

**BEFORE THE INDEPENDENT HEARINGS COMMISSIONER AT NEW
PLYMOUTH**

IN THE MATTER of the Resource Management Act 1991
AND

IN THE MATTER of an application under s88 of the Act by
B, M R Sim to the New Plymouth District
Council to undertake a boundary change
and five-lot subdivision, at 6 & 42 Leith
Road, Okato (SUB21/47781)

AND

of an application under s88 of the Act by
B, M R Sim to the New Plymouth District
Council for a side boundary setback
breach for a proposed dwelling on Lot 5
of SUB21/47781 and earthworks within
200m of Site of Significance to Māori and
Archaeological Site ID 197 (under the
Proposed District Plan) (LUC22/48312)

STATEMENT OF EVIDENCE OF

KATHRYN LOUISE HOOPER - PLANNER

24 January 2023

INTRODUCTION

1. My name is Kathryn Louise Hooper.
2. I have a Masters in Applied Science (Natural Resource Management) from Massey University and a Graduate Certificate in Environmental Management from Central Queensland University.
3. I am a Principal Planner and Executive Director at Landpro Limited and have been a consulting Planner based in New Plymouth since 2001. Prior to this I worked for Wellington and Taranaki Regional Councils.
4. I have been a full member of the New Zealand Planning Institute since 2012 and am a Certified Nutrient Management Advisor (CNMA).
5. My experience includes consenting subdivision and land use activities under the New Plymouth District Council (NPDC) Plans and other District Plans in New Zealand; private plan changes (including the recently granted NPDC Plan Change 49); structure planning, feasibility, consultation and land access negotiations.
6. In preparing this evidence I have reviewed:
 - a. All original application details, including the land use consent application dated 23 August 2022;
 - b. The NPDC Planners 42A Report for SUB21/47781 dated 16 May 2022;
 - c. The planning evidence of my colleague Zenaída Gerente, specifically;
 - i. Her Evidence in Chief (EIC) dated 25 May 2022;
 - ii. The summary of highlights in her planning evidence, provided in the legal memorandum on 10 June 2022;
 - d. The supplementary evidence/JWS prepared by Ms Gerente dated 30 May 2022;
 - e. The supplementary evidence of Ms Buttimore, the NPDC's processing planner, dated 7 June 2022;
 - f. The EIC of Mr Richard Bain dated 23 May 2022;
 - g. The EIC of Ms Martha Dravitski dated 23 May 2022; and,
 - h. The 42A report for LUC22/48312 dated 6 December 2022; and,
 - i. The evidence of Mr Allen, AgFirst dated 24 January 2023.
7. Although this is a Council level hearing, I confirm that I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court Practice Note 2023, and I agree to comply with it in giving this evidence. I confirm that the issues addressed in this brief of evidence are within my area of expertise.

S42A Report LUC22/48312

8. Ms Buttimore recommends LUC22/48312 be declined on the basis of the loss of productive capacity of highly productive soils.
9. In Appendix 2 of the above 42A report, Ms Buttimore assesses the application for subdivision SUB21/47781, against the National Policy Statement for Highly Productive Soils (NPS-HPL).
10. I agree with paragraphs 1-8 of Appendix 2 of this s42A report.
11. I disagree with paragraphs 9-12, while acknowledging the limited information Ms Buttimore had upon which to make her assessment.
12. Accordingly, I discuss the NPS-HPL further below.

NPS-HPL

13. The LUC Map for the subject site is provided in **Appendix 1A**, with wider context provided at **1B**.
14. The subject site is a mixture of LUC 2 and 5, and this is confirmed by Mr Allen in his evidence. Until the mapping in 3.4 of the NPS-HPL is done the current LUC maps are the means of identification of HPL, and the land must be treated thus as per clause 3.5 (7). Proposed lots 1-5 are therefore located on HPL.
15. While the Ministry for the Environment Guide to implementation of the NPS-HPL, December 2022 notes¹ that whether the land is 'large and geographically cohesive' is not relevant to implementing the transitional provisions, the future status of the land under the NPS-HPL once mapping under clause 3.4 is complete is, in my opinion, important to examine more closely given the NPS-HPL requires us to assess the productive capacity of the land over the long term. Any assessment of long-term productivity under the NPS-HPL must logically, as a first step, consider the long-term status of the land under the NPS-HPL, because if it is clear the land will not be mapped as HPL in the short-term future under clause 3.4, then any further discussion is moot.
16. Under clause 3.4 of the NPS-HPL:
 - (1) *Every regional council must map as highly productive land any land in its region that;*
 - a) *is in a general rural zone or rural production zone; and*
 - b) *is predominantly LUC 1, 2 or 3 land; and;*
 - c) *forms a large and geographically cohesive area.*

¹ Page 13

17. Under clause 3.4, (4) (c), this mapping must be done *'at a level of detail that identifies individual parcels of land, or where appropriate for larger sites, parts of parcels of land'*.
18. Under clause 3.4 (5):

For the purpose of identifying land referred to in subclause (1):

 - a) mapping based on the New Zealand Land Resource Inventory is conclusive of LUC status, unless a regional council accepts any more detailed mapping that uses the Land Use Capability classification in the New Zealand Land Resource Inventory; and*
 - b) where possible, the boundaries of large and geographically cohesive areas must be identified by reference to natural boundaries (such as the margins of waterbodies), or legal or non-natural boundaries (such as roads, property boundaries, and fence-lines); and*
 - c) small, discrete areas of land that are not LUC 1, 2, or 3 land, but are within a large and geographically cohesive area of LUC 1, 2, or 3 land, may be included; and*
 - d) small, discrete areas of LUC 1, 2, or 3 land need not be included if they are separated from any large and geographically cohesive area of LUC 1, 2, or 3 land.*
19. While rurally zoned, and containing LUC 2 (HPL) land, as can be seen from figure 1B, the wider land area is heavily dissected by streams from the Taranaki Ring Plain. If the class 1, 2 and 3 land in this area is not part of a large and geographically cohesive area, then the TRC will be unable to map this as HPL in a manner that is consistent with clause 3.4.
20. This uncertainty raises the risk that a decision to decline this application is made on the basis of the land being HPL, but that in the short-term future, the TRC does not map it thus. This would render the decision to decline an application on this basis erroneous, resulting in significant inequities for the applicant, particularly when considering the time scale of this application.
21. In my opinion there are arguments for and against this land being part of a large and geographically cohesive area. But, due to this doubt, we must proceed on the basis that the land will be mapped as HPL.
22. Accordingly, Mr Allen of AgFirst has been engaged by the applicant to assess the underlying soil classification and the potential loss of productive capacity, in order to appropriately assess the application against the NPS-HPL. He has provided evidence to this effect which I draw on below.
23. LUC maps from TRC indicate that Lots 1 – 5 are LUC 2 and the balance lot 6 is a mixture LUC 2 and 5, which has been confirmed by Mr Allen. This is not disputed, and it is accepted that the transitional provisions of the NPS-HPL apply.

24. The whole block was previously a dairy farm, which ceased in 2021. Mr Sim, the applicant, has confirmed that the farm went out of dairy mainly due to infrastructure upgrades required. Since then, the block has been leased to Westtown Agriculture which has grown maize on approximately 30 ha of the block, with sideling areas which are unsuitable for maize been grazed by beef cattle.
25. In terms of future long term productive use, Mr Allen finds that it is highly unlikely that the land would ever return to dairy farming. He therefore considers a range of other uses including vegetable growing and kiwifruit, and finds the most likely land use options for the block are similar to the current use, being maize & ryegrass silage and grazing of sheep and cattle on the lower class soils.
26. Mr Allen confirms that the block is not sustainable economically in the long term when the cost of capital is factored in.

PRODUCTIVE CAPACITY

27. Under clause 3.8 of the NPS-HPL, the NPDC must avoid subdivision of HPL unless the applicant can demonstrate that the proposed lots will retain the overall productive capacity of the subject land over the long term.
28. In relation to clause 3.8, productive capacity means '*the ability of the land to support land-based primary production over the long term*²', and this is based on an assessment of physical characteristics, legal constraints and the size and shape of the existing and proposed land parcels. This definition does not refer to the most productive land use, merely the ability to support land-based primary production.
29. Accordingly, I discuss each of the proposed lots below in the context of their productive capacity and clause 3.8.
30. **Proposed Lot 1**, at almost 3ha, retains its productive capacity in its own right and Mr Allen confirms it is of sufficient size to continue the current cropping regime. As such its subdivision will have minimal impact on the overall productive capacity of the subject land over the long term. I note also that as a 3ha block, it could be used for cropping or beef/sheep grazing, or the smaller land holding may provide an opportunity for investment into higher intensity horticulture or vegetable production. Examples locally include hops, blueberries, and market gardening, enterprises which have been the subject of extensive recent and ongoing work by Venture Taranaki's 'Branching Out' program³. There will potentially be a dwelling on the lot, however this is not contrary to supporting land based primary production – it is typical for primary producers to live on their land.
31. **Proposed lots 2 and 3**. Mr Allen finds that these lots may be too small to efficiently crop maize. Proximity to archeological site no.197 prevents earthworks (including

² Clause 1.3 of the NPS-HPL

³ <https://www.venture.org.nz/assets/VT0790-branching-out-live-ad-FINAL.pdf>

cropping) over the front portions of lots 2 in particular (see figure 4 of the s42A report) which also limits maize production in this area.

32. In terms of productive capacity, Mr Allen confirms that each of lots 2 and 3 is capable of sustaining 1-2 beef cattle or 6-10 sheep.
33. Given the size and the shape of these lots, combined with the dwelling and curtilage that will result I am unable to conclude that the predominant site use is rural production, and consider that these lots are rural lifestyle in nature. Accordingly, they are not consistent with the NPS-HPL.
34. **Proposed lot 4** has an existing dwelling and its curtilage and some additional land has been provided between the dwelling and SH45 as part of the lot. Mr Allen finds that the area not used for the dwelling could be used to graze sheep or cattle and productive capacity is largely retained. I find in relation to this lot that the landholding is small, and it is borderline whether the lot would be rural production in nature. Assurance that the land will retain its productive capacity can be achieved by reducing the size of Lot 4 to incorporate the dwelling and its curtilage, and leaving the additional land within the balance lot.
35. **Proposed Lot 5**, contains an existing building platform and its curtilage and driveway (i.e. the existing 2459m² lot), and contains an easement (a water easement offset from, and running parallel to the driveway from Leith Road to the dwelling). Increasing the area of land associated with the dwelling on proposed lot 5 from 0.25 ha to 1.01 ha, enables a size large enough to establish productive capacity on this parcel, which was the applicant's intention when increasing this land parcel from the outset via the boundary adjustment sought.
36. The layout of the parcel and boundaries and the 1.01ha size makes it apparent that the land has productive capacity, with the house set well back on the site and a paddock clearly provided for grazing purposes, or which could be used to produce maize as identified by Mr Allen. In its current form the existing parcel has no productive capacity at all. On these grounds I am satisfied that the productive capacity of the overall site is able to be retained. In the case of lot 5, I am also satisfied that predominant site use will be rural production, as opposed to rural lifestyle.

SUMMARY

37. Mr Allen finds that overall, based on the current scheme plan approximately 2.0-2.5ha of land will be lost from maize production, with 1-1.5 ha of this replaced with cattle or sheep grazing. While only a small amount of productive capacity is lost (0.5-1.5ha), clause 3.8 of the NPS-HPL requires the productive capacity to be retained, and with even a small loss such as this, compliance with clause 3.8 this cannot be demonstrated.

38. I find the loss of productive capacity is associated with proposed lots 2 and 3, and the additional land area included with lot 4. In the absence of these two lots and with Lot 4 reduced to the existing house and curtilage only, the subdivision would be consistent with clause 3.8.
39. This I refer to as the 'scaled back' proposal, and a scheme plan for this is attached as **Appendix B**. Mr Allen has also confirmed that based on the scaled back scheme plan, there will be no loss of productive capacity associated with this subdivision.
40. Under clause 3.8, with clause 3.8 (1) satisfied, the measures in subclause 3.8 (2) must also be applied and I discuss these below.
41. Under 3.8 (2) (a) the NPDC must take measures to ensure that any subdivision of HPL avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of HPL in the NP District. The discussion above confirms that for the scaled back proposal, there is no loss of productive capacity of HPL in the district and accordingly no potential for cumulative loss.
42. Clause 3.8 (2) (b) requires territorial authorities to take measures to ensure the subdivision of HPL under 3.8 (1) avoids or mitigates actual or potential reverse sensitivity effects on surrounding land based primary production activities. With this in mind, the applicant volunteers a no complaints covenant over any new lots created as follows;
 - x. *A 'No Complaints Covenant shall be placed on Lots 1, 4 and 5' in favour of Lot 6, with this covenant including a "no complaints" clause relating to lawful rural based production operations, that extends to owners, lessees, tenants, visitors or other occupiers.*
43. The 'scaled back' scheme plan in **Appendix B** ensures that the minimum setback requirements in the Operative New Plymouth District Plan (ONPDP) of 15m from side boundaries for a dwelling and 10m from side boundaries for the shed on proposed lot 5 are now provided. This also remedies existing deficiencies on the underlying title for lot 5, as historically the dwelling on this lot has been within the setbacks that are considered acceptable under the ONPDP.
44. Similarly it is noted that the minimum setbacks for the shed and dwelling on proposed lot 4 are also provided for with the new boundary of this lot.
45. The setbacks that are deemed acceptable in the ONPDP are therefore provided throughout the subdivision, providing physical separation which will also assist in mitigating reverse sensitivity effects.
46. Accordingly, I find the scaled back proposal, in satisfying clause 3.8, gives effect to the relevant Policy of the NPS-HPL (Policy 7) which is;

Policy 7: *The subdivision of highly productive land is avoided, except as provided in this National Policy Statement.*

47. For completeness, I note there are no permanent or long-term constraints that would enable a consenting pathway under clause 3.10 of the NPS-HPL.
48. In summary, I conclude that;
- a) If this land is unlikely to be mapped as HPL by the Regional Council, not granting the consent would be erroneous and inequitable to the applicant. However, there is sufficient doubt in this regard that it is necessary to proceed on the basis that all or part of the land may be mapped as HPL.
 - b) Accordingly, the applicant has re-considered the original scheme plan in light of the NPS-HPL, and put forward a scaled back proposal that will retain the overall productive capacity of the subject land over the long term. Accordingly, the subdivision is able to occur under clause 3.8 of the NPS-HPL. This revised scheme plan is attached (**Appendix B**) documenting this scaled back proposal, noting;
 - a. If this scaled back proposal is accepted, the land use consent for works within 200m of an archaeological site is no longer required;
 - b. The land use consent that was sought for the reduced building setback on proposed lot 5 is also no longer required, with the side-boundary offset breach also addressed in the scaled back scheme plan A(Appendix B); and,
 - c. The removal of lots 2 and 3, and reduction in size of Lot 4 does not change the activity status of the proposed subdivision, it remains Fully Discretionary.

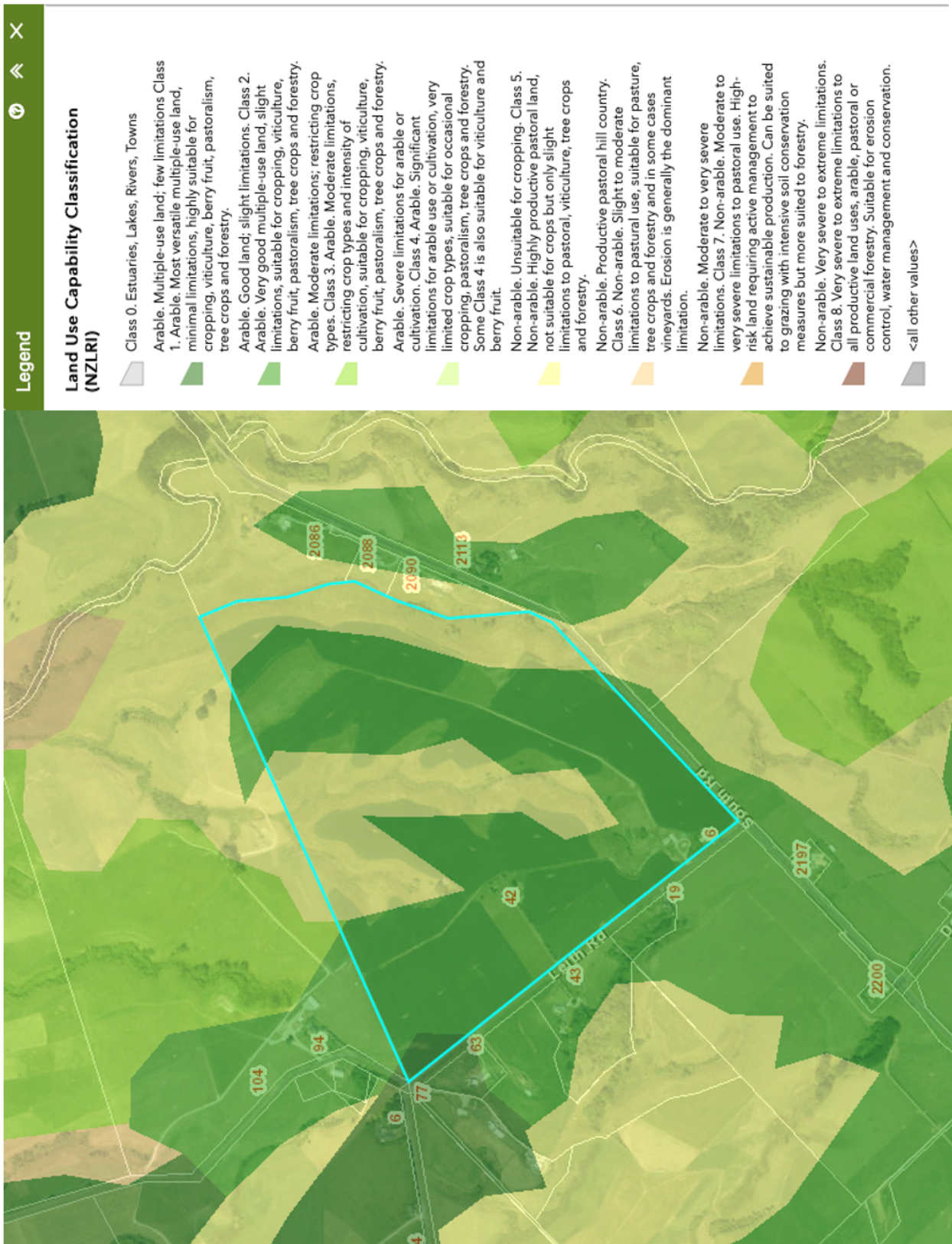
49. I therefore turn to the conditions put forward by Ms Buttimore and generally agree with these conditions, with the addition of a no complaints covenant condition, as volunteered at paragraph 42. I have attached a mark up of these conditions to reflect the scaled back proposal (**Appendix C**).

Signed this 24th day of January 2023

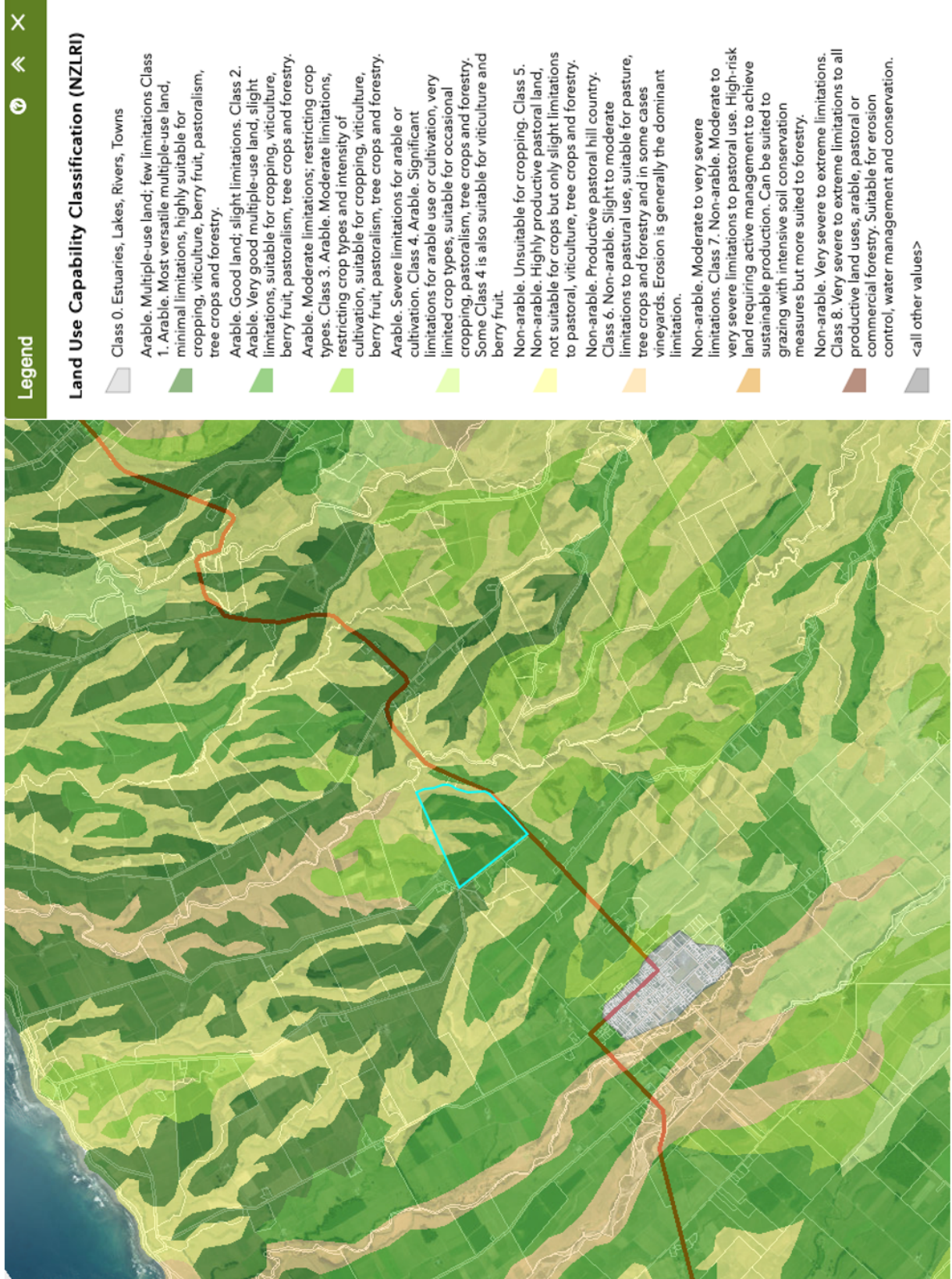


Kathryn Louise Hooper
MNZPI

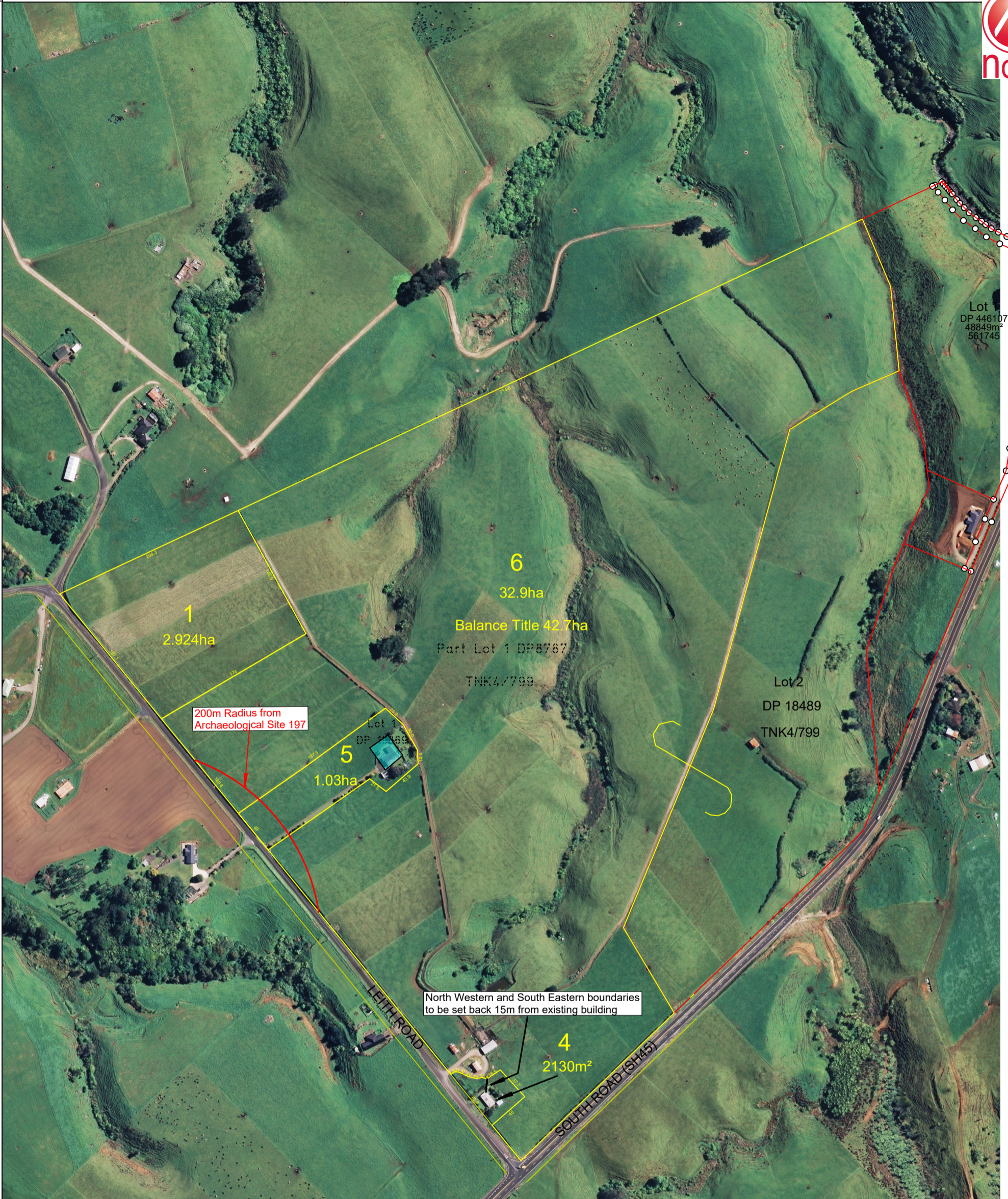
APPENDIX 1A – LUC MAP SUBJECT SITE – TRC 2022



APPENDIX 1B – LUC MAP SUBJECT SITE WITHIN WIDER LUC CONTEXT – TRC 2022



APPENDIX B
SCHEME PLAN FOR 'SCALED BACK' PROPOSAL INCLUDING REVISED HOUSE LAYOUT PLAN
FOR PROPOSED LOT 5



Lot 1
DP 446107
48849m²
561745

6
32.9ha
Balance Title 42.7ha
Part Lot 1 DP8787
TNK4/799

1
2.924ha

200m Radius from
Archaeological Site 197

5
1.03ha
Lot 1
DP 19869

Lot 2
DP 18489
TNK4/799

North Western and South Eastern boundaries
to be set back 15m from existing building

4
2130m²

NOTES:
1. Subject to Consent from the appropriate Territorial Authorities
2. Areas & dimensions are subject to final survey
3. Plan prepared for consent purposes only and should not be relied upon for any other purpose without the consent of Juffermans Surveyors Ltd

Proposed Amalgamation Condition:
That Lot 6 hereon and Lot 2 DP 18489 (Computer Freehold Register TNK4/799) be held in a single freehold register.

51 Dawson Street
PO Box 193, New Plymouth 4340
info@juffermans.co.nz
www.juffermans.co.nz

Client: SIM	Drawing Title: Lots 1, 4, 5 and 6 Being a Proposed Subdivision of Pt Lot 1 DP8787 and Lot 1 DP 19869		Job No: 20198
Site Address: 6 Leith Road New Plymouth	Territorial Authority: NPDC	Comprised in: TNK 4/798 & TNK 4/799	Scale: 1:4000
		Drawing No: 20198-3	Date: 23/01/2023
			Rev: 12



Rev.	Date	Revision Details	By	Ver.	App.
03	23/01/2023	Amended boundaries and offsets	RW		
02	23/01/2023	Amended boundaries and offsets	RW		
01	19/05/2022	Addition of Proposed building Area	RW	SPL	
0	19/05/2022	First Issue	RW	SPL	

APPENDIX C

MARK UP TO PROPOSED CONDITIONS

Appendix One: Proposed conditions of consent for SUB21/47781 and LUC22/48312

SUBDIVISION DECISION:

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

1. The subdivision activity shall be carried out in accordance with the plans and all information submitted with the application, and all referenced by the Council as consent number SUB21/47781.
2. The application for a certificate under section 224(c) of the RMA shall be accompanied by certification from a professionally qualified surveyor or engineer that all the conditions of subdivision consent have been complied with and that in respect of those conditions that have not been complied with:
 - a. a completion certificate has been issued in relation to any conditions to which section 222 applies;
 - b. a consent notice has been or will be issued that in relation to any conditions to which section 221 applies;

Survey Plan Approval

3. The survey plan shall conform with the subdivision scheme plans submitted by Juffermans Surveyors Ltd and entitled "Lots 1 –6, 4, 5 & 6 being a subdivision of Part Lot 1 DP 8787 and Lot 1 DP 19869"; Job Number 20198; Dated ~~23 May 2022~~ 23 January 2023.
4. ~~The knoll high point identified on Lot 3 at RL104.9 shall be marked and the 5m setback shall be defined on the survey plan.~~
5. The building platform on Lot 5 shall be consistent with the plan submitted by Juffermans Surveyors Ltd entitled "Proposed House Location Lot 5, 6 Leith Road Okato, dated 23 January 2023" and identified and marked on the survey plan.
6. ~~A no build area on Lots 2 and 3 shall be marked and defined on the survey plan the full extent of the 30m road frontage on both lots.~~
7. That the consent be subject to the following amalgamation condition:
'That Lot 6 hereon is held with Lot 2 DP 18489 and that one Record of Title is issued herewith'.

See Request ID: 1792763

Building platforms and onsite stormwater disposal systems

8. An inspection and a report shall be carried out of soil compatibility by a suitably qualified person and submitted to the council to confirm the suitability of Lots ~~1, 2 and 3~~ for on-site stormwater disposal.
9. A report shall be provided from a suitably qualified person to confirm that there is available within Lots ~~1, 2 and 3~~ a stable flood free building platform suitable for building foundations in accordance with the requirements of the New Zealand Building Code – Acceptable Solution B1/AS4 of Approved Document B1/4; Structure Foundations.
10. Any recommendations requiring specific on-site stormwater and building platform shall be subject to Consent Notice under Section 221 of the Resource Management Act 1991.

Vehicle Entrance

- ~~11. A Type G vehicle crossing shall be constructed to service both Lots 2 and 3 to ensure compliance with the District Plan 160m sight distance requirement, these shall be in the locations shown in the Section 92 response to LUC22/48312. Each crossing shall be constructed to the Standard specified in the Council's Land Development & Subdivision Infrastructure Standard.~~
12. The existing vehicle crossings servicing Lots 4 and 5 shall be upgraded to a Type G vehicle crossing and shall be constructed to the Standard specified in the Council's Land Development & Subdivision Infrastructure Standard.
13. The unused crossing on Lot 4 shall be removed and the road reserve reinstated with grass.

Advice Note

An application with the appropriate fee shall be made to the Council for a new and or upgraded Vehicle Crossing, and upon approval the vehicle crossing is to be installed by a Council approved contractor at the applicant's cost.

Consent notice on Lots 1 ~~–6~~, 4, 5 & 6

14. The consent holder or future owners of proposed Lots 1, ~~2, 3~~ and 5 shall comply with the following:
 - a) All buildings on Lots ~~1, 2, 3~~ and 5 shall be limited in terms of finish to exterior surfaces, this includes roofs and walls, recessive (shades rather than tints) and colours to have reflectivity values of below 20% for roofs and 40% for exterior walls.
 - b) All new driveways and accessways for Lots ~~1, 2, 3~~ and 5 shall finished in rural material and shall be a mid to dark grey in colour.

- c) All buildings on Lots ~~1,2,3~~ and 5 shall be single storey and less than 6m in height.
- d) Only one habitable building shall be constructed on Lots ~~1,2,3~~ and 5.
- e) Any new habitable dwelling on Lot 5 shall be the same or similar in scale to that of the former dwelling on site.
- f) Water tanks on Lots ~~1,2,3~~ and 5 shall be recessive shade less than 35% reflectivity and shall be integrated with the dwelling design and either screened or planted from the view from the road, if not located underground.
- g) All external lighting on Lots ~~1,2,3~~ and 5 shall be hooded or cast down so that no lamp source is visible.
- h) All earthworks on Lots ~~1,2,3~~ and 5 shall include sediment control measures and be limited in height to 1.5m unless created at a batter of no steeper than 3 horizontal to 1 vertical. Any earthworks shall be grassed.
- i) Fencing on Lots ~~1,2,3~~ and 5 shall be limited to post and rail or post and batten only.
- j) Habitable building on Lot 5 shall be limited to the areas marked and defined on the survey plan.
- ~~k) No buildings shall be located in Lots 2 and 3 as shown and marked on the survey plan.~~
- l) Within the next planting season following completion of the dwelling on Lots 1 -3 native planting shall occur along the full extent of the driveway, along the southern side of the driveway on Lots 1 and 3 and the northern side of the driveway on Lot 2.

15. The consent holder or future owners of proposed Lot 6 shall comply with the following:

- a) No habitable building shall be located within 180m of the Leith Road boundary.
- b) Riparian planting and fencing within Lot 6 along the length of the waterbodies (tributaries of the Katikara Stream) shall be retained, maintained and enhanced on an on-going basis.
- c) Any dead or diseased species within the riparian planting shall be replaced as soon as practicable within the next planting season.
- d) Any damaged fencing along the riparian margins shall be replaced to ensure stock proof fencing permanently along the stream margins.

16. The consent holder or future owners of proposed Lot 4 shall comply with the following:

- a) Only one habitable building shall be constructed on this allotment
- b) Fencing shall be limited to post and rail or post and batten only.
- c) All new buildings shall be limited in terms of finish to exterior surfaces, this includes roofs and walls, recessive (shades rather than tints) and colours to have reflectivity values of below 20% for roofs and 40% for exterior walls.
- d) All buildings on Lot 4 shall be single storey and less than 6m in height.
- e) Any new habitable building on Lot 4 shall be the same or similar in scale to that of the current existing habitable building on site.

f) The landowner or occupier will not interfere or restrain activities from occurring on land surrounding the burdened land where those activities are permitted by, and carried out in accordance with, the District Plan, Regional Plans or any replacement plans.

b. The landowners or occupier will not:

i) Make nor lodge; nor

ii) Be party to; nor

iii) Finance nor contribute to the cost of;

Any submission, proceeding or appeal designed or intended to limit, prohibit or restrict activities that are permitted and carried out in accordance with the District Plan or Regional Plans or any replacement plans.

17. The consent holder or future owners of proposed Lots 1 ~~–6~~, 4, 5 & 6 shall comply with the following:

a) Each new dwelling shall be supplied with a dedicated firefighting water supply, and access to such supply, in accordance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008, which must thereafter be maintained.

b) The Consent Holder or future owners of Lots 1 ~~–6~~, 4, 5 & 6 shall arrange for cultural monitoring during any earthworks on any allotment. Five days prior to earthworks commencing Nga Mahanga A Tairi hapū shall be notified to allow time to arrange a monitor to be on site.

Note: Cultural monitoring shall be at the consent holder or future owners of Lots 1 ~~–6~~, 4, 5 & 6.

c) The Consent Holder or future owners of Lots 1 ~~–6~~, 4, 5 & 6 shall consult with Nga Mahanga A Tairi hapū for any earthworks for services and or buildings within 200m of Puekti Pa (Site ID 197). Nga Mahanga A Tairi shall approve the mitigation measures for earthworks associated with these activities.

d) If archaeological or cultural material are accidentally discovered by the construction crew, work in the immediate area will stop and an Accidental Discovery Protocol shall be implemented. Nga Mahanga A Tairi hapū shall be notified.

NEW *A 'No Complaints Covenant shall be placed on Lots 1, 4 and 5' in favour of Lot 6, with this covenant including a "no complaints" clause relating to lawful rural based production operations, that extends to owners, lessees, tenants, visitors or other occupiers.*

~~18. The consent holder or future owners of proposed Lots 2 and 3 shall comply with the following:~~

~~a) No building, earthworks, driveway and vehicle access shall be located within 5m of the highest point of the knoll, as identified by a confirmed RL~~

~~Level (at the time of s223 stage) on Lot 3 as identified and marked on the survey plan.~~

~~b) The vehicle access and driveway locations for Lots 2 and 3 shall be in the locations specified in the Section 92 response for LUC22/48312.~~

19. The consent holder or future owners of proposed Lots 1 ~~–6~~, 4, 5 & 6 shall comply with the following:
 - a) All planting established and or existing and identified to be retained in accordance with the Landscape Planting Plan [insert name + reference details of Landscape Planting Plan certified in accordance with Condition 23] and the planting set out in condition 14(l) shall be maintained by the owner and shall not be destroyed or removed. The owner shall replace any dead or dying plants with the same species in accordance with the [insert name + reference details of Landscape Planting Plan] and or condition 14(l) within the following planting season.
20. Conditions 14 -19 above shall be the subject of a consent notice under Section 221 of the Resource Management Act 1991 registered against the new record of title for Lots 1 ~~–6~~, 4, 5 & 6 (where applicable) of the subdivision of ~~Lot~~ Part Lot 1 DP 8787 and Lot 1 DP 19869 as identified in the condition and shall be prepared by the Council at the cost of the consent holder.

Riparian Planting

21. Riparian planting and fencing shall occur along the length of the tributaries within Lot 6. TRC riparian guidelines 23, 24, 25, 26 and 41 shall be used as a guide to inform the fencing and planting plan.
22. Fencing shall be stock proof permanent fencing as per the Taranaki Regional Council (TRC) Guidelines.

Mitigation Planting

23. A Landscape Planting Plan prepared by a suitably qualified expert in landscaping shall be submitted by the consent holder to the Development Control Lead and certified prior to the commencement of works. The Landscaping Planting Plan is intended to provide screening and or softening of existing and or proposed built form on Lots 1 ~~–6~~, 4, 5 & 6. The Landscape Planting Plan shall provide the following:
 - Road boundary planting along the frontage of Lots 1, ~~2 and 3~~ to screen and or soften the future building platforms.
 - Identification of existing vegetation on Lot 5 that shall be retained and protected in perpetuity.
 - ~~Identification of planting along the southern boundary of Lot 3 at a minimum of two rows at 1.5m spacing offset from one another to achieve a minimum height of 3m within 5 years of plantin. Upon installation the planting shall be a minimum of 1 to 2 litres in size.~~
 - Identification of existing vegetation to be retained (road frontage hedge) until new planting achieves specific heights. The heights that the new

planting must achieve before the existing vegetation can be removed shall be identified in the Landscape Planting Plan;

- Plant species, which must all be native varieties and include the numbers, size, spacing, layout and grade;
- Methods of ground preparation, fertilising, mulching, spraying;
- Maintenance and weed management.

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

24. Prior to issue of certification under Section 224 of the Resource Management Act 1991, the consent holder shall complete planting in accordance with the Landscape Planting Plan certified in accordance with Condition 21.

25. In the event that application is made to the New Plymouth District Council for certification pursuant to Section 224 of the Resource Management Act 1991 before riparian planting and fencing under condition 21 and 22 and the planting approved under Condition 23 is completed, then the consent holder shall pay to the New Plymouth District Council a bond in the form of a refundable cash deposit. The purpose of this bond shall be for ensuring compliance with Condition 21 - 23 and shall only be entered into if the Council is satisfied that the amount of the bond is sufficient to achieve this purpose, and that 25% of the estimated cost for the maintenance period has been added.

LANDUSE DECISION:

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

- ~~1. The use and development of the land shall be as described within the application and shall be substantially in accordance with the plans submitted with LUC22/48312 and as provided in response to Section 92 requests from LandPro Ltd and Juffermans Surveyors Ltd and entitled:
– Proposed House Location Lot 5, Job Number 20198-04; dated 19/05/22; and
– Lots 1–6 Being a Proposed Subdivision of Pt Lot 1 DP 8787 and Lot 1 DP 19869; Job Number: 20198; dated 13/09/22 (identified vehicle and driveway locations on proposed Lots 2 and 3.~~
- ~~2. The Consent Holder or future owners of the subject site shall arrange for cultural monitoring during any earthworks in association with the proposed vehicle access and driveways on proposed Lots 2 and 3. Five days prior to earthworks commencing Nga Mahanga A Tairi hapū shall be notified to allow time to arrange a monitor to be on site.~~

~~Note: Cultural monitoring shall be at the consent holder or future owners of Lots 1–6.~~

3. ~~If archaeological or cultural material are accidentally discovered by the construction crew, work in the immediate area will stop and an Accidental Discovery Protocol shall be implemented. Nga Mahanga A Tairi hapū shall be notified.~~

Advice notes

Fire and Emergency staff are available free of charge to advise on means of compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

The installation of a sprinkler system is Fire and Emergency New Zealand's recommended means of compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 in non-reticulated areas.

The applicant has indicated the riparian planting along the waterbodies within Lot 6 will occur alongside discussions and engagement with Te Kahui o Taranaki Iwi Trust.

There is no reticulated water supply available to the site. Any dwelling constructed on Lot 2 will require provision for the water needs of the project in accordance with the provisions of the Building Code. The activity will require you to provide for its own potable water supply in accordance with the standards specified by the Building Code. Details showing how this is to be provided for will need to be provided as part of the Building Consent application for the project. Bore or well water supply will require a water quality test and results report. No firefighting water is available to this development. It is recommended that a 75mm instantaneous female coupling and valve be fitted to any water storage tanks that may be constructed as part of this work. The requirements of the New Zealand Fire Services Firefighting Water Supplies Code of Practice may have to be met.

The subject property is located in an area of known habitation and there is reasonable cause to suspect the presents of unrecorded archaeological sites. Evidence of archaeological sites may include burnt and fire cracked stones, charcoal, rubbish heaps including shell, bone and/or glass and crockery, ditches, banks, pits, old building foundations, artefacts of Māori and European origin or human burials.

If any activity associated with this proposal, such as earthworks, fencing or landscaping, may modify, damage or destroy any archaeological site(s) (known or unknown), an authority (consent) from Heritage New Zealand Pouhere Taonga must be obtained for the work to proceed lawfully. Under the Heritage New Zealand Pouhere Taonga Act 2014, it is illegal to modify or destroy an archaeological site without obtaining an archaeological authority from Heritage New Zealand Pouhere Taonga. Heritage New Zealand Pouhere Taonga should be contacted prior to work commencing on the subject property. The relevant Regional Archaeologist can be contacted at archaeologist2CR@heritage.org.nz.

A Development Contribution for off-site services of \$2275.44 excluding GST for Lots 1, 2 and 3 is payable by the consent holder and shall be invoiced separately. The

224 release of this subdivision will not be approved until payment of this contribution is made.

Consent Lapse Date

*This consent lapses on **XXXX 2027** unless the consent is given effect to before that date; or unless an application is made before the expiry of that date for the Council to grant an extension of time for establishment of the use. An application for an extension of time will be subject to the provisions of section 125 of the Resource Management Act 1991.*

This consent is subject to the right of objection as set out in section 357A of the Resource Management Act 1991.