

BEFORE THE NEW PLYMOUTH DISTRICT COUNCIL
INDEPENDENT HEARING COMMISSIONER

IN THE MATTER

the Resource Management Act 1991

AND

IN THE MATTER

of an application under section 88 of the
act by Helen and Layne Greensill to
undertake a 3-lot subdivision of 1303
South Road, Oakura (SUB21/47711)

STATEMENT OF PLANNING EVIDENCE BY CONNOR MARNER ON BEHALF OF
HELEN AND LAYNE GREENSILL

15 JUNE 2022

INTRODUCTION

1. My name is Connor Marner and I respectfully submit the following planning evidence. I hold a Bachelor Degree of Arts in Rural, Regional and Environmental Planning from La Trobe University, Australia. I also hold a Bachelor Degree of Business in Economics from the same University.
2. I have approximately 13 years' experience in planning and resource management; 5.5 years in Australia operation under the Planning and Environment Act 1987 and 7.5 years in New Zealand operating under the Resource Management Act 1991.
3. This has included working at Dunedin City Council from 2017 to 2021 as a statutory planner through the preparation and introduction of the Second-Generation (2GP) District Plan. This involved the processing of resource consent applications through multiple plan changes, including preparing and presenting at Council hearings, and experience in policy and plan development.
4. Prior to working at Dunedin City Council, I was employed by Whanganui District Council from 2015 to 2017 as a statutory planner in the same capacity as Dunedin. From 2010 to 2015 I was employed at Central Goldfields Shire Council (Maryborough, Victoria) as a town planner, processing planning permit applications.
5. Since relocating to Taranaki in 2021, I have worked at South Taranaki District Council, as the planning department Team Leader and at Jufferman's Surveyors Limited in a planning capacity.
6. I am currently employed by Stratford District Council as a Planner but am not providing this evidence in relation to my current employment position. I am providing the evidence due to my former involvement in the application, through my employment with Jufferman's Surveyors Limited (JSL).
7. I have read the application, Council Officer's Information Request and subsequent responses, Landscape and Visual Impact Assessment, the Landscape Peer Review 22 March 2021, Notification Assessment and s42A Hearing Report. I am familiar with both the operative and proposed New Plymouth District Plans.

WITNESS CODE OF CONDUCT

8. I confirm that I have read, and agree to comply with the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2014 and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. To the best

of my knowledge, I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

INVOLVEMENT WITH THE APPLICATION

9. I have had the following involvement with respect to the current resource consent application in front of New Plymouth District Council:
 - a. I have been engaged by Helen and Layne Greensill to prepare evidence for this hearing and planning advice until such time as a decision is issued;
 - b. I have visited the application site;
 - c. I was involved in the pre-hearing mediation of the application with both submitting parties, the applicants, the processing planner, Allen Juffermans from Juffermans Surveyors Ltd and myself.
 - d. I have not been involved in the preparation of the current application or earlier versions of the application, reply to the request for further information or the notification process (but as noted above, I have read all relevant materials).

SCOPE OF EVIDENCE

10. The purpose of my evidence is to provide a planning assessment of the applicants' proposal.
11. In my evidence I will comment on:
 - a. Site and receiving environment;
 - b. The proposal and any changes to the application;
 - c. Consultation and notification;
 - d. Submissions;
 - e. Pre-hearing;
 - f. Assessment of effects of the application;
 - g. Statutory requirements;
 - h. Other matters;
 - i. Part 2 of the RMA;
 - j. Conclusion.
12. My evidence draws upon the information from the following:
 - a. The lodged resource consent application and Assessment of Environmental Effects prepared by Juffermans Surveyors Ltd (JSL).

- b. The Landscape and Visual Impact Assessment prepared by Mr Richard Bain from Bluemarble and dated 31 January 2021 and the Statement of Evidence by Mr Richard Bain from Blue Marble dated 15 June 2022.
 - c. The Landscape and Visual Impact Peer Review dated 22 March 2021 prepared by Natural Capital (Erin Griffith)
 - d. The Council Officer's Notification Report dated 30 July 2021.
 - e. The submissions received and subsequent pre-hearing meeting communications.
 - f. The Council Officer's s42A Hearing Report, prepared by Luke Balchin dated 08 June 2022.
13. Where relevant, I will reference the contents of the Council's Officer's s42A Report and associated Appendices, which has been circulated and provides a good reference document.

SITE AND RECEIVING ENVIRONMENT

14. The site and surrounding environment have been described in detail in paragraphs 6 to 16 of the s42A Report and in the Assessment of Environmental Effects provided with the application. I agree with both of the descriptions provided and consider they provide a detailed picture of the sites and surrounds.
15. In the interests of succinctness, I do not repeat the information contained in points 6 to 16 of the s42A report and respectfully request that the Commissioner take this as read and agreed upon.

THE PROPOSAL AND ANY CHANGES TO THE APPLICATION

16. The proposal involves the three-lot subdivision of 1303 South Road, Oakura. The site is legally known as Lot 3 DP 447811, contained in Record of Title 566010 and has an area of 20.4155 hectares. The proposal will result in the creation of two 'lifestyle' allotments and a balance lot.
17. The details of the proposal are well summarised in the s42A Report in paragraph 18 and 19.
18. The proposed subdivision is classified as a **Discretionary Activity** in accordance with Rules; Rur76, Rur78 and Rur79 of the Operative District Plan (ODP) and a **Controlled Activity** in accordance with Rules; Rur82 and Rur83 of the ODP. Overall, the application is a Discretionary Activity under the ODP.

19. The Proposed District Plan (PDP) was notified on 23 September 2019 and some rules have immediate legal effect. In this instance, Rule WB-R5 has immediate legal effect and is relevant to the proposal. The application is classified as a **Controlled Activity** in accordance to Rule WB-R5 and is overall a Controlled Activity under the PDP.
20. Applying the bundling principle, the overall status of the application is a **Discretionary Activity**.
21. There have been no changes to the proposal since the lodgement of the application on the 25 February 2021, with the exception of the addition of the Landscape Mitigation Plan prepared by Mr Richard Bain of Bluemarble and dated 10 June 2021, as supplementary information and in response to the s92 request resulting from the peer review of the LVIA.

CONSULTATION AND NOTIFICATION

22. The written approvals from the owners of 1305B South Road, 1325 South Road and 1323 South Road have been provided and were included with the lodged application.
23. While I was not involved in the application at the time, my understanding is that prior to lodgement, extensive consultation was undertaken by the applicant and JSL to obtain the written approvals of adjoining landowners. This included providing an alternative scheme plan showing the location of the proposed ROW for lots 2 and 3 to the rear of the proposal, away from the boundaries of 1305A and 1305B South Road. Written approval was not obtained from the owners of 1305A South Road.
24. The application was determined to be limited notified on the 30 July 2021 and the owners of 1305A South Road and 1305 South Road were served limited notification on 14 April 2021.

SUBMISSIONS

25. Submissions closed on 1 November 2021 and two submissions in opposition were received, one from each of the affected parties identified in Table 3, paragraph 49 of the s42A report.
26. I agree with the submission summary described in paragraph 50 to 52 of the s42A Report and it is consistent with the information I have been provided.

PRE-HEARING

27. A pre-hearing meeting was held at the New Plymouth District Council office on 25 of February. The meeting was attended by the applicants, both submitting parties, the processing planner Luke Balchin, Allen Jufferman and myself on behalf of the Greensills.
28. At the meeting the submitters reiterated their concerns raised in the original submissions and acknowledged they had not been provided with the Landscape Mitigation Plan as part of the notification package. Further conversation was made in regards to if there was any additional mitigation measures the submitters would propose to reduce effects to an acceptable level.
29. The meeting did not result in any additional acceptable mitigation being suggested by the submitters and no additional conditions were formally offered as a result.
30. I note that further email correspondence was sent on 17 March 2022 from Mr. Brendon Hart to myself in response to additional mitigation measures and in reply to the provision of the Landscape Mitigation Plan. This email was sent to Juffermans Surveyors Ltd email and I did not receive the email due to changes in employment.
31. I have since been provided with a copy of the email and the email in full is provided in Appendix 1.
32. The additional mitigation measure requested by Mr. Hart are as follows;
 - a. *“Dwellings to be limited to a single story;*
 - b. *No temporary accommodation i.e buses and caravans to be used as dwellings for a prolonged period;*
 - c. *Back boundary of 1305a to be readjusted by 15m, (at the cost of the developers) and fenced, this would push the proposed sections backwards by 15m to limit impact of accessway and urbanisation;*
 - d. *Proposed plantings as per drawings to be completed along readjusted boundary;*
 - e. *Water body management within the readjusted boundary to be the responsibility of 1305a.”*

ASSESSMENT OF EFFECTS OF THE APPLICATION

Permitted Baseline

33. Under sections 95D(b) and 104(2) of the Resource Management Act 1991, the Council may disregard an adverse effect of the activity on the environment if the district plan or a national environmental standard permits an activity with that effect.
34. The s42A report states in paragraph 39, dot point 1, that the permitted baseline has not been applied for the purpose of the notification assessment, as subdivision cannot occur as a permitted activity. I agree that there is no permitted baseline for subdivision. However, in my opinion, due consideration should be given to what development could occur on site with similar effects without the subdivision. For lack of a better description, a 'development permitted baseline.'
35. In this case, a second dwelling could be located on the existing title. This is providing that no dwelling has more than 75% gross floor area than the other dwelling, and they are located within 25m of each other at the closest point.
36. The existing dwelling on the site has an approximate area of 150m² which would permit a second dwelling with an area of approximately 187m², albeit within 25m of the existing dwelling. This is in accordance with rule Rur12A(a) which permits a second dwelling on a title of 20 hectares or greater, as long as neither dwelling exceeds the other by 25% and they are located within 25m of each other at the closest point.
37. In the event the existing dwelling was removed in the future, two dwellings could be constructed on the parent title (subject to compliance with the relevant performance standards and Rule Rur12A(a)) in any location as long as they are within 25m of each other, including up to 15m of the rear boundary of 1305A South Road.
38. The ODP also permits the construction of a building up to within 10m of a side boundary (Rule Rur18) to a maximum height of 10m (Rule Rur10). There is no restriction on the site coverage of such a building as the parent title is over 4 hectares (Rule Rur14). There is no limit to the amount of non-habitable buildings that can be constructed. The ODP also does not restrict any activities associated with such a building described in this paragraph, with the exception of habitable buildings and buildings associated with intensive farming, subject to compliance with the relevant rules.
39. I do consider it fanciful that a 10m high building, located 10m from the boundary of 1305A South Road, with an almost unlimited floor area, will be constructed. However, it does illustrate the broad bulk and location requirements in this location and I do not consider it fanciful that a large farm building or structure, of potentially

more bulk and reduced setback than the proposal, may be constructed there in the future.

40. It is considered that this is the appropriate baseline against which activity should be considered. As a result, it is the effects arising from the proposal, beyond the permitted baseline, that are the crucial elements for consideration.

Effects on Rural Character & Amenity Values

41. I am in general agreement with the Council Officer's description (paragraphs 56 to 62, s42A Report) of the meaning of 'amenity' in the context of the application and surrounds, the elements and characteristics the ODP attributes to Rural Character, the characteristics the PDP attributes to the Rural Production Zone and the status of the NPDC Rural Subdivision and Development Design Guidelines 2012.
42. I agree with the Council Officer's description of the character of the area described in paragraph 59 of the s42A Report which states:

'The character of the area is described in earlier sections of this report as being predominantly rural in nature. There is a slow but steady increase of the presence of rural lifestyle properties, particularly given the sites proximity to the urban areas such as Oakura and New Plymouth. Smaller lots with rural lifestyle characteristics have increased in presence in the area. These allotments are typically located close to the State Highway, while larger farm blocks (balance lots from parent titles) are typically located further from the road boundary toward the coast of the foothills of the Kaitake Ranges.'

43. I agree with the paragraphs 60 to 62 of the s42A report and that the NPCD Rural Subdivision and Design Guidelines 2012 are relevant to the proposal as a guide rather than a statutory document or a single source of information as to if the proposal. The processing planner also noted that the guidelines promotes the clustering of smaller allotments and the current proposal achieves this outcome.
44. While the 42A report goes on to state in paragraphs 60 to 62 that;

'However the design guide also specifies that allotment placement should consider neighbours and how allotments and resulting buildings will relate to existing properties. Particularly how to reduce conflict and to ensure the proposals are compatible with existing activities in the area.'

The Council Officer has made no comment in regards to if he is of the opinion that the proposal is in accordance with the guidelines or not. In my opinion, the proposal is consistent with the NPCD Rural Subdivision and Design Guidelines 2012. This is due to the mitigation being offered has been determined by the subject matter expert (Mr. Richard Bain) as being appropriate to mitigate effects to an acceptable level. The proposed allotments are clustered as suggested in the guidelines and due consideration was taking in regards to the location of the ROW to avoid conflict, with prior consultation involving an alternate scheme plan with the ROW located in a different position.

45. The s42A report discussed the rural character and amenity effects on the property at 1305A South Road in paragraphs 63 to 68. While I am in general agreement with 63 to 65, the main area of contention appears to be paragraphs 66 to 68 and where the Council Officer has stated;

'Without mutual agreement between the parties regarding the mitigation proposed, it is my opinion that the effects on rural character and amenity values associated with 1305A South Road will be impacted at more than minor levels.'

46. I disagree that mutual agreement between the parties regarding the proposed mitigation is a requirement, beneficial but not a requirement. The purpose of the resource consent process is to determine if the effects are acceptable and expert advice on the matter was undertaken and incorporated into the proposal to ensure they are at an acceptable level. While the concerns of the submitter are valid, they must also be considered and weighed against the expert advice provided which I have relied upon.
47. I note that in the email from Brendon Hart (Appendix 1), he has stated that he would be 'willing to compromise' if the mitigation detailed in paragraph 32 of this evidence was provided. As noted in paragraph 34 of Mr. Richard Bain's evidence, some of this mitigation is already being proposed, with just slightly different wording i.e offered condition of dwellings restricted to 6m in height, Mr. Brendon Hart's proposed mitigation to limit dwellings to a single storey.
48. Mr. Brendon Hart has requested two additional mitigations that have not been offered. These are, the readjustment of the boundaries to provide Mr. Brendon Hart with an additional 15m strip of land along the property boundary, at the applicants cost; and that the maintenance of the water way within this strip be the responsibility of the property owner.

49. In my opinion, the provision of an additional 15m strip of land would achieve a similar outcome as the proposed 35m no-build setback. The main difference would be the location of the proposed landscape mitigation and if the 35m no-build setback would apply, effectively creating a 50m separation between the existing and future residential activities.

Servicing Effects

50. The s42A Report states that the proposed allotments are '*sized and located on land which will ensure they are able to be suitably serviced to a rural standard (paragraph 75).*' I concur with this assessment and with the requirement for a geotechnical report for the lots to be provided prior to s223/224 certification. This will ensure the lots are able to provide 'good ground' in terms of the Building Act and that stormwater can be managed on-site without adverse cross-boundary effects, post development.
51. The Council Officer notes in paragraph 76 of the s42A report, the existing land covenant and associated drainage easement on the subject title; and that they may relate to comments raised by the Submitter – Brendon Hart, in regards to stormwater effects. I agree that these Title instruments will be required to be carried over to any newly created titles and agree with the correlation between the easements and concerns from the submitter.
52. As a result, the Council Officer has recommended a draft condition 6 which states;

'A table or V drain shall be established within Lot 3 along Lot 3's southern boundary to re-instate the existing legal easement shown as X (Land Covenant) and W (easement) registered on RT566010 and RT566009.'

The Land Covenant is already subject to a condition which states;

'The registered proprietor of the servient tenement from time to time will be responsible to ensure that the drain which runs through part of the Servient Tenement shown "X" on Plan 447811 will remain open and free flowing and will not at any time be allowed to become filled in or blocked off.'

As both conditions seem to be trying to achieve a similar outcome, it seems to be a duplication in conditions. In my opinion, the Officer's recommended condition is supercilious, as the existing covenant condition will continue to have ongoing effect post-subdivision and a way to enforce/manage any future issues rather than solely at time of s224 certification.

53. Any amendment required to the Landscape Mitigation Plan to incorporate the existing drainage covenant and easement is noted and agreed with. Consideration of plant species in this area of the proposal may be required to ensure there is little risk to the drainage path.

Effects on Landscapes and Outstanding Natural Features

54. I have read the Council Officer's assessment, the LVIA and subsequent peer review of the LVIA and agree with the conclusions in regards to the effects on the surrounding landscape and the adjoining Outstanding Natural Landscape (Mount Taranaki and the Kaitake and Pouakai Ranges). As there seems to be agreement on this matter, I have nothing further to add in my evidence that has not been sufficiently covered by others.

Access, Traffic and Road Safety

55. Paragraph 82 to 84 of the s42A report primarily assesses the ROW in terms of the formed standard required by the ODP and the PDP, as well as the maximum number of users, and vehicle movements. As detailed in the Officer's assessment, the proposal will comply with all the requirements of the District Plan. In Appendix 2 of this evidence, is an email from the applicants which details the current vehicle movements of the site. This includes both the dairy activity and the residential activity, demonstrating the movements are well below the permitted 50 per day pursuant to Rule Rur101.

Effects on Existing ROW Users

56. The submitters had raised concerns that Waka Kotahi had not properly considered the vehicle movements of the proposal. Waka Kotahi did consider the additional vehicle movements in their review of the proposal and provision of written approval, as indicated in their response dated 23 Feb 2021 (included with the original application). The response included an estimate of the vehicle movements from the residential activity (existing and proposed) as well as Class 1 truck movements from milk deliveries and the other occasional heavy vehicle movement associated with the farming activity. I do note a discrepancy with the milk truck movements, with Waka Kotahi considering 1 truck movement a week and the applicants stating there are 3 truck movements a week. This minor discrepancy is noted but not considered to undermine the written approval or result in a change of effects as the vehicle movements are still well within the permitted range.

57. Concerns were raised through the submission process and at the pre-hearing meetings in regards to the safe use of the ROW. This seemed to mainly relate to vehicle exiting the access leg portion onto the main portion of the ROW. The issues seemed to arise from lack of visibility associated with the hedge along the boundary of the ROW and the speed of drivers using the right of way. Other matters concerning the ROW are more civil in nature and related to the ongoing maintenance of the portion of the ROW past the farm activity and to the property at 1305 South Road. In my opinion, the civil matters relating to the ROW are not within the scope of this application.
58. To attempt to alleviate the visibility issue, discussions were undertaken in regards to removal of the hedge along the ROW at the pre-hearing meeting. Mr. Brendon Hart wanted the hedge to remain, as it provided screening from his property of the existing dwelling on Lot 3 and was not agreeable to the removal suggestion as it increased amenity impacts on his property. The provision of a convex mirror to increase visibility was also discussed but this suggestion did not appear to mitigate the submitter's concerns (from 1305 South Road) to an acceptable level, and therefore was not offered as a volunteered condition.
59. Draft recommended Condition 13, requiring a convex mirror be installed appears to have come from this discussion. As there were no traffic safety issues identified by Council's Development Engineer or by the Council Planner, I assume the condition relates to the concerns raised by the submitters from 1305 South Road. Through the pre-hearing meeting discussions, it was identified that the main contributing factor to the conflict at the ROWs intersection was the manner in which vehicle departed the access leg and not adhering to the agreed (and signed) speed limit of 20km/h. The condition requiring the convex mirror does not appear to be directly linked to effects and I do not consider it warranted.
60. Consideration through the process was undertaken to relocate the proposed ROW to the rear of the proposed lots and away from the boundaries of 1305A and 1305B South Road, as per the request of Mr. Brendon Hart. An amended scheme plan to this effect was provided to Mr. Brendon Hart as part of the consultation, prior to lodgement of the application, but written approval was not provided and the applicant subsequently decided to revert back to the original proposal as it removed the conflict of residential users further up the 'tanker track' portion of the ROW.

Effects on Waterbodies & Cultural Effects

61. I acknowledge and agree with paragraph 94-97 of the s42A and the assessment around the effects on the tributary of the Wairau Stream and on cultural effects. No concerns or issues have been identified by any parties to the application on these

matters and consultation has been undertaken with Sean Zieltjes acting on behalf of Taranaki Iwi. I note that the provision of riparian planting (as well as the other proposed plantings) should be considered as a positive effect of the proposal.

Cumulative Effects

62. Mr. Richard Bain has addressed the cumulative landscape and visual effects of the proposal and I agree with Mr. Richard Bain's observation that the capacity for change in this area is nowhere near a point whereby the essence of this area's character is threatened.
63. In Mr. Richard Bain's evidence, he has further discussed cumulative effects in more detail within his area of expertise and stated;

'Lots 2 and 3 are within a discrete setting and the proposal occupies a small geographical area. Its context and scale are well able to be absorbed into the landscape with little threat to the essence of this areas' rural character that includes rural-residential development.'

Positive Effects

64. The applicant has offered riparian planting along the unnamed tributary of the Wairaru Stream on Lot 3.
65. The proposed design controls on any future dwelling and associated activities will ensure such structures will be built to retain the rural character and will avoid high visibility and prominence in the landscape.
66. The proposal enables the applicants to provide for their social and economical well-being while providing mitigation measures to avoid, remedy or mitigate any adverse effects of the proposal that are more than minor.
67. As stated in the original application, the site benefits from its close proximity to Oakura and New Plymouth in terms of accessibility to amenities. It also provides an option for people who want to live in a rural area to have more space, or to become self-sufficient and 'off the grid'. In addition, there are also economic benefits in the post covid era with the banking sector looking to eliminate risk and reduce customers debt servicing (in terms of the applicants being able to sell some of the new lots to retire farm debt).

68. The creation of two additional lots will also provide additional housing opportunities to meet the growing demand in the district and provide economic benefits from the building industry and service providers.

Draft Consent Conditions

69. I have reviewed the draft consent conditions proposed in the Officer's s42A Report and considered they are for the most part, generally reasonable and appropriate, to ensure any of the potential adverse effects of the proposal are appropriately avoided, remedied or mitigated, except for the conditions 4, 6, 11 and 13.
70. However, I propose the following amendments to the conditions;
- a) The deletion of Condition 4 requiring building platforms to be identified on the survey plan. This is not necessary when taking into consideration the provision of the identified non-buildable areas and taking into consideration the District Plan setbacks from boundaries. The application never sought to identify building platforms only to provide Geotech that they were suitable for the future provision of a building platform. The identification of a building platform on a title further reduces the development flexibility of the site and may result in a cumbersome process for future owners to make a slight variation to the platform, even if the variation complies with the District Plan. When considered with the offered design mitigations, no-build areas, District Plan controls, Geotech report, this seems onerous.
 - b) The deletion of Condition 5 requiring a table of V drain to be installed on Lot 3 as this seems a duplication of existing title conditions.
 - c) The amendment of Condition 11 to include a more appropriate legal mechanism, as the condition currently requires the application to enter into a covenant agreement but it is unclear whom the other party is.
 - d) The deletion of Condition 13 as it does not relate to effects that have been identified and verified.

The proposed changes to the draft consent conditions are included in Appendix 3 of this evidence.

Conclusion on Assessment of Effects

71. Overall, it is considered that any actual and potential adverse effects on the environment are able to be avoided, remedied or mitigated to an acceptable level through consent conditions.

STATUTORY REQUIREMENTS

Objectives and Policies Assessment

Operative District Plan

72. I agree with the identified relevant objectives and policies of the ODP provided in paragraph 108, Table 3 of the s42A Report.
73. I somewhat agree with the Assessment of Objective 1, Policies 1.1 & 1.2. I concur that the proposal is consistent with Policy 1.1 but disagree that it is inconsistent with the Objective 1 and Policy 1.2. As outlined in the assessment of effects, the effects on the property at 1305A South Road are able to be mitigated to an acceptable level, as per Mr Richard Bain's Evidence (paragraph 25, 30 and 39), due consideration has been given to the receiving environment (paragraph 8-10), and cumulative effects (paragraph 17-20). I note that had appropriate mitigation not been offered, the proposal would be considered inconsistent.
74. I agree that the proposal is contrary to Policy 4.1 as the proposal results in more than one allotment but disagree that it is contrary to 4.2 and 4.5. This is due to the expert matter advice that has been provided in regards effects on rural character and amenity. I rely on the advice provided and that appropriate mitigation has been offered. I do not consider the proposal contrary to the overall objective by virtue of being contrary to Policy 4.1. Otherwise, all rural subdivision that result in more than one lot would have to be considered contrary to Objective 4, regardless of the virtues of the proposal.
75. I do agree with the remaining assessment of the ODP policies and objectives and agree that the proposal is consistent with Policy 4.6 & 4.8, Objective 15 and Policy 15.1, Objective 19, Objective 20 and Policies 20.1 and 20.7.
76. In summary, the application is generally consistent with the objectives and policies of the ODP.

Proposed District Plan

77. The PDP was notified on 23 September 2019. The objectives and policies of the PDP have immediate legal effect and therefore are required to be considered in relation to the proposal.
78. I agree with the identified relevant objectives and policies of the PDP listed in Table 4 of the s42A Report.
79. I also agree with the majority of the assessment provided by the Council Officer with the exception of SUB-01, SUB-02 and RPROZ-P3 which I considered the proposal consistent with. The s42A report concludes the proposal is inconsistent with these policies due to the proposal being unable to mitigate the potential effects on the rural character and amenity values of an adjoining owner. I disagree with this conclusion, given the amount of mitigation proposed and based on the advice of subject matter experts on the matter. In my opinion, undue emphasis is being placed on the submission from 1305A South Road and then this perceived adverse effect is being applied to policies that are more applicable to the wider environment.
80. The mitigation measure demonstrate that the potential and actual adverse effects of the subdivision can be avoided, or appropriately remedied and mitigated to an acceptable level and be considered consistent with SUB-01, SUB-02 and RPROZ-P3.
81. Overall, the proposal is consistent with the relevant objectives and policies of the PDP.

National Policy Statements and National Environmental Standards

82. The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) is the national environmental policy and standard of relevance to this application; and no other national policy standard, national policy statements or other regulations are relevant to the determination of this application. Subdivision is an activity to which the NESCS applies where land is potentially or actually contaminated. The site is not registered in TRC's SLU database to have historic HAIL activity. Therefore, the NESCS does not apply.

Taranaki Policy Statement

83. The Regional Policy Statement for Taranaki (RPS) identifies the significant resource management issues of Taranaki which include land and soil, fresh water, air, coast, indigenous biodiversity, natural features and landscapes, historic heritage and

amenity values, natural hazards, waste management, minerals, energy, and built environment.

84. Section 10 of the RPS provides protection to natural features and landscapes, historic heritage and amenity value. The site has no outstanding natural features, and the proposal has no adverse visual effects on Mount Taranaki. No waahi tapu, or other sites of spiritual or cultural significance, or heritage buildings are located on the subject site.
85. The s42A Report (paragraph 117) concludes the proposal is inconsistent with 10.3 of the RPS due to the proposal not providing for the maintenance of rural character and amenity. This was not the conclusion that was reached in the LVIA or in the peer review and seems to be driven solely based on the effects on one property rather than the landscape as a whole. I disagree that the proposal is inconsistent with 10.3 as any adverse effects on rural character and amenity values are able to be appropriately managed.
86. Overall, the application is consistent with the policies and objectives of the RPS.

Other Matters

Section 106

87. The consent authority may refuse to grant a subdivision consent if it considers that there is a risk from natural hazards or sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision. All the lots have adequate frontage for access points to be provided for during subdivision development. Having regard to these provisions, I consider that there is no reason to decline the application under section 106 of the RMA.

Statutory Acknowledgement Area

88. The site does not contain a Statutory Acknowledgement Area. However, the applicant has agreed that they will plant along the unnamed tributary of the Wairau Stream on Lot 3 in accordance with discussions with TRC and Taranaki Iwi.

PART 2 OF THE ACT

89. Part 2 of the RMA sets out the purpose and principles of the RMA which is to 'promote sustainable management'. In the context of the RMA, sustainable management centres on the use, development and protection of the environment while ensuring the life-supporting capacity of the environment, safe-guarding future generations and avoiding, remedying and mitigating adverse effects. There is a logical hierarchy to the RMA with policy and planning instruments developed at national, regional and district levels. Further statutes may also weigh into an assessment of whether the activity achieves the purpose and principles of the RMA.
90. Section 5 sets the purpose of the Act – the sustainable management of natural and physical resources, while enabling people and communities to provide for their social, economic and cultural well-being, and for their health and safety.
91. Section 6 of the RMA sets out the matters of national importance which need to be recognised and provided for and includes among other things and in no order of priority, the preservation of the natural character of the lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development, the protection of outstanding natural features and landscapes, the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna, the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga, and the management of significant risks from natural hazards.
92. This subdivision includes proposed mitigation measures that take account of the relevant matters listed in Section 7 including stream protection, restriction on the number of dwellings, building design controls and planting. It is considered that the proposal will have less than minor adverse effect and will result in some positive effects on natural and physical resources, the intrinsic values of ecosystems and the ability to maintain or enhance amenity values, and environmental quality.
93. Section 8 of the RMA requires the consent authority to take into account the principles of the Treaty of Waitangi. To give effect to Section 8, the unnamed tributary of Wairau Stream located in the subject site will be planted and fenced as one of the proposed mitigation measures.
94. The application is considered to meet the relevant provisions of Part 2 of the RMA.
95. I somewhat disagree with the conclusion that Part 2 matters are relevant in regards to the operative Plan. The Council Officer stated;

'I consider that, and particularly being that the operative plan has been in place for over 15 years and there is Proposed Plan currently subject to

future hearings process with a different zoning framework for site, that it is necessary to have regard to Part 2 of the RMA.'

While I agree that Part 2 matters are relevant in regards to the proposed plan, due to its current status in the plan change process, I do not consider them relevant in regards to the ODP. The age of the ODP does not automatically mean that it does not give effect to higher order documents and I am unaware of any deficiencies of the plan or that it was not prepared appropriately.

96. I somewhat disagree with the assessment in Paragraph 128 of the s42A Report that the proposal cannot achieve the purpose (section 7) of the RMA. In my opinion, due consideration and weight has not been given to the subject matter experts in terms of the effects on 1305A South Road. While I agree the proposal does not contribute to the enhancement of amenity values in terms of this property, I would consider that the proposal does maintain the extant amenity values.

CONCLUSION

97. I have considered all the matters raised, the matters under section 104(1) and Part 2 of the RMA, and in my view, any actual and potential adverse effects on the environment, including any effects on the existing rural character, visual and amenity of the area will be able to be avoided, remedied, or mitigated by the proposed consent conditions.
98. The proposal meets the various statutory provisions to be given regard in terms of the Resource Management Act 1991.
99. The proposal is consistent with the purpose and principles of the Resource Management Act 1991.



Connor Marner

Independent Planner

15 June 2022

Appendix 1

Email from Brendon Hart in regards to additional mitigation

Appendix 2

Email from Applicants in regards to traffic counts

Appendix 3

Review of proposed draft conditions