

BEFORE COMMISSIONER MARK ST. CLAIR APPOINTED BY NEW PLYMOUTH DISTRICT COUNCIL

UNDER

the Resource Management Act 1991 ("RMA")

IN THE MATTER

of an application under section 88 of the Act by **ROBE AND ROCHE INVESTMENTS LIMITED** to the **NEW PLYMOUTH DISTRICT COUNCIL** for a subdivision to create 113 residential lots and additional road and recreational reserves at 56 Pohutukawa Place, Bell Block. (SUB21/47803)

STATEMENT OF EVIDENCE OF BENJAMIN RICHARD LAWN ON BEHALF OF ROBE AND ROCHE INVESTMENTS LIMITED

1. INTRODUCTION

- 1.1 My full name is Benjamin Richard Lawn.
- 1.2 I have over 12 years' experience in resource management and planning. I hold a Bachelor of Environmental Management and Planning (BEMP) from Lincoln University.
- 1.3 My experience in resource management and planning includes roles within the private sector for both international and domestic companies, performing development of environmental policy, consent compliance, application for large scale land use, air/marine/freshwater discharge consents, water abstraction consents, contaminated land and community/tangata whenua engagement, amongst other facets.
- 1.4 I am currently a Planner at McKinlay Surveyors Limited, a planning and surveying company operating throughout the Taranaki region. I am responsible for project scoping services, resource consent applications for a large variety of land uses and subdivisions as well as submitting and speaking on behalf of clients for District and Regional matters.
- 1.5 This evidence is given in support of the subdivision consent application ("the application") lodged by Robe & Roche Investments Limited ("the applicant"), to create 113 residential lots and additional roads and recreational reserves at 56 Pohutukawa Place, Bell Block (SUB21/47803).

1.6 I am authorised to give this evidence on behalf of the applicant.

2. INVOLVEMENT IN THE PROJECT

2.1 I was engaged by the applicant in February 2022 to assist with the subdivision application after it had been lodged with NPDC on the 26th of May 2021.

2.2 My involvement in the application has included:

- (a) coordinating with experts to prepare required assessments; ecology, engineering, traffic, archaeology, surveying;
- (b) consultation with NPDC and tangata whenua, Puketapu Hapū to discuss consenting matters;
- (c) preparation and lodgement of resource consent applications to the Taranaki Regional Council for stormwater discharge and diversions;
- (d) review of the (Public) Notification Decision;
- (e) review of the submissions made regarding the application following notification;
- (f) review of all evidence presented in this case on behalf of the applicant; and
- (g) review of the Section 42A report ("Officer's Report").

2.3 I have visited the application site and surrounding area on numerous occasions, and I am familiar with it and the surrounding environment.

2.4 I have also reviewed the following documents produced with, and subsequent to, the application, including:

- (a) The original application for consent dated 26 May 2021;
- (b) The 'Addendum to Application for Resource Consent 56 Pohutukawa Place' dated 8 July 2021;
- (c) The associated scheme plans for the development dated 6 August 2021;
- (d) The 'Archaeological Assessment' dated November 2021;
- (e) The 'Consultation Summary';

- (f) The 'Mounga Ecology Ecological Statement on Road 2 and Water Quality Standards' dated 11 August 2021;
- (g) The 'Mounga Ecology Wetland Delineation Map' dated 24 June 2021;
- (h) The 'Mounga Ecology Wetland Delineation Results and Assessment Against National Environmental Standards – Freshwater 2020' dated 28 June 2021;
- (i) The 'Red Jacket Earthworks Plan' dated 25 May 2021;
- (j) The 'Red Jacket Engineering Drawings' dated 25 May 2021;
- (k) The 'Red Jacket Engineering Drawings C1 3 and C1 4 amendments' dated 5 August 2021;
- (l) The 'Red Jacket Engineering Report' dated May 2021;
- (m) The 'M.E Consulting Economic Assessment' dated May 2024;
- (n) The 'Red Jacket Stormwater Management Report' dated August 2024;
- (o) The 'Red Jacket Stormwater Engineering Drawings' dated August 2024;
- (p) The 'Wildlands Assessment of Potential Ecological Effects' dated October 2024;
- (q) The 'McKinlay Surveyors Revised Subdivision Scheme Plans' dated February 2025;
- (r) The Red Jacket Report and Drawings included as Appendices 1 and 2 in Mr Bunn's evidence dated 28 March 2025; and
- (s) The Red Jacket Memo included as Appendix 1 in Mr Miller's evidence dated 28 March 2025.

2.5 I have also reviewed the draft Cultural Values Assessment (CVA) for Puketapu and the TRC Consents Decision Report and Consents,

3. CODE OF CONDUCT

3.1 I confirm that I have read the Code of Conduct for expert witnesses contained in the 2023 Environment Court Practice Note and that I agree to comply with it. I confirm I have considered all the material facts that I am

aware of that might alter or detract from the opinions I express. In particular, unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

4. PURPOSE AND SCOPE OF EVIDENCE

- 4.1 In this matter, I have been asked by the applicant to provide a planning assessment of the proposal.
- 4.2 I confirm that I have read the submissions on the Application and the Council Officer's Report.
- 4.3 My evidence is structured as follows:
 - (a) The application (Section 5);
 - (b) The site and surrounding environment (Section 6);
 - (c) Statutory assessment (Section 7);
 - (d) Environmental effects (Section 8);
 - (e) Assessment against relevant planning documents (Section 9);
 - (f) Part 2 of the RMA (Section 10);
 - (g) Officer's Report and proposed conditions of consent (Section 11); and
 - (h) Concluding comments (Section 12).

5. THE APPLICATION

- 5.1 Details of the application are described in the section 42A report dated 21 March 2025. I generally agree with the summary of the application and adopt that description here.
- 5.2 Following consultation with Puketapu Hapū and subsequent applications for consent to the Taranaki Regional Council (TRC), the proposed development has undergone alterations of the road alignments. This has altered the allotment boundaries and sizes, although the number of proposed allotments has remained the same.
- 5.3 Updated Subdivision Scheme Plans are attached to this evidence as **Appendix A.**

6. THE SITE AND RECEIVING ENVIRONMENT

- 6.1 The application site and receiving environment are well described in the application and section 42A report. I generally agree with the summary of the site and receiving environment and adopt that description here.

7. STATUTORY ASSESSMENT

Operative New Plymouth District Plan (ODP) and Proposed New Plymouth District Plan (PDP)

- 7.1 The Officer's Report sets out the statutory reasons for the application and concludes that overall, the proposal is a Discretionary Activity. I agree with this conclusion and the summation that both the ODP and PDP are relevant District Plans due to appeals still being in place on applicable rules. Accordingly, consent is required under the ODP and PDP.
- 7.2 Since the submission of the application on the 26th of May 2021, the PDP has progressed through hearings, decisions and appeals, with the current version being the PDP - Appeals Version – Update 7: Withdrawn Appeals (effective 23 December 2024).
- 7.3 There are currently three applicable PDP rules to the application that are subject to an appeal: SUB-R2, SUB-R6 and EW-R13. As such, the equivalent rules of the ODP, Res45, Res47, Res48, Res55 and Res56 are also to be assessed.
- 7.4 An updated assessment of the applicable ODP and PDP rules and effects standards is shown below in **Table 1** and **Table 2**.

Table 1: Applicable ODP Provisions

Operative District Plan			
Rule #	Rule	Compliance	Activity Status
Res45	All other excavation and filling on a slope	There are no earthworks proposed on slopes greater than 22 degrees. The site is of easily rolling contour with the	Permitted

		majority of slopes less than 10% or 6°.	
Res47	Maximum quantity, measured in non-compacted form.	The permitted volume of earthworks on the SITE is 47,759m ³ . The proposed volume of earthworks associated with the development is 26,762m ³ as illustrated on Red Jacket Site Earthworks Plan C8-1 in the evidence of Mr. Bunn.	Permitted
Res48	Reinstatement of earthworks for any excavation or filling of greater than 150m ³ per SITE in any 12-month period.	The amount of bare earth is to be kept to a minimum and limited to the area of construction. Reinstatement and grassing shall occur as soon as practically possible following reinstatement of trenches in open areas or road construction works.	Permitted
Res55	Subdivision of Land – minimum Allotment size – Roads, reserves or access	Proposed Lots 301, 302 and 304 are to be vested as esplanade reserves and proposed Lots 303, 305, 306 as roads to NPDC.	Controlled
Res56	Subdivision of Land – minimum Allotment size – Residential A Environment Area	All proposed residential allotments have a net area greater than 450m ² , except for Lots 42, 43, 44 and 46, which are	Discretionary

		greater than 400m2 but less than 450m2.	
Res59	Requirement to provide practicable vehicular access to allotments from a road, except where created solely for network utilities, roads, or reserves.	All proposed residential allotments can be provided with practicable vehicular access from the proposed roading layout.	Controlled
Res60	Subdivision of an allotment that will require a road to be vested as legal road.	Proposed Lots 303, 305, 306 are to be vested as roads to NPDC.	Discretionary
Res61	Requirement for services – stormwater disposal, water supply and sewage disposal	All proposed residential allotments are able to be serviced with on-site stormwater soakage and water/sewer connections to the NPDC infrastructure.	Controlled
Res62	Requirement for a building platform.	All proposed residential allotments are able to achieve a stable, flood free building area as detailed in Section 3 of the 'Red Jacket Engineering Report' dated May 2021.	Controlled
Res63	Requirement for existing buildings to	Existing buildings on the balance allotment	Permitted

	meet standards in relation to the new boundaries	are greater than 1.5m from the new or existing boundaries.	
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Table 2: Applicable PDP Provisions

Proposed District Plan			
<i>Subdivision Rules</i>			
SUB-R2 (Under Appeal)	Subdivision of land solely to create an allotment that is for the purpose of public works, network utilities, reserves or access	Proposed Lots 301, 302 and 304 are to be vested as esplanade reserves and proposed Lots 303, 305, 306 as roads to NPDC.	Controlled
SUB-R6 (Under Appeal)	Subdivision of land to create allotment(s) within other zones. (General Residential)	All proposed allotments are able to meet the Subdivision Effects Standards.	Controlled
SUB-R9	Subdivision of land on an allotment that contains, or is located within 20m of the edge of an indicative road transport network	The indicative road transport network has been incorporated into the proposed development.	Restricted Discretionary
<i>Subdivision Effects Standards</i>			
SUB-S1	Minimum lot size	All proposed residential allotments are greater than 400m ²	Complies

SUB-S2	Requirements for building platform(s) for each allotment	<p>All proposed residential allotments are able to achieve a stable, flood free building area as detailed in Section 3 of the 'Red Jacket Engineering Report' dated May 2021.</p> <p>All proposed allotments are of a sufficient size and geometry to allow for a building to comply as a permitted standard under the PDP.</p>	Complies
SUB-R3	Stormwater treatment, catchment and disposal	All proposed residential allotments will have the means for stormwater disposal through on-site soakage systems as detailed in Section 4 Red Jacket Engineering Report' dated May 2021.	Complies
SUB-R4	Water supply	All proposed residential allotments shall each have separate connections to Council's reticulated water supply. The subdivision does not generate any cross-boundary connections, as detailed in Section 6 of the 'Red Jacket Engineering Report'.	Complies

SUB-S5	Sewage disposal	All proposed residential allotments shall each have separate connections to Council's reticulated sewage disposal system traversing the site, as detailed in Section 5 of the 'Red Jacket Engineering Report'.	Complies
SUB-S6	Network utility services	All proposed residential allotments will be provided electricity, and telecommunications reticulation. Utility services are available in Parklands Avenue and will be extended in the road reserve during construction.	Complies
SUB-S7	Transport, access and connectivity	All proposed residential allotments can be provided with practicable vehicular access from the proposed roading layout.	Complies
SUB-S8 (Under Appeal)	Requirements for esplanade reserves or esplanade strips	Proposed Lots 301, 302 and 304 are to be vested as esplanade reserves to NPDC, with extensions based on ecological and cultural reasoning.	Complies
<i>Transport Rules</i>			

TRAN-R9	High trip generator activities	The number of proposed residential allotments is greater than 25, as per TRAN-Table 1 – High Trip Generator Thresholds.	Restricted Discretionary
<i>Transport Effects Standards</i>			
TRAN-S2	Design standards for vehicle access points onto a local road, collector road or arterial road	All allotments are designed to allow for sufficient road frontage where a vehicle access point can be provided in multiple locations. Preliminary designs from Red Jacket Engineering show that sight visibility required as per TRAN-Table 4 is able to be achieved with the proposed road design.	Complies
TRAN-S3	Vehicle access points	All proposed residential allotments have a road frontage that is able to accommodate a vehicle access point as per the standards set out in Section 3 of Council's Land Development and Subdivision Infrastructure Standard Local Amendments.	Complies
TRAN-S4	Minimum distance between vehicle	All residential allotments that adjoin	Complies

	access points and transport corridor intersections	the two proposed roundabouts or intersections have a road frontage length that allows for a vehicle access point to meet the requirements of TRAN-Table 5.	
TRAN-S5	Maximum width of vehicle access points	There are no vehicle access points proposed wider than 6m.	Complies
TRAN-S20	Requirements for right of ways - construction and formation	There are five proposed right of ways (ROW). The ROW's have been designed to allow for legal width, formed width and turning requirements under the Council's Land Development and Subdivision Infrastructure Standard Local Amendments to be met.	Complies
<i>SASM Rules</i>			
SASM-R17	Earthworks within the extent of a scheduled site or area of significance to Māori, or within 50m of the extent of a mapped SASM	Earthworks will be required for road formation as well as minimal earthworks for building platforms. This is within 50m of the mapped SASM Site 675.	Discretionary
SASM-R18	Subdivision of land that contains any part of a scheduled site or	SASM Site 675 extends within the western	Discretionary

	area of significance to Māori	boundary of the current property title.	
<i>Waterbody Rules</i>			
WB-R5	Subdivision of land containing or adjoining a natural waterbody	The subdivision is adjacent to the Waipu Lagoons.	Restricted Discretionary
<i>Coastal Environment Rules</i>			
CE-R11	Subdivision of land	The coastal environment overlay extents within the western boundary of the current property title.	Discretionary
<i>Earthworks Rules</i>			
EW-R13 (Under Appeal)	Earthworks not otherwise provided for in this table	The proposed earthworks for the road construction will exceed 250m ³ and EW-S2 Max Cut Depth or Fill Height	Discretionary
<i>Earthworks Effects Standards</i>			
EW-S1 (Under Appeal)	Instability of land	Detailed design of earthworks will be undertaken by Red Jacket Engineering to ensure no instability of land or structures occur.	Complies
EW-S2 (Under Appeal)	Maximum cut depth or fill height	The maximum cut and fill height for the road construction will exceed 1.5m.	Does not Comply

EW-S3 (Under Appeal)	Site reinstatement	Earthworks will be undertaken in stages to ensure stabilisation takes place within six months.	Complies
EW-S4 (Under Appeal)	Control of silt and sediment	A detailed ESCP will be developed by Red Jacket Engineering prior to any earthworks to ensure appropriate silt controls are in place.	Complies
EW-S5 (Under Appeal)	Requirements for discovery of sensitive material during earthworks or land disturbance	An archaeological discovery protocol will be in place at all times during excavations as well as an archaeologist and cultural monitor during excavations of topsoil.	Complies

7.5 I mainly agree with the Officer's Report's summary of applicable rules and effects standards in Section 4.2 and 4.3, however note there are some minor differences between Mr. Whittaker's assessment and mine which are highlighted below:

Operative District Plan

- (a) Res56 – Minimum Allotment Size - I have assessed this as Discretionary, compared to Controlled in the s42A report¹, as the proposed residential allotments Lots 42, 43, 44 and 46, are greater than 400m² but less than 450m², with Res56 requiring 450m² for a controlled activity. I note that the first scheme plan submitted with the application had all allotments larger than 450m², however with the changes to the road alignments after consultation, these four

¹ s42A Report – Section 4.2, para 65

sections were reduced below 450m², but above 400m², to align with the PDP minimum allotment size and to keep the yield the same.

- (b) I have included an assessment of the ODP Rules Res59-63 which relate to services, vehicle access/roading and building platforms. This is out of caution due to the PDP SUB-R6 Rule which refers to the PDP Subdivision Effects Standards being under appeal (although the PDP Subdivision Effects Standards are not under appeal). Res59-63 are the equivalents to these rules. It is noted that Rules 59-63 and the equivalent PDP Subdivision Effects Standards are all able to be met.
- (c) I have included an assessment of the relevant earthwork's rules under the ODP, Rules Res45-48, due to the equivalent earthworks rule EW-R13 under the PDP being under appeal. Under the ODP the earthworks are considered a permitted activity. These rules are not included in the s42A report.

Proposed District Plan

- (a) I have included an assessment of the relevant earthwork's rules under the PDP; Rule EW-R13 and SASM-R17. I note that EW-R13 is under appeal, however SASM-R17 is not, and has legal effect. These rules are not included in the s42A report.
- (b) I have included WB-R5 which relates to subdivision adjoining a natural waterbody, which is also included in the s42A report, however I note that the definition of 'natural waterbody' under the PDP excludes a wetland. The adjoining title is also vested as esplanade reserve to NPDC. Due to 'adjoining' being defined as 'next to and joined with' under the PDP, I have included this rule out of caution, as technically the Waipu Stream located approximately 50m away could be considered adjoining.

Land Use Rules

- 7.6 Mr. Whittaker has addressed the land use consent requirements for earthworks in Section 2.6 of the s42A report and outlines that the Form 9 submitted with the application was for a subdivision consent, with the earthwork's rules of both the ODP and PDP being assessed in the AEE. As stated in this section, this was the process of NPDC under the ODP, with matters related to earthworks being conditioned under the subdivision consent.

- 7.7 The application was lodged under this process in May 2021. At this stage the PDP had been notified (as of 23/09/2019). As detailed in the assessment of rules above, the earthworks under the ODP are a permitted activity. The notified version of the PDP included the rule SASM-R8 'Earthworks on or within 50m of a scheduled site or area of significance to Māori'. This rule had legal effect at the time of the submission and was a discretionary activity.
- 7.8 The AEE included the SASM-R8 rule in the assessment and identified it as a rule triggering resource consent², due to the earthworks required for the road construction and installation of services being within 50m of the mapped SASM Site: 675. While SASM-R8 was included in the list of rule triggers, and was assessed in the application, it was not at the time understood that the Council would later treat the activity as a separate land use consent, rather than being part of the subdivision consent - being the approach it had historically taken. On this basis, the land use "box" was not ticked on Form 9 at the time of lodgement.
- 7.9 As detailed in Section 2.4 of the s42A report, an extensive timeframe has progressed since the initial application was lodged in March 2021. At no point was an RFI issued, or discussions had with NPDC regarding the requirement for the Form 9 to specifically include land use. On the 12th May 2023, after the application was notified (22/02/2023), the NPDC placed the application on hold under Section 91 of the RMA, requiring the applicant to lodge additional resource consents (see **Appendix B**) to the TRC. There was no requirement in this Section 91 to lodge a land use consent application to the NPDC.
- 7.10 Recent discussions with NPDC took place regarding the Form 9 and land use. Mr. Whittaker advised that he would be addressing the topic in the s42A report and would like to reach a practical solution, noting that the earthworks effects have been addressed in the original AEE, and extensively throughout consultation since.
- 7.11 It was requested by the applicant that the original Form 9 is amended if necessary to include the land use rules, which would include EW-R13 and SASM-R17 (previously notified as SASM-R8). I consider this is an appropriate and practical solution considering the length of time that the application has been processed, with it having been processed or on hold throughout the timeframe of the PDP going through hearings, a decision version and now subsequently an appeals version.

² Application AEE – page 1, 32

- 7.12 Due to EW-R13 and SASM-R17 having legal effect since the decisions version of the PDP (13/05/2023), and NPDC only now raising the requirement for a separate land use consent being required, I consider it is appropriate to allow their inclusion in this application, as the earthworks form a substantial aspect of the potential cultural effects from the activity, as detailed in Section 8 of this evidence and the draft CVA.
- 7.13 Regarding the change of the application post notification, I understand the legal submissions will address this further, however from a planning perspective, I do not consider the alteration of the Form 9 changes the scale or intensity of the initial application, or that there is any reason for a person to submit on the application that did not already. The notified documents included the original AEE which identified the earthworks rules and addressed these. I also note that the original Form 9 was not included in the notification documents.
- 7.14 An updated 'Land Use' Form 9 is attached to this evidence as **Appendix C**, if the Commissioner is of the mind that an updated form is necessary, to allow for this amendment to be included to the application documentation.

Weighting of ODP and PDP

- 7.15 Due to SUB-R6, SUB-R2 and EW-R13 being under appeal, weighting between the ODP and the PDP needs to be assessed. Mr. Whittaker has assessed the weighting of the district plans in Section 7.5 of the Officer's Report, concluding that more weight should be afforded to the PDP provisions. I am in agreement with this due to the extent which the PDP has progressed and undergone independent decision making through the hearings process and decisions version.
- 7.16 I also note that the current appeal to all three rules is by Manu Whenua in relation to the inclusion of non-scheduled features³. As detailed in Section 8 of this evidence, extensive consultation has been undertaken with Manu Whenua which has included the drafting of the CVA which takes into account both scheduled and non-scheduled features.

Section 104 of the Resource Management Act

- 7.17 The proposal needs to be assessed against Sections 104 and 104B of the Resource Management Act 1991 (**RMA**). The following sections of evidence

³ Manu Whenua Appellants – Notice of Appeal ([link](#))

assess the application's effects with reference to Section 104 (1)(a) of the RMA, including the effects raised by the submitters.

8. ENVIRONMENTAL EFFECTS

8.1 Pursuant to section 104(1)(a) of the Act, this section provides an assessment of the actual and potential effects on the environment that the proposal may generate, including:

- (a) Roding and Traffic;
- (b) Ecology and Hydrology;
- (c) Cultural and Archaeological;
- (d) Earthworks;
- (e) Coastal Environment;
- (f) Subdivision and Infrastructure;
- (g) Other matters raised in the submissions;
- (h) Other matters raised in the Officer's Report; and
- (i) Positive effects.

Roding and Traffic

8.2 The proposed development will result in an increase of vehicle traffic which utilises the existing Parklands Avenue and Nugent Street roadways, with the proposed road layout being a collector road extension of Parklands Avenue, with local roding connections to Impact Avenue on Sampson Avenue.

Indicative Roding

8.3 The PDP shows an indicative collector road joining the western end of Parklands Avenue to Pohutukawa Place, as well as indicative local roads within 56 Pohutukawa Place. There is an indicative local road that travels from 56 Pohutukawa Place, through 70 Pohutukawa Place, to then join at the eastern end of Sampson Avenue within the 'Links'.



Figure 1: Indicative Roading within the PDP located on the subject site

- 8.4 In 2018, 56 Pohutukawa Place was subdivided to create the 8.3802 ha block now referred to as 70 Pohutukawa Place (SUB18/47129). As part of this application the indicative roading under the ODP was addressed, with the indicative collector road being shown in the same location and indicative local roads providing connection to the west.

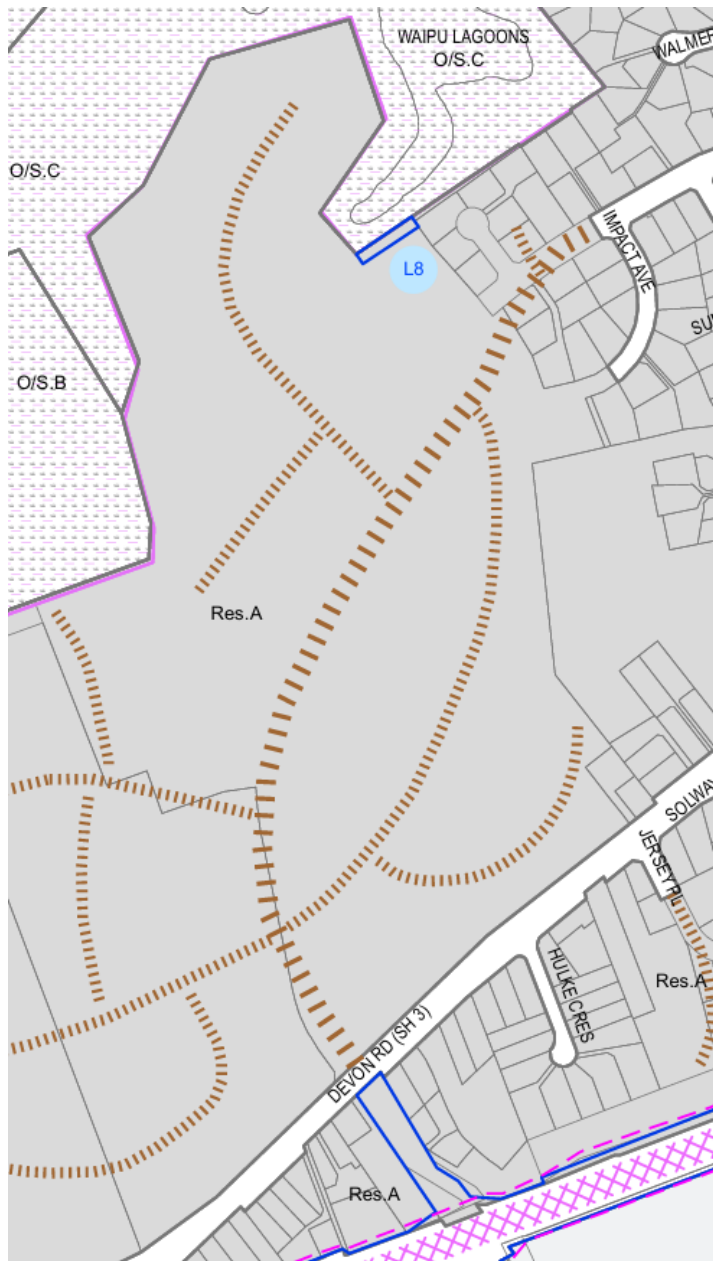


Figure 2: Indicative Roding within the ODP located on the subject site

- 8.5 As part of the abovementioned 2018 subdivision consent (SUB18/47129), a 20m wide road reserve was vested to NPDC on the northern end of 70 Pohutukawa Place, to provide the connection to the west. Feasibility studies were also performed on the collector road layout to ensure the topography was achievable, which were submitted and accepted by NPDC prior to the issuing of the 224c certificate. A requirement to place a consent notice on 56 Pohutukawa Place was also implemented as part of the subdivision consent, to ensure this layout was protected in any future development, see **Appendix D** for a copy of this consent and the consent notice.

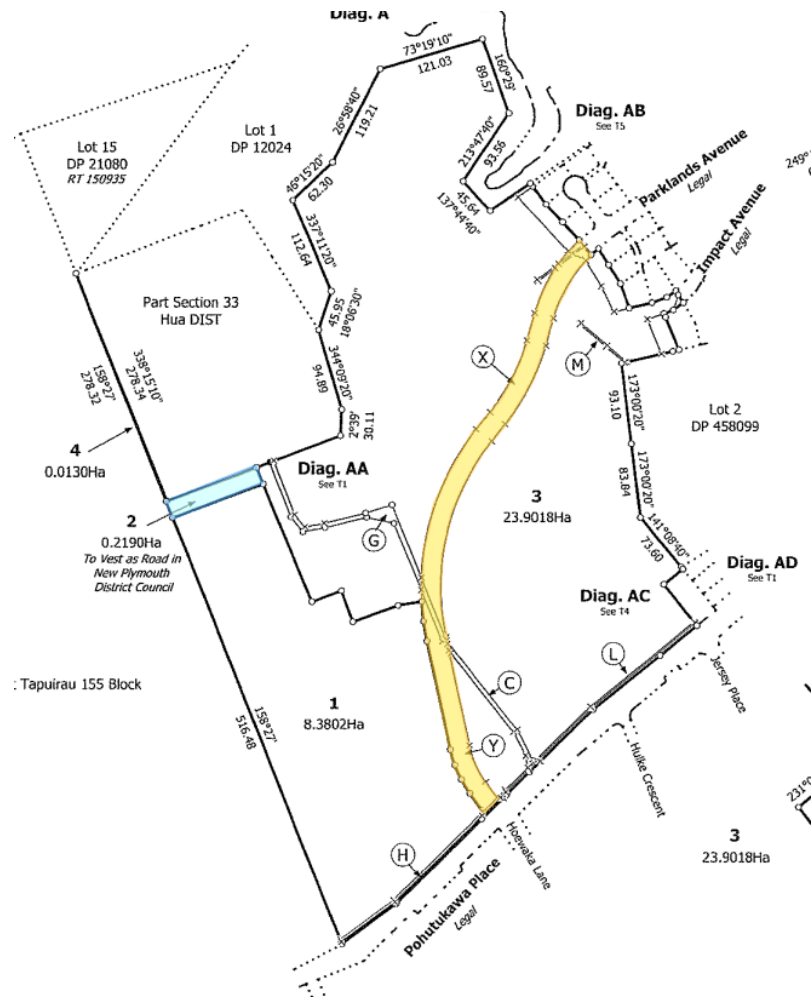


Figure 3: 2018 Subdivision with Road Vesting (Blue) and Collector Road Consent Notice (Yellow)

- 8.6 It is believed that the indicative local road connecting to Sampson Avenue on the west is not in the appropriate location shown on the PDP, as it intersects through 70 Pohutukawa Place (Summerset Retirement Village), and not the 20m wide vested road, which was present at the time of the PDP being notified. The collector road shown on the PDP also does not follow the consent notice alignment that was required by NPDC as part of the 2018 subdivision, prior to the PDP being notified.
- 8.7 However, due to these being 'indicative' roads, which are defined under the PDP as being the preferred locations and types of roads and pathway connections required for future subdivision and development⁴, it is acknowledged that the actual location is able to be adjusted as required in detailed planning.
- 8.8 The proposed development has been designed to allow for the intention of the indicative roading layout, which is to provide a collector road connection

⁴ PDP – Interpretation – Definitions ([link](#))

from Parklands Avenue to Pohutukawa Place, a local road connection to Sampson Avenue and a local road connection to Impact Avenue. The roading layout utilises the existing vested road on the northern side of 70 Pohutukawa Place for the connection to Sampson Avenue, and allows for the collector road to follow the alignment of the consent notice registered on the property title.

- 8.9 Overall, I consider the proposed development has ensured that the planned roading requirements and layout under the PDP are met, and the appropriate connections for future development within the area are able to be achieved, ensuring support for the long-term functionality of the area.

Traffic Impacts

- 8.10 My assessment is informed by the Joint Witness Statement Transport dated 7 March 2025 (Transport JWS) prepared by traffic experts Mr. Andy Skerrett (on behalf of the New Plymouth District Council) and Mr. Mark Georgeson (on behalf of the applicant), as well as the 'Preliminary Stage Road Design Memo' produced by Mr. Miller and referenced in paragraph 2.4(s) of my evidence above.
- 8.11 The proposed development is considered Restricted Discretionary under TRAN-R9 'High trip generator activities', due to the number of allotments being greater than the permitted limit, listed in TRAN-Table 1 – High Trip Generator Thresholds, which allows for creation of 25 allotments. Although the overall activity status of the proposed development is Discretionary, the matters of discretion listed under TRAN-R9 are assessed below to provide an analysis of traffic effects.

Safety, Efficiency, and Effectiveness of the Transport Network

- 8.12 The subdivision will generate additional vehicle movements, with an estimated peak hour generation of 80 vehicle movements per hour based on a rate of 0.7 vehicle trips per dwelling. This represents a small proportion of the 8,500 vehicles per day currently using Nugent Street.
- 8.13 The local and wider transport network is currently subject to peak-hour congestion, particularly at Nugent Street and Henwood Road. However, planned roading improvements, including the Parklands Avenue extension and a new off-ramp at Pohutukawa Place, will help mitigate any cumulative effects from this and other developments in the vicinity. The incremental staging of the subdivision over 5 to 8 years ensures that the network can adjust to increased traffic demand over time.

- 8.14 Initially, all site traffic will access and exit via Parklands Avenue, connecting to Nugent Street. Once Parklands Avenue is extended to Pohutukawa Place and linked to Sampson Avenue, traffic patterns will shift, reducing reliance on Nugent Street. However, as the subdivision will be staged over an estimated 5 to 8 years, this will result in a gradual increase in traffic volumes. At an estimated 10 additional vehicle movements per peak hour per year, the impact on the existing road network will be incremental (1% of the existing flows of Nugent Street).

Integration of Transport Modes and Choices

- 8.15 The development aligns with planned improvements that enhance multi-modal transport integration. Future roading projects will provide better connectivity between Bell Block and The Links subdivision, supporting active transport modes such as walking and cycling. The new intersection designs and road linkages will improve accessibility for all transport users, including pedestrians and cyclists, with all roading having been designed with footpaths on each side and a movement land wide enough for cyclists, and giving provisions for future bus routes as detailed in the 'Preliminary Stage Road Design Memo' and produced by Mr. Miller as well as his evidence.

Amenity Values and Character Effects

- 8.16 The additional traffic generated by the subdivision is not expected to result in a significant adverse impact on the character or amenity values of the area. As the site is zoned for residential use, vehicle movements associated with the development are anticipated within this context. The gradual increase in traffic volumes will ensure that changes to the local environment are progressive and manageable.

Appropriateness of Location, Intensity, and Scale

- 8.17 The proposed subdivision is located within an area zoned for residential development, and the associated traffic generation is consistent with the planned land use. This is reinforced by the indicative roading that has been present in both the ODP and the PDP, with a collector road being planned to extend from Parklands Avenue to Pohutukawa Place, and a linkage to 'The Links' on the western side, through the Parininihi Ki Waitotara (PKW) owned land. The scale and intensity of the vehicle movements align with the expectations for a residential neighbourhood, and the road network upgrades will support the long-term functionality of the area.

Impact on Road Transport Quality and Maintenance

- 8.18 The road transport network is designed to accommodate growth in traffic volumes. The extension of Parklands Avenue to Pohutukawa Place and connection to 'The Links', as well as the planned extensions and safety improvements detailed in the Transport JWS, will mitigate potential adverse effects on road quality and maintenance by distributing the volume of traffic. The gradual increase in vehicle movements will also reduce the likelihood of sudden strain on the network.

Traffic Generation and Road Status

- 8.19 The additional traffic generated by the subdivision does not exceed what is expected for roads of this classification, with appropriate distribution of allotments onto both collector and local roads as detailed in the 'Preliminary Stage Road Design Memo' produced by Mr. Miller. The planned infrastructure upgrades, including the Parklands Avenue extension to Airport Drive, will further distribute traffic flow, ensuring that the road network functions effectively and remains within anticipated capacity limits.

Alternative Locations and Methods

- 8.20 The proposed subdivision layout has been designed in consultation with the Council, and aligns with indicative roading plans. Alternative locations for road connections were considered, but the current proposal best supports long-term connectivity improvements and traffic efficiency. The proposed roading layout also follows the indicative roading in the PDP, and the consent notice that was registered by NPDC on the subject land. The gradual staging of the development, and planned infrastructure upgrades, provide a comprehensive approach to mitigating potential adverse effects.

Outcomes and recommendations in the Integrated Transport Assessment provided with the application.

- 8.21 As outlined in the Transport JWS, the proposed subdivision will generate additional traffic, but this increase is consistent with the site's residential zoning. The incremental nature of development, combined with planned road improvements, will mitigate any adverse transportation effects.
- 8.22 The Transport JWS provides a clear and agreed position from both the Council's and the applicant's traffic experts that the proposal is supportable from a transportation perspective. The temporary congestion effects will be alleviated as strategic infrastructure projects are completed.

- 8.23 Overall, I am in agreement with the evidence produced by Mr. Skerrett, Mr. Georgeson and Mr. Miller that the potential adverse traffic and roading effects of the proposed development are at most minor, with all effects being temporary or incremental, due to the increase of traffic being staged as development occurs over time. I agree with the planning assessment on traffic matters provided by Mr. Whittaker in the s42A report⁵ which I understand has reached the same conclusions. I note the subject site has been zoned Residential since at least 1980, as detailed in the evidence of Ms. Hooper, with indicative roading having been present on each iteration of the District Plans, clearly signalling that residential development and subsequent roading/traffic from this site is anticipated and planned for within the area.

Ecology and Hydrology

- 8.24 The subject site is farmland currently used for grazing and adjoins the Waipu Lagoons on the northern side of the property. The lagoons cover approximately 8ha, and comprise of two irregularly shaped lakelets and their margins. The lagoons are held in ownership by the New Plymouth District Council under a Local Purpose Reserve and an Esplanade Reserve vested on DP12024. They are listed as a Key Native Ecosystem (KNE) by the TRC.
- 8.25 As part of the development, two consents were required from the TRC under the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) for the diversion and discharge of stormwater within 100m of a natural wetland. The diversion will result from the roading, building and impervious surfaces; whilst the discharge will occur from the collection of rainwater from the road carriageway, which is required to discharge to the lagoons to maintain hydrological functions.
- 8.26 These activities are restricted discretionary under the NES-F, with the matters of discretion including:
- (a) *the extent to which the nature, scale, timing, intensity, and location of the activity may have adverse effects on—*
 - (i) *the existing and potential values of the natural inland wetland, its catchment, and the coastal environment; and*
 - (ii) *the extent of the natural inland wetland; and*

⁵ s42a Report – para 98, 99, 100

- (iii) *the seasonal and annual hydrological regime of the natural inland wetland; and*
- (iv) *the passage of fish in the natural inland wetland or another water body:*
- (b) *whether there are practicable alternatives to undertaking the activity that would avoid those adverse effects:*
- (c) *the extent to which those adverse effects will be managed to avoid the loss of the extent of the natural inland wetland and its values:*
- (d) *other measures to minimise or remedy those adverse effects:*
- (e) *how any of those adverse effects that are more than minor may be offset or compensated for if they cannot be avoided, minimised, or remedied:*
- (f) *the extent to which the effects of the activity will be managed through applying the effects management hierarchy:*
- (g) *the risk of flooding upstream or downstream of the natural inland wetland, and the measures to avoid, minimise, or remedy that risk:*
- (h) *the social, economic, environmental, and cultural benefits (if any) that are likely to result from the proposed activity (including the extent to which the activity may protect, maintain, or enhance ecosystems).⁶*

8.27 I am in agreement with Mr. Whittaker that it is appropriate to take into account any approved regional council consents and when considering any adverse effects on ecological values from the stormwater discharge or change in land contour and water diversion⁷.

8.28 As part of the consent applications to the TRC, Mr. Shaw was engaged by the applicant to assess the ecological aspects of the proposed development; and, Mr. Bunn was engaged to perform hydrological analysis, as this influences the ecology of the lagoons.

8.29 The evidence of Mr. Shaw and Mr. Bunn address the ecological and hydrological matters, with an 'Assessment of Potential Ecological Effects'

⁶ Reg 56: Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ([link](#))

⁷ s42A Report – para 105

being produced by Mr. Shaw, and an 'Engineering Report - Stormwater Management' being produced by Mr. Bunn for the TRC applications (referred to in paragraphs 2.4(p) and (n) respectively of my evidence above).

- 8.30 The assessment by Mr. Shaw included delineation of the wetland margin and recommended that a 20m wide riparian buffer is to be established and maintained between the wetlands and the development. This buffer is to be planted with indigenous planting and maintained free of weeds which may spread from residential properties. Mr. Shaw has also addressed the concerns raised in submissions in his evidence in relation to potential pests within the lagoon area, including domestic cats, and is of the opinion that this can be controlled through the implementation of the draft Ecological Management Plan (EMP) consent condition which I am in agreement with.
- 8.31 The stormwater management was redesigned in consultation with Puketapu Hapū, with the proposed development being designed to maintain the naturally occurring hydraulic function of the wetlands as much as practicable. This includes the use of on-site soakage systems for buildings and raingardens for carriageways to ensure groundwater recharging occurs, in conjunction with a balance of surface water discharges to the lagoons. The raingardens also provide treatment of stormwater prior to the discharge to the lagoons.
- 8.32 As part of the TRC applications, consent conditions were agreed which included a wetland monitoring plan, a wetland restoration plan and a stormwater management plan. Based on this, the TRC concluded, *"With the proposed conditions, the implementation of the proposed stormwater management system, the implementation of an ecological management plan and the 20 m buffer between the urban development and the wetland, I conclude that the effects from the discharge of stormwater and the diversion of groundwater on the Waipu lagoons will be less than minor."*⁸
- 8.33 The TRC has since issued the resource consents for the diversion and discharge of stormwater within 100m of a natural wetland on the 25/03/2025, which are attached to this evidence as **Appendix E**.
- 8.34 As outlined in the evidence of Mr. Shaw, the lagoons are considered of ecological significance, whereas the subject site, where development will occur, is considered grazed exotic pasture and not of any high ecological value. I am in agreement with the conclusions reached by Mr. Shaw, Mr. Bunn and the TRC that the proposed development will have less than minor

⁸ TRC Officers Report – para 112

effects on the Waipu Lagoons with the conditions implemented in the issued consents; and, therefore, conclude that the proposed development will not adversely impact on any ecological or hydrological aspects.

Cultural/Archaeological

- 8.35 The Sites and Areas of Significance to Māori (SASM) ID: 675 extends into the subject site, and as such is a Discretionary activity for any subdivision under SASM-R18. Following the notification of the application on the 22nd February 2022, extensive consultation has been undertaken by Mr. Hawke with Puketapu Hapū, as outlined in his evidence. As such, the 'Consultation Summary' attached with the application is considered to be outdated and superseded with regards to the consultation with Puketapu Hapū.
- 8.36 A meeting was held on the 13th October 2023 with Mr. Hawke, Mr. Grieve, Ms. Hooper, myself and Te Atiawa Iwi/Puketapu Hapū members. This was a reestablishment of the working relationship, and since this time positive consultation has taken place. Mr. Hawke has led the consultation with Puketapu Hapū and outlines the details of this in his evidence.
- 8.37 A further meeting was held on the 5th July 2024 at the Ngāmotu House, New Plymouth with NPDC representatives, TRC representatives, Te Atiawa Iwi/Puketapu Hapū members, PKW representatives, Mr. Hawke, Mr. Grieve, Ms. Hooper, Ms. Claire Bolton (landowner) and myself. At this meeting, Puketapu presented the initial findings of the CVA, which included preliminary assessments on cultural matters as well as archaeology and three waters assessments undertaken by external experts. The roading alignment was also discussed in relation to the PKW land to the west, which was a topic of their submission on the application.⁹ Following this meeting, the applicant has undertaken further redesigning of the roading, stormwater and cultural management of the development in collaboration with Puketapu Hapū.
- 8.38 I have also collaborated with Mr. Zeiltjes in conjunction with Mr. Hawke during this time to discuss the cultural matters related to the development, and proposed consent conditions, both in relation to this application and the consent applications under the TRC.
- 8.39 A draft CVA has now been produced by Puketapu Hapū. This outlines the cultural significance of the area to Puketapu Hapū of which I adopt. Due to the significance of the Waipu Lagoons, the roading alignment, earthworks

⁹ PKW Submission – para 4

management and stormwater management was redesigned in collaboration with Puketapu Hapū; and PKW, (regarding roading realignment).

- 8.40 The outcomes of this have resulted in a change of the local road alignment which removes the allotments adjoining the western lagoon and extends the local road connection through to the PKW land on the western side, to allow for future connectivity. In conjunction with the road realignment, an extension of the esplanade reserve area on the western boundary of the development will be provided, as depicted in the updated Scheme Plans in **Appendix A**. This will provide protection and enhancement opportunities of the area, in conjunction with the conditions imposed within the TRC consents on the wetland reserves.
- 8.41 Stormwater management was also amended to adopt a low impact treatment philosophy that is culturally sensitive in line with Te Mana o Te Wai principles. The change from downstream defenders as per the original application to raingarden systems within the road carriageway has been agreed to and implemented in the conditions of the TRC consent.
- 8.42 The earthworks within 50m of mapped SASM is Discretionary under SASM-R17. The earthworks required for the development has been discussed extensively with Puketapu Hapū in collaboration with Mr. Bruce to determine appropriate cultural and archaeological controls. An archaeological assessment was produced by Mr. Bruce to help inform the archaeological aspects of the subject site as detailed in his evidence.
- 8.43 The CVA includes proposed consent conditions to address the cultural significance of the area in relation to proposed earthworks and the residential development. This includes as a summary:
- (a) Establishing a Kaitiaki Forum to allow for an adaptive management strategy in regard to earthworks undertaken within the development;
 - (b) Cultural monitoring of earthworks;
 - (c) Road naming;
 - (d) Co-design process to implement a Cultural Expression Plan;
 - (e) An Archaeological Authority and Accidental Discovery Protocols; and
 - (f) Co-design of Reserve Areas.

- 8.44 To avoid duplication, I adopt the cultural analysis and conditions as per the draft CVA. Mr. Hawke has advised that he is in agreement with the proposed conditions outlined by Puketapu in the draft CVA. I am also in agreement with the evidence of Mr. Bruce, concluding that earthworks should be undertaken with a General Archaeological Authority. As such, it is considered that through the consultation process, which has resulted in the TRC consent conditions, the proposed changes to the development, and the proposed conditions of this application, the cultural and archaeological effects of the development can be considered to be less than minor.

Earthworks

- 8.45 The subdivision layout seeks to minimise disturbance of the existing landform, with existing contours taken into consideration when designing the road layout and overland secondary flow paths. Earthworks associated with formation of building platforms, at the time of building, have been taken into consideration; with no significant differences in level anticipated due to the flat/rolling contour of the site, and lot size allowing for transition between adjoining lots.
- 8.46 All earthworks will be setback over 20m from the edge of the wetland due to the proposed buffer incorporated, as per Mr. Shaw's recommendation. Therefore, it is considered that the earthworks are a permitted activity under WB-R4 which requires a 10m setback.
- 8.47 The proposed development will require bulk earthworks for the construction of the roading, and services, which will follow the road alignment. As per the 'Red Jacket Engineering Report dated May 2021, it is estimated that a cut fill of approximately 2.4m will be required to form the road, which exceeds the effects standard EW-S2. The volume of earthworks is calculated to be 26,762m³, which exceeds the permitted volume of 250m³ under EW-R13.
- 8.48 Prior to any earthworks being performed, an Erosion and Sediment Control Plan (ESCP) will be submitted to provide a detailed design of the excavations required, and a full suite of policies and controls in place to mitigate any potential adverse effects; such as, silt fencing, contour drains, sediment retention ponds or decanting earth bunds. This will ensure that no sediment runoff to the wetland occurs, with all stormwater overland flows receiving prior treatment.
- 8.49 The ESCP will outline the known areas on the site that are to be excavated, and will show the stages of the physical works to be undertaken. Due to the three waters infrastructure and roadway requirements, it is expected that

the earthworks will be staged to allow for sections of allotments to be created, before performing earthworks on the next area.

- 8.50 A range of controls will be put in place if required in the assessment of the ESCP, including: use of water carts; soil binders; progressive site stabilization; consolidated loose surface materials; avoidance of certain activities (such as loading trucks) in windy conditions; limiting traffic movements; controlling construction vehicle speeds; maintaining haul road surfaces; geotextiles, hydroseeding and dedicated topsoil stockpile sites.
- 8.51 Due to the earthworks being to construct roading and services over undulating land, following the indicative roading in the PDP, the change in ground levels is not anticipated to result in any large changes to the landscape which is not otherwise anticipated in a residential zone.
- 8.52 The earthworks effects are, therefore, considered to be limited to the temporary erosion and silt management that occurs during construction. The detailed design is to be performed by Red Jacket Engineering, and an appropriate ESCP will be created to manage these potential adverse effects. Subject to this being a consent condition, it is considered that the earthworks are able to be managed to ensure all potential adverse effects are less than minor.

Coastal Environment

- 8.53 The coastal environment overlay encroaches onto 56 Pohutukawa Place, by approximately 18m at the north-west boundary. Under CE-R11, subdivision of land within the coastal environment overlay is Discretionary.



Figure 4: Coastal Environment Overlay (Blue) as shown in the PDP

- 8.54 The coastal environment overlay area within the PDP is not proposed to be developed as part of the activity, with the area being contained wholly within Lot 304 which is to be vested as esplanade reserve.
- 8.55 As part of the ecological assessment undertaken by Mr. Shaw, the wetlands were determined to be coastal wetlands, due to their location within this environment. Therefore, the conclusions and recommendations provided by Mr. Shaw are consistent with the provisions of the coastal environment overlay in regards to ecological effects, which were determined as being less than minor.
- 8.56 The ecological assessment and mitigation measures, in combination with the coastal environment overlay being contained wholly within an esplanade reserve, with no development proposed, it can be safely concluded that the proposed development will not have any adverse effect on the coastal environment above less than minor.

Subdivision and Infrastructure

- 8.57 The proposed subdivision will create 113 residential allotments. As stated above, the Scheme Plan has been modified as part of consultation with Puketapu Hapū, PKW, and subsequent applications for consent to the TRC,

with alterations of the road alignments, which has altered the allotment boundaries and sizes.

- 8.58 All proposed allotments are sized greater than the 400m² minimum allotment size required under the PDP SUB-S1, and all effect standards are able to be met. Although Lots 42, 43, 44 and 46 are less than 450m², which is required under Res56 of the ODP, due to the PDP Sub-S6 rule being under appeal, I consider these four allotments will not impact on the amenity of the area, or ability to build as a permitted standard under the General Residential Rules of the PDP.
- 8.59 The reduction of the minimum allotment size under Residential Area A of the ODP to 400m² under General Residential in the PDP anticipates a slight increase in density, however, the proposed development is well above the acceptable density in the PDP, with the remaining 109 residential allotments being greater than the minimum allotment size of 450m² under the ODP, with allotments up to 960m², and the median lot size being approximately 590m².
- 8.60 A designation (NPDC 3) is in place as part of the PDP which is for a proposed reserve adjacent to the Waipu Lagoons. This is provided for in the scheme plan with the area being wholly within the proposed reserve Lot 301.
- 8.61 I agree with the statements from Mr. Whittaker in the s42A report which discuss that the PDP has moved toward recognizing and promoting planned character of urban areas¹⁰, and it is my opinion that the proposed development meets the General Residential objectives and policies. The larger than required allotments will provide additional separation between dwellings, and overall less density, that will result in an increase in spaciousness and amenity above what can be achieved as a minimum under the PDP. The larger allotments will also allow for a variance in building size and layouts, promoting diverse architectural designs and ensuring a positive residential character is provided.
- 8.62 Mr. Bunn has provided detailed designs of the proposed infrastructure required to service the development, through the initial application engineering reports and drawings, subsequent redesigns of drawings and additional reports through the TRC applications and in his evidence.
- 8.63 Due to the TRC consents for stormwater discharge to the Waipu Lagoons being required, a large amount of work has been undertaken by Mr. Bunn in

¹⁰ s42A Report – para 115

regards to the stormwater systems, which have now been approved by the TRC. This consists of on-site soakage systems for dwellings and raingarden systems for the carriageway, which will provide treatment of stormwater prior to discharge to the Waipu Lagoons. As identified through the TRC consenting process, the Waipu Lagoons are hydraulically fed through both groundwater and surface water discharges. Due to this, Mr. Bunn has designed the stormwater system to maintain a water balance of groundwater soakage and surface water discharges post-development to what currently occurs naturally, so far as is reasonably practicable.

- 8.64 As part of the development, it is proposed to replace the existing sewer main, to allow for the increase in capacity, which will take place through each subdivision stage. This is the same for the potable water main, which will be extended through each stage. This infrastructure is detailed in the evidence of Mr. Bunn which I adopt. Regarding building platforms, the initial geotechnical analysis performed by Mr. Bunn is included in the original application in Section 3 of the 'Red Jacket Engineering Report' dated May 2021. I agree with Mr. Bunn's and Ms. Franklin's evidence that the natural hazard risks of the site are acceptable and therefore there is no reason to decline the application under s106 of the RMA.
- 8.65 This engineering information has been shared by Mr. Bunn with the relevant experts within NPDC throughout the design, with preliminary approval of the proposed designs given as noted in Section 6.6. of the Officer's Report.
- 8.66 The subdivision layout and infrastructure is considered to be well designed, with spacious sections and a functional layout, both in regards to allotments and infrastructure. There is the benefit of a large amount of engineering investigation having taken place as part of consultation with Puketapu Hapū and PKW, and the lodgement of TRC stormwater consents. Therefore, it is my opinion that the development meets the requirements of both the ODP and PDP provisions and the potential adverse effects to amenity, character and infrastructure are less than minor.

Other matters raised in submissions

- 8.67 I have reviewed the submissions made on the application as well as the Officer's Report which addresses these. I am in agreement with Mr. Whittaker's summary of the submissions, noting that the majority are related to traffic effects which are addressed in Section 8 of this evidence, and in the Transport JWS. I also note that the submissions in relation to the Waipu Lagoon ecology/hydrology matters have largely been addressed through the consenting process with TRC, with appropriate conditions to manage these

potential effects. Where submissions relate to ecology/hydrology, traffic/roading or archaeology, I adopt the relevant responses to the submissions as detailed in the relevant applicant's expert witness's evidence.

8.68 The below submitters have raised the following planning matters that I wish to address:

(a) Avatar Management Limited (Maida Vale Retirement Village)

(i) Following the submission from Avatar Management Limited, the landowner has agreed to alter the subdivision scheme plan in relation to the original Lots 105 – 109. The allotments are now no longer adjoining the Maida Vale Retirement Village, with an approximately 20m wide buffer between the development and the village. This area is to be transferred to Avatar Management Limited, with a boundary adjustment application now having been lodged with NPDC (SUB25/50236).

(b) Carolina Lourens & Matthys Lourens

(i) Mr. and Mrs. Lourens reside at 78B Parklands Avenue, New Plymouth which adjoins the development site. Part of their submissions included concerns about the effects of noise and dust arising from construction near their property.

(ii) I note that the PDP controls maximum noise under NOISE-R2 and NOISE-S2, which requires construction work to meet NZS 6803:1999. All work undertaken will need to meet this standard, ensuring noise levels are within acceptable limits during the appropriate timeframes. Dust from earthworks will also be controlled as part of the site ESCP, with appropriate dust suppression measures, which is proposed as a consent condition (addressed in Section 12).

(c) Robin Smith

(i) Mr. Smith has made a submission regarding the existing building restriction that has not been addressed in the application that provides a benefit to his land at Waipu View Drive. The existing building restrictions that Mr. Smith refers to are protected by a registered land covenant (in Easement Instrument 11108472.3 – copy attached as **Appendix F**) that

binds a part of the subject site (marked "A", "B" and "C" on Deposited Plan 521830 also included in **Appendix F**) in perpetuity. The existing land covenant is registered against the subject site (over the area marked "A", "B" and "C") for the benefit of Mr. Smith's land (among other benefitted landowners).

(ii) The land covenant is an existing registered property right that binds the subject site property title in perpetuity. The granting of this resource consent in no way limits, affects or impacts upon Mr. Smith's existing rights and protections under the registered land covenant over the subject site, and he will retain all of the benefits and protections under the land covenant that he already has.

(iii) He has also submitted that the allotment sizes must be increased to align with the nearby Kingsdown and Links subdivisions of approximately 976m³ and 884m² respectively. This is in regard to the belief that lesser sized sections will reduce the property value of these nearby neighbourhoods.

(iv) In relation to property values of the adjoining neighbourhoods, I am in agreement with Mr. Whittaker's comments in Section 6.8.1 of the Officers Report which states that RMA case law has established that effects are not to be considered through a property value lens.

(d) Allen Standcliff – Taranaki Fish and Game

(i) I note that Mr. Shaw has addressed the submission in relation to ecological matters. In relation to the statement from Mr. Standcliff *"It would be great if there was increased separation between the allotments and the esplanade reserve, perhaps by way of a walkway, although it is acknowledged that this would result in some allotments being smaller than planned."*, I would like to note that the esplanade reserve has been increased substantially due to the road realignment from the initial notified scheme plan, which provides an increased buffer to the residential allotments.

(e) Matthew Lee

- (i) Mr. Lee has submitted on traffic/roading matters which I consider to have been addressed by the Transport JWS. He has also submitted that the allotment sizes must be increased to align with the nearby Kingsdown and Links subdivisions of approximately 976m³ and 884m² respectively. This is in regard to the belief that lesser sized sections will reduce the property value of these nearby neighbourhoods.
 - (ii) I note that the proposed allotments are all above the minimum allotment 400m² required under SUB-S1, with a median size of 590m². I do not consider this to be conflicting with these nearby suburbs in relation to character or amenity and will be a cohesive extension. As discussed in Section 8 of this evidence, the PDP aligns with 'planned character' which is represented through the effects standards including the minimum allotment size which is complied with.
 - (iii) In relation to property values of the adjoining neighbourhoods, I am in agreement with Mr. Whittaker's comments in Section 6.8.1 of the Officers Report which states that RMA case law has established that effects are not to be considered through a property value lens.
- (f) Adriann Sole - Puketapu-Bell Block Community Board
 - (i) The Puketapu-Bell Block Community Board have submitted on traffic/roading matters which I consider to have been addressed by the Transport JWS.
 - (ii) The submission noted the ecological and cultural significance of the Waipu Lagoons and requested consideration of a 2m setback from side boundaries and conditions on vegetation and fencing typology and height. I consider this has been addressed through the delineation of the wetland which shows an appropriate setback is achieved with the allotments which adjoin the existing reserve, and the subsequent extension of the esplanade reserve on the western lagoon. The draft condition relating to 'Fencing of Reserves' requires appropriate fencing to be installed on all common boundaries of existing and proposed reserves, with conditions on maximum height and visual permeability.

- (iii) The submission requested the investigation of extension to the walkway north of the development site, through to the Links and the Coastal Walkway. I note that this is outside the applicant's development land and is on council reserve, therefore unable to be implemented under this consent. I note that Lot 302 is an esplanade reserve which adjoins the requested walkway, and it is in the draft condition relating to the EMP to include a 'Tentative walkway alignment through proposed Lot 302, to remain unplanted'. This will provide a linkage between the development and any future walkway should NPDC progress this.
 - (iv) The submission includes a request to consider the removal of the silage put and grazing adjacent to the Waipu Lagoons. I note that this is on NPDC Recreation Reserve land (Hickford Park). This item requires discussion between NPDC and the leaseholder and is outside the scope of this consent.
 - (v) The submission also requests that a new footpath is installed on Pohutukawa Place, adjacent to the balance allotment. It is anticipated that this will be assessed in any future development that takes place on Lot 308 which is not proposed in this consent. Any development that takes place on Lot 308 in the future will be required to extend the collector road as per the consent notice on the title and the PDP indicative roading, at which point a footpath on the road reserve would be assessed.
 - (vi) A statement was included in the submission regarding the Bell Block Centre currently having no public toilets. It is considered that this is outside the scope of the consent application and should be addressed through NPDC.
- (g) Forest and Bird
- (i) The submission from Forest and Bird outlines concerns relating to ecological and hydrological matters in relation to the Waipu Lagoons which I consider to have been appropriately addressed by Mr. Shaw and Mr. Bunn in their evidence.
 - (ii) In relation to the request to undertake a detailed assessment of the development under 'Te Mana o Te Wai and the

NPSF2020', I consider this has also been addressed through the TRC consenting process which required two resource consents under the NES-F as detailed in Section 8 of this evidence.

(h) Taranaki Regional Council

- (i) The submission from the TRC requested the application be placed on hold under s91 of the RMA until additional resource consents were applied for under the NES-F. This has now been carried out, with applications lodged and consents granted.

(i) Puketapu Hapū, Ngāti Tawhirikura Hapū and Te Kotahitanga o Te Atiawa Trust

- (i) As detailed in Section 8 of this evidence, and the evidence of Mr. Hawke, an extensive consultation process has been undertaken since the notification of the application. With the undertaking of the CVA, draft consent conditions are now included addressing the cultural matters which will ensure ongoing collaboration with tangata whenua throughout the development.

(j) Parininihi Ki Waitōtara Incorporation (PKW)

- (i) The submission from PKW related to ensuring planned connectivity and an appropriate and agreed approach to stormwater discharges incorporating the principles of Te Mana o Te Wai to protect the culturally sensitive Waipu Lagoons present in the area.
- (ii) As detailed in Section 8 of this evidence, and the evidence of Mr. Hawke, PKW were included in the consultation process and subsequent realignment of the roading layout, including continuation of the local road through to the boundary of the PKW land on the western side of the development. The stormwater management was also redesigned in collaboration with PKW and Puketapu Hapū incorporating the Te Mana o Te Wai principles and information from experts as part of the CVA.

Positive Effects

8.69 Section 104(l)(a) of the RMA also takes into account positive effects from the activity, which in this case are considered to be the following:

- (a) The urban development will provide additional housing for the district, with housing being important for people's wellbeing and to increase housing supply;
- (b) The creation of reserve areas will enhance social values by providing public access to the lagoons and their amenity values;
- (c) Will provide employment and work for the local construction industry and wider economy during construction; and
- (d) Ongoing support to the economy through local businesses such as retail and services.

8.70 I agree with the evidence provided by Mr. McIlrath and Ms. Hooper that states the economic benefits from this development will be significant and positive, contributing to New Plymouth's required development capacity, and providing a consistent urban growth from within the Bell Block area.

9. ASSESSMENT AGAINST RELEVANT PLANNING DOCUMENTS S104(1)(B)

9.1 Mr. Whittaker has provided an assessment of the subdivision, SASM, waterbodies and transport objectives and policies of the PDP in Section 7.4.2 and 7.5 of the Officer's Report. I am in agreement with the assessment provided which concludes the development is in accordance with the objectives and policies. I find no reason to consider the development as contrary, and for brevity and to avoid duplication, adopt the assessment provided in the s42A report.

9.2 I note the assessment in the s42A excluded the PDP earthworks objective and policies due to the earthworks rules being excluded as discussed in Section 7.16-7.14 of this evidence. For this reason, I have included and commented on these matters below:

Table 3: PDP Earthworks Objectives and Policies

Earthworks
Objectives

EW-O1	Earthworks and associated retaining structures necessary for the construction, maintenance or operation of activities are enabled, provided that adverse environmental effects are avoided, remedied or mitigated.
Policies	
EW-P1	<p>Allow earthworks and land disturbance that are associated with the construction, maintenance and repair or upgrade of the following activities, while ensuring the scale, volume and effects of earthworks and land disturbance are appropriate:</p> <ol style="list-style-type: none"> 1. fences, poles, pile or service connections; 2. gardening, planting or any vegetation and the construction or maintenance of garden amenities; 3. sport and recreation activities; 4. conservation activities; 5. replacement, removal or installation of underground petroleum storage systems; 6. interments in a burial ground, cemetery or urupā; 7. the transport network; 8. walking and cycling tracks and leisure activities; 9. network utilities, including new and extended vehicle access tracks ; 10. building activities authorised by a building consent; 11. silage pits in the rural production zone; 12. vehicle access tracks associated with agriculture, pastoral and horticultural activities in the Rural Production Zone; or 13. other earthworks within specified limits and meeting the Earthworks Effects Standards.
EW-P2	<p>Manage earthworks that have the potential to:</p> <ol style="list-style-type: none"> 1. create new or exacerbate existing natural hazards, particularly flood events, or cause adverse impacts on natural coastal processes; 2. result in adverse effects on: <ol style="list-style-type: none"> a. the stability of land or structures; b. visual amenity and character; c. waterbodies and scheduled features; d. the health and safety of people and communities; e. indigenous biodiversity; f. the operation of network utilities; or 3. result in adverse construction noise, vibration, odour, dust, lighting and traffic effects.
EW-P3	<p>Ensure earthworks are undertaken in a way that avoids or appropriately remedies or mitigates adverse effects on cultural, spiritual or historical values of importance to tangata whenua, by:</p> <ol style="list-style-type: none"> 1. having regard to: <ol style="list-style-type: none"> a. the extent to which the earthworks or land disturbance may compromise the particular cultural, spiritual or historical values of importance

	<p>to tangata whenua associated with the site and, if so, the outcomes of any consultation with tangata whenua, including any expert cultural advice provided with respect to:</p> <ol style="list-style-type: none"> i. opportunities to incorporate mātauranga Māori into the overall scale, form and extent of the earthworks or land disturbance; ii. opportunities for tangata whenua's relationship with ancestral lands, water, sites, wāhi tapu and other taonga to be maintained or strengthened; iii. options to avoid, remedy or mitigate adverse effects; and <p>b. the outcomes of any consultation with Heritage New Zealand Pouhere Taonga.</p> <p>2. in all cases, requiring appropriate steps to be followed in the event that sensitive material is discovered during earthworks and land disturbance.</p>
EW-P4	<p>Ensure that earthworks are of a type, scale and form that is appropriate for the location having regard to the effects of the activity, and:</p> <ol style="list-style-type: none"> 1. the impact on existing natural landforms and features and indigenous vegetation; 2. changes in natural landform that will lead to instability, erosion and scarring; 3. impacts on natural drainage patterns and secondary flow paths; 4. compatibility of the earthworks and the design and materials for any retaining structures with the visual amenity and character of the surrounding area; 5. the extent to which the activity mitigates any adverse visual effects associated with any exposed cut faces or retaining structures, including through screening, landscaping and planting; and 6. the impact of the movement of dust and sediment beyond the area of development.
EW-P5	<p>Require earthworks and any retaining structures associated with future land development or subdivision to be designed, located, managed and undertaken in a coordinated and integrated manner, including by:</p> <ol style="list-style-type: none"> 1. managing large-scale earthworks associated with subdivision, including for the purpose of site development and creating roads or access to and within the subdivision; and 2. considering the appropriateness of earthworks in conjunction <p>with site design and layout of future subdivision and development of land, particularly for future infill or greenfield subdivision.</p>

EW-P6	Ensure that earthworks and any associated structures are designed as far as practicable to reflect natural landforms, and where appropriate, landscaped to reduce and soften their visual impact having regard to the character and visual amenity of the surrounding area.

- 9.3 The proposed earthworks align with Objective EW-O1, as they are necessary for the construction of roads and services to support the subdivision. The subdivision layout has been designed to minimize land disturbance by following natural contours where possible, and setbacks from the wetland ensure that sensitive environmental areas are protected. The requirement for a ESCP further ensures that potential adverse effects are appropriately managed. This approach is consistent with EW-P1, which allows for earthworks associated with the transport network and network utilities while ensuring their scale, volume, and effects remain appropriate.
- 9.4 The proposal is also consistent with EW-P2, as potential effects on land stability, waterbodies, and community health and safety will be actively managed. Earthworks will not create or exacerbate natural hazards such as flooding, as overland flow paths have been incorporated into the design. Measures will be in place to mitigate adverse effects as controlled through the ESCP process.
- 9.5 Cultural monitoring of earthworks will be undertaken in collaboration with Puketapu Hapū, and Heritage NZ, ensuring alignment with EW-P3. A cultural monitoring agreement will be in place, providing for on-site observation during excavation to protect cultural, spiritual, and historical values.
- 9.6 The scale and form of earthworks have been considered in accordance with EW-P4. The subdivision layout minimizes modifications to the natural landform while ensuring stability and preventing erosion or scarring. The design of the roading network follows existing topography, reducing the extent of cut and fill required. Natural drainage patterns and secondary flow paths have been maintained, ensuring no disruption to stormwater flow.
- 9.7 The proposed earthworks align with EW-P5 by being designed and managed in a coordinated and integrated manner. The subdivision has been planned to accommodate future development, ensuring that bulk earthworks for roads and services are efficiently staged. The design considers future site

development needs, allowing for a logical progression of infrastructure installation.

- 9.8 The proposal is consistent with EW-P6, as earthworks and associated structures will be designed to reflect natural landforms as much as practicable. Cut and fill areas will be shaped to blend with the existing topography, and where necessary, landscaping will be incorporated to soften the visual impact. This ensures that the development maintains the character and visual amenity of the surrounding area, while supporting necessary infrastructure for residential use.
- 9.9 Ms. Hooper has undertaken a review of the relevant higher order planning documents as detailed in her evidence including:
- (a) National Policy Statement on Urban Development
 - (b) Regional Policy Statement
 - (c) PDP Strategic Objectives
 - (d) National Policy Statement on Freshwater Management
- 9.10 I note that I am in agreement with Ms. Hooper's analysis and conclusions which I adopt. It is my opinion that the proposed development is not contrary to any of these planning documents or their objectives or policies; and is consistent with them.

10. PART 2 OF THE RMA

- 10.1 I am of the opinion that the PDP has been prepared in accordance with Part 2 of the Act, and as per the of Court of Appeal decision in R J Davidson Family Trust vs Marlborough District Council (CA97/2017) there is no need to refer directly to Part 2.

11. OFFICER'S REPORT AND PROPOSED CONDITIONS OF CONSENT

- 11.1 I have reviewed the proposed conditions of consent in the Officer's Report. I note that verbal discussions with Mr. Whittaker have taken place since the issuing of the s42A report regarding the draft conditions. It is acknowledged that these are intended as a starting point, with discussions anticipated to take place through the hearing process to consolidate and amend the conditions.
- 11.2 I have included the draft consent conditions with initial tracked changes and comments as **Appendix G**, based on the comments from the applicant's

expert witness in their evidence, as well as initial comments from a planning perspective. The appended draft conditions are purely to consolidate the applicant's and relevant expert's initial thoughts to allow for further discussion.

12. CONCLUSION

12.1 My evidence has assessed the planning matters that I am aware of in relation to the Application and I can safely conclude that:

- (a) The proposed development is consistent with the objectives and policies of both the Operative and Proposed New Plymouth District Plans, and the relevant provisions of the RMA.
- (b) The assessment of effects, supported by expert evidence, demonstrates that potential adverse effects—particularly in relation to traffic, ecology, stormwater management, and cultural values—can be appropriately avoided, remedied, or mitigated with all potential adverse effects assessed to be at most minor and of a temporary nature.
- (c) Extensive consultation has been undertaken with tangata whenua and key stakeholders, resulting in modifications to the proposal to address concerns and incorporate cultural and environmental considerations.
- (d) The subdivision will provide positive benefits and effects, including increased housing supply, economic growth, and improved public access to the Waipu Lagoons and surrounding area.
- (e) Based on this assessment, I believe consent can be granted, subject to appropriate conditions.

Benjamin Richard Lawn
McKinlay Surveyors Ltd
28 March 2025