

## SECTION 42A REPORT ON AN APPLICATION FOR SUBDIVISION UNDER THE RESOURCE MANAGEMENT ACT 1991

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|----------------------------------|---|
| <b>To</b>                        | The Independent Commissioner  |
| <b>From</b>                      | Nicola Laurenson – Consultant Planner   |
| <b>Approved by</b>               | Richard Watkins – Principal Planner   |
| <b>Date</b>                      | 11 May 2026   |
| <b>Application Number:</b>       | SUB21/47978<br>LUC26/48992  |
| <b>Proposal:</b>                 | Subdivision: Four Lot Rural Subdivision<br><br>Land Use: To allow residential units to be constructed within proposed Lots 1 and 2 where they are within the setback of an established intensive indoor primary production structure. |
| <b>Site Address:</b>             | 24 Te Arei Road West, Sentry Hill   |
| <b>Legal Description:</b>        | Lot 4 DP 5842 held in RT TNB1/586 issued on 7 June 1967   |
| <b>Relevant Title Interests:</b> | Subject to a right to convey Gas in Gross<br>Land Covenants (No complaints relating to poultry operation)   |
| <b>Zone:</b>                     | Part Operative New Plymouth District Plan (2025): Rural Production Zone<br>New Plymouth District Plan (2005): Rural Environment Area  |

### 1.0 REPORT PURPOSE

- 1.1. This report has been prepared pursuant to s.42A of the Resource Management Act 1991 (RMA) with the purpose of assisting the Hearings Commissioner in their decision making. The report provides an assessment of Popuanui Chickens Limited - Wayne Curry (the applicant's) proposal to subdivide a site in the Rural Production Zone and allow for dwellings to be constructed within Lots 1 and 2. This report is to provide a recommendation as to whether resource consents should be granted or refused and if granted what conditions could be imposed.
- 1.2. The conclusions reached and recommendations made in this report are not binding on the commissioner and it should not be assumed that the commissioner will reach the same conclusions or decision after having considered all the evidence.
- Subdivision
- 1.3. The statutory provisions under the RMA applicable for the purposes of this report are:



- Sections 104 and 104B RMA, because the proposal carried a Discretionary Activity Status under the Operative District Plan and the Proposed District Plan at the time of lodgement.
- 1.4. Activity status for subdivision is preserved despite the rules of the New Plymouth District Plan (2005) being now treated as inoperative. For completeness, had the application been made under the current operative rules, it would carry a Non-Complying Activity status under the Part Operative New Plymouth District Plan.

#### Land Use

- 1.5. Should subdivision consent be granted, it is also recommended that a corresponding land use consent be approved to authorise the establishment of Residential Units on Lots 1 and 2. Notwithstanding, the primary matter for consideration is whether the creation of the proposed allotments is appropriate in terms of the District Plan framework including the site's capacity to accommodate the resulting development. If the subdivision layout and lot configuration are considered suitable, then the associated land use consent is largely procedural in this instance, noting that the applicant is the owner of the existing intensive indoor primary production activity on the parent site.

#### **Qualifications and Experience of Reporting Officer**

- 1.6. My name is Nicola Laurenson. I am an independent planning contractor that has been engaged by the New Plymouth District Council to provide a recommendation on the subject application.
- 1.7. I hold a Bachelor of Social Sciences (Geography and Earth Sciences) from Te Whare Wānanga o Waikato (the University of Waikato). I have been a full member of Te Kokiringa Taumata (the New Zealand Planning Institute) since 2013.
- 1.8. I am a Principal Planner at Laurenson Planning based in New Plymouth. I have 24 years' experience as a Resource Management Planner with a specific focus on Resource Consent Processing within Local Government. I have worked with the New Plymouth District Plan(s) for the last 24 years and am familiar with the area.
- 1.9. In 2021 I was contracted by the New Plymouth District Council District Plan Policy Team to prepare the s42A reports and present the Earthworks and Subdivision Chapters at the District Plan hearings.
- 1.10. Previous roles held include Senior Planner at New Plymouth District Council and BTW Company and Consents Team Leader at Waikato District Council.
- 1.11. In preparing this report I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023.

## **2.0 INTRODUCTION**

- 2.1. Pursuant to s88 of the Resource Management Act 1991, Juffermans Surveying Ltd (The Agent) has applied on behalf of Mr Wayne Curry (the Applicant) for subdivision consent to create four allotments. The subdivision application was made in December 2021. The Land use consent application was made on 16 March 2026.



- 2.2. The proposal was originally made up of five proposed allotments being four additional and a balance area that contains poultry sheds. A notification decision was made on this basis. The revised scheme plan to be decided upon proposes three additional allotments and a balance area that contains poultry sheds (a total of four allotments). I consider the revised layout and number of allotments does not increase the scope of the original proposal. The same number of dwellings is proposed to follow subdivision (noting that the applicant had proposed a consent condition requiring no dwellings be constructed on the balance allotment).
- 2.3. The following reports and communication have been used to inform the discussions and conclusions within my report.
- The Applicant's Assessment of Environmental Effects (AEE) received by Council on 6 December 2021;
  - Landscape Visual Impact Assessment - Dated 4 April 2021 received by Council on 6 December 2021;
  - S92 Response to further information received on 24 February 2022 and 22 March 2022;
  - Verbal and e-mail commentary from Council's Development Engineer Arunima Subi Manilal regarding wastewater, water, access and stormwater servicing;
  - Notification Decision made by NPDC on 30 March 2022;
  - Submission on application by Ms Quinn;
  - The Applicants Section 92 response following notification received by Council on 30 June.
  - Landscape and Visual Impact Assessment Peer Review (prior to notification) and updated Peer Review (following s92 response after notification). Dated 7 August 2022.
  - S92 response with affected parties' written approval received on 4 November 2025.
  - A report and assessment (including updates following peer review) against the National Policy Statement for Highly Productive Land
  - Updated scheme plan received dated 16 March 2026.
  - Updated mitigation (conditions) received on (16 March 2026).
  - Land Use Consent Application received on (16 March 2026) for residential units on Lots 1 and 2 within the setback of an intensive indoor primary production structure.
- 2.4. Given the time elapsed since the application was lodged the following timeline has been prepared to assist the Commissioner.

**Table 1: Timeline for consent application processing**

| Date             | Action   |
|------------------|--|
| 4 December 2021  | Application lodged with Council  |
| 13 December 2021 | Deposit invoiced and paid  |
| 28 January 2022  | S92 Request made (prior to notification)   |
| 29 March 2022    | S92 Request satisfied<br>Agent advises LUC for building platforms will not be applied for concurrently |
| 30 March 2022    | Notification decision made   |
| 4 April 2022     | Limited notification invoice sent  |
| 7 April 2022     | Limited notification invoice paid  |
| 9 May 2022       | Application Notified   |
| 7 June 2022      | Submission period closes   |
| 14 June 2022     | S92 request sent after notification  |



|                   |   |
|-------------------|---|
| 30 June 2022      | S92 request response received.<br><br>Agent advises a hearing is requested.<br><br>Hearing date set for 6 October 2022.   |
| 12 September 2022 | S42A report prepared for hearing and provided to Governance Team for circulation.<br><br>Agent requests application goes on hold to facilitate a prehearing   |
| 20 September 2022 | Prehearing held<br><br>Applicant advises they will work with submitter to obtain a written approval/ seek submission to be withdrawn.   |
| 17 October 2022   | Council officer advises agent that NPS-HPL has taken effect and applies retrospectively.  |
| 13 May 2023       | Decisions on Proposed District Plan Notified  |
| 14 September 2023 | Council releases Appeals Version of the Proposed District Plan Rural Subdivision rules under appeal.  |
| 16 May 2025       | Subdivision rules for Rural Production Zone beyond challenge as appeals are settled<br><br>ODP rural subdivision rules are treated as inoperative   |
| July 2025         | Agent phones Processing Planner to state they wish for application to be processed and will provide an NPS Assessment   |
| 20 August 2025    | Updated s92 response provided with NPS Assessment (replaces 30 June 2022 response)<br><br>All information received to make a recommendation/ decision<br><br>Applicant still negotiating with submitter     |
| 29 August 2025    | Proposed District Plan – Appeals Version made Part Operative.   |
| 4 November 2025   | Written approval of submitter received<br><br>updated s92 response amended to account for submitters requirements.  |
| 21 January 2026   | Submission withdrawn.   |
| 23 February 2026  | Application placed on hold to enable a land use consent application be made.  |
| 24 February 2026  | Revised scheme plan provided with updated crossing location for Lots 1 and 2 (dated 19/2/26).   |
| 16 March 2026     | Land Use Consent application lodged.<br>Revised Subdivision plan provided (dated 10/3/26)<br>Revised conditions for subdivision to include mitigation for Lot 3 received by Council (updated s92 response). |
| 13 April 2026     | Updated written approval from Neighbour accepting the new vehicle crossing locations.   |
| 7 May 2026        | Notification decision made for proposed land use consent.   |



### 3.0 PROPOSAL

3.1. Details pertaining to the proposed Lots are shown in table 2.

**Table 2: Allotments Proposed**

| Lot | Lot Size           | Development on site   | Proposed or existing access   | Other Comments  |
|-----|--------------------|---|---|---|
| 1   | 5079m <sup>2</sup> | Vacant allotment  | A new vehicle crossing will be required for Lot 1.<br><br>A new crossing is proposed.   | Land Use consent required for a future residential unit.  |
| 2   | 9616m <sup>2</sup> | Vacant allotment  | A new vehicle crossing will be required for Lot 2.<br><br>A new crossing is proposed.   | A no building area and no tree greater than 4m in height area is proposed within the front half of this allotment.<br><br>Land Use consent required for a future residential unit.  |
| 3   | 4.39ha             | Lot 3 contains a productive poultry farm of 4 sheds.            | A new vehicle crossing will be required for Lot 3.<br><br>The existing driveway in this lot will need relocating to align with the new entrance way proposed and to accommodate the proposed esplanade strip. | A 10m Esplanade Strip located adjacent the Waiongana Stream is proposed in this lot.<br><br>A no building area and no tree greater than 4m in height is proposed within the front half of this allotment.<br><br>Earthworks within the proposed esplanade reserve are required to enable reinstatement of the driveway and riparian planting. |
| 4   | 1.24ha             | Contains existing dwelling.<br><br>Contains existing farm shed. | Utilisation of existing farm entrance.  | A 10m Esplanade Strip located adjacent the Waiongana Stream is proposed in this lot.  |

- 3.2. The subdivision proposal is further described in sections 2, 3 and 4 of the subdivision application however updated to reflect the new scheme plan. The land use proposal is set out in section 3 of the land use application.
- 3.3. The applicant has proposed specific mitigation to address landscape and visual effects of the proposal. This mitigation is contained within Appendix D, and it is on this basis that the submitter has provided written approval to the proposal. A full copy of all proposed consent conditions from the agent (which include other conditions such as no complaints and vehicle crossing installation) can also be found Appendix D.
- 3.4. The landscape and visual mitigation measures have been informed by the expertise of Landscape Architect Ms. Martha Dravitzki who prepared the Landscape and Visual Impact Assessment that accompanied the application.
- 3.5. Further condition wording relating to servicing of the new lots, along with general accordance conditions have also been provided.

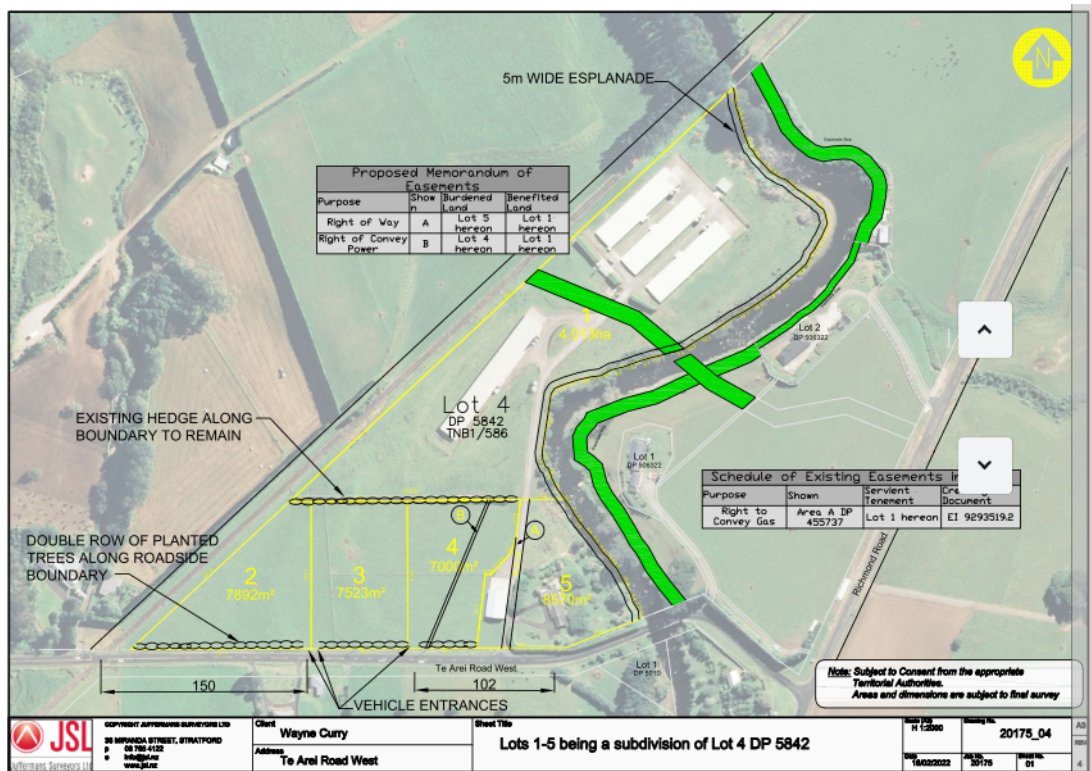


Figure 1A: Original Scheme Plan upon which the notification decision was made.

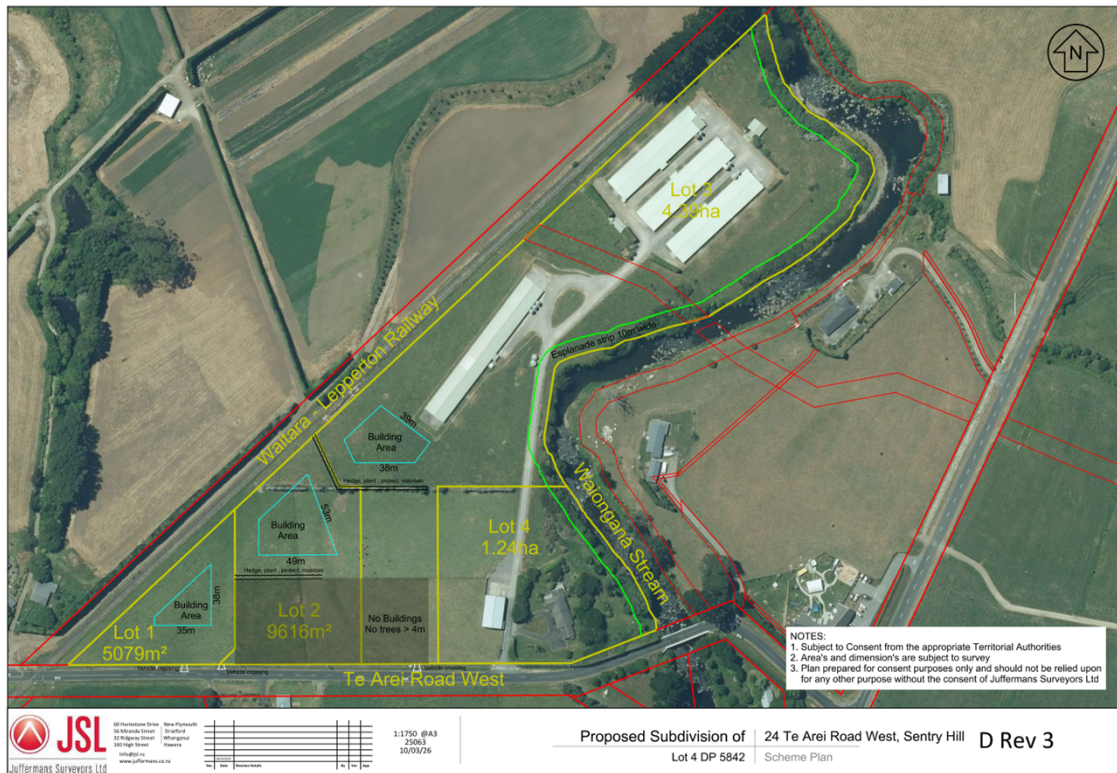


Figure 1B: Proposed Scheme Plan upon which the substantive decision is to be made.

#### 4.0 SITE DESCRIPTION AND SURROUNDING ENVIRONMENT

4.1. The subject site and surrounds are described in Section 1 of the subdivision application and that description is copied here for ease of reference (*italicized*):

*The subject site is located at 24 Te Arei Road West Sentry Hill, is 7.2ha in size and is comprised of one title (Lot 4 DP 5842, dated 7 June 1967) which has not been previously subdivided.*

*The site has direct frontage onto Te Arei Road West, is flat to gently undulating in relief and triangular in shape. It consists of vacant pastoral land, a productive poultry farm of 75 to 100,000 birds, supporting amenity sheds, workshop and the applicant's existing dwelling. The poultry and amenity sheds with some pastoral land will be retained as part of Lot 1, the balance lot. The existing dwelling and workshop near the entrance will be retained as part of Lot 5 with a ROW formed in favour of Lot 1 to provide access to Lot 1.*

...

*The site extends northwards away from the road and shares common boundaries with the Waitara railway line to the north-west, Te Arei Road West to the south and the Waiongana Stream to the east. The primary natural gas supply pipeline to Auckland, for which Easement 9293519.2 dated 28 March 2013 exists, crosses the site east to west between the primary poultry sheds of Lot 1.*

*The Waiongana Stream is largely fenced and has some areas of vegetation which have been allowed to regenerate naturally with native species. A registered esplanade strip exists on the true right bank opposite the applicant site.*

*Te Arei Road West is a dual laned 'local' road with a posted speed limit of 100 km/h which has grass and gravel berms with stormwater managed by grass swales. It is lined by 11kV Overhead Power lines, an embedded water main and telecommunication cables run through the berm beside the proposed site.*

...

*The surrounds are mostly rural pastoral farming, interspersed with some smaller rural lifestyle lots.*

- 4.2. The land use consent application further describes the poultry activity as follows *"In the north half of the site runs an intensive poultry operation (Tegal) spread across 4 sheds. The sheds are used for rearing breeder hens to point-of-lay prior to transfer off-site for egg production. The facility has operated at the site for approx. 18 years"*.
- 4.3. Having visited the site, I concur with this description, and the site and surrounding area can be seen in Figure two below.



Figure 2: Aerial of subject site and surrounding area (Source: NPDC PDP Planning Maps)

- 4.4. The site itself is rural in character and includes openness, natural features and rural production activities including a poultry farm. The Part Operative District Plan includes commentary about the General Rural Zone as follows:

*The Rural Production Zone is the largest zone in the district. Rural land is an important resource as it underpins the social and economic well-being of the district. The rural area is a dynamic environment, influenced by changing farming and forestry practice and by a wide range of productive activities.*

*The Rural Production Zone provides for primary production, such as pastoral farming, livestock, horticulture and forestry. It also provides for resource extraction, such as quarrying and energy activities, and intensive indoor farming, such as indoor poultry and pig farms. These activities have the potential to generate adverse effects beyond the boundaries of a site, for example: noises from farm animals and farm machinery; smells from dairy-sheds, silage*



*storage and topdressing fertiliser; light overspill; and traffic effects from milk tankers and animal transporters, The effects of rural production activities therefore need to be appropriately managed and mitigated, while recognising that the Rural Production Zone is a production-oriented working environment that is characterised by these activities.*

*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.*

*The Rural Production Zone also contains natural features, landscapes, and waterbodies, and ancestral land and sites and areas of significance to Māori. This land and these features contribute to the character and context of the zone and hold significance to tangata whenua.*

*Where numerous or larger scale buildings or structures are proposed, their location, height and scale are managed to ensure development does not dominate the landscape or compromise the open space qualities of the rural setting and/or rural character.*

*Industrial and commercial activities, including retail, are not anticipated in the zone. Rural lifestyle subdivision is also limited due to the potential for reserve sensitivity effects between living activities and primary production activities and the potential for fragmentation of productive land.*

- 4.5. I have undertaken several site visits including most recently on 29 August 2022.
- 4.6. From a cultural context, the site is subject to Statutory Acknowledgment to Kotahitanga o Te Atiawa as it adjoins the Waiongana Stream. The site does not contain any mapped Sites of Significance to Maori (SASMs) under either the Operative District Plan or Proposed District Plans.
- 4.7. Overall, the site and the immediately surrounding areas are consistent with the underlying rural zoning being rural in character.

## **5.0 APPLICANT'S ASSESSMENT OF EFFECTS AND ADDITIONAL INFORMATION RESPONSES**

### ***Subdivision***

- 5.1. The applicant provided an assessment of effects of the proposal on the environment (AEE). The AEE provided is supported by technical reports and plans including the following:
  - Landscape Visual Impact Assessment (dated 4 April 2021); and
  - Subdivision Scheme Plan (subsequently updated with original version shown in Figure 1A above).
- 5.2. I assessed the application under Section 88 of the Resource Management Act 1991 (RMA) and determined the application is complete.



- 5.3. Through the Section 92 process prior to notification clarifications were made to several matters as follows:
- Assessment of record of title interests
  - information on management of the poultry farm if no dwelling is proposed to be allowed on Lot 1.
  - Clarification on building platform availability in Lots 2 – 5 (now Lots 1-3).
  - Draft conditions containing mitigation measures.
  - Assessment under the NES CS.
  - A question regarding the LVIA in relation to the owners of 39 Te Arei Road West.
  - Esplanade strip information.
  - Iwi consultation.
  - Compliant access locations.
- 5.4. The applicant's AEE and updates to the AEE via the Section 92 process, provided for an overall summary of the actual and potential effects.
- 5.5. Following notification, the scheme plan was updated in October 2025 and has one allotment less than the original application upon which the Notification Decision was made on. The latest scheme plan (March 16, 2026) is shown in Figure 1B above. A report to address the provisions of the National Policy Statement for Highly Productive Land has been provided based on the lot layout on the scheme plan shown in Figure 1B.
- 5.6. Following the resumption of processing for this application, I requested that the applicant apply for land use consent for the establishment of dwellings on Lots 1 and 2 to ensure that the proposed subdivision is supported by an appropriate and implementable development framework should consent be granted. I also requested that the proposed mitigation suite be updated to incorporate the mitigation measures required to support any future dwelling on the balance allotment. This was necessary as the original subdivision proposal included a restriction preventing the construction of a dwelling on the balance lot. This information was provided on 16 March 2026 (though the letter is dated 4 November 2025).

## **6.0 STATUTORY PROVISIONS AND ACTIVITY STATUS**

### **Operative District Plan (2005)**

- 6.1. The site is located within the Rural Environment Area and contains the priority waterbody overlay and energy pipelines. The site adjoins a designation for railway.
- 6.2. The site contains a Statutory Acknowledgement Area for Te Atiawa iwi, being the Waiongana River. The Waiongana River is identified as a Priority Waterbody.

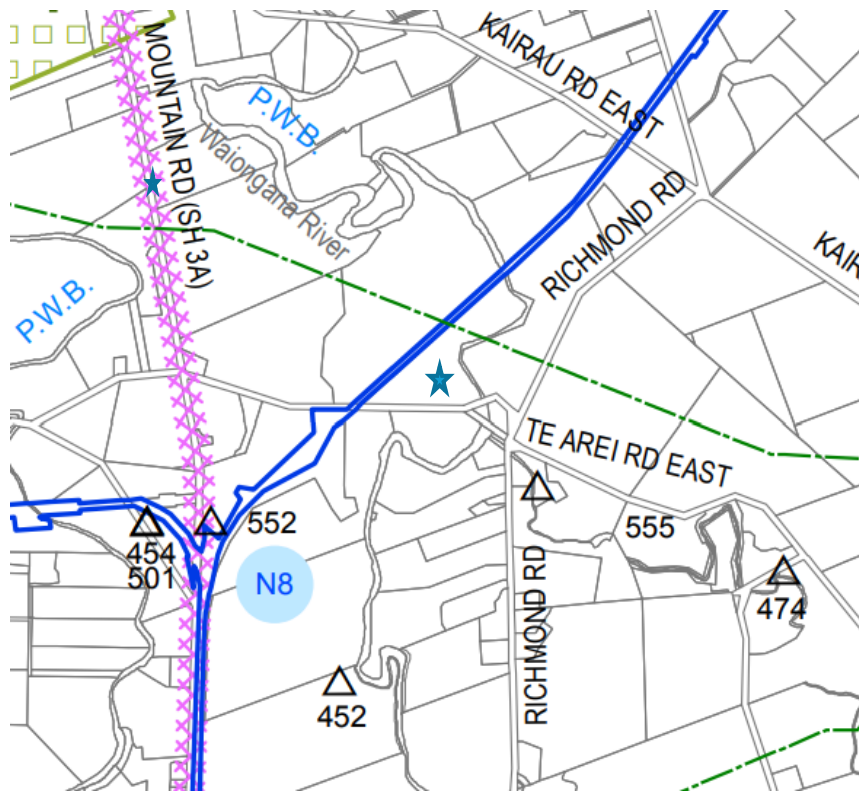


Figure 3: Operative Planning Map – Site shown with blue star

6.3. At the time of lodgement, the subdivision proposal required consent under the following Operative District Plan 2005 (ODP) rules:

**Table 3: ODP Rules Assessment**

| Rule # | Rule Name  | Status of Activity | Comment   |
|--------|--|--------------------|---|
| Rur76  | Allotments served by a right of way  | N/A                | There is no existing right of way serving the site.   |
| Rur78  | Number of lots and Lot sizes   | Discretionary      | The subject site is comprised in a single 'Parent title'.<br><br>The proposal involves the creation of 4 additional allotments with a balance area of over 4ha (5 allotments in total).   |
| Rur79  | requirement to provide PRACTICABLE vehicular access to ALLOTMENTS from a ROAD*, except where created solely for NETWORK UTILITIES, ROADS or reserves | Discretionary      | Lots 2, 3 and 4 vehicle access points will be formed and constructed to the standards for the speed environment and not the posted speed limit.<br><br>Vehicle access for Lot 3 can be achieved in more than one location and therefore can be constructed at the time of building consent.<br><br>Lots 1 and 5 will continue to be serviced by the existing vehicle access point which will be shared through the creation of a ROW. |



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|       |   |               | <p>Lots 2 and 4 have constraints on access location due to the presence of the railway line and sight visibility.</p>   |
| Rur81 | requirement for services - stormwater disposal, water supply and sewage disposal  | Controlled    | <p>Lots 2, 3 and 4 will have potable water sewer and stormwater systems within their boundaries that meet the standards specified in Appendix 22.2.</p> <p>Lot 1 contains an existing poultry operation that shall continue to use the existing consented systems.</p> <p>Lot 5 contains an existing dwelling, potable water and effluent system contained within the boundaries of the allotment.</p>  |
| Rur82 | requirement for a BUILDING platform   | Discretionary | <p>Lots 2, 3 and 4 will comply with the standards outlined in Appendix 22.1. An engineering report will be provided prior to s224 to confirm that the sites comply with the appropriate requirements.</p> <p>Lots 2, 3 and 4 cannot contain a dwelling within the sites as a permitted activity due to the proximity of the sites to a poultry shed.</p> <p>Note: No land use consent is concurrently sought for building platforms in Lots 2-4</p> <p>Lot 5 already contains a lawfully established house.</p> <p>Lot 1 would also require a building platform if a dwelling can be built within this lot.</p> |
| Rur83 | requirement for existing BUILDINGS to meet standards in relation to the new boundaries  | Discretionary | <p>The workshop on Lot 5 is proposed to be located closer than 5m (4.6m) from the new boundaries.</p> <p>The house on Lot 5 will no longer comply with Rur 31 (Poultry farm setbacks).</p>  |
| OL58  | requirement for an esplanade strip or reserve (regardless of the size of the ALLOTMENT created) for subdivision of an ALLOTMENT within the RURAL ENVIRONMENT AREA | Discretionary | <p>The District Plan requires an esplanade strip of 20m to be set aside along Priority waterbodies. A 10m wide Esplanade strip is proposed following s92 information being received. (noting the scheme plan has not been updated to reflect this).</p>   |

- 6.4. The proposal was a Discretionary Activity under the ODP, being the highest status under the above ODP rules. As the application for land use consent was lodged after the relevant provisions of the ODP became ‘inoperative’, these provisions did not apply and therefore the activity status of the land use consent is not informed by the ODP.
- 6.5. Since the application was lodged, the Proposed District Plan has become part operative with all rural subdivision rules now being beyond challenge. The ODP rules (set out above) are now inoperative and no longer a trigger for consent. This means that despite changes to proposal such as entranceway compliance due to the revised layout, an updated ODP rule assessment would not be useful for progressing the application, nor would the overall activity status under the ODP change, therefore I have not updated this District Plan assessment.

**Part Operative District Plan (2025)**

- 6.6. The Proposed District Plan became Part Operative on 29th August 2025. At this point of time, all rules under the Part Operative District Plan (PODP) have either legal effect (pursuant to s86B) or are treated as operative (pursuant to s86F).
- 6.7. The site is located within the Rural Production Zone and contains the following policy overlays: Waterbody, Rail Corridor Vibration Alert Area, Rail Corridor Noise Alert Area, Gas Transmission pipeline, Gas Transmission Pipeline Corridor.

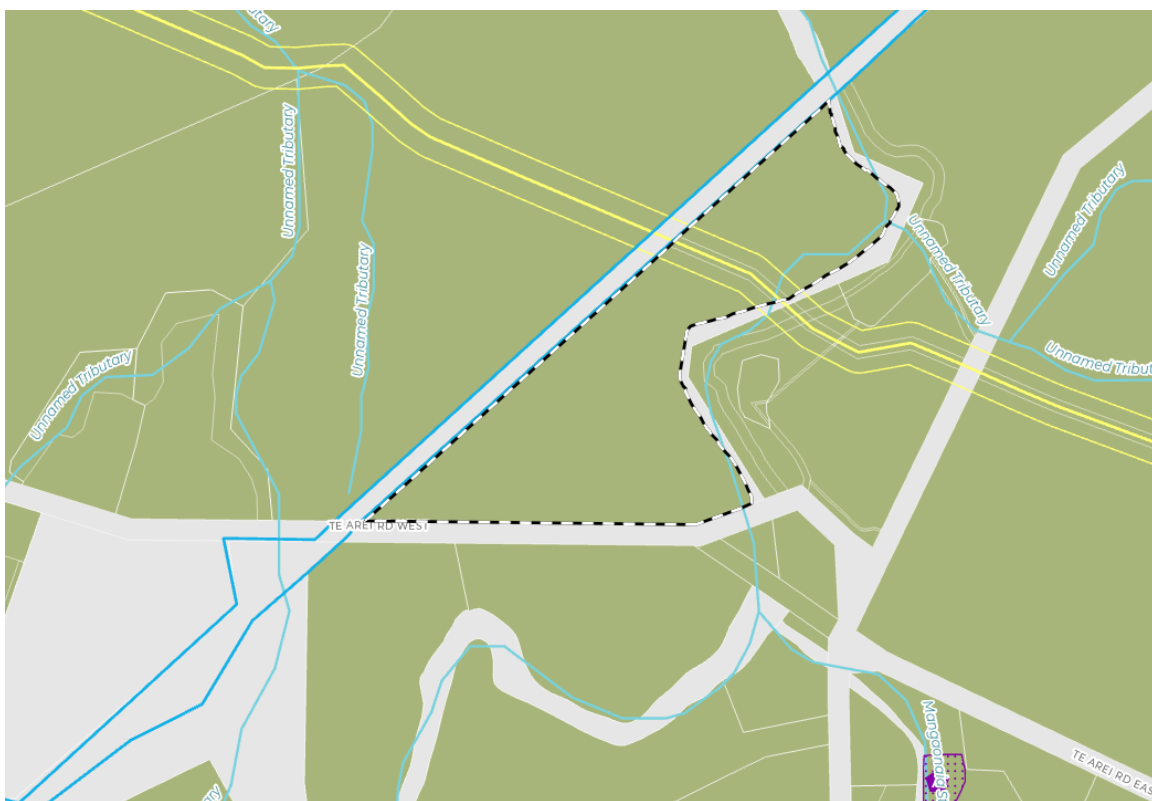


Figure 4: Part Operative District Plan Planning Map – Site shown with black and white outline

- 6.8. An assessment of this proposal against the rules in the Part Operative District Plan has been completed and has identified the following rules which are relevant to this proposal:

**Table 4: PODP Rules Assessment**

| Rule #      | Rule Name/  | Activity Status | Comment  |
|-------------|---|-----------------|--|
| Subdivision |   |                 |  |
| SUB-R4      | Subdivision of land to create allotment(s) within the Rural Production Zone | Non-Complying   | The proposal seeks to create 3 additional allotments without a 20ha balance allotment.   |
| SUB-S1      | Minimum Lot size  | Can comply      | All allotments exceed 4000m <sup>2</sup> in area.  |
| SUB-S2      | Requirements for Building Platforms   | Does not comply | The proposal does not provide for building platforms that comply with the permitted activity standards for Lots 1, 2 and 4 (though a dwelling in Lot 4 is existing). RPROZ-S2 requires a 400m setback between dwellings and intensive indoor primary production structures.  |
| SUB-S3      | Stormwater treatment, catchment and disposal                                | Can comply      | <p>Lots 1 and 2 can have a stormwater system within the boundaries.</p> <p>Lot 3 contains an existing poultry operation that shall continue to use the existing system.</p> <p>Lot 4 contains an existing dwelling with existing stormwater system contained within the boundaries of the allotment.</p>   |
| SUB-S4      | Water supply  | Can Comply      | <p>Lots 1 and 2 can have potable water sewer and stormwater systems within their boundaries.</p> <p>Lot 3 contains an existing poultry operation that shall continue to use the existing consented systems.</p> <p>Lot 4 contains an existing dwelling, potable water and effluent system contained within the boundaries of the allotment.</p> <p>The applicant offers a condition for fire fighting water supply as follows:<br/><i>“The consent holder or future owners of proposed Lots 1 - 4 shall comply with the following: Each new dwelling shall be supplied with a dedicated firefighting water supply, and access to such supply, in accordance with the</i></p> |



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|        |                                    |   | <i>New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008, which must thereafter be maintained.”</i>   |
| SUB-S5 | Sewage Disposal                    | Can Comply  | <p>Lots 1 and 2 can have wastewater disposal systems within their boundaries.</p> <p>Lot 3 contains an existing poultry operation that shall continue to use the existing consented system.</p> <p>Lot 4 contains an existing dwelling and effluent system contained within the boundaries of the allotment.</p>  |
| SUB-S6 | Network Utilities                  | Can comply however evidence needed to determine telecommunications compliance with SUB-S6(2)(1) or SUB-S6(2)(3) | <p>Confirmation from network utility operators has not been provided to demonstrate compliance with SUB-S6(2)(1).</p> <p>Electricity services are available in the area.</p> <p>In particular, it is not confirmed if telecommunication lines that can provide services to new allotments are located within 200m of the site. The agent has advised that VDSL is utilised by a neighbouring property.</p> <p>This matter can be conditioned should consent be granted. however, the applicant should provide evidence at the hearing as to what telecommunications services are available at the site because telecommunications in compliance with SUB-S6(2)(1) may be conditioned differently to that in compliance with SUB-S6(2)(3) should consent be granted.</p> |
| SUB-S7 | Transport, access and connectivity | Can comply  | <p>New crossings are proposed as follows:<br/>New crossings are proposed for Lots 1, 2 and 3.</p> <p>Lot 1 crossing has sight visibility of at least 160m East and 100m West.</p>   |



|                 |   |                 |  |
|-----------------|---|-----------------|--|
|                 |   |                 | <p>Lot 2 crossing has sight visibility of at least 160m East and 100m West.</p> <p>Lot 3 crossing has sight visibility of 100m East and at least 160m West.</p> <p>Lot 4 crossing is existing and has sight visibility 60m East and over 160m West. The Lot 4 crossing will no longer be the main farm crossing and will serve the residential activity on Lot 4.</p>  |
| SUB-S8          | Requirements for esplanade reserves or esplanade strips             | Does not comply | The site contains a Schedule 9 waterbody (Waiongana Stream). A 20m wide esplanade strip is required by the standards where 10m is proposed.  |
| WB-R4           | Earthworks on a site containing or adjoining a natural waterbody    | RDIS            | Earthworks are required to reinstate the driveway that is located within the esplanade strip. This area will be fenced and occupied by riparian planting.  |
| WB-R6           | Subdivision of land containing or adjoining a natural waterbody     | RDIS            | The proposal includes a 10m wide esplanade strip alongside the waterbody.  |
| NU-R43          | Subdivision of land containing a Gas Transmission Pipeline Corridor | CON             | <p>The subdivision will not result in any building(s) (or any part of any building) or sensitive activities being located within the gas transmission pipeline corridor;</p> <p>The new allotment boundaries are outside of, and do not cross, the gas transmission pipeline corridor;</p> <p>The layout of allotments, including the balance area, and any associated earthworks, maintains physical and practical access to the gas transmission pipeline.</p> |
| <b>Land Use</b> |   |                 |  |
| RPROZ-R3        | Residential Unit  | RDIS            | The proposal to develop Lots 1 and 2 with residential units cannot meet standard RPROZ-S2 (Minimum structure setbacks).  |
| RPROZ-R38       | Building Activities   | RDIS            | The proposal to develop Lots 1 and 2 with residential units cannot meet standard RPROZ-S2 (Minimum structure setbacks).  |
| RPROZ-S2        | Minimum structure setbacks  | Does not comply | Dwellings will be located within 400m of an intensive indoor primary   |



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|  |  |  | production structure. |
|--|--|--|-----------------------|

6.9. The subdivision proposal is a Non-Complying Activity under the Part Operative New Plymouth District Plan being the highest status under the above rules.

6.10. The land use proposal is a Restricted Discretionary.

### Overall Activity Status

6.11. In accordance with Section 88A(1) of the Resource Management Act 1991, activity status for the subdivision is preserved to that which existed at lodgement and therefore the proposal must be considered as a **Discretionary Activity**.

6.12. Activity status for the land use is a **Restricted Discretionary Activity**.

### 7.0 REQUIREMENT FOR OTHER CONSENTS

7.1. 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, this is 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.
- NES Activity 5G does not apply as while TRC Discharge Permit R2/4131-2 – Land Animal Waste exists the agent advised that it has not been utilised. This advice was provided some time ago so it is requested that the Agent provide an update on the status of this consent at the hearing.

7.2. There is no requirement for any consents under a Regional Plan.

### 8.0 NOTIFICATION DECISION AND SUBMISSIONS RECEIVED

#### *Subdivision*

8.1. It was determined under s95A that the adverse effects on the environment relating to the subdivision proposal would not be more than minor. Public notification was not required.

8.2. No written approvals were provided with the application. Notwithstanding, consultation was undertaken by the applicants/ applicant’s agent with the owners of 39 Te Arei Road and with Te Atiawa Iwi.

8.3. The owners and occupiers of the properties in Figure 5 and Te Atiawa Iwi were considered under s95B with the adverse effects on the owners of Property 6 (39 Te Arei Road) being found

to be at least minor. Adverse effects of the proposal on all other parties were found to be less than minor.

- 8.4. It was determined that the subdivision application should be processed on a limited notification basis.



Figure 5: People considered under s95E

- 8.5. The subdivision proposal was subsequently limited notified to the owners of Property 6 being Rachelle Quin and Kerry Rawlinson on 9 May 2022. Submissions closed at 5pm on the 7 June 2022.
- 8.6. Ms Quin made a submission on the subdivision proposal. This was received by NPDC on 1 June 2022. The submission was in opposition to the subdivision proposal.

**Table 5: Summary of Submissions Received and the Matters Raised**

| Name          | Key Submission Points Raised   | Status of Submission  |
|---------------|--|---|
| Rachelle Quin | <ul style="list-style-type: none"> <li>Effects on Rural character – change of land use to residential lots.</li> <li>There will be a residential frontage on Te Arei Road West that is greater than 200m in length.</li> </ul> | <ul style="list-style-type: none"> <li>Oppose</li> <li>Wishes to be heard.</li> </ul> |



|  |  |  |
|--|--|--|
|  | <ul style="list-style-type: none"><li>• Rural production land will be changed / lost</li><li>• Oppose building restriction of 10m in height as dwellings this high will compound visual effects of the proposal and affect the rural area.</li><li>• Seeks application be amended to 3 lot subdivision being Lots 1, 5 and balance area (currently contained as Lots 2,3 and 4).</li></ul> |  |
|--|--|--|

8.7. Ms Quin and Mr Rawlings have subsequently given written approval to the subdivision proposal (as amended), and this is dated 17 October 2025. Following the written approval being provided, I made several attempts to contact the submitter to see if they wish to withdraw their submission. Confirmation was provided on 21 January 2026 that the submission is withdrawn.

***Land use***

8.8. Due to changes in the District Planning Framework, a land use consent was applied for on 16 March 2026 to support the Subdivision to allow residential units to be constructed within proposed Lots 1 and 2 where the building platforms are within the setback of an established intensive indoor primary production structure. A decision under delegated authority was made on 7 May 2026 not to notify the land use proposal. The decision not to notify the proposal was made on the basis that the subdivision (already notified) would create Lots 1 and 2 and that the only infringement matter for the land use is the intensive farming setback, setback.

**9.0 SECTION 104 CONSIDERATIONS**

9.1. This section of the report outlines the statutory framework of the Resource Management Act 1991 under which the assessment of the applications will be undertaken.

9.2. Matters to be considered by the Council when assessing an application for resource consent under s104 of the Act include, subject to Part 2, any actual and potential effects on the environment and any relevant objectives, policies, rules or other provisions of a Plan or Proposed Plan

9.3. The following sections of this report will assess the proposal’s effects on the environment and consider the proposal against any relevant objectives, policies of the Part Operative New Plymouth District Plan, the Operative Regional Policy Statement and any other relevant Policy Statements and Regulations. ‘Other matters’ considered to be relevant to the proposal are also assessed.

**Permitted Baseline**

9.4. Section 104(2) specifies that when forming an opinion with regard to the actual and potential effects on the environment of allowing the activity, the consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. When applying the permitted baseline such effects cannot then be taken into account when assessing the effects of a particular resource consent



application. The baseline has been defined by case law as comprising the 'existing environment' and non-fanciful (credible) activities that could be permitted as of right by the District Plan.

- 9.5. The permitted baseline has not been applied to the proposal. Subdivision itself requires a resource consent in all instances and is not permitted. The District Plan does not permit similar activities to that proposed in this application (for example additional dwellings in the locations proposed). Therefore, the effects of the subdivision and future development have not been disregarded.

### **Assessment of Effects on the Environment– s104(1)(a)**

- 9.6. As the subdivision proposal is assessed as a Discretionary Activity, Council's assessment of effects is not restricted to matters of discretion or control. The proposal's adverse effects on the environment are categorised below and have been determined from an assessment of the application and supporting documents, further information received and comments from technical specialists, both external and within Council and with reference to the submissions:

- Landscape and Visual Effects
- Rural Character Effects
- Servicing Effects
- Traffic Effects
- Building Platforms, Conflict between Use and Reverse Sensitivity Effects
- Effects on Waterbodies

- 9.7. It is noted that the context in which AEE was written predominantly relied on the now inoperative District Plan for context.

#### ***Landscape and Visual Effects***

- 9.8. The application was accompanied by a Landscape and Visual Assessment (LVA). This LVA was based on the original proposal to create four additional allotments under the provisions of the ODP.

- 9.9. Landscape effects were assessed to be low when applying the proposed mitigation (which is now further amended through a reduction of allotments). The change was overall considered, in the LVA, to be small in scale. It stated that *"Additional buildings associated with new dwellings will also provide some change in the landscape along with domestic vegetation. However, overall, the change is small in scale and with the location of all of the proposed lots avoiding the potential for fragmentation of the landscape. An increased number of accessways from the roads, along with some extra vehicle movements will be part of the new landscape and be able to be perceived even with mitigation in place. Both the ongoing activity and resulting rural character will largely remain intact."*

- 9.10. Council had the LVA peer reviewed by Mr Richard Bain. Mr Bain's comments regarding the landscape identified that the LVA assessment leads logically through the aspects of landscape character and how perceptual change could occur. however, the landscape mitigation may be at odds with rural character and spaciousness as follows:



*"I do think that there is perhaps a contradiction here. The purpose of the limited dwellings to one per lot will maintain a degree of spaciousness but the roadside planting will create enclosure. In the short term, until planting matures, the limit on dwellings will maintain spaciousness, but in the long term, as evident in other property's nearby, once roadside heading is above about 2m tall, buildings become largely invisible.*

- 9.11. The conclusion of Mr Bain is consistent with the matters/ 'tips' set out in the NPDC Rural Design Guidelines for the location of new allotments.
- 9.12. Notwithstanding, Ms Dravitzki and Mr Bain were in general agreement and that the significance of change was low on the wider environment. I note that these assessments and conclusions were reached in reliance on the (now inoperative) District Plan context.
- 9.13. Following the above assessments of the Agent's and Council's technical experts (which were predominantly required and used to inform the notification decision), the proposal was amended. The number of proposed allotments has been reduced by one and a no build and no tree area (greater than 4m) within 50m of the road boundary has been included for Lots 2 and 3. The scheme plan shows a hedge area to be planted and maintained around the building platform on Lots 2 and 3.
- 9.14. The amendments to the layout do not appear to increase the level of adverse landscape effect when considering what was assessed as part of the notification assessment. There will not be an increase in the number of dwellings that can be constructed as a result of the amended layout and changes are proposed that appear to address Mr Bain's comments about spaciousness at the round boundary of the site.
- 9.15. Notwithstanding the above, the District Plan framework under which the original notification assessment was undertaken is no longer operative. Consequently, the context for assessing landscape and visual effects has changed and now requires consideration of the Part Operative District Plan objectives and policies, in addition to the existing environment.
- 9.16. Within this revised planning context, there is concern that the proposal has the potential to adversely affect visual amenity values. In particular, the number and spatial distribution of the proposed new allotments may result in a perceived reduction in openness and spaciousness within the landscapes as there is no 20ha balance. This has the potential to erode rural character values, as contemplated by the Part Operative District Plan. These matters are explored in greater detail within the Rural Character and Amenity assessment that follows.

### ***Rural Character Effects***

- 9.17. The notification report found that the proposal would not have more than minor adverse effects on the wider environment relating to rural character. This is predominantly because of the context in which the proposal was assessed and what would occur in terms of future development if the proposal went ahead (relative to what the ODP provided for).
- 9.18. At the time of the notification decision being made, the subdivision proposal was on a title that was able to be meet the balance and title date requirements for a discretionary activity. That is, three additional allotments were a discretionary activity provided there was a 4ha balance (which there was). In the context of the Operative District Plan (2005), the requirement for a 4ha balance generally meant that in certain settings, the subdivision was



able to maintain overall spaciousness in the wider environment while retaining land for rural productive uses. This was the basis for not notifying the proposal.

- 9.19. Under the current rules of the Part Operative District Plan, no allotments can be subdivided from the existing parent title as controlled, restricted discretionary or discretionary activity because the minimum area of land required for subdivision is 20ha. The proposal is captured by a non-complying activity status under the Part Operative District Plan. In this context, any reduction in spaciousness from what exists is not anticipated and contributes to an adverse effect that may be unacceptable. The site contains an existing dwelling and there is no permitted ability for further dwellings to be constructed though up to three additional dwellings will follow as a result of the proposal. While the density proposed was somewhat anticipated by the Operative District Plan provisions, the proposal will increase density to a level not anticipated by the Part Operative District Plan. Landscape mitigation and controls will not necessarily maintain the existing rural character at a level anticipated by the current District Plan provisions but will seek to manage the landscape and visual effects.
- 9.20. The Part Operative District Plan describes the “Rural Production Zone” (RPZ), 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.*

Rural Character is defined as follows:

*Is the combination of elements and characteristics that make an area ‘rural’ rather than ‘urban’. Rural character includes the key elements of spaciousness, vegetation of varying types, low density built form and open space between buildings, with a predominance of primary production orientated activity as the prevailing working environment, and typically lacks urban infrastructure such as kerb and channel, street lighting, solid fences and footpaths, but can include network utilities such as telecommunications.*

- 9.21. When considering subdivision at this intensity in the context of the changed planning framework, I consider that the rural character and amenity effects on the wider environment would not be acceptable. This is because subdivision that does not involve a record of title over 20ha in area is unable to promote overall spaciousness through low density built form. The proposal will result in additional built development on a small site that already contains significant development due the intensive poultry operation. Landscape mitigation and controls on the density of future development will mitigate effects of development but it will still be evident that intensification of development has occurred on the parent title when no such ability current exists.
- 9.22. In conclusion, the Part Operative District Plan has significantly shifted the context in what constitutes ‘spaciousness’ when looking at rural character effects relating to Subdivision. In this case the subject site contains significant built development by way of a poultry farm and



dwelling with the subdivision contributing the ability for an additional three dwellings if granted. No such development is currently anticipated to be able to occur on the site given the non-complying status to create any additional allotments. When looking at this matter in combination with the landscape and visual assessments, there is mitigation proposed to reduce the level of effects. The mitigation seeks to ensure that the site remains and looks 'rural' rather than 'urban'.

### ***Building Platform and Servicing Effects***

- 9.23. The application was lodged with Council in December 2021. At this time, Council routinely allowed site suitability assessments to be provided as part of the subdivision post approval process (prior to s224). As such, no site suitability assessment was provided for this proposal at time of lodgement. Notwithstanding, the lot layout has now been amended with one less allotment being proposed and specified building platforms being included for Lots 1, 2 and 3.
- 9.24. Lots 1 – 3 are sized and located on land expected to be able to be built on and suitably serviced to a rural standard. The Agent has asserted that the servicing standards of the PODP can be met. Appropriate servicing includes the provision of onsite stormwater and wastewater management and the provision of a water supply. These matters would be required to be settled via conditions of consent, should consent be granted (if a site suitability report is not provided earlier, the agent may wish to provide this information at the hearing). Any effects associated with servicing are anticipated to be acceptable.

### ***Traffic Effects***

- 9.25. The application has been assessed by Council's Land Development Engineer, James Carley, and the proposed crossings have been assessed to have traffic safety and efficiency effects that would not be more than minor on the environment. Mr Carley recommends that vehicle crossings be constructed for Lots 1 – 3 and that the Lot 4 crossing be resealed given its age and condition. A 10m spacing is required between vehicle crossings.
- 9.26. As these matters can be imposed as conditions of consent, I consider that any traffic safety and efficiency effects of the proposal would be acceptable.

### ***Building Platforms, Conflict of Use and Reverse Sensitivity effects***

- 9.27. The matter of Reverse Sensitivity created by the subdivision was addressed in the Notification Decision with effects on the poultry farm owner (the applicant) being disregarded and adverse effects on Tegal being less than minor due to mitigation proposed (reverse sensitivity covenants). Furthermore, the matter of adverse effects on future owners of Lots 1 -4, was not specifically addressed in the notification assessment as I considered it to be an internal matter to the subdivision rather than one that would create adverse effects on the environment or on the neighbouring landowners. It is now appropriate, to address the matter under s104.
- 9.28. Addressing reverse sensitivity effects first, these effects are required to be disregarded on the applicant as the poultry farm owner. Furthermore, while reverse sensitivity effects are not avoided, they are proposed to be managed with reverse sensitivity covenants for Lots 1, 2 and 4 thus satisfying the concerns of Tegal.



- 9.29. In relation to the adverse effects of the poultry farm operations on the future owners of Lots 1, 2 and 4, I note that these effects are not avoided, remedied, or mitigated by the proposal. Future occupants are likely to experience odour, noise, and traffic effects associated with the existing poultry activity. While the proposed reverse sensitivity covenant may assist in managing potential reverse sensitivity effects on the poultry farm, it does not address actual amenity effects that may be experienced by future residents such as traffic, noise and odour. In my view, there remains the potential for unacceptable adverse amenity effects on the future owners of these lots.
- 9.30. These adverse effects can be avoided in the first instance by not creating the additional allotments, and this approach is consistent with RPROZ-O5, RPROZ-P7 and RPROZ-P3. RPROZ-P3 is particularly directive, using the term avoid, which establishes a clear expectation that new sensitive activities should not be enabled where they would compromise the functioning of existing rural production activities. In addition, SUB-P12 supports these Objectives, by seeking to ensure that lot sizes and lot configurations are undertaken in a manner which minimises any reverse sensitivity effects and conflicts with permitted activities. In this case, it is the subdivision itself that creates the opportunity for new sensitive activities to establish, and the resulting reduction in the balance allotment area further decreases the separation distance between the poultry activity and future dwellings. Overall, I consider that effects relating to land use conflict are unacceptable. Reverse sensitivity effects, however, are acceptable.

#### **Building Platforms – Land use**

- 9.31. Should subdivision be granted, proposed Lots 1 and 2 do not contain building platforms where a permitted activity Residential Unit can be constructed relative to the existing poultry farm, operation. If the lots are created, any subsequent development of Residential Units require land use consent which has been applied for.
- 9.32. I initially suggested to the applicant's agent that concurrent land use consents be sought for the new vacant lots however this was not accepted and the proposal progressed through limited notification as a subdivision application only. At the time this was raised with the applicant, land use consent was required for a controlled activity under the ODP and there was an expectation that consent would be granted. No consent was required under the Proposed District Plan at that time as the rules did not have legal effect.
- 9.33. Under the PODP rules, a Restricted Discretionary Activity consent is required for Residential Units on Lots 1 and 2. The agent has now applied for consent for land use which is only required should the subdivision consent be granted.
- 9.34. Despite my subdivision concerns about conflict of use, should the subdivision be approved, the adverse effects generated by the future Residential Units, in relation to the established poultry farm operation, would be considered acceptable, as reverse sensitivity effects would be managed through the implementation of a reverse sensitivity covenant on the new titles.
- 9.35. If subdivision consent is declined, the associated land use consent is not required and should also be refused. In my view, the assessment of whether the allotments should be created must be undertaken first, as the District Plan clearly distinguishes between subdivision to create new allotments (a non-complying activity) and land use consents for dwellings on existing



allotments (a restricted discretionary activity). This sequencing reflects the different levels of policy direction and scrutiny applied to each activity.

### **Waterbodies**

9.36. The proposal includes a 10m wide esplanade strip and riparian planting along the Waiongana Stream. While the proposed esplanade strip is not 20m in width I consider that the effects of the proposal on the water body are acceptable taking into account the following:

- The esplanade strip and riparian planting will create a buffer between the waterbody and any new development;
- No new development near the waterbody is proposed. The esplanade strip will be within Lots 3 and 4. Both of these allotments contain existing activities, and no further development is immediately proposed (other than what may be required to accommodate the esplanade strip).
- The esplanade strip and riparian planting will exist in perpetuity.
- Mr Bain has undertaken an esplanade strip assessment on behalf of the Council and concluded that a 10m wide strip is suitable in this location based on the context of the Part Operative District Plan (Proposed District Plan at time of assessment).
- Any future development in Lots 3 and 4 will be subject to the rules of the District Plan with regards to waterbody setbacks.

9.37. The earthworks required to reinstate the driveway within the esplanade strip will have acceptable long terms effects given the future use for riparian planting. Construction earthworks can be managed with erosion and sedimentation controls to ensure that material does not migrate into waterways. Effects will be acceptable.

### **Conclusion on Assessment of Effects**

9.38. Based on the assessments above, I do not consider it appropriate to rely on the landscape and visual effects assessment that informed the original notification decision when concluding on the effects of the proposal in the current planning context. While the notification decision relied on expert evidence from two landscape architects, both assessments were undertaken within the context of the Operative District Plan (2005) provisions at the time and the prevailing rural environment then in effect.

9.39. I also acknowledge that the interpretation and expectations of rural character have evolved between District Plan frameworks. When assessed against the current planning framework, I do not consider the rural character effects associated with the proposal—specifically the creation of three additional allotments and associated building platforms—to be acceptable.

9.40. The existing site characteristics, including the absence of a 20-hectare balance allotment and the substantial building coverage associated with the established poultry farming activity, do not demonstrate the degree of openness and spaciousness typically associated with rural character. In this context, it is reasonable to conclude that the proposal would not result in a low-density built form as envisaged by the Part Operative District Plan.



- 9.41. Given the close relationship between landscape, visual, and rural character matters, I have assessed these effects holistically. On balance, I consider that the overall landscape, visual, and rural character effects arising from the proposal are unacceptable.
- 9.42. Notwithstanding the above, I acknowledge that rural production activities will continue to dominate the balance allotment despite its reduced size, particularly due to the presence of an established intensive farming activity. This ongoing rural production use does contribute to the rural character of the site.
- 9.43. Servicing and traffic effects will be acceptable subject to conditions.
- 9.44. While the effects on waterbodies and the reverse sensitivity effects on the existing poultry farming operation are able to be managed to an acceptable level, the effects on future owners arising from conflict of land use are not avoided, remedied, or mitigated. In my view, the proposal to create additional allotments that would expose future occupants of small rural lots to nuisance or adverse amenity effects associated with an established poultry farm is unacceptable when considered in the context of the Proposed District Plan. These effects cannot be appropriately mitigated.

#### **National Policy Statement for Freshwater Management 2020**

- 9.45. The National Policy Statement for Freshwater Management came into force on the 3rd of September 2020. The NPS seeks to maintain or improve the overall quality of freshwater; safeguard freshwater's life-supporting capacity, ecosystem processes, and indigenous species and to protect the significant values of wetlands and outstanding freshwater bodies.
- 9.46. The Waiongana Stream borders the property. New development within Lots 1 and 2 will be separated from the stream by Lots 3 and 4 which are already developed with residential and productive activities. Furthermore, the waterway margins will be enhanced with planting and an esplanade strip. Therefore, I am satisfied that any new development is compatible the provisions of the NPS.

#### **National Policy Statement for Highly Productive Land 2022**

- 9.47. The National Policy Statement for Highly Productive Land (NPS: HPL) 2022 is applicable to the subject site as it is zoned Rural and comprises land identified as Land Use Capability Class 1, 2 or 3 and the proposal is for rural lifestyle. The site is identified to contain 3e2 and 2c3.

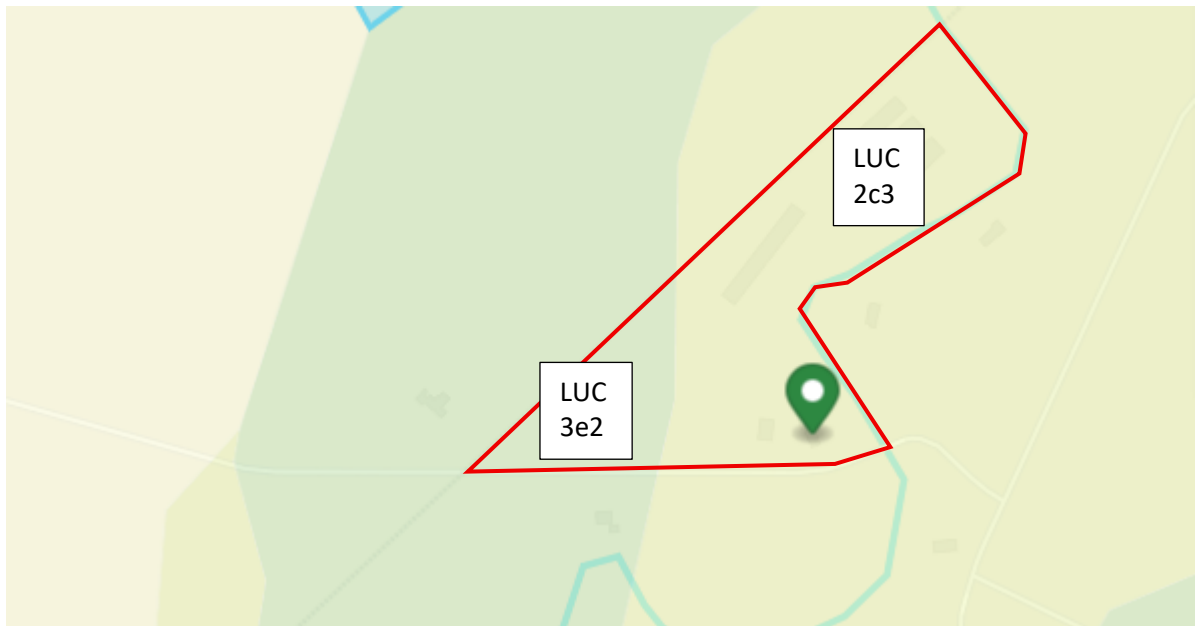


Figure 6: LUC Map from LRIS Portal online (site outline in red)

- 9.48. The NPS: HPL gives a list of matters that local authorities must do to give effect to these objectives and policies. The Objectives and Policies can be found within Part 2 of the National Policy Statement. The transitional provisions of the NPS still apply and sections 3.8 and 3.10 are relevant to determining if the proposal is appropriate.
- 9.49. The applicant engaged Ag-First to provide an assessment against the provisions of the NPS and this assessment concluded that the proposal is able to meet the exemption criteria under Section 3.10 (Exemption for highly productive land subject to permanent or long-term constraints). In summary the report identified the following conclusions:

*The property is constrained by several permanent and long-term constraints:*

- *Infrastructure restrictions, including a gas transmission pipeline corridor and overhead powerlines, which limit machinery access and land disturbance activities.*
- *Reverse sensitivity and biosecurity restrictions from an operational commercial poultry facility onsite (leased by Tegel), which limit access and proximity for other land-based activities.*
- *Lack of economic viability. The productive 3.3 ha would need to generate a return of \$5,636/ha/year in EBIT to service a standard 40% debt load at 5% interest, well above the regional average of \$3,354/ha for dairy \$2,105/ha for dairy grazing, and \$846/ha for finishing farms. With infrastructure development costs and limited water availability for horticulture, no form of traditional or alternative primary production is economically viable on the site over a 30-year period.*
- *Insufficient scale and physical isolation for viable horticulture, cropping, or livestock operations.*
- *Inability to amalgamate with neighbouring land due to surrounding roads, railways, and the Waiongana Stream.*
- *No viable lease or boundary adjustment options given land value and access issues.*



*The proposed subdivision, comprising four lots including the retention of the existing poultry operation, the existing dwelling and curtilage, and two rural lifestyle blocks, meets the criteria for exemption under Clause 3.10 of the NPS-HPL:*

- *There are permanent and long-term constraints on the land that render land based primary production uneconomic for at least 30 years.*
- *The subdivision does not result in significant loss or fragmentation of cohesive areas of HPL, as the site is already isolated and surrounded by fragmented rural residential lots.*
- *Potential reverse sensitivity effects are mitigated, and buffers around the poultry operation have been incorporated and approved by Tegel.*
- *The environmental, social, and economic benefits of subdivision outweigh the marginal loss of productive capacity.*

*Given the constraints and lack of viable productive alternatives, the proposed four-lot subdivision meets the exemption criteria under the NPS-HPL. It will not result in a meaningful loss of productive capacity and will provide a practical and appropriate outcome for a highly constrained site.*

- 9.50. Council engaged Stuart Ford from the Agribusiness Group who agrees that the site and proposal meet the requirements of Clause 3.10 of the NPS. Mr Ford provided feedback on the assessment which was subsequently updated to more closely align with the NPS. The conclusion as to consistency was confirmed.
- 9.51. In reliance on both experts from Ag-First and Agribusiness Group, I conclude that the proposal is consistent with the National Policy Statement for Highly Productive Land.

#### **National Environmental Standards**

- 9.52. Based on the information provided, there is no NES relevant to this application.

#### **Taranaki Regional Policy Statement**

- 9.53. 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. In this regard I note that the PODP was made operative after the release of the Regional Policy Statement.
- 9.54. The Taranaki Regional Policy Statement (2010) seeks to protect waterbodies, historic heritage, outstanding natural features. It makes provision for development of the built environment and addresses incompatible activities. These matters are contained within Chapters 5 (Land and Soil), 6 (Freshwater), 7 (Air Chapter 10 (Natural features and landscapes), historic heritage and amenity value and Climate Change and 15 (Built Environment).
- 9.55. Chapter 7 (Air and Climate Change) addresses reverse sensitivity issues that can arise from the inappropriate location of residential activities in rural areas. It identifies that residential activities can constrain the availability of rural land for intensive farming activities and other industries and land uses from 'time to time'. Ultimately this chapter has a focus on air quality



and in this regard, there is an intensive farming activity located within the balance allotment. The below objective and policy are relevant to the proposal.

**Table 6: Regional Policy Statement – Chapter 7**

| Issue   |
|---|
| AQU ISS 2<br>Managing reverse sensitivity issues in relation to air emissions and which are created by incompatible land uses establishing next to industries or rural or production operations.  |
| Objective   |
| AQU OBJECTIVE 1<br>To maintain the existing high standard of ambient air quality in the Taranaki region, to improve air quality in those instances or areas where air quality is adversely affected, and to avoid, remedy or mitigate adverse effects on people and the environment resulting from discharges to air. |
| Policies  |
| AQU POLICY 3<br>Land use and subdivision should be managed to avoid, remedy or mitigate adverse effects on people and the environment from reverse sensitivity effects arising from the inappropriate location of sensitive activities in proximity to legitimate activities discharging contaminants to air.         |

9.56. The application discusses the use of no complaints (reverse sensitivity) covenants to manage complaints against the poultry farm. While this will manage complaints and reverse sensitivity as it affects the poultry farm, it does not mitigate, reduce or avoid the effects relating to the conflict of use on the future land owners, that is the normal farming operations resulting in noise, odour and traffic will still occur in close proximity to the more sensitive residential uses and could adversely affect future land owners.

9.57. Chapter 10 of the RPS relates to Natural features and landscapes, historic heritage and amenity value. Of particular relevance to this proposal is the impact of the subdivision on amenity values. Section 10.3 of the RPS seeks to maintain and enhance amenity values.

**Table 8: Regional Policy Statement – Chapter 10**

| Issue   |
|---|
| AMY ISS 1<br>Recognising the positive effects of use and development activities in relation to their development activities in relation to their maintenance and enhancement of amenity values. |
| AMY ISS 2<br>Avoiding, remedying or mitigating adverse effects that may arise from use and development activities on amenity values. development activities on amenity values.                  |
| Objective   |
| AMY OBJECTIVE 1   |



To recognise the positive contributions of appropriate use and development in terms of providing for the maintenance and enhancement of amenity values in the Taranaki region, while avoiding, remedying or mitigating the adverse effects of inappropriate use and development on amenity values

## **Policies**

### **AMY POLICY 1**

The adverse effects of resource use and development on rural and urban amenity values will be avoided, remedied or mitigated and any positive effects on amenity values promoted. Any positive effects of appropriate use and development will be fully considered and balanced against adverse effects.

Those qualities and characteristics that contribute to amenity values in the Taranaki region include:

- (a) safe and pleasant living environment free of nuisance arising from excessive noise, odours and contaminants, and from traffic and other risks to public health and safety;
- (b) scenic, aesthetic, recreational and educational opportunities provided by parks, reserves, farmland, and other open spaces, rivers, lakes, wetlands and their margins, coastal areas and areas of vegetation;
- (c) a visually pleasing and stimulating environment;
- (d) efficient, convenient and attractive urban forms; and
- (e) aesthetically pleasing building design, including appropriate landscaping and signs

- 9.58. AMY Objective 1 and AMY Policy 1 seek 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 and a reduced amenity may occur for the new owners of the additional allotments due to the proximity of the sites from the poultry farm and it is not certain that future development will be free of nuisance arising from odour. Therefore, the application is partly inconsistent with this specific relevant objective and policy of the RPS.
- 9.59. Overall, the proposal is largely consistent with the provisions of the RPS, as outlined above there are aspects that are inconsistent with the RPS relating to siting residential development alongside an intensive poultry farm operation. Conditions proposed will enable the protection of the poultry farm operations and alert new landowners to the presence of potential nuisance arising from such an activity. The proposal does not provide mitigation to reduce nuisance effects (should such effects exist) for the new owners of Lots 1, 2 and 4.

## **Part Operative District Plan**

- 9.60. The following Objectives and Policies of the Part Operative District Plan are considered relevant to the proposal.

**Table 9: Objectives and Policies – Subdivision Chapter****Objectives****SUB-O1**

Subdivision results in the efficient use of land and achieves patterns of development that are compatible with the role, function and predominant or planned character of each zone.

**SUB-O2**

Subdivision is designed and located to avoid, remedy or mitigate adverse effects on the environment and occurs in a sequenced and coherent manner that:

1. responds to the site's physical characteristics and context including any non-scheduled features;
2. is accessible, connected and integrated with the surrounding neighbourhoods;
3. contributes to the predominant or planned character of the zone and a sense of place;
4. protects and enhances scheduled features;
5. 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; and
6. protects highly productive land in the Rural Production Zone.

**SUB-O3**

Infrastructure is planned to service proposed subdivision and development in a manner that:

1. protects scheduled features; and
2. connects with the wider infrastructure network in an integrated, efficient and coordinated manner and is provided at the time of subdivision.

**Policies****All Subdivision****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, where subdivision design:

1. reflects patterns of development that are compatible with, and reinforce the role, function and predominant or planned character of the zone;
2. does not compromise the integrity and planned outcomes for the zone with lot sizes sufficient to accommodate intended land uses;
3. in the City Centre, Town Centre, Mixed Use and Local Centre zones, minimises proliferation of vehicle crossings that could restrict the ability of pedestrians to move safely and efficiently along the street and within public places or reduces the presence of retail activity at the ground floor;
4. in the Commercial Zone/PREC13 - Ngā Motu Precinct, ensure that comprehensive, coordinated and efficient development occurs for the entire precinct;
5. in the Mixed Use and General Industrial zones, incorporates sufficient setbacks at residential zone interfaces (where subdivision adjoins such a zone) to provide sufficient space for planting and landscaping;
6. in the Large Format Retail Zone, avoids the fragmentation of land or creation of small allotments that would limit or constrain the ability to use land for large format retail activities;



7. in the General Industrial, Large Format Retail, Residential and Rural zones, incorporates sufficient space for on-site stormwater disposal including the use of water sensitive and low-impact design solutions; and
8. protects highly productive land in the Rural Production Zone.

**SUB-P2**

Manage the subdivision of land and development of associated infrastructure so that non-scheduled features are appropriately considered in the site layout and design, and scheduled features are protected and enhanced.

**Rural Subdivision**

**SUB-P10**

Manage the scale, design and intensity of subdivision in the Rural Production Zone by:

1. allowing one additional record of title for a small allotment only where there is a large balance area;
2. managing subdivision that does not comply with Subdivision Effects Standards;
3. managing subdivision that involves multiple allotments with a large balance area and only allowing multiple records of title from the parent title where the overall productive capacity of highly productive land will be retained over the long term; and
4. avoiding subdivision that would compromise the role, function and predominant character of the Rural Production Zone, or is more typical of patterns of development in urban areas.

**SUB-P12**

Ensure that subdivision in the Rural Zones results in lot sizes and lot configurations that:

1. are appropriate for the development and land use intended by the zone;
2. are compatible with the role, function and predominant or planned character of the zone;
3. maintain rural character and amenity; and
4. are consistent with the quality and types of development envisaged by the zone objectives and policies, including by minimising any reverse sensitivity effects and conflict with activities permitted in the zones.

**SUB-P14**

Require subdivision design and layout in the Rural Zones to respond positively to, and be integrated with the surrounding rural or rural lifestyle context, including by:

1. incorporating physical site characteristics, constraints and opportunities into subdivision design;
2. minimising earthworks and land disturbance by designing building platforms that integrate into the natural landform;
3. avoiding inappropriately located buildings and associated access points including prominent locations as viewed from public places;
4. incorporating sufficient separation from zone boundaries, transport networks, rural activities and rural industry to minimise potential for reverse sensitivity conflicts;



5. incorporating sufficient separation between building platforms and scheduled features to minimise potential adverse effects on those features and providing for the protection and maintenance of indigenous biodiversity;
6. where a subdivision has the potential to compromise cultural, spiritual or historic values of importance to tangata whenua, considering the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to:
  - a. opportunities to incorporate mātauranga Māori into the design and development of the subdivision;
  - b. opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened; and
  - c. options to avoid, remedy or mitigate adverse effects;
7. promoting sustainable stormwater management through water sensitive design solutions; and
8. in the Rural Lifestyle Zone, achieving patterns of development and allotment sizes that provide opportunities for rural lifestyle living.

#### **SUB-P15**

Ensure that subdivision in the Rural Lifestyle or Rural Production Zones maintains or enhances the attributes that contribute to rural character and amenity values, including:

1. varying forms, scales, spaciousness and separation of buildings and structures associated with the use of the land;
2. maintaining prominent ridgelines, natural features and landforms, and predominant vegetation of varying types;
3. low population density and scale of development relative to urban areas;
4. on-site servicing and a lack of urban infrastructure; and
5. in the Rural Production Zone, the continued and efficient operation of rural activities and productive working landscapes.

#### **Assessment**

The subdivision chapter objectives and policies for rural subdivision seek to reinforce the planned character, role and function for the Rural Production Zone which is predominantly for primary rural production and activities that require rural land to establish (RPROZ-O1 and O2). The Subdivision objectives require consideration of the provisions for the Rural Production Zone Chapter and this assessment is undertaken further on in this report.

The proposal can accommodate servicing to the new sites for wastewater and stormwater disposal, and vehicle access is able to be provided. A water supply is available. In this regard the proposal is compatible with the relevant objectives and policies for servicing. Telecommunications will be confirmed by the agent at the hearing.

Policy SUB-P10, sets out what is appropriate to manage the scale, design and intensity of the subdivision in the Zone. It provides for allowance of an additional allotment where there is a large balance area and more than one additional allotment where there is a large balance area and where the overall productive capacity of highly productive land will be retained over the long term.



In the case of the proposed subdivision the balance allotment, Lot 3, is not a large balance area (the PODP requires 20ha).

As multiple additional allotments are proposed the proposal is also required to demonstrate the overall productive capacity of highly productive land will be retained over the long term. This is not able to be confirmed in this case. However, the policy is derived from the National Policy Statement for Highly Productive Land, and the proposal is consistent with the NPS therefore I consider that matter of productive capacity not to be relevant to this assessment.

#### Large Balance Area

The requirement for a large balance area ensures several things:

- That large areas of land that can contain primary productive activities remain to enable the zone to be used for its intended purpose.
- That the elements that make up Rural Character prevail.
- To provide separation between activities to avoid the effects of reverse sensitivity and conflict between activities.

Regarding the large balance area requirement, the balance area is 4.4ha and will contain a rural primary production activity that is expected to continue following subdivision (should subdivision be granted). There is no evidence to suggest that the balance allotment will be used as a large lifestyle allotment with no rural productive activities occurring. In this regard, rural character relating to activities will prevail on the balance land. The poultry farm will be predominant as a primary production orientated activity. Conversely, the site will be further developed with residential units and curtilage, reducing openness and spaciousness in this particular location (due to the smaller balance area).

Overall, not having a large balance area is problematic and maintaining the existing spaciousness of the site is not possible. The reduced balance area also results in a cluster of allotments alongside the poultry farm which may be avoided had the site been bigger to begin with.

Overall, I find the proposal inconsistent with SUB-P10.

SUB-P12 requires that lot sizes and lot configurations are appropriate for development and land use intended by the zone. In this instance, it has been established that the balance allotment will retain sufficient area and functionality to enable the continuation of the existing primary production activity.

While the District Plan provides limited opportunity for the creation of lifestyle allotments within the zone, and the proposed lot sizes are capable of meeting the relevant minimum area standards, their establishment in this location is not anticipated by the spatial outcomes sought under the Plan. The introduction of additional lifestyle allotments would represent a change in the existing development pattern, compromising the current low-density built form and resulting in land uses that are incompatible with the operation of a working poultry farm. This has the potential to give rise to land use conflict.

Regarding SUB-P14, the subdivision responds to the site characteristics including the river and involves enhancement of the waterbody margins and protection through the creation of an esplanade strip.



In summary, the subdivision provisions set parameters in which small lot subdivision is appropriate and provided for. In this case a large balance allotment cannot be created reducing openness and spaciousness and contributing to a situation where there will not be low density built form. While able to be serviced, the subdivision is ultimately inconsistent with the objectives and policies for rural subdivision relating to rural character and conflict of use.

**Table 10: Remaining Objectives and Policies Assessment for the Part Operative District Plan**

**Objectives - Rural Production Zone Chapter**

**RPROZ-01**

Productive land and resources support a range of production oriented and resource dependent activities.

**RPROZ-02**

The Rural Production Zone is predominantly used for primary production.

**RPROZ-03**

The role, function and predominant character of the Rural Production Zone is not compromised by incompatible activities.

**RPROZ-04**

Maintain the predominant character and amenity of the Rural Production Zone, which includes:

1. extensive areas of vegetation of varying types (for example, pasture for grazing, crops, forestry and indigenous vegetation and habitat) and the presence of natural features, historic heritage, Māori purpose activities, and large numbers of farmed animals;
2. low density built form with open space between buildings that are predominantly used for agricultural, pastoral and horticultural activities (for example, barns and sheds), low density rural living (for example, farm houses and worker's cottages) and community activities (for example, rural halls, domains and schools);
3. a range of noises, smells, light overspill and traffic, often on a cyclic and seasonable basis, generated from the production, manufacture, processing and transportation of raw materials derived from primary production;
4. interspersed existing energy activities and rural industry facilities associated with the use of the land for intensive indoor primary production, quarrying, 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.

**RPROZ-05**

The Rural Production Zone is a functional, production and extraction orientated working environment where primary production and rural industry activities are able to operate effectively and efficiently, while ensuring that:

1. the adverse effects generated by primary production and rural industry activities are appropriately managed; and
2. primary production and rural industry activities are not limited, restricted or compromised by incompatible activities or reverse sensitivity effects.

**RPROZ-06**



Natural features, highly productive land, tangata whenua values, rural character and amenity are not compromised by adverse changes to landform, intensification of land use activities (excluding agricultural, pastoral and horticultural activities) and/or built form, or urbanisation.

#### **RPROZ-O7**

Sensitive activities are designed and located to avoid conflict with primary production and avoid, or mitigate adverse reverse sensitivity effects.

### **Policies- Rural Production Zone Chapter**

#### **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. residential visitor accommodation;
4. Māori purpose activities; and
5. rural produce retail.

#### **RPROZ—P2**

Manage activities that are potentially compatible with the role, function and predominant character of the Rural Production Zone and ensure it is appropriate for such activities to establish in the Rural Production Zone, having regard to whether:

1. the activity is compatible with the character and the amenity of the rural area;
2. the activity will limit or constrain the establishment and operation of agricultural, pastoral and horticultural activities;
3. the activity will reduce the potential for versatile land to be used for productive purposes and in a sustainable manner;
4. adequate on-site infrastructure and services are available or can be provided to service the activity's needs;
5. adverse effects can be internalised within the activity's site; and
6. the activity will not result in conflict at zone interfaces.

Potentially compatible activities include:

1. community facilities;
2. camping grounds;
3. sport and recreation activities;
4. rural industry;
5. aquaculture;
6. mining;
7. intensive indoor primary production;
8. rural transport activities;



9. Quarries;

10. retail activities (except supermarkets, large format retail activities and integrated retail activities);

11. business service activities;

12. commercial service activities;

13. industrial activities;

14. emergency service facilities;

15. educational facilities (except Māori purpose activities);

16. residential activities associated with Green School at Koru Road; and

17. community corrections activities.

### **RPROZ-P3**

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

1. reverse sensitivity effects 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 (excluding residential visitor accommodation);
4. supermarkets;
5. integrated retail activities; and
6. large format retail activities.

### **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.

### **RPROZ-P7**

Require sensitive activities to be appropriately located and designed to avoid or mitigate reverse sensitivity effects, risks to people, property and the environment, and conflict with activities permitted in the Rural Production Zone, including by:



1. ensuring sufficient separation by distance or topography between sensitive activities and zone boundaries, transport networks, primary production, significant hazardous facilities and rural industry;
2. adopting appropriate design measures to minimise the impact of off-site effects of rural industry that cannot be internalised within the rural industry activity's site; and
3. utilising landscaping, screen planting or existing topography to minimise the visual impact of rural industry.

### Assessment - Rural Production Zone Chapter

The Rural Production Zone Objectives and Policies outline the role, function and character for the zone, stating that it should be used predominantly for primary production and that it should not be compromised by incompatible activities such as residential and lifestyle activities that are not ancillary to rural activities.

Incompatible activities operating within close proximity to each other can reduce the land available for primary production, result in reverse sensitivity effects and result in conflict between activities. In this case it has been found that the proposal will not reduce the land available for primary production or result in reverse sensitivity effects on the poultry farm operator due to the proposed augier reverse sensitivity covenant conditions.

The proposal does not, however, reconcile the impact on the future owners of the new allotments regarding the separation distance between the new sensitive activity (residential units) and the poultry farm. In this regard the subdivision proposal is inconsistent with RPROZ-O5 and RPROZ-P3, RPROZ-P6 and RPROZ-P7. The proposal seeks to provide for residential/ rural lifestyle activities in close proximity to intensive indoor primary production which creates the potential for conflict without providing any mitigation of adverse effects on the new owners of Lots 1, 2 and 4.

RPROZ-O7, in particular requires sensitive activities to be designed and located to avoid conflict with primary production. Similarly, RPROZ-P7 requires sensitive activities to be appropriately located to avoid or mitigate conflict with activities permitted in the Rural Production Zone through separation and topography. In this case the new allotments are located within the buffer areas required for separation of buildings and cannot mitigate or avoid potential effects such as odour from the poultry farm. Had the site been larger and closer to the 20ha requirement, there may have been opportunities for larger buffer areas between activities/ allotments while providing the open space character anticipated in the Rural Production Zone.

RPROZ-P3 is relevant insofar as it requires 'incompatible' activities that will result in reverse sensitivity effects or conflict with permitted activities in the zone be avoided. Reverse sensitivity effects on the poultry farm are proposed to be managed by a reverse sensitivity covenant. That is, the effects will not be avoided but the new owners of the lots will not be able to make a complaint about the poultry operation. Conflict is not avoided by locating allotments within a poultry farm buffer where the operator of the poultry farm has not outlined any measures to mitigate adverse effects of the farming activity on the new lot owners. Incompatible activities are stated on RPROZ-P3 as including residential activities and rural lifestyle living that are not ancillary to rural activities. The proposal is inconsistent with part 1 of Policy RPROZ-P3 but partly consistent with part 2 of the policy relating to adverse effects on highly productive soils and amenity effects.

Overall, the proposal is only partly consistent with the objectives and policies of the zone and is contrary to the most directive 'avoid' requirements of Policy RPROZ-P3 and incompatible with RPROZ -P7 largely due to the size of the title being subdivided. The proposal does not avoid the



creation of residential / lifestyle activities that are not ancillary to rural activities and will be created in a location alongside a poultry farm where conflict effects on the future owners are not avoided.

### **Objectives - Transport Chapter**

#### **TRAN-O2**

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

#### **TRAN-O3**

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

### **Policies – Transport Chapter**

#### **TRAN-P13**

Ensure that activities do not constrain or compromise the safe and efficient operation of the road transport network by:

1. minimising potential conflict between vehicles, pedestrians and cyclists;
2. managing the width of vehicle access points so that on-street parking is not reduced; and
3. managing adverse cumulative effects.

#### **TRAN-P14**

Ensure that activities do not constrain or compromise the safe and efficient operation of the rail transport network by:

1. requiring appropriately designed and located vehicle access points within close proximity to railway level crossings to improve safety for road users on approaches to railway level crossings;
2. controlling vehicle access points over railway level crossings to minimise safety risks;
3. restricting the location of buildings, structures and other visual obstructions including vegetation within sightline areas of railway level crossings; and
4. managing the location of buildings and structures near railway corridors to allow for safe access to, and maintenance of, buildings and structures on sites adjoining the rail corridor.

#### **TRAN-P15**

Encourage car parks that provide for general public or staff use to be designed to provide clearly marked, connected, convenient, safe, accessible pedestrian pathways, with provision for shelter where possible.

### **Assessment – Transport Chapter**

The proposal is able to accommodate access for all allotments in a safe and efficient manner. In this regard the proposal is compatible with the relevant objectives and policies relating to servicing and transport. New crossings can be constructed for Lots 1 – 3 and the Lot 4 crossing requires a reseal given its age and condition.

### **Objectives - Waterbodies Chapter**

#### **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 rivers and lakes with conservation, recreational, 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 culture and traditions associated with waterbodies are recognised and provided for.

**Policies – Waterbodies Chapter**

**WB-P2**

Protect the natural character, ecological, recreational, cultural, spiritual, heritage or amenity values of waterbodies by:

1. managing the potential adverse effects of subdivision on the values of waterbodies;
2. requiring buildings and earthworks to be set back from natural waterbodies to avoid, remedy or mitigate potential adverse effects on their values; and
3. maintaining and enhancing public access to rivers and lakes with recreation, scenic, cultural or amenity values through the creation of esplanade reserves or esplanade strips at the time of subdivision.

**WB-P3**

Require that activities proposing to locate on sites adjoining a natural waterbody, demonstrate that the activity is located appropriately having regard to:

1. the particular natural character, ecological, recreational, cultural, spiritual, heritage or amenity values of the natural waterbody and the extent to which the values of the natural waterbody may be adversely affected by the activity;
2. the purpose of the activity and whether it has a functional need and operational need to be located adjoining a natural waterbody;
3. the ability to effectively restore and rehabilitate the natural waterbody or off-set adverse effects;
4. for natural waterbodies which have cultural, spiritual or historic values of importance to tangata whenua, the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to mitigation measures; and
5. whether the activity would create new or exacerbate existing natural hazards, including flooding or stream bank erosion.

**WB-P4**

When any subdivision of land creates allotments containing or adjoining a river or lake require that an esplanade reserve or esplanade strip be provided, where an esplanade reserve or esplanade strip will assist:

1. to protect, maintain or enhance the conservation values of the river or lake including; natural character, ecology, water quality and riparian planting;
2. to provide for recreation and public access, and recognition of cultural, spiritual or historic values of importance to tangata whenua; or
3. to mitigate natural hazards.

**WB-P5**



Require any subdivision of land creating allotments containing or adjoining a river or lake which is required to provide an esplanade reserve or an esplanade strip, but which proposes to waive the provision of, or reduce the width of the esplanade strip or esplanade reserve, to demonstrate that the waiver or reduction is appropriate having regard to:

1. the purposes of esplanade reserves and esplanade strips in accordance with section 229 of the Act, and whether the waiver or reduction will limit the ability to achieve those purposes;
2. whether the waiver or reduction will limit or reduce opportunities for public recreational use of the river or lake;
3. whether the waiver or reduction will limit or reduce opportunities to link land-locked or isolated esplanade strips or esplanade reserves, or access strips;
4. whether any alternative public access to the river or lake is available;
5. the site's physical characteristics and constraints and any practical implications of providing access;
6. effects of natural hazards, including protection of the integrity of the river, and erosion and flood control works;
7. whether the waiver or reduction of an esplanade reserve or esplanade strip would compromise or assist the ability to protect, maintain or enhance natural character, ecological, landscape, historic heritage or cultural values of the river or lake or the ability to protect sites and areas of significance to tangata whenua; and
8. the benefits and costs of the provision and maintenance of an esplanade reserve or an esplanade strips of a reduced width.

**WB-P6**

Require an esplanade reserve rather than an esplanade strip unless any of the following apply:

1. the purposes for esplanade reserves and esplanade strips in section 229 of the Act can be adequately achieved by an esplanade strip;
2. the river or lake is not in Schedule 9 or is within a rural area, and public access and recreational opportunities can be provided for by an esplanade strip; and
3. where the natural character, ecological, landscape, historic heritage or cultural values of the river or lake, or the protection of sites and areas of significance to tangata whenua can be achieved by an esplanade strip; or
4. the benefits and costs of the provision and maintenance of an esplanade reserve or an esplanade strip favour an esplanade strip.

**WB-P7**

Consider the incorporation of mātauranga Māori into the design, development and operation of activities on sites adjoining waterbodies which have cultural, spiritual or historic values of importance to tangata whenua and provide opportunities for tangata whenua to exercise their customary responsibilities in respect of waterbodies.

**Assessment – Waterbodies Chapter**

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 contained with the



developed allotments. Fencing and planting along all riparian margins is proposed in perpetuity along with a 10m wide esplanade strip. Whilst a reduction from 20m is proposed, access to the strip will not be compromised not will the ability to protect and enhance natural character. The reduction has been agreed between the applicant and Council and conditions are proposed.

### **Agent's assessment of objectives and policies of the ODP**

9.61. In the updated section 92 response received by Council on the 4 November 2025 the applicant did not provide an assessment of the relevant objectives and policies but did make the following comments:

*s104(1)(b) - Inconsistency with Objectives and Policies – It is acknowledged that the application as read today is inconsistent with the Objectives and Policies of the Rural Production Zone within the Proposed New Plymouth District – Part Operative Plan 2025. However, it is requested that this application be treated appropriately as it is materially different in that it was submitted under the old District Plan back in 2021, in which the application was accepted as a Discretionary activity for the number of Lots (5) proposed. Since then, this has been reduced to a total of four (4) Lots which would have carried the Restricted Discretionary activity status under that plan.*

*In this regard, we implore the processing of this application to consider the principles of natural justice in so far as the applicant has been undertaking an almost 5 year consenting journey which has been subject to both changes in Central and Local Government planning regulations to which was not on the fault of the applicant. Throughout this process the applicant has been incredibly fair and patient undertaking and facilitating extra expert evidence and mitigation wherever possible. This has resulted in an outcome that I am positive would have been accepted under the rules the original application was lodged under. As such, I implore you to use the discretion available to you to manage this unique situation as the effects have been proved to be minor and appropriately managed.*

9.62. I also contacted the agent on 23 February 2026 providing an opportunity to update the application with assessments against the Part Operative District Plan. The agent did not wish to do this.

### **Operative District Plan**

9.63. I have had regard to the objectives and policies of the Operative District Plan and in this case, I do not consider them relevant in the consideration of the application given the rules relevant to this proposal are treated as inoperative.

### **Land Use**

9.64. Should subdivision consent be granted, the allotments will be lawfully established, and the subsequent development of these lots with dwellings would be anticipated by the District Plan given residential units are a permitted activity (subject to effects standards) in the Rural Production Zone. In this context, the construction of residential units would generally be consistent with the relevant (based on restricted discretionary assessment criteria) objectives and policies of the Rural Production Zone chapter of the Operative District Plan.



## Summary of Part Operative District Plan Objectives and Policies Assessment

- 9.65. The proposal seeks to fragment rural land to a level that is not anticipated by the District Plan, with no retention of a large balance allotment to maintain the spaciousness and openness that characterise the Rural Production Zone. The proposal would introduce a conflict of land use that the zone seeks to avoid. The proposal is inconsistent with directive objectives and policies. Notwithstanding this, I consider that the proposal would achieve consistency with the remaining Proposed District Plan objectives listed above, particularly those relating to servicing, access, and the protection of waterbodies.
- 9.66. Based on my correspondence with the applicant's agent, it appears we are in agreement that the proposal is inconsistent with the relevant objectives and policies of the Part Operative District Plan. The matter of unfairness or injustice raised by the applicant is a consideration under s104(1)(c) and is addressed later in this report. As an "other matter," it does not alter the conclusions reached in the assessment against the Part Operative District Plan provisions.

### Assessment of Other Matters - Section 104(1)(c)

#### Iwi Environmental Management Plan

- 9.67. Tai Whenua, Tai Tangata, Tai Ao an Iwi Environmental Management Plan for Te Atiawa covers a wide range of matters. Those matters particularly relevant to this application are as follows:

##### 6.2 – Inland and Coastal Whenua

- Issue TTAN4: Subdivision and Development  
Inappropriate subdivision and development can generate adverse effects on Te Atiawa values.
- Issue TTAN6: Land Disturbance  
Land disturbance activities can damage and destroy sites of significance to Māori.
- Issue TTAN7: Stormwater Management  
The discharge of contaminated stormwater from activities within urban, rural, commercial and industrial environments can generate unacceptable effects on water quality, water quantity, and incremental and cumulative effects on the entire catchment.
- Issue TTAN9: Discharge to Land  
Discharges to land can generate adverse effects and must be managed to avoid adverse effects on soil health and water quality

##### 6.3 – Te Tai o Maru – Freshwater

- Issue TTOM2: Statutory Acknowledgements  
The lack of recognition of Te Atiawa Statutory Acknowledgements waterways and the cultural values associated with these areas being weighted appropriately during decision-making may generate adverse effects on Te Atiawa values.
- Issue TTOM7: Access to Waterways  
Loss of access to ancestral mahinga kai areas and sites of significance to Māori may generate adverse effects on Te Atiawa values



- 9.68. Supporting objectives and policies to these issues seek for Te Atiawa to be involved in development within their rohe particularly where the development or land use may have an effect on cultural values and interests. Other more general objectives and policies seek appropriate servicing of sites, management and protection of landform and early consultation.
- 9.69. Council has provided the Iwi Authority with a copy of the resource consent application due to the presence of the statutory acknowledgement area. No correspondence was received in return. Notwithstanding, the applicant also contacted Te Atiawa Iwi for comments.
- 9.70. The proposal is not consistent with regards to the width of the proposed esplanade strip requirements of Tai Whenua, Tai Tangata, Tai Ao which requires 20m in all instances. I note, however, that the aspirations relating to riparian planting and access are achieved by the proposal. Notwithstanding, the inconsistency relating to esplanade width and for the reasons described within the effects assessment particularly relating to waterbodies and servicing, I consider that the proposal is generally consistent with the remaining matters of Tai Whenua, Tai Tangata, Tai Ao.

### **Fairness and Injustice**

- 9.71. The agent considers there to be an injustice to the applicant due to the timing of the change to planning framework while the application remained on hold. We disagree on this matter, and my position is set out as follows:
- 9.72. The application was lodged with Council following the Proposed District Plan being notified but before decisions were released. There were provisions in the Proposed District Plan that had immediate legal effect, triggering the requirement for a restricted discretionary consent under the PDP relating to Waterbodies. The application was a Discretionary Activity under the Operative District Plan.
- 9.73. Following a prehearing in September 2022 the application remained on hold to allow the applicant to negotiate with the submitter to withdraw their submission. Additionally, in October 2022 the NPS -HPL was introduced and further information was requested to ensure the proposal's consistency with its provisions.
- 9.74. While the application was on hold for the applicant to negotiate with the submitter the Decisions Version and the Appeals Version of the Proposed District Plan were released. Furthermore, the outstanding appeals on rural subdivision were settled (in May 2025) and the Operative District Plan rules became inoperative and no longer a trigger for consent.
- 9.75. Given the almost three-year gap before contacting council to proceed with the processing of the application I consider that there is no unfairness or injustice to the applicant. That is the agent and applicant knew that the District Plan was undergoing a schedule 1 process when the application was lodged and that at some point, the Proposed District Plan would become operative, and the Operative District Plan (2005) would become inoperative.

### **Precedent**



- 9.76. A precedent reflects the concern that a grant may have on planning significance beyond the immediate vicinity of the site (i.e. how a decision may influence the way in which future applications are dealt with).
- 9.77. There are a number of properties throughout the Rural Production Zone that are less than 20ha or even over 20ha where small lot allocation has been exhausted from the parent title and subdivision would be a non-complying activity. This application by nearly all counts is inconsistent with the provisions of the Part Operative District Plan and there are also concerns that the creation of additional allotments in close proximity to a poultry farm will result in adverse effects, that are not mitigated or remedied, for future owners of the lots.
- 9.78. Notwithstanding, I consider that there are unique aspects of this application which take the proposal outside the generality of cases and create a clear distinction between the subject site and application and that of other sites and applications. Those aspects include:
- The application was made in December 2021 under the Operative District Plan which, in terms of number of additional allotments and balance area, would have carried a discretionary activity status.
  - While the proposal carries a Non-Complying Activity status under the Part Operative District Plan, activity status is preserved to that which existed at lodgement (Discretionary Activity).
  - When the subdivision application was made an application for a residential dwelling on Lots 1 and 2 would have been a controlled activity under the Operative District Plan.
  - The submission in opposition relating to the proposal was subsequently withdrawn.
- 9.79. If this application is granted consent, I do not think that there would be many, if any, applications that could replicate the circumstances of this application and it is unlikely that the decision would set a precedent which will influence the way in which future applications are dealt with under the PODP.
- 9.80. I note that the agent and I agree that the proposal would not set a precedent, although not for the same reasons.

### **District Plan Integrity**

- 9.81. District Plan integrity reflects the public confidence in the plan. The Environment Court (EC) in the case *Berry v Gisborne DC* [2010] NZEnvC 71 considered precedent and plan integrity and cautioned the use of such factors as reasons for declining an application for resource consent. The EC advised an application will only be declined on the basis of plan integrity where:
- the proposal irreconcilably clashes with important plan provisions; and
  - it is likely that further applications which are equally incompatible with the District Plan and materially indistinguishable will follow.
- 9.82. In this case, as discussed above, I consider the proposal clashes with principal Part Operative District Plan provisions relating to the Rural Production Zone and Subdivision as set out through the report.



- 9.83. The public relies on the Part Operative District Plan to provide guidance on how development proposals will be assessed. Proposals which closely comply with the District Plan are likely to be perceived by the public as to be granted, while those that significantly depart from the District Plan are likely to be perceived by the public as to be refused.
- 9.84. Granting consent to a subdivision proposal, which is inconsistent with the most directive Operative provisions for rural subdivision without there being anything unique or without the proposal having unusual circumstances, can provide conflicting impressions to the public and adversely affect their perceptions of Council's consistent administration of the Operative District Plan.
- 9.85. In this case, however, there are unusual circumstances about the application which make it distinguishable when compared to other applications. The processing history of the application, while unnecessarily drawn out cannot be replicated on further applications as it would rely on them being lodged in the past.
- 9.86. On that basis, while applications equally as incompatible with the Part Operative District Plan may continue to be made, I consider that it is unlikely that any applications will follow which are materially indistinguishable from this application. Overall, I consider that granting consent will not undermine the integrity of principal provisions within the Part Operative District Plan.
- 10.76. I note that the agent and I agree that the proposal would not affect the District Plan integrity, although not for the same reasons.

#### **Section 104D Gateway Test Conclusion**

- 9.87. Despite being categorised as a non-complying activity under the Part Operative District Plan, section 104D of the RMA does not apply because a Discretionary Activity Status has been preserved.

#### **10.0 PARTICULAR CONSIDERATIONS FOR SUBDIVISION (S106)**

- 10.1. There are no identified natural hazards affecting the site subject to subdivision. This is based on a check of the operative and proposed District Planning maps. No s106A assessment has been provided as part of the application.
- 10.2. At the time the application was made Council did not require a site suitability report or geohazards report / risk assessment be provided with an application for subdivision as a s88 matter an instead required these reports be provided prior to s224 approval. Where there was reason to suspect natural hazards may affect a site or there may be an issue with providing a suitable building platform, then a report would have been requested as part of a s92 request. No report was requested as part of this proposal.
- 10.3. Sufficient provision has been made for legal and physical access to each allotment created by the subdivision.
- 10.4. There is no known reason to decline this application under section 106 of the RMA.



## **11.0 PART 2 RMA**

- 11.1. The Part Operative District Plan was released in on 29 August 2025 and has been tested through a full Schedule 1 process. The decision makers were a panel of qualified hearing commissioners (meeting the test of competence). Further, appeals relating to Subdivision have been settled. I also note that there were no appeals on the provisions of the Rural Production Zone and the Objectives and Policies relating to the role and function of the Rural Production Zone are also operative. It is therefore considered that the Part Operative District Plan is currently comprehensive and cohesive. As the remaining appeals are settled bit by bit, this may disrupt the cohesion of the plan, however at this point it is considered a comprehensive document that a competent panel of qualified independent decision makers considered gave effect to the higher order documents. It is my view that the Part Operative District Plan is such that no recourse to Part 2 is necessary.

## **12.0 OVERALL ASSESSMENT TO GRANT OR DECLINE UNDER THE PART OPERATIVE DISTRICT PLAN**

- 12.1. In terms of s104(1)(a), I have concerns regarding the retention of Rural Character as anticipated by the Part Operative District Plan. The proposal will increase the density of buildings on a site already dominated by substantial poultry farm structures, and as a result, spaciousness will not be maintained. Reverse sensitivity effects can be managed through a reverse sensitivity covenant and are, in any case, disregarded. My primary concern is that the subdivision will enable new residential/ rural lifestyle activities in close proximity to an established poultry farm, where nuisance and other adverse amenity effects cannot be avoided or mitigated for future owners. The Part Operative District Plan provides strong direction to avoid introducing activities that may conflict with permitted rural production activities. Had the parent title been larger, there may have been an opportunity to configure allotments further away from the poultry sheds, but that is not the case here.
- 12.2. Under s104(1)(b), it is considered that the proposal is consistent with the NPS -HPL. The proposal is consistent with the remaining NPS and is generally consistent with most of the relevant provisions of the Taranaki Regional Policy Statement but is partially inconsistent with the matters pertaining to amenity on future lot owners due to the presence of the poultry farm on Lot 3.
- 12.3. Also, under s104(1)(b), in my opinion the proposal is inconsistent with several objectives and policies of the Part Operative District Plan, specifically those within the Rural Production Zone (PRROZ) and Subdivision (SUB) chapters. These provisions seek to enable the creation of additional small allotments only in certain circumstances. While Lot 3 will remain in rural productive use despite not meeting the 20-hectare standard, the proposal nevertheless reduces open space and erodes the “low-density built form” anticipated in the zone. In addition, the creation of new allotments adjacent to the poultry farm may result in conflict where future owners experience nuisance effects from the established operation. Although a reverse sensitivity covenant will prevent new owners from seeking relief and will protect the poultry farm operator from reverse sensitivity claims, it does not resolve the underlying adverse amenity effects on residential and rural lifestyle activities.
- 12.4. In terms of relevant s104(1)(c) matters, I consider the application to be broadly consistent with the provisions of the Te Atiawa Iwi Environmental Plan, except in relation to the width of the esplanade strip. I do not consider there to be any unfairness to the applicant. The applicant



was aware of the evolving planning framework and elected not to progress the application for a period of nearly three years after it was placed on hold in 2022. While the applicant has been affected by the transition between planning instruments, there was opportunity at any point prior to the Proposed District Plan provisions becoming operative to request that the Council advance the application to a hearing.

- 12.5. The processing history of the application is therefore atypical and places it outside the generality of comparable applications. However, the fact that the application remained on hold, resulting in these unique circumstances, does not in itself provide justification for granting consent on the basis of precedent or maintaining District Plan integrity. Accordingly, I afford limited weight to these considerations.
- 12.6. Having considered the above findings under s104, I conclude that the matters under s104(1)(a)—particularly those relating to conflict between activities—and the inconsistencies identified under s104(1)(b) outweigh the s104(1)(c) considerations regarding precedent and District Plan integrity. The proposal has the potential to result in unacceptable adverse effects and is inconsistent with key objectives and policies. The unique processing history does not sufficiently reconcile or outweigh these concerns.
- 12.7. All things considered; I recommend the application for subdivision and land use be refused.
- 12.8. Should the Commissioner reach a different conclusion and grant consent, a suggested set off subdivision conditions is set out in Appendix F.
- 12.9. Should the Commissioner grant consent to the subdivision then it is recommended that the commissioner also grant a non-notified consent to the land use activity to build residential units on Lots 1 and 2 within the setback of an intensive indoor primary production structure. Conditions are included in Appendix G.



### **Appendix A: Application**

ECM 8677283 - Consent Application – Subdivision

ECM 9740937 – Consent Application – Land Use

### **Appendix B: Scheme Plan**

ECM 9719991 – Scheme Plan to be decided upon

### **Appendix C: Notification Decision and Submission**

ECM 8764663 – Notification Decision – Subdivision

ECM 8779884 – Submission on resource consent application – Subdivision

ECM9690876 – Email advising submission withdrawn – Subdivision

ECM 9784787 – Notification Decision – Land Use

### **Appendix D: s92 requests and responses**

ECM8817209 – s92 request before notification – Subdivision

ECM 8745750 – S92 Response before notification – Subdivision

ECM 8745754 – Clarifications to s92 response before notification re consent notices (29 March 2022) – Subdivision

ECM 8786468 – S92 request after notification – Subdivision

ECM 8794466 – S92 response after notification – Subdivision

ECM 9639047 - updated s92 response after notification including updated NPS Assessment (4 November 2025) – Subdivision

ECM 9744850 - updated s92 response after notification amended draft conditions (16 March 2026) – Subdivision

ECM 9763530 – Traffic information email (7 May 2026)

### **Appendix F: Draft Conditions – Subdivision**

### **Appendix G – Draft Conditions – Land Use**



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
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## **Appendix F: Draft Conditions – Subdivision**



## **General Conditions:**

### General Accordance

1. The use and development of the land must be as described within the application SUB21/47978 received by the council on 4 December 2021 and further information received on 28 March 2022, 20 August 2025, 24 January 2026, 16 March 2026, and 13 April 2026 and be generally in accordance with the following plans except as amended by the conditions below:

Plan(s) entitled *'Proposed Subdivision of Lot 4 DP 5842, 24 Te Arei Road West, Sentry Hill'* dated 10/3/26, prepared by Juffermans Surveying, D REV 3. (ECM9719991)

2. Pursuant to Section 36 of the Resource Management Act 1991 the Consent Holder must pay the actual and reasonable costs incurred by the New Plymouth District Council when monitoring the conditions of this consent.

## **Section 223 Certification**

### Building and Vegetation Restriction Areas

3. Prior to approval under Section 223 of the Resource Management Act 1991, the following areas must be shown on the Land Transfer Plan
  - a. *'No buildings /No trees'* areas on Lots 2 and 3 as set out on the approved plan.
  - b. Building Platforms on Lots 1, 2 and 3 as set out on the approved plan.

### Esplanade strip to be shown on LT Plan

4. Pursuant to the provisions of s230 and s232 of the Resource Management Act 1991 the Land Transfer Plan must include an esplanade strip adjoining the Waiongana Stream within Lots 3 and 4. The width of the strip must be 10m and must be for the purpose of providing riparian protection and pedestrian access.

## **Section 224 Certification**

### Standard for engineering works to be complied with

5. Prior to certification under Section 224 of the Resource Management Act, all related works shall comply with the New Plymouth District Council Land Development and Subdivision Infrastructure Standard (Local Amendments Version 3).

### Erosion and Sediment Control Plan

6. At least 20 days prior to the commencement of any earthworks authorized under this consent on the site, the consent holder must submit an Erosion and Sediment Control Plan, for certification by the New Plymouth District Council Monitoring Officer or nominee.
7. The Consent Holder must ensure that the certified erosion and sediment control measures are implemented prior to commencement of the works. The erosion and sediment control



measures must be maintained for the full duration of the works and shall not be removed without prior approval from the New Plymouth District Council Monitoring Officer.

#### Geotechnical Assessment Report

8. Prior to issue of certification under Section 224 of the Resource Management Act 1991, a Geotechnical Assessment Report must be submitted to Council, prepared by a suitably qualified Geo-Professional in accordance with Section 2.6.1 of the of the New Plymouth District Council Land Development and Subdivision Infrastructure Standard (Local Amendments Version 3). The purpose of this report is to demonstrate Lots 1, 2 and 3 contain a compliant building platform suitable for residential building foundations, as well as suitable areas of land for the disposal of wastewater and stormwater on-site.
9. If the Geotechnical Assessment Report identifies limitations needed to be raised with future property owners, the consent holder must apply for consent notices at the time of Section 224 certification. The limitations and ability to identify constraints on consent notices will be considered by Council at the time of the Section 224 certification and the Planning Lead shall retain discretion of whether consent notices are applicable in this regard.

#### Servicing

10. Confirmation that there are no cross-boundary water connections is required. The existing water connection must continue to service Lot 4 of this development.
11. Prior to issue of certification under Section 224 of the Resource Management Act 1991, confirmation with evidence that any existing septic tank/s & effluent soakage field/s serving the existing development on-site are contained wholly within the respective boundaries of Lots 3 and/or 4.
12. Prior to issue of certification under Section 224 of the Resource Management Act 1991, confirmation is required that existing stormwater soakholes or other soakage devices serving the existing development on-site are contained wholly within the respective boundaries of Lots 3 and/or 4.
13. An individual telecommunication connection must be provided to Lots 1-4.
14. An individual power connection must be provided to Lots 1-4.
15. Prior to certification under Section 224 of the Resource Management Act, confirmation from the provider(s) that telecommunications and power connections have been provided to Lots 1-4 must be provided.

#### Vehicle Crossings

16. Prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder must construct and seal new vehicle crossings serving Lots 1, 2 & 3 in accordance with the New Plymouth District Council Land Development and Subdivision Infrastructure Standard (Local Amendments Version 3).

- a) The new vehicle crossings must comply with the New Plymouth Part Operative District



Plan Transport effects standards in relation to sight visibility and separation distances.

- b) The vehicle crossings for Lots 1 and 2 must be separated by a minimum of 10m, measured centreline-centreline of the crossings.

Upgrade of existing vehicle crossing

17. Due to the age and condition of the existing access, prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder must reseal the formation of the existing vehicle crossing that shall service Lot 4 in accordance with the New Plymouth District Council Land Development and Subdivision Infrastructure Standard (Local Amendments Version 3) to the satisfaction of the Planning and Development Lead.

Mitigation landscape planting plan to be provided

18. A Landscape Planting Plan prepared by a suitably qualified expert in landscaping must be submitted by the consent holder to the Development Control Lead and certified prior to the commencement of works. The Landscape Planting Plan must provide the following:
  - a) Road boundary planting along the frontage of Lots 1, 2 and 3 to screen and or soften the future building platforms.
  - b) Planting along the driveways of Lots 1, 2 and 3 to screen and or soften the views into the building platform locations from the road.
  - c) Plant species, which must all be native varieties and include the numbers, size, spacing, layout and grade.
  - d) Methods of ground preparation, fertilising, mulching, spraying.
  - e) Maintenance and weed management including a maintenance period of 24 months.
  - f) The heights that the new planting must achieve before the existing vegetation can be removed shall be identified in the Landscape Planting Plan.
  - g) Identification of existing vegetation in lots 1, 2, 3 and 4 to be retained until new planting achieves specific heights.

All works shall be carried out in accordance with the Landscape Plan certified in accordance with this condition.

Mitigation planting

19. Prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder shall complete planting in accordance with the Landscape Planting Plan certified in accordance with Condition 18.
20. In the event that application is made to the New Plymouth District Council for certification pursuant to Section 224 of the Resource Management Act 1991 before the maintenance period for all planting approved under Conditions 18 and 19 is completed, then the consent holder shall pay to the New Plymouth District Council a bond in the form of a refundable cash deposit. The purpose of this bond shall be for ensuring compliance with Condition 18 and shall only be entered into if the Council is satisfied that the amount of the bond is sufficient to achieve this purpose, and that 50% of the estimated cost for the maintenance period has been added.

Riparian Planting and fencing

21. Riparian planting and fencing shall occur along the length of the Waiongana River within Lots 3 and 4 in accordance with TRC riparian guidelines 23, 24, 25, 26 and 41. Riparian planting



shall be for a width of 5m and subject to a maintenance period of 24 months.

22. The consent holder shall ensure that the riparian margins are fenced with a stock proof fence. The consent holder's attention is drawn to the following minimum standards for fencing:

|                 |                         |
|-----------------|-------------------------|
| Number of wires | 7                       |
| Posts           | 5 metres apart maximum  |
| Battens         | 5 between posts minimum |

The fence is to be otherwise in accordance with Clause 7 of the Second Schedule to the Fencing Act 1978.

23. In the event that application is made to the New Plymouth District Council for certification pursuant to Section 224 of the Resource Management Act 1991 before the maintenance period for all planting approved under Condition 21 is completed, then the consent holder shall pay to the New Plymouth District Council a bond in the form of a refundable cash deposit. The purpose of this bond shall be for ensuring compliance with Condition 21 and shall only be entered into if the Council is satisfied that the amount of the bond is sufficient to achieve this purpose, and that 50% of the estimated cost for the maintenance period has been added.

#### Esplanade Strip

24. Prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder shall prepare an easement strip instrument to the satisfaction of the Parks Lead. The esplanade strip instrument must include the following provisions:

- a) The following acts are prohibited on the strip:
- Willfully endangering, disturbing, or annoying any lawful user of the strip (including the owner or occupier of the strip);
  - Willfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge, or notice;
  - Willfully interfering with or disturbing any livestock lawfully permitted on the strip.

The prohibitions referred to in paragraphs (ii) and (iii) above do not apply to the owner or occupier of the strip.

- b) The following further acts are prohibited on the strip:
- Lighting any fire;
  - Carrying any firearm;
  - Discharging or shooting any firearm;
  - Camping;
  - Taking any animal on to, or having charge of any animal on the land;
  - Taking any vehicle on to, or driving or having any charge or control of any vehicle on the land (whether the vehicle is motorised or non-motorised);
  - Willfully damaging or removing any plant (unless acting in accordance with the Noxious Plants Act 1978 or the Biosecurity Act 1993);
  - Laying any poison or setting any snare or trap (unless acting in accordance with the Agricultural Pests Destruction Act 1967 or the Biosecurity Act 1993).



The prohibitions referred to in paragraphs (v) and (vi) above do not apply to the owner or occupier of the strip who shall be entitled to graze or bring animals and vehicles on to the strip.

c) Access to the Strip

- i. Any person shall have the right, at any time, to pass and repass over and along the land over which the strip has been created, subject to any other provisions of the easement or instrument.
- ii. Any person shall have the right at any time to enter upon the land over which the esplanade strip has been created and remain on that land for any period of time for the purpose of recreation, subject to any other provisions of this instrument.

d) Variation of esplanade strip

For the event of the grantee undertaking fencing of the strip and riparian planting, this instrument will be varied in accordance with s234 (3) of the Resource Management Act 1991 and the prohibitions in (a)(ii) and (iii) and (b)(v) and (vi) extended to include the owner of the strip. (With the exception of those parts of the strip where existing access tracks provide vehicular and stock access to other parts of the grantors property.

25. Prior to s224 any driveways or development in lots 3 and 4 shall be relocated out of the area to be set aside for the esplanade strip to the satisfaction of the Parks Lead.

Ongoing Conditions of Consent (Subject to a consent notice)

26. Pursuant to s221 of the Resource Management Act 1991, a consent notice must be registered on the Records of Title for Lots 3 and 4, advising the registered proprietors of the following requirements:

- a. Riparian planting and fencing within Lots 3 and 4 along the length of the Waiongana River must be retained, maintained and enhanced on an on-going basis *and* any dead or diseased species within the riparian planting shall be replaced as soon as practicable within the next planting season *and* any damaged fencing along the riparian margins shall be replaced to ensure stock proof fencing permanently along the stream margins.

27. Pursuant to s221 of the Resource Management Act 1991, a consent notice must be registered on the Records of Title for Lots 1, 2 3 and 4, as volunteered by the applicant, advising the registered proprietors of the following requirements:

- a. All planting established in lots 1, 2, 3 and 4 in accordance with the Landscape Planting Plan [insert name + reference details of Landscape Planting Plan certified in accordance with Condition 18] must be maintained by the owner and must not be destroyed or removed.
- b. The owner must replace any dead or dying plants with the same species in accordance with the [insert name + reference details of Landscape Planting Plan certified in accordance with Condition 18] within the following planting season.
- c. Residential units on Lots 1, 2 and 3 must be limited to the areas marked and defined [insert areas] on DP [insert LT plan number] on the survey plan.



- d. All new buildings on Lots 1, 2, 3 and 4 must be single storey and less than 6m in height.
- e. Only one residential unit, can be constructed on Lots 1, 2, 3 and 4. No minor residential units are permitted to be constructed, and no detached minor residential units are permitted to be constructed.
- f. All new buildings on Lots 1, 2, 3 and 4 must be limited in terms of finish to exterior surfaces, this includes roofs and walls, recessive (shades rather than tints) and colours to have reflectivity values of below 20% for roofs and 40% for exterior walls.
- g. All new driveways and accessways for Lots 1, 2, 3 and 4 must be finished in rural material and shall be a mid to dark grey in colour.
- h. New water tanks on Lots 1, 2, 3 and 4 must be recessive shade less than 35% reflectivity and must be integrated with the residential unit design and either screened or planted from the view from the road, if not located underground.
- i. All new external lighting on Lots 1, 2, 3 and 4 must be hooded or cast down so that no lamp source is visible.
- j. Fencing on Lots 1, 2 and 4 must be limited to post and rail or post and batten only.

Advice Note: This condition has been volunteered by the consent holder on an Augier basis for the purpose of ensuring there is no further intensification of activities which would compromise the role, function and predominant character of the Rural Production Zone. This condition includes restricting the construction of any additional residential unit, sleep-out, minor residential unit and any Detached Minor Residential Unit under the National Environmental Standards for Detached Minor Residential Units 2025.

#### Reverse sensitivity covenant

- 28. The consent holder must, as volunteered by the applicant, register a Covenant that has been agreed between the Consent Holder and Tegal Food Limited under the Land Transfer Act 2017 on the Records of Title for Lots 1, 2, 3 and 4 being to the effect of preventing specific activities and requiring consent from Tegal Foods Limited for other specified activities.
- 29. Prior to certification under Section 224 of the RMA, the consent holder must provide the Council a draft copy of the wording for the covenant and an undertaking from their solicitor that the covenant will be registered at the time new Records of Title are issued for Lots 1, 2, 3 and 4.

Advice Note: This condition has been volunteered by the consent holder on an Augier basis to reflect an agreement reached between the consent holder and Tegel Foods Limited. This covenant protects established intensive indoor primary production operating at the Tegel Foods Limited site.

#### Advice Notes

- a) **Consent Lapse Date**  
This consent lapses 5 years from commencement of this consent unless: the consent is given effect to before that date; or unless an application under section 125 of the Resource Management Act 1991 is made and granted by Council before the expiry of that date for an extension of time for establishment of the use.
- b) **Development Contributions**



A Development Contribution for off-site services of \$ 13,315.66 excluding GST for Lots 1, 2 and 3 is payable by the consent holder and shall be invoiced separately. The 224 release of this subdivision will not be approved until payment of this contribution is made.

- c) Any excavation that takes place within road reserve during this development shall require an approved Corridor Access Request (CAR). Refer to the “National Code of Practice for Utility Operators’ Access to Transport Corridors” for additional information. Applications can be made via the website [www.beforeUdig.co.nz](http://www.beforeUdig.co.nz) or 0800 248 344. A CAR along with a Traffic Management Plan must be submitted a minimum of 5 working days before an operator intends to start work for minor works or 15 working days for major works and project works. All costs incurred shall be at the applicant’s expense.



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
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## Appendix G- Land Use Conditions



## **General Conditions**

### General Accordance

1. The use and development of the land must be as described within the application LUC26/48992 received by the council on 16 March 2026 and be generally in accordance with the following plans except as amended by the conditions below:

Plan entitled '*Proposed Subdivision of Lot 4 DP 5842, 24 Te Arei Road West, Sentry Hill*' dated 10/3/26, prepared by Juffermans Surveying, D REV 3. (ECM9719991)

Copies of the approved plans are attached.

### Monitoring costs

2. Pursuant to Section 36 of the Resource Management Act 1991 the Consent Holder must pay the actual and reasonable costs incurred by the New Plymouth District Council when monitoring the conditions of this consent.

### Monitoring Notification – Minor consents

3. The Consent Holder must notify the New Plymouth District Council Monitoring Officer at least 2 working days prior to the commencement of activities associated with this consent. The preferred means of contact is by email to [PlanningConsents.Monitoring@npdc.govt.nz](mailto:PlanningConsents.Monitoring@npdc.govt.nz).

### Setbacks

4. The Residential Unit within Lot 1 must be located in the area marked "Building Area" on the approved plan and the Deposited Plan for Lot 1.
5. The Residential Unit within Lot 2 must be located in the area marked "Building Area" on the approved plan and the Deposited Plan for Lot 2.

### Advice notes

- a) The Records of Title for Lots 1 and 2 are encumbered with Consent Notices relating to building and development and a Reverse Sensitivity Covenant with Tegal Foods Limited. It is recommended that the consent holder also obtain a copy of these instruments when developing the site.
- b) This consent does not allow for bulk and location consent beyond that required for the setback to the poultry farm. Further land use consents may be required.
- c) **Consent Lapse Date**  
This consent lapses 10 years from commencement of this consent unless: the consent is given effect to before that date; or unless an application under section 125 of the Resource Management Act 1991 is made and granted by Council before the expiry of that date for an extension of time for establishment of the use.