown within Appendix 21.*
  - 2 x 24v transformers (Licence). *As shown within Appendix 9 and 11.*
  - New alignment of paths on site and stairs to lodge (Licence). *All pathways shown on Appendix 11. Figure 3 of Appendix 8 illustrates the former pathway layout on site.*
  - Landscaping in front of new Lodge building (Licence). *As shown on Appendix 22, is lawn.*
  - Stormwater sump, pipes and drains (Easement). *As shown on Appendix 21.*
  - Power cabling (Easement). *As shown on Appendix 26.*
  - Retaining wall adjacent to boat ramp (Licence). *As shown within Appendix 21.*
  - Retaining wall to provide stability for existing walking track (Licence*). As shown within Appendix 21.*

- **New structures outside of the Marginal Strip applicable to this concession**
  - New two-story boathouse for workers accommodation replacing the recently demolished barracks. *As shown on Appendix 11.*
  - New luxury lodge with accommodation wings replacing the recently demolished south accommodation wing. *As shown on Appendix 11.*
  - Seawall and associated structures (Handrail & Signage). *Seawall as shown on Appendix 11 & 21, Bollard detail shown on Appendix 23 & 24. Signage shown on Appendix 25.*
  - Coastal Structures (Jetty, Recreational Deck etc). *Appendix 13 – Regional Consent Plan.*

- **Existing structures within the marginal strip of which a concession is not currently sought**
  - The conference building which was established post 1990 is partially located within the Marginal Strip (31.1m2). This structure may form part of a future application. *As shown on Appendix 9 in Orange.*
  - Disabled Access to the North Accommodation Wing and deck around the Caption's suite providing access to the rear of the site. Established sometime post 2005. *As shown on Appendix 9 in orange.*
  - Observation Deck – Established sometime post 2005. *As shown on Appendix 9 in orange.*

2. 17S (b) Description identifying the places where the proposed activity will be carried out (including the status of those places)

2.1. Please refer to the appendices which illustrates the proposed Licence and Easement Areas. Architectural plans have also been provided which identify the locations of the proposed structures, and the descriptions above.

2.2. In terms of the coastal boundary of the Marginal Strip, the boundary was defined at 1958 when the strip was last amended. At that time the boundary was defined by the Mean High Water Mark. Over a number of years this boundary has moved due to coastal processes. In some areas this boundary has been eroded and in others there has been accretion. It is our understanding that under Common Law that the marginal strip boundary would have moved with the changing high tide mark. In 1997 a joint decision by the District and Regional Councils approved the construction of a sea wall allowing for minor reclamation. The replacement sea wall which has recently been constructed, has been constructed in place of the previous wall. Given that the sea wall was first consented in 1997 we believe this has established where the boundary of the marginal strip now lies. While this is the case, no formal survey has been undertaken and the marginal strip document has not been updated by the department to give effect to these changes which have occurred over time.

2.3. The Marine and Coastal Area (Takutai Moana) Act defines reclaimed land as:

reclaimed land *means permanent land formed from land that formerly was below the line of mean high-water springs and that, as a result of a reclamation, is located above the line of mean high-water springs, but does not include—*

(a) *land that has arisen above the line of mean high-water springs as a result of natural processes, including accretion; or*

(b) *structures such as breakwaters, moles, groynes, or sea walls.*

2.4. As sea walls are not included as reclaimed land, we believe the marginal strip boundary sits behind the seawall, as such we believe that the structures such as the seawall, safety barrier and gate, and recreational deck are located within the common coastal and marine area and are therefore not within the marginal strip. Given they are not within the marginal strip, the concession application does not need to cover these structures. We have obtained a legal opinion on this matter, and we also understand that the Departments legal Counsel have also reviewed this situation and are in agreement.

2.5. While this is the case, there has been no recent surveying of this space and our surveyor is of the opinion that in seeking easements he is only able to cover the area which is defined on the most recent title. We are happy to have more discussions with DoC on this aspect to ensure our plans show the correct extents.

2.6. As detailed above, we are seeking Licences to cover the physical structures associated with the Lodge activity, and easements for infrastructure. We seek that the remainder of the marginal strip land be covered by a future management plan to enable public access to be formed and maintained, enable maintenance of public spaces such as conducting mowing and weed eating, and continued weed and pest management within bush areas. A Plan of the proposed Licence and Easement Areas has been included within the appendices. For the Licence areas we have shown the boundary of the marginal strip to be the sea wall and sought buffers around some structures to enable maintenance activities to be undertaken. Specifically, adjacent to the seawalls a buffer has been included to enable land-based maintenance activities. The Licence areas will accommodate some landscaping which is required to reduce the visual impact of the building on the coastal environment. This landscaping will require a high level of maintenance to ensure it is kept at a high standard. For the easements as detailed above, the surveyor has utilised the 1958 title information in determining the extent of the areas to be covered.

2.7. It is also noted that there will be cross overs with the licences and easements in some areas as they support different aspects.

3. 17S (c) a description of:

(i) the potential effects of the proposed activity:

3.1. This concession application covers a mixture of historic structures installed on the marginal strip, some proposed upgrades to these structures and some new amenities.

The effects of each are detailed below:

- Paths from the wharf to the new and existing development on the Kingfish Lodge site including part of the stairs accessing the new lodge building – These provide all weather surface connections benefitting all who use the marginal strip. They are impermeable surfaces and will generate some stormwater runoff, however given the proximity of the

development to the coast this will not have any adverse impact on any neighbouring properties.

- Gobi forecourt for manoeuvring watercraft – This provides an all-weather manoeuvring area which will appear to be grass from a distance to minimise the built development look and to retain those natural qualities as much as possible without impacting the usability of the strip;
- Extension to the concrete boat ramp – The extension provides an unimpeded access from the coast to the proposed boat shed on the Kingfish Lodge site. This ensures the safe and efficient manoeuvring of watercraft over a minimal area. As detailed above paving will increase the impermeability of the site, however given the location of the site adjacent to the coast there will be no adverse impact on any neighbouring properties. The silt and sediment control will ensure that there will be minimal impacts on the coastal environment.
- Cabling conveying power from the Kingfish Lodge site through to the Wharf and safety barriers – Cabling ensures those coastal structures will have a power supply which is essential for any watercraft which may be coming or going during darkness. Minimal physical evidence of the cabling will be seen on the marginal strip as such any impact of this infrastructure can be considered positive.
- Landscaping – As per the landscape plan, new specimen trees and shrubs will be located wholly within the boundaries of the Kingfish Lodge site. The marginal strip contains some existing mature trees and vegetation which will remain. The marginal strip area where necessary will be regressed and maintained in lawn.
- 2 additional 24V transformers supplying electricity to the property – These services are minor and can be screened either by vegetation or placed underground such that any effect on the marginal strip and the people using this will be no more than minor;
- A Stormwater sump is sought to be located above the boat ramp which will capture the stormwater from the Kingfish Lodge access track. This sump will be capturing the sediment from the upper slopes of the Kingfish Lodge site and capturing it before it can enter the Coastal Marine Area. This has a positive impact on the Coastal Marine Area, aquatic life, and those riparian margins. Sediment running into the Coastal Marine area is an existing situation which is causing negative environmental effects. Currently this situation is being managed by a hole which has been dug in the ground. A more permanent and safer feature is sought. Given the positive impacts from this infrastructure we seek that this infrastructure be allowed to establish within the Marginal Strip.
- Stormwater pipelines are sought to convey stormwater from the Kingfish Lodge site through to the sump and also from the sump to the coastal marine area. The underground infrastructure ensures that stormwater is managed such that it does not have concentrated flows across the marginal strip. Piping this reduces scour and erosion especially in heavy downpours, which results in a positive effect.
- Sea wall stairs – The seawall containing the stairs was constructed under an emergency works provision to ensure both the Kingfish Lodge property and the marginal strip were protected from coastal processes. The application for emergency works was accepted by the Far North District Council building team under COA 2018-4059. As detailed within Section 17O a concession is not required *in respect of any action or event necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment*. The construction of the seawall is considered to meet these criteria, and as the stair's forms part of the sea wall we also consider that it falls under this category. The stairs have positive effects in that it provides a linkage between the coastal marine area and the marginal strip which benefits public access.

- Concrete Boat ramp. Constructed around 2017 under AUT.005424, the boat ramp was the subject of a Regional Council consent which concluded that any effects on the environment would be no more than minor. Insofar as the effects on the marginal strip, the boat ramp makes the strip more accessible to the public given that the strip has no other connections to any adjacent land, which may have boat landing areas. Providing for public boat access achieves the purpose of the strip.
- Retaining wall and stairs adjacent to boat ramp – The retaining wall ensures that the land will not slump and erode adjacent to where the boat ramp has been placed. This is integral in ensuring the efficient operation of the boat ramp and is considered part of this overall structure. The stairs within the retaining wall ensure easy access to the existing walking track located to the south of the lodge. The stairs are part of the retaining wall structure.
- Track Retaining wall – Provides stability and ensures that the existing walking track does not slump and erode downhill into the coastal marine area.

(ii) any actions that the applicant proposes to take to avoid, remedy, or mitigate any adverse effects of the proposed activity:

3.2. A resource consent application has been approved by the Far North District Council which takes an overall approach to mitigating effects on the environment from the proposed activity. This includes erosion and sediment control, amenity planting, consideration of the placement of buildings and infrastructure, overall building and infrastructure design, utilisation of existing structures within a brownfield development area as an example. This resource consent has been granted for the development within the Kingfish Lodge site only and has not covered consent for any buildings or structures within the marginal strip. While the initial consent did include these features, they were subsequently removed until this process could be finalised. Further District Council Resource consent, post this concession process will be required for some of this infrastructure.

3.3. A number of expert reports have been produced as part of this resource consent process and both local iwi who affiliate to the South Head area and Heritage New Zealand have been consulted with throughout this resource consent application. Given the history of the site there has always been infrastructure located upon and within the marginal strip given that the development existed prior to the marginal strip being in place. Every effort has been made to remove as much infrastructure as possible with this redevelopment, but without compromising any adverse impact on the immediate and surrounding environment. There are a number of structures proposed which as described above will result in a positive impact on the surrounding environment, marginal strip and its users.

4. 17S(d) details of the type of concession for which the applicant is applying:

4.1. We are seeking easements for underground infrastructure such as stormwater and wastewater pipelines, power supply and aboveground infrastructure such as the stormwater sump. An easement establishes a right to convey items such as power or water. A licence is required for all remaining items established post 1990 or yet to be established. A licence

registers a non-exclusive interest in the land. The proposed easement and licence areas are depicted within the appendices.

5. 17S(e) a statement of—

(i) the proposed duration of the concession; and

(ii) the reasons for the proposed duration:

5.1. A proposed duration of 30 years is being sought for this concession. This is based on the fact the facilities which have been included within the application will have a life of 50 years (standard building consent timeframe). A 30-year timeframe will give our client certainty that he can undertake the redevelopment and utilise the marginal strip with the various buildings and infrastructure associated with Kingfish Lodge for an extended period of time.

6. 17S(f) relevant information relating to the applicant, including any information relevant to the applicant's ability to carry out the proposed activity:

6.1. Our client is the owner of Clearwater Construction which is a Building and Civil Engineering firm who undertake large construction projects throughout the country. Our client has a high standard of professionalism and integrity and has the desire and integrity to undertake a high-quality development within Northland while ensuring a minimal impact on the surrounding environment. He would like to pursue the development and address those historical issues which have been plaguing the site. This is a project that he would like to come to fruition with work already started within the Kingfish Lodge site and building consent underway. As a result, he intends to work with the Department to find the best practical way forward. Our client has supplied two testimonials on this basis.

7. 17S(g) if the applicant applies for a lease, a licence granting an interest in land, or an easement,—

(i) reasons for the request; and

7.1. The request is sought for two reasons:

1. To legalise some historic structures which have been erected within the marginal strip.
2. To legalise proposed structures which are sought to be erected within the marginal strip as part of the overall redevelopment of the adjacent site.

7.2. The owners of Kingfish Lodge seek to redevelop the site generally upon the footprint of the recently demolished structures. This position is sought as it is outside any areas of High Natural Character, will minimise the environmental impact on native vegetation and earthworks, and will minimise the visual impact of the development on the surrounding landscape. Given the location of the previous structures there is both historic and proposed infrastructure which will need to be formed within the marginal strip to service this

development and to service the watercraft accesses to this property. Other mitigation measures such as a stormwater sump has been proposed to capture silt from the upper slopes before it reaches the coastal marine area.

(ii) sufficient information to satisfy the Minister that, in terms of section 17U, it is both lawful and appropriate to grant the lease, licence, or easement (as the case may be).

(1)(a) – The activity is a high-profile fishing lodge. The structures proposed within the marginal strip are as defined in the sections above.

(1)(b) – The effects in terms of impact on the marginal strip are considered minor. Most structures involve paving or a surface to ensure the conveyance of people or vehicles from the coast to the site. As a result, there will be an increase in impermeable surfaces however this is not considered to have an adverse impact on the surrounding environment. A stormwater sump is sought which will capture water from the upper reaches of the Kingfish Lodge site and act as a filter before the water enters the coastal marine area. This ensures any silt laden material is captured.

(1)(c) – It is not anticipated that there will be any adverse impacts arising from the proposed structures. Design elements such as the utilisation of a gobi forecourt has been sought to reduce the hard concrete look and reduce impermeable surfaces on site, while at the same time ensuring that useability is not adversely impacted.

(1)(d) – All information and reports commissioned as part of this overall application have been provided to the Department of Conservation for comment to ensure the Department has an understanding of the overall picture of the entire development, not only on the marginal strip but elsewhere on the neighbouring property where the main development is being undertaken. The Department was considered to be an affected party to the FNDC resource consent application and as part of this process provided their written approval.

(1)(e) – The original resource consent application lodged with FNDC included an assessment of environmental effects associated with the structures proposed within the marginal strip. While in the end these structures were not consented, the assessment of environmental effects remains applicable.

(1)(f) – The concession is yet to be publicly notified.

(1)(g) – Our client is not aware of any information which is being withheld from any party, person or organisation.

As an overview of related applications - An FNDC resource consent has been approved for works within the Kingfish Lodge site. A building consent for the associated structures has also been sought but is yet to be approved.

Various Northland Regional Council consents have been obtained over a number of years for various structures within the coastal marine area, for water take and for discharge. A renewal of all consents is now required and has been sought. At the date of writing this report, some mooring consents had been issued by NRC.

(2)(a) – It is considered this application and supporting information allows a full and detailed assessment of the effects from the activity and facilities being sought upon the Marginal Strip. An initial application was made in 2019 and after being assessed further information and clarification on some points was made by the department. The application has remained on hold for some time, with covid and the various lockdowns playing a major role in this. Given all the changes, we now seek to reapply with a clean application which can be notified.

(2)(b) – As detailed above we are seeking a concession for Easements for the conveyance of Stormwater, wastewater and power supply and a non-exclusive licence for all other structures on the land.

The easements cover just the areas where infrastructure is/will be located with a buffer around these areas to allow for the digging in/out of the infrastructure and maintenance. Licence Area 3 is a buffer around the sea wall on the northern side of the stream for maintenance purposes. Licence Area 2 will cover the entire frontage of the new lodge. Initially buffers around all existing and proposed structures and infrastructure was investigated, however upon completing this it was found that only a few small pockets of marginal strip in this area would not be subject to the licence. Given the high-end facility which will be established on site it was noted that the marginal strip in front of the new lodge would be subject to constant maintenance to ensure the land between the luxury lodge and the ocean is kept at a high standard. Given this, we expanded the licence area to cover this whole section. Licence Area 1 will cover a proposed retaining wall with a maintenance buffer located around this. The purpose of this retaining wall is to provide stability to an existing walking track.

In all other areas of the marginal strip where it adjoins the Kingfish Lodge site a management plan will be sought to enable KFL to continue maintaining the native flora and fauna present on site. Maintenance of the marginal strip by Kingfish Lodge has only positive impacts on both the Marginal strip, conservation values and biodiversity but also on the wider environment including the Coastal Marine Area and the adjacent Kingfish Lodge site.

(3) From the various conversations with DoC staff we understand that all items sought are able to meet the provisions of this Act.

(4)(a)(i) – Every effort has been made to remove and relocate as much infrastructure off the marginal strip as possible. However, given that the site is landlocked with the only available access being the coastal marine area, some infrastructure which allows for the passage over and the servicing of coastal infrastructure are required to be located on the marginal strip. Some infrastructure and structures are historic, and efforts have been made to upgrade these to reduce their impact on the surrounding environment and on the marginal strip.

With the proposed Lodge re-development, services and infrastructure associated with this have been largely confined to the site, with the exception of the wastewater pipelines minor encroachment and the stormwater infrastructure. The stormwater sump reduces silt laden storm water from the upper catchment of the kingfish lodge site from entering the coastal waters, and ensures stormwater will be directed away from the wastewater infrastructure on site.

(4)(a)(ii) – Development and the encroachment of structures onto the marginal strip have been limited to the area directly in front of the existing lodge. No other conservation area is considered suitable or practical for this development.

(4)(b) – There are a number of structures proposed. The following provides comments on each.

- Sea wall stairs - Are an existing structure constructed under emergency works provisions. The coastal frontage of Kingfish Lodge has been protected by the existing sea wall and previous sea walls to ensure the property can withstand the coastal erosion. Given the height of the sea wall structure the stairs were included within the design to enable easy public access from the marginal strip to the coast.
- Concrete boat ramp – The ramp is required for access. The extension of the boat ramp to the boat shed is necessary to ensure all weather access between the coast and the boat house. The Gobi area ensures a safe turn around area, and the gobi blocks are being utilised to reduce the impermeable surface coverage and give the look of a grassed area while still being practical for manoeuvring.
- Landscaping – The landscape planting has been kept to a minimum to avoid new specimen trees and shrubs within the marginal strip. Lawn Areas will be re-established within the marginal strip post construction activities.
- Transformers – These are required to service the development and are located where necessary to ensure a suitable power supply. Investigations into whether the number of these could be reduced have been undertaken. However, given the layout the proposed number and location of transformers have been recommended.
- Paths from the wharf to the new and existing development on the Kingfish Lodge site – These have been designed to cover only the areas which are necessary to access each building. The width of the paths has been determined by footpath standards. The majority of these pathways existed prior to 1990 in various forms. This application sees the upgrade of these.
- Cabling conveying power from the Kingfish Lodge site through to the Wharf and Safety Barriers – This has been restricted to underground areas and only where necessary. All other cabling required to service the development has been restricted to the site.
- Stormwater sump and pipelines - A sump has been proposed to ensure all sediment which may wash down from the upper slopes of the Kingfish Lodge property in periods of heavy rainfall can be captured prior to it entering the coastal marine area. As part of the overall development our client is seeking to stabilize the rear vehicle access track and gravel this to minimise the silt laden runoff onto the marginal strip. In doing so this is likely to reduce the silt run off, but given the topography some sedimentation runoff is still anticipated. The introduction of the sump will provide the ongoing mitigation and environmental benefit. The stormwater pipelines from the Kingfish Lodge development to the sump will provide for the conveyance of stormwater to a properly designed area, rather than running off over the marginal strip land. The pipeline from the sump down the boat ramp to the coast ensures that stormwater from the sump will continue to flow to the coast without being laden with sediment.

(5)(a) – As described above the Licence and Easement Areas are related to fixed structures which include above and below ground infrastructure.

(5)(b)(i) — In the case of this application section B is applicable – ***it is necessary to include any clearly defined area or areas that are an integral part of the activity on the land***;

The structures are all considered to be an integral part of the activity in providing access between the coast and the activities on the Kingfish Lodge site or enabling maintenance works to be undertaken in and around those structures. For this reason, buffers have been shown around these areas to ensure the buildings and structures can be adequately maintained.

(5)(b)(ii) – Without a licence over the marginal strip for those historical and proposed structures the Lodge could not operate or even be safely accessed. The granting of this licence is essential to the Kingfish Lodge operations.

(6)(a)(b)&(c) – No lease is sought as those areas in which exclusive use would apply are structures which existed prior to 1990 which are considered to be already authorised.

8. 17V Limitations on concessions and leases over marginal strips

(1) Without limiting the power of the Minister to grant a concession over a conservation area that is a marginal strip, the Minister may decline to grant a concession in any case if he or she is satisfied that it is more appropriate in that case to enter into any agreement or arrangement under section 24H.

8.1. Section 24H references managers of marginal strips. This is being sought for the remainder of the marginal strip as this will be a better fit for enhancing the conservation values of the site. The areas in which a licence has been sought are directly linked to lodge operations which would not be adequately covered by a management agreement under this section.

(2) No concession may authorise the owner of any land adjoining a marginal strip to use the marginal strip for farming purposes or forestry purposes or any purpose associated with or incidental to any farming or forestry carried out on the adjoining land; but nothing in the preceding provisions of this subsection limits or affects section 24H.

8.2. No farming of forestry purposes are sought by this application.

(3) The Minister shall not grant a lease (other than a lease that formalises an occupation of the land, where that occupation existed before 10 April 1990) over a marginal strip unless he or she is satisfied that—

8.3. A licence and easements are sought for this activity, as opposed to a lease. It is considered that those structures detailed earlier have already been authorised given they existed prior to 10th April 1990.

9. Consultation

9.1. This application has been a moving feat with many discussions made with a number of parties over the last 3 years. The following is a brief summary of the various parties involved.

Department of Conservation

9.2. The department was initially consulted back in 2018/2019 when discussions on the lodge redevelopment were first raised. Kingfish Lodge took the redevelopment of the lodge as the

perfect opportunity to look at all historical items on site and begun discussions on what needed to be covered, how it needed to be covered and what items may be of concern. Since this time a concession application was lodged and a number of site visits involving both local and national based officers were undertaken to find the best way forward in dealing with a number of historical items. This new application is the outcome of these meetings and discussions over the last 4 years and works will continue now and in the future to resolve all other matters which haven't yet been covered by this application.

Consultation under the Marine and Coastal Areas (Takutai Moana) Act

9.3. As part of lodging any application within the Coastal Marine Area the Northland Regional Council requires that consultation with all applicable Marine and Coastal Area parties is undertaken. This is required before the consent can be lodged. Recently we lodged a consent for the renewal of the coastal structures, moorings, discharge and water take consents with the Northland Regional Council. We received two responses one from Roger Kingi on behalf of the Hapu of Kaitanga in opposition to the application and another from Te Whanau Whero confirming that the site was outside of their CMT application area. No other responses were received. While this application is not located within the Coastal Marine Area it involves works and structures which are adjacent to this space. The responses received are provided for DoCs consideration.

Iwi

9.4. When Kingfish Lodge was initially purchased in 2016 the owner established a good relationship with Kana one of the local kaumatua who could whakapapa back to the Kingfish Lodge land. By the time the District Council consent was in preparation we were advised to speak to members of Te Ukaipo – Iwi Environmental Management Unit under the umbrella of Te Runanga o Whaingaroa. Members from the group took photos, blessed the site and provided feedback on the development areas and areas where care should be exercised. These discussions and advice given were taken on board and since then Kingfish Lodge has continued to work with Te Ukaipo in developing the site and gaining advice and an understanding of any issues which may arise.

9.5. As part of lodging this Concession, we were advised by the local Kerikeri DoC office that Ngati Kahu ki Whangaroa should also be approached. This was due to the Harbour now being a statutory acknowledgement area. While the marginal strip is not within the statutory acknowledgement area it does directly adjoin this space and consultation with Ngati Kahu ki Whangaroa was considered appropriate. The owner and caretaker of Kingfish Lodge subsequently met with [redacted] who we understand is part of both Ngati Kahu ki Whangaroa and the Kahukuraariki Trust and discussed the proposal. A further meeting was undertaken with various members of Ngatikahu ki Whangaroa ([redacted]) Ngati Kawau ([redacted]), DoC and Kingfish Lodge in January 2021. At this meeting [redacted] highlighted his concerns with placing a second jetty within the bay (a concession for this has not been sought), and the associated effects. [redacted] also highlighted his concerns regarding the history of the site, and the associated Maori reserve that encompassed the foreshore and adjacent stream, and gave tangata whenua access to the kaimoana, and fresh water supply.

9.6. DoC and the consultant planner managing the consent at the time were sent away to undertake some research to find any information on the Maori reserve.

9.7. Lara McDonald of DoC advised that "*We have been unable to trace any documents where the fishing reserve in the bay is highlighted".*

9.8. Kingfish Lodge subsequently engaged [redacted] to research the Maori Fishing Reserves and also review Ngati Kahu ki Whangaroa's deed of settlement to see if any documents may be located within this information.

9.9. A copy of [redacted] report is attached as an appendix to this consent application. This research concluded that *'it does appear that two Maori Oyster fisheries may still exist as follows:*

(a) all that part of the foreshore surrounding the area of land known as Jones Peninsula in Whangaroa Harbour; and

(b) all that part of the foreshore of Whangaroa Harbour commencing at a point approximately 0.8 km from the easternmost point of Middle Head; then following the coastline in a northerly and westerly direction for approximately 1.6 km; then in an easterly direction for approximately 0.8 km'.

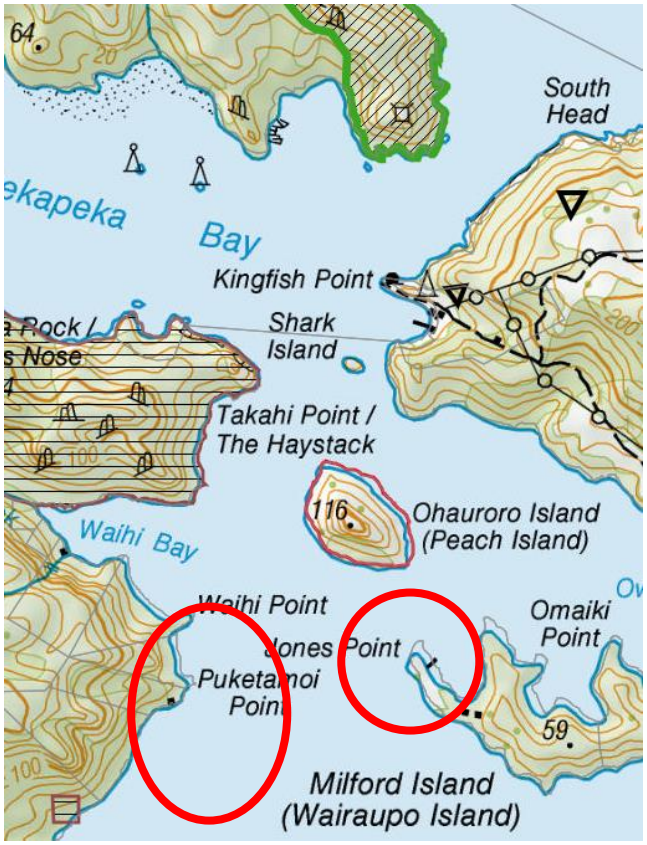


Figure 1 - Location of Jones Point/Peninsula and Middle Head (ref as Puketamoi Point in relation to Kingfish Lodge

9.10. Upon receiving [redacted] research, [redacted] was able to confirm with the assistance of some local people the locations of the two fishing reserve areas described above. As depicted on the figure above both of these areas are located some distance from Kingfish Lodge.

9.11. This document was sent through to [redacted] by the owner of Kingfish Lodge. We understand that subsequent discussions have been had between DoC's Fleur Corbett and [redacted] about undertaking more research into this to try and track down the document. At this date and time the document is yet to be uncovered.

10. Timeframes

10.1. As detailed above land use consent for the lodge development has already been granted by the Far North District Council. The retaining walls have been established at the rear of the Kingfish Lodge site in preparation for building. Building consent has been sought and is now imminent. Given that this process has been ongoing for a number of years with various amendments and the above mentioned documents have already been granted or are not far away from completion we seek any expedience from the department in processing this application.

11. Limitations

11.1. This report has been commissioned solely for the benefit of our client, in relation to the project as described above, and to the limits of our engagement, with the exception that the Department of Conservation may rely on it to the extent of its appropriateness, conditions and limitations, when issuing their subject concession.

11.2. Copyright of Intellectual Property remains with Northland Planning and Development 2020 Limited, and this report may NOT be used by any other entity, or for any other proposals, without our written consent. Therefore, no liability is accepted by this firm or any of its directors, servants or agents, in respect of any information contained within this report.

11.3. Where other parties may wish to rely on it, whether for the same or different proposals, this permission may be extended, subject to our satisfactory review of their interpretation of the report.

11.4. Although this report may be submitted to the department in connection with an application for a concession, permission, approval, or pursuant to any other requirement of law, this disclaimer shall still apply and require all other parties to use due diligence where necessary.