

SECTION 42A HEARINGS REPORT

RESOURCE CONSENT APPLICATION FOR A DISCRETIONARY SUBDIVISION AT 6 LEITH ROAD, NEW PLYMOUTH APPLICATION NO. SUB21/47781

Hearing Date: 08 June 2022

Report prepared by: Laura Buttimore, Consultant Planner

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| Consent No: | SUB21/47781 |
| Applicant: | B, M and R Sim |
| Site Address: | 6 and 42 Leith Road, New Plymouth |
| Legal: | Lot 1 DP 19869 and Part Lot 1 DP 8787 held in RT TNK4/798 and TNK4/799 |
| Site Area: | 46.9ha and 2459m ² |
| Application: | 6 lot subdivision |
| Zoning: | Operative District Plan: Rural Environment Area Proposed District Plan: Rural Production Zone |
| Overlays: | Operative District Plan: State Highway 45 (Limited Access), Proposed District Plan: State Highway 45 (Limited Access), waterbodies under Proposed District Plan |
| Relevant Rules: | Rules Rur 78 - 83 |
| Application status: | <i>Subdivision</i> The Proposal is Discretionary Activity under Rule Rur 78 of the New Plymouth District Plan (Operative 15 August 2005). The proposal is a Controlled Activity under Rule WB-R5 of the Proposed New Plymouth District Plan |
| Notification: | The application was publicly notified on the 21 st of January 2022 and submissions closed on the 22 nd of February 2022. |

Submissions:

A submission was received on 17th of February 2022 from Fire and Emergency New Zealand opposing the subdivision in the absence of dedicated measures relating to fire safety.

I, Laura Buttimore, Consultant Planner acting for the New Plymouth District Council (NPDC) have written this hearing report. It has been prepared to assist the Independent Hearings Commissioner in his consideration of the application. The report has no status other than as a hearing report on the application. It is not a decision, and the recommendation should not be construed as such.

Statement of Experience

1. I hold the qualifications of a Bachelor of Resource and Environmental Planning (Honours) from Massey University. I am a Full Member of the New Zealand Planning Institute.
2. I have over thirteen years' experience as a professional planner working in local authority and private consultancy across New Zealand. I have extensive experience in terms of rural subdivision, specifically within the New Plymouth District. My recent experience includes processing a variety of rural subdivision resource consents for NPDC. I have also been involved in the Proposed District Plan for NPDC specifically with the urban Structure Plan Development Areas but additional advice and review has been provided on the Rural Production, Rural Lifestyle and Rural subdivision provisions.
3. I regularly appear at Council level hearings as a professional planning witness, and I have prepared and presented evidence to the Environment Court on planning matters.

Site Description and surrounding environment

4. The subject site is comprised in two Record of Titles (RT) on Leith Road. The site is 47ha, with a separate 2459m² title. The site has frontage to Leith Road along its eastern boundary and State Highway 45 (SH45) along its southern boundary. The two titles both contain dwellings. The smaller allotment sits within the centre of the wider site and setback from the road by a long driveway, the dwelling, garage and curtilage area take up the majority of this allotment in a keyhole shape. The second dwelling is located near the corner of Leith Road and SH45, farm implement and milking sheds are also located near this dwelling adjacent to Leith Road.
5. The site is steep to rolling in topography but primarily flat to rolling along the Leith Road frontage, with portions of the site sitting above the road. Two unnamed tributaries of the Katikara Stream dissects the site in generally a north, south direction. The site is further described in Section 1 of the application.

6. In the immediate environment there is a mixture of lifestyle properties and smaller country living sized lots and beyond that there are a number of large farm holdings.



Photo 1: View across the site looking south and over dwelling on Lot 5.
(Source: Application for Resource Consent)



Figure 1: Site and Surrounding Area

Proposal

7. The applicant proposes to undertake a subdivision as follows:

- Lot 1 – 2.924ha;
- Lot 2 of 5555m²;
- Lot 3 of 5500m²;
- Lot 4 of 4271m² containing the existing dwelling near the corner of Leith Road and SH45;
- Lot 5 – 1.01ha containing existing dwelling in the centre of the site.
- Lot 6 of 32.133ha (to be amalgamated with Lot 2 DP 18489 for a combined area of 41.43ha).

8. The proposal is outlined in section 2 of the application and can be summarised in the table below in Figure 2.

| | Lot 1 | Lot 2 | Lot 3 | Lot 4 | Lot 5 | Lot 6 |
|-------------------|---------------------------------------|---|---------------------------------------|----------------------------------|----------------------------------|---|
| Allotment Size | 2.92ha | 5555m ² | 5500m ² | 4271m ² | 1.01ha | 32.133ha |
| Vehicular Access | Not specified – no existing crossing. | A dual crossing with the existing crossing for Lot 5. | Not specified – no existing crossing. | Retain existing vehicle crossing | Retain existing vehicle crossing | Retain existing crossing where dairy shed is. |
| Existing Dwelling | No | No | No | Yes | Yes | No |
| Stormwater | Proposed ground soakage | Proposed ground soakage | Proposed ground soakage | Ground soakage | Ground soakage | Proposed ground soakage |
| Water | Proposed water tank collection | Proposed water tank collection | Proposed water tank collection | Proposed water tank collection | Proposed water tank collection | Proposed water tank collection |
| Sewer | Proposed onsite septic tank system | Proposed onsite septic tank system | Proposed onsite septic tank system | Onsite septic tank system | Onsite septic tank system | Proposed onsite septic tank system |

Figure 2: Summary of proposed subdivision.

9. The proposed scheme plan is provided below in Figure 3.



NOTES:
 1. Subject to Consent from the appropriate Territorial Authorities
 2. Areas & dimensions are subject to final survey
 3. Plan prepared for consent purposes only and should not be relied upon for any other purpose without the consent of Juffermans Surveyors Ltd


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|  | 51 Dawson Street PO Box 193, New Plymouth 4340 info@juffermans.co.nz www.juffermans.co.nz | Client: SIM Site Address: 6 Leith Road New Plymouth | Drawing Title: Lots 1-6 Being a Proposed Subdivision of Pt Lot 1 DP8787 and Lot 1 DP 19869 Territorial Authority: NPDC Consents: TNK 4/798 & TNK 4/799 Drawing No: 20198-2 |
|---|--|--|---|

Figure 3: Scheme Plan for SUB21/47781 (revised scheme plan attached as Appendix 5).

10. As a result of a further information request the applicant provided a Landscape and Visual Impact Assessment (LVIA) by Bluemarble which provided a suite of recommendations. These are summarised as follows:

Lots 1, 2 and 3

- Only one habitable building on each allotment;
- Fencing limited to post and rail or post and batten only;
- All new buildings roofs shall have a light reflectance value of less than 20%;
- All new buildings walls and gable ends shall have a light reflectance value of less than 40% (excluding glazing);
- Buildings shall be no higher than 6m above existing ground level;
- Watertanks should be black in colour or screened by vegetation;
- All exterior lighting shall be hooded and cast down;
- Earthworks over 1.5m in height is prohibited, unless it is created at a batter of no steeper than 3 horizontal to 1 vertical. Any earthworks shall be grassed.
- No building shall be located within 5m of the highest point of the knoll on Lots 2 and 3;

- *Hedging along the Leith Road frontage shall be retained, if this is removed it shall be replaced with a minimum of two of native vegetation at 1m spacing capable of reaching a minimum height of 3m in six years.*

Lots 4 and 5

- *Limited to one habitable building on each allotment; and*
- *Fencing limited to post and rail or post and batten only.*

Lot 6

- *No habitable building shall be located within 180m of the Leith Road boundary.*

Statutory Requirements

National Environmental Standards

11. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) describes subdivision as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred. I have checked the TRC Selected land Use register and there is no evidence that the site has contained an activity listed on the HAIL. Therefore, the NES does not apply.

Statutory Acknowledgement Area

12. The site does not contain a Statutory Acknowledgement Area, the Katikara Stream and its tributaries are not listed in the Taranaki Iwi Claims Settlement Act. However, the applicant has indicated they will plant the waterbodies in accordance with discussions with Te Kahui o Taranaki Trust.

Operative District Plan

13. The New Plymouth District Plan was made operative on 15 August 2005. The site is located in the Rural Environment Area.
14. The proposal has been assessed against the following District Plan rules:

| Rule # | Rule Name | Status of Activity | Comment |
|---------------|---|---------------------------|---|
| Rur78 | Minimum allotment size and number of allotments | Discretionary | A discretionary activity provides for up to 5 allotments from one parent title. The subdivision is creating five small allotments across two separate records of title. Both titles |

| | | | |
|-------|--|---------------|---|
| | | | are considered the 'parent title' and the larger title is creating four small allotments as a discretionary activity and the second smaller allotment is not seeking an additional allotment but increasing the size of this record of title. The subdivision is considered to meet the discretionary minimum allotment size requirements. |
| Rur79 | Access | Discretionary | The proposal outlines that the vehicle access for Lots 2 and 5 will be a shared access, this access cannot achieve the required sight visibility to the south and will be within 10m of an access on the opposite side of Leith Road. This is further discussed below, as the accesses will need to be suitably constructed in specific locations to achieve the required sight visibility. |
| Rur81 | Water/ Waste water and storm water services | Controlled | Each allotment will be able to achieve on-site management for all services. |
| Rur82 | Building Platform | Controlled | The applicant has outlined that each allotment will achieve a stable and flood free building platform. |
| Rur83 | Existing buildings bulk and Location | Controlled | All buildings will meet the setback requirements for new boundaries. This is assuming the dwelling on Lot 4 complies with the 15m side yard setback to the new boundaries on Lot 6. The dwelling on Lot 4 has an existing non-compliance with the road boundary. |

15. There are no interests on the record of title that would restrict the proposal, noting the Limited Access notation as Lot 6 fronts State Highway. However, no access to the State Highway is being sought as a result of this application and no change in use to the state highway frontage will result.
16. Overall, the proposal is a Discretionary Activity under the Operative Plan.

Proposed New Plymouth District Plan (Notified 23 September 2019)

17. The site is located within the Rural Production Zone and contains the waterbodies being two tributaries of the Katikara Stream within the subject site. No decisions have yet been made on the Proposed Plan.
18. It is noted that subdivision of land remains an anticipated activity under the Rural Production zone, but the proposed activity would be a non-complying activity (for lot size) as the subdivision is creating four new small allotments from one parent title and a boundary adjustment with the other existing record of title to increase this titles allotment size.
19. The following rules of the Proposed District Plan relevant to this proposal have immediate legal effect:

| Rule # | Rule Name | Status of Activity | Comment |
|---------------|---|---------------------------|---|
| WB-R5 | Subdivision of land containing or adjoining a waterbody | Controlled | This rule has immediate legal effect and the proposal complies with standard SUB-R9. The proposal requires consent as a controlled activity under this rule, as Lot 6 (which contains the waterbodies) is over 4ha in size. |

20. Overall, the proposal is a Controlled Activity under the Proposed Plan.

Notification Summary

21. The notification decision was notified on the 21st of January 2022, it was authored by Laura Buttimore and approved by Mr Campbell Robinson (Acting Planning Lead, Consents). The notification report concluded that the application be publicly notified in accordance with section 95A of the Resource Management Act 1991 (RMA) including service on persons at adjacent properties on Leith Road who were deemed adversely affected under Section 95B by the proposal and had not provided their written approval.
22. The written approvals were provided from the following parties at the time the consent was lodged.

| Map Identifier (Figure 4) | Name | Address |
|---------------------------|-----------------------------|---------------|
| 1 | S and S Hooker | 94 Leith Road |
| 7 | N and P Goodin and A Julian | 43 Leith Road |
| 8 | G and S Hill | 19 Leith Road |



Figure 4: Subject site and adjacent land

23. The notification decision concluded property owners at properties 2 – 4 and 9 and 10 in Figure 4 above were not affected by the proposed subdivision.
24. The owners of 63 Leith Road (property 5) had provided their conditional written approval but it was confirmed by the applicant that this not be accepted and that they be notified.
25. Following discussions with the applicant, they applicant confirmed they would like to proceed to public notification. The application was therefore publicly notified on the 21st of January 2022 including service of notice on those adjacent landowners at property 5 and 6 above in Figure 4.
26. The submission period closed on the 22nd of February 2022.

Submission summary

27. A submission was received in opposition to the subdivision from Fire and Emergency New Zealand (FENZ) requiring that the application consider and provide for dedicated measures for fire safety.
28. The applicant went back to FENZ confirming a consent notice detailing the following would be imposed on each allotment subject to the subdivision:

'Each new dwelling shall be supplied with a dedicated firefighting water supply, and access to such supply, in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008, which must thereafter be maintained.'

29. FENZ confirmed that based on that consent notice being offered that FENZ withdraw their right to be heard. FENZ also suggested the inclusion of an advice note would be welcomed as detailed in their submission.

Pre-hearing discussions

30. The applicant requested that a hearing be provided given the conclusions reached in the notification decision and that no further mitigation would be provided, no formal pre-hearing took place.

Assessment of the Application

31. The following relevant matters have been considered in the assessment of this application under section 104 of the RMA.
32. The existing environment has been described in the application, and in particular the Landscape and Visual Impact Assessment (LVIA) provided by Blue Marble as follows:

The property is a dairy farm, with most of the paddock area, dairy shed and associated ancillary buildings located with proposed Lot 6.

There are two dwellings on-site, one is located within proposed Lot 5 (currently a 2459m² parcel) at 42 Leith Road. The dwelling is setback 150m from the road boundary. The other dwelling, at 6 Leith Road is located approximately 10m from the road boundary and will be included within proposed Lot 4. The existing group of farm buildings located adjacent to this house will be included within Lot 6 – the farm balance lot.

Topographically, the landscape is relatively flat within the purview of Leith Road, transitioning to an undulating gully system to the east of the farm race that runs parallel with the road. There are two unnamed tributaries of the Katikara Stream that run north-south through the eastern half of the site. These features are shown on the Graphic Supplement.

The application describes proposed planting of the waterbodies in conjunction with Te Kahui o Taranaki.

The portion of the site subject to landscape change through this proposal, is the land adjacent to the Leith Road frontage. This land rises to high point in the vicinity of propose Lot 2 and 3. The road elevation more or less mirrors this. There is no vegetation within Lots 1, 2 and 3 except for a roadside boxthorn hedgerow. There is amenity vegetation around the existing dwellings on Lots 4 and 5.

While the Leith Road frontage of the site is spacious, on the opposite side of the road are three dwellings and a stand of protected bush. This creates a backdrop to the site when viewed from SH3 travelling south...

The defining aspects of the site (in the area of Lots 1 -3) that contributes to its rural character are spaciousness and generally elevated outlook”.

33. I agree with this description. Furthermore, the additional mitigation outlined above has been repeated here for ease of reference:

Lots 1, 2 and 3

- *Only one habitable building on each allotment;*
- *Fencing limited to post and rail or post and batten only;*
- *All new buildings roofs shall have a light reflectance value of less than 20%;*
- *All new buildings walls and gable ends shall have a light reflectance value of less than 40% (excluding glazing);*
- *Buildings shall be no higher than 6m above existing ground level;*
- *Watertanks should be black in colour or screened by vegetation;*
- *All exterior lighting shall be hooded and cast down;*
- *Earthworks over 1.5m in height is prohibited, unless it is created at a batter of no steeper than 3 horizontal to 1 vertical. Any earthworks shall be grassed.*
- *No building shall be located within 5m of the highest point of the knoll on Lots 2 and 3;*
- *Hedging along the Leith Road frontage shall be retained, if this is removed it shall be replaced with a minimum of two of native vegetation at 1m spacing capable of reaching a minimum height of 3m in six years.*

Lots 4 and 5

- *Limited to one habitable building on each allotment; and*
- *Fencing limited to post and rail or post and batten only.*

Lot 6

- *No habitable building shall be located within 180m of the Leith Road boundary.*

34. The proposal is to subdivide a site (containing two records of title) with two existing dwellings so that each dwelling is located on its own rural lifestyle allotment, whilst creating three more vacant rural lifestyle allotments while retaining a large vacant (of habitable buildings) balance allotment. It is acknowledged that one record of title (contained within proposed Lot 5) is effectively a boundary adjustment to increase this allotments land holding and take land out of the current farming unit.
35. The proposal has the potential to adversely affect rural character, through the intensification of small allotments and their resultant built form on each allotment.
36. The actual and potential effects on the environment from the proposed subdivision are considered to relate to the broad categories of:
- Permitted baseline assessment

- Rural Character and Amenity
 - Traffic and transport effects
 - Waterbody; and
 - Cumulative Effects;
37. Ms Erin Griffith of Natural Capital, a qualified Landscape and Urban Design Expert was engaged by the Council to undertake a landscape review of the LVIA provided by the applicant and provided some landscape advice. Ms Griffith's landscape review is attached to this s42A report as Appendix 1 and is intended to provide expert landscape advice to this report. An additional memo was provided by Ms Griffith to support the finalising of the notification report as a result of feedback and discussions with the applicant. This notification response memo is provided in Appendix 2 of this report.

Permitted baseline assessment

38. Section 104(2) provides discretion to apply the permitted baseline. Section 104(2) of the RMA provides that when forming an opinion about whether there are any actual or potential effects on the environment of the following activity, the consent authority:

"may disregard an adverse effect of an activity on the environment if a national environment standard of the plan permits an activity with that effect"

39. The purpose of the permitted baseline test is to isolate and make effects of activities on the environment that are permitted by the plan, or have already been consented to, irrelevant. When applying the permitted baseline such effects cannot then be taken into account when assessing the effects of a particular resource consent application. The baseline has been defined by case law as comprising the 'existing environment' and non-fanciful (credible) activities that would be permitted as of right by the plan in question.
40. As the District Plan does not allow for any subdivision as a permitted activity there is no permitted baseline in this instance. Although, there is no permitted baseline for subdivision, one can be considered for permitted building activity, particularly in the location of proposed small allotments.
41. In terms of the establishment of an additional habitable building on the subject site this could only occur if it was within 25m of the existing dwellings on site (Rule Rur12A) or a second dwelling on the larger title given that it exceeds 40ha (41ha ha if amalgamated with adjacent title as proposed by the application) (Rule Rur12B). Given the size and layout of the existing smaller title which includes the existing dwelling on Lot 5, no feasible second dwelling could be erected within 25m of the existing dwelling on this title given the existing built form and title boundary locations. Therefore, it is considered that the only feasible permitted built form available on the site relates to a second habitable dwelling being erected on the

larger farm allotment. It is acknowledged that this could be in the location of one the smaller lots identified for the proposed subdivision.

42. It is also acknowledged that the establishment of other buildings is a permitted activity provided compliance is achieved with the Rural Environment Area bulk and location provisions. Any other building would need to be sited 30m from Leith and South Roads and 10m from any side boundary. Therefore, a building (eg an implement shed or hay shed) could be constructed in the location of the proposed small allotments.
43. Overall, I consider the use of the permitted baseline analysis in terms of comparing effects of this subdivision to a permitted activity to not be feasible or appropriate for the following reasons:
- A shed or non-habitable building is generally synonymous with the rural environment and what constitutes rural character and does not contain a frequented vehicle crossing, outdoor living spaces and garden and curtilage areas all associated with rural lifestyle allotments;
 - Any future additional second habitable building erected on a larger title is usually connected to the property as a workers cottage etc and has a relationship with the wider property, quite different to a subdivision of a small allotment for lifestyle purposes; and
 - The proposed subdivision is at a scale and intensity beyond what is provided for as a permitted activity;
44. I therefore consider the use of the permitted baseline not an effective tool to consider and compare potential effects related to this 6-lot rural subdivision. Any permitted activities would not be comparable to the proposed 6 lot subdivision which would result in five small allotments and the resultant-built form from a habitable building and any other buildings on each allotment.

Rural character and amenity

45. Rural Character is the combination of elements that make an area 'rural' rather than 'urban'. Rural areas are typically distinguished by a dominance of openness and rural practices over manmade structures not related to the primary use. Rural character includes the key elements of:
- Spaciousness,
 - Low density,
 - Vegetated,
 - Production Orientated,
 - Working Environment,
 - Rural Based Industry and
 - Rural Infrastructure.

The elements of rural character are further discussed below:

Spaciousness and Low density, Vegetated

46. As described above in the applicants LVIA, the sites defining aspect along the Leith Road frontage is its 'spaciousness' and elevated outlook. Once developed for rural residential purposes, the land adjoining Leith Road where the proposed small allotments (particularly Lots 2 and 3) are located will result in a loss of spaciousness and loss of low density-built form when viewed from the road.
47. The proposed mitigation measures offered by the applicant, summarised above, will result in some reduction in effects. However, it is my opinion that this would not reduce the scale significantly to ensure a low density spacious rural environment is retained. The resultant dwellings and associated curtilage areas will not be effectively screened from public roads by the proposed mitigation measures as there is minimal planting proposed and due to the elevated nature of the allotments.
48. As stated in Ms Griffith's memo in Appendix 2 the key components of the site are:
 - 1) *"The defining aspects of the site (in the area of Lots 1 -3) that contribute to rural character are spaciousness and generally elevated outlook"*
 - 2) *"Overall, the site's distinctive landscape pattern arises from its elevated parts of open pasture and roadside hedge"*

Because of the sites elevated nature, outlooks are currently experienced across the subject site when travelling along SH45, Leith Road and Perth Road. The rolling topography of the site means there is potential for views to be restricted across the site. However, the current design and layout of the subdivision with small allotments dotted along the full stretch of the Leith Road frontage means the built form resulting from these allotments will be viewed from all public vantage points. The only planting measure offered by the applicant, to reduce the views across the small allotments is the retention of an existing boxthorn hedge which will restrict some views into each allotment but will not fully mitigate the loss of spaciousness.

49. It is acknowledged that some mitigation and open space will be retained by the balance allotment. However, not to an extent that it would appropriately mitigate the loss of open space from the proposed small allotments.
50. It is my opinion, that the greatest potential loss of rural character resulting from this subdivision is the loss of open space rural outlook along the Leith Road frontage. This linear development along Leith Road proposed does not retain the open space rural elements currently experienced on the subject site and are fundamental, in my opinion to ensuring the retention of rural character. This is specifically because of the location and layout of these smaller allotments along the Leith Road frontage.

51. The Operative District Plan seeks to control the density and scale of development in the rural environment area by providing for one small allotment where there is a large balance area, which promotes spaciousness and low density, production orientated environments. In this case there would be a balance allotment of 41ha and a further small five small allotments being created.
52. Whilst the balance allotment (Lot 6) will retain low density spaciousness elements, this is limited due to the topography of the site. Limited outlook of this balance allotment is achieved through the design of the subdivision, particularly from Leith Road. The subdivision design has clustered some of the small allotments (Lots 2 and 3) around the existing dwelling in the centre of the site (Lot 5). However, they also have proposed two other small allotments at both the northern and southern end of Leith Road.
53. Lot 6 does provide for two breaks in between the small allotments with approximately 170m between Lots 1 and 5 and 140m between Lots 3 and 4. The proposed no habitable building restriction on Lot 6 within 180m of Leith Road will help retain some elements of open space over Lot 6. However, I remain of the opinion that the open space elements on Lot 6 are not sufficient to retain rural character. In the absence of the identification of building platforms on each allotment and the design of the subdivision (with allotments located on high points of the site) it is considered that this development will result in the loss of open space, and spaciousness elements that are part of the rural character in this environment.
54. It is important to note that the dwelling on Lot 5 has been sought to be relocated from the site. This information was provided to the applicant and the applicant has indicated that they would offer a s221 consent notice that would restrict any future development on this allotment to be of a similar bulk and location to the existing dwelling on this allotment and the low reflective colours would apply to this allotment also. It is acknowledged that Lot 5 is currently held in an existing record of title, with a boundary adjustment to increase this lot size is being undertaken as part of this subdivision. I believe that a future dwelling on this allotment could be appropriately mitigated if it is limited to the existing generalised footprint of the current dwelling. Planting on this allotment would also need to be retained and/or replaced to create comparative effects to ensure the creation of this allotment is able to be appropriately mitigated given the context of the proposal as a whole.
55. In addition, to Lot 5 the dwelling on Lot 4 does not meet the 30m road boundary setback from Leith Road and it is unclear if it meets the 15m side yard setback to Lot 6. Compliance with this 15m side yard has been assumed as it has not been sought in the application. The dwelling is aging and could potentially be removed/demolished and the site rebuilt on, any new dwelling would need to either apply existing use rights or seek a resource consent for road and side yard infringements. No consideration to future development on Lot 4 has been given by the applicant. Lot 4 appears not to have been restricted from having

2 dwellings. I consider that if the dwelling is replaced/removed, the conditions pertaining to Lots 1, 2 and 3 should apply (colour/reflectivity/fencing/one habitable building/height etc should apply). It is my opinion that this allotment, acknowledging that it has an existing dwelling on it that forms part of the existing environment, has not been suitably located given its proximity to the existing milking sheds on Lot 6, its proximity to the State Highway and its narrow site width.

56. The LVIA makes the following comments in relation to rural character effects:

"Lots 2 and 3 are located next to each other on the elevated part of the site. This positioning is obvious given the spectacular views available. Dwellings on these lots will be visible and relatively prominent"

57. It is my opinion that the proposed mitigation measures offered will not effectively mitigate the effects associated with the loss of open space and spaciousness created from the proposal, particularly the prominent nature of the proposed small allotments. The LVIA comments that significant earthworks will be likely for Lots 2 and 3 but are managed through proposed mitigation measures. However, it is considered 1.5m or less earthworks cut in this environment still have the potential to create adverse effects on rural character that could be mitigated through better subdivision design and layout. In addition to this, the access location requirements (as discussed below) for Lot 2 and 3 further encourage earthworks as recommendations from Council Development Engineer require these accesses to be located at the brow of the hill to ensure adequate visibility. This requirement will result in earthworks to construct the access and driveway to each allotment. This earthworks, in the absence of a comprehensive plan and identification of building platforms on Lot 2 and 3 is likely to result in adverse effects on rural character.

58. The LVIA peer review by Natural Capital attached as Appendix 1, similar to the LVIA comments on the visibility of built form on Lots 2 and 3. This peer review states:

"Further consideration about dwelling placement, and vegetation buffers could be useful to ensure the open space associated with the rising hillock is protected/maintained as this area of openness and spaciousness is, to me, the most vulnerable to change and the area which will have the greatest adverse effect if dominated by dwellings (and associated activities)."

59. Given the concerns raised in the peer review of the LVIA in relation to the loss of rural character further clarification and consideration to additional mitigation measures was discussed with the applicant. The applicant's response in a s92 request was as follows:

"The addition of no-build areas on high knoll features is not considered to be warranted in this circumstance. There are limited positions where a dwelling

would be able to located on knolls and the effects of any potential future development are considered to be such that this requirement is justified.

Similar, to Point 1 there is the potential of buildings to occur on these knolls currently. If in the event, future residential development was to occur on one of these knolls, the potential visual impact on the surrounding residential environment would be relatively minor when compared with that of the permitted baseline.

The requirement for no-build areas does not seem to be supported by the assessment provided as the effects are able to be mitigated and remedied to an acceptable level. Therefore, any such requirement is not considered to be supported by the RMA as it is not considered to be 'fair, reasonable and practical' to require such a condition."

60. Following receipt of the Notification Decision further discussion was had with the applicant, particularly around further mitigation. Ms Griffith from Natural Capital provided further assessment at this time, this report is attached as Appendix 2. This report makes further suggestions and detail around how potential effects could be adequately mitigated. The applicant has not considered these suggestions any further. It is my opinion that any redesign would need to consider re designing the lot layout and location for Lots 2 and 3, away from the high point that traverses these allotments. Identification of a building platform on Lot 1 would also be important to limiting development away from high points on Lot 1 and better understanding and assessing the impact of a habitable dwelling on this allotment.
61. Overall, I acknowledge that the site has the ability to absorb some smaller allotment subdivision and development. However, the applicant has been unwilling to further consider any mitigation and or re design of the subdivision. Therefore, considering the application on its merits it is considered the proposed activity will result in a loss of open space elements that define rural character to a more than minor level, particularly along Leith Road.

Production orientated and working environment

62. The area of the site not used for dwellings and curtilage that will retain production orientated aspects, will be the balance allotment, Lot 6. This allotment is in pasture and used for grazing of stock and maize. A dairy milking shed and other implement sheds are retained on Lot 6 near the existing dwelling on Lot 4. It appears that the milking shed is not in use as the site is used for dry stock only. Either way, Lot 6 is able to retain its ability to continue to contribute to a working rural environment.
63. The current farming related activity would continue on Lot 6 following subdivision however the removal of approximately 4.5 ha from this use has potential to result in a loss of production orientated land. Lot 1, being 2.9ha in size will retain some rural productivity given its size. The prime flat to rolling

pastoral paddocks that currently adjoin Leith Road will be primarily the areas lost from production. However, on balance it is considered that Lot 6 (including the amalgamation with Lot 2 DP 18499) will retain productive pastoral land to extent that any effects from the creation of Lots 1 – 5 will be less than minor.

64. In the context of rural character, the removal of an area of productive land to rural lifestyle is on balance mitigated by the retention of the larger farming unit (Lot 6).

Rural Based Industry and Rural Infrastructure

65. The site does not contain any rural based industry and as there is no reticulated drainage network in the vicinity of the site, any potential effects on public infrastructure will be nil. Each of the allotments would need to be self-sufficient with regards to three waters. This would be able to be confirmed through conditions. Adverse effect on the environment relating to industry and infrastructure would be negligible.

Summary

66. Overall, I consider that the proposed subdivision will result in a loss of spaciousness and a move away from low density-built form that are key elements to retaining rural character. I therefore consider any effects on rural character as a result of this subdivision will be more than minor.

Traffic Effects

Amenity

67. The site has two independent and existing crossing points for each dwelling on site and an access to the existing sheds on Lots 6. These accesses will all be retained, with the unused crossing on Lot 4 being requested by Council Development Engineers to be removed. The applicant proposes a combined vehicle access for Lots 5 and 2 which will reduce the need for additional access to Lot 2. However, Council Development Engineer has identified a safety sight visibility issue with this shared access, this is discussed below. From an amenity point of view, it is acknowledged that a shared access between Lots 2 and 5 would be encouraged as it would reduce earthworks and the cutting of an access at the high point (southern end) of Lot 2.
68. New vehicle access points will be required for Lots 1, 2 and 3. The addition of four allotments, beyond the existing two records of title will increase traffic in the immediate environment but not to a discernible level that it is likely to significantly alter the amenity of the existing environment. Any loss of amenity from an increase in traffic is not likely to impact the character and amenity of the environment.

Traffic safety and efficiency

69. The existing crossings have been through an approval process and are fit for purpose that currently service the subject site, these are the crossings for Lots 4, 5 and 6. However, the current access to Lot 5 does not have great visibility to the south, due to the brow of the hill on Lots 2 and 3. Therefore, Council Development Engineer Mr Matt Sanger has recommended that the vehicle access for Lot 2 cannot be shared with Lot 5 and would need to be located further south on Lot 2 at the brow of the hill to ensure a safe and efficient vehicle crossing that complied with District Plan. Mr Sanger has provided an email stating this and this is attached as Appendix Four to this report. This requirement from Mr Sanger conflicts with the landscape and amenity requirements to reduce the effects of these small allotments and further reinforces the unsuitability of this location (Lots 2 and 3) for rural lifestyle development in the absence of a comprehensive development plan.
70. In reliance on the comments and recommendations of the NPDC Development Engineer, Mr Matt Sanger I conclude that the adverse effects of the proposal in relation to traffic safety and the efficiency of the roading network can be mitigated through conditions on consent. These conditions would require that the vehicle accesses for Lots 2 and 3 are constructed prior to the release of the subdivision to ensure sight visibility is achieved. Given the restrictions that the brow of the hill in this location creates the access to Lots 2 and 3 are likely to be at the southern end of Lot 2 and the northern end of Lot 3. Mr Sanger has outlined that the access to Lot 1 can be left until Building Consent stage but in order to ensure an appropriate setback from the Perth Road intersection it will need to be near the southern end of this allotment, with a minimum of 160m from the intersection. Given the likely location for a vehicle access to Lot 1 it is assumed it will be within 10m of the vehicle access on the opposite side of Leith Road. The Council Development Engineer has confirmed this wouldn't create a safety issue provided the necessary sight visibility requirements were met.
71. In addition, to the above access requirements, it is acknowledged that the site (proposed Lot 6) fronts State Highway 45 and has a Limited Access Notation on the record of title. Given that the subdivision will not result in a change or access requirements off the state highway any potential effects on the state highway are considered to be acceptable.

Waterbodies

72. The site contains two tributaries of the Katikara Stream, these waterbodies are retained on the balance allotment and are significantly setback from the proposed small allotments that front Leith Road.
73. The applicant has offered conditions of consent to ensure the installation of native riparian planting along these waterbodies, in conjunction with Te Kahui o Taranaki Iwi. This measure is considered a positive outcome and sufficient to ensure any potential adverse effects on the waterbodies are avoided.

74. No esplanade strip is sought as part of this application and given the nature, scale and location of these waterbodies it is considered appropriate not to require any. The waterbodies appear to spring within the subject site and provide no connection to a road. No adjacent landowners or relevant parties are considered affected by the subdivision in relation to any effects on the waterbodies.
75. The application was notified to Te Kahui o Taranaki Iwi Limited and Nga Mahanga A Tairi hapu and no submission or feedback was made on the application. The site does not contain any Statutory Acknowledgement Area. Provided the management of the waterbodies and planting offered by the applicant forms a condition of consent it is considered that any potential effects on the waterbodies can be appropriately managed.

Building Platforms and servicing

76. Each allotment has suitable flat area of land available to achieve a stable flood free building platform. A condition of consent will be required, if consent is approved to confirm this suitability via on site testing.
77. Each allotment will be required as a condition of consent (if consent approved) to provide onsite wastewater treatment, water collection and stormwater management. In addition to these requirements the applicant has offered a consent notice to ensure each new dwelling on each allotment is required to provide dedicated firefighting water supply. The consent notice proposed is as requested by FENZ in their submission. This consent notice will be provided in the set of draft conditions provided in Appendix 3, along with the other conditions to ensure stable flood free building platforms and on site servicing is achieved.

Cumulative effects

78. A cumulative effect is one that arises over time or in combination with other effects. Cumulative effects are included in the definition of 'effect' in Section 3 of the RMA which provides as follows:

In this Act, unless the context otherwise requires, the term effect includes—

- *(a) any positive or adverse effect; and*
- *(b) any temporary or permanent effect; and*
- *(c) any past, present, or future effect; and*
- *(d) any cumulative effect which arises over time or in combination with other effects—*

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

- *(e) any potential effect of high probability; and*
- *(f) any potential effect of low probability which has a high potential impact.*

79. The term cumulative effect encompasses two concepts;

- Effects arising over time; and
 - Effects arising in combination with other effects.
80. The proposed subdivision will result in five small allotments along the eastern extent of the Leith Road frontage. The western side of Leith Road, opposite the subject site has five small allotments, with the larger farming unit flanking these small allotments at the northern and southern extents.
81. The creation of these small allotments, particularly the vacant allotments adjacent Leith Road (Lots 1, 2 and 3) create further fragmentation on the rural environment that is not consistent with elements that constitute rural character, namely open space, and low density-built form. Clustering of allotments and dwellings is acknowledged to be good practice and identified in the Rural Subdivision Design Guidelines. However, these clusters need to be well designed, landscaped and sympathetic to the receiving environment. I believe the application is finely balanced where three additional vacant allotments without additional mitigation/design in this locality will create an adverse cumulative effect on rural character. One where the appearance of built form (residential in nature) becomes prominent and its density dominant as per areas with a definitive lifestyle character rather than 'rural'.
82. The receiving landscape is fragile in the fact that the landscape is not overly broad or expansive (or moderately undulating) enough to allow further fragmentation to the degree proposed whilst still providing for open space elements. Small allotment development is already evident on the opposite side of Leith Road, and the subject site currently provides for open expansive rural outlooks as described in the LVIA. Therefore, additional lifestyle development in this environment needs to occur sympathetically to the receiving environment, tying into, and building upon the site's unique character to the best of its ability to avoid, remedy, or mitigate effects. In my opinion, the proposed application does not sufficiently provide mitigation measures to adequately address these effects and ensure an adverse cumulative effect does not result from the subdivision. Specific mitigation measures in my opinion would require a full re design of the proposed scheme plan, that would remove small allotments away from the sites high points and encourage development in a comprehensive manner to ensure potential effects are mitigated by design and planting controls.

Conditions

83. A set of draft conditions have been provided in Appendix 3 for the Commissioner's use if he is of the opinion the application can be approved. These conditions include the package provided by the applicant, the submitter (FENZ), the Councils Development Engineer (Mr Sanger) and a few other additional measures I have identified would be suitable. Whilst I remain of the opinion the design and nature of the subdivision is not able to, in its current form, retain rural character, further additional mitigation may be appropriate to reduce the level of effect on rural character. However, I remain of the opinion in order to reduce the level of effect on rural character to an appropriate level, the subdivision would need to consider

a redesign and comprehensive layout including allotments located away from high points, the identification of building platforms and comprehensive planting plans for each allotment. Whilst, I believe the package of conditions provided in Appendix 3 go some way to mitigate effects, I do not believe they are sufficient to mitigate and avoid potential adverse effects that are more than minor.

Overall effects summary

84. Overall, it is considered that the proposed subdivision will result in a loss of open space and low-density built form that has not been appropriately mitigated. This resultant loss in open space and increase in built form would result in adverse effects on rural character and amenity that are more than minor. Any potential adverse effects on rural character and amenity are considered to be at a scale and intensity that is inconsistent with Issue 4 of the Operative District Plan.

Proposed New Plymouth District Plan (notified 23 September 2019)

85. The Proposed District Plan was notified on 23 September 2019 and is now awaiting decisions, with the Rural Production Zone Chapter and the Subdivision Chapters being heard in late 2021 and early 2022. Decisions are likely to be made prior to the end of 2022.
86. The land is proposed to be zoned as Rural Production Zone. Subdivision of land remains an anticipated activity within this zone, but the proposed activity would be a non-complying activity (for lot size) under the Proposed Plan as the subdivision is creating four new small allotments from one parent title and a boundary adjustment with the other existing record of title.
87. Tributaries of the Katikara Stream dissect the site which are considered waterbodies under the PDP. Waterbodies and their margins are an important part of the district. The Waterbody section of the Proposed District Plan has immediate legal effect.
88. WB-R5 and WB-R6 requires that subdivision of land containing or adjoining waterbody (or significant waterbody) must have consideration to effects standard SUB-09 and in this instance (1)(2) *Where subdivision of land creates an allotment of less than 4 hectares which adjoins or contains a significant waterbody, an esplanade reserve or esplanade strip of 20 metres (for a significant waterbody) or 5m (any waterbody) or more in width shall be provided along the bank(s) of the waterbody.*
89. Where compliance with these rules cannot be achieved the activity status becomes Restricted Discretionary under WB-R5 and Discretionary under WB-R6. The application contains the waterbodies solely within Lot 6, the balance allotment, an allotment over 4ha in size and therefore the activity is a controlled activity in this respect.

90. It is a matter of national importance to preserve the natural character of wetlands, lakes, rivers, and their margins, and to protect them from inappropriate subdivision, use and development. It is also a matter of national importance to maintain and enhance public access to and along lakes and rivers. The application offers a condition of consent to ensure the waterbodies are fenced and planted with native riparian planting in conjunction with Te Kahui o Taranaki. The retention of the waterbodies in the balance allotment and the protective mechanisms as discussed will ensure the water bodies will preserve their natural character and have the opportunity to be enhanced through planting and fencing.
91. An assessment of the relevant objectives and policies applicable to the Proposed District Plan is provided below.

Assessment of Proposal against Planning Documents - Section 104(1)(b)

National Environmental Standards

92. There is no NES relevant to this application.

Taranaki Regional Policy Statement

93. The Taranaki Regional Policy Statement (RPS) considers regional wide issues on water, soil and land, air, freshwater, indigenous biodiversity, natural and historic features, waste management, minerals, energy and the built environment. A number of these issues are high level regional issues and the proposed subdivision will not impact on these wider regional issues.
94. Section 10 of the RPS outlines Natural Features and Landscape, historic heritage and amenity values. The proposed subdivision will not impact on outstanding natural features and landscape. Of relevance to this proposal is 10.3 of the RPS which seeks to maintain and enhance amenity values. AMY Objective 1 and AMY Policy 1 seeks to maintain and enhance amenity values both in a rural and urban setting. As concluded in the effects assessment above the application will not provide for the maintenance of rural character and amenity. Therefore, the application is not seen to be consistent with this specific relevant objective and policy of the RPS. Taking an overall broad judgement of the RPS however, the application is generally consistent with this document.

Operative District Plan

95. The following objectives and policies of the Operative District Plan are considered relevant to this proposal and tabled below for reference:
96. **Table 1:** Applicable Operative District Plan Objectives and Policies

| Obj/Pol # | |
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| Objective 1 | To ensure activities do not adversely affect the environmental and amenity values of areas within the district or adversely affect existing activities. |
| Policy 1.1 | Activities should be located in areas where their effects are compatible with the character of the area. |
| Objective 4 | To ensure the subdivision, use and development of land maintains the elements of RURAL CHARACTER. |
| Policy 4.1 | Control the density and scale of subdivision by providing for one small ALLOTMENT where there is a large balance area, that promotes Spaciousness and a Low Density, Production Orientated Environment. |
| Policy 4.2 | <p>Control the density, scale, location and design of subdivision by providing limited opportunities for small ALLOTMENT subdivision, having consideration to the following matters:</p> <p>(a) The environment is spacious, maintains a low density and the subdivision provides a large balance area.</p> <p>(b) The subdivision is of such a scale to ensure the intensity of use is typical of the rural environment and not of an urban or lifestyle area.</p> <p>(c) The subdivision and resulting development is not highly visible in the landscape and there is no apparent aggregation of development because of;</p> <p>(i) the undulating nature of the landscape;</p> <p>(ii) the design and layout of the ALLOTMENTS and any servicing requirements;</p> <p>(iii) the design and visual treatment of the resulting development.</p> <p>(d) The contours of the landscape are retained and there is limited need for EXCAVATION and FILLING.</p> <p>(e) The subdivision does not impact OUTSTANDING LANDSCAPES and REGIONALLY SIGNIFICANT LANDSCAPES and other features protected by other OVERLAYS.</p> <p>(f) There are no community costs associated with upgrading INFRASTRUCTURE as a direct result of the subdivision and development.</p> <p>(g) The rural nature and purpose of rural INFRASTRUCTURE (small scale, unserviced with a lack of urban INFRASTRUCTURE) is maintained. (h) The proposed ALLOTMENT size, shape and resulting land use will recognise the production orientated nature of the rural area.</p> <p>(i) Consistency of the proposal with Policy 4.5.</p> |
| Policy 4.3 | <p>Control the density, scale, location (including on-site location) and design of activities by;</p> <p>(a) Imposing a maximum HEIGHT for all buildings to allow for rural uses to operate.</p> <p>(b) Providing a maximum area that can be covered by BUILDINGS to control the effects of larger scale activities on small sites.</p> <p>(c) Requiring BUILDINGS to be setback from the ROAD BOUNDARY in order to maintain spaciousness.</p> <p>(d) Requiring BUILDINGS to be setback from the SIDE BOUNDARY to maintain separation between BUILDINGS and related activities.</p> |

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| | <p>(e) Providing for the RELOCATION of BUILDINGS to ensure they are reinstated.</p> <p>(f) Requiring landscaping (planting and screening) to mitigate the effects of:</p> <p>(i) OUTDOOR STORAGE areas visible from an adjoining RESIDENTIAL ENVIRONMENT AREA or New Plymouth entrance corridor and;</p> <p>(ii) VEHICLE parking either visible from the ROAD or an adjoining RESIDENTIAL ENVIRONMENT AREA or New Plymouth entrance corridor;</p> <p>(iii) of large SUBSTATIONS and SWITCHING STATIONS.</p> <p>(g) Imposing controls on the size, HEIGHT, location, content, number and duration of ADVERTISING SIGNS.</p> <p>(h) Imposing controls on the quantity, composition and reinstatement of EXCAVATION and FILL to ensure adverse effects are mitigated.</p> |
| Policy 4.4 | <p>Control the density, HEIGHT and on-site location of HABITABLE BUILDINGS by:</p> <p>(a) Allowing additional HABITABLE BUILDINGS at appropriate densities and of a size that maintain Spaciousness and a Low Density, Production Orientated environment, while allowing some flexible living opportunities.</p> <p>(b) Allowing HABITABLE BUILDINGS to a maximum HEIGHT that allows typical residential use to occur.</p> <p>(c) Requiring HABITABLE BUILDINGS to be setback from the SIDE BOUNDARY to ensure privacy between dwellings and separation from other rural uses.</p> |
| Policy 4.5 | <p>Ensure that the design of subdivision and development is sensitive to the surrounding environment. In particular the following design principles will be considered:</p> <p>(a) Ensure appropriate overall density by maintaining the level of built form expected in the rural environment.</p> <p>(b) Ensure the intensity and scale of the development is in keeping with RURAL CHARACTER.</p> <p>(c) Ensure that ALLOTMENTS and BUILDINGS are in context with the surrounding environment and are positioned to recognise natural features in the landform.</p> <p>(d) Ensure that ALLOTMENTS and BUILDINGS are sited and designed in a manner that is integrated with the surrounding environment with minimal disturbance to the landform by considering:</p> <p>(i) softening with vegetation related to the area and treatment of boundary elements;</p> <p>(ii) BUILDING design of a form and scale that is in keeping with the landscape;</p> <p>(iii) the use of materials, that are in keeping with the environment, including consideration of colour and low reflectivity;</p> <p>(iv) low level INFRASTRUCTURE and services that is rural in nature.</p> <p>(e) Consistency of any full discretionary activity with design guidelines.</p> <p>(f) Consideration towards any recommendations from a design panel.</p> |
| Policy 4.8 | <p>Activities within the rural environment should not generate traffic effects that will adversely affect RURAL CHARACTER and the intensity of traffic</p> |

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| | generation should be of a scale that maintains RURAL CHARACTER. |
| Objective 20 | The safe and efficient operation of the ROAD TRANSPORTATION NETWORK should not be adversely affected by land use activities that have insufficient or substandard parking or loading areas. |
| Policy 20.7 | Subdivision should not adversely affect the safe and efficient operation of the ROAD TRANSPORTATION NETWORK. |

97. Objective 1 and Policy 1.1 are about protecting amenity values and ensuring activities are compatible with the character of the area. It is agreed that the site's defining aspect along the Leith Road frontage is its spaciousness and elevated outlooks. The proposed intensification that would occur as a result of the proposed rural-residential subdivision would see a total of 5 smaller lots along the Leith Road frontage. This resultant scale of development, lacking adequate screening mitigation in my view, will generate a loss of open space and low-density elements that retain rural character and amenity observed in this location contrary to Objective 1 and Policy 1.1.

98. Objective 4 deals with the loss or reduction of rural amenity and character.

Objective 4:

"To ensure the subdivision, use and development of land maintains the elements of RURAL CHARACTER is relevant".

99. Policy 4.1 seeks to control density and scale of subdivision.

"Policy 4.1 Control the density and scale of subdivision by providing for one small ALLOTMENT where there is a large balance area, that promotes Spaciousness and a Low Density, Production Orientated Environment."

100. The proposal will establish a larger balance lot of 41.43ha (contained within Lot 6). This could assist with the retention of spaciousness and promotion of lower density development for production orientated activities. However, the extent of smaller-lot development (5 lots in total) along the full stretch of the site's Leith Road frontage will result collectively in a substantial level of 'new built' form. Given this will be the prominent view, the balance of open land is less effective in this instance in mitigating the additional density proposed in this rural location.

101. Policy 4.2 seeks to control the density, scale, location and design of subdivision. Whilst the balance allotment (Lot 6) will retain low density spaciousness elements, due to the subdivision design (as discussed above with smaller lots fronting Leith Road) and topographical elements, limited outlook of this balance lot is achieved. The resultant scale of subdivision, with 5 proposed lots fronting Leith Road, is considered to be a higher intensity than anticipated or typical in this rural location, generating losses of rural character and amenity.

102. The applicant's LVIA have identified the potential for the visual prominence of built form contained within lots 2 and 3, located across elevated parts of the site. Given the absence of identification of building platforms on each allotment and clear direction on subdivision design, it is considered likely that the subdivision would generate an aggregation of development in this location not sufficiently mitigated. The proposed mitigation measures (as contained within the applicant's LVIA) and the application itself have not sufficiently considered the layout, design and visual treatment of the road fronting lots to adequately respond to the existing rural character and amenity. This was recognised by the Natural Capital Peer Review where in particular, consideration of dwelling placement and vegetation buffers were recommended to protect / maintain the site's undulating nature and screen and absorb and increase in built form.
103. In terms of earthworks, the applicants LVIA comments that significant earthworks will be likely for Lots 2 and 3 but are managed through proposed mitigation measures. However, it is considered 1.5m or less earthworks cut in this environment will still have the potential to create adverse effects on rural character that could be mitigated through an improved subdivision design and layout that hasn't been forthcoming in this application. In summary the proposal will be contrary to Objective 4, Policy 4.1 and 4.2 for the aforementioned reasons.
104. Policy 4.3 seeks to control the density, scale, location (including on-site location) and design of activities, with policy 4.4 seeking to manage these effects in terms of habitable buildings. The applicant has offered a setback of 5m from the highest point of Lots 2 and 3 but no other setback or identification of building platforms on Lots 1, 2 and 3 have been assessed and therefore the potential visual effects are difficult to accurately assess. Whilst the regulation of proposed built form at land-use stage is noted, the application's lack of mitigation to reduce the potential scale of effects (inclusive of sufficient information pertaining to building platform lot size, shape, boundary setbacks and likely location of dwelling platforms) at the subdivision stage, particularly as they relate to lots 2 and 3, will generate a loss of spaciousness, adversely impacting rural character. This loss of open space is further demonstrated as the vehicle access to Lots 2 and 3 will need to be constructed at the brow of the hill, the northern end of Lot 3 and the southern end of Lot 2 which will further encourage earthworks and loss of the natural landform.
105. Furthermore, protection of the established undulating landform across lots 2 and 3 is also considered inappropriate and has not been sufficiently considered. As discussed above, whilst additional mitigating factors (those described as 'additional' under the Natural Capital peer review) such as lot shape / location and visual screening could assist in controlling density effects, the proposal as it currently stands is considered contrary to the aforementioned objectives and policies.
106. Policy 4.5 seeks to ensure that the design of subdivision and development is sensitive to the surrounding environment. Similar to the reasons outlined in the

policy assessment above the subdivision does not apply design principles that will sufficiently mitigate the loss of open space. The creation of 5 additional smaller lots adjacent Leith Road will enable an intensified built form incompatible with the existing rural character and amenity of this location. I do not believe the application is consistent with this policy.

107. Policy 4.8 seeks to ensure that activities within the rural environment do not generate adverse traffic effects. The proposal will increase the likely traffic in the immediate area; however, the additional dwellings are not likely to increase traffic intensity on this local road in a discernible manner that would compromise rural character. Objective 20, and policy 20.7 seek to ensure the safe and efficient operation of the road transportation network, ensuring that land-use activities have sufficient parking and loading. Existing vehicle access points will be retained where applicable, with new (Lots 1, 2 and 3) requiring new vehicle accesses. The existing crossings have been through an approval process and are fit for purpose that currently service the subject site. Any new vehicle crossings are able to be constructed and demonstrate compliance with the District Plan sight visibility requirements and all lots would be capable of providing appropriate driveway access and parking. The proposal is not considered contrary to these objectives and policies.
108. In summary, the application is considered inconsistent with the majority of the above objectives and policies pertaining to the Operative Plan. The application as it stands, will generate an intensification of residential development which has not been sufficiently mitigated. As such, a loss of open space, and spaciousness elements that are integral to the rural character in this environment will result. It is considered these elements could be potentially rectified, noting the application does contain a large balance lot of (41Ha) which is considered practical in retaining the production orientated nature of the rural character. Furthermore, the potential for highly visible built form could be further avoided, remedied or mitigated through an identification of suitable building platforms, inclusive of other design, layout and visual screening considerations as proposed within the Natural Capital LVIA peer review which were not forthcoming under this application. Overall, when taking a broad judgement, I do not believe the application is consistent with the relevant provisions of the Operative District Plan, specifically those that relate to amenity and rural character.

Proposed District Plan

109. The Objectives and Policies of the Proposed District Plan are required to be considered alongside those of the Operative District Plan as they have legal effect.
110. The following Objectives and Policies of the Proposed District Plan are considered relevant to the proposal and are tabled below for reference:

Table 2: Applicable Proposed District Plan Objectives and Policies

| Obj/Pol # | |
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| Strategic Objective UFD-24 | Productive, versatile land and natural, physical and cultural resources located within rural areas that are of significance to the district are protected and maintained. |
| WB-O1 | Waterbodies with natural character and ecology, recreation, cultural, spiritual and heritage values, and their margins are protected from inappropriate activities. |
| WB-O2 | Public access to and along waterbodies with high recreation, scenic or amenity values is maintained and enhanced. |
| WB-O3 | The adverse effects of activities on the values of waterbodies are avoided, remedied or mitigated. |
| WB-O4 | The relationship of tangata whenua and their traditions, values and interests associated with waterbodies are recognised and provided for. |
| WB-P2 | <p>Protect the natural character, ecological, recreational, cultural, spiritual, heritage and/or amenity values of waterbodies, including significant waterbodies, by:</p> <ol style="list-style-type: none"> 1. managing the potential adverse effects of subdivision on the values of the waterbody; 2. requiring buildings and earthworks to be set back from waterbodies to avoid, remedy or mitigate potential adverse effects on their values; and 3. maintaining and enhancing public access to waterbodies with recreation, scenic, cultural or amenity values through the creation of esplanade reserves or strips at the time of subdivision, especially where it would provide connections to existing reserves. |
| RPROZ-O1 | Productive land and resources support a range of production oriented and resource dependent activities which are innovative and efficient. |
| RPROZ-O2 | The Rural Production Zone is predominantly used for primary production. |
| RPROZ-O3 | The role, function and predominant character of the Rural Production Zone is not compromised by incompatible activities. |
| RPROZ-O4 | <p>The predominant character and amenity of the Rural Production Zone is maintained, which includes:</p> <ol style="list-style-type: none"> 1. extensive areas of vegetation of varying types (for example, pasture for grazing, crops, forestry and indigenous vegetation and habitat) and the presence of large numbers of farmed animals; 2. low density built form with open space between buildings that are predominantly used for agricultural, pastoral and horticultural activities (for example, barns and sheds), low density rural living (for example, farm houses and worker's cottages) and community activities (for example, rural halls, domains and schools); |

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| | <p>3. a range of noises, smells, light overspill and traffic, often on a cyclic and seasonable basis, generated from the production, manufacture, processing and/or transportation of raw materials derived from primary production;</p> <p>4. interspersed existing rural industry facilities associated with the use of the land for intensive indoor farming, quarrying, oil and gas activities and cleanfills; and</p> <p>5. the presence of rural infrastructure, including rural roads, and the on-site disposal of waste, and a general lack of urban infrastructure, including street lighting, solid fences and footpaths.</p> |
| RPROZ-O5 | <p>The Rural Production Zone is a functional, production and extraction orientated working environment where primary production and rural industry activities are able to operate effectively and efficiently, while ensuring that:</p> <ol style="list-style-type: none"> 1. the adverse effects generated by primary production and rural industry activities are appropriately managed; and 2. primary production and rural industry activities are not limited, restricted or compromised by incompatible activities and/or reverse sensitivity effects. |
| RPROZ-O6 | <p>Natural features, soil productivity, versatility of land and rural character and/or amenity are not compromised by adverse changes to landform, intensification of land use and/or built form, or urbanization.</p> |
| RPROZ-O7 | <p>Sensitive activities are designed and located to avoid, remedy or mitigate adverse reverse sensitivity effects and/or conflict with primary production.</p> |
| RPROZ-P1 | <p>Allow activities that are compatible with the role, function and predominant character of the Rural Production Zone, while ensuring their design, scale and intensity is appropriate, including:</p> <ol style="list-style-type: none"> 1. agricultural, pastoral and horticultural activities; 2. residential activities; 3. Māori purpose activities; 4. rural produce retail; and 5. petroleum prospecting. |
| RPROZ-P2 | <p>Manage activities that are potentially compatible with the role, function and predominant character of the Rural Production Zone and ensure it is appropriate for such activities to establish in the Rural Production Zone, having regard to whether:</p> <ol style="list-style-type: none"> 1. the activity is compatible with the character and the amenity of the rural area; 2. the activity will limit or constrain the establishment and operation of agricultural, pastoral and horticultural activities; 3. the activity will reduce the potential for versatile land to be used for productive purposes and in a sustainable manner; 4. adequate on-site infrastructure and services are available and/or can |

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| | <p>be provided to service the activity's needs;</p> <p>5. adverse effects can be internalised within the activity's site; and</p> <p>6. the activity will not result in conflict at zone interfaces.</p> |
| RPROZ-P3 | <p>Avoid activities that are incompatible with role, function and predominant character of the Rural Production Zone and/or activities that will result in:</p> <p>1. reverse sensitivity effects and/or conflict with permitted activities in the zone; or</p> <p>2. adverse effects, which cannot be avoided, or appropriately remedied or mitigated, on:</p> <p>a. rural character and amenity values;</p> <p>b. the productive potential of highly productive soils and versatile rural land.</p> <p>Incompatible activities include:</p> <p>1. residential activities (except papakāinga) and rural lifestyle living that are not ancillary to rural activities;</p> <p>...</p> |
| RPROZ-P4 | <p>Maintain the role, function and predominant character of the Rural Production Zone by controlling the effects of:</p> <p>1. building height, bulk and location;</p> <p>2. setback from boundaries and boundary treatments; and</p> <p>3. earthworks and subdivision.</p> |
| RPROZ-P5 | <p>Require the effects generated by activities to be of a type, scale and level that is appropriate in the Rural Production Zone and that will maintain rural character and amenity, including by:</p> <p>1. managing noise and light emissions to an acceptable level, particularly around sensitive activities; and</p> <p>2. managing high traffic generation activities that compromise the safe and efficient use of the transport network</p> |
| RPROZ-P7 | <p>Require sensitive activities to be appropriately located and designed to minimise any reverse sensitivity effects, risks to people, property and the environment and/or conflict with activities permitted in the Rural Production Zone, including by:</p> <p>1. ensuring sufficient separation by distance and/or topography between sensitive activities and zone boundaries, transport networks, primary production, significant hazardous facilities and rural industry;</p> <p>2. adopting appropriate design measures to minimise the impact of off-site effects of rural industry that cannot be internalised within the rural industry activity's site; and</p> <p>3. utilising landscaping, screen planting or existing topography to minimise the visual impact of rural industry.</p> |
| SUB-O1 | <p>Subdivision results in the efficient use of land and achieves patterns of</p> |

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| | development which deliver good quality community environments that are compatible with the role, function and predominant character of each zone. |
| SUB-O2 | <p>Subdivision is designed to avoid, remedy or mitigate adverse effects on the environment and occurs in a sequenced and coherent manner that:</p> <ol style="list-style-type: none"> 1. responds positively to the site's physical characteristics and context; 2. is accessible, connected and integrated with the surrounding neighbourhoods; 3. contributes to the local character and sense of place; 4. recognises the value of natural systems in sustainable stormwater management and water sensitive design; and 5. protects or enhances natural features and landforms, waterbodies, indigenous vegetation, historic heritage, sites of significance to tangata whenua, and/or identified features; and 6. provides accessible and well-designed open space areas for various forms of recreation, including sport and active recreation, for the health and wellbeing of communities. |
| SUB-P10 | <p>Manage the scale, design and intensity of subdivision in the Rural Production Zone by:</p> <ol style="list-style-type: none"> 1. allowing one small allotment only where there is a large balance area, and where the subdivision design reinforces the role, function and predominant character of the zone; 2. managing subdivision that involves multiple small allotments with a large balance area; and 3. avoiding subdivision that would compromise the role, function and predominant character of the Rural Production Zone, or is more typical of patterns of development in urban areas. |
| SUB-P12 | <p>Ensure that that subdivision in the Rural Zones results in lot sizes and lot configurations that:</p> <ol style="list-style-type: none"> 1. are appropriate for the development and land use intended by the zone; 2. are compatible with the role, function and predominant character of the zone; 3. maintain rural character and amenity; and 4. are consistent with the quality and types of development envisaged by the zone objectives and policies, including by minimising any reverse sensitivity effects and/or conflict with activities permitted in the zones. |
| SUB-P13 | <p>Require subdivision design and layout in the Rural Zones to respond positively to, and be integrated with the surrounding rural or rural lifestyle context, including by:</p> <ol style="list-style-type: none"> 1. incorporating physical site characteristics, constraints and opportunities into subdivision design; |

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| | <p>2. minimising earthworks and land disturbance by designing building platforms that integrate into the natural landform;</p> <p>3. avoiding inappropriately located buildings and associated access points including prominent locations as viewed from public places;</p> <p>4. incorporating sufficient separation from zone boundaries, transport networks, rural activities and rural industry to minimise potential for reverse sensitivity conflicts;</p> <p>5. incorporating sufficient separation between building platforms and identified features to minimise potential adverse effects on those features;</p> <p>6. considering whether a subdivision has the potential to compromise cultural, spiritual and/or historic values and interests or associations of importance to tangata whenua, and if so, also considering the outcomes of any consultation with and/or cultural advice provided by tangata whenua and:</p> <p>a. opportunities to incorporate mātauranga Māori principles into the design and/or development of the subdivision;</p> <p>b. opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened; and</p> <p>c. options to avoid, remedy or mitigate adverse effects;</p> <p>7. promoting sustainable stormwater management through water sensitive design solutions; and</p> <p>8. in the Rural Lifestyle Zone, achieving patterns of development and allotment sizes that provide opportunities for rural lifestyle living.</p> |
| SUB-P14 | <p>Ensure that rural subdivision in the Rural Lifestyle or Rural Production Zones maintains or enhances the attributes that contribute to rural character and amenity values, including:</p> <p>1. varying forms, scales, spaciousness and separation of buildings and structures associated with the use of the land;</p> <p>2. maintaining prominent ridgelines, natural features and landforms, and predominant vegetation of varying types;</p> <p>3. low population density and scale of development relative to urban areas;</p> <p>4. on-site servicing and a lack of urban infrastructure; and</p> <p>5. in the Rural Production Zone, the continued and efficient operation of rural activities and productive working landscapes.</p> |

111. It is considered that the proposal is inconsistent with the subdivision, and rural production zone objectives and policies. The Rural Production Zone objectives and policies like the Operative Proposed plan policy framework respond to and address fragmentation of the rural environment. The objective and policies in the Proposed Plan are more directive than the operative District Plan. Policy RPROZ-P3 seeks to avoid incompatible activities like residential and rural lifestyle living where their effects on rural character and amenity cannot be avoided, remedied, or mitigated. The activity will result in the creation of four new rural lifestyle allotments (5 in total including the existing small allotment)

that in my opinion cannot adequately mitigate the potential effects on rural character and amenity for the reasons previously discussed in this report. Overall, the proposal is inconsistent with the relevant objectives and policies of the Proposed District Plan outlined above.

Other Matters - s104(1)(c)

112. The following other matters are considered relevant to the proposal:

Consent Authority may refuse subdivision consent in certain circumstances s106

- There are no identified natural hazards affecting the site subject to subdivision.
- Sufficient provision has been made for legal and physical access to each allotment created by the subdivision.
- There is no reason to decline this application under section 106 of the RMA.

Part 2 of the RMA

113. Having regard to the above assessment it is concluded that the proposal is inconsistent with some of the principles (sections 6-8) of the Resource Management Act 1991. These are listed as "Other matters" in Section 7 which states particular regard shall be given to Section 7 (c) (the maintenance and enhancement of amenity values) and 7 (f) (maintenance and enhancement of the quality of the environment) as they relate specifically to the issue being around the maintenance and enhancement of rural character in relation to this subdivision. In my view, the proposal will not maintain nor enhance rural character as a result of the 5-lot intensification along the Leith Road frontage which has not been adequately mitigated, as discussed in detail in this report.
114. Overall, the application is considered to not meet the relevant provisions of Part 2 of the RMA as the proposal cannot achieve the purpose (section 5) of the RMA being sustainable management of natural and physical resources, given that rural character and amenity will be eroded as a result of the proposal (Section 5 (2) (a)) and that the effects of the subdivision have not in my opinion been appropriately avoided, remedied or mitigated (Section 5 (2) (c)).

Recommendation

115. That for the above reasons the application be declined pursuant to Section 104 & 104B of the Resource Management Act. The following conditions listed in Appendix 3 are recommended should consent be granted.

Report and recommendation by:

Laura Buttimore
Consultant Planner

Date: 16th of May 2022

Appendix 1: Peer review of Landscape Assessment: Natural Capital Ltd

Appendix 2: Landscape Memo: Response to Notification Decision response Natural Capital Ltd

Appendix 3: Draft conditions for SUB21/47781

Appendix 4: Mr Sanger email

Appendix 5: Updated scheme plan