



Te Kaunihera-ā-Rohe o Ngāmotu

NEW PLYMOUTH DISTRICT COUNCIL

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Section 42A Hearing Report - Subdivision Consent Application SUB20/47579

Applicant:	Kelsey Kearns
Site Address:	249C Tukapa Street, New Plymouth
Legal Description:	Lot 2 DP 7532 held in TN202/76
Site Area:	1139m ²
Zone:	Operative District Plan: Residential A (Res A) Proposed District Plan: General Residential Zone (GRZ)
District Plan Overlays:	Operative District Plan: N/A
Date consent application received:	24 August 2020
Further information requested/report commissioned:	N/A
Further information/report received:	N/A

PURPOSE OF THIS REPORT

1. This Hearing Report has been prepared to assist the Independent Commissioner in consideration of Kelsey Kearns's (the applicant) subdivision consent application, subject to Section 42A of the Resource Management Act 1991 ("the Act or RMA"). This report is to provide a recommendation as to whether the resource consent should be granted or refused and if granted what conditions it should be subject to. It is not a decision, and the recommendation should not be read as though it is a decision.
2. The statutory provisions under the Act which will be applied and considered for the purposes of this report are:

- Sections 104 and 104B, the proposal carries a Discretionary Activity Status under the Operative District Plan.
- Consent is not required under any rules within of the Proposed District Plan with legal effect.

PREPARATION OF REPORT & QUALIFICATIONS & EXPERIENCE

3. My name is Luke Balchin. I am employed by the New Plymouth District Council and have been since March 2020. My qualifications are a bachelor's degree in Environmental Management Majoring in Policy and Planning and a Postgraduate Diploma in Resource Studies from the Lincoln University and I am an Intermediate Member of the New Zealand Planning Institute. I have had approximately 7.5 years of experience as a planner, 5.5 years as a consultant planner with Aurecon based in Tauranga before moving to New Plymouth in March 2020 to start my role at NPDC where I have been since.
4. My experience has largely been focussed around the preparation and processing of land use consent and subdivision consent applications. As a consultant planner I have prepared and presented planning evidence at a Council Hearing and as a Council Officer I have reported on one publicly notified application and multiple limited notified applications all which included attendance and contribution to the hearings process. I have had considerable experience preparing and processing a variety of small, medium and large scale land use and subdivision consent applications including applications with a variety of cultural issues, policy issues, amenity issues and engineering issues or more complicated applications with a combination of the above mentioned matters.

Other Reports and Reviews Relied Upon

5. The following reports and communication have been used to inform the discussions and conclusions within my report.
 - The Applicant's final Assessment of Environmental Effects, Bland & Jackson reference #9566 and dated 24 August 2020;
 - Andy Skerrett – Traffic Report dated 27 April 2021;
 - Verbal and e-mail commentary from;
 - Council's Development Engineer Matt Sanger regarding access, wastewater, water and stormwater servicing; and
 - John Eagles regarding transportation, parking and road safety.

SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

Site Description and Surrounding Environment

6. The site is flat and currently contains an existing dwelling with connections to Council reticulated sewer and water. The site is accessed from Tukapa Street via an existing right of way (ROW) which serves three established dwellings. An existing garage/shed is located within the western third of the site and attached to the main dwelling. It is

proposed to remove this garage/parking area as part of the proposal to provide an access leg to the proposed rear lot. The front of the existing house includes a small deck, paved parking area, a small front yard. The site also has a large back yard. The site is fully fenced and there are several well established trees within the site.

7. Adjoining properties are typical of the Residential A Environment Area with dwellings setback from boundaries, generally 450m² to 1000m² in area, outdoor living areas and mostly single storey. Residential allotments adjoin the site in all directions. The site is in close proximity to the shops and the NPD service station on the corner of Wallath Street and Tukapa Street. Tukapa Street where adjacent to the site is identified as a Collector Road. Further to the north is the main entry to Francis Douglas school at approximately 350 metres away.
8. The subject site is one of three allotments that have rights to, and currently utilise, the ROW. 251 Tukapa Street also has rights to utilise the ROW but it currently does not use it. Legally, there are currently four allotments which have the right to use the ROW. Each of the three allotments currently utilising the ROW, contain a single dwelling and are comparable in size to the subject site. The subject site is the first property currently utilised by the ROW and is illustrated in red on Figure 1 below. 251 Tukapa Street to the west of the site has an existing right to the ROW but has never exercised this right and instead obtains access to/from Tukapa Street. Recently a Controlled Activity subdivision consent (SUB22/48135). has been lodged with regards to 251 Tukapa Street. The existing dwelling will maintain its existing access from Tukapa Street while the proposed rear lot will use the right to the ROW, which the parent title has existing rights to. The application (SUB22/48135) includes the proposed surrender of the right for proposed Lot 1 to utilise the ROW. Therefore a total of 5 allotments would be accessed off the ROW if consent were approved for this proposal. As this application SUB20/47579 was considered complete and ready for notification prior to lodgement of SUB22/48135, this application (SUB20/47579) takes precedence and the effects of SUB22/48135 on the right of way do not need to be taken into account when considering this proposal.



Figure 1: Location Plan



Figure 2: Subdivision Scheme Plan

PROPOSAL

9. The applicant proposes to subdivide 249C Tukapa Street in to two allotments, refer to Figure 2 above). The subdivision will create the following allotments:
 - Lot 1 (front lot) of 460m² (excludes 145m² ROW); and
 - Lot 2 (rear lot) of 455m² (excludes 104m² ROW and 47m² access) to the rear of the site.
10. Lots 1 and 2 will share access from the existing ROW off Tukapa Street described. An additional 12.2m long and 4m wide ROW is also proposed off of the existing ROW which will be exclusive to the lots proposed. The existing ROW will achieve the minimum carriageway and legal width formation requirements necessary for a ROW serving 3 to 6 properties including the following;
 - Minimum legal width of 4.5m – currently the ROW has a 5.5m wide legal width widening to 6m 27m down the ROW;
 - Minimum Carriageway width of 3m – currently the sealed carriageway (drive) is 2.5m wide and is proposed to be widened to 3m.
 - A passing bay per every 50m of ROW – no passing bay exists but one is proposed as 249C is located approximately 55m down the ROW.
11. The proposed ROW will have a minimum legal width of 4m and formed width of 3m.
12. The attached garage/shed to the west of the existing dwelling will be removed to enable access to be obtained to proposed Lot 2. Parking for proposed Lot 1 will be reconstructed to the north of the existing dwelling. Parking for proposed Lot 2 is yet to be determined, however the lot size indicates that there is sufficient space to provide for a building platform, two parks and on-site maneuvering.
13. As the proposed subdivision requires a consent to add a further dwelling to an existing ROW the applicant sought to obtain written approval from the other persons who are entitled to utilise the ROW. Written approval was obtained from the owners of 249A and 251 Tukapa Street which are shown in red in Figure 3 below.



Figure 3: Written Approvals

14. However the neighboring allotment, 249B Tukapa Street, has not provided written approval. This is despite consultation efforts and mitigation measures being proposed by the applicant. The fencing mitigation offered by the applicant to 249C to mitigate effects of the subdivision, not ROW matters, has since been revoked as written approval from 249B was not forthcoming. However several other mitigation measures were proposed within the application which I understand are still proposed and would continue to contribute to mitigating residential character and amenity effects of subdivision on 249B Tukapa Street. These include the following;

- That the construction of any new dwelling in Proposed Lot 2 is to be undertaken within 12 months of the foundations being laid (covenant);
- Adherence to all NPDC bulk, height and location requirements of the New Plymouth District Plan with legal effect when constructing a dwelling within Proposed Lot 2 (covenant);
- Maintain the location of existing vehicle access point serving proposed lots 1 and 2 off of the ROW;
- Restricting building heights to a single storey within Proposed Lot 2; and
- Cover the costs of any ROW and/or infrastructure upgrades necessary to facilitate the subdivision.

APPLICANTS ASSESSMENT OF EFFECTS & SUPPORTING INFORMATION

15. The applicant has provided an assessment of effects of the activity on the environment (AEE). The AEE provided is also supported by technical reports and plans including the following:
- Subdivision scheme plans; and
 - A traffic report.
16. The applicant's AEE provides for an overall summary of the actual and potential effects as a result of the subdivision. The assessment concludes that the actual and potential adverse effects on the wider environment, and with particular consideration to residential character and amenity values, traffic effects (safety + operational) and three waters servicing are acceptable or otherwise minor or less than minor. The AEE provides for an assessment of the actual and potential effects of the development on the following matters;
- Residential Character and Amenity;
 - Vehicle Access (safety and operation); and
 - Servicing.
17. I assessed the application under Section 88 of the Resource Management Act 1991 (RMA) and determined the application complete. Overall the application in conjunction with the additional information contains sufficient information.

REQUIREMENT FOR OTHER CONSENTS

18. Regulations 5(4)(5)&(6) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS.) describes subdivision, change of land use and disturbing soil as activities to which the NES-CS applies. However, only where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred and the site is considered to be a "piece of land" under the NES-CS. For the following reasons I consider that the NES-CS does not require further consideration.
19. The site has no record of any activity included on the Hazardous Industries and Activities List (HAIL) having occurred on or more likely to have occurred on the site.
20. There is no requirement for any other consents under a Regional Plan.

STATUTORY PROVISIONS AND ACTIVITY STATUS

Operative District Plan

21. The site is located within the Residential A Environment Area and is not subject to any special features or overlays. The proposal requires consent under the following District Plan rules:

Rule #	Rule Name	Status of Activity	Comment
Res 54	Increased use of an existing ROW	Discretionary	The proposed subdivision will increase the number of users by one allotment.
Res 56	Minimum allotment size in Residential A Environment Area	Controlled	Both lots are less are in excess of 450m ² excluding land used for access purposes.
Res 59	Requirement to provide practicable vehicular access from a road	Discretionary	The existing ROW does not achieve the minimum sealed width requirement, passing bay and provision of a turning head. The proposed ROW will achieve minimum carriageway, legal width and passing bay requirements for a ROW >50m in length and serving 4 to 6 lots. However, the existing and proposed access location to the ROW is within 30m of an intersection and therefore consent is required under Res59.
Res 61	Requirement for services – stormwater disposal, water supply and sewage disposal	Controlled	The existing dwelling has connections to Councils reticulated sewer and water. There is existing capacity for proposed Lot 2 to also connect to reticulated water and sewer services and both lots are sufficiently sized to dispose of stormwater onsite.
Res 62	Requirement for a building platform	Controlled	Proposed Lot 1 contains an existing dwelling. Given the size, flat contour and absence of any flooding risks it is considered that a suitable building platform on proposed Lot 2 can be achieved. Further there is considered to be suitable space within Proposed Lot 2 to enable a dwelling to be constructed without the requirement for land use consent.

Res 63	Requirement for existing buildings to meet standards in relation to new boundaries	Controlled	Proposed Lot 1 contains an existing dwelling. The application confirms that the dwelling within Proposed Lot 1 will meet all relevant bulk and location rules when the new boundaries are created.

22. In circumstances where there are different activity statuses, the most severe applies in determining the overall activity status. The proposal is therefore a Discretionary Activity under the Operative New Plymouth District Plan being the highest status under the above Operative Plan and NES rules.

Proposed New Plymouth District Plan (Notified 23 September 2019)

23. The site is located within the General Residential Environment Area and contains no overlays. No decisions have yet been made on the PDP and there are no rules with immediate legal effect that apply to the proposal.

Overall Activity Status

24. Overall the proposal requires subdivision consent as a Discretionary Activity.

NOTIFICATION DECISION

25. A decision was made for the application to be processed on a limited notified basis as the written approval of the owners of 249B Tukapa Street was not able to be obtained by the applicant. A copy of that report is attached as Appendix A.
26. For the reasons discussed within the notification report, the following party was served limited notification.
- 249B Tukapa Street – Lot 3 DP 7582 – Owner Mr Michael Wood.
27. The application was limited notified to Mr Wood as an affected person under Section 95E and 95B of the RMA on 21 September 2020. Submissions closed at 5pm on 19 October 2020.

SUBMISSION RECEIVED

28. The conclusions in the notification report were based on the required assessment under sections 95A and 95B of the RMA. They do not predetermine any conclusions that may be made under section 104 of the RMA in this report when considering the actual and potential effects on the environment.

29. At the close of the submissions period, an opposing submission, with detail, was received from the one person notified. The submission received is summarised below. The submission in full is included as Appendix B.

Table 2 – Summary of Submissions Received and the Matters Raised

#	Name	Key Submission Points Raised	Status of Submission
1	Michael & Sarah Wood	<ul style="list-style-type: none"> • Safety concerns associated with the use of the ROW which will be exacerbated by the introduction of additional users. • Seeks clarification regarding ROW upgrades required/proposed by the applicant. • Parking in relation to proposed lots 1 and 2. • Construction effects. • Financial liabilities of ROW upgrades and/or any damages. • Impacts on ROW agreement. 	<ul style="list-style-type: none"> • Oppose • Wishes to be heard.

Assessment of Environmental Effects – Section 104

30. The following provides an assessment of effects including an overall summary of effects. An objective and policies assessment is also provided within subsequent paragraphs. Consideration of expert opinions will be made where such information is available and/or relevant. When required for mitigation, consent conditions (if consent were to be granted) are also commented on.
31. In assessing the effects of the proposal under Section 104, no effects have been disregarded as the proposal is a Discretionary Activity and the permitted baseline has not been applied as an additional dwelling could not be constructed on the subject site as of right due to relying on access being provided from a ROW. The following paragraphs assess the actual and potential effects on the environment anticipated and includes the following subheadings:
- Effects on residential character and amenity;
 - Site servicing (stormwater and wastewater services); and
 - Operational and traffic safety effects associated with the increased use of the ROW;

Effects on residential character and visual amenity

32. Only one person was notified in association with the proposal, notification was served due to the person sharing a ROW with the site which subdivision consent is sought for. Within the submission made to Council by the submitter no detail is provided with regard to potential adverse effects on residential character and amenity values. Instead primary concerns are clearly associated with the ROW including safety and function. Effects on surrounding residential amenity was also considered on surrounding properties through the s95 process and it was determined that effects would be less than minor in nature. The primary reason

being that the adjoining allotment to the north has a drive way and garage adjacent to the ROW rather than any bedrooms or living areas.

33. For the completeness I provide the following conclusions relating to effects on residential amenity values. Proposed Lots 1 and 2 are both in excess of 450m² in area. Lots of 450m² in area or greater are anticipated by the ODP and PDP as controlled activities. Under the ODP the minimum lots size for a Controlled Activity is 450m², in the PDP lots of 400m² in area are provided for as controlled activity (decisions yet to be made). Any future buildings within proposed Lot 2 would be restricted by the building controls contained within the District Plan. These include height limits, setback requirements, daylighting controls and site coverage controls. The application of these would in my opinion ensure any actual and potential effects on residential character and amenity values would be less than minor in nature. Similarly this reflects the assessments made within the notification assessment made in 2020 which considered all immediately adjoining properties whose owners had not provided written approval.
34. Also worth noting, and although not currently required under the ODP but anticipated to become necessary under the PDP, sufficient space is available so as that each lot is able to provide for well-functioning outdoor living areas.
35. Overall any effects on residential character and amenity values in the area would be less than minor in nature.

Site servicing (stormwater and wastewater services)

36. The existing dwelling is proposed to be retained within Lot 1 and is currently connected to Council owned wastewater and water reticulation. A development engineer has assessed the suitability of providing connections to Lot 2 and this has been confirmed as practicable without any capacity or feasibility concerns.
37. Both lots are flat and suitably sized to provide for on-site soakage post development. The site does not present any concerns regarding the ability to provide a flood free building platform.
38. With regard to water, wastewater, stormwater and the provision of a suitable building platform any actual and potential effects resulting from the subdivision would be less than minor in nature.

Safety and operational effects associated with an increased use of the ROW

39. The traffic effects of the proposal consist of the increased usage of the ROW and movements of traffic on the safe and efficient operation of the Road network. The submitter has identified concerns with the existing crossing and that the increased use of the ROW would only accentuate this. Given the nature of the submission points raised the applicant has engaged a Traffic Engineer (Andrew Skerret – AMTANZ Ltd) to undertake a traffic assessment to consider the effects. Comment

has also been received by Council's Development Engineer (Matt Sanger) and Road Network Lead (John Eagles).

40. As described within the submission and confirmed within the traffic report the road where adjacent to the ROW accessing the site is busy, particularly at peak hours. However, upon visiting the site it is evident that the sight lines in either direction are unlimited and Tukapa Street has a wide legal road corridor including wide berms. This observation is confirmed by the Traffic Assessment undertaken by Mr Skerrett. Therefore, and based on advice received from Mr Sanger and the information provided within the report undertaken by Mr Skerrett, that these characteristics of the road environment would ensure safe operation of the ROW crossing. I also agree that the provision of a passing bay would help to mitigate potential effects associated with vehicle conflict along the ROW. I have included a copy of the traffic assessment as Appendix C to this report, of which Mr Eagles and Mr Sanger concur with its findings.
41. The length of the ROW is approximately 50m from the edge of Tukapa Street to the entrance of the subject site (249C Tukapa Street). The ROW serves 3 existing dwellings and there is fourth allotment (251 Tukapa Street) which has a right to use the ROW. The ROW has a sealed width of 2.5m to 2.8m (approx) and a legal width of 5.5m & 6m. The ROW is located approximately 15m from the intersection of Tukapa Road and Nursery Place. Councils Development Engineer, Matt Sanger, has commented on the formation standards that would be required and should consent be granted, it is their recommendation that the ROW be brought up to the relevant minimum standard (with exception of providing a turning head). Based on the advice from Mr Sanger this would include the following development engineer conditions;
- Increase the width to 3m to the entrance of 249C,
 - install a passing bay; and
 - The provision of stormwater control.

The upgrade requirements described would be solely the responsibility of the consent holder and would not obligate any other parties to contribute to the works.

42. The construction material for any necessary width upgrades, or complete replacement, would be designed to resemble the existing sealed drive and a strip drain or nib kerb would be required to address stormwater. Given the upgrades anticipated this would bring the standard of the ROW up to what would be expected for a ROW serving 3 to 6 allotments and likely improve operational arrangements. Given the legal width, grass berms will also be able to be retained in keeping with the existing residential character of the ROW though it is noted that it can be formed to a wider width than the 3m minimum.
43. One of the triggers for consent being required as a discretionary activity status is due to the crossing being located within 30m of an existing intersection. The intersection in question is the one between Tukapa Street and Nursery Place. Cross roads, where crossing or intersections are directly across of another intersection are not preferred, however there are mitigating factors in this scenario which includes that Nursery Place is a short cul-de-sac street servicing residential dwellings only. A

majority of these dwellings are independent aged living units. These factors overall contribute towards lessening the risk profile as detailed by Mr. Skerrett within the Traffic Assessment provided. Overall, it is my opinion that when compared to the existing environment that the addition of a single dwelling to the ROW would only result in additional adverse traffic safety effects at the crossing location at less than minor levels.

Other Submission Matters

44. The following other matters are also commented on which were raised as part of the submission received.

Parking in relation to proposed lots 1 and 2.

45. Parking is no longer required due to the National Policy Statement for Urban Development 2020 (NPS-UD). However when considering a discretionary activity Council are still able to assess potential effects associated with the provision of parking. If parking was not to be provided on-site, then vehicles associated with the activities on the allotments would need to park on Tukapa Street. I am satisfied that there is sufficient available space on Tukapa Street for vehicles to park on it and no concerns have been raised about such an occurrence adversely impacting on its safe and efficient operation. As the ROW is long (50m) I consider it necessary that each of the proposed lots provides for on-site maneuvering so that vehicles enter the existing ROW in a forwards manner where on-site parking is provided which I have included as a condition of consent to be registered on the Records of Title as a consent notice.

Construction effects.

46. Any construction effects would be temporary in nature and able to be managed through the implementation of sediment and erosion controls as well as construction management plan which ensures measures are in place to allow for vehicles to pass during construction/upgrades. Overall any effect would be temporary and in my opinion will only have a minor effect.

Financial liabilities of ROW upgrades and/or any damages

47. All financial liabilities associated with upgrading the ROW and/or any damage incurred on the ROW will be the responsibility of the consent holder

Impacts on ROW agreement

48. I consider these to be civil issues outside of the scope of the RMA and subdivision process. I accept that these would need to be addressed but understand that there would be legal process to follow in association with this.
49. Overall any effects arising from the above matters would be minor in nature.

Proposed Building Controls in AEE

50. The following proposed building controls were also included within the application as being agreed with the submitter. However, I have not proposed these as part of the draft conditions of consent as I believe that they would be better dealt with through alternative measures. Item i. for example is more appropriate to be a civil agreement, while ii. will quite simply be managed by the ODP/PDP requirements.
- i. That the construction of any new dwelling in Proposed Lot 2 shall be undertaken within 12 months of the foundations being laid.
 - ii. Any new dwelling within Lot 2 shall be constructed in accordance with NPDC's bulk, height and location requirements of the New Plymouth District Plan with legal effect at the time of building consent being sought.

Positive Effects

51. The proposal provides for an additional residential allotment in an appropriate location close to residential amenities including schools, shops, recreation and employment. Overall the proposal promotes the objectives of the National Policy Statement for urban capacity which is in my opinion a positive effect, albeit only one additional allotment.
52. In my opinion the proposed subdivision is catalyst for ROW upgrades occurring which would improve the standard of the ROW. This includes the provision of a passing bay and is overall an appropriate ROW design for a ROW serving 3 to 6 allotments.

Conclusion on Assessment of Effects

53. Based on the above assessments I consider that the effects of the proposal will be acceptable subject to fair and reasonable conditions of consent.

National, Regional and District Objectives and Policies Assessment

Operative New Plymouth District Plan (ODP)

54. The following tables provide an assessment of the relevant objectives and policies within the ODP and PDP. The assessments are tableside with the relevant objectives and policies listed in the left column and my comments / assessments provided in the right.

Table 4 – Relevant ODP Objectives and Policies Assessment

Relevant Objectives and Policies	Assessment
<i>Objective 1 - To ensure activities do not adversely affect the environmental and amenity</i>	Objective 1 and policy 1.1 are about maintaining character and amenity values and ensuring that activities do not adversely affect

<p><i>values of areas within the district or adversely affect existing activities.</i></p> <p>Policy 1.1 - <i>Activities should be located in areas where their effects are compatible with the character of the area.</i></p> <p>Policy 1.2 - <i>Activities within an area should not have adverse effects that diminish the amenity of neighbouring areas, having regard to the character of the receiving environment and cumulative effects.</i></p>	<p>amenity values by ensuring effects are compatible with the character of the area. I consider the proposal to be appropriate with respects to residential character and amenity values. The application is considered to be consistent with objective 1 and policies 1.1 and 1.2.</p>
<p>Objective 6 - <i>To ensure:</i></p> <ul style="list-style-type: none"> • <i>Sufficient space is available to protect residential amenity.</i> • <i>Visual and aural amenity is protected.</i> • <i>Traffic generations consistent with the character of the residential area</i> <p>Policy 6.1 - <i>Subdivision in RESIDENTIAL ENVIRONMENT AREAS should ensure sufficient space is available to enable residential living and to protect amenity values.</i></p> <p>Policy 6.3 - <i>Activities within the RESIDENTIAL ENVIRONMENT AREA should be of a size, scale and visual character that do not adversely affect the amenity of the residential environment.</i></p> <p>Policy 6.4 - <i>Traffic generation from activities within the RESIDENTIAL ENVIRONMENT AREA should not adversely affect the character of the area.</i></p>	<p>Objective 6 and underlying polices relate specifically to residential character and amenity values. This includes potential effects on surrounding activities and the provision of onsite amenity. Given the proposed lot sizes and topography I consider the proposal to be appropriate. The application is in my opinion consistent with objective 6 and policies 6.1, 6.2 and 6.3.</p>
<p>Objective 20 - <i>To ensure that the road transportation network will be able to operate safely and efficiently.</i></p> <p>Policy 20.1 - <i>The movement of traffic to and from a site should not adversely affect the safe and efficient movement of vehicles, both on-site, onto and along the road transportation network.</i></p> <p>Policy 20.3 - <i>Potential conflict between vehicles, pedestrians and cyclists moving on the road transportation network should be minimised to protect the safety and efficiency of road and footpath users.</i></p>	<p>The proposed ROW would require upgrading through the conditions of consent if approved. Despite the additional allotment proposed, it is my opinion that effects will be mitigated through appropriate ROW design and ensuring forward egress from sites. Consideration has also been made against the continued safe operation of Tukapa Street. Based on my own site visits and the advice received from Council's development engineer and road network manager I consider that the proposal is consistent with objective 20 and policies 20.1, 20.3 and 20.7 identified as relevant. These conclusions have also been supported</p>

Policy 20.7 - Subdivision should not adversely affect the safe and efficient operation of the ROAD TRANSPORTATION NETWORK.	by the conclusions of the Traffic Report undertaken by AMTANZ Ltd.
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Summary of Objectives and Policies Assessment

55. Based on the above assessments, the applicants AEE, supporting plans, supporting information and my AEE I consider the proposal to be consistent with the relevant objectives and policies set out above.

Proposed District Plan

Table 5 – Relevant ODP Objectives and Policies Assessment

Strategic Objectives	
Relevant Objectives and Policies	Assessment
Subdivision	
<p>SUB-01 - Subdivision results in the efficient use of land and achieves patterns of development which deliver good quality community environments that are compatible with the role, function and predominant character of each zone.</p> <p>SUB-02 - Subdivision is designed to avoid, remedy or mitigate adverse effects on the environment and occurs in a sequenced and coherent manner that:</p> <ul style="list-style-type: none"> • responds positively to the site’s physical characteristics and context; • is accessible, connected and integrated with the surrounding neighbourhoods; • contributes to the local character and sense of place; • recognises the value of natural systems in sustainable stormwater management and water sensitive design; and • protects or enhances natural features and landforms, waterbodies, indigenous vegetation, historic heritage, sites of significance to tangata whenua, and/or identified features; and • 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. <p>SUB-03 - Infrastructure is planned to service proposed subdivision and development and to connect with the wider infrastructure network in an integrated, efficient, coordinated and future-proofed manner and is provided at the time of subdivision</p> <p>SUB-P1, SUB-P6 & SUB-P9</p>	<p>I consider that the proposed location is suitable for subdivision subject to the ROW upgrades proposed. Overall the proposal is consistent with the relevant subdivision objectives and policies in the PDP identified.</p>

Energy Infrastructure and Transport	
<p>Transport</p> <p>TRAN-03 - <i>Activities generate a type or level of traffic that is compatible with the local road transport network they obtain access to and from.</i></p> <p>TRAN-04 - <i>The existing and future transport network is not compromised by incompatible activities which may result in reverse sensitivity effects and/or conflict.</i></p> <p>TRAN-05 - <i>Adverse effects from the construction, maintenance and development of the transport network are managed.</i></p> <p>TRAN-P13 - <i>Require that activities provide for the safe and efficient movement of vehicles on-site, onto and along the road transport network by:</i></p> <ol style="list-style-type: none"> 1. <i>providing appropriately designed and/or located vehicle access points, on-site parking including bicycle parking, loading and standing spaces, driveways, manoeuvring space and queuing space to reduce disruption to traffic flow, driver distraction and road congestion;</i> ... <p>TRAN-P14 - <i>Ensure that activities do not constrain or compromise the safe and efficient operation of the road transport network by:</i></p> <ol style="list-style-type: none"> 2. <i>minimising conflict between vehicles, pedestrians and cyclists;</i> 3. <i>managing the width of vehicle access points so that on-street parking is not reduced; and</i> 4. <i>managing adverse cumulative effects.</i> 	<p>Based on the comments received from Council's Road Network Lead, Council's Development Engineers and the applicant's expert traffic advice I consider that the proposal is consistent with the relevant objectives and policies of the PDP identified.</p>
<p>GRZ-01 - <i>The General Residential Zone is predominantly used for residential activities and characterised by residential housing.</i></p> <p>GRZ-02 - <i>The role, function and predominant residential character of the General Residential Zone is not compromised by incompatible non-residential activities.</i></p> <p>GRZ-03 - <i>A variety of housing types, sizes and tenures are available in different locations to respond to community needs, while also responding appropriately and sensitively to the context, character and amenity values of the surrounding neighbourhood.</i></p>	<p>The site is suitable for residential development of a scale anticipated by both the ODP and PDP. Lots greater than 450m² are proposed (excluding areas used for access). Further the site is flat and well located with regard to residential amenities. Overall the proposal is consistent with the relevant objectives and policies within the GRZ chapter of the PDP identified.</p>

<p>GRZ-04 - Residential buildings provide occupants and neighbours with high quality living environments.</p> <p>GRZ-05 - Streetscapes, natural features, residential character and/or amenity are not compromised by adverse changes to landform or incompatible built form.</p> <p>GRZ-06 - Adverse effects of activities are managed to maintain residential amenity</p> <p>GRZ-P1, GRZ-P2, GRZ-P3, GRZ-P5, GRZ-P7</p>	
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56. The Proposed New Plymouth District Plan is required to be considered under section 104(1)(b). However, the weight that it is to be given to the PDP should be limited as decisions on the hearings which have been and continue to be held throughout the course of the year are not anticipated until later in the year.
57. I consider that the proposal would be able to achieve consistency with all of the relevant Proposed District Plan objectives and policies listed in above.

Operative and Proposed District Plan Integrity

58. The consistent administration of the District Plan is necessary for maintaining the integrity of the District Plan and the purposes it serves under the RMA. Concerns particularly arise when a consent for a Restricted Discretionary, Discretionary or Non-Complying activity is granted. This may lead to what is described as a precedent effect where an expectation is created that consent will and should be granted for activities of a similar scale and/or triggering the same or similar rules or having the same activity status.
59. In this case, consistency with the relevant objectives and policies of both the Operative and Proposed District Plans are achieved, the proposal lot size is anticipated by the plan as a controlled activity and consent is able to be granted without setting adverse precedent effects.

Regional Policy Statement

60. Regional Policy Statements are prepared by Regional Council's to achieve the purpose of the Act by providing an overview of the resource management issues of the region and identify suitable objectives, policies and methods to achieve integrated management. The objectives, policies and rules of a District Plan must give effect to a Regional Policy Statement.
61. In my view I believe that the application is not contrary to the RPS, particularly as consistency with the relevant objectives and policies contained within the ODP and PDP has been found. The RPS includes a strong focus on sustainable management, of which requires the balancing of environmental, economic, social and cultural effects.

I believe that the proposal is consistent with the concept of sustainable management given the sites appropriate location within the Residential Zone.

National Policy Statement on Urban Development 2020

62. The National Policy Statement for Urban Development Capacity 2020 came into effect in August 2020 (NPS-UDC). NPS-UDC seeks to promote that Councils provide a sufficient supply of residential and business land to facilitate continued urban growth and the demands of the community to provide for their social, economic and cultural wellbeing.
63. In my opinion the proposal generally aligns with the NPS-UD 2020 through the provision of additional residential living opportunities and is therefore consistent with the NPS-UD.

Part 2 Assessment

R J Davidson Trust v Marlborough District Council - CA97/2017 (2018)

64. The Court of Appeal decision on RJ Davidson Family Trust v Marlborough District Council influenced the way in which Part 2 should be applied and determined that:

"If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so. That is the implication of the words "subject to Part 2" in s 104(1), the statement of the Act's purpose in s 5, and the mandatory, albeit general, language of ss 6, 7 and 8."
65. The RJ Davidson Family Trust decision confirmed that it is appropriate to consider Part 2 of the RMA when assessing a resource consent application but only in specific circumstances. Otherwise, an assessment against Part 2 will not necessarily add to the overall assessment process.
66. The applicant has described in their AEE that they believe the conclusions resulting from the RJ Davidson decision are relevant to the proposal and that "an assessment of this application against Part 2 would not necessarily add anything to the evaluative exercise required". This conclusion was reached by the applicant in stating that the ODP, PDP and other relevant planning documents have been prepared with a coherent set of policies designed to achieve clear environmental outcomes and therefore an assessment not necessary.
67. I consider that, and particularly being that the operative plan has been in place for over 15 years and there is a Proposed Plan currently a hearings process that it is necessary to have regard to Part 2 of the RMA. Therefore, consideration of the

resource consent application under Section 104 of the RMA is subject to Part 2 of which identifies the purpose and principles of the Act.

Purpose of the Act – Section 5

68. The purpose of the RMA is defined under Section 5 of the RMA;

"Section 5 – Purpose of the Act

- (1) The purpose of this Act is to promote the sustainable management of natural and physical resources.*
- (2) In this Act, **sustainable management** means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—*
 - (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
 - (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
 - (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment."*

69. Given my conclusions on the effects outlined throughout this report, I consider overall that the proposal will enable the sustainable management of the Residential A Environment land resource.

70. The remaining relevant Part 2 provisions including Sections 7 and 8 are considered as follows.

Other Matters – Section 7

71. I consider the following other matters to be relevant to the proposal.

- (b) the efficient use and sustainable development of natural and physical resources;*
and
- (c) the maintenance and enhancement of amenity values and*

72. With regard to Section 7(b) and (c) the proposal demonstrates that it is consistent with surrounding residential land uses and any actual and potential effects associated with the ROW are able to be mitigated through conditions of consent.

73. Section 8 requires NPDC to consider the principles of the Treaty of Waitangi. This recognises Māori interests in the use, management, and development of resources. In the context existing character of the area it is considered that the proposal is acceptable and that the relevant principles under the Treaty of Waitangi have been taken into account.

Part 2 Summary

74. In conclusion of the Part 2 matters, I am satisfied that the proposal is consistent with Part II of the Act and will promote the sustainable management of the natural and physical resource and is anticipated to achieve sustainable management.

Decisions on Applications Sections 104B – Discretionary Activities

75. For a Discretionary Activity, Section 104B of the RMA provides that Council may grant or refuse the application. If Council grants consent, under Section 104(3) it may impose conditions under Section 108.

Recommendation

76. That for the above reasons the application be granted pursuant to Section 104 and 104B subject to the inclusion of conditions imposed under Section 108 and 220 of the Resource Management Act. The following conditions listed are also recommended to assist the commissioner in their decision making.

Report by: Luke Balchin
Senior Environmental Planner



Reviewed by: Richard Watkins
Principal Planner



Date: 06/07/2022

Subject to the following conditions imposed under Section 108 of the Resource Management Act 1991:

1. The use and development of the land shall be as described in the application submitted to Council by Bland & Jackson entitled "Resource Consent Application: 2-Lot Residential Subdivision" 24 August 2020 & in accordance with the approved scheme plan prepared by Bland & Jackson entitled "Lots 1 and Being a Proposed Subdivision of Lot 2 DP 7582" – Revision R01 – Project No. 9566 – Date 30/01/20.

Prior to Commencement of Construction

2. At least 10 working days prior to the commencement of construction works along the ROW the consent holder shall notify all other Right of Way users of the commencement date of works and provide;
 - A contact number for the site manager/contactor;
 - Details regarding the provision of pedestrian passing at all times; and
 - Details regarding any anticipated disruption to the provision of vehicle access.
3. Prior to commencement of construction works, the consent holder shall provide evidence to the Council's Environmental Planner – Monitoring Team that that the above engagement has occurred in accordance with condition 2 above.

Section 223 Approval

4. The final survey plan shall conform with the subdivision scheme plan submitted with application no: submitted with application **SUB20/47579** submitted to Council by Bland & Jackson and entitled "Lots 1 and Being a Proposed Subdivision of Lot 2 DP 7582" – Revision R01 – Project No. 9566 – Date 30/01/20.
5. A memorandum of easements shall be shown on the survey plan for the purposes of conveying water, draining sewer, power, telecommunications and the Right of Way (ROW).

Section 224 Certification

6. The application for certificate under section 224(c) of the RMA shall be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of the subdivision consent have been complied with and that in respect of those conditions that have not been complied with.
 - i. a completion certificate has been issued in relation to any conditions to which section 222 applies;
 - ii. a consent notice has been or will be issued in relation to any conditions to which section 221 applies; and

- iii. a bond has been entered into by the subdividing owner in compliance with any condition of subdivision consent imposed under section 108(2)(b).

Water Supply

- 7. An individual water connection incorporating a manifold assembly shall be provided for all new lots within the development in accordance with the NPDC Development & Subdivision Infrastructure Standards.
- 8. A water meter shall be provided for all new lots within the development.
 - a) An application for the connection will need to be lodged with the Council with the appropriate fee.
 - b) Upon approval, the connection is to be installed by a Council approved contractor at the consent holder's cost.
 - c) An As Built Plan shall be submitted to the Reticulation Engineering Officer.
- 9. Where required, existing water connections shall be upgraded to a manifold assembly type. Confirmation of this is required.
- 10. Confirmation that there are no cross-boundary water connections shall be provided to Council.

Advice Notes

- a) An application for the connection will need to be lodged with the Council with the appropriate fee.
- b) Upon approval, the connection is to be installed by a Council approved contractor at the consent holder's cost.
- c) An As Built Plan shall be submitted to the Reticulation Engineering Officer.
- d) The consent holder shall cover the cost of each water meter as part of the service connection fee. Each meter shall be supplied and installed by Council.

Wastewater

- 11. A sewer connection shall be provided for all lots within the development. All new reticulation shall be designed and constructed to the requirements of:
 - i. The Building Act,
 - ii. The NPDC Consolidated Bylaws 2014 Part 14 Wastewater Drainage,
 - iii. The Council's Land Development & Subdivision Infrastructure Standard.

Advice Note

- a) For new connections an application with the appropriate fee is to be made to Council, and upon approval this connection is to be installed by a Council approved contractor at the consent holder's cost.

Stormwater Disposal & Building Platforms

12. A report shall be provided from a suitably qualified person to confirm that there is available within Lot 2, a stable flood free building platform suitable for building foundations in accordance with the requirements of the New Zealand Building Code B1. The report shall include:
 - i. That a stable flood free building platform suitable for building foundations in accordance with the requirements of the New Zealand Building Code B1 is available within Lot 2.
 - ii. Detail any recommendations requiring specific building foundations or stormwater controls that shall be subject to Consent Notice under Section 221 of the Resource Management Act 1991.
13. Confirmation is required that existing soak holes are contained wholly within the boundaries of Lot 1.
14. Secondary flow paths shall be shown on a plan and shall not be across private property.

Right of Way (RoW) Upgrades

15. The existing right-of-way up to the western boundary of proposed Lot 1 shall be upgraded so it is formed to the requirements of the New Plymouth District Plan and the Council's Land Development & Subdivision Infrastructure Standards including;
 - Widening of the sealed portion of RoW to 3m;
 - Provision of on-site storm water control; and
 - Installation of a single passing bay (widen to 5.5m) at the location recommended within the traffic assessment undertaken by AMTANZ Ltd and dated 27th April 2022
16. Any excavation works as part of the subdivision must be kept wholly within the boundaries of the site including the right of way, and not encroach on to neighbouring land or road reserve.
17. The consent holder responsible for earthworks must repair, to the satisfaction of Council, damaged roads, channels drains, vehicle crossings and other assets vested in council adjacent to the land where the building/construction work takes place. The consent holder is required to pay for any damage to the road or street that results from their development and must employ a council approved contractor to carry out such work.
18. Works undertaken on site associated with the subdivision shall employ the best practical means of minimising the escape of silted water or dust from the site. Sediment and erosion controls shall detail the following.

- i. Measures to avoid silt and sediment runoff from all enabling earthworks into any adjoining sites;
- ii. Measures to minimise dust generation;
- iii. Remedial measures for exposed earthworks areas.
- iv. Measures for preventing tracking of material onto the Road network, and if any occurs measures to clean up such material;

Advice notes:

1. **Consent Lapse Date:** *This consent lapses on **TBC** unless the consent is given effect to before that date; or unless an application is made before the expiry of that date for the Council to grant an extension of time for establishment of the use. An application for an extension of time will be subject to the provisions of section 125 of the Resource Management Act 1991.*
2. *Any retaining wall that falls outside the scope of Schedule 1 of the Building Act (2004) shall require a building consent*
3. *A Development Contribution for off-site services of \$9049.86 plus GST is payable by the applicant and shall be invoiced separately. The 224 release of this subdivision will not be approved until payment of this contribution is made.*
4. *This consent is subject to the right of objection as set out in section 357A of the Resource Management Act 1991.*
5. *Any excavation taking place within road reserve will require an approved Corridor Access Request (CAR). For additional information refer to the "National Code of Practice for Utility Operators - Access to Transport Corridors". A CAR along with a Traffic Management Plan must be submitted a minimum of 5 working days before an operator intends to start work and all costs incurred shall be at the consent holder's expense.*

DATED: TBC