



Te Kaunihera-ā-Rohe o Ngāmotu

NEW PLYMOUTH DISTRICT COUNCIL

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Section 42A Hearing Report for Subdivision Consent - SUB21/47711

Applicant:	Layne and Helen Greensill
Site Address:	1303 South Road, Oakura
Legal Description:	Lot 3 DP 447811 held in RT 566010
Site Area:	20.4155 Hectares
Zone:	Operative District Plan: Rural Proposed District Plan: Rural Production Zone
District Plan Overlays:	Operative District Plan: Gas Transmission Pipeline Proposed District Plan: Gas Transmission Pipeline
Date consent application received:	25 February 2021
Further information requested:	23 March 2021
Further information report received:	20 April 2021 and 24 June 2021 (Landscape Mitigation Plan)

PURPOSE OF THIS REPORT

1. This Hearing Report has been prepared to assist the Independent Commissioner in the consideration of Layne and Helen Greensill's (the applicant) resource 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 resource consent should be granted or declined and if granted what conditions it should be subject to. It is not a decision, and the recommendation should not read as though it is.
2. The statutory provisions under the Act applicable 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 also required under WB-R5 within of the Proposed District Plan as a Controlled Activity.

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.
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 one limited notified application including 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, amenity issues, transport issues, policy 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 (AEE) Rev1 dated 12/02/2021 including all supporting appendices;
 - Erin Griffith – Landscape and Visual Impact Peer Review Dated 22 March 2021, Landscape and Visual Impact Assessment (LVIA) Peer Review Version 2 dated 19 January 2021 and Landscape Peer Review Dated 27 July 2021;
 - Verbal and e-mail commentary from;
 - Council's Development Engineer Debbie Taplin regarding wastewater, water, ROW and stormwater servicing; and
 - The Applicants Section 92 responses including the final landscape and visual mitigation plan and updated scheme plan with planting protection areas.

SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

6. The site includes one record of title (566010) and is legally described as Lot 3 DP 447811. The site is illustrated in red on Figure 1 on the following page.
7. The site has an irregular shape and is located on the foothills of the Kaitake Ranges. The sites eastern boundary adjoins the National Park. The National Park is identified as an Outstanding Natural Feature and Landscape (ONFL) within both the Operative District Plan (ODP) and Proposed District Plan (PDP) – "Mount Taranaki and the Kaitake and Pouakai Ranges". To the north the site adjoins a large rural allotment and to the south the site adjoins smaller rural allotments, one

over 4 hectares in area and the remaining 5475m². Toward the west the site adjoins two small rural allotment (approximately 4000m² respectively) and State Highway 45 (SH45).



Figure 1: Site Location Plan

8. Within the site's boundaries are four existing buildings, including one dwelling, two farm sheds/garages and a milking shed. The site is grazed by a herd of dairy cattle and has a metal farm track running through the site to the rear of the property. There is a further existing dwelling that has Right of Way access over the farm. The dwelling described is located within a neighbouring allotment described as Section 175 Oakura Dist and is not owned by the applicant.
9. The ROW described above also serves the parent title and two other properties located between the site and SH45, Lot 1 DP 447811 and Lot 2 DP 447811. The part of the ROW serving the dwelling within the site and the two smaller adjoining properties is sealed up to the end of the hedge as illustrated on figure 2. The remainder of the ROW is metal. The applicant owns the ROW which is also used by the applicant for the purposes of operating their Dairy Farm and "boutique" milk production business called "Kaitake Fresh Creamery" which includes onsite bottling and the local distribution of fresh whole milk.



Figure 2: End of Sealed ROW looking west

10. The site has an undulating topography within its eastern half that generally slopes down steeply from the foothills of the Kaitake ranges and toward SH45. There is a single stream within the site which is a tributary of the Wairau stream which eventually flows into the sea at Oakura Beach. There are several existing culverts along the stream where it traverses the site. A majority of the stream's margins have been planted in accordance with Tararangi Regional Council's Riparian Farm Management Plan – Mapbook # 901874. The western third of the site is generally flat. Some sites boundaries are lined with hedges while remaining boundaries are simply fenced in a rural style.
11. The existing dwelling within the site boundaries is surrounded by well-established vegetation. There is also a tall, dense and well-established shelterbelt along a portion of the ROW where adjacent to dwelling.
12. The site adjoins rural properties to the north, south, east and west (across SH 45). Surrounding properties are a mixture of sizes with some carrying rural lifestyle characteristics and others having characteristics more typical of the Rural Zone i.e. spaciousness, vegetation, rural production activities, farm sheds and natural features. Some adjoining properties contain a level grazing (small scale) while others are simply used as rural lifestyle lots. Adjoining rural properties typically contain a single dwelling.

13. The site itself is rural in character and includes features such as openness, natural features and rural production activities.
14. Site visits have been undertaken by myself on several occasions including most recently on June-3-2022. The site is also a location I pass by vehicle on a weekly basis so I am familiar with the area.
15. From a cultural context, the site is not subject to statutory acknowledgment nor identified to contain any mapped sites of significance to Maori (SASMs) under either the ODP or PDP. It is however noted that the foothills of the Kaitake Ranges carry inherent cultural values to Taranaki Iwi where several sites of significance are located. However, the nearest is approximately 300 metres away from the site and over 700 metres from the proposed rural-lifestyle allotments.
16. Overall the site and the immediately surrounding areas are consistent with the underlying rural zoning and are rural in character.

PROPOSAL

Background

17. The site was subject to a similar subdivision consent application made by the applicant in November 2020 referenced SUB20/47642. SUB20/47642 was for a 4 lot rural subdivision consent for a Non-Complying Activity under the ODP and Discretionary Activity under rules within the waterbodies chapter of PDP with immediate legal effect. The proposal included subdividing around the existing dwelling as a further allotment and less than 4000m² in area. The proposal also included a neighboring parcel of land which the Wairau Stream traversed. The Wairau Stream is a significant waterbody and under the PDP and triggers the requirement for the vesting of esplanade reserve. The application was subsequently withdrawn so the applicant could amend the proposed subdivision layout including the number of allotments.

General

18. The applicant proposes to undertake a three lot rural subdivision of the site. The proposal is summarised as follows;
 - Creation of two rural lifestyle allotments each approximately 4400m² in area;
 - A balance lot of 19.5 hectares in area;
 - Addition of two additional allotments to an existing ROW;
 - Landscape mitigation in the form of specimen tree planting (row of Native Evergreens) and 3m wide planting strips at strategic locations.
 - Provision of no build areas to promote separation of proposed and existing buildings;
 - Provision of building controls within the rural lifestyle allotment to mitigate effects; and
 - The provision of greater protection of riparian planting areas within the balance lot.

19. A landscape mitigation plan forms part of the proposal and was prepared by Richard Bain of Bluemarble Landscape Architects. The landscape mitigation plan was informed by the Landscape and Visual Impact Assessment also carried out by Richard Bain (Bluemarble) and on behalf of the applicant. The LVIA is considered to form part of the application documents. As part of the LVIA process the applicant proposes the following building controls as quoted from the LVIA.

"Lot 1

The waterbody on Lot 1 should be fenced and planted (where currently not fenced and/or planted) as per TRC riparian planting guidelines. This will provide an ecological offset for the urbanised part of the site created by the proposal.

Lots 2 & 3

- *To maintain a dominance of open space over built form, only one habitable dwelling should be allowed on each lot while zoned rural. Landscape & Visual Impact Assessment (LVIA),*
- *To maintain rural typologies and character, recessive non-glare colours are recommended for the roof of all any new habitable and all new non habitable buildings. A light reflectance value (LRV) of less than 25% is recommended.*
- *To maintain a dominance of open space over built form, any future dwelling should be limited to a maximum height of 6.0 metres above existing ground level.*
- *To maintain rural character, no closed board fencing taller than 1.2 metres should be constructed beyond 10m from any future dwelling.*
- *To maintain rural character, fencing (where fencing is required) of all boundaries of should consist of either post and rail or wire, post and batten fencing only.*
- *To maintain rural character the driveways on each Lot should be recessively coloured, eg metal, chip-seal, dark coloured concrete.*
- *To maintain night sky values, point sources of light should be visible from outside the site. To this end, all exterior lighting should all be 'hooded'.*
- *To minimise visual effects for 1305B, the driveway and boundary of Lot 3 should be planted with evergreen specimen trees at a maximum of 7m spacing.*
- *To maintain rural character, planting of native species should be planted along the eastern and southern boundary of Lot 3 and the eastern boundary of Lot 2. This planting should comprise mixed native planting a minimum of 3m wide."*

Riparian Planting

20. The applicant has proposed to plant and protect areas of existing or proposed Riparian Planting, this is generally already required by TRC Mapbook 901874. The areas are illustrated on the Bluemarble Plan, Drawing Title Landscape Mitigation Plan.

21. A snip taken for the scheme plan is provided on the following page as Figure 3.



Figure 3: Scheme Plan

APPLICANT'S ASSESSMENT OF EFFECTS AND ADDITIONAL INFORMATION RESPONSES

22. The applicant has provided an assessment of effects of the activity on the environment (AEE). The AEE provided is supported by technical reports and plans including the following:
 - Landscape Visual Impact Assessment;
 - Landscape Mitigation Plan; and
 - Subdivision Scheme Plans.
23. Through the Section 92 process amendments were made to the proposal, primarily in association with the applicants proposed landscape mitigation and building controls, but not the subdivision layout. The original AEE and plans dated 12/02/2021 were included with the information made available as part of the notification process. The latest plans, including landscape mitigation have also been made available to the submitters.
24. The applicant's AEE, and any updates to the AEE via the Section 92 process, provides for an overall summary of the actual and potential effects. The assessment concludes that the actual and potential adverse effects on the wider environment, and with

particular consideration to rural character and amenity, traffic effects and effects on waterbodies is overall acceptable.

25. Discussion is provided within the LVIA, AEE and section 92 responses. The information supplied provides for an assessment of the actual and potential effects of the development on the following matters;
- Rural Character and Amenity;
 - Effects on Rural Production;
 - Site Works and Infrastructure Effects;
 - Traffic Effects;
 - Natural Environment & Outstanding Natural Features;
 - Human Safety & Wellbeing Effects;
 - Cultural & Heritage Effects; and
 - Cumulative Effects of Subdivision.
26. I assessed the application under Section 88 of the Resource Management Act 1991 (RMA) and determined the application is complete. It is noted that subsequent information was requested by Council under Section 92 and all responses have now been supplied.
27. Overall, the application in conjunction with the additional information received contains sufficient information to allow for an assessment of effects during the notification process.

REQUIREMENT FOR OTHER CONSENTS

28. 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:
- 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.
 - The site is not included on the Taranaki Regional Council's register of selected land uses for contaminated sites.
29. There is no requirement for any consents under a Regional Plan.

STATUTORY PROVISIONS AND ACTIVITY STATUS

Operative District Plan

30. The site is located within the Rural Environment Area and is not subject to a Statutory Acknowledgement Area nor does it contain any Sites of Significance to Maori.
31. The proposal requires consent under the following **Operative District Plan** (ODP) rules:

Table 1: ODP Rules Assessment

Rule #	Rule Name	Status of Activity	Comment
Rur76	Additional lots off an existing Right of Way	Discretionary	Two additional allotments will be served from the existing Right of Way (ROW) which currently serves four existing allotments/dwellings.
Rur78	Minimum allotment size	Discretionary	The proposed subdivision creates 2 additional allotments from the parent title greater than 4000m ² in area and with a balance area of 19.5 hectares. The parent title was previously subdivided in 2013 to create Lots 1, 2 and 3 DP 447811.
Rur79	Requirement to provide practicable vehicular access from a road	Discretionary	<p>Vehicle access is from a state highway. The number of lots to be served by the ROW is 6 and the applicant proposes to meet the minimum design standards for a rural ROW serving six allotments. However the intersection is unable to comply with relevant sight distance requirements for access to a State Highway with a posted speed limit of 100kph.</p> <p>Travelling South the sight distance available is approximately 145m and travelling north the sight distance available is approximately 240m (there are no design standards for vehicle access points onto state highways that are Limited Access Roads – see Appendix 23 – section 23.1 (a)) of the ODP, of which instead requires consultation with Waka Kotahi.</p>
Rur81	Requirement for services	Controlled	Each lot will be able to be serviced to a rural standard.

Rur82	Requirement for a building platform	Controlled	Proposed lots 2 and 3 are of a sufficient size and topography to accommodate a suitable building platforms. Consideration has been given to the proposed no build areas and future rural setback requirements.
Rur83	Existing buildings in relation to boundaries	Permitted	Proposed boundaries are appropriately setback from existing buildings and dwelling on site.

32. The overall activity status under the ODP is Discretionary.

Proposed District Plan

33. The site is located within the Rural Production Zone and contains a gas transmission Pipeline and a waterbody.
34. No decisions have yet been made on the Proposed Plan. However, the following rules of the Proposed District Plan are relevant to this proposal which have immediate legal effect:

Rule #	Rule Name	Status of Activity	Comment
WB-R5	Subdivision of land containing or adjoining a waterbody	Controlled Activity	The standards of SUB-S9 are met. All streams are contained within the balance lot.

35. The proposal requires consent as a Controlled Activity under the Proposed New Plymouth District Plan being the highest status under the above Proposed District Plan rules.
36. Matters over which control is reserved are listed as follows;
- The location, design, layout and proximity of allotments in relation to the significant waterbody and the extent to which the waterbody's identified values will be protected or maintained.
 - The matters set out in WB-P2 to WB-P6
 - Whether the subdivision would create new or exacerbate existing natural hazards, including flooding or stream bank erosion

Overall Activity Status

37. The proposal is a **Discretionary Activity** under the ODP and controlled activity under the PDP. Applying the bundling principle the overall activity status is Discretionary.

NOTIFICATION DECISION

38. It was determined that the application should be processed on a limited notification basis and a copy of the 95A/95B notification report is appended to this report for reference.

Effects Disregarded

39. The following effects were disregarded for the purposes of the notification decision and s104 assessment (s95D, 95E and 104(2)&(3)(a)):

- The permitted baseline has not been applied as subdivision cannot occur under any instance as a permitted activity. Further the construction of two additional dwellings within the site would not be able to occur given there is already an existing dwelling within the site boundaries as well as the site being accessed from a ROW.
- Effects on persons who own or occupy the site and adjacent sites who have been provided written approval, or are owned by the applicant, have been disregarded. These include the owners of the properties identified in blue on Figure 3 below.
- The application is for a Discretionary Activity and therefore the assessment of adverse effects has not been restricted to the matters of Control or Discretion as required when assessing a proposal for a Controlled or Restricted Discretionary Activity.

40. The owners of the properties illustrated on Figure 3 below have provided their written approval. These properties have the following addresses and lot descriptions.

- 1305B South Road – Lot 1 DP 447811;
- 1325 South Road – Lot 2 DP 393810; and
- 1323 South Road – Lot 1 DP 393810

41. It is understood the applicant engaged with the owners of the two properties who were notified and are now submitters. However, written approval was not forthcoming. Written approval received are shown in blue on Figure 3 on the following page.



Figure 3: Written Approvals

42. Waka Ko Tahi has also provided conditional written approval. The conditions of their written approval are detailed within the letter to the applicant and included with the AEE document. The applicant has confirmed that they are willing to include all conditions of the written approval to mitigate potential adverse road safety effects.

Section 95A – Public Notification

Step 1: mandatory public notification in certain circumstances

43. The application must be publicly notified if it meets any of the criteria below:

Step 1: mandatory public notification in certain circumstances.

- The applicant has not requested that the application be publicly notified.
- The applicant has not refused to provide further information or refused to agree to commissioning a report under s95C.
- The application is not made jointly with an application to exchange recreation reserve land.

Step 2: if not required by step 1, public notification precluded in certain circumstances.

- The application is not subject to a rule or national environmental standard that precludes notification.
- The application is not precluded from public notification being a restricted discretionary activity.

Step 3: if not precluded by step 2, public notification required in certain circumstances.

- If the activity will have or is likely to have adverse effects on the environment that are more than minor the application must be publicly notified.

Assessment of Effects

44. Council are required to publicly notify an application if it decides that the proposal will have, or is likely to have adverse effects on the environment that are likely to be more than minor. Except for those associated with any Section 95A preclusions or adverse effects to be disregarded as described above.

45. I considered that the following matters and associated adverse effects on the environment are relevant;

- Rural character and amenity values in the area;
- Effects of subdivision on landscape values and outstanding natural features;
- Site servicing and vehicle access including road safety & efficiency;
- Loss of rural production land; and
- Maori cultural values.

46. It was concluded that effects would be minor or less than minor nature and therefore public notification not applicable.

Step 4: Public Notification in special circumstances

47. The proposal did not constitute an exceptional matter which would be the threshold of being considered as a special circumstance.

Step 4: Public Notification in special circumstances

48. It is concluded under Section 95A of the RMA that the application did meet the requirements for public notification.

Section 95B – Limited Notification Assessment

Step: certain affected groups and affected persons must be notified

- No protected customary rights groups or customary marine title groups are affected by the activity.
- The proposal is not on land that contains a Statutory Acknowledgement Area.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- The application is not subject to a rule or national environmental standard that precludes notification.

- The application is not precluded from limited notification as it fails to meet the preclusion tests under Section 95B

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- A person is affected if the consent authority decides that the activity's adverse effects on the person are minor or more than minor.

49. For the reasons discussed within the notification report the following parties were served limited notification on the 14th of April 2021.

SUBMISSIONS RECEIVED

#	Legal Description	Physical Address	Property Owner
1	Lot 2 DP 447811	1305A South Road	Amy Leigh Hart, Brendon James Hart
2	Section 175 Oakura DIST	1305 South Road	Jannaya Kobi Ruttlely, Mohammed Ali Bin Zulkifli Zabidin

Table 3: Submissions Received

50. The application was limited notified to two parties which were identified as affected persons under Section 95E and 95B of the RMA. Submissions closed at 5pm on the 1st of November 2021.

51. 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.

52. At the close of the submissions period, two submissions were received. Both were in opposition and provided detailed reasoning. The submissions received are summarised below and copies of submissions in full are included as Appendix B.

Table 4 – Summary of Submissions Received and the Matters Raised

#	Name	Key Submission Points Raised	Status of Submission
1	Brendon Hart	<ul style="list-style-type: none"> • Traffic effects including increased effects associated with the applicants' fresh milk delivery business which has intensified since the application originally being lodged. • Effects on Rural Character and Amenity values and particularly; <ul style="list-style-type: none"> - Effects on outlook including the dominant feature being the Kaitake Ranges. - Urbanisation of the area and reduced feeling of "spaciousness". - Reduced privacy' - Adverse effects on rural production - Likely building platform location will not suitably mitigate effects. • Effects associated with poor stormwater management. 	<ul style="list-style-type: none"> • Oppose • Wishes to be heard.

		<ul style="list-style-type: none"> Disagrees with the LVIA assessments provided by Bluemarble including the new driveways and planting will have additional adverse effects of their own. Reverse sensitivity 	
2	Mohammed Zabidin & Jannaya Ruttley	<ul style="list-style-type: none"> If granted the proposal will call into question the integrity of the District plan. Considers that the proposal will have more than minor adverse effects on rural amenity, landscape values and character in the area. Primary concerns around traffic safety – there are increasing issues occurring. Particularly with the Creamery business. ROW / driveway widths and formation are not sufficient. Additional users on the ROW are likely only to create additional adverse effects and have not provided sufficient consideration of the potential traffic effects. 	<ul style="list-style-type: none"> Oppose Wishes to be heard

Pre-hearing meeting

53. The applicant and submitters agreed to hold a pre-hearing meeting to discuss matters raised in the submissions and possible resolutions. A meeting was held on the 25th of February of which I was present to observe. Following these discussions it was agreed by all parties that a resolution / mutual agreement was not reached and that it would be necessary to proceed to a hearing.

Assessment of Environmental Effects – Section 104

54. The following assessments aim to provide context, identify relevant submission points, and assess the effects including in 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.

55. The following paragraphs assess the actual and potential effects on the environment anticipated and includes the following subheadings:

- Effects on rural character and visual amenity;
- Landscape and visual effects;
- Natural environmental values;
 - Waterbodies
- Traffic and transport related effects;
- Cultural effects;
- The loss of rural production land; and
- Reverse Sensitivity

Effects on Rural Character & Amenity Values

56. The assessment of the effects which relate to rural character and visual amenity are critical to assessing the proposal. Both of the submissions received commented on effects on rural character and amenity values as primary concerns. In my opinion amenity is subjective and non-specific, and often relates to the various components and/or attributes of the surrounding environment which in turn informs the overall concept of a person's appreciation of amenity and/or character of an area. The RMA defines amenity as follows;

"Amenity values means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes."

With respect to this definition I have focused on matters raised in submissions as this defines the amenity of the area appreciated by the affected persons.

57. To further inform my assessment I refer to the ODP which describes rural character as follows;

"The elements associated with the rural environment include spaciousness, low density built form, vegetation (such as pasture, crops and forest), and distinctly 'rural' noises and smells. These elements are largely developed as a result of traditional 'rural' practices such as pastoral farming, horticulture, intensive farming activities and other rural industries, including the established activities of the PETROLEUM EXPLORATION and production industry."

Under issue 4 of the ODP management strategy Rural Character is further described as "a broad concept defined by the various elements that make up the rural environment". These elements are then listed in the plan as;

1. Spaciousness
2. Low Density
3. Vegetated
4. Production Orientated
5. Working Environment
6. Rural Based Industry
7. Rural Infrastructure

For reference I have included as Appendix B to my 42A report a full copy of the ODP Management Strategy, including issue 4: Loss or reduction of rural amenity and character.

58. The PDP describes the "Rural Production Zone" (RPZ), which is the equivalent of the Rural Environment Area in the ODP as having the following characteristics;

The Rural Production Zone is also characterised by an open, vegetated landscape that is interspersed with low density buildings and structures that are predominantly used

for rural activities, such as barns and sheds, or larger, more numerous buildings of industrial scale and appearance used for intensive primary production or rural industry. Rural halls, domains and schools which serve the needs of the rural community are also present, however there is a general lack of urban infrastructure in the zone such as street lighting and footpaths. The District Plan seeks to maintain rural character.

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

NPDC Rural Subdivision and Development Design Guidelines 2012 (Design Guidelines)

60. Further, and before undertaking my assessment of the effects on Rural Charter and Amenity Values I want to introduce the Rural Design Guidelines. The design guideline further elaborates on the concepts of rural character and also introduces greater understanding of how landscape attributes can contribute to or mitigate effects. I have provided a hyper-link for anyone who may find it helpful for reference.

[NPDC Rural Design Guidelines - May 2012](#)

61. I note the design guide promotes the clustering of smaller allotments to reduce adverse effects associated with rural land fragmentation. The proposal is an example of clustering. However the design guide also specifies that allotments placement should consider neighbors and how allotments and resulting buildings will relate to existing properties. Particularly how to reduce conflict and to ensure the proposals are compatible with existing activities in the area.
62. In my opinion the guidelines are not a statutory document nor a single source of information as to whether a proposal is achieving ODP outcomes. Ultimately I am of the opinion that the role of the guidelines is to steer rural subdivision and development toward outcomes sought by ODP objectives and policies.

Effects on Rural Character and Amenity - 1305A South Road (1305A) - Lot 2 DP 447811

63. 1305A is a rural lifestyle allotment of approximately 4000m² in area. The allotment was created from a previous subdivision of the site. Within 1305A is a Primary Dwelling and an additional dwelling which was issued land use consent to be located closer than 15m to a side boundary (5m). The property is nestled between SH45 and other rural lifestyle properties immediately to the north and south. 1305A is separated from SH45 by a well-established mixed native planting strip. Toward the east 1305A is adjoined by the site. Currently the site contributes to rural characteristics, particularly openness and production orientated activities. Toward the east 1305A has an

expansive outlook of farmland and the Kaitake Ranges. These elements form a key component of their rural amenity values.

64. The proposal being considered would result in the following where adjacent to 1305A South Road;

- Two additional adjoining rural lifestyle allotments each approximately 4000m² in area;
- An adjoining metal access leg (7m wide) serving Proposed Lots 2 and 3
- Adjoining landscape mitigation in the form of a line of native specimen tree planting (7m centres spacing) designed to achieve a minimum height of 6m with a 4m canopy within 6 years of planting;
- A proposed no build area of 35m (Lot 3) and 25m (Lot 2); and
- Further landscape mitigation in the form of 3m planting strips to achieve a minimum height of 3m within 5 years.

It also noted that building controls have been proposed by the applicant including limiting Lots 2 and 3 to one habitable dwelling, building colour restrictions, 6m building height limit, fencing controls and driveway controls. These have been detailed within previous sections to this report.

65. The Bluemarble LVIA appended to the applicants AEE describes the potential effects on 1305A South Road in detail. The LVIA also considers the existing layout and the orientation of the primary dwelling within 1305A. The LVIA states that the receptor will notice the proposal because of proximity and that the rural setting forms part of the property's immediate context. The LVIA concludes without mitigation that the effects would be low to moderate (minor to more than minor). Clarification was sought through the section 92 process as to what mitigation is proposed and for an opinion from the applicant's landscape expert what impact mitigation may have on the final consideration of effects. It was considered that this information was necessary to fully understand the effects of the proposal and to inform the final notification decision. The applicant proposed the mitigation previously described and Bluemarble offered a conclusion that through the mitigation proposed that effects on 1305A would be "less than minor in nature".

66. The Natural Capital Peer Review stated that;

"The proximity and elevation of two additional dwellings behind 1305A will change the character of the area and their immediate relationship with, and appreciation of, rural amenity."

Further the peer review recommended that mitigation needs to be substantial enough to provide privacy to the receptor while retaining visual connections to the rural sense of spaciousness and the Kaitake. This presents the challenge where the appropriateness of the mitigation proposed does not address the concerns specified by the submitter in relation to their appreciation of rural amenity and characteristics of the rural environment.

67. In my opinion the proposed planting and building controls contributes toward mitigating potential adverse effects on rural character and amenity. Particularly privacy effects and assurance of building separation, this ensures effects on privacy are in my opinion suitably mitigated to less than minor levels. Further the mitigation planting proposed introduces characteristics of the rural zone being vegetation cover. However, and as previously noted the concept of amenity is also subjective. Through the submission received by Brendon Hart it is evident that primary concerns relate to the loss of outlook, openness and increased urbanisation of the area. He considered that the proposal reduces characteristics of a rural environment including the predominance of rural production activities and spaciousness. Without mutual agreement between the parties regarding the mitigation proposed it is my opinion that effects on the rural character and amenity values associated with 1305A South Road will be impacted at more than minor levels.
68. It is noted that mitigation in itself has the potential to introduce undesired effects, such as reducing the existing rural characteristic of spaciousness. This may improve privacy but also creates a situation where 1305A will either share boundaries with, or be adjacent to, four properties (two existing) which I would characterise as rural lifestyle and essentially encircle the allotment. The Submitter has defined their appreciation of rural character and amenity values as predominantly their enjoyment of the spaciousness to the east as well as the presence of active farming practices. This is supported by Objective 4 of the ODP which identifies key attributes of rural amenity values and characteristic and Objective 1 which seeks to ensure subdivision does not adversely affect amenity values or adversely affect existing activities.

1305 South Road (1305) - Section 175 Oakura DIST

69. 1305 is another rural lifestyle allotment but is some degree larger than 1305A South Road at approximately 2.4 hectares in area. The property is located up the ROW which serves the site. 1305 South Road is located right on the edge of the Kaitake Foothills which are to the property's south and east. The dwelling has a primary outlook toward the north and northwest where the dwelling enjoys elevated and expansive outlooks of rural land and further afield Oakura and the coastline. Currently the site contributes to rural characteristics particularly openness and production orientated activities.
70. Proposed lots 2 and 3 are a little over 600 metres away from 1305 South Road. The LVIA has not assessed the effects on 1305 South Road, it is assumed that this is due simply to the proposed rural lifestyle lots 600m distance from the dwelling within 1305 and therefore effects less than minor.
71. The submission made by Mohammed Zabidin & Jannaya Ruttley identified concerns with effects on rural amenity values, landscape values and the character of the area. However, given the distance, proposed landscape mitigation and building controls I consider that the proposal will maintain rural amenity values and characteristics associated with the rural zone and the effects on 1305 with regard to rural amenity values will be less than minor in nature. I note that the application was not notified to the owners of 1305 South Road on the basis of rural amenity effects being minor or

more than minor and was instead notified to the owners of 1305 South Road due to the potential effects associated with increasing the number of users of the ROW which 1305 South Road relies on for access.

General - Rural Character and Amenity Values

72. Effects of the proposal on rural character and amenity values are also considered in more general sense. I note that given the site topography, proposed landscape mitigation, clustering of lots and existing planting strips adjacent to SH45 that future dwellings within proposed Lots 2 and 3 would not be highly noticeable from public receptors. I also note the character of the area has been effected by increased rural lifestyles subdivision pressure. Therefore overall, and consistent with the assessments made previously as part of my Section 95A assessments, I consider that the proposals effects on rural character and amenity, excluding effects on 1305A South Road, would be minor in nature.

Summary of Effects on Rural Character and Amenity Values

73. I consider that the proposed subdivision will result in a loss of the elements which contribute to rural character, specifically open space and low-density built form. In my opinion the loss of open space and increased built form/non-rural activities would result in adverse effects on the rural character and amenity of adjoining land owners (1305A South Road) which cannot be appropriately mitigated. In my opinion the potential adverse effects on rural character and amenity are not considered to be appropriate and at a scale and intensity which is inconsistent with Objective 4 of the Operative District Plan.
74. Overall I am of the opinion that there will be more than minor adverse effects on the rural charter and amenity values associated with 1305A South Road. Effects on any remaining private and/or public receptors will be minor.

Servicing Effects

75. Each of the proposed allotments are sized and located on land which will ensure they are able to be suitably serviced to a rural standard. This shall include appropriate onsite stormwater management which would be ensured through suitable consent conditions including the provision of a stormwater and geotechnical suitability report for lots 2 and 3 prior to 223/224 certification. Any effects associated with servicing are therefore anticipated to be at less than minor levels.
76. I note the comments made by the Brendon Hart (Submitter) regarding stormwater flow paths and have therefore consulted with a development engineer to determine a suitable draft consent condition. Upon investigation it appears that there is an existing land covenant shown as X on RT 566010 to allow for the conveyance/drainage of stormwater along the southern boundaries of Lot 1 and 3 DP 447811 (included as Appendix E). These instruments will need be carried over to any new titles and suitably formed within proposed Lot 3 if previously removed. I also note consideration of, or an amendment to, the Landscape Mitigation plan may be required to ensure planting

along the southern boundary of Lot 3 does not affect these instruments. This is noted within my draft set conditions.

77. Through the imposition of suitable consent conditions it is my opinion site servicing effects will be mitigated to less than minor levels.

Effects on landscapes and outstanding natural features

78. The site is not within but does adjoin an ONFL within both the Operative District Plan (ODP) and Proposed District Plan (PDP) – “Mount Taranaki and the Kaitake and Pouakai Ranges”. The adjoining land is also part of the National Park. Evidently the location is a sensitive environment from a landscape perspective and the cumulative effects of ribbon like development between SH45 and the landscape feature, particularly between Oakura and Ahu Ahu Road is notable. Landscape effects are different to amenity effects, however I would note it is my opinion that landscape features do contribute to amenity values. Bluemarble have defined landscape effects as follows;

“Derive from changes in the physical landscape, which may give rise to changes in its character and how this is experienced. This may in turn affect the perceived value ascribed to the landscape.”

79. I have generally relied on the conclusions of the LVIA provided and the peer review of that document by Natural Capital to inform my opinion. Both documents have found that landscape effects likely to result from the proposal, and with consideration to the mitigation proposed, would be “very low” or otherwise less than minor. In my opinion it is the topography of the site that contributes significantly to only less than minor adverse effects on landscapes. Where the additional allotments are proposed the site is flat which mitigates the potential effects on the elevated landscape features. This in combination with existing and proposed vegetation ensures the buildings within proposed lots 2 and 3 would not be highly visible from the road or from other properties on the western side of SH45.

Summary of landscape effects

80. In my view effects on landscapes will be less than minor in nature. This is supported by both Natural Capital and Bluemarble. My primary considerations include the existing topography, location of proposed lots 2 and 3 in relation to the site topography and the existing vegetation along SH45.

Access, Traffic & Road Safety

81. An assessment is required as consent is required under rules Rur76 and 79 of the ODP.

Function of the shared ROW

82. Currently the ROW serves 1305, 1305A, 1305B South Road and the Site (1303 South Road) including the farm and associated creamery business. The site, including any farming activities and/rural business activities are permitted and therefore lawfully established activities. The applicant has previously confirmed this based on the VEM calculations per day from the operation of the farm, creamery and dwelling within the site. Therefore my assessment of effects in relation to the ROW relates primarily to traffic safety and amenity effects associated with the increased use of the ROW. In considering this it is important to determine whether the ROW design and formation including any proposed upgrades is suitable. There is a mutually agreed speed limit of 20kph of which is signposted, although as private land this speed restriction would need to be self-regulated by ROW users.
83. Under the ODP a ROW within the rural zone is required to have minimum legal width of 6m and a minimum formed width of 3m. Further the ODP design standards requires any part of a ROW within 40m of an existing dwelling shall be formed. The applicant has proposed that the ROW will comply with the minimum design standards. As such any upgrades will be required prior to 224 certification to reach the standard necessary. This is consistent with discussions had with our Development Engineers, including their recommended conditions of consent.
84. The existing ROW has a legal width of 7.5m and is sealed up to garage next to the stand alone garage within 1303 South Road (the Site). The sealed portion of the ROW has a formed width of at least 4m. Currently the ROW serves the individual dwellings within 1305, 1305A, 1305B South Road and the dwelling within the site. As the ROW serves the farm it is regularly used by farm vehicles, tankers and tractors and this is considered to form part of existing environment and is permitted by the plan as rural production activities so long as VEMs do not exceed those permitted by the ODP. The applicant has confirmed that the Creamery business does not exceed the VEM requirements of the ODP. It is noted that the ROW would however need to be kept clear, however this would form part of the legal requirements associated with the ROW agreement and is civil matter.

Effects on Existing ROW users

85. With respect to 1305 South Road the primary concern associated with the ROW is the increased traffic and the potential safety implications this has on their use of the ROW. It has been identified that the existing hedge within Lot 3 DP 447811 creates visibility issues resulting in safety concerns which would increase with proposed lots 2 and 3. During the pre-hearing meeting the applicant indicated that they would be willing to investigate a workable solution to reduce this issue through either (or a combination of) minor updates to the landscape mitigation plan or removing some of the hedge to improve visibility. It is my opinion that where any amendments for safety purposes to the landscape mitigation plan or shelterbelt would be required that these would not change the conclusions previously discussed regarding rural character and amenity effects. A further measure includes the use of convex mirrors. Through the inclusion of the above suggestions, of which would be secured through consent conditions

should consent be granted, I am of the opinion that traffic related safety effects on 1305 South Road would be minor in nature.

86. I have also considered any potential amenity effects on 1305 South Road in association with the increased use appearance of the ROW. However given the separation distance from proposed lots 2 and 3, I considered that any potential amenity effects associated with the increased use would be less than minor in nature with regard to 1305 South Road's appreciation of rural amenity.
87. With regard to persons associated with 1305A South Road, effects associated with the increased use of the ROW relates equally to safety and amenity effects due to the proximity. I am of the opinion that safety effects are able to be mitigated to minor levels through the provision of suitable consent conditions and ensuring that the ODP minimum design requirements are met for the ROW.
88. With regard to amenity effects, and as already described within earlier paragraphs of this report it is my opinion that the addition of two adjoining lots and their shared ROW/driveway access contributes to actual and potential effects on rural character and amenity values. Overall the effects associated with the shared ROW on 1305 and 1305A South Road will be less than minor. However the access leg/driveway associated with proposed Lot 3 contributes cumulatively to there being adverse amenity effects on rural character and amenity on 1305A South Road.

Intersection with the State Highway

89. Based on the conditional written approval received from Waka Kotahi I consider that adverse traffic safety effects are able to be suitably mitigated to minor levels. The applicant has agreed to meet all requirements of the NZTA approval which would be secured through conditions of consent if consent were granted. I.
90. A Council Development Engineer has however visited the site and considered the Waka Kotahi conditions to be included and has recommended that the vehicle crossing will be able to continue operating in a safe and efficient manner. I have also visited the site multiple times and did not experience any safety concerns when entering or exiting the site despite the reduced visibility to the north. This is largely due to the wide and sealed crossing and shoulder present, of which is proposed to be further to a "D" standard crossing. Existing sight distances are approximately 145m when travelling south and 245m for vehicles travelling north.
91. For this reason I consider that any addition adverse road safety effects at the intersection between the ROW and SH45 are able to be mitigated to minor levels through the establishment of suitable conditions of consent.

Loss of Rural Production land

92. The current use of the site is for the grazing of dry stock, milking and the boutique creamery business. These activities would be able to continue following the subdivision. However, nearly a hectare of flat productive land would be lost to lifestyle

lots of a size that allow little to no opportunity for rural activities to occur on them once a habitable building, driveway, curtilage, shed/s and garden areas are formed.

93. In this regard the subdivision would result in a loss of production orientated land. However in the context of the site and wider environment this is considered to be a minor effect given the retention of a large (19.5 ha) balance allotment able to facilitate the continuation of rural production activities. Overall, any potential effects on the loss of productive land are able to be appropriately mitigated by the balance allotment to a minor level.

Effects on Waterbodies

94. There is single stream traversing the site. This stream is a tributary of the Wairau Stream which is a "priority waterbody" in the ODP and "significant waterbody" in the PDP. The Wairau Stream flows directly into the Tasman Sea.
95. The applicant has shown a long-term commitment toward management of the waterbody within the site and its riparian margins. I have recently visited the site and can confirm stream margins are fenced, and in most planted, as required by TRC Riparian Planting Map# 901874. I also note that the waterbody is a minimum of 100m away from the nearest allotment and therefore there is no concern regarding the introduction of addition onsite wastewater treatment systems. The applicant has also proposed additional protection measures as demonstrated on the Bluemarle Landscape Mitigation Plans. This planting would need to be secured by way of a consent notice and undertaken prior to 224 certification, as such suitable condition of consent would need to be included. This in conjunction with the existing TRC farm management plan it is considered that any potential effects on the waterbody within the site would be less than minor in nature.

Cultural Effects

96. Consideration to the Taranaki Iwi's Management Plan is necessary given the sites proximity to Te Papakura o Taranaki. Given the proposed mitigation measures (protection of native vegetation and riparian planting) I believe that the proposal is considerate to the potential adverse effects on the cultural values associated with the area and therefore the application is not contrary to the Taranaki Iwi's management plan. Consultation correspondence with Sean Zieltjes acting on behalf of Taranaki Iwi has been provided with the application.
97. The correspondence reaffirms there are no specific sites of significance to Maori on the application site or within immediate proximity and that the identification, formalisation, planting and protection of waterbodies on site should be provided. Overall, I believe effects will be minor and therefore acceptable.

Cumulative Effects

98. A cumulative effect is one that arises over time or in combination with other effects from previous activities. Cumulative effects are included in the definition of 'effect' in Section 3 of the RMA. The term cumulative effect encompasses two concepts;
- Effects arising over time; and
 - Effects arising in combination with other effects.
99. The proposed subdivision will result in a further two allotments adjoining 1305A South Road. Two additional to the two existing rural lifestyle properties adjoining 1305A to the north and south.
100. The establishment of two lifestyle allotments in the proposed location creates a cluster of rural lifestyle allotments and habitable buildings. The proposal creates further fragmentation of the rural environment which I would consider to be inconsistent with key elements that constitute rural character in terms of the level of effects on persons associated with 1305A South Road. Particularly in regard to sense of open space, and low density-built form. I acknowledge the clustering of allotments and dwellings is identified as good practice in the Rural Subdivision Design Guidelines. However, clusters need to sympathetic to the existing environment. The existing environment in this instance includes 1305A and B South Road as well as other rural lifestyle allotments in the area. I believe the proposed additional allotments would therefore create an adverse cumulative effect, where the appearance of built form is more lifestyle than rural with particular regard to effects experienced by persons associated with 1305A South Road. The plan is drafted so that rural character is maintained and so that activities do not adversely affect amenity values under Objectives 1 and 4 and Policies 1.2, 1.3 and 4.5.

Reverse sensitivity

101. Consideration has been given to the potential for reverse sensitivity effects to arise through locating lots primarily designed for a residential dwelling in to a rural production area. I also note that there is a dairy shed approximately 130m from the nearest allotment proposed for a rural lifestyle purpose.
102. Overall it is considered that any reverse sensitivity effects will be minor in nature. The primary reason being is that adjoining land to the east will be used for pasture grazing and the dairy shed is located 130 metres away from the nearest allotment, proposed Lot 2.

Conclusion on Assessment of Effects

103. Based on the above assessments I consider that the effects of the proposal will be acceptable with exception to effects on rural character and amenity values on persons associated with 1305A South Road of which adverse effects on rural character and amenity will be more than minor.

Proposed New Plymouth District Plan (notified 23 September 2019)

104. The Proposed District Plan was notified on 23 September 2019 and is now closed for public submissions, submission appeals and is currently having hearings heard. The land subject to this application is proposed to be zoned Rural Production. However the rules associated with the subdivision of land containing waterbodies have immediate legal effect.
105. A tributary of the Wairau Stream traverses the site. Waterbodies and their margins are an important part of the district. Existing riparian planting and fencing lines the length of the stream traversing the site. This is in line with TRC Riparian Planting Plan for the site. Vegetation cover contributes positively to rural character, cultural values and ecological values, including those associated with waterbodies.
106. Rule WB-R5, requires subdivision of land containing or adjoining a waterbody must have consideration to effects standard SUB-S9. The proposal meets the relevant effects standards set under SUB-S9 and therefore is a Controlled Activity under the PDP. The relevant matters of control include:
- *The location, design, layout and proximity of allotments in relation to the significant waterbody and the extent to which the waterbody's identified values will be protected or maintained.*
 - *Whether an esplanade strip or esplanade reserve is set aside for the purposes set out in section 229 of the Act*
 - *The matters set out in WB-P2 - WB- P6.*
 - *Whether the subdivision would create new or exacerbate existing natural hazards, including flooding or stream bank erosion.*
107. With respect to the matters of control the proposed subdivision layout, existing fencing and riparian planting is considered appropriate and that any potential effects on the waterbody, and its inherent natural and cultural values would be minor. The subdivision would not create any new or exacerbate any existing natural hazards on site. The proposal is considered to have appropriate regard to the matters of control and any potential adverse effects as a result of the subdivision would be less than minor in nature.

National, Regional and District Objectives and Policies Assessment

Operative New Plymouth District Plan (ODP)

108. The following tables provide an assessment of the relevant objectives and policies in the ODP and PDP. A copy of the ODP management Strategy which includes all objectives and policies and copies of the relevant objective and policies within the PDP have been included as Appendix B.

Table 3 – Relevant ODP Objectives and Policies Assessment

Relevant Objectives and Policies
<p>Objective 1 - <i>To ensure activities do not adversely affect the environmental and amenity 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>Assessment Objective 1 and policy 1.1 are about maintaining rural character and ensuring that activities do not adversely affect amenity values by ensuring effects are compatible with the character of the area. As outlined above, I consider that the proposal through the creation of Lots 2 and 3 creates the potential to adversely impact on the rural character and amenity values of existing activities, more specifically those being undertaken on 1305A South Road, through the loss of open space, loss of low-density elements that retain rural character and amenity values and increased urbanisation. The application is therefore not considered to be consistent with objective 1 and policy 1.2.</p>
<p>Objective 4 - <i>To ensure the subdivision, use and development of land maintains the elements of rural character.</i></p> <p>Policy 4.1 - <i>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.</i></p> <p>Policy 4.2 - <i>Control the density, scale, location and design of subdivision by providing limited opportunities for small allotment subdivision, having consideration to the following matters:</i></p> <ul style="list-style-type: none"> (a) <i>The environment is spacious, maintains a low density and the subdivision provides a large balance area.</i> (b) <i>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.</i> (c) <i>The subdivision and resulting development is not highly visible in the landscape and there is no apparent aggregation of development because of;</i> <ul style="list-style-type: none"> (i) <i>the undulating nature of the landscape;</i> (ii) <i>the design and layout of the ALLOTMENTS and any servicing requirements;</i> (iii) <i>the design and visual treatment of the resulting development.</i> (d) <i>The contours of the landscape are retained and there is limited need for EXCAVATION and FILLING.</i> (e) <i>The subdivision does not impact OUTSTANDING LANDSCAPES and REGIONALLY SIGNIFICANT LANDSCAPES and other features protected by other OVERLAYS.</i> (f) <i>There are no community costs associated with upgrading INFRASTRUCTURE as a direct result of the subdivision and development.</i> (g) <i>The rural nature and purpose of rural INFRASTRUCTURE (small scale, un-serviced with a lack of urban INFRASTRUCTURE) is maintained.</i> (h) <i>The proposed ALLOTMENT size, shape and resulting land use will recognise the production orientated nature of the rural area.</i> <ul style="list-style-type: none"> (i) <i>Consistency of the proposal with Policy 4.5.</i> <p>Policy 4.5 - <i>Ensure that the design of subdivision and development is sensitive to the surrounding environment. In particular the following design principles will be considered:</i></p> <ul style="list-style-type: none"> (a) <i>Ensure appropriate overall density by maintaining the level of built form expected in the rural environment.</i> (b) <i>Ensure the intensity and scale of the development is in keeping with RURAL CHARACTER.</i> (c) <i>Ensure that ALLOTMENTS and BUILDINGS are in context with the surrounding environment and are positioned to recognise natural features in the landform.</i> (d) <i>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:</i>

- (i) *softening with vegetation related to the area and treatment of boundary elements;*
- (ii) *BUILDING design of a form and scale that is in keeping with the landscape;*
- (iii) *the use of materials, that are in keeping with the environment, including consideration of colour and low reflectivity;*
- (iv) *low level INFRASTRUCTURE and services that is rural in nature.*
- (e) *Consistency of any full discretionary activity with design guidelines.*
- (f) *Consideration towards any recommendations from a design panel.*

Comment: Policies 4.1, 4.2 and 4.5 are considered similar and I believe the proposal is partly contrary to policy 4.1 and 4.2 and contrary to policy 4.5. I have assessed the application as having an adverse effect on spaciousness, low density rural environment and the loss of a production orientated environment with specific consideration to existing activities adjoining the site. Further, I do not consider that the proposed layout and mitigation suitably mitigates effects on the rural character and amenity values of existing activities in the area as they also contribute to the loss of the rural character and amenity values through reducing spaciousness and openness.

Policy 4.6 - *Retain vegetation, particularly indigenous vegetation and require the planting of new vegetation to mitigate the effects of activities.*

Comment: The proposal is consistent with Policy 4.6.

Policy 4.8 - *Activities within the rural environment should not generate traffic effects that will adversely affect RURAL CHARACTER and the intensity of traffic generation should be of a scale that maintains RURAL CHARACTER.*

Comment: In my opinion the proposal is consistent with policy 4.8 and that the proposal will not introduce any activities which will generate traffic effects that will adversely affect rural character.

Summary: I consider the application to be contrary to Objective 4 and partly contrary to policies 4.2 and 4.5 as the proposal will create two small rural allotments enclosing an existing rural allotment resulting in significant adverse effects on 1305A south Road with regard to the loss of rural character and amenity in the form of reduced spaciousness, outlook and reduction of production orientated activities. I note Lot 1 is over 19.5ha in size and is able to help retain rural characteristics in the area in a more general sense however the layout does not mitigate the loss of rural character and amenity sufficiently on 1305A South Road.

Objective 15 - *To protect and enhance OUTSTANDING LANDSCAPES and REGIONALLY SIGNIFICANT LANDSCAPES within the district.*

Policy 15.1 - *Subdivision, use and development should not result in adverse visual effects on, and should enhance, where practicable, the following OUTSTANDING LANDSCAPES:*

- *Mount Taranaki/Egmont.*
- *The Kaitake and Pouakai mountain ranges.*

Comment: I consider the proposal to be consistent with Objective 15 and Policy 15.1 given the conclusions of the LVIA and LVIA peer review. Site topography, proposed landscape mitigation and subdivision layout ensures the ONLF is protected from significant adverse effects on the ONLF

Objective 19 - *To recognise and provide for the cultural and spiritual values of Tāngata Whenua in all aspects of resource management in the district in a manner which respects and accommodates Tikanga Maori.*

Comment: The site is not subject to statutory acknowledgment nor is it effected by any identified sites of significance to Maori in either the ODP or PDP. Consideration is given to the cultural values attributed to the stream, however it is not considered that the proposal is contrary to the relevant objectives and policies identified above.

Objective 20 - *To ensure that the road transportation network will be able to operate safely and efficiently.*

Policy 20.1 - *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.*

Policy 20.7 - *Subdivision should not adversely affect the safe and efficient operation of the ROAD TRANSPORTATION NETWORK.*

Comment: I consider that through the implementation of suitable consent conditions as recommend by Waka Kotahi that the proposal ensures that the road transportation network will be able to operate safely and efficiently. The proposal is consistent with Objective 20 and the relevant underlying policies specified above.

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. Further consent is required as a controlled activity under the waterbodies chapter of the PDP as the waterbodies rules have immediate legal effect. As part of the matters of control consideration against policies WB-P2 to WB-P6 is required.
110. The PDP is required to be considered under section 104(1)(b) but the weight that it is given should be limited as hearing are yet to be heard and closed off. At this point the further submissions period has closed and Council's officers are currently attending hearings. Hearings have only recently started and will continue until later this year.
111. The following Objectives and Policies of the Proposed District Plan are considered relevant to the proposal.

Table 4 – Relevant PDP Objectives and Policies Assessment

Relevant Objectives and Policies
<p>Subdivision and Rural Production Zone Objectives and Policies</p> <p>Objectives</p> <p><i>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.</i></p> <p><i>SUB-02 Subdivision is designed to avoid, remedy or mitigate adverse effects on the environment and occurs in a sequenced and coherent manner.</i></p> <p><i>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.</i></p> <p><i>RPROZ-02 The Rural Production Zone is predominantly used for primary production.</i></p> <p><i>RPROZ-03 The role, function and predominant character of the Rural Production Zone is not compromised by incompatible activities.</i></p> <p><i>RPROZ-04: The predominant character and amenity of the Rural Production Zone is maintained, which includes:</i></p> <ol style="list-style-type: none"> <i>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;</i>

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);*
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;*
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*
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.*

RPRPZ-06: 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 urbanisation.

RPROZ-07: Sensitive activities are designed and located to avoid, remedy or mitigate adverse reverse sensitivity effects and/or conflict with primary production.

Policies

SUB-P1: Allow subdivision that results in the efficient use of land, provides for the needs of the community and supports the policies of the District Plan for the applicable zones.

SUB-P2: Manage subdivision of land containing significant natural features and landforms, waterbodies, indigenous vegetation, historic heritage, sites of significance to tangata whenua and/or other identified features to ensure their protection or enhancement.

SUB-P3: Manage significant risks from natural hazards.

SUB-P4: Require infrastructure to be provided in an integrated and comprehensive manner.

SUB-P5: Require efficient and sustainable stormwater control and disposal systems to be designed and installed at the time of subdivision.

RPROZ-P1: 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:

1. *agricultural, pastoral and horticultural activities;*
2. *residential activities;*
3. *Māori purpose activities;*
4. *rural produce retail; and*
5. *petroleum prospecting.*

RPROZ-P3: Avoid activities that are incompatible with role, function and predominant character of the Rural Production Zone and/or activities that will result in:

1. *reverse sensitivity effects and/or conflict with permitted activities in the zone; or*
2. *adverse effects, which cannot be avoided, or appropriately remedied or mitigated, on:*
 - a. *rural character and amenity values;*
 - b. *the productive potential of highly productive soils and versatile rural land.*

Incompatible activities include:

1. *residential activities (except papakāinga) and rural lifestyle living that are not ancillary to rural activities;*
2. *retirement villages;*
3. *visitor accommodation;*
4. *supermarkets;*
5. *integrated retail activities;*
6. *large format retail activities; and*
7. *educational facilities (except Kōhanga reo).*

RPROZ-P4: Maintain the role, function and predominant character of the Rural Production Zone by controlling the effects of:

1. *building height, bulk and location;*
2. *setback from boundaries and boundary treatments; and*
3. *earthworks and subdivision.*

Comment: In my opinion the proposal is inconsistent with the subdivision, and rural production zone objectives and policies of the PDP and in particular SUB-O1, SUB-O2 and RPROZ-P3. The Rural Production Zone objectives and policies like the Operative Proposed plan policy framework respond to effects on rural character and amenity. However the objectives and policies in the PDP are in fact more directive than the ODP. Policy RPROZ-P3 requires you to avoid incompatible activities such as 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 two rural lifestyle allotments that in my opinion cannot adequately mitigate the potential effects on the rural character and amenity values of an adjoining property. Overall, the proposal is inconsistent with the relevant objectives and policies of the Proposed District Plan outlined above.

Waterbodies Chapter Objectives & Policies

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

Policies

WB-P2, P3, P4, P5 & P6

Comment: As a matter of control under rule WB-R5, of which consent is sought, I consider the above objectives and policies relevant to the proposal. Based on the assessments of effects made under earlier paragraphs I consider the proposal to be consistent with the objectives and policies identified above. The existing waterbody within the site will be kept entirely within the large balance allotment and there is existing fencing and planting along all riparian margins.

Transport Chapter Objectives and Policies

TRAN-02 - The transport network is safe, efficient and effective in moving people and goods within and beyond the district.

TRAN-03 - Activities generate a type or level of traffic that is compatible with the local road transport network they obtain access to and from.

Policies

TRAN-P13, P14, P15

Comment: I consider that through the implementation of suitable consent conditions as recommend by Waka Kotahi that the proposal ensures that the road transportation network will be able to operate safely and efficiently. Overall the proposal is consistent with Objectives TRAN-02 & 3 as well as the relevant underlying policies specified above.

Summary of ODP & PDP Objectives and Policies Assessment

112. As described above the application is considered to be inconsistent with Objective 1 and with objective 4 and partially inconsistent and policies 4.2 and 4.5 of the ODP and SUB-O1, SUB-O2 and Policy RPROZ-P3 of the PDP. I consider that the proposal would be able to achieve consistency with remaining Proposed Plan objectives listed above. I acknowledge the limited weight that can be afforded to the provisions of the PDP.
113. In my opinion insufficient or inappropriate mitigation is provided to appropriately ensure an additional allotments can be established without compromising rural character and amenity values of existing activities, namely the property addressed 1305A South Road. I do not believe the application is consistent with the relevant provisions of the ODP and PDP, specifically those which relate to amenity and rural character and is discussed within Tables 3 and 4 above.

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

National Environmental Standards

114. There is no NES relevant to this application.

Taranaki Regional Policy Statement

115. 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 should not be contrary to Regional Policy Statement.
116. Section 10 of the RPS outlines Natural Features and Landscape, historic heritage and amenity values. The proposed subdivision is in proximity to an outstanding natural feature and landscape, however the assessment of effects has considered the potential effects on the feature.

117. Of particular relevance to the issues associated with this proposal include 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.

Taranaki Iwi Management Plan

118. For the reasons described within the cultural effects assessment provided, I consider that the proposal is generally consistent with the Taranaki Iwi's Environmental management plan. Particular considerations included locating the additional allotments as far from the National Park and existing waterbody as possible and through the additional planting protections offered by the applicant as a positive environmental offset.

Precedent

119. Overall, I consider that the granting of the application would not set a precedent which will influence the way in which future applications are dealt with.

Particular Considerations for Subdivision (s106)

120. There is not considered to be any additional risks presented by the proposal given the existing environment. Building platforms will be able to provide a suitable flood free building platform away from nearby waterbodies. Given the above it is considered that the proposal meets the requirements of Section 106(1) and (1A) of the Act.
121. Sufficient provision has been made for legal and physical access to each allotment created by the subdivision.
122. There is no reason to decline this application under section 106 of the RMA.

Part 2 Assessment

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

123. 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."

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

Purpose of the Act – Section 5

125. 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."*

126. The remaining relevant Part 2 provisions include Sections 7 and 8.

Other Matters – Section 7

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

- (b) the efficient use and sustainable development of natural and physical resources,*
- (c) the maintenance and enhancement of amenity values and*
- (f) maintenance and enhancement of the quality of the environment.*

128. With regard to Section 7(b)(c) and (f) the proposal is considered to have adverse effects on the rural character and amenity values associated with 1305A South Road (Submitter Brendon Hart). It is my opinion that the level of adverse effect would be more than minor in nature. In this context, it is my opinion the proposal is not a sustainable use of the land resource.

129. 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 and the activity status it is considered that the proposal is acceptable.

Part 2 Summary

130. With regard to the earlier assessments 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 particular regard 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 to the issue of the maintenance and enhancement of rural character and amenity.

Decisions on Applications Sections 104B – Discretionary Activities

131. 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

132. That for the above reasons the application be declined pursuant to Section 104, 104B and 108 of the Resource Management Act. The following conditions listed in Appendix D are recommended should the commissioner determine that consent should be granted.

Report by:



Luke Balchin
Senior Environmental Planner



Reviewed by:

Zane Wood
Consents Lead

Date:

08/06/2022