

UNDER

The Resource Management Act
1991 (RMA)

IN THE MATTER OF

Section 357 objection to a decision
to refuse subdivision consent
SUB22/48013 at 118 Wortley Road,
Lepperton, New Plymouth

JOINT WITNESS STATEMENT

**NICOLA JOY LAURENSEN
CHRIS PAUL RENDALL**

14 November 2025

1. INTRODUCTION

- 1.1 This signed Joint Witness Statement (**JWS**) is written in response to the encouragement in Minute of the Commissioner 2 dated 4 November 2025 for the parties to engage and undertake this exercise, in respect of the alternative scheme plan and suite of potential conditions, in advance of evidence being prepared and the hearing itself.
- 1.2 The participants in conferencing are (in alphabetical order):
- a. Christopher Paul Rendall, consultant planner, Landpro Limited, engaged by Aaron Stephens (as the applicant); and
 - b. Nicola Joy Laurensen, consultant planner, Laurensen Planning, engaged by New Plymouth District Council as the reporting planning officer and author of the S42A report on the resource consent application (which was declined under delegated authority).
- 1.3 The experts have read and agree to abide by the Environment Court's Code of Conduct for Expert Witnesses as specified in the Environment Court's Consolidation Practice Note 2023.

2. RELEVANT PLAN

- 2.1 At the time of determination of the original application, a decision was required under both the Proposed New Plymouth District Plan – Appeals Version "PDP-AV" and the Operative District Plan (2005). This is because the relevant provisions in the Subdivision Chapter of the PDP-AV had legal effect but were under still appeal.
- 2.2 On 29 August 2025, the Proposed New Plymouth District Plan became the Part Operative District Plan "PODP". All of the Subdivision Chapter provisions are now beyond challenge, and the corresponding provisions of the Operative District Plan (2005) are now inoperative. The proposal remains a Non-Complying Activity under the PODP for the same reasons as assessed in the original processing of the application relating to number of allotments, proposed lot size and balance requirements.
- 2.3 We agree that the PODP is the relevant 'District Plan' to which regard must be had when considering the Objection.

3. SCOPE

- 3.1 The purpose of this JWS is to consider an alternative scheme plan tabled by Counsel for the applicant in a memorandum of Counsel dated 31 October 2025 and prepare a suite of conditions.

Background

- 3.2 Ms Laurenson notes that the Council's decision to refuse consent essentially turned on greater priority being given to objectives, policies, precedent and plan integrity over the lack on any unacceptable adverse effects. Ms Laurenson has not changed her opinion and considers more weight should be given to plan provisions in determining the application. Mr Rendall considers that the objectives and policies need to be considered in the context of the existing environment as opposed to the rural zone as a generality and with that context more weight should be placed on the outcomes and effects. Notwithstanding our disagreement, should the Commissioner overturn the decision we agree that conditions should be imposed.

Scheme Plan

- 3.3 Ms Laurenson prefers the scheme plan included in the original consent application for the following reasons:
- a. The area of Lot 1 has been amended from 2940m² to an area of 1245m². The minimum allotment size for the Rural Production Zone is 4000m².
 - b. Ms Laurenson considers the larger allotment will better allow for activities that are compatible with the role, function and predominant character of the Rural Production Zone.
 - c. A smaller allotment size will increase the probability that the site is used for residential purposes only and not be linked to rural activity.
- 3.4 Ms Laurenson has not seen or reviewed the expert assessment of the proposal against the National Policy Statement for Highly Productive Land. Mr Rendall notes that the assessment has not been completed at this time but that it will consider both scheme plan options.
- 3.5 Mr Rendall prefers the alternate scheme plan for the following reasons:
- a. Both schemes contain inconsistencies with the objectives and policies within the partially operative district plan.

- b. Both schemes have less than minor adverse effects on the environment.
 - c. The alternative scheme plan consolidates the area available for primary production within a single lot.
 - d. The alternative scheme plan maintains the existing land use which involves two independent residential units one of which is associated with rural activities, the second has no connection to these activities.
 - e. The alternative scheme plan is not inconsistent with the surrounding lot sizes and is a good fit in the context of the existing surrounding environment.
- 3.6 As such the **experts do not agree** on a preferred scheme plan for the reasons outlined above. For avoidance of doubt, however, the alternative scheme plan is the scheme plan of the proposed subdivision now sought by the applicant and, in their opinion, has been redesigned to further avoid the potential for adverse effects on the environment. Conditions set out in this statement refer to the alternative scheme plan.

Conditions

- 3.7 The **experts agree** that should the application be granted consent, it should be subject to conditions. There is general agreement with regards to conditions that could be imposed however there is some variation between experts on one matter as set out in the paragraphs below. Notwithstanding, one set of draft conditions is provided in Appendix 1.

Preservation of amenity for future owners of Lot 1

- 3.8 Ms Laurenson considers that to preserve amenity for the future owners of Lot 1 a further condition of consent to reinstate the vehicle crossing and gate alongside the northern boundary of Lot 1 is required. This entrance is used for tractor/contractor access each year for hay/silage. Ms Laurenson does not think it is acceptable to have this access occurring alongside the boundary adjacent the outdoor living space for Lot 1 where the owner of Lot 1 is also bound by a no complaints covenant. The PODP policy RPOZ-P3 requires avoidance of activities that are incompatible with the role, function and predominant character of the Rural Production Zone as well as activities that will result in reverse sensitivity. It is Ms Laurenson's view that the creation of Lot 1 (as a large residential lot) should be avoided to ensure consistency with the policy but in the instance where consent is granted, then the access should be removed to ensure there is not a conflict. Such a condition could be as follows:



The vehicle entrance located immediately north of the boundary of Lot 1 must be closed and the gate reinstated to fencing to preserve the amenity for the future owners of Lot 1.

- 3.9 A second farm entrance could be constructed to serve Lot 2 in another location however this has not been assessed for feasibility at this time. This can be addressed in evidence.
- 3.10 The condition put forward by Ms Laurenson is included in Appendix 1 for completeness and is identified as condition number 13. Condition 13 is written in red text.
- 3.11 Mr Rendall does not agree to such a condition to remove the access as he considers that it is not uncommon for vehicles to pass in close proximity to properties in both rural and residential areas, whether on public roads, right of ways or in paddocks. The infrequent nature of the use of the access and the reasonable likelihood that its infrequent use will be during 'work hours' are likely to further reduce the potential for its use to be perceived as inappropriately located. Mr Rendall considers the effects of decommissioning the existing access and establishing a new access (potentially in a location with shorter site distances) is disproportionate with the effects of its ongoing use.

4. CONCLUSION

- 4.1 The experts have undertaken conferencing and have partially agreed to a set of conditions of consent should the Commissioner be minded to uphold the objection.

Signed on Friday 14 November 2025 by:

 Christopher Paul Rendall	 Nicola Joy Laurenson
---	---

Appendix 1: Draft Conditions of Consent

General Accordance

1. The use and development of the land must be as described within the application SUB22/48013 received by the council on 24 January 2022 and further information received on 17 September 2024 and {add in dates relating to information received during objection process} and be generally in accordance with the following plan except as amended by the conditions below:
 - a. Plan(s) entitled 'Proposed subdivision of Lot 1 DP 452310, 118 Wortley Rd, Lepperton' dated 30.10.2025 prepared by Landpro Limited reference 24283-01-B

A Copy of the approved plan is attached.

Section 223 Certification:

2. The survey plan must conform with the scheme plan by Landpro Limited, Job Reference 24283, Drawing 01, Rev B, dated 21.10.2025 and all other information including further information contained within application reference number SUB22/48013.
3. Pursuant to s230 and s232 of the Resource Management Act 1991, the Land Transfer Plan must include an esplanade strip, minimum 15m wide, adjoining the true right bank of the Waiongana Stream for the purpose of providing riparian protection and recreation.

Section 224 Certification:

Landscaping/Riparian Planting

4. Prior to s224 certification

Within Lot 2:

- a. A minimum of five metres of the Waiongana Stream edge must be planted with native vegetation using "TRC Riparian Guidelines Establishing Riparian Vegetation - number 26". and
- b. a minimum of one metre of the tributary of the Waiongana Stream edge must be planted with native vegetation using "TRC Riparian Guidelines Establishing Riparian Vegetation - number 26".

Esplanade Strip

5. Prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder must prepare an easement strip instrument to the satisfaction of the Council's Property Lead. The easement strip instrument must include the following provisions:
 - a. The following acts are prohibited on the strip:
 - i. Wilfully endangering, disturbing, or annoying any lawful user of the strip (including the owner or occupier of the strip);

- ii. Wilfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge, or notice;
- iii. Wilfully interfering with or disturbing any livestock lawfully permitted on the strip.
- iv. The prohibitions referred to in paragraphs (i) and (iii) do not apply to the owner or occupier of the strip.

b. The following further acts are prohibited on the strip:

- i. Lighting any fire;
- ii. Carrying any firearm;
- iii. Discharging or shooting any firearm;
- iv. Camping;
- v. Taking any animal on to, or having charge of any animal on the land;
- vi. 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);
- vii. Wilfully damaging or removing any plant (unless acting in accordance with the Noxious Plants Act 1978 or the Biosecurity Act 1993);
- viii. 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)
- ix. 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. Fencing

- i. The grantee must, in order to enhance the conservation values of the strip, erect a fence in accordance with the conditions of this consent.

d. Planting

- i. The grantee must, in order to enhance the conservation values of the strip, undertake riparian planting along the length of the strip in accordance with conditions of this consent.

e. Access to the Strip

- i. 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.

Advice Note: As the grantee is required to undertake fencing of the strip and riparian planting, prohibition in (a)(ii) is extended to include the owner of the strip.

Stock Exclusion

6. Prior to s224 certification:

- a. The Waiongana Stream riparian margins must be fenced with a stock proof fence.

Services

Power and Telecommunications

7. If not already established individual power and telecommunications connections must be provided to, and contained within, each lot.
8. Prior to certification under Section 224 of the Resource Management Act, confirmation must be provided from the utility provider(s) that such connections exist for Lots 1 & 2.

Wastewater

9. Prior to Section 224, the Consent Holder must confirm the location of the on-site wastewater system for the existing dwelling on Lot 1 and, if necessary, relocate or upgrade the system to ensure that it is located a minimum of 1.5m within the boundaries of Lot 1.
10. To confirm compliance with Condition 9, the following must be provided for certification by the Development Engineer, New Plymouth District Council:
 - a. A plan to a scale acceptable to New Plymouth District Council showing the position of the on-site wastewater system including the effluent disposal field and reserve area for the dwelling located on Lot 1, which must be certified by a registered professional surveyor; and
 - b. Provide a current Maintenance Certificate in accordance with section 6.3.5.6 of AS/NZS 1547:2012 On-site Domestic Wastewater Management stating there is no evidence of effluent seepage across the boundaries of Lot 1 into the adjoining Lot.

OR

- c. Provide evidence of a Building Consent and resulting compliance for the relocation works.

Advisory note: If the effluent field is required to be relocated to comply with the above condition, a building consent may be required from New Plymouth District Council prior to the relocation.

Stormwater

11. The Consent Holder must provide a plan and confirmation demonstrating that existing stormwater soakage devices serving Lot 1 are contained wholly within the boundaries of Lot 1.
12. Unless authorised by a land use consent, prior to s223 and s224 approval all buildings must comply with the permitted activity rules relating to building coverage, setbacks, daylight

angles relative to the new boundaries and number of dwellings except that the dwelling on Lot 1 shall be located close to the new boundary as demonstrated on the approved plan.

Reinstatement of vehicle crossing

13. The vehicle entrance located immediately north of the boundary of Lot 1 must be closed and the gate reinstated to fencing to preserve the amenity for the future owners of Lot 1.

Section 221 Consent Notices

14. Pursuant to s221 of the Resource Management Act 1991, a consent notice must be registered on the Records of Title for Lots 1 and 2, as volunteered by the applicant, advising the registered proprietors of the following requirements:
 - a. Only one residential unit is permitted on each allotment; and
 - b. No lifestyle/residential lots can be subdivided off these Lots (where a subdivision would enable additional dwellings to be built or primary production potential be reduced).

These consent notices remain in effect while the land is zoned rural production (or its equivalent).

15. Pursuant to s221 of the Resource Management Act 1991, a consent notice must be registered on the Record of Title for Lot 1, as volunteered by the applicant, advising the registered proprietors of the following requirement
 - a. They must not bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the lawful uses on rural land on Lot 2:
 - i. make nor lodge; nor
 - ii. be party to; nor
 - iii. finance nor contribute to the cost of any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of lawful operations or any lawful rural activity on rural land on Lot 2, including without limitation any action to require the registered owner or occupier of Lot 2 to modify the lawful rural operations carried out on rural land while the land is zoned rural production (or its equivalent).

Legal Documents

16. Pursuant to section 234(7) of the Resource Management Act, New Plymouth District Council grants an application to cancel part of an instrument creating an esplanade strip endorsed on Plan (Part Section 28 Huirangi District) and registered thereon under Instrument Number 7099382.1 to the extent to which it applies to Lot 1 Deposited Plan 452310. The consent holder shall make a request for the certificate prior to s224 approval.

ADVICE NOTES

Consent Lapse Date

1. *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.*