

Monday, 11 August 2025

Te Hui o Te Kaunihera ā-Rohe o Heretaunga
Hastings District Council
Commissioner Hearing

Kaupapataka

Attachments

**Section 357A (1) (G) and (2) RMA - Objection to Decision, 613 Puketapu Road
(Tuck Childrens' Trust) (RMA20240415)**

Te Rā Hui:
Meeting date: **Monday, 11 August 2025**

Te Wā:
Time: **9.00am**

Te Wāhi:
Venue: **Council Chamber
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

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TE KAUNIHERA Ā-ROHE O HERETAUNGA

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2. OBJECTION TO DECISION ON RESOURCE CONSENT, 613 PUKETAPU ROAD (TUCK CHILDRENS' TRUST) (RMA20240415)

Document 2

Containing these attachments

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memo

TO: Kelly Smith, Hastings District Council

DATE: 10 July 2025

SUBJECT: 613 Puketapu Road - Section 357A Objection to Decision declining consent –Legal Opinion on aspects of Objection

Introduction

1. I have been asked to assist Council officers in responding to an objection made under s 357A Resource Management Act 1991 (**RMA**) by Tuck Children’s Trust (**Objection**). The Objection relates to a decision by Council officers, under delegated authority, to decline an application for subdivision consent in the Plains Production Zone.
2. The issues I have been asked to address are:
 - (a) Whether personal circumstances can be relevant when considering an application for resource consent; and
 - (b) The relationship between Plan Change 6 to the Hastings District Plan and the present application for resource consent.
3. This memorandum is intended to be read in conjunction with the officer’s report, and I have therefore not set out a full background to the discussion.

Relevance of personal circumstances

4. I am aware of the following cases, all of which indicate it is not permissible to have regard to personal circumstances when assessing whether to grant a resource consent. These are summarised below. I have been unable to locate any decisions where a different approach has been taken, that is, that a Court has agreed it is appropriate to grant an exception to what the Plan anticipates on the basis of the applicant’s personal circumstances.

Adcock v Marlborough District Council [2010] NZEnvC 305

5. This case concerned an appeal against a decision by the Council to decline an application for subdivision of an 8 ha lot into 2 sites. The appellants had gained consent for a family flat, and were now seeking to subdivide the land on which the flat was located to create two separate titles.
6. At [39] the Court referred to an argument made by the appellant in support of the application as follows (internal citations omitted):

At another point Mr Williams claimed that a desire for “financial independence” by the appellants was behind the application. However, every would-be subdivider could say that, and (as Mr Williams agreed at the hearing) that cannot be a relevant planning issue. Indeed, the Council had said as much in its decision, so we were surprised to have irrelevant material being put before us. If it was relevant, the Court would spend large amounts of time hearing evidence about the relative merits of applicants’ personal circumstances.

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7. The Environment Court's decision refusing the appeal was subsequently overturned on appeal, however the above observation was not challenged.

Heaney v Rodney District Council (High Court, Auckland, CIV-2003-404-003480, 16/3/2004)

8. The High Court jointly considered an application for judicial review in respect of a notification decision, and an appeal against an Environment Court decision granting consent to increased use of a helicopter pad on private property.
9. One criticism of the Environment Court decision was that the Judge had taken account of evidence that two airfield operations had expressly stated they did not wish to accommodate helicopter operations. The High Court considered that "it cannot be relevant to a resource consent application in respect of one site that commercial difficulties might exist in a practical sense to the undertaking of the activity at a different site which is not the subject of the application" (at [53]) and went on to say at [54] and [55]:

What I think counsel for the appellants were contending was that it is an irrelevant consideration for a consent authority to consider personal difficulties of an applicant, not being a relevant planning issue, nor justification for allowing adverse effects (said to be more than minor) on the surrounding environment; *Taylor v Waimakariri District Council C22/96* (PT) noted at [1996] BRM Gazette 66. So, commercial opposition to, or non-cooperation with, those who might wish to use airfield facilities for helicopter activities are not, for planning purposes, relevant matters or grounds for permitting that activity elsewhere. I think such a proposition, in the context of this case, is valid.

In the context of whether the proposal was envisaged by the plan or found support in its objectives and policies, I accept the argument that it was inappropriate, at the time the appeal was heard, to have regard to the decision of commercial operators not to allow helicopter activities at sites controlled by them. They are irrelevant considerations to questions that the planning authority was required to ask, and determine, in a case such as this.

Munro v Manukau City Council, (Environment Court, Auckland, A074/2001, 16/8/2001)

10. This case concerned appeals against the grant of subdivision consent and the conditions imposed on it. The Court approved the subdivision and cancelled some conditions. In the course of the judgment, the Court addressed "Irrelevant and unnecessary matters" (at [77]), starting with the following:

Matters personal to the applicants

- [78] First, Mr D C Munro testified that the Munro family had been associated with land in the Clevedon district for over 140 years, and that for over 80 years this block had been farmed by three generations of Munros. Other matters personal to the applicants were the Munros' intention eventually to transfer the proposed rural-residential lots to their sons, and evidence of Mr Munro's army service, and other contributions to the community by him.
- [79] Creditable as all those matters are, we are obliged to state that we should not and will not allow them to influence our decision in these proceedings. Opportunity to subdivide rural land should not be a reward for keeping land in a family for generations, nor for exemplary public service. Applicants for subdivision with such fine records can expect their proposals to be considered by reference to the provisions of the Resource Management Act and instruments made under it in just the same way as the same proposals would be considered if proffered by newcomers to the district, with no records of service to the public, and no descendants to provide for.
- [80] Another point advanced for the Munros for allowing three rural-residential lots rather than two (to correspond to the number of bush lots to which they claim to be entitled) was that they have three sons, and wish eventually to transfer the rural-residential lots to them.
- [81] The opponents submitted that this is not relevant to the issues on the appeal, which relate to a resource consent rather than a family arrangement. It was observed that titles to lots created by subdivision are by definition capable of being alienated from a family, whether by deliberate decision, death of the owner, or otherwise.

- [82] We accept that the fact that the Munros have three sons, and wish eventually to give the rural residential lots to them, is a personal circumstance that is not relevant to the exercise of the statutory discretion to grant or refuse resource consent. The parties are entitled to the same decision as would be given if the applicants had no children or other dependants they wished to benefit, or if they had even more children they wished to provide for.

Comment

11. The objection invites the Commissioner to approve consent based on personal circumstances which closely reflect the arguments made and rejected by the Courts in the above decisions.
12. For instance, the objection notes, in Ground 9, that land eligible to subdivide under the Plan Change 6 provisions “...is owned by landowners with no wish to subdivide”. In my view, this is very similar to argument that consent for a helicopter operation should be approved because other airfields would not agree to helicopter use of their sites. The High Court in *Heaney* found that non-cooperation of other owners was “not, for planning purposes, [a] relevant [matter or ground] for permitting that activity elsewhere”.
13. It is also clear that the Tuck family wish to remain in the Puketapu community, however as noted in *Munro*, once subdivided, the site is capable of being alienated from the family. This is not to suggest the objector intends this outcome, but the fact is that the fragmentation will be permanent, and there is no guarantee, nor ability to require, that the site continue to be used by the family.
14. Applying the comments in *Munro* to this application, the objector’s opportunity to subdivide Plains Production / Highly Productive land should not be “a reward” for having previously lived elsewhere in the area and being displaced by the Cyclone – rather such applicants for subdivision should “expect their proposals to be considered by reference to the provisions of the Resource Management Act and instruments made under it in just the same way as the same proposals would be considered if proffered by newcomers” to the area.
15. If the Council was to accept personal circumstances as relevant to whether an exception to the clear District Plan direction should be made, this would greatly expand the workload of consent planners. Given that conditions cannot be imposed to reflect the applicant’s personal circumstances (e.g. a condition could not be imposed requiring both titles to be permanently held by the same family), the potential for the integrity of the District Plan to be undermined would, in my view, be significant.

Comment on Plan Change 6

16. I understand the application for subdivision, and the subsequent objection, relies to some extent on an analogy between the applicant’s personal circumstances as a result of Cyclone Gabrielle and the changes to the Hastings District Plan made as a result of Plan Change 6.
17. Plan Change 6 was a bespoke plan change undertaken under the Severe Weather Emergency Recovery (Resource Management – Streamlined Planning Process) Order 2023. The Order provided a streamlined planning process with some variations to the usual RMA process, including a requirement to have regard to “the urgent need to provide permanent housing for people displaced by a severe weather event”.
18. The plan change was only ever proposed to apply to Rural and Rural Lifestyle Zoned land. The Section 32 assessment in support of the notified plan change considered the option of applying the new subdivision rule to the Plains Production Zone. The assessment of that option was:¹

Option 2 would specifically allow for the creation of lifestyle sites in the PPZ that would not meet the minimum site standards.

This option would not be consistent with the objectives and policies of the District Plan, including those applying to the Plains Production Zone nor would it meet the objective or policies of the NPS-HPL.

¹ <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Initial-consultation-documents/Plan-Change-6-Section-32-Evaluation-Report.pdf>, p16

Avoiding the creation of additional sites on highly productive land is a primary objective both at the national and local levels.

It is not considered necessary that lifestyle subdivision opportunities be provided for in the Plains Production Zone when there are other options that are available that avoid the subdivision of highly productive land

19. In response to submissions seeking that the plan change apply to Plains Production Zoned land, the Section 42A Report stated:²

The Plains Production Zone recognises that area of the district with soil values and topography that are conducive to food production, especially of a more intensive nature. These values and the contribution that they make to the district's economy are well recognised. As such they have long been protected and the lifestyle development within this zone is actively discouraged. The only exception to this is if they result in an existing non-complying block being amalgamated in with an adjoining block. There is a strong policy framework for the Plains Production Zone which protects the land for productive purposes. Enabling lifestyle subdivision within this zone would fail to give effect to those important objectives and policies. See Table 2 of the Section 32 Report prepared for PC6.

The specific land identified in the submission is land use classification LUC3 which means it is highly productive land and subject to the National Policy Statement – Highly Productive Land (NPS-HPL). The district plan policy is reinforced by the policy within the NPS-HPL that requires that territorial authorities avoid the subdivision of highly productive land. District plans must give effect to the objectives and policies of a National Policy Statement and providing a rural lifestyle opportunity within LUC3 would fail to do this. It is for this reason that provisions under Plan Change 6 expressly excluded applying it to Plains Production zoned land.

20. The Commissioners appointed to hear submissions on Plan Change 6 agreed with this, stating "that the submission seeking the rules to apply to the PPZ *"is rejected because the National Policy Statement-Highly Productive Land (NPS-HPL) requires the avoidance of subdivision of highly productive land for lifestyle subdivision and the PPZ comprises predominantly highly productive land. Increased provision for lifestyle subdivision in the PPZ would also not achieve the objectives and policies of the PPZ."*³
21. As part of the hearings process, the Commissioners raised the issue of there being some LUC 1, 2 and 3 land within the Rural Zone, and ultimately recommended that in order to give effect to the NPS-HPL, such land also needed to be excluded:⁴

The NPS-HPL came into force in October 2022. The NPS-HPL provides national direction on how land identified as highly productive should be managed and protected. This has direct relevance for a number of the property owners displaced by the floods, particularly the Pakowhai and Dartmoor / Puketapu Category 3 landowners, as a large proportion of the land within their community of interest is classified as highly productive land and zoned Plains Production.

The HDP actively discourages lifestyle subdivision in the PPZ with the only provision for such subdivision being where non-complying sized lots are to be amalgamated with an adjoining site and no additional sites will be created. The PPZ comprises almost entirely of Class 1-3 soils and therefore is classified as highly productive land and must be managed in accordance with the NPS-HPL. Clause 3.8 of the NPS-HPL states that territorial authorities must avoid the subdivision of highly productive land except in very limited circumstances, which are highly unlikely to apply to lifestyle subdivision. Clause 3.8(4) requires territorial authorities to include objectives, policies and rules in their district plans which give effect to the requirements of cl 3.8.

In the course of considering the provisions of PC6, the Panel heard evidence that small areas of 'highly productive land' are also present within the Rural zone of the Hasting district and consequently could be affected by subdivision pursuant to PC6. A new rule allowing controlled activity lifestyle subdivision on highly productive land would not give effect to the NPS-HPL.

² <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Initial-consultation-documents/Plan-Change-6-Category-3-Landowner-Subdivision-Provisions-42A-Report-Plan-Change-6-Final-Amended.PDF>, p12

³ <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Support-documents/Independent-Panel-Report-to-Hastings-District-Council.pdf>, Appendix 1, p5

⁴ <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Support-documents/Independent-Panel-Report-to-Hastings-District-Council.pdf>, p7

However, rather than exclude the Rural zone from the plan change, and thus frustrate the effectiveness of PC6, the Panel has modified the proposed provisions to include a further performance standard that no new lot created under the plan change can be located on land considered to be 'highly productive' for the purposes of the NPS-HPL. Failure to achieve this standard defaults the subdivision proposal to a non-complying activity.

With this modification, the Panel is satisfied that PC6 gives effect to the requirements of the NPS-HPL that lifestyle subdivision be avoided on highly productive land.

22. The Commissioners also recommended removal of a notified requirement that the replacement site be within the "community of interest", that is, within 5 km of the Cyclone-affected site. The Recommendation Report noted that:⁵

Although a proposed policy of the plan change notes that its provisions will be limited to enabling new permanent housing within the 'community of interest', ensuring new lots are within a defined radius of displaced lots is not an express objective of the proposal or PC6.

Furthermore, the displacement areas do not consistently have capacity to provide for the lifestyle sites within the current rule framework and the purpose of the plan change is to remove some of those restrictions so that more capacity is available".

23. That change therefore alleviated some of the restrictions previously applicable to Plan Change 6, allowing people to seek to relocate anywhere in the District, provided the standards applicable to the parent site were met (i.e. including the zone and LUC status).
24. It would be unusual, and I consider, problematic, if the Plan Change 6 provisions could be used as a 'baseline' for arguing to extent the same subdivision ability to a zone specifically excluded from the Plan Change. The argument is essentially that the objectives and policies of the District Plan, and the presumption against lifestyle development in the NPS-HPL, should be set aside to allow the objectors to remain within their community of interest. However Plan Change 6 was designed to exclude such development precisely to uphold those objectives, policies and presumption.
25. Further, the 'community of interest' requirement was removed on the basis that this was not a specific objective of the Plan Change, and to enable Cyclone affected persons greater ability to find an appropriately zoned site. The lack of a geographic limitation applicable to the Plan Change 6 rules also potentially expands the potential for an adverse precedent to be set, as the same argument as is currently being made by the objector could be made in respect of any Plains Production zoned land anywhere in the District – it would not be somehow restricted to Puketapu or other areas in proximity to Category 3 land.

Asher Davidson

⁵ <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Support-documents/Independent-Panel-Report-to-Hastings-District-Council.pdf, Appendix 2, p6>




NOVEMBER 26, 2024

613 PUKETAPU ROAD
PUKETAPU
SUBDIVISION: ONE LOT INTO TWO / PLAINS PRODUCTION ZONE

SARAH HARDIE
BAY PLANNING LIMITED

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Report Title	Version	Date	Reviewed by
Emma Tuck Subdivision: One Lot into two within in the Plains Production Zone. LUC 3.	1	26/11/2024	
			Alison Francis

Limitations

This report has been prepared exclusively for the client (Emma Tuck) with respect to the requirement to apply for a resource consent with Hastings District Council.

No responsibility is accepted by Bay Planning Ltd or its directors or employees for the accuracy of information provided by third parties.

1 INTRODUCTION

1.1 APPLICATION DETAILS

Applicant:	Emma Tuck
Address:	613 Puketapu Road, Puketapu
Legal Description:	Lot 1 DP 26268 BLK VII HERETAUNGA SD
Area:	7.056ha
Operative Plan Zone:	Plains Production
Overlays:	Archaeological Sites: Midden/Oven RLCA: Tutaekuri Valley Strategic Management Areas Appendix 55: List 1&2 Riparian Areas River Hazard
LUC Class:	3
Activity Status:	Non-complying

1.2 BACKGROUND

Prior to Cyclone Gabrielle in February 2023, Emma Tuck (the applicant) and her multigenerational family resided at 287/293 Dartmoor Road. This property was inundated with floodwaters and subsequently labelled Category 3. The family have completed the ‘Category 3 Voluntary Buy-out Policy’ and have since purchased the property at 613 Puketapu Road, within 5km of their previous home, and within the community they have been a part of for many years. This new property also allows for the continuation of their family business onsite, and it is to be noted that a resource consent application is in the process of being prepared for the businesses and will be lodged with Council in due course.

As this property is zoned ‘Plains Production’, Plan Change 6 is not applicable to this site. To allow for the continued multigenerational living at this new property, it is the applicants wish to apply for a subdivision of this lot into two (as if it were allowed under Plan Change 6).

1.3 PROPOSAL

Emma Tuck (the applicant) is seeking resource consent to subdivide the existing lot at 613 Puketapu Road, into two. The proposal is shown on the scheme plan provided with this subdivision consent.

Emma and her extended multigenerational family were significantly impacted by Cyclone Gabrielle in February 2023. After completing the ‘Voluntary Buy-Out’ of the Dartmoor Road property, in September 2023 the property at 613 Puketapu Road was purchased. This property was also inundated with floodwaters, however labelled Category 1 and safe to rebuild. The reinstatement of the existing dwelling on site is almost complete.

This proposal will see the creation of a lifestyle lot, Proposed Lot 1, at 0.5ha, and the balance lot, Proposed Lot 2, at 6.776ha. Both lots are subject to survey, and each will have its own independent access.

Proposed Lot 1 is the lifestyle site, and currently vacant of built form. The site is flat, and there are many locations for a complying building platform.

Proposed Lot 2 has the existing dwelling, accessory sheds, pool as well as industrial sheds with which two businesses are operated out of. The balance is bare land that has most recently been planted in maize and harvested. It is currently in grass, and ungrazed.

As this site is zoned 'Plains Production', this application is considered a **Non-complying** subdivision pursuant to **SLD25** of the Hastings District Plan.

2 SITE AND SURROUNDS

2.1 SITE DESCRIPTION

The subject site is located at 613 Puketapu Road and is legally described as Lot 1 DP 26268 BLK VII HERETAUNGA SD. It was purchased by the extended family of the applicant in September 2023 after completing the 'Category 3 Voluntary Buy-out Policy' and the reinstatement of the site is almost complete.

At 7.056ha, this undersized Plains Production lot is flat and largely rectangular in shape with the northern boundary following Puketapu Road for approximately 329m. Puketapu settlement is a short 850m from this site where there is a full primary school, dairy and pub. The western and northern boundary of the property follows the Rotary Cycleway (Puketapu Loop), with the northern boundary also bordering a shared driveway that accesses neighbouring properties to the north. Here the topography of the land shifts to rolling hills with neighbouring homes sited in the hillside. The Tutaekuri River is to the west of the property. There are trees along the northern boundary and also interspersed along the east and west boundaries.

613 Puketapu Road has two vehicle access points: one at each end of the Puketapu Road boundary. The first vehicle crossing (southern) provides access to the existing shed and gravel hardstand area that is used for the operation of two businesses. The total area these businesses take up is approximately 5000m² and consists of one large shed as well as three smaller portacom style buildings that serve as office spaces and a toilet block. The two business areas are clearly defined by fencing that has been reinstated post cyclone. As stated previously, the use of these sheds for two businesses is not included in this application and will be the subject of a different resource consent application in due course.

The second vehicle crossing is at the northern end of Puketapu Road and provides access to the existing dwelling and associated shedding on site. This access runs parallel to the road before turning in towards the house and sheds. The access is treelined, however post cyclone some of these trees are dying. The existing dwelling is surrounded by a hayshed, pool and accessory shed immediately adjacent. Within the western end of the accessory shed is an existing studio/games room with kitchen and bathroom. Screening the dwelling from the road are well established trees and plantings. This residential area of the property is defined clearly with fencing.

There is also an extended accessway onsite that runs parallel to the road and provides onsite access between the businesses and the dwelling. At the time of site visit, the balance of the property was in

grass, but had most recently been planted in maize and subsequently harvested. There is an open drain that runs along the eastern boundary but within the neighbouring lot.

An archaeological site is identified in the southern corner of the property. This is recorded as 'Midden/Oven' on the Hastings District Plan. This proposal is for a subdivision and proposed new boundaries are well clear of this area. It will not be disturbed as a result of this proposal.

The immediately surrounding area includes a mixture of properties. To the north (western side of Puketapu Road) residential properties increase in density among the rolling hills, while others are a mixture of rural and rural lifestyle properties. Taradale village is a 10-minute drive away.

The site and surrounding locality can be seen in **Figure 1**.

Figure 1: Subject Site (Source: HDC Planning Maps)



Figure 2: Plains Production Zone – (Source: Hastings District Council Planning Maps)

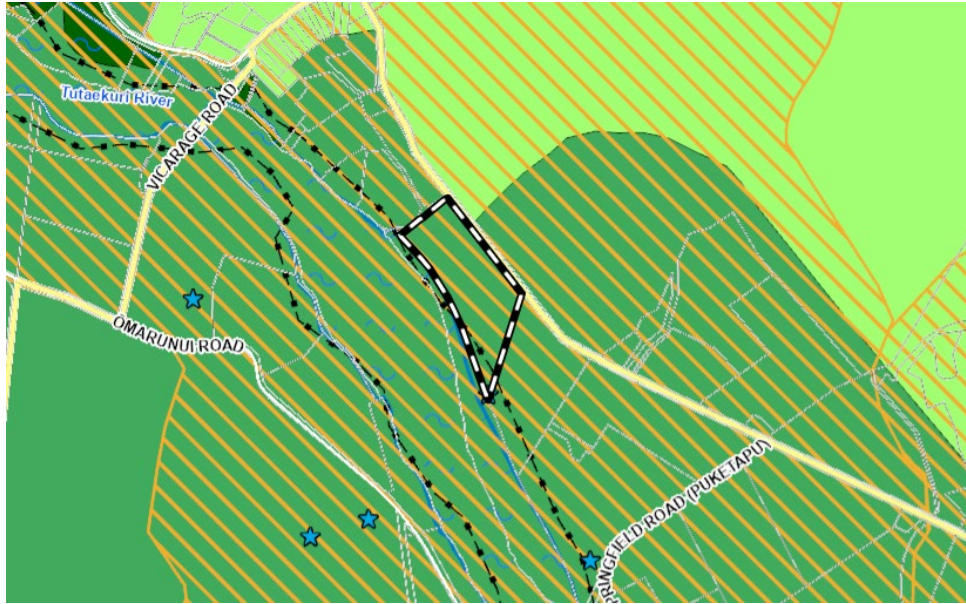


Figure 3: Site Visit 4th October 2024 – Vehicle Access Looking Toward Businesses



Figure 4: Puketapu Road – Access to Dwelling



Figure 5: Northern Boundary – Neighbouring Driveway



Figure 6: Farm Gate Access at the Northeastern Corner of the Proposed Lot 1.



Figure 7: Looking Toward Existing Dwelling and Associated Shedding



2.1.1 NATURAL HAZARDS

The Hawkes Bay Hazard Portal and Hastings District Planning maps have been reviewed in respect of the subject site. These show that the site has a medium earthquake amplification and high liquefaction vulnerability.

The site is adjacent a flood area, however, is Category 1 post Cyclone Gabrielle.

Figure 8: Identified Flood Hazard (Source: Hawkes Bay Hazard Portal)



2.1.2 RECORD OF TITLE

The record of title is attached as **APPENDIX 1**. The record of title shows nothing relevant to this application.

3 PROPOSAL

3.1 APPLICATION DETAILS

The proposal is to subdivide the existing lot into two. One lifestyle lot and the balance lot which will include the existing businesses and residential dwelling.

Proposed Lot 1 will be a lifestyle lot at 0.5ha (subject to survey). It is a flat site that is immediately adjacent the existing residential area onsite, and the neighbouring residential properties to the north. The lot has existing farm gate access from Puketapu Road; however, this can be upgraded to Council specifications at the time of development. As the site is flat there are many locations for a complying residential dwelling.

There are currently no onsite services for Proposed Lot 1, however at the time of development the site could be adequately serviced. On site water would likely be via roof collection to water tanks and a wastewater system could be accommodated that would be applied for at the time of building consent.

Proposed Lot 2, at 6.770ha (subject to survey) will remain an undersized Plains Production lot that will be able to continue both the existing cropping and business operations on site. There is one residential dwelling on site with associated shedding. There is also additional shedding at the southeastern corner that supports the business operations on site.

It is intended that Lot 1 will be developed with a residential dwelling, likely relocated from another property that will provide housing for the remainder of the multigenerational family affected by Cyclone Gabrielle.

3.2 REASONS FOR APPLICATION

3.2.1 HASTINGS DISTRICT PLAN RULES

Were this property zoned 'Rural'; we would be applying under Rule **SLD7A** of the Hastings District Plan. We note that across the road the properties are zoned Rural and to the immediate north, while zoned Plains Production, the characteristics of the land (steep hill country) does not lend itself to the Plains Production Zone overlay.

SLD7A: *Subdivision of lifestyle sites in Rural and Rural Residential Zones to replace Category 3 residential uses.*

Subdivision to create lifestyle lots in the Rural Zone and Rural Residential Zone which comply with all relevant Subdivision Site and General Site Performance Standards and Terms specified in 30.1.7.

Note, compliance with 30.1.6 is not required.

*This is considered a **Controlled** activity.*

SLD25: Any subdivision (unless specifically provided for under Rules SLD1 through to and including SLD24a) which is unable to comply with one or more of the relevant Subdivision Site Standards and Terms in section 30.1.6, including any un-zoned land is considered a **Non-complying** subdivision.

The proposal will see the creation of a lifestyle site similar to what Rule SLD7A provides for, however as this property is within the Plains Production Zone, this application is considered a **Non-complying** subdivision pursuant to **Rule SLD25**.

3.2.2 COMPLIANCE WITH KEY RULES

Chapter 6.2 – Plains Production Zone

RULE	ACTIVITY STATUS
PP2: One residential building per site	Permitted There is one existing residential dwelling.
PP24: Any Permitted or Controlled activity not meeting one or more of the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in 6.2.6C.	Consent Required. Restricted Discretionary activity. <i>Proposed Lot 2 includes the two existing Industrial Businesses operating on site. A separate resource consent is being prepared for these and will be lodged in due course.</i>
PP39: Any activity which is not provided for as Permitted, Controlled, Restricted Discretionary or Discretionary activity shall be a non-complying activity. To avoid any doubt this includes activities not provided for above that do not comply with the following Specific Performance Standards: 6.2.6C9A0 and (c), 6.2.6D(1), 6.2.6E(1) and 6.2.6F.	Consent Required. Non-complying activity.
GENERAL PERFORMANCE STANDARDS & TERMS	COMPLIANCE
6.2.5A: Building Height	Complies All buildings are existing.
6.2.5B: Yards	Complies All buildings are existing. The open sided hay shed appears to be set back approximately 7m from the boundary with Puketapu Road.
6.2.5C: Protection of Flood Channels	Complies
6.2.5D: Screening	Does not comply – Resource Consent is Required. <i>Proposed Lot 2 includes the two existing Industrial Businesses operating on site. A separate resource consent is being prepared for these and will be lodged in due course.</i>
6.2.5E: Light and Glare	Complies
6.2.5F: Traffic Sightlines, Parking, Access and Loading	Complies See Table below outlining compliance with Chapter 26.1
6.2.5G: Noise	Complies
6.2.5H: Shading of Land, Buildings and Road	Complies
6.2.5I: Height in Relation to Bridge Pa Aerodrome	N/A
6.2.5J: Total Building Coverage The maximum building coverage (including hardstand areas) shall not exceed 35% of the net site area or 1500m ² , whichever is the lesser.	Does not comply Existing Building Coverage Residential Area = 1678m ² Industrial Business Area = approx. 4665m ² TOTAL = 6343m ² or 9% After subdivision this becomes 9.4%
SPECIFIC PERFORMANCE STANDARDS & TERMS	COMPLIANCE
6.2.6B Residential Buildings	Complies Proposed Lot 1 – vacant Proposed Lot 2 – One residential building and one supplementary residential building.
6.2.6C Supplementary Residential Buildings a. There must be an existing occupies residential building located on the site. b. To ensure that services are not duplicated needlessly the supplementary residential buildings shall share driveways. c. The maximum gross floor area, excluding garages, and verandas less than 20m ² in area shall be 100m ² . The	Complies The supplementary residential dwelling is existing. It shares services and is located approximately 15 metres from the main residential dwelling.

existing residential building may become the supplementary residential building provided that all Standards and terms are met. d. The supplementary residential building shall be located no further than 25m from the primary dwelling.	
6.2.6F: Industrial Activities	N/A – will be assessed in separate Resource Consent as a Non-Complying activity.

Chapter 30.1 Subdivision

RULE	ACTIVITY STATUS
SLD25: Any subdivision (unless specifically provided for under Rules SLD1 through to and including SLD24a) which is unable to comply with one or more of the relevant Subdivision Site Standards and Terms in section 30.1.6, including any un-zoned land.	Non-complying Activity
GENERAL PERFORMANCE STANDARDS & TERMS	COMPLIANCE – Under SLD25
30.1.7A: Building Platforms	Complies This is a flat site and there are many possibilities for a complying building platform.
30.1.7B: Water Supply	Complies
30.1.7C: Wastewater Disposal	Complies An effluent disposal system can be accommodated on site.
30.1.7D: Stormwater Disposal	
30.1.7E: Property Access	Complies There is existing farm gate access to the lot that can be upgraded to Council specifications at the time of development.
30.1.7F: Outdoor Living Space	Complies
30.1.7G: Electricity	Complies
30.1.7H: Esplanade Reserves and Strips	N/A
30.1.7I: General Residential Zone – Brookvale/Arataki	N/A
30.1.7J: Balance Lots	N/A
30.1.7K-Z: Various	N/A
30.1.7AA: Subdivision of Residential Lifestyle Lots for Displace Category 3 Landowners 1. Any application under this rule shall be accompanied by: a) an unconditional agreement with the Council under the Category 3 Voluntary Buy-out Policy for a property purchase or relocation offer or an equivalent agreement for whenua Māori under the Kaupapa Māori Pathway which includes the permanent removal of the ability to use the Category 3 land for residential purposes; and b) a statement by the Category 3 landowner which confirms the new lot is intended for use by the landowner for permanent housing. 2. An application under this rule must be made within 2 years of the 28 September 2024 (operative date) or settlement of the Agreement above, whichever is the later. 3. The new lot shall not be located within Category 3 land a natural hazard area identified as a River Hazard Overlay, the Coastal Environment, an Outstanding Natural Feature or Landscape identified in Appendix 43, a Wahi Taonga identified in appendix 50, or on land in the Rural Zone defined as “highly productive land” for the purposes of the National Policy Statement on highly Productive Land. 4. The new lot shall be a minimum of 4000m ² .	N/A <i>As this proposal is within the Plains Production Zone, this Standard is not applicable. We have included it however, to show that it can comply with all other requirements.</i> <i>1a) Please see APPENDIX 3 included with this application.</i> <i>b) Please see APPENDIX 4 included with this application.</i> <i>2) This application is made within 2years of the 28th of September 2024.</i> <i>3) The new lot is <u>not</u> located within:</i> <ul style="list-style-type: none"><i>• Category 3 land</i><i>• A Natural Hazard Area identified as a River Hazard Overlay</i><i>• The Coastal Environment</i><i>• An Outstanding Natural Feature or Landscape identified in Appendix 43</i><i>• A Wahi Taonga identified in Appendix 50</i> <i>The new lot <u>is</u> located within:</i>

5. A maximum of one new lot shall be created per Category 3 site being replaced.	<ul style="list-style-type: none"> The Rural Zone defined as “highly productive land” for the purposes of the National Policy Statement on Highly Productive Land. <p>4) The new lot is greater than 4000m².</p> <p>5) Only one new lot is being created as a result of one Category 3 site being replaced (287/293 Dartmoor Road).</p>
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Chapter 26 – Transport

STANDARD	COMPLIANCE
26.1.6A: Access	Complies
1. Access to property	
26.1.6.1-1 Minimum Legal width of private access – residential and home occupation	<p>Complies</p> <p>Lot 1 – existing farm gate access can be upgraded to comply with Council requirements at the time of development.</p> <p>Lot 2 – has complying access to the Industrial Businesses and balance of the property. The access likely needs remediating; however, we request this be addressed at the time Resource Consent is lodged for the two Industrial Businesses on site. A Resource Consent Application will be lodged with Council in due course.</p>
2. Distance of vehicle accesses from road intersection.	<p>Complies</p> <p>Greater than 100m from the nearest State Highway intersection.</p>
26.1.6B: Safe Sightline Distances	<p>Complies</p> <p>No change to the location of existing access.</p> <p>Puketapu Road is a Collector Road. There is at least 160m sight distance in both directions for each vehicle crossing.</p>
26.1.6C: Loading	N/A
26.1.6D: Parking	<p>Complies.</p> <p>On site vehicle parking is no longer required, however there is ample space for onsite parking on both lots.</p>

3.2.3 OVERALL ACTIVITY STATUS

The application has an activity status of a **Non-complying** activity.

4 NOTIFICATION ASSESSMENT

4.1 SECTION 95A PUBLIC NOTIFICATION ASSESSMENT

Section 95A provides the necessary framework to identify if public notification is required for this proposal. This framework is set out in four steps as below:

Step 1:

- We do not request public notification;
- With regards to s95C we have not yet been requested to provide further information, and should we fail to do so, the Council can use its discretion to notify under this clause;
- The application is not made jointly with an application to exchange recreation reserve land under section 15AA of the Reserve Act 1977.

Step 2:

- No national environmental standard or rule in a plan precludes public notification;
- This is not a boundary activity.

Step 3:

- The application is not subject to an environmental standard or rule that requires public notification;
- In accordance with s95D, the effects on the environment are summarised in section 4.1.1 below and are considered to be less than minor.

Step 4:

- There are no special circumstances that warrant public notification as the proposal is for a recreational activity within an appropriately zoned lot. This proposal is not unique, nor unusual and public notification would not contribute to the assessment of this application.

4.1.1 EFFECTS ON THE WIDER ENVIRONMENT

The following assessment of effects considers the effects on the wider environment and disregards any effects on immediately adjacent properties:

The assessment of effects considers the relevant matters set out in Chapter 30.1 of the Hastings District Plan.

30.1.8.1 General Assessment Criteria

1. Structure Plans
N/A

2. Subdivision Design

The proposal will create one new allotment that does not meet the minimum and/or maximum area dimension requirements under Chapter 30.1 of the District Plan. Therefore, generally, lots of this size are not considered appropriate and anticipated in the Plains Zone.

The subdivision will allow for one lifestyle lot and a balance lot. Proposed Lot 1 is the proposed lifestyle lot and is vacant of built form. It is flat and there are many locations for a complying building platform. This subdivision allows for the applicants who have completed the 'Category 3 Voluntary Buy-out Policy' to rebuild within their community and within 5km of their Category 3 property.

When development occurs on proposed Lot 1, water supply, wastewater and stormwater management can be managed at the time. It would likely be via roof collection via tanks, an appropriate septic system, and ground soakage.

3. Property Access

Access to Lot 2 is currently available through two existing vehicle crossings off Puketapu Road. One is at the northern corner of the Lot; however, this will become the access to Proposed Lot 1. The other is at the eastern corner of the Lot, and this provides access to the businesses on site, as well as the existing residential dwelling. This vehicle crossing is of average standard, and the size of this crossing allows for easy vehicle manoeuvring. *A consent application is being prepared for the existing Industrial Businesses on site and we ask that the upgrading of this vehicle crossing (if required) is addressed with that application.*

It is proposed a new vehicle access be created to access the existing residential dwelling from Puketapu Road, as identified on the Scheme Plan.

There is existing access to Lot 1, and it is suggested that this be upgraded at the time development on Lot 1 begins.

4. Water Supply, Wastewater Disposal, Stormwater Disposal

There is no reticulated supply for services in the area. A water supply for future development on Lot 1 could be provided and would likely be via roof collection to tanks. There is sufficient area to be able to accommodate an on-site wastewater treatment system. This would be addressed at the time of building consent.

Proposed Lot 2 has an existing dwelling with services.

Proposed Lot 1 is vacant of built form.

5. Natural Hazards

As mentioned in Section 2.1.1 of this report, the site is mapped as having a low risk of natural hazard. There is high liquefaction medium amplification vulnerability. The site is adjacent a flood risk area but is Category 1 post Cyclone Gabrielle.

6. Building Platforms

At present Proposed Lot 1 is vacant of built form. The site is flat and there are multiple options for a possible complying building platform of 30m x 30m. The parent lot, Lot 2 has an existing residential dwellings and separate shedding, as well as two industrial businesses operating onsite.

Given the recent history of flooding with Cyclone Gabrielle, minimum floor heights can be established for buildings in order to mitigate potential damage to them.

There is no Wahi Taonga identified on this site, however there are Wahi Taonga identified on adjacent sites.

7. Esplanade Areas (Reserves and Strips)

N/A

8. Access Strips

N/A

9. General

There is a listed Wahi taonga or heritage site on the property in the southern corner. This is recorded as 'Midden/Oven' and will not be disturbed in any way as a result of this proposal. The site is not in close proximity to a network utility of renewable electricity generation activities.

The site is well screened from the road at present, however there are some plantings dying off post cyclone. These plantings can be replaced as and when is necessary.

10. Subdivisions within building platforms and/or vehicle access within the National Grid Corridor and 50m of a designated National Grid Substation
N/A

Comment

The proposal is for a lifestyle lot subdivision, off a parent lot within the Plains Production Zone. Access is provided for via two existing vehicle crossings. The farm gate vehicle crossing to Proposed Lot 1 can be upgraded to meet Council specifications at the time of development.

Proposed Lot 1 is a 0.5ha site in the corner of the parent lot and adjacent an area of existing residential dwellings. It is the most appropriate area of the site to allocate to a lifestyle lot. Allowing the creation of this lot provides a development opportunity for a multigenerational family displaced due to Cyclone Gabrielle, within their community and within 5km of their Category 3 property. For all intents and purposes, this application meets SLD7A of the Hastings District Plan.

The existing residential nature of the site is well screened by the boundary plantings, as is the proposed lifestyle lot. No nearby residential dwelling will have an amenity overlook adversely affected on an ongoing basis. Further, the existing boundary plantings provide a natural screening and any plants that die off can be replaced as necessary.

The alignment of buildings, existing and proposed (future development on the lifestyle lot) allows for the balance of the site to be retained in one much larger piece of land (grazing paddocks or cropping). There is minimal increase in bulk when viewed from the roadside as any development on Proposed Lot 1 is set within an area of existing residential lifestyle development.

Further, the applicants Category 3 property on Dartmoor Road is in the process of being returned to productive land use. They have completed the 'Category 3 Voluntary Buy-out Policy' and declared no residential activity will take place there. Overall, between the two sites (Puketapu Road and Dartmoor Road) there is a net gain in productive land.

4.2 WRITTEN APPROVALS

No persons have provided their written approval to the proposal.

4.3 SECTION 95B LIMITED NOTIFICATION ASSESSMENT

Section 95B provides the necessary framework to identify if limited notification is required for this proposal. This framework is set out in four steps as below:

Step 1:

- There are no affected protected customary rights groups or customary marine title groups.
- The site is not subject to any statutory management areas.

Step 2:

- No national environmental standard or rule in a plan precludes limited notification;
- This is not a controlled activity.

Step 3:

- In accordance with s95E, the effects on the environment are summarised below and are considered to be less than minor.
 - The proposed subdivision will result in one lifestyle lot that can facilitate development as of right.
 - Any future development on Lot 1 can be provided for within the requirements of the performance standards of the District Plan.
 - There is existing access to both lots that can be upgraded accordingly if and when required.
 - Services can be provided when development occurs on proposed Lot 1.
 - There are no natural hazards that are exacerbated by this proposal and the proposal will not adversely affect the safety of adjacent lots.
 - The character and amenity of the rural environment will be retained.

Overall, we are satisfied that there are no adverse effects on neighbouring properties from this proposal.

Step 4:

- There are no special circumstances that warrant notification of any person not already eligible for limited notification.

4.4 NOTIFICATION CONCLUSION

Overall, we are satisfied that this proposal does not create any adverse environmental effects or effects on the amenity and character experienced by the surrounding properties. There are not considered to be any adversely affected persons. The proposal provides for the extended multigenerational family displaced after Cyclone Gabrielle. There is nothing unusual or unique about this proposal for a lifestyle lot subdivision and therefore this application should be processed non-notified.

5 S104 ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

5.1 S104(1)(A)

The Council is required, pursuant to Section 104 of the RMA, to assess any actual or potential effects on the environment of the activity applied for.

The Fourth Schedule of the RMA sets out the matters that should, and must, be included in an Assessment of Environmental Effects, as well as the matters the applicant and Council should consider.

This application has been prepared in accordance with Section 88 of the RMA and an assessment of the effects on the wider environment and people is in section 4 of this report. The conclusion from section 4 is that there is no effect on the wider environment or people as a result of this proposal.

The following assessment criteria is also relevant to this application.

Rural Landscape Character Area – Tutaekuri Valley (RCL3)

Management Issues:

- *Maintaining the balance of open space and rural productive land with built form.*
- *Maintaining recognition of the surrounding hills and the skyline, avoiding built form along the ridgelines.*
- *Maintenance of its representativeness characteristics of the Hastings Districts productive landscape.*
- *Low density development contributes to the character of the area.*
- *Maintain and enhance the character of the natural river system and its margins.*

Comment:

Proposed Lot 1 is a flat site adjacent other residential dwellings and is considered the most appropriate location for a proposed lifestyle lot. Being flat helps maintain the open space and rural nature of the surrounding area. Any dwelling built here will not be on a ridgeline and will continue the low-density residential nature of the area.

The proposal is in keeping with Tutaekuri Valley Rural Landscape Character Area.

As this property is zoned Plains Production, it is precluded from Plan Change 6, which allows for Category 3 Lifestyle Subdivision. As this proposal is for the express purpose of providing the development opportunity to a family displaced by Cyclone Gabrielle, it is appropriate the following is included to support this application.

30.1.7AA Subdivision of Residential Lifestyle Lots for Displace Category 3 Landowners

1. *Any application under this rule shall be accompanied by:*
 - (a) *an unconditional agreement with the Council under the Category 3 Voluntary Buy-out Policy for a property purchase or relocation offer or an equivalent agreement for whenua under the Kaupapa Māori Pathway which includes the permanent removal of the ability to use the Category 3 land for residential purposes; and*

- (b) a statement by the Category 3 landowner which confirms the new lot is intended for use by the landowner for permanent housing.
2. An application under this rule must be made within 2 years of the 28 September 2024 (operative date) or settlement of the Agreement above, whichever is the later.
3. The new lot shall not be located within Category 3 land, a natural hazard area identified as a River hazard Overlay, the Coastal Environment, an Outstanding Natural Feature or Landscape identified in Appendix 43, a Wahi Taonga identified in Appendix 50, or on land in the Rural Zone identified as "highly productive land" for the purposes of the National Policy Statement on Highly Productive Land.
4. The new lot shall be a minimum of 4000m².
5. A maximum of one new lot shall be created per Category 3 site being replaced.

Comment:

Other than point 3, this application meets all other requirements within 30.1.7AA. 613 Puketapu Road is LUC 3 and therefore considered "highly productive land" for the purposes of the National Policy Statement on Highly Productive Land. 287/293 Dartmoor Road is also LUC 3. This site is being returned to its productive capacity and will no longer be used for residential purposes. The sites are within 5km of one another and allow the applicants to remain within their community, being close to work and schooling. 287 Dartmoor Road will ultimately see 0.995ha of LUC 3 land returned to productive use. 613 Puketapu Road will see 0.5ha of LUC 3 land taken for residential purposes.

This application could be seen as a 'swap' as the similarities between the sites are many. The crucial difference being that 613 Puketapu Road is Category 1, and therefore safe to develop.

Overall, there is a net gain in productive land.

5.2 S104(1)(B) RELEVANT DISTRICT PLAN

Consideration of this application under Section 104(1)(b) of the RMA requires the Council to consider any relevant provisions of any relevant national, regional and district documents.

As the application is for a Non-Complying activity, there are no limits to the assessment.

5.3 HASTINGS DISTRICT PLAN: RELEVANT OBJECTIVES AND POLICIES

The relevant Objectives and Policies for this proposal are:

Chapter 6.1 Plains Strategic Management Area

6.1.3 Objectives and Policies

Overarching Objective PSMO1: *The land based productive potential and open nature of the Plains environment is retained.*

Policy PSMP2: *Require that activities and buildings in the Plains environment be linked to land-based production and are of a scale that is compatible with that environment.*

Policy PSMP3: *Require that activities and buildings in the Plains environment do not compromise the open nature and amenity arising from land-based production.*

Policy PSMP5: *Establish clear and distinct urban boundaries to prevent incremental creep of urban activities into the Plains Production Zone.*

Comment:

The proposed subdivision sees a lifestyle lot created on the edge of an already established group of residential dwellings. It is in close proximity to the local school and community hub of Puketapu that the applicants have been a part of for many years. The lot is adjacent to the remainder of the multigenerational family who will be residing in the existing residential dwelling, as well as the place of work for the applicant.

The open nature of the Plains environment is retained and the residential development anticipated by this lifestyle lot subdivision will not compromise the amenity of the surrounding land-based production. It will be of a scale that is compatible with the surrounding built environment.

Chapter 6.2 - Plains Production Zone

6.2.3 Objectives and Policies

Objective PP01: *To ensure that the versatile land across the Plains Production Zone is not fragmented or compromised by building and development.*

Policy PPP3: *Limit the number and scale of buildings (other than those covered by Policy PPP4) impacting on the versatile soils of the District.*

Policy PP02: *To provide for flexibility in options for the use of versatile land.*

Policy PPP4: *To enable land based primary production, including by providing for directly associated accessory buildings where they are not of such a scale as to adversely affect the life-supporting capacity of the versatile land resource and which are consistent with the rural character of the Zone.*

Policy PPP5: *Recognise that residential dwellings and buildings accessory to them are part of primary production land use but that the adverse effects of these buildings on the versatile land of the Plains Production Zone are managed by specifying the number and size of the buildings that are permitted.*

Policy PPP8: *Provide for industrial and commercial activities in the Plains Production Zone where they are linked to the used of the land and with limits on the scale and intensity to protect soil values and rural character.*

Objective PPO3: *To retain the rural character and amenity values of the Plains Production Zone.*

Policy PPP13: *Require that any new development or activity is consistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production Zone.*

Policy PPP14: *Require that any new activity locating within the Plains Production Zone shall have a level of adverse effects on existing lawfully established land uses that are no more than minor.*

Policy PPP15: *Noise levels for activities should not be inconsistent with the character and amenity of the Plains Production Zone.*

Comment:

Proposed Lot 1 is in the northern corner of the parent lot and will sit between a group of

neighbouring rural residential properties to the north, and the existing dwelling on proposed Lot 2 to the south. It is the best suited location for the lifestyle lot as it will sit within an area of similarly established residential properties within Puketapu. It is in close proximity to the local school, and community hub and within the community that the applicants have a long history of being a part of.

While the subdivision is not entirely in line with the objectives and policies of the Plains Production Zone, when we consider the retirement of 287 & 293 Dartmoor Road for residential use, there is in fact a net gain in land available for productive purposes.

The fragmentation of the surrounding rural land together with the subject site being bound by the Rotary Pathway, Tutaekuri River, Puketapu Road and surrounding hill country make it very difficult and unlikely that it could ever be amalgamated with other lots to form a larger lot for productive purposes. This site is also LUC 3, and while productive, is not the most versatile of the soils.

The proposal does not diminish the rural character and amenity values of the locality. Proposed Lot 1 is well screened from Puketapu Road and is consistent with the open and low scale nature of the Zone. The use will not increase reverse sensitivity and the right to crop and graze adjacent land will be maintained.

This application is made on the back of extenuating circumstances around Cyclone Gabrielle and is unlikely to encourage other similar applications.

Overall, the proposal is not inconsistent with the above Objectives and Policies of the Plains Production Zone.

Chapter 26.1 – Transport and Parking

26.1.3 Objectives and Policies

TPO1: Ensure that land uses and new subdivision are connected to the transportation network in a manner than provided for the efficient and sustainable movement of people and goods in a safe manner.

TPO4: To maintain a transport network that supports the social and economic wellbeing of the District while avoiding adverse effects on the natural and physical environment and on the safety of the travelling public.

TPP16: To promote standards for public roads, private roads, and accessways to ensure that they are of a design that is appropriate for the function they serve.

Comment:

Vehicle access to proposed Lots 1 and 2 is existing and are sited to allow for the safe and efficient use of vehicles to and from the property. The farm gate access to proposed lot 1 can be upgraded at the time of development. Development of one residential unit is anticipated on proposed Lot 1. The increase in vehicle movements on this road as a result would be minimal and all performance standards under Chapter 26 of the District Plan are met.

Chapter 30.1 – Subdivision and Land Development

30.1.3 Objectives and Policies

SLDO1: To enable subdivision of land that is consistent with each of the Objectives and Policies for the various SMA, Zones, Precincts, or District Wide Activities in the District Plan.

SLDO2: To ensure that sites created by subdivision are physically suitable for a range of land use activities allowed by the relevant Section Rules of the District Plan.

SLDO4: To ensure that land which is subdivided is, or can be, appropriately serviced to provide for the likely or anticipated use of the land, so as to ensure the health and safety of people and communities, and the maintenance or enhancement of amenity values.

SLDP6: Require applicants for subdivision consents within the Rural residential SMA/Zone or Plains SMA/Zone... to demonstrate that the subdivision will have no significant adverse visual or landscape effects.

Comment:

The proposal will result in a lifestyle lot that can accommodate residential development as of right. This would allow for a rural residential living arrangement and the continued use of the balance lot for both the existing productive purposes and industrial businesses operated by the applicants.

Proposed Lot 1 has provision for a compliant building platform and would allow for on-site services.

Access to Lots 1 and 2 is via separate vehicle crossings accessed directly off Puketapu Road. The farm gate access to proposed Lot 1 can be upgraded at the time of development.

Overall, while the proposal meets the relevant objectives and policies of The Plan, and the new lifestyle lot is created in the manner intended by Plan Change 6. The new lifestyle lot is considered appropriate for the circumstances and within this setting. There are no visual or character and amenity effects.

5.4 ASSESSMENT SUMMARY

Overall, the proposal is consistent with the above Objectives and Policies of the Operative District Plan and the Proposed District Plan. The proposal will not detract from the varied amenity of the surrounding area and provides a development right to a family displaced by Cyclone Gabrielle.

5.5 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH 2011 (NESCS)

The 2011 National Environmental Standard for Assessment and Managing Contaminants in Soil to protect Human Health (NESCS) creates a nationally consistent regulatory framework to the identification, assessment and reporting of sites at the time of development that are currently in use for, or are known to have been, in previous uses involving activities identified on the Hazardous Industries and Activities List (HAIL).

A review of Retrolens show images from 1940-1987 shows bare land. Some Retrolens imagery from 1987 and 1988 show some cropping occurring on site but this appears to be limited to maize and bailage – activities associated with stock feed.

In reviewing the property file and conducting a site visit there is nothing to indicate that a HAIL activity has been undertaken on site.

Therefore, the NESCS is not relevant to this proposal.

5.6 NATIONAL POLICY STATEMENT FOR HIGHLY PRODUCTIVE LAND 2022 (NPS-HPL)

The NPS-HPL came into effect on 17 October 2022 and seeks to protect highly productive land for use in land-based primary production, both now and for the future.

This site is:

- Zoned 'Plains Production' and contains land classified as LUC 3

Figure 8: Land Use Capability 613 Puketapu Road – LUC Class 3 (SOURCE: HBRC LUC Mapping Tool)

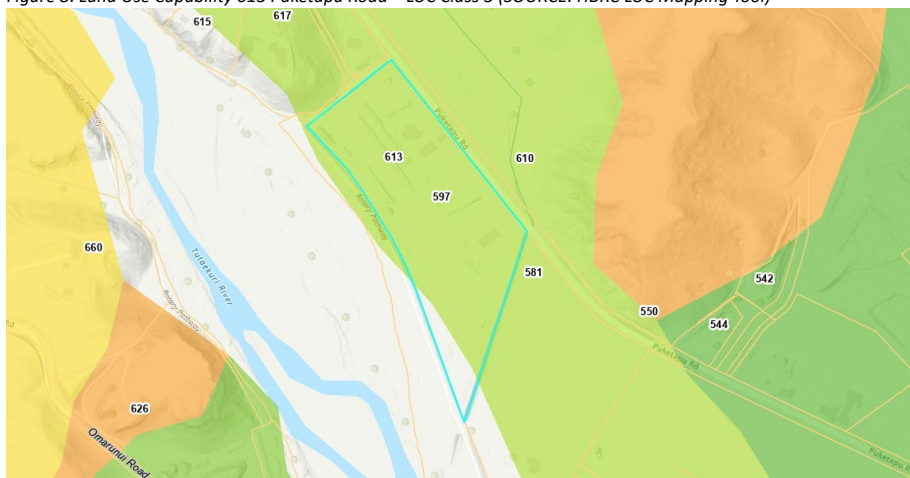


Figure 9: Land Use Capability 287 & 293 Dartmoor Road – LUC Class 3 (SOURCE: HBRC GIS MAPS)



Both these sites meet the definition of highly productive land under the NPS-HPL and assessment against the NPS-HPL is required. The NPS-HPL requires that territorial authorities avoid the subdivision of highly productive land unless circumstances under 3.8(1) apply.

(1) Territorial authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause (2) are applied:

(a) the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term:

This subdivision is solely for the purpose of creating a lifestyle lot that can be developed with a residential dwelling to house a family displaced due to Cyclone Gabrielle. It will allow for the continued multigenerational family living. It has been agreed by the applicant that the property they have been displaced from at 287 & 293 Dartmoor Road, will not again be used for residential purposes, thus returning it in full back to productive land. This proposal sees proposed Lot 1 allowing for a lifestyle lot, with the family subsequently able to rebuild within 5km of Dartmoor Road, and within their community, in a safe and legitimate way. Overall, between the Dartmoor Road property and 613 Puketapu Road, the productive capacity of the land will be retained long term.

(b) the subdivision is on specified Māori land:

The subdivision is not on specified Māori land.

(c) the subdivision is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.

The subdivision is not for specified infrastructure or defence facilities.

(2) Territorial authorities must take measures to ensure that any subdivision of highly productive land:

(a) avoids is possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and

This proposal avoids the cumulative loss of productive land. The Dartmoor Road property was 0.995ha in area and in time, this will be returned fully to productive uses. The ability to use this land for residential purposes has been forfeited.

This proposal sees 0.5ha, allocated for a lifestyle lot so the family can rebuild safely. This is a fraction over half of the 0.995ha that has been retired from residential use at Dartmoor Road. Overall, between the two sites there is a net gain in land available for productive purposes.

Both properties are LUC 3, and therefore this can be seen as a like-for like scenario.

(b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.

The proposed lifestyle lot will be developed with a residential building. The lot has been chosen so that it sits within an existing area of rural lifestyle properties and is consistent with the surrounding rural built environment.

There is existing screening along the north and east boundaries that offer a buffer from surrounding productive activities such as noise. As the lot is sited among similar properties it is unlikely to cause reverse sensitivity issues.

In conclusion, while this proposal sees the removal 0.5ha of LUC 3 land from productive use, it also sees 0.995ha returned to productive use. An overall increase in LUC 3 land available for productive use. Because the site is bounded by the Rotary pathway, Tutaekuri River, the established rural residential neighbouring properties to the north and surrounding rise in topography, it is very unlikely that this property could be amalgamated with other highly productive lots. This is a relatively small lot and one that is LUC 3, so while it is considered highly productive, it is not the most productive or versatile of the soils.

The proposal will allow the applicant to rebuild in a safe location, within their community while allowing the balance of the land to continue to be used for productive purposes into the future.

Overall, we are satisfied that there is a pathway through clause 3.8 that ensures the proposal is consistent with the intent of the NPS-HPL and is the appropriate use of the land now and into the future.

5.7 CONSIDERATION OF ACCESS AND HAZARDS

S106 of the RMA specifies:

(1) A consent authority may refuse to grant subdivision consent, or may grant subdivision consent subject to conditions, if it considered that –

(a) there is a significant risk from natural hazards; or

(b) [Repealed]

- (c) *sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*

There is suitable access into the two lots from existing crossings off Puketapu Road. Farm gate vehicle access is existing for Lot 1, and it is suggested that this is upgraded when development occurs.

The site not subject to a natural hazard that could restrict development.

Therefore, we consider s106 to be met and there is no reason why this subdivision cannot proceed under this section.

6 RESOURCE MANAGEMENT ACT 1991: PART 2

Part 2 of the RMA sets out the purpose of the RMA 1991 and the assessments are subject to sections 5, 6, 7 & 8 of Part 2.

Section 5 clarifies the purpose of the RMA and promotes sustainable management as managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety.

This proposal meets Section 5 as it provides for the applicants who have been displaced due to Cyclone Gabrielle, within their community. The balance lot can continue to be used for cropping.

Section 6 identifies a number of matters of national importance, including the preservation of outstanding natural features and landscapes, relationship of Māori to their ancestral lands, water, sites, waahi tapu and other taonga and the management of significant risks from natural hazards. There is an archaeological site identified in the southernmost corner of the property. This is recorded as a 'Midden/Oven' on the Hastings District Plan. This site will not be disturbed in any way, and proposed new boundaries are well clear of this area. There are no natural hazards relevant to this property and therefore, Section 6 is considered to be met.

Section 7 sets out a number of other matters that applications shall have regard to, including the use and development of natural and physical resources, the use of energy, the value of ecosystems and the effects of climate change. There are no other matters relevant to this proposal.

Finally, Section 8 requires all persons exercising functions and powers under the RMA to take into account the principles of the Treaty of Waitangi. This proposal recognises and respects the Treaty of Waitangi.

Overall, Part 2 of the RMA is considered to be met by this proposal and the outcome will result in the efficient use of land and built resources to meet the needs of future residents.

7 CONCLUSION

The proposal for the subdivision of one lot into two is considered to be a suitable proposal.

This report has demonstrated that the effects on the environment, neighbours and wider rural community are less than minor.

It is therefore considered that the resource consent be **granted** by the consent authority.

Report prepared by:



Sarah Hardie Assoc.NZPI
PLANNER



2/7/2025

Emma Tuck

HPL Assessment: 613 Puketapu Road.

Ian Millner
LANDVISION

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LandVision

LandVision Ltd is an independent technical agricultural/land and resource management consultancy company with offices in Hawkes Bay, Nelson, Wanganui, and Tauranga. It has a team of multi-skilled staff with extensive experience across farm planning and management, soil and LUC mapping, nutrient budgeting, environmental management, compliance, and policy.

LandVision is New Zealand's most experienced private soil /LUC mapping specialist with over 1million hectares mapped for various clients, including councils, farmers, and Iwi.

LandVision Ltd offers technical and strategic advice to clients across Aotearoa, serving small farms, large councils, industry groups, Iwi farming trusts, and corporate entities. Its advice ranges from comprehensive farm plans and nutrient budgets, advice on development options and due diligence to full effects assessments to support resource consent applications.

Landvision has supplied productivity assessments for HPL application across the country and provide peer review for HPL applications to 9 different councils

2. Introduction

The applicant (Emma Tuck) was affected by the extensive flooding during Cyclone Gabrielle February 2023, with a national state of emergency being declared on the 14th February. Prior to the cyclone she and her family had been living in the family's home in the Dartmoor Valley, Puketapu. Like many, the family was surprised by the speed and extent flood waters encroached onto and over their property and were forced to seek refuge on the roof of the family home. While waiting for rescuers to reach them the floodwaters eventually made it up to the chimney on the roofline forcing the family to seek refuge further up the roof.

Since that day the family have had to live in rented accommodation as they try to restore normality to their lives. Finding somewhere within the community they have lived their entire lives is an important consideration in their futures.

The Dartmoor Property has been declared category three and is considered unsuitable for residential living. The former family home has recently been demolished.

After the flood recovery Emma's father has purchased a property approximately 3km east from the Dartmoor Property on the Napier side of Puketapu Village (613 Puketapu Road). This property is a 7ha lifestyle LOT. This property was also flooded but is now considered safe for residential housing.

The Tucks propose to subdivide 0.5ha of this LOT and rebuild the family home on the newly created lot so that they can continue living in the community where they have lived for the last 30+ years.

The National Policy Statement for Highly Productive Land 2022 (NPSHPL) has placed additional restrictions on the development of Land Use Capability (LUC) class 1-3 land for any other use than land based primary production.

This report assesses the physical characteristics of subject land to ascertain the site's productive capacity and ultimate viability.



FIGURE 1: IMAGE TAKEN BY EMMA TUCK ON FEB 14 2023 WHILE WAITING FOR RESCUE. NOTE THE CHIMNEY LINE NEAR WHERE THE CHILDREN'S FEET ARE. FLOOD WATERS REACHED THIS HEIGHT.

3. Site Description

As shown below the site is located between the Tutaekuri River and Puketapu Road. Puketapu Village is located a few hundred meters to the west of the site.

The area proposed for subdivision is located at the northern corner of the site.

A large and very deep council drain is located across the eastern edge of the site.

A public cycleway runs adjacent to the southern and western boundaries.

A commercial shed and hardstand are located within the northeastern corner of the site.



FIGURE 2: IMAGE OF THE SITE SHOWING APPROXIMATE AREA OF PROPOSED SUBDIVISION (RED) AND COUNCIL DRAIN (BLUE). A LIMESTONE CYCLEWAY CAN BE SEEN RUNNING ADJACENT TO THE SOUTHERN AND WESTERN BOUNDARIES.

3.1. Current condition

The 7ha site is currently mapped within the New Zealand land Resources Inventory (NZLRI) as 6.65ha unit 3e1 and 0.35ha river (unclassified). Within the NZLRI the inventory for this unit is as follows

Inventory Factor	
Rock Type	AI
Soil	Esk
Slope	A
Vegetation	Pasture and cropland
Erosion	0 (neg)



FIGURE 3: MAP OF 613 PUKETAPU ROAD.



FIGURE 4: IMAGE OF 613 PUKETAPU ROAD DAYS AFTER CYCLONE GABRIELLE SHOWING COMPLETE SILT INUNDATION.



FIGURE 5: EXAMPLES OF SITE CONDITIONS CURRENTLY. VERY THIN PASTURE STRUGGLING TO ESTABLISH IN A DRY SPRING

The site is currently in pasture.

During Cyclone Gabrielle approximately 1m of sediment was left across the entire property.

When the property was purchased, the current owners were told that the site had been cleared of silt. Initial inspection with a hand auger indicated that approximately 400-500mm of fine sand alluvium was evident in places with no obvious topsoil.

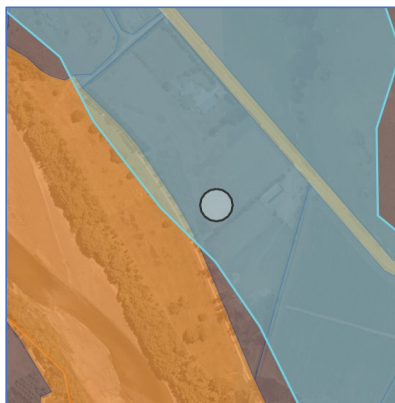


FIGURE 6: SITE POSITION RELATIVE TO NZLRI UNIT 3E1. BLUE =3E1

4. LUC

The Land Use capability (“LUC”) system is a basic system of land characteristics designed to describe suitability for a set of generic land uses. It is widely accepted that the catalyst for the LUC came out of the USA around 1930 in response to widespread erosion issues that were apparent at the time across the American and Canadian prairies (sometimes known as “the dust bowl”). Indeed, the first publication by soil erosion services within the USA of a “soil conservation survey handbook” was in August 1939.¹

The primary purpose of the soil conservation survey handbook was to develop a systematic method to describe and mitigate various soil erosion risks. Land was classified into broad categories based on physical characteristics of a site that contribute to erosion risk such as degree of erosion, land cover, slope class, and soil.

In New Zealand the need for soil conservation was recognised during the 1930s. The intense storm of April 1938 in which the Esk Valley suffered extensive soil loss and associated damage is widely credited as the catalyst for regional soil conservation service, and the Soil Conservation and Rivers Control Act 1941. Land Use Capability systems were first employed in New Zealand during the 1950s and a Land Use Capability Handbook was first published in 1969 to guide field mapping.

Initially the LUC system advocated for New Zealand was based on 6 classes but after considered field testing such as that carried out in the Pohangina Valley a new 8 class system was developed (as described in the original 1939 American publication). This is the system we now use.

The LUC system is composed of two key attributes. The first is a resource inventory that compiles physical factors in a consistent and methodical manner and secondly an LUC classification where land is categorised into classes based on its capability to sustain one or more productive uses.²

LUC classification is based on pastoral, arable and forestry use.

¹ Helms D. “The development of the Land Capability classification”. Soil Conservation Service, 1992, p60-73.

https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1043484.pdf

²

Lynn I, Manderson A, Page M, Harmsworth G, Eyles G, Douglas G, Mackay A, Newsome P 2009. Land Use Capability Survey Handbook - a New Zealand handbook for the classification of land. 3rd ed. Hamilton, AgResearch; Lincoln, Landcare Research; Lower Hutt, GNS Science
https://www.landcareresearch.co.nz/data/assets/pdf_file/0017/50048/luc_handbook.pdf

Increasing limitations to use ↓	LUC Class	Arable cropping suitability†	Pastoral grazing suitability	Production forestry suitability	General suitability	Decreasing versatility of use ↓
	1	High ↓ Low	High ↓ Low	High ↓ Low	Multiple use land	
	2					
	3					
	4					
	5	Unsuitable	Low ↓ Unsuitable	Low ↓ Unsuitable	Pastoral or forestry land	
	6					
	7					
	8					
		Unsuitable	Unsuitable	Conservation land		

Figure 7: from LUC handbook - Increasing limitations to use and decreasing versatility of use from LUC Class 1 to LUC Class 8. Arable includes vegetable production.

Mapping of the initial LUC units across New Zealand was conducted primarily during the 1960s to 1970s. Often land was mapped as a desktop exercise using stereoscopes and aerial photography (a process producing 3 dimensional images). This resulted in low spatial resolution maps of around 1:50,000. Often units were mapped without a person physically walking the land. (Garth Eyles:Pers Com)

This has resulted in a mapping system that is useful for regional scale analysis but is generally regarded as having limited utility at sub catchment or farm scale.

Individual LUC units (where classes are further delineated into subclasses and inventory units e.g. 3s2or 6e4) are developed based on the dominant limitation or where multiple limitation exist the following priority is observed: erodibility (e) > excessive wetness (w) > rooting zone limitations > climate (c).

When allocating different units to parcels of land the following assumptions are made:

- The permanent physical limitations of the land remain.
- The rectifiable limitations may be removed.
- An above average level of land management is practiced.
- Appropriate soil conservation measures will be applied and maintained.

Physical limitations have three distinct categories:

- Permanent limitations that cannot be removed – examples of this type of limitation include climate, rock type, slope, and soil attributes where the ability to modify does not exist or is cost prohibitive.
- Removable limitations are those where the limitation can technically be removed but where it requires considerable effort and investment. E.g., soil wetness, flooding, gravel picking.
- Modifiable limitations are those that can be removed via ongoing investment and management. Examples include erosion, soil moisture deficits and nutrient deficiencies.

4.2. NZLRI

Currently the site is classified as 3e1. Attributes of this unit of 3e1 are described as above. The LUC classification for Northern Hawkes Bay describes the unit as below.

LUC unit IIIel (2,640 ha)—Figure 62

On rolling to undulating downland loess mantles Pleistocene sandstones and siltstones which are interbedded in places with limestones and conglomerates. Soils belong to the Matapiro series, the main type being Matapiro sandy loam. They have compact subsoils and pans, but although drainage is slow they are not as poorly drained as the soils of IIIsl. Again summer soil moisture deficiencies are a limitation to plant growth, however due to the sloping nature of the unit erosion is the main limitation under cultivation. These areas are therefore mapped as IIIel. There is a potential on these sandy soils for slight to moderate sheet, rill and wind erosion, requiring contour cultivation and the provision of shelterbelts. This unit like IIIsl is suited to cereal cropping, although at present land use is almost entirely intensive grazing. The potential stock carrying capacity, at 22 su/ha, is slightly higher than on IIIsl because of somewhat better drainage. Site index for *P. radiata* however the same.

The key aspect of this description is that soils have a mantle of loess, have compact subsoils and pans (and therefore slow drainage) and occur in areas where summer moisture deficit is prevalent.

4.3. Soils

Soils on site are very raw. Parts of the site is still covered in 400-500mm of material deposited during the flooding that took place. Buried beneath recently deposited material is the Esk soil that formed before the flood event and was there during previous mapping. The deposited material is fine sand.



FIGURE 8: FROM: SOIL MAP, HAWKES BAY. SHEET 5 (1:95040).

SOIL 57= Esk

FIGURE 9: TWYFORD SOIL PROFILE AS PER NSDR

5. Site Inspection

The site was visited on Nov/Dec 2024 to assess to soil characteristics of the site.

The initial inspection was a preliminary inspection to understand the soil characteristics on site with a hand auger and spade. This confirmed the presence of alluvium across the property.

A second visit was undertaken to form a more detailed view of soil characteristics. This involved a small digger being used to open several inspection pits in a diagonal transect across the paddock.

6. Results

Onsite inspection of residual soil profiles confirmed the soils on site have no distinct topsoil horizon. Very old topsoils have been buried beneath 400-500mm of fine sand

Images below are from pits dug onsite. They show clearly the deposited material on top of what was topsoil.



FIGURE 10: SOIL PIT DUG AT NORTHERN END OF SITE. DEPOSITED FINE SAND SITS ON TOP OF BURIED SOIL PROFILE AT BOTTOM OF PIT. APPARENT CHANGE IN COLOUR DOWN THE PROFILE IS A WETTED FRONT FOLLOWING RECENT RAINFALL AFTER A VERY DRY SPRING. WHEN DRY THIS SOIL IS THE SAME PALE COLOUR AS EVIDENT ABOVE THE BURIED TOPSOIL.



FIGURE 11: SOL PIT FROM SOUTHERN END OF SITE. AS ABOVE

Despite attempts to have silt cleared from the site a significant amount remains in at the eastern end of the site where silt was used to fill in channels and other rough topography. Across the rest of the property, damage has occurred to the soil profile to the extent it is no longer observable. This damage may have occurred during silt removal or as the site was resown the following spring to prevent wind erosion. Regardless of how the damage occurred, the site is now dominated by raw soils.

SMap soil datasheets are useful to highlight what the soil on site may have looked like prior to flooding. Images and base descriptions from two of the most probable soils on site from SMap are shown below. These images highlight the shallow nature of an Esk soil in an undisturbed state.

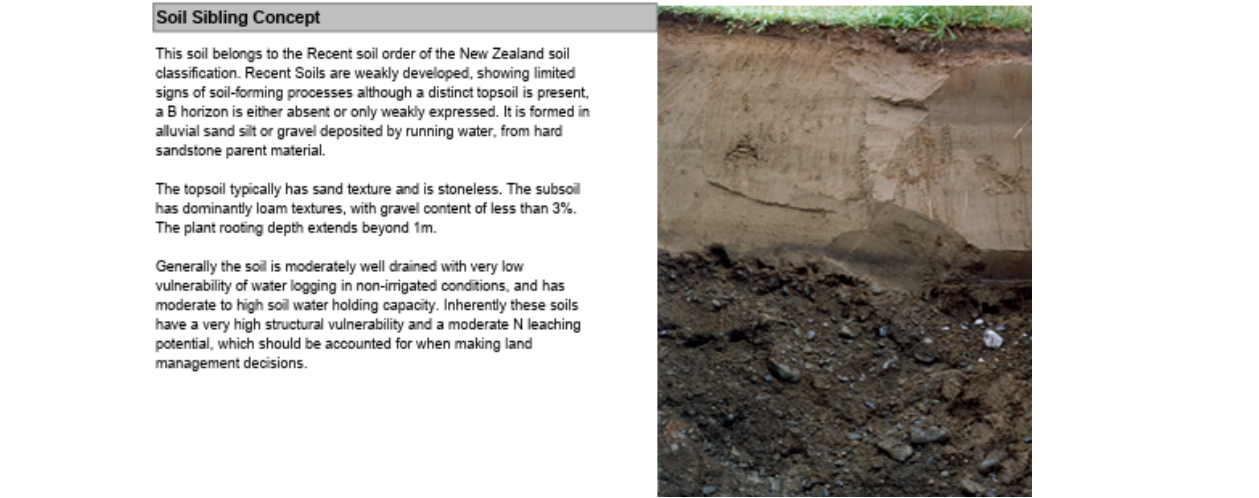


FIGURE 12: ESK SOIL – DISPLAYING A VERY SHALLOW (APPROXIMATELY5CM) TOPSOIL.

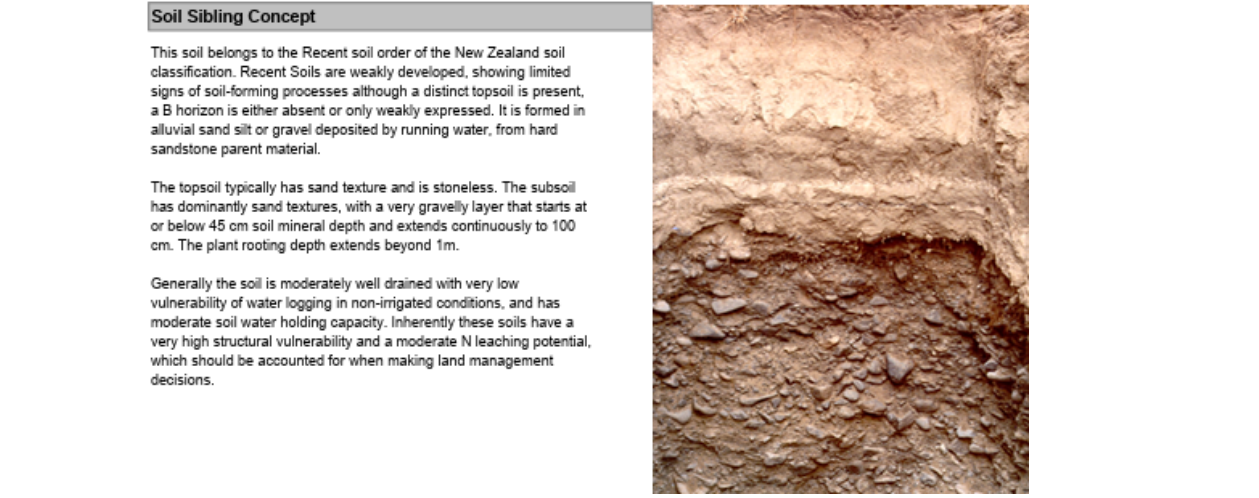


FIGURE 13: FEREDAY SOIL (A SIBLING OF THE ESK SERIES OF SOILS)- AGAIN THIS SOIL HAS A VERY SHALLOW AND VERY WEAKLY DEVELOPED TOPSOIL OF APPROXIMATELY 5CM.

In addition to silt coverage and its effects on the soil and its potential productivity, the site is operationally removed from other land in the area being completely isolated by rivers and cycleways, Puketapu road and a large drain (shown below).



FIGURE 14: DRAIN ALONG EASTERN BOUNDARY OF SITE.

7. NPS – HPL

The intent of the NPS for HPL is to protect highly productive and highly versatile land for food production. It includes LUC classes I to III.

7.1. Definition of Productive capacity in the NPS-HPL

Productive capacity, in relation to land, is defined in Clause 1.3 of the NPS-HPL as:

...the ability of the land to support land-based primary production over the long term, based on an assessment of:

- a. physical characteristics (such as soil type, properties, and versatility); and*
- b. legal constraints (such as consent notices, local authority covenants, and easements); and*

c. the size and shape of existing and proposed land parcels.

7.2. Productive potential on this site

Various aspects of the site's productive capacity post Cyclone Gabrielle are discussed below. This analysis draws of a range of Hawke's Bay soil references published last century to highlight known attributes of a raw Esk soil.

7.2.1. Griffiths Soils

The well regarded 2001 publication *Soils of the Heretaunga Plains* written by Elwyn Griffiths contains very helpful information for understanding the potential risk and management of wind erodible soils.

In summary the factors influencing wind erosion are:

- Particle size- fine particles will blow readily
- Low bulk density soils will blow
- Soils with well-developed structures resist wind erosion better than those with weak or no structure.
- Under grass even sandy soils can develop structure in time due to the binding effect of organic matter. Conversely, continuous cultivation lowers organic matter content and returns soils to single grains.

At table 3 in this publication Griffiths highlights Esk soil as having a very high or severe degree of susceptibility to wind erosion essentially due to its fine texture, lack of structure and propensity for soil aggregates to break down when cultivated.

7.2.2. Soils of Hawke's Bay

The very old (1947) publication "*Soil and some related Agricultural Aspects of Mid Hawkes Bay*" has some of the original soil descriptions for the soil series found in the region. Within this publication relevant aspects of Esk soil are outlined. These are:

- Loamy soils are buried beneath the soil – reflecting its rapidly accumulating nature (floods frequently). This soil is located on low river flats subject to flooding. During floods fresh sediment is added accounting for the absence of a well-defined humus topsoil.
- Where flooding has not occurred for a long period, the topsoil is more developed and in places has a certain amount of structure.
- The soil occurs under low rainfall and very rapidly dry's off in late spring and summer. The soil is droughty and not suited to shallow rooted crops.
- The structure is weak and blowing (wind erosion) occurs on cultivated and recently deposited soils.

7.2.3. Examples of similar units

The LUC unit that was mapped on site around 1980 is no longer relevant as the sediment that now covers the site is very recent (raw) and does not have a loess component. Therefore, I have briefly searched out units that occur in similar locations in the landscape to understand how they have been classified to gain an appreciation of the productive potential in sites such as these.

Possibly the one of the most widely recognised soil associations is the Rangitikei and Manawatu soils that occur adjacent to rivers in the Manawatu. Rangitikei soils are typically rapidly accumulating and are adjacent to water courses and Manawatu is slowly accumulating further away from the water course and typically on a higher terrace. The Rangitikei soil has a large number of variants including a fine sand similar to the Esk and is also a rapidly accumulating soil that lacks structure and is prone to wind erosion. In the Pohangina valley the Rangitikei soil can be found in unit 6s7 where it has occurred right next to the river and 4s2 when further back from the river's edge. Unit 6s7 correlates with units 6s3 and 6s1 in Northern Hawke's Bay.

Within Hawke's Bay, at Waipawa on another unit that was flooded during Cyclone Gabrielle (so also rapidly accumulating) a Tukituki soil is classified as 7s1.

Within the Heretaunga plains it is difficult to find similar units due to the existence of a comprehensive flood control scheme that was in place prior to LUC mapping. For example, all the alluvial units in the southern Hawke's Bay and Wairarapa LUC classification have a wetness limitation due to their association with the water table.

7.2.4. Conclusion

To gauge the productive potential of this unit with a recently deposited raw soil I have considered information gathered from the sources outlined above and the Northern Hawkes Bay LUC classification. From this it can be summarised that in its previous state this site would have had soils that were thin (because they were recent), had slow- poor drainage due to the existence of buried topsoil creating dense subsoils and pans, weak topsoil due to a lack of development and fine sandy texture that were prone to wind erosion when cultivated.

Currently this site has a soil surface that has been severely disturbed to the point topsoil is no longer evident. This result of this along with no sub soil development is that this soil is now well to excessively drained and will remain that way until soil pedogenic processes have had time to develop. Currently, there is no topsoil or soil horizons because the process of weathering and leaching that creates soil horizons has not been sufficient to affect this soil. In my view this process will take decades to achieve the same productive capacity as the soils now buried or disturbed. In this time any disturbance or cultivation of the soil profile will only retard that development.

In its raw state Esk soil has a severe risk of wind erosion. This was proven post Cyclone Gabrielle with several 'blows' being observed in the Esk valley itself.

So – on this site we now have a soil that is raw, drains fast, is at risk from wind erosion and cannot withstand cultivation. In my view these limitations constitute a severe limitation to arable use and the site has characteristics and management requirements consistent with at best class 4 and more likely class 6.

The site is suitable for pasture only. Pasture growth is a poor proxy for primary productivity within the NPS-HPL as some class 6 units will grow as much grass as class 1-3 and sometimes more. A severe limitation to arable use is exactly that – frequent cultivation of this unit will not be consistent with its sustainable management. On this site – it is very unlikely that pasture could be a reliable let alone viable enterprise on approximately 6.5ha effective - due to the site rapidly drying out late spring and summer.

In my view, a well-run cattle finishing operation would return a gross margin of around \$800/ha (seasonally variable). In its current state and being summer dry the site would struggle to carry 1 animal/ha on average. Therefore, the gross margin would approximately \$5200 annually. I note the rates bill on this property is currently \$4700 (HBRC & HDC) leaving \$500 to pay accounting fees, insurance and other fixed costs. This simply is not viable. I also note the site has no internal fencing suitable for the effective management of grazing animals.

There are some land management interventions that might improve the productive capacity of the site. The site could be farmed for some time with liberal application of fertiliser **and** irrigation. On this soil this type of management would be like hydroponics. However, in this case irrigation is not available and the likelihood of viably cropping this site over the next 30 years is very low for the reasons outlined above.

Permanent horticultural crops are also not viable without irrigation on rapid to excessively drained soil.

7.3. Analysis of Site Under Clause 3.10 NPS-HPL

(1) Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 if satisfied that:
a) there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years; and
<p>As described above – despite the site being classified as class 3 under the NZLRI classification, physical evidence gathered onsite shows that the site does not have the same primary production potential as class 3. This is because the site is still partially covered with the sediment deposited during Cyclone Gabrielle or has had the soil disturbed to the point where it is no longer evident. This sediment is in effect a raw Esk soil without any of the development that needs to take place over time to develop the productive capacity expected from the Esk soil that was on site. If this soil is left in pasture, it will eventually develop. However, this will take decades and for the purposes and time frame of the NPS-HPL the identified limitation is both permanent and unavoidable.</p> <p>The soil on this site will not be able to sustain land-based primary productivity in a viable manner for the next 30 years. Indeed, attempts to cultivate this soil will only retard its development.</p> <p>As the soil develops over time the structural profile of the soil profile will also change. Given the description of a developed Esk soil above it is reasonable to expect the drainage characteristics to become slower/poorer as the buried topsoil also develops into a dense subsoil/pan.</p>
(b) the subdivision, use, or development: (i) avoids any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and
<p>This site is very small. The amount of class 3 land (in its original state) is an insignificant 0.0007% of the Hastings Districts 68 497 ha of HPL (class 1-3). In addition, the LOT where the original family home was established is now effectively bare land. On this 9952m² LOT there was approximately 0.5 ha of productive class 3 ground which is now in the same state as the proposed site. This proposal will not result in a net increase in the residential area of the Hastings District.</p>
(ii) avoids the fragmentation of large and geographically cohesive areas of highly productive land; and
<p>This site is situated on the edge of a lifestyle block on the edge of Puketapu Village. The block itself is already completely isolated from any other HPL (nominally) in the area. This proposal will not fragment a large or geographically cohesive area of HPL.</p>
(iii) avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-

<p>As the proposed development is for residential housing adjacent to other residential housing, I see no reason for reverse sensitivity effects. In fact, the presence of the cycle way around 50% of the property's boundary increases the potential for reverse sensitivity if the site was used for intensive rural production activities.</p>	
<p>(c) the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.</p>	
<p>There are significant social and economic benefits for the family and community from this proposal as the result will see a family remaining in the area they have lived their entire lives, including supporting the local school, businesses and community structure. As noted above, there will be no resulting significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district as a result of this subdivision, and therefore the benefits outweigh the potential costs associated with the loss of highly productive land.</p>	
<p>(2) In order to satisfy a territorial authority as required by subclause (1)(a), an applicant must demonstrate that the permanent or long-term constraints on economic viability cannot be addressed through any reasonably practicable options that would retain the productive capacity of the highly productive land, by evaluating options such as (without limitation):</p>	
<p>As the site is highly modified to the point of being nonproductive there are no viable or reasonably practicable options to retain the site's productive capacity.</p>	
(a) alternate forms of land-based primary production:	As above, the site's highest and best use is pasture. Without irrigation, horticulture is not viable on this raw soil.
(b) improved land-management strategies:	The most applicable land management strategy to address the site's long term sustainable land use is not to cultivate the site.
(c) alternative production strategies:	N/A
(d) water efficiency or storage methods:	N/A
(e) reallocation or transfer of water and	N/A

nutrient allocations:	
(f) boundary adjustments (including amalgamations):	N/A
(g) lease arrangements.	In the absence of irrigation and given the limited size of the block, a lease arrangement would not be a viable option. This block is noncontiguous with other HPL.
<p>(3) Any evaluation under subclause (2) of reasonably practicable options:</p> <p>(a) must not take into account the potential economic benefit of using the highly productive land for purposes other than land-based primary production; and</p> <p>(b) must consider the impact that the loss of the highly productive land would have on the landholding in which the highly productive land occurs; and</p> <p>(c) must consider the future productive potential of land-based primary production on the highly productive land, not limited by its past or present uses.</p> <p>The evaluation of reasonably practicable options has not taken into account any potential economic benefit of using the land for purposes other than land-based primary production. The impact of the loss of a small area of land from landholding, which is deemed to be highly productive but is incapable of supporting land-based primary production, is negligible. The damage done to the soil profile and the dominant presence of raw soils on the site is the single biggest determining factor of the future productive potential of the land.</p> <p>(4) The size of a landholding in which the highly productive land occurs is not of itself a determinant of a permanent or long-term constraint.</p> <p>(5) In this clause:</p> <p>landholding has the meaning in the Resource Management (National Environmental Standards for Freshwater) Regulations 2020</p> <p>long-term constraint means a constraint that is likely to last for at least 30 years.</p>	

8. Conclusion

While the analysis of this site may appear to be complex it is inherently simple when the relevant points are highlighted.

In my view the relevant points are as follows:

- The site has a mixture of 400-500mm of raw sediment on top of the pre-existing Esk soil that was there when the soil was originally mapped around 1980 and raw soil that was deposited the last time the site was flooded but has since lost its thin layer of topsoil.
- This raw Esk soil does not have the degree of development expected in a typical Esk soil.
- Esk soil has been accepted since the 1940s as being weak and prone to wind erosion when cultivated or recently deposited.

- Severe wind erosion when cultivated is a severe restriction to arable use.
- Cultivation of a recently deposited soil will retard its development into a recognised soil.
- The raw Esk soil as it is now, is rapid to excessively drained and will dry out rapidly during late spring and summer (or any other prolonged dry spell).
- The site is effectively isolated from any other HPL. Given much of the surrounding HPL is also covered in the same sediment it is unclear how productive that land is.
- Irrigation water is unavailable at this site.
- Without irrigation water the prospects of viable horticulture on this site are very unlikely – even with the original soil.
- Therefore, the site is limited to a pastoral enterprise for the foreseeable future (>30years). Carrying capacity is low due to a lack of soil development, consequently the gross margin of this site assuming 6.5ha effective cannot cover fixed costs let alone the cost of capital or wages of management.
- The site is clearly non-viable due to permanent and long-term limitations.
- These limitations result in the site not being useable for land-based productivity in an economically viable manner.

7 March 2025

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By email only: kellys@hdc.govt.nz

613 PUKETAPU ROAD – SUBDIVISION CONSENT APPLICATION BY EMMA TUCK

- 1 I act for Emma Tuck. She has asked me to assist with her application for consent to subdivide the property at 613 Puketapu Road.
- 2 I understand that a meeting was held in December between Council officers, Emma and her planning consultants to discuss the application. Some concerns were raised by the Council, including matters related to adverse precedent effects and plan integrity.
- 3 I have been instructed to write to you to address those matters.

Precedent effect

- 4 It is well-established law that the precedent effect of granting a resource consent is a relevant factor for a consent authority to take into account under section 104(1)(c) of the Resource Management Act 1991 (**the Act**).
- 5 In *Auckland RC v Roman Catholic Diocese of Auckland*¹, the High Court explained the concern in relation to precedent as follows:

As part of its analysis under s 104, a consent authority may consider precedent effects and the effect of granting consent on the integrity of planning instruments. The concern in relation to precedent is that the desire to treat like cases alike for reasons of consistency and fairness will lead to more consents being granted for non-complying activities in the future.

- 6 In *Kombi Properties Ltd v Auckland Council*,² the Environment Court adopted that description, and went on to say:

There is no requirement to establish that other applications would have to present precisely the same factual matrix as the application presently under consideration. Broadly similar facts will be sufficient.

¹ (2008) 14 ELRNZ 166; [2008] NZRMA 409 (HC)

² [2021] NZEnvC 62

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- 7 The Environment Court has also observed that the precedent created by earlier decisions provides an expectation of like treatment, not an absolute entitlement.³

Integrity of the plan

- 8 The concern in relation to integrity is that granting consent to non-complying activities will impair public confidence in the application of the plan's rules.⁴ However, as the Court observed in *Beacham v Hastings DC*:⁵

We have said before, and must say again, that the floodgates argument does tend to be somewhat overused, and needs to be treated with some reserve. The short and inescapable point is that each proposal has to be considered on its own merits. If a proposal can pass one or other of the s104D thresholds, then its proponent should be able to have it considered against the s104 range of factors. If it does not match up, it will not be granted. If it does, then the legislation specifically provides for it as a true exception to what the District Plan generally provides for. Decision-makers need to be conscious of the views expressed in cases such as *Dye v Auckland RC* [2001] NZRMA 513 that there is no true concept of precedent in this area of the law. Cases such as *Rodney DC v Gould* [2006] NZRMA 217 also make it clear that it is not necessary for a site being considered for a non-complying activity to be truly unique before Plan integrity ceases to be a potentially important factor. Nevertheless, as the Judgment goes on to say, a decision maker in such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases.

Only in the clearest of cases, involving an irreconcilable clash with the important provisions, when read overall, of the District Plan and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow, will it be that Plan integrity will be imperilled to the point of dictating that the instant application should be declined.

- 9 The same approach was taken in *Blueskin Bay Forest Heights Ltd v Dunedin CC*⁶ where the Court stated that plan integrity might be a matter to be considered under s 104(1)(c). The Court concluded that an application should only be declined on the basis of plan integrity where:
- 9.1 The proposal clearly clashes with important provisions of a district plan, and
- 9.2 It is likely that further applications will follow, which are both materially indistinguishable and equally incompatible with the plan.
- 10 *Merveber Ltd v Auckland Council*⁷ concerned a non-complying subdivision application, which required the removal of a covenant registered through an earlier *Augier* condition. In that case, the Court considered that granting consent would amount to a direct threat to the integrity of the Auckland Unitary Plan. It found that:

³ *Feron v Central Otago DC* EnvC C075/09

⁴ *Auckland RC v Roman Catholic Diocese of Auckland* (2008) 14 ELRNZ 166; [2008] NZRMA 409

⁵ W075/09, [2009] ELHNZ 379

⁶ [2010] NZEnvC 177

⁷ [2024] NZEnvC 100

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- 10.1 There was nothing that made the site stand out as being unusual or beyond the generality of properties in the area. It observed that if subdivision to the level proposed was possible on that site, it would also be possible on the neighbouring properties and those within the valley, and probably within the wider mixed rural area.
- 10.2 There was nothing exceptional about the site or the circumstances of the applicant.
- 10.3 While a decision allowing the application would not create a legally binding precedent, it would potentially support an argument that other, similar, consent notices or covenants could be removed to support further subdivision applications.
- 11 Granting consent to the Tucks' application for subdivision consent will not create a precedent because the characteristics of the site differentiate it from other sites in the Plains Production zone. The proposal and the circumstances of the applicant are sufficiently unique that the proposal does not directly challenge the integrity of the District Plan, and granting consent will not undermine confidence in the consistent administration of the Plan.
- 12 The grounds that make this proposal unusual (perhaps exceptional) are set out below:
- 12.1 The subdivision proposal is a non-complying activity because the site is in the Plains Production Zone and is undersized for that zone. Except for that fact that the site is in the Plains Production Zone, the proposed subdivision meets all of the requirements for subdivision as a controlled activity in Plan Change 6. That plan change would have enabled the Tucks to establish a lifestyle site on rural land located on the opposite side of Puketapu Road.
- 12.2 Plains Production-zoned land was excluded from Plan Change 6 in order to ensure that subdivision of highly productive land for lifestyle purposes was avoided.
- 12.3 Although the soils on the site are said to be LUC3, the original soil is no longer present and, based on its current state, the land is can no longer be considered productive land. A site-specific assessment has been done and a report provided by LandVision. That report concludes that:
- (i) As a result of damage from the cyclone, the site no longer exhibits the typical qualities and characteristics of the Plains Production Zone.
 - (ii) The cyclone and resultant flooding left approximately 1 metre of sediment across the entire property. Even after remediation, parts of the site are still covered in 400-500mm of fine sand.
 - (iii) The site is now dominated by raw soils.
 - (iv) The soils of the proposed lot and the wider site are highly unlikely to be capable of productive use within the next 30 years. In fact, attempts to use the site productively, which necessarily involve disturbance or cultivation of the soil profile, will hamper the soil's development into a recognised soil.
- 12.4 The site is an orphaned site without any physical connection to any other Plains Production zoned land because it is bounded by Puketapu Road to the north, a large

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and deep Council drain to the east, and public cycle paths located adjacent to the southern and western boundaries.

- 12.5 The circumstances of the applicant are exceptional. The Tucks have lived in the Puketapu community for over 30 years. The property they owned in the Dartmoor Valley (also Plains Production zoned land) was inundated during Cyclone Gabrielle, with floodwaters reaching partway up the roof as the family waited to be rescued. As a result of damage from Cyclone Gabrielle, the Dartmoor Property was deemed to be Category 3. The Tucks accepted a buy-out offer for that land and in doing so, effectively relinquished their development right at the Dartmoor Property, and unlocked the potential for that land to be amalgamated with neighbouring property in the Dartmoor Valley to create a larger Plains Production lot. The property they wish to subdivide is located only 3km east of the Dartmoor Property.
- 12.6 The site abuts land comprising a series of smaller rural lifestyle sites on Plains Production land. Ten properties on the western side of Puketapu Road (615-655 Puketapu Road) range in size from 0.4ha (639 Puketapu Road) to 3.043 ha (619 Puketapu Road, with site sizes as follows:

Address	Site size (hectares)
615 Puketapu Road	1.104
617 Puketapu Road	2.415
619 Puketapu Road	3.043
621 Puketapu Road	1.566
639 Puketapu Road	0.4
647 Puketapu Road	1.5
649 Puketapu Road	1.771
651 Puketapu Road	1.141
653 Puketapu Road	0.822
655 Puketapu Road	0.91

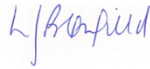
The proposed lot is located on the fringes of this area of rural lifestyle development within the Plains Production zone.

- 12.7 This proposed subdivision is exactly the type of subdivision enabled by Plan Change 6, albeit on rural land. Granting consent to this subdivision will not compromise the intent of the Plains Production zone, which is to protect and preserve versatile soils. The soils on the property can no longer be considered 'versatile', and the property is on the fringes of Plains Production zoned land which exhibits rural residential, rather than truly rural characteristics.
- 12.8 These matters taken in combination mean that the site has effectively ceased to be Plains land in a true sense.
- 13 Taking those factors into account, there is sufficient evidence for a decision-maker to conclude that a set of unique characteristics exist relating to the site and the applicant, so there can be little risk that other, similar applications will follow. Granting consent to the

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proposal will not undermine confidence in the consistent administration of the District Plan,
or the integrity of the Plan's provisions for the Plains Production zone.

Yours faithfully



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Existing Easements
"A" Right to convey electric power
"B" Right to convey electric power
and water by EC 653925.1

Local Authority : Hastings District
Zoning : Plains Production
Legal Description : Lot 1 DP 26268
Comprised In : RT HBW1/700
Total Area : 7.0560 Ha
Registered Owners : J Strampel, S Tuck


DISCLAIMER:
This plan is produced for the sole purpose of obtaining a Subdivision Consent under the Resource Management Act 1991. It is not a formal survey plan, the dimensions and areas are subject to final survey. The use of this plan for any other purpose is at the user's risk

Lots 1 & 2
being proposed sbdivision
Lot 1 DP 26268
613 Puketapu Road
Puketapu

DATE : 11/10/2024
SCALE : 1:2000 @ A3
DRAWN BY : DZ
JOB NO. : J002024
PLAN NO. : SP V1



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Pandora, Napier
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	RESOURCE CONSENT APPLICATION RMA20240415	
	PLANNING REPORT SECTIONS 95A, 95B AND 104 OF THE RESOURCE MANAGEMENT ACT 1991	

Summary of Application Details		
Application Received: 27/11/2024 Further Information 1: 18 th March 2025 Further Information 2:	PID: 94244	RMA20240415
Applicant:	Tuck Children's Trust 613 Puketapu Road Puketapu 4183	
Address of Site:	613 Puketapu Road, Puketapu	
Legal Description:	LOT 1 DP 26268 (RT HBW1/700)	
Area:	7.0560 Hectares	
Zoning:	Plains Production Zone – Operative Hastings District Plan (July 2024)	
Overlays:	Archaeological Sites, Rural Character Landscape – 3, Riparian Land Management Area - List 1	
Reasons for Application: District Plan Provisions: NES Provisions: RMA Provisions:	Rule SLD25 of the Partially Operative Hastings District Plan (July 2024) N/A s104B; s104D	
Assessment of Status:	Non-Complying	
Report Prepared By:	Kelly Smith – Environmental Planner (Consents)	

1.0
THE PROPOSAL

- 1.1
The applicant is seeking consent to subdivide their site at 613 Puketapu Road, Puketapu into:
 - Lot 1 of 5000m²
 - Lot 2 of 6.7760ha
- 1.2
No easements are proposed or required to give effect to the subdivision.
- 1.3
I have reviewed the title documentation for the subject site which was submitted with the application, being:

Identifier	HBW1/700
Land Registration District	Hawkes Bay
Date Issued	18 March 1997
Prior References	HBL4/1029

Estate	Fee Simple
Area	7.0560 hectares more or less
Legal Description	Lot 1 Deposited Plan 26268
Registered Owners	Simon Charles Tuck and Jeffrey Strampel

Interests

Appurtenant hereto are drainage rights created by Deed 44832

Appurtenant hereto is a right of way created by Transfer 516654.1

The easements created by Transfer 516654.1 are subject to Section 309 (1) (a) Local Government Act 1974

Subject to a right to convey electric power over part marked A and a right to convey electric power and water over part marked B on DP 26268 specified in Easement Certificate 653925.1 - 18.3.1997 at 2.15 pm

The easements specified in Easement Certificate 653925.1 are subject to Section 243 (a) Resource Management Act 1991

6212261.1 Partial surrender of the right of way created by Transfer 516654.1 - 11.11.2004 at 9:00 am

13049860.1 Mortgage to ASB Bank Limited - 3.7.2024 at 10:38 am

Easements for the conveyance of electricity and water are unaffected by the proposal, there are no other registered interests on the Record of Title of relevance to the consideration of this proposal

1.4 A copy of the proposed scheme plan is shown below:

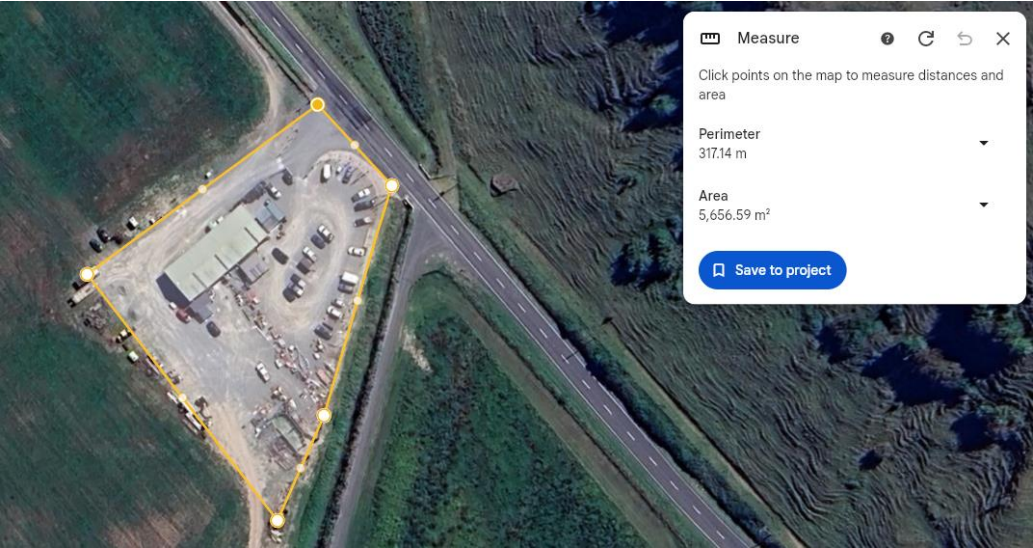


2.0 THE SITE AND SURROUNDING ENVIRONMENT

The 7.05 hectare site legally described as Lot 1, DP 26268 (RT HBW1/700) is situated southwest of Puketapu Road and northeast of the Tutaekuri River. It contains an existing dwelling and several accessory buildings, one of which includes bathroom and kitchen facilities with a sink clustered in the north eastern section of the site adjacent to the road boundary.

In the eastern corner of the site, there is a 358m² accessory building which was given building consent solely for domestic storage, along with a hardstand area of approximately 5300m². However, the accessory building is currently being used by two separate businesses: a machinery workshop and an

office/storage yard for Tuck Civil Contractors. It is noted that neither of these businesses is legally established under the District Plan provisions, and the matter has been referred to Hastings District Council's Compliance Team.



An archaeological site Ref V21/531 and described as a midden / oven site relating to Māori occupation is located in the southern corner of the site.

The site has a flat contour, with neighbouring properties to the east and south primarily used for primary production and domestic grazing. To the north, the surrounding properties consist of lifestyle sites near Puketapu village.

A stop bank runs along the western boundary, separating the site from an esplanade strip and the Tutaekuri Stream.

The site is shown in the aerial photos below taken from Google Earth, showing the current environment.
Date Attribution 2/20/2025



2.1 Site Consenting History

2.1.1 Resource Consents

RMA20060413 - A resource consent to operate a commercial service activity in the Plains zone without a resident employee and to exceed the maximum signage size was granted on the 12th October 2006. The consent authorised the use of up to 5000m² of storage area with no buildings or sealed areas in association with a rural building / fencing supply business. The location of this consented activity is in the south eastern corner of the site adjoining Puketapu Road

2.1.2 Building Consents

ABA970458 Granted 24/04/1997 Erect New Dwelling

ABA981670 Granted 22/12/1998 – Erect Hay Barn

ABA20062036 Granted 13/12/2006 – Install New Swimming Pool

ABA20091326 Granted 15/12/2009 – Erect two sheds, one including a games room

ABA20231132 Granted 18/12/2023 – Install New Jayline Freestanding Wood Burner

ABA20231139 Granted 09/05/2024 – Install new septic tank and effluent disposal field.

ABA20240789 – Application on hold for further information – new office and amenities within the interior of existing large shed.

Hawke's Bay Regional Council Consent

WP070197Ta – Water permit for Well No 1005 to irrigate 7.05 hectares of process crops granted commencing 13th August 2007 and expiring on 31 May 2028.

3.0 REASONS FOR CONSENT AND ACTIVITY STATUS

3.1 Relevant National Environmental Standards

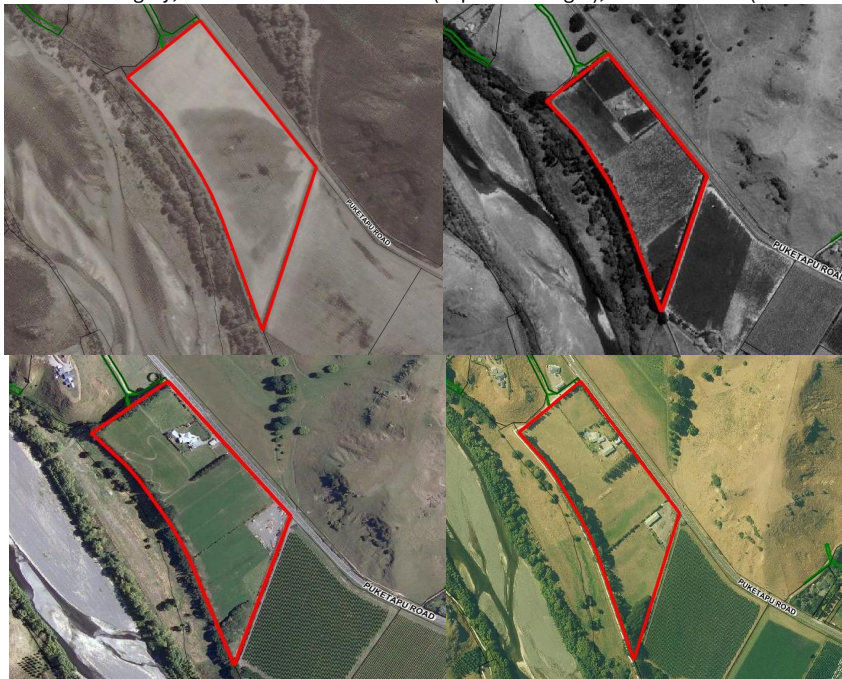
3.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NES-CS) applies when there is a change in land use, subdivision, or earthworks on land where a Hazardous Activities and Industries List (HAIL) activity has occurred, is occurring, or is likely to have occurred.

In this case, the NES-CS is triggered due to the proposed subdivision. The site has primarily been used for grazing and cropping, except for an area previously consented for the storage of fencing materials as a commercial activity. If the proposed lifestyle subdivision were to include this area, further consideration under the NES-CS would be required due to the potential for arsenic leaching from stored fencing posts. However, as the proposed lifestyle site is located at the northern extent of the property—where no HAIL activity has taken place—and no changes are proposed for the balance of the site, the NES-CS does not apply to this subdivision.

Accordingly the NES does not apply to this subdivision.

Historical imagery, council GIS 1970 and 2000 (Top left and right), 2008 and 2015 (Bottom left and right).



3.1.2 National Environmental Standard for Sources of Human Drinking Water (2007)

Given the nature of the proposal being the subdivision of land for residential purposes the NES: Sources of Human Drinking Water is not considered relevant.

3.1.3 National Environmental Standard for Freshwater (2020)

The site is 7.05 Hectares and the activity is for a lifestyle subdivision with no amalgamation in the Plains Production zone with onsite services. The NES for freshwater is not triggered by the subject application.

3.2 **Operative Hastings District Plan**

As shown below, the site is zoned Plains Production and is located with the Rural Character Landscape (RCL3)



3.2.1 District Wide Activities

Section 27.1 – Earthworks

Section 27.1.5 of the District Plan provides for earthworks as a permitted activity, if the works are assessed as part of the subdivision consent.

No earthworks or the creation of any building platform are specifically proposed as part of the application – therefore they have not been assessed.

Section 17.1 – Natural Features and Landscapes

The site is located in the Rural Character Landscape Overlay (RCL3)

Rule LS1 states that any activity not defined as a Controlled, Restricted Discretionary, Discretionary, Non-complying or Prohibited activity by the landscape area Rules is permitted. However the Rule Table specifies that subdivision and land development involving landscapes identified in Appendix 45 (Rural Character Landscapes) are in Section 30.1. The objectives and policies of Section 17.1 are relevant to the assessment of the proposal, and will be assessed in the part of this report addressing Section 104 RMA.

Section 19.1 Riparian Land Management and Public Access

The site contains an area identified as a List 1 Riparian Area in the southern corner of the site. This area is unaffected by the proposed subdivision with no vegetation modification proposed or required to give effect to the subdivision, accordingly no further consideration has been to the provisions in this section of the plan.

3.2.2 Section 30.1.5 - Subdivision Activity Status

Subdivision in the Plains Production Zone a **Controlled Activity** pursuant to rule **SLD1**, subject to fulfilling site performance standards and terms contained with Sections 30.1.6 and 30.1.7 of the District Plan.

3.2.3 Section 30.1.6 – Minimum Net Site Area

TABLE 30.1.6B STANDARDS FOR LIFESTYLE SUBDIVISION					
SMA/Zone	Minimum Area	Maximum Area	Minimum Balance Area	Number of Additional created that can be	Application must comply with the following:
Plains Production	2500m ²	5000m ²	12ha	None (amalgamation is required)	Lifestyle subdivision shall only be applicable for an existing site smaller than 12ha. The site(s) being amalgamated with does not have to be less than 12 hectares, but does have to be adjoining. Any newly created balance site shall not contain more than one dwelling.

The proposed subdivision results in the creation of Lot 1 of 5000m² and Lot 2 of 6.776ha

While the proposed lifestyle site complies with the maximum area, and the existing title is smaller than 12ha, no amalgamation is proposed as part of the proposal.

Accordingly, the proposal does not comply with the standards for lifestyle subdivision in the Plains Production zone.

As the proposal does not comply with Section 30.1.6B, it falls to be assessed as a **Non-complying Activity** pursuant to **Rule SLD25**.

NB: The application, in addition to identifying that the activity is non-complying pursuant to **Rule SLD25** makes reference to **Rule SLD7A**, including the provision of supporting information. As the site is not located within the Rural or Rural Residential Zone, the Rule is not applicable to this application, and no consideration has been given to these provisions.

3.2.4 Section 30.1.7 - Subdivision Performance Standards & Terms

The Hastings District Plan also requires that the Council consider the proposal against the following relevant general site performance standards and terms listed in 30.1.7:

- 30.1.7A Building Platforms

Although not shown on the proposed scheme plan, the site has sufficient space to accommodate a compliant 30m x 30m building platform on the lifestyle site. No topographical or other constraints were noted at the time of the site visit that would restrict the ability to provide a compliant building platform. The balance of the site is already developed with a dwelling and accessory buildings that meet the District Plan's yard requirements.

- 30.1.7B Water Supply

The application states that the proposal complies with water supply requirements; however, no specific details on how a potable water supply will be provided have been included. The existing dwelling on Lot 2 is serviced by rainwater tanks, and it is assumed that any future dwelling on Lot 1 would also be supplied via onsite means, consistent with standard servicing for properties outside the reticulated network. There are no apparent constraints to providing this service at the time of future development.

- 30.1.7C Wastewater Disposal

The applicant has indicated that an onsite effluent disposal system can be provided, similar to the existing dwelling, which is also serviced by onsite means. No constraints to wastewater disposal have been identified for future development on Lot 1.

- 30.1.7D Stormwater Disposal

The applicant has not specified how stormwater will be managed onsite. However, given the size of the site, it is expected that an appropriate onsite solution can be implemented in accordance with Hawke's Bay Regional Council rules at the time of development.

- 30.1.7E Property Access (Compliance with Section 26.1 – Transport and Parking)

The application states that access to Lot 1 will be via the existing crossing and farm gate, subject to necessary upgrades. The Council's Transportation Engineer has confirmed that this is acceptable and has recommended a new vehicle crossing for the existing dwelling. As there are no sightline issues and both lots are sufficiently sized to accommodate parking and manoeuvring, the proposal is considered to comply with Section 26.1.

- 30.1.7F Outdoor Living Space

This criteria is not applicable to a Plains Lifestyle Subdivision.

- 30.1.7G Electricity Connections

This criteria is not applicable to a Plains Lifestyle Subdivision.

- 30.1.7H Esplanade Reserves and Strips

This criteria is not applicable as the Tutaekuri River is not identified in Appendix 54 as a riparian area in the Rural and Plains Zones identified as being of natural, recreational or cultural significance.

As assessed above, it is considered that the proposal can comply with the relevant subdivision performance standards in section 30.1.7.

3.3 Land Use Status

The proposed subdivision will not result in any new land use infringements.

While it is acknowledged that commercial and industrial activities are operating on the site without being legally established, the Assessment of Environmental Effects states that a separate resource consent for these activities will be submitted in due course. Accordingly, these activities have been excluded from consideration in this application, and the matter has been referred to the Council's Compliance Team for investigation and action.

3.4 Overall Activity Status

In accordance with **Rule SLD25** the proposal is therefore considered to be a **Non-Complying Activity** in terms of the Operative Hastings District Plan.

4.0 NOTIFICATION ASSESSMENT (SECTIONS 95A AND 95B)

4.1 Public Notification Assessment Section 95A

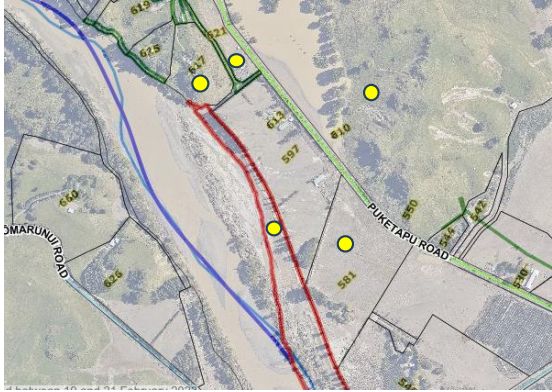
Step 1: mandatory public notification in certain circumstances

Has the applicant requested the application be publicly notified? (S95A(3)(a)).	No
Has any further information been requested that the applicant has refused to provide to the Council under Section 95C? (S95A(3)(b)).	No
Has the application been made jointly with an application to exchange reserve land? (S95A(3)(c)).	No
Outcome Step 1: Mandatory public notification is NOT required [S95A(2)(b)].	

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

Is the application for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification? (S95A(5)(a))	No
Is the application for a Controlled Activity or a Boundary activity of any status? (S95A(5)(b))	No
Outcome Step 2: Public notification is NOT precluded by Step 2. Step 3 therefore applies.	

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

Is the application for a resource consent for 1 or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification? (S95A(8)(a))	No
Will the activity have, or is likely to have adverse effects on the environment that are more than minor in accordance with Section 95D? (S95A(8)(b))	In terms of S95A(8)(b) an assessment of whether the effects of the proposal are more than minor is discussed below.
Effects More than Minor Assessment (Section 95D)	
A consent authority that is deciding, for the purpose of section 95A(8)(b), whether an activity will have or is likely to have adverse effects on the environment that are more than minor —	
<p>(a) must disregard any effects on persons who own or occupy—</p> <p>(i) the land in, on, or over which the activity will occur; or</p> <p>(ii) any land adjacent to that land; and</p> <p>(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and</p> <p>(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and</p> <p>(d) must disregard trade competition and the effects of trade competition; and</p> <p>(e) must disregard any effect on a person who has given written approval to the relevant application.</p> <p><u>Section 95D(a)</u></p> <p>In accordance with Section 95D(a), I have disregarded effects on persons who own or occupy the properties identified by yellow circle symbols in the following plan (being the adjacent land):</p>  <p><u>Section 95D(b)</u></p> <p>No effects have been disregarded.</p>	

Section 95D(c)

The activity is not for a Restricted Discretionary Activity.

Section 95D(d)

There are no trade competition effects.

Section 95D(e)

No written approvals have been provided with the application.

Are the Adverse Effects more than Minor?

As the activity is a Non-Complying Activity there is no restriction on the effects that can be assessed. My assessment of whether there are adverse effects on the environment that are more than minor is as follows:

Rural Character and Amenity

- The effects on the rural character and amenity of the wider environment are expected to be minor, as the proposal introduces new development rights on the lifestyle site. This will contribute to the built environment in this section of Puketapu Road, creating a continuum of development that contrasts with the open, low-scale built environment typical of the Plains Production zone.

Transportation Network

- The proposal is not expected to have any more than minor effects on the transportation network. The existing dwelling has a vehicle crossing with clear sightlines, and the proposed lot has an existing farm gate access, also with clear sightlines. Both accesses can be upgraded as part of the subdivision works or at the time of development.
- In terms of additional traffic movements, Puketapu Road is a relatively low-volume road with fewer than 5,000 vehicle movements per day and has sufficient capacity to accommodate the minor increase in traffic from one additional site.
- Council's Development Engineer has reviewed the proposal and, in consultation with the Transportation Engineer, has recommended constructing a new vehicle crossing for the existing dwelling to address safety concerns with the current slip road access. Additionally, it is recommended that the section of the existing crossing proposed to serve the new lot be upgraded.
- Overall, and subject to the recommended upgrades I consider that effects on the transportation network from the proposed subdivision will be no more than minor.

Servicing Effects

- The existing dwelling and outbuildings are serviced by onsite means. While not specifically identified in the application, as built drainage plans held by Council confirm that the waste water field for the existing dwelling is located clear of the proposed lot 1 boundaries. It is considered that the proposed lifestyle site has sufficient area without any identified constraints to provide for onsite servicing in accordance with the Hawkes Bay Regional Council requirements ensuring there are no adverse environmental effects such as adverse storm and wastewater effects on the wider environment.

Natural Hazards

- The site is identified as having a high liquefaction risk and a medium risk of ground shaking. Although it lies outside the designated flood risk study area, the site was impacted by flooding during Cyclone Gabrielle due to a stop bank failure. Since then, the site has been reclassified as Category 1 following the completion of stop bank remediation works. The identified natural hazard risks can be appropriately managed through suitable design measures, and the

proposed subdivision is not anticipated to increase the likelihood or severity of any natural hazard. As such, any natural hazard effects on the wider environment are considered to be no more than minor.



Post Cyclone Imagery February 2023

Soil Resource

- The site is zoned 'Plains Production', reflecting its location within the Heretaunga Plains and its association with versatile, productive soils. A key consideration is whether the proposed lifestyle subdivision would result in more than minor adverse effects on this finite soil resource.

The applicant contends that the site's productive capacity is significantly limited due to cyclone-related silt deposition, alienation from other highly productive land, water availability, and proximity to existing lifestyle development. A LandVision soil report supports this, suggesting the land is no longer suitable for intensive production. However, this assessment does not fully consider the site's remaining productive potential, including its active irrigation consent (valid to 2028) and the potential for alternative productive uses.

While the surrounding residential context may pose some constraints, it is not considered to negate the underlying productive zoning or justify further fragmentation. Enabling additional residential activity in this area risks extending the influence of sensitive activities and undermining the long-term availability of land for primary production.

Nevertheless, it is acknowledged that only one additional residential allotment is proposed, and the total area of land potentially removed from production is relatively small in the context of the wider Heretaunga Plains. While the permanent alienation of this land from production is considered to be adverse, the scale of the proposed site (5000m²) suggests that the actual adverse effects on the Plains' soil resource would be no more than minor.

Reverse Sensitivity Effects

- In relation to potential reverse sensitivity effects, the site is located adjacent to more intensive residential type activity in the north and an existing dwelling and accessory buildings located immediately to the south. To the east, land-based primary production is either limited in scale or carried out at low intensity, with no intensive horticultural or agricultural operations currently present. Given this context, the creation of one additional residential allotment in this location is unlikely to result in land use conflicts or place new constraints on existing productive activities. Overall, considering the established nature of the surrounding environment and the

absence of nearby high-intensity rural production, any reverse sensitivity effects associated with the proposal are expected to be less than minor.

Archaeological / Cultural Effects

- The site contains an identified archaeological site and an unclassified site in the southern corner. The proposed subdivision is not expected to have any more than minor effects on these heritage sites, as they are located within the southern corner of the balance lot, and no changes to activities in this area of the site are proposed or required to give effect to the subdivision.
- The site is not located in any significant landscape character area or within any outstanding natural feature overlay.
- Accordingly, cultural effects are anticipated to be less than minor.

Outcome Step 3: On the basis of the assessment above, I do not consider that the activity will have, or is likely to have, adverse effects on the environment that are more than minor. Public notification is therefore NOT required.

Step 4: public notification in special circumstances

I have considered whether there are special circumstances which exist in relation to the application which would warrant the application being publicly notified. I do not consider there are any such special circumstances given that:

- As assessed above, the effects on the environment are likely to be no more than minor;
- Although the proposal results in a net increase in the number of sites and includes a balance lot that falls below the 12-hectare minimum size requirement, this alone does not constitute special circumstances. The remainder of the proposal complies with the subdivision requirements set out in the District Plan, and the sites can be appropriately accessed and serviced.

4.1.1 Section 95A Recommendation

I am satisfied the application can be considered **without** full notification to the public in accordance with S95A(9)(b).

4.2 Limited Notification Assessment Section 95B

Step 1: certain affected groups and affected persons must be notified

Are there any affected protected customary rights groups? (S95B(2)(a))	No
Are there any affected customary marine title groups? (S95B(2)(b))	No
Is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11? (S95B(3)(a))	Yes
Is the person to whom the statutory acknowledgement is made an affected person under section 95E? (S95B(3)(b))	The Tūtaekuri River (and its tributaries) lies within a statutory acknowledgement area identified in the Ahuriri Hapū Claims Settlement Act 2021. The subject site adjoins Crown land, and notice has been served on the Trustees of the Mana Ahuriri Trust in accordance with section 34B of the Ahuriri Hapū Claims Settlement Act 2021.

	<p>Under section 95E of the Resource Management Act 1991, to consider a person to be affected, the consent authority must determine that the adverse effects of the activity on persons to whom a statutory acknowledgement applies are minor or more than minor (but not less than minor).</p> <p>The proposal is for a lifestyle subdivision located adjacent to the road, approximately 120 metres from the river margin, with only minor earthworks anticipated for the building foundations given the flat contour of the site and with all discharges of wastewater and stormwater subject to the relevant Regional Council rules and standards. As such, the activity is considered to be of relatively low impact, and any potential effects on the Tūtaekurī Stream or the wider Tūtaekurī River catchment area are assessed to be less than minor.</p> <p>While it is noted that the site contains an identified archaeological site, this is located at the southern extent of the balance lot, and no physical works or changes are proposed in this area.</p>
Outcome Step 1: Limited notification is NOT required to the above groups.	

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

Is the application for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification? (S95B(6)(a))	No
Is the application for a controlled activity (but no other activities) that requires a resource consent under a district plan (other than a subdivision of land)? (S95B(6)(b))	No
Outcome Step 2: Limited notification is NOT precluded by Step 2. Step 3 therefore applies.	

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

Determine whether a person is an affected person in accordance with section 95E (S95B(8))
<p>Under Section 95E, a consent authority must decide that a person is an affected person if the activity's effects on them are minor or more than minor (but are not less than minor), subject to the limitations in Sections 95E(2) and (3).</p> <p><u>Section 95E(2)(a)</u> I have not disregarded effects on the environment on the basis that a rule or national environmental standard permits an activity with that effect.</p> <p><u>Section 95E(2)(b)</u></p>

The activity is not for a restricted discretionary activity.

Section 95E(2)(c)

The Tutaekuri River (and its tributaries) are within a statutory acknowledgement area identified in the Ahuriri Hapū Claims Settlement Act 2021) The subject site is adjoining Crown land being land taken for the purpose of river control and administered by the Hawkes Bay Regional Council, and notice has been sent to the Trustees of the Mana Ahuriri Trust (in terms of s34(b) of the Ahuriri Hapū Claims Settlement Act 2021). At the time of making a substantive decision on the application, no response had been received.

As assessed above, the proposal is considered to be relatively low impact given the separation between the proposed site and the river margin and that only minor earthworks for the building platform and services will be required given the flat topography of the site with all discharge to ground controlled by Hawkes Bay Regional Council Rules. It is not considered that there will be any adverse effects on the wider Tutaekuri River catchment area affected by the Statutory Acknowledgement.

Accordingly, no persons to whom the statutory acknowledgement are made are considered to be affected persons.

Section 95E(3)

Where written consent is obtained Council must disregard any effect on a person who has given written approval to the relevant application. In this case no written approvals have been provided as part of the application.

Are there any Affected Persons?

Visual and Landscape Amenity Effects:

621 Puketapu Road

In relation to 621 Puketapu Road, while there will be a change in visual amenity associated with the introduction of a new dwelling and any accessory buildings, the existing dwelling on this property is located approximately 40 metres from the boundary of the proposed lifestyle site. The dwelling is oriented to the north and west, away from the proposed building area, and visual separation is provided by established vegetation along the shared boundary.

Given the separation distance, the orientation of the dwelling, and the screening afforded by mature trees, which it is reasonable to assume would be maintained given their location along the shared right of way and cycleway connection, providing privacy to the proposed lifestyle site, any potential visual and landscape effects are considered to be appropriately mitigated. Overall, it is considered that the effects on the visual and landscape amenity of 621 Puketapu Road will be less than minor.

617 Puketapu Road

In relation to 617 Puketapu Road, it is acknowledged that the proposed subdivision and the establishment of a new dwelling and any accessory buildings will result in a change in visual amenity. However, several mitigating factors reduce potential adverse effects.

The existing dwelling at 617 Puketapu Road is separated from the boundary of the proposed lifestyle site by a minimum distance of approximately 108 metres. This substantial horizontal separation ensures that the new built form will not dominate the outlook from the neighbouring dwelling. Additionally, the dwelling at 617 Puketapu Road is positioned on the crest of a hill, which provides vertical separation between the two sites. This elevation difference further reduces the potential for direct visual effects, as the proposed development will sit at a lower contour and therefore be less visually prominent from the neighbouring dwelling.

In addition to the distance and topography, the presence of mature trees located between the two properties provides additional mitigation. These trees will filter and partially screen views towards the new dwelling, further mitigating any visual impacts and assisting in maintaining the established rural character and sense of openness typical of the Plains Production Zone. Given the maturity and location of these trees which provide privacy to the proposed lifestyle site, it is reasonable to assume they will remain in place and continue to mitigate the visual effects over the long term.

Accordingly, taking into account the separation distance, topography and existing vegetation any adverse visual and landscape effects on 617 Puketapu Road will be less than minor.

652 Puketapu Road

In relation to 652 Puketapu Road, the existing dwelling is located approximately 490 metres from the proposed lifestyle site boundary, with no direct line of sight between the properties. Given the substantial separation distance and lack of visual connection, it is considered that visual or landscape amenity effects on this property will be less than minor.

581 Puketapu Road

In relation to 581 Puketapu Road, the existing dwelling is located a minimum of 530 metres from the proposed boundary of the lifestyle site. Given the significant separation between the existing dwelling and the lifestyle site, visual or landscape amenity effects are anticipated to be less than minor

Reverse Sensitivity Effects:

As discussed in Section 4.1, in relation to potential reverse sensitivity effects, the proposed lifestyle site is located adjacent to more intensive residential-type activity to the north, and an existing dwelling and accessory buildings immediately to the south. To the east, land-based primary production activities are limited in scale or carried out at low intensity, with no intensive horticultural or agricultural operations currently present.

Given the established residential character of the adjoining properties and the limited nature of primary production activities nearby, the introduction of one additional residential lifestyle site is unlikely to generate land use conflicts or impose new constraints on existing rural activities.

Overall, considering the existing pattern of development and the low intensity of surrounding land uses, any potential reverse sensitivity effects resulting from the proposal on adjacent land or persons are assessed as being less than minor.

Traffic Effects

The proposal is anticipated to have less than minor effects on the local road network and associated vehicle access points. The proposed lifestyle lot will utilise the existing dwelling access point, with a new vehicle crossing recommended to be established for the balance lot. As such, there will be no discernible increase in traffic movements on the shared access beyond what currently occurs, and the pattern of use will remain generally consistent with existing conditions.

Overall, it is considered that the additional traffic movements generated by the subdivision are minimal and will maintain the safe operation of the local roading network.

Servicing Effects

As discussed in the public notification section, the existing dwelling and outbuildings are serviced by onsite means. While not specifically identified in the application, as-built drainage plans held by Council confirm that the wastewater disposal field for the existing dwelling is located clear of the

proposed Lot 1 boundaries and any external site boundaries. It is considered that the proposed lifestyle site has sufficient area, without any identified constraints, to accommodate onsite servicing in accordance with Hawke's Bay Regional Council requirements. As a result, servicing effects on adjacent sites are anticipated to be less than minor.
Overall, it is considered that the adverse effects of the proposal are less than minor on any person.

Outcome Step 3: I am satisfied that no persons in terms of Section 95E will be adversely affected as a result of this proposal under Section 95B(8).

Step 4: Special Circumstances

It is considered that there are no special circumstances that exist in relation to the application that would warrant notification of the application to any other persons not already determined to be eligible for limited notification (excluding persons assessed under Section 95E as not being affected persons). All relevant matters and persons are sufficiently addressed above in this report. Thus, no limited notification to any other affected persons is deemed necessary in accordance with Section 95B(10).

4.2.1 Section 95B Recommendation

I am satisfied the application can be considered **without** notification on a limited basis to any person in accordance with Section 95B(10)(b).

4.3 Summary of Notification Recommendations

Having assessed the application in accordance with the steps contained within Sections 95A and 95B of the Resource Management Act 1991, and for the reasons provided within sections 4.1 and 4.2 of this report, it is recommended that this application be considered on a **non-notified** basis.

4.4 Decision on Notification

Accordingly, and for the reasons set out in the above assessment and recommendations, the application can be processed on a **non-notified** basis.

Notification Decision made under delegated authority by:



Kelly Smith
Environmental Planner (Consents)

Date: 28/04/2025

5.0 SECTION 104 ASSESSMENT

5.1 Statutory Considerations

As a **Non-Complying Activity**, subject to Part II of the Resource Management Act 1991, Section 104 sets out those matters that Council must have regard to. These are:

- (a) Any actual and potential effects on the environment of allowing the activity; and
- (ab) Any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and
- (b) Any relevant provisions of:
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand coastal policy statement;
 - (v) a regional policy statement or proposed regional policy statement;
 - (vi) a plan or proposed plan; and
- (c) Any other matters the consent authority considers relevant and reasonably necessary to determine the application.

As a Non-Complying Activity, Section 104B of the Resource Management Act 1991 states that the Consent Authority may grant or refuse the application. If it grants the application, it may impose conditions under Sections 108 and 108AA.

Section 104D of the Act also states that a consent authority shall not grant resource consent for a Non-Complying Activity unless it is satisfied that:

- (a) The adverse effects of the activity on the environment will be minor; or
- (b) The application is for an activity, which will not be contrary to the objectives and policies of:
 - (i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or
 - (ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or
 - (iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

If the consent authority is satisfied that the proposal satisfies either of the limbs of the tests in Section 104D, then the application can then be considered for approval, subject to consideration under Section 104. If the proposal does not satisfy either limb, the application cannot be granted consent.

6.0 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT - s104(1)(a)

6.1 Effects that must be disregarded

6.1.1 Trade Competition – S104(3)(a)(i)

Trade competition and the effects of trade competition are disregarded for the purposes of this assessment.

6.1.2 Any effect on a person who has given written approval to the application - s104(3)(a)(ii)

No written approvals have been provided.

6.2 Effects that may be disregarded

6.2.1 Effects that may be disregarded - Permitted Baseline assessment - s104(2)

When considering any actual or potential effects, the council (as consent authority) may disregard an adverse effect on the environment if a national environment standard or the plan permits an activity with that effect (the permitted baseline). The Council has discretion whether to apply this permitted baseline.

There is no permitted baseline for subdivision as each subdivision requires a resource consent.

6.3 Assessment of Actual and Potential Effects

Given the above assessment in Section 4.0 above it is considered that there are no more than minor effects on the environment.

Accordingly, it is considered that the proposal will have no more than minor effects on the environment.

7.0 ANY MEASURE PROPOSED OR AGREED TO BY THE APPLICANT FOR THE PURPOSE OF ENSURING POSITIVE EFFECTS ON THE ENVIRONMENT - s104(1)(ab)

No specific measures are proposed or have been agreed to by the applicant.

8.0 RELEVANT STATUTORY DOCUMENTS - s104(1)(b)

8.1 Relevant National Environmental Standards - s104(1)(b)(i)

8.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC)

The proposal is not subject to the requirements of the NESC, as no HAIL activity has been identified on the area designated for the future lifestyle site, and no change of use is proposed for the balance lot.

8.1.2 National Environmental Standard for Sources of Human Drinking Water

The proposal is not subject to the requirements of the Sources of Human Drinking Water NES, given there is no registered drinking water supplier in the immediate vicinity and the proposal involves a rural subdivision with onsite services.

8.2 Relevant National Policy Statements/NZ Coastal Policy Statement - s104(1)(b)(iii) & (iv)

8.2.1 National Policy Statement for Highly Productive Land 2022 (NPS-HPL)

Section 3.5(7) the NPS-HPL requires that until a regional policy statement containing maps of highly productive land in the region is operative, each relevant territorial authority and consent authority must apply this NPS as if references to highly productive land were references to land that:

(a) is

(i) zoned general rural or rural production; and

(ii) LUC 1, 2, or 3 land; but

(b) is not:

(i) identified for future urban development; or

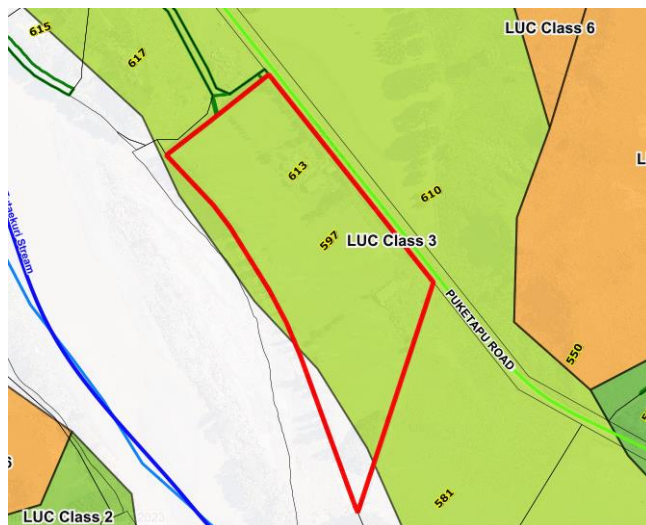
(ii) subject to a Council initiated, or an adopted, notified plan change to rezone it from general rural or rural production to urban or rural lifestyle.

At the time of this report, the operative Hawke's Bay Regional Resource Management Plan, which includes the Regional Policy Statement, does not contain any maps of highly productive land in the region.

In addition:

- The subject site is zoned "Plains Production" (equivalent to 'rural production'), and contains land classified as **LUC 3**;
- The site is not identified for future development, or subject to any council initiated or adopted plan change to rezone the land.

The subject site therefore does meet the definition of highly productive land under Section 3.5(7) of the NPS-HPL and an assessment under the relevant provisions of the NPS-HPL is required.



Land use capability mapping Council GIS as at 26th March 2025.

The NPS-HPL sets out the following objective and relevant policies:

Objective: Highly productive land is protected for use in land-based primary production, both now and for future generations.

Policy 1: Highly productive land is recognised as a resource with finite characteristics and longterm values for land-based primary production.

Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.

Policy 6: The rezoning and development of highly productive land as rural lifestyle is avoided, except as provided in this National Policy Statement.

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

Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.

Part 3 of the NPS-HPL deals with Implementation, and sets out a “non-exhaustive” list of things that local authorities must do to give effect to the objective and policies of the NPS-HPL. The following are the relevant provisions for this proposal.

8.2.2 Section 3.8 – Avoiding subdivision of Highly Productive Land

- (1) Territorial Authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause 2 are applied.
 - (a) The application demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term.
 - (b) The subdivision is on specified Māori land:

- (c) *The subdivision is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.*

There are also additional obligations in 3.8(2) to take measures to ensure any subdivision of highly productive land avoids or mitigates the cumulative loss of highly productive land in the district and avoids or mitigates reverse sensitivity effects on land-based primary production activities.

Assessment

In terms of 3.8(1)(a) the applicant has not demonstrated that the proposed lots will retain the overall productive capacity of the land. As a lifestyle subdivision intended for residential use, the lifestyle area will be effectively removed from productive use. While the applicant references 287 and 293 Dartmoor Road as offsetting the loss of productive capacity, this site is not part of the subdivision and therefore cannot be considered one of the proposed lots. As such, the criterion under 1(a) is not met.

In terms of 1(b) the subdivision is not on specified Maori land.

In terms of 1(c) The subdivision is not for specified infrastructure or for defence force facilities.

As none of the criteria in subsection 1 are satisfied, for the proposal to be considered to be an appropriate use of highly productive land, the tests in section 3.10 of the NPS-HPL must be met. As assessment of the relevant matters is provided below.

8.2.3 Section 3.10 – Exemption for Highly Productive Land Subject to Permanent or Long-term Constraints.

- (1) *Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 if satisfied that:*

- (a) *there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years; and*
- (b) *the subdivision, use, or development:*
- (i) *avoids any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and*
 - (ii) *avoids the fragmentation of large and geographically cohesive areas of highly productive land; and*
 - (iii) *avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-based primary production from the subdivision, use, or development; and*
- (c) *the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.*

- (2) *In order to satisfy a territorial authority as required by subclause (1)(a), an applicant must demonstrate that the permanent or long-term constraints on economic viability cannot be addressed through any reasonably practicable options that would retain the productive capacity of the highly productive land, by evaluating options such as (without limitation):*

- (a) *alternate forms of land-based primary production;*
- (b) *improved land-management strategies;*
- (c) *alternative production strategies;*
- (d) *water efficiency or storage methods;*

- (e) reallocation or transfer of water and nutrient allocations;
- (f) boundary adjustments (including amalgamations);
- (g) lease arrangements.

(3) Any evaluation under subclause (2) of reasonably practicable options:

- (a) must not take into account the potential economic benefit of using the highly productive land for purposes other than land-based primary production; and
- (b) must consider the impact that the loss of the highly productive land would have on the landholding in which the highly productive land occurs; and
- (c) must consider the future productive potential of land-based primary production on the highly productive land, not limited by its past or present uses.

(4) The size of a landholding in which the highly productive land occurs is not of itself a determinant of a permanent or long-term constraint.

Assessment

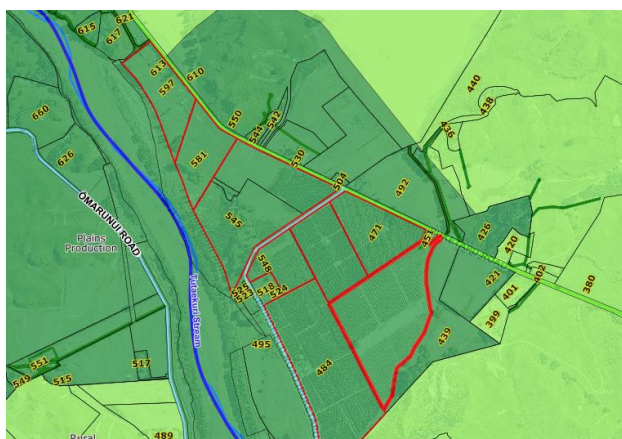
Assessment Against Section 3.10 – Exemption for Highly Productive Land Subject to Permanent or Long-term Constraints:

Clause 3.10(1)(a): Permanent or long-term constraints

While LandVision's assessment highlights significant limitations due to sediment deposition and the disturbance or loss of the original Esk soil profile following Cyclone Gabrielle, the conclusion that the site's productive capacity will be compromised for 30 years or more is not supported.

My position is based on the following key considerations:

- The site currently holds an active irrigation water permit valid through to May 2028, with the option to apply for a replacement consent. The availability of irrigation is considered to enhance the site's productive potential and opens the possibility for alternative land-based production activities, which the Landvision report has considered briefly, but discounted due to a lack of irrigation.
- The report asserts that the land is (nominally) non-contiguous with other areas of highly productive land (HPL). However, I disagree with this assessment. Despite the presence of a drain, the site directly adjoins a 6.5-hectare HPL block (which currently holds an irrigation water permit until May 2028) and additional HPL to the south (identified in the below image in red outline), which may support practical alternatives such as lease arrangements or cooperative land use strategies.



Clause 3.10(1)(b)(i): Avoidance of significant loss of productive capacity

While the proposed subdivision is relatively small (0.5ha), any cumulative losses of highly productive land in the district must be carefully considered. The area is contiguous with other HPL despite being separated by a drain. The drain does not constitute a substantial impediment to productive agricultural or horticultural use. Hence, the cumulative loss, albeit minor individually, contributes incrementally to a broader trend of fragmentation and loss of productive land. This incremental loss remains inconsistent with the intent of the NPS-HPL to protect highly productive land for future generations.

Clause 3.10(1)(b)(ii): Fragmentation

The subdivision proposal further fragments contiguous HPL. Although the area itself is small, its subdivision may encourage further fragmentation pressures on adjacent productive sites, thereby affecting the integrity and economic viability of broader productive areas. Therefore, the proposal does not adequately avoid the fragmentation of geographically cohesive HPL areas.

Clause 3.10(1)(b)(iii): Reverse sensitivity effects

LandVision's conclusions regarding reverse sensitivity are acknowledged and accepted. The presence of existing residential activities and the cycleway suggests reverse sensitivity effects are unlikely to be significant.

Clause 3.10(1)(c): Environmental, social, cultural, and economic benefits

While the proposal offers clear social benefits by allowing the family to remain within their community, these must be weighed against long-term costs related to loss of productive land. Given the potential for viable production options with irrigation, the long-term economic and environmental costs associated with losing productive land are considered to outweigh immediate social benefits, particularly given that alternative residential options exist which would allow the family to live intergenerationally and within the community.

Clause 3.10(2): Consideration of reasonably practicable options

LandVision's assessment of alternative production options is limited by assumptions regarding irrigation availability. I consider this assessment is insufficient due to the lack of a detailed evaluation of irrigation-based alternatives and other land management strategies. Given the confirmed existence of an irrigation water consent, alternative productive land uses (e.g., intensive pasture, forage cropping, or hydroponics) have not been robustly assessed as required by cl 3.10. Additionally, alternative production strategies (soil improvement via compost amendments, green cropping, etc.) are not fully explored. Thus, this clause is not considered to be satisfied.

Clause 3.10(3): Consideration of future productive potential

I note that the NPS-HPL requires consideration of future productive potential without limitation by past or present uses. While sediment deposition and soil disturbance are acknowledged as immediate constraints, future potential under management interventions—particularly irrigation—must be considered viable. Thus, long-term productive capacity could feasibly be restored within a significantly shorter period than suggested.

Conclusion:

The proposal does not meet the exemption criteria under Section 3.10 of the NPS-HPL 2022. While the site has been impacted by Cyclone Gabrielle which has changed the soil structure, the ability to undertake productive activities such as cropping is considered to remain. The applicant has not provided sufficient evidence that the constraints are long-term or permanent, nor that they are unable to be addressed through alternative land management approaches. Without this, the proposal cannot be supported under this exemption.

Note: No additional information or clarification was requested in relation to the perceived inaccuracies in the Land Vision report or the identified deficiencies in the section 3.10 application. This is because, notwithstanding the requirements of the NPS-HPL, as assessed in section 8.5 below it was concluded that

the proposal was contrary to key objectives and policies of the District Plan. The Plan prioritises the protection of the versatile land resource, acknowledging that soil quality is only one component of what constitutes versatility. As confirmed by the Environment Court case *Endsleigh Cottages Ltd v Hastings District Council* [2020] NZEnvC 064, land may still be considered versatile—and warrant protection—even where soil limitations are present, due to the combined influence of factors such as topography, climate, and proximity to infrastructure. Given that the site exhibits these broader characteristics of versatile land, it was concluded that further discussion on soil limitations would not meaningfully alter the overall assessment of the application.

- 8.2.4 Given that no earthworks near a waterbody are proposed and that the site is removed from the coastline or urban environment, it is not considered that there are any other national policy statements of relevance to the proposal.

8.3 Hawke's Bay Regional Policy Statement – s104(1)(b)(v)

The RPS contains the following relevant objectives and associated policies (summarised):

OBJ UD1 Establish compact, and strongly connected urban form throughout the Region, that:
a) achieves quality built environments that: c) avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with objectives and policies in Chapter 3.5 and 3.13 of this plan;
d) avoids unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains; and
e) avoids or mitigates increasing the frequency or severity of risk to people and property from natural hazards.

OBJ UD4 Enable urban development in the Heretaunga Plains sub-region, in an integrated, planned and staged manner which:
a) allows for the adequate and timely supply of land and associated infrastructure; and
b) avoids inappropriate lifestyle development, ad hoc residential development and other inappropriate urban activities in rural parts of the Heretaunga Plains sub-region.

POL UD1 In providing for urban activities in the Heretaunga Plains sub-region, territorial authorities must place priority on:
a) the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production, and
b) ensuring efficient utilisation of existing infrastructure, or
c) ensuring efficient utilisation of planned infrastructure already committed to by a local authority, but not yet constructed.

Principal reasons and explanation: Efficient utilisation of existing infrastructure investment (or planned infrastructure already committed to (e.g. by funding) by not yet constructed) and the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production must underpin all decisions surrounding provision for urban activity in the Heretaunga Plains sub-region in order to achieve the desired settlement pattern outlined in HPUDS2010. For clarification, the supply of land for residential and industrial activities where they support effective and efficient use and management of versatile land would not conflict with Policy UD1, and would assist in achieving Policy UD1(a).

POL UD3 In the Heretaunga Plains sub-region, district plans shall include policies and methods discouraging or avoiding ad hoc residential development and further rezoning for rural residential purposes or lifestyle development outside existing rural residential zones.

Principal reasons and explanation: Similar to urban development, rural residential or lifestyle development can also act to remove valuable land from agricultural production and can also impact on

the productivity of other land (i.e. rural or industrial), in particular through reverse sensitivity. These forms of development should not be confused with residential development (eg: farm houses) that is ancillary to primary production activities or to boundary adjustments that may effectively create a lifestyle site by reducing the land area surrounding a dwelling to create a larger more productive balance title. Provision for rural residential and lifestyle development should be carefully managed to minimise fragmentation of the versatile land of the Heretaunga Plains. There is currently an excess supply of rural residential zoned areas within the Heretaunga Plains sub-region, considered sufficient to cater for projected demand for rural residential lots in the subregion through to 2045, and further rezoning for this purpose is considered unnecessary for the foreseeable future

OBJ 16 For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.

Objective UD1 and UD4 and their associated policies seek to establish a compact and strongly connected urban form that supports a quality built environment while avoiding reverse sensitivity effects and unnecessary encroachment of urban activities onto the versatile land of the Heretaunga Plains. The subject site is located within the Heretaunga Plains Sub-Region. These aspects of the objectives have been given effect to through the Hastings District Plan, specifically for the current proposal through the Plains Production Zone and rules applicable to it, as discussed below.

At a high level, the introduction of a new lifestyle site represents an encroachment of urban activities onto versatile land. As discussed below, the new lifestyle site is not considered to be “necessary” and therefore is inconsistent with OBJ UD1(d). It is also inconsistent with POL UD1(a) as it does not retain versatile land for primary production. POL UD3 seeks to avoid lifestyle development outside existing rural residential zones. This is given effect to through the District Plan, but to the extent that the proposal seeks to approve lifestyle subdivision outside the Puketapu Village, the proposal is inconsistent with this policy.

Objective 16 (and to some extent OBJ UD1(c)), focuses on the avoidance and mitigation of reverse sensitivity effects between conflicting land uses. As discussed in the effects assessment section, it is accepted that the proposal will not have adverse reverse sensitivity effects that are more than minor. However I note that while reverse sensitivity effects from one additional residential allotment may be individually minor, the Plains Production Zone is specifically designed to support productive rural activities, including those that can generate effects such as noise, spray drift, and odour. The encroachment of residential activities into this zone can erode tolerance for such effects over time. If this proposal were to set a precedent for further subdivision, it could incrementally increase pressure on surrounding productive land uses and compromise their ongoing operation.

Conclusion:

The Regional Policy Statement (contained within the Regional Resource Management Plan) establishes a high-level framework for land use and growth management, placing strong emphasis on the protection of the versatile land of the Heretaunga Plains for primary production and the efficient use of existing infrastructure. The Hastings District Plan, through its residential growth strategy and Plains Production Zone provisions, is designed to give effect to this direction. The proposed subdivision, as well as being inconsistent with the RPS objectives and policies noted above, is not within an identified growth area and, as discussed below, does not align with the strategic intent of the Plains Production Zone which seeks to implement the RPS at a district level. It is considered that the proposal is inconsistent with the relevant provisions of the Regional Policy Statement.

8.4 Hastings District Plan: Assessment Criteria - s104(1)(b)(vi)

While the application is for a Non-Complying Activity, the following provide a useful guide in assessing the application:

8.4.1 General Assessment Criteria - Section 30.1.8.1

1. Structure Plans

Council will have regard to any approved Structure Plan for an Urban Development Area (as identified in Appendices 11, 12, 13, 13A, 13B, 14 and 15 and 15A), the Irongate Industrial Area (as identified in Appendix 16), or the Omaha North Industrial Area (as identified in Appendix 17) and any other approved Structure Plan (including Appendices 18, 19, 21, 22, 23 and Appendix 80) in regard to the placement of roads, infrastructural elements, reserves and other identified amenity elements. Subdividers and/or developers will be expected to address how the outcomes proposed in any Structure Plan will be achieved by their proposals. If a road, infrastructural elements, reserves and other identified elements have already been provided by another approved subdivision or development and vested in Council, then the need to provide these will not be necessary.

Assessment

The site is not affected by any structure plan contained within these appendices.

2. Subdivision Design

There are six key elements to the design of subdivisions that the Council focuses its assessment around. These are described below. Guidance on the application of these design elements can be found in the document Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide (Best Practice Design Guide).

Assessment

In the context of this proposal, these assessment criteria are not considered relevant.

3. Property Access

Council will have regard to the following:

- (i) The design and construction of roads, with reference to the Council's District Transport Hierarchy (see Section 2.5 of the District Plan on Transportation and the Road Hierarchy Maps in the District Planning Maps and the guidelines contained in the Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide).
- (ii) The provision, location and design of access for vehicles, pedestrians and cyclists.
- (iii) The design of the subdivision to accommodate the provision of roads identified as being required in the Council's District Transport network strategies.
- (iv) The vesting of roads in the Hastings District Council.
- (v) The requirements of New Zealand Transport Agency (NZTA) and Part IV of the Government Roadway Powers Act 1989 with regard to vehicle entrances onto State Highways.
- (vi) How the proposed subdivision may be related to the resubdivision or development of adjoining land and the ability for optimum development for all the land concerned to be realised.
- (vii) The ability to achieve the access separation requirements on the subject site and adjoining sites in the General Industrial Irongate Area, Omaha North Area, and the Deferred General Industrial Irongate Area and Omaha North Area.

Assessment

The proposal is not expected to generate any significant traffic effects, as it involves the creation of only one additional site, subject to the recommended conditions below.

Council's Traffic Engineer has reviewed the proposal and notes that the existing and proposed sites each have access from Puketapu Road.

The access to the existing dwelling is via a slip road, which creates headlight safety issues and the Transport Engineer has recommended a new crossing complying with C24 of the Engineering Code of Practice 2020 be constructed as part of the subdivision works.

The access to the proposed lot is at the northern extent of the property and is a shared access currently serving 6 properties and functioning as a link in the Puketapu Loop Cycleway. While the Transport Engineer has expressed a preference for a new crossing to service proposed Lot 1, he has noted that a more pragmatic solutions would be to require the relevant part of the crossing to be repaired or resurfaced and the existing parallel driveway decommissioned.

The Transport Engineer has further noted that the existing hedge is located within the road reserve and requested the removal of this as part of the consent conditions.

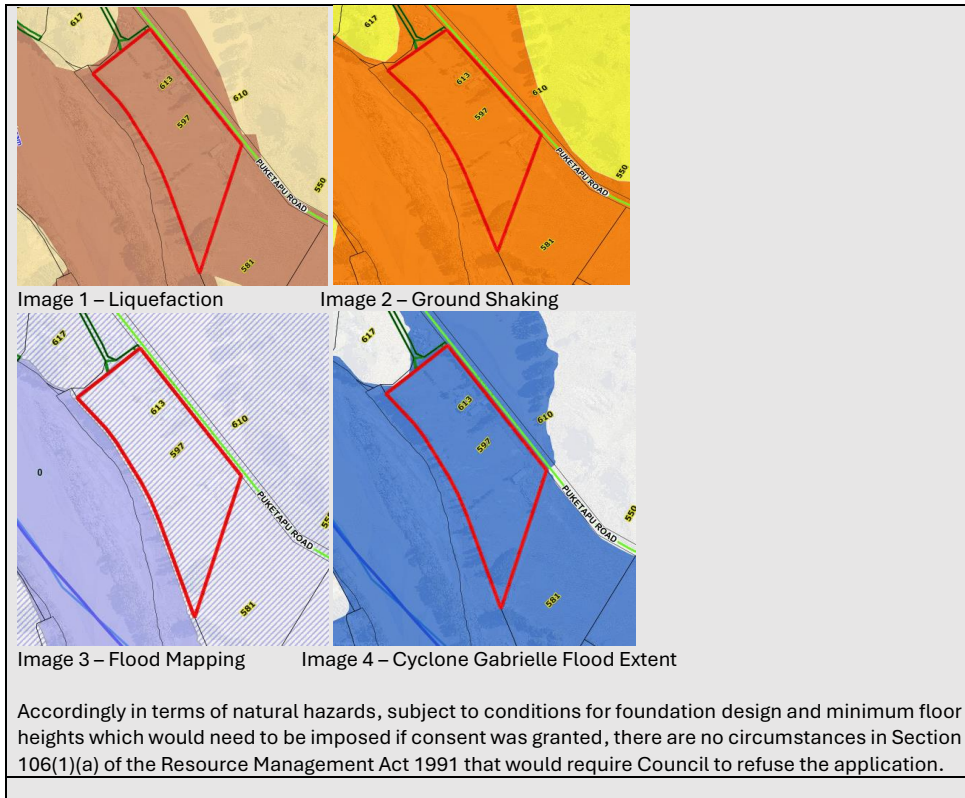
No other matters or concerns have been raised with the proposal in terms of sightlines or capacity.

In terms of Section 106(1)(c), legal and physical access can be provided to each site.

None of the remaining assessment criteria are relevant to this proposal.

<p>4. Water Supply, Wastewater Disposal, Stormwater Disposal Council will have regard to the following:</p> <ul style="list-style-type: none"> (i) The location of reticulation facilities to allow suitable servicing of the sites and reasonable access for the maintenance of the facilities. (ii) The need for a local purpose reserve to be set aside and vested in Council as a site for any public water supply, sanitary sewage disposal or stormwater disposal facility required to be provided. (iii) When the site is not proposed to be connected to a public water supply, the ability for the site to effectively and efficiently meet fire fighting requirements and the ability to show how the site will be serviced by a water supply for which consent has been obtained (as a Permitted or Controlled Activity) from the Hawkes Bay Regional Council. (iv) When the site is not proposed to be connected to a public wastewater system or public stormwater solution, how the site will be serviced by an on-site wastewater treatment system or stormwater treatment and disposal system that will cause no environmental contamination on or beyond the site. (v) The use of low impact design solutions to collect and dispose of stormwater on site. (vi) In the Tomoana Food Industry Zone, where wastewater, water supply and stormwater disposal infrastructure servicing more than one site that will be privately owned and operated, the mechanisms in place for the management and maintenance of the infrastructure to ensure appropriate level of service is maintained.
<p>Assessment</p> <p>Lot 1 is proposed to be serviced by onsite methods for water, stormwater disposal and waste water.</p> <p>There are no hazards on site or any topographical constraints to the provision of these services at the time of development.</p> <p>The Council's Development Engineer has reviewed this application and is satisfied that Lot 1 is suitable for development.</p> <p>Lot 2 contains the existing dwelling and accessory buildings which are serviced by onsite methods. No changes are proposed to the current servicing for the site.</p>

<p>5. Natural Hazards The Council will have regard to the following assessment matters:</p> <ul style="list-style-type: none"> (i) Whether the land, or any potential structure on that land, will be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source. (ii) Whether there are any methods/measures available to overcome or reduce the risk of any hazard(s), and whether these methods/measures may have any significant adverse effects on the environment. <p>In assessing the above matters, the Council will have regard to the following:</p> <ul style="list-style-type: none"> (a) Any information held on the Council's Natural Hazard Database and the Natural Hazards Historical Database. (b) The Objectives, Policies and Methods of the Natural Hazards Section of the District Plan (see Section 15.1). (c) Information by suitably qualified professionals whose investigations are supplied with the subdivision consent applications.
<p>Assessment</p> <p>The site is identified as having a high liquefaction risk and a medium risk of ground shaking as shown in image 1 and image 2 below. Although it lies outside the designated flood risk study area shown in image 3, it was impacted by flooding during Cyclone Gabrielle due to a stop bank failure. (image 4) Since then, the site has been reclassified as Category 1 following the completion of stop bank remediation works. While the risk of future flooding cannot be ruled out, it is considered low.</p> <p>The identified natural hazard risks can be appropriately managed through the implementation of specific design measures and conditions of consent, including the requirement for foundation design in accordance with the recommendations of a geotechnical investigation prepared by a suitably qualified and experienced geotechnical engineer. In addition, minimum floor levels are recommended should consent be granted. Subject to these conditions, the proposed subdivision is not expected to increase the likelihood or severity of any natural hazard.</p>



6. Building Platforms

Council will have regard to the following:

- (i) The local ground conditions and suitability of the site for a building, and whether development on the site should be restricted to parts of the site.
- (ii) Where a parcel of land may be subject to inundation, whether there is a need to establish minimum floor heights for buildings in order to mitigate potential damage to them.
- (iii) The protection of any listed waahi tapu or heritage item.
- (iv) The potential for reverse sensitivity issues where building platforms are proposed to be located within close proximity to existing or Consented Network Utility or Renewable Electricity Generation Activities.

Assessment

The site is flat and generally considered suitable for development. Although the applicant has not provided a geotechnical report with the application, the natural hazards identified—namely high liquefaction risk and medium ground shaking amplification—are common across the wider Hawke's Bay area and are typically addressed through appropriate foundation design. It is therefore recommended that should consent be granted, a condition of consent be imposed requiring a geotechnical report to be provided at the time of future development, including specific recommendations for foundation design and for development to occur in accordance with the recommendations. The ongoing compliance of which is to be secured by a consent notice registered to the title.

While the site is not within the identified flood risk study area, it was subject to inundation during Cyclone Gabrielle due to a stop bank failure. While the risk of future flooding is considered to be low, it cannot be ruled out and it is recommended that should consent be granted a minimum floor level for

any residential dwelling is imposed as a condition of consent. The ongoing compliance of which is to be secured by a consent notice registered to the title should consent be granted.

The parent site does contain both a known and unidentified archaeological site in the same general location. I consider that the proposal will not have an effect on the archaeological/waahi tapu sites as they are located in the southern extent of the site, a significant distance from the proposed lifestyle site and no changes to the balance lot are proposed.

No reverse sensitivity effects on network utilities are likely to arise.

7. Esplanade Areas (Reserves and Strips)

Council will have regard to the following:

- (i) The creation of the esplanade area (esplanade reserve or esplanade strip) would contribute to the achievement of conservation, recreation, and access, values of the waterbody.
- (ii) The creation of the esplanade area would contribute to the effective management of risk from Natural Hazards in the District.
- (iii) Feedback from Hawke's Bay Regional Council on the strategic value of the esplanade area, and contribution toward providing compensation of the acquisition of the esplanade area.
- (iv) The most appropriate mechanism for securing the esplanade area (esplanade reserve or esplanade strip). Or an alternative means of protection and provision of access offered that is satisfactory to achieve the above assessment criteria (for example conservation covenant).

Assessment

None of these assessment criteria are relevant to this proposal.

8. Access Strips

The need for the creation of an Access Strip to achieve any of the following:

- (i) To provide enhanced public access to existing esplanade reserves which are currently landlocked and which have significant natural, cultural or recreational value.
- (ii) To provide public access to areas identified in Appendices 54, and 55, Riparian Land Management and Public Access as having significant natural, cultural or recreational value and which have been set aside for esplanade purposes.

Assessment

None of these assessment criteria are relevant to this proposal.

General

Council will have regard to the following:

- (i) The necessity for control over other aspects of works associated with the subdivision, including commencement, completion, bonding, damage liability, insurance, maintenance requirements and certification of compliance.
- (ii) Requirements for the provision of fencing adjoining public land, including pedestrian access-ways, service lanes and roads.
- (iii) The creation of easements in favour of the Council for public services.
- (iv) The design standards and guidelines in the Hastings District Council's Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide.
- (v) The landscaping of property access on the site, road reserves and drainage reserves (e.g. tree planting).
- (vi) The design, location, extent and construction of any earthworks associated with the subdivision and development of the land. Where earthworks are proposed, assessment of the application with the relevant Earthworks, Mineral, Aggregate and Hydrocarbon Extraction assessment criteria in Section 27.1 will be required.
- (vii) Any potential cumulative effects that may occur as a result of the subdivision.
- (viii) Potential constraints to the development of the site such as the National Grid Corridor or stormwater drains, and the ability for any resulting adverse effects to be avoided, remedied or mitigated.
- (ix) The potential effects from a proposed subdivision or development of land on the safe and efficient operation of network utilities.
- (x) The provision of electricity to the site boundary for any Urban Zone (Residential, Industrial or Commercial Zones), to be confirmed by the Electricity Network Utility/ Unison Networks Limited as a condition of consent.
- (xi) Consideration to the potential effects on the principles of the Treaty of Waitangi or any sites or taonga of significance to Maori.

Assessment

Given that the sites do not contain any high voltage lines, no earthworks are proposed, no public vesting of land or easements are proposed, the site does not adjoin a public park or pedestrian link, the remainder of these general assessment criteria are not considered relevant to this proposal.

No cumulative effects are anticipated to result from the proposal.

No effects on the Treaty of Waitangi or any sites of significance to Māori are anticipated to result from the proposal.

8.5 Hastings District Plan: Objectives and Policies - s104(1)(b)(vi)

The following objectives and policies are considered relevant to this proposal.

8.5.1 Section 2.8 – Rural Resource Strategy

RRSO1 To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.

RRSP1 Reflect the various characteristics and distribution of the rural resources to enable the sustainable management of these characteristics.

RRSP2 Provide for a wide range of activities to establish, which complement the resources of the rural area, provided that the sustainability of the natural and physical resources of the area is safeguarded.

The overarching direction of the Rural Resource Strategy (RRS) is to provide for a diverse range of rural activities while safeguarding the natural and physical resources that underpin the rural environment. The strategy is implemented, in part, through zoning provisions such as the Plains Production Zone, which is specifically designed to protect the life-supporting capacity of the District's most versatile soils and to provide for their ongoing productive use.

In this case, the proposal results in the creation of a new lifestyle site that is not intended, nor realistically suitable, for productive use at sustainable or economic levels. While the soils have been impacted by siltation from Cyclone Gabrielle, the broader site characteristics—flat topography, temperate climate, proximity to infrastructure—remain consistent with those that define the Plains Production Zone. There is no evidence suggesting the zone is incorrectly applied.

The subdivision also results in further fragmentation of productive land within the Plains Production Zone. Fragmentation undermines the capacity of land to support a range of future productive uses and is generally inconsistent with the sustainable management of the rural resource base. It is difficult to conclude that permanent subdivision of Plains Production zoned land into a lifestyle-scale lot aligns with a strategy that seeks to protect long-term rural productivity.

On this basis, the proposal is considered to be contrary to RRSO1, RRSP1, and RRSP2.

RRSO2 – To enable the efficient and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied, or mitigated.

The proposal, as a non-complying lifestyle subdivision that results in a non-complying 6.5ha balance area (without amalgamation), is not considered an efficient or innovative use of the land resource. It represents a form of land use that limits future productive options without delivering any identified benefit in terms of innovation, rural diversification, or efficiency. While the site may have some temporary constraints due to soil condition, there is no robust evidence demonstrating that these constraints render the land permanently unproductive.

Accordingly, the proposal is considered **contrary** to **RRSO2**.

RRSO3 – To enable the effective operation of primary production activities within established amenity levels in the rural areas of the Hastings District.

The proposed subdivision will create new residential development rights on the subject site. While this constitutes a potential change in land use intensity, the risk of reverse sensitivity effects is considered to be low in this instance. The site is located adjacent to an established cluster of rural lifestyle type properties and existing residential activity. Furthermore, the surrounding land is currently used for lower intensity agricultural purposes, rather than intensive horticultural or viticultural production.

Given the existing character of the area and the nature of surrounding land use, the proposal is not considered contrary to RRSO3, as it is unlikely to impede the effective operation of primary production activities in the vicinity.

RRSP4 – Rural land close to urban areas or on arterial or national traffic corridors will be managed to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base and the efficiency of the road network.

The subject site is located in an area of Plains Production land in proximity to the Puketapu settlement. The proposal, although limited in scale, contributes to the incremental and cumulative conversion of productive rural land to lifestyle use. This form of development is the type that RRSP4 seeks to manage and discourage, as it has the potential to undermine the long-term integrity of the rural land resource and contribute to inefficient land use patterns.

It is noted that while the proposal will not adversely affect the transport network, it does incrementally affect the sustainability of the rural resource base. Therefore, the proposal is considered inconsistent with RRSP4.

Overall Conclusion on Rural Resource Strategy

The proposal is assessed to be contrary to the overall strategic intent of the Rural Resource Strategy, particularly objectives RRSO1, RRSO2 and policies RRSP1, RRSP2, and RRSP4, which collectively seek to safeguard the productive capacity of rural land, and promote sustainable land use. While the proposal does not raise significant concerns regarding reverse sensitivity or access, its failure to protect the productive potential of the site is contrary to the purpose of the strategy in protecting the natural and physical resource at a sustainable level.

8.5.2 Plains Strategic Management Area

OBJECTIVE PSMO1 - The land based productive potential and open nature of the Plains environment is retained.

POLICY PSMP1 – Require that the subdivision of land within the Plains Strategic Management Area shall be for the purpose of a land based productive use.

Comment:

The proposed subdivision will result in further fragmentation of the site and does not support a land-based productive use. The creation of a vacant lifestyle site, without any amalgamation of the balance, is contrary to Objective PSMO1 and Policy PSMP1, which seeks to retain land for production by avoiding ad hoc subdivision within the Plains Strategic Management Area. As no productive purpose has been demonstrated, or is considered realistic given the proposed lot size, the proposal is considered contrary to the policy and its intent.

POLICY PSMP2 - Require that activities and buildings in the Plains environment be linked to land based production and are of a scale that is compatible with that environment.

Comment:

The purpose of the proposed subdivision is for residential (lifestyle) use and is not linked to land-based production. While a certain level of residential activity is anticipated in support of productive rural use, the creation of a lifestyle site independent of any such activity is contrary to Policy PSMP2. The policy seeks to ensure that activities and buildings within the Plains environment are directly associated with land-based production and are of a scale compatible with the productive use of versatile soils. As the proposal does not meet these criteria, it is considered contrary to the policy and its underlying intent to protect the productive capacity of the Plains environment.

POLICY PSMP3 - Require that activities and buildings in the Plains environment do not compromise the open nature and amenity arising from land based production.

Comment:

The proposal is not considered to be fully consistent with Policy PSMP3. While the subdivision itself may not directly impact the open character and amenity of the Plains environment, it enables future development rights including a primary and supplementary dwelling, accessory buildings, workers' accommodation, and commercial or industrial activities up to 100m². While I do not consider that the proposal will result in all of this development, the establishment of a primary dwelling and associated accessory buildings is considered a likely outcome.

This would add to the existing built form on the subject site and the adjoining property to the north, resulting in a visual continuum of development that reduces the openness and rural character the policy seeks to protect. Given the cumulative visual impact of development in this location, the proposal is considered contrary to the intent of PSMP3 to maintain the open nature and amenity associated with Plains environment.

POLICY PSMP5 - Establish clear and distinct urban boundaries to prevent incremental creep of urban activities into the Plains Production Zone.

Comment:

The proposal is considered contrary to Policy PSMP5, which seeks to establish clear and distinct urban boundaries to prevent the incremental encroachment of urban activities into the Plains Production Zone. The site is not located within an identified growth area as set out in the Heretaunga Plains Urban Development Strategy (HPUDS), nor is it supported by the Regional Resource Management Plan.

The application's rationalisation of the proposed location based on the site's proximity to an existing cluster of dwellings illustrates the type of incremental development the policy is specifically designed to avoid. This reasoning directly undermines the purpose of establishing firm urban boundaries and contributes to the gradual erosion of the versatile soils that the policy seeks to protect. As such, the proposal is contrary to the policy and its underlying intent.

POLICY PSMP6 - Provide for other primary production activities that are not reliant on the life supporting capacity of the soil, provided they are an appropriate scale for a land based production environment and compatible with the amenity expectations of the Plains environment.

Comment:

Policy PSMP6 is not directly relevant to the proposal, though I note that the policy does enable primary production activities that are not reliant on soil. Noting that given potential soil constraints which may restrict a full range of typical productive uses, an alternative form of production could occur on the site subject to scale and amenity considerations.

Overall conclusion on Plains Strategic Management Area (SMA) objectives and policies:

In the context of this application for a non-complying subdivision within the Plains Production Zone, Objective PSMO1 and Policies PSMP1, PSMP2, and PSMP5 are considered to carry the greatest weight, as they are the most directly applicable to the nature of the proposal. Subdivision, by its nature, has a more permanent effect than land use activities—once a site is subdivided for lifestyle purposes, it is highly unlikely to be re-amalgamated or returned to productive use.

The proposed subdivision does not contribute to, or maintain, the land-based productive potential of the parent site. It is not driven by a productive purpose, and instead represents a form of development that the Plains SMA objectives and policies are specifically designed to discourage. Accordingly, the proposal is considered to be overall contrary to the Plains Strategic Management Area objectives and policies.

8.5.2 Plains Production Zone

OBJECTIVE PPO1 - To ensure that the versatile land across the Plains Production Zone is not fragmented or compromised by building and development.

POLICY PPP1 - Encourage the amalgamation of existing Plains Production Zone lots into larger land parcels.

The proposed subdivision is for lifestyle residential use with no associated primary production activities and no amalgamation of the balance land. As such, it is considered contrary to Objective PPO1 and Policy PPP1 which seek to avoid fragmentation and encourage amalgamation of Plains land into larger parcels. While the applicant has submitted reports indicating that the site has been adversely affected by cyclone damage and is no longer considered highly productive, the objective refers to the versatile land resource, which encompasses more than just soil quality.

The District Plan provides that versatile land is determined by the following factors:

“Versatile Land

In relation to the Heretaunga Plains sub-region, means contiguous flat to undulating terrain within the Heretaunga Plains Sub-region that acts collectively to support regional (and nationally) significant primary production and associated secondary services on the Heretaunga Plains, based around:

- a) An exceptionally high proportion of versatile Class 1-3 soils (comprising almost 90%); or
- b) Class 7 soils that are internationally recognised as having very high value for viticultural production (comprising almost 7%);
- c) Its proximity to a cluster of national and international processing industries and associated qualified labour force; and
- d) Its proximity to the Port of Napier and other strategic transport networks providing efficient transport of produce.”

The Environment Court in *Endsleigh Cottages* held at [50] and [52]:

The four listed factors are not criteria which must be satisfied for land to fall within the definition. They are elements which inform the preceding words. We interpret clause (a) in the definition to be referring to the sub-region and the collective soils of the sub-region. Interpreting that clause as requiring that 90% of each and every land parcel contain class 1-3 soils would lead to difficulties of application and

interpretation of the Plan and would make vulnerable to site specific analysis (as has occurred here) the Plan's protective approach to soils of the sub-region.

...

The expectation is that there will be other soils (some 10% with Class 7 being one of these) which are not in the LUC Class 1-3 group and other activities that are associated secondary services which might be accommodated on versatile land. The land is not solely defined by its horticultural capability. Finally, we observe that the definition does not refer to "highly productive" land.

This site benefits from flat topography, the favourable Hawke's Bay climate, access to irrigation, and proximity to infrastructure. As noted elsewhere, it is not isolated from other productive land but forms part of a contiguous area. Therefore, despite the current limitations in soil quality, I consider that the site is "versatile land" and falls squarely within the scope of Objective PPO1 and subsequent objectives and policies which refer to versatile land or versatile soils.

POLICY PPP3 - Limit the number and scale of buildings (other than those covered by Policy PPP4) impacting on the versatile soils of the District.

Comment:

The proposal is considered to be contrary to PPP3 in that Development rights conveyed by the subdivision will increase the number of buildings impacting the versatile soils of the District.

POLICY PPP6 - Restrict the ability to create lifestyle sites within the Plains Production Zone to those from an existing non-complying site where the balance of the site is amalgamated with one or more adjoining sites to form a complying site.

Comment:

In terms of PPP6, the policy sets out a clear intention to *restrict* lifestyle subdivision to situations where amalgamation is proposed. The Explanation to this policy is as follows:

Explanation

One of the major issues affecting [versatile land](#) is the pressure that comes to bear as a result of people wanting to establish lifestyle developments close to the main urban centres. The [Council](#) is seeking to keep firm control over the creation of such [sites](#) to ensure that the versatile soils are not fragmented to such a degree that they cannot be used for production purposes. Past experience has shown that once these small areas of land are created it is unlikely that they will ever be used for production purposes in the future. This policy is consistent with the Regional Policy Statement which states that the [versatile land](#) of the Heretaunga Plains is highly desirable for urban and rural lifestyle development but most importantly it underpins the economy of the region. This conflict and pressure from urban development makes it a regionally significant issue.

The policy of providing for a [lifestyle site](#) to be created where the balance is amalgamated to create a new complying [site](#) (that is, complying with the 12ha minimum [site](#) size) is one which has been carried over from the previous [District Plan](#). It is a policy that has been successful in achieving its aims of increasing the number of complying [sites](#).

In this case no amalgamation is proposed to achieve the minimum 12ha balance. The amalgamation of sites is the key to preserving the versatile land in the Plains Production Zone for productive purposes and

the policy envisages that lifestyle sites can only be created under this defined criteria. The proposed subdivision is therefore considered to be contrary to policy PPP6.

POLICY PPP7 - Establish defined urban limits to prevent ad hoc urban development into the Plains Production Zone.

Comment:

While the site does not directly adjoin an urban centre, it is located in close proximity to the settlement of Puketapu Village. It is relevant that the Puketapu area was specifically identified in Policy UD4.4 of the Regional Resource Management Plan as being inappropriate for greenfield urban development. Smaller rural settlements such as Puketapu were deliberately excluded from the Heretaunga Plains Urban Development Strategy (HPUDS) to prevent ad hoc and incremental urban expansion that would compromise the integrity of the productive soil resource.

Accordingly, while the site may not fall within the immediate sphere of an urban centre, the intent of PPP7 is to avoid unplanned urban encroachment into the Plains Production Zone. The proposal represents an incremental extension of lifestyle development at the fringe of the Puketapu settlement and, in my view, constitutes a form of ad hoc expansion that runs counter to the strategic planning direction. The subdivision is therefore considered contrary to the intent and purpose of PPP7, as it undermines the objective of maintaining clear urban boundaries and protecting the versatile land resource.

OBJECTIVE PPO2 - To provide for flexibility in options for the use of versatile land.

POLICY PPP11 - Require that any subdivision within the Plains Production Zone does not result in reducing the potential for versatile land to be used in a productive and sustainable manner.

Comment:

The proposed subdivision will result in the fragmentation of the subject site, and essentially remove its potential for future sustainable land-based production. This reduction in productive capacity is considered to be greater than if the site were to remain unsubdivided. Policy PPP11 is directive in nature, requiring that subdivision within the Plains Production Zone must not compromise the land's productive potential. In this case, no amalgamation with adjacent parcels is proposed that could enhance the land's viability by creating a larger, more functional landholding. As a result, the subdivision is assessed as causing a net loss in productive capacity and is therefore considered contrary to Policy PPP11.

The applicant has suggested that the reduction in productivity on the subject site is offset by the surrender of residential rights at 287 and 293 Dartmoor Road. However, I do not consider this to be an adequate trade-off. The District Plan seeks to retain or create larger land parcels within the Plains Production Zone, as such sites are more flexible for land-based production and tend to be more economically viable. The Dartmoor Road site, being just 1 hectare in size and lacking irrigation or infrastructure, is not a viable standalone productive unit. Furthermore, the application is silent on how the land at Dartmoor Road will be utilised in the future leaving its long-term contribution to productive capacity uncertain.

OBJECTIVE PPO3 - To retain the rural character and amenity values of the Plains Production Zone.

POLICY PPP13 - Require that any new development or activity is consistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production Zone.

Comment:

The proposal is considered inconsistent with Policy PSMP3 and Policy PPP13. While the subdivision itself may not immediately alter the open character and amenity of the Plains environment, it does enable future development rights, including a primary dwelling, supplementary dwelling, accessory

buildings, workers' accommodation, and small-scale commercial or industrial activities (up to 100m²). Although it is unlikely that all of these development rights will be exercised, the establishment of a primary dwelling and associated accessory structures is considered a realistic and foreseeable outcome.

Such development would add to the existing built form on both the subject site and the adjoining property to the north, contributing to a visual continuum that erodes the openness and low-density character that define the Plains Production Zone and rural character landscape area (RCL3). The cumulative effect of additional buildings in this location is considered to diminish the rural character and spaciousness that Policy PPP13 and Objective PPO3 aim to preserve. Consequently, the proposal is assessed as being inconsistent with the intent of these provisions to maintain the open and low-scale nature of the Plains environment.

POLICY PPP14 - Require that any new activity locating within the Plains Production Zone shall have a level of adverse effects on existing lawfully established land uses that are no more than minor.

Comment:

Policy PPP14 addresses reverse sensitivity effects. Given the site's location—adjacent to existing residential activities, low-impact agricultural uses, and the cycleways—it is considered unlikely that future development will give rise to reverse sensitivity effects on lawfully established land uses in the surrounding area. Accordingly, the proposal is not considered to be contrary to Policy PPP14.

POLICY PPP15 - Noise levels for activities should not be inconsistent with the character and amenity of the Plains Production Zone.

Comment:

The proposal is for a lifestyle subdivision and it is anticipated that any noise effects arising from the residential use of the site will not adversely affect the character and amenity of the zone. Accordingly, it is considered that the proposal is not contrary to Policy PPP15.

OBJECTIVE PPO4 - To enable the operation of activities relying on the productivity of the soil without limitation as a result of reverse sensitivities.

POLICY PPP16 - Require that any activity locating within the Plains Production Zone will need to accept existing amenity levels and the accepted management practices for land based primary production activities.

Comment:

As previously assessed, the site's location, alongside residential activities and lower-intensity agricultural uses, means that the proposed residential lifestyle use is not considered incompatible with existing land uses. It is unlikely to give rise to reverse sensitivity effects that would constrain or limit the productive use of surrounding land. Accordingly the proposal is not contrary to PPP14.

Overall conclusion on Plains Production Zone objectives and policies:

In the context of this particular application, being a non-complying Plains Production Zone subdivision, I consider that greater weight should be afforded to the following objectives and policies:

- Objective PP01 (versatile land is not fragmented)
- Policy PPP1 (amalgamation of existing lots)
- Policy PPP6 (lifestyle sites only where balance amalgamated)
- Policy PPP11 (subdivision not reduce productive potential).

This is due to the consequential effects of a subdivision application being of greater permanence to that of a landuse application i.e. once subdivided it is highly unlikely to be re-amalgamated in the future. In

addition, the three policies referred to provide specific direction on the way in which subdivision should occur within the Plains Production Zone. With regard to the other objectives and policies, some are still relevant however it is acknowledged that they relate more generally to landuse management such as providing for land based production and limiting commercial and industrial activities.

For this reason, as the proposal is considered to be contrary to these most relevant objectives and policies, it is also considered as a whole to be contrary to the Plains Production policy framework.

8.5.3 Section 30.1 Subdivision and Land Development Objectives and Policies

SLDO1 - To enable subdivision of land that is consistent with each of the Objectives and Policies for the various SMA, Zones, Precincts, or District Wide Activities in the District Plan.

SLDO2 - To ensure that sites created by subdivision are physically suitable for a range of land use activities allowed by the relevant Section Rules of the District Plan.

SLDP1 - That standards for minimum and maximum site sizes be established for each SMA/Zone in the District.

Comment:

The proposal is considered to be overall contrary to SLD-01, and SLDP1 in that the proposal is inconsistent with the Objectives and Policies of the Plains Productions zone and while complying with the minimum and maximum site areas for lifestyle sites, fails to achieve the required 12 ha minimum and amalgamation requirement for the balance lot.

The proposal is inconsistent with SLD02 in that while the sites are of a sufficient size to provide for a range of land uses including residential and small scale commercial / industrial activities allowed by the relevant provisions of the plan, the lifestyle site in particular is not of a suitable size to provide for primary production.

SLDO3 - Avoid subdivision in localities where there is a significant risk from natural hazards.

SLDP4 - Ensure that land being subdivided, including any potential structure on that land, is not subject to material damage by the effects of natural hazards.

SLDP5 - Ensure that any measures used to manage the risks of natural hazards do not have significant adverse effects on the environment.

Comment:

The proposal is not considered contrary to Objective SLDO3 and associated policies SLDP4 and SLDP5. While the site has been identified as having high liquefaction and medium amplification potential, these hazards are common in the region and can be effectively mitigated through appropriate foundation design in accordance with the recommended condition in section 8.4.1 (5 – Natural Hazards). Such measures are unlikely to result in significant adverse environmental effects.

The site is not located within an identified flood hazard overlay; however, it was affected by flooding during Cyclone Gabrielle due to a stopbank breach. The stopbank has since been remediated and the site reclassified as Category 1 by the Regional Council. While the risk of future flooding cannot be fully ruled out, it is considered low, and the proposal is therefore not considered contrary to the relevant objectives and policies.

SLDO4 - To ensure that land which is subdivided is, or can be, appropriately serviced to provide for the likely or anticipated use of the land, and that the health and safety of people and communities, and the maintenance or enhancement of amenity values.

SLDP8 - Ensure provision of onsite services for water supply, wastewater disposal and stormwater disposal for sites outside of the reticulated urban areas unless the provision of reticulated services is identified as an appropriate work to mitigate adverse effects on the environment.

SLDP9 - Ensure that where sites are not connected to a public water supply, wastewater disposal or stormwater disposal system, suitable provision can be made on each site for an alternative water supply or method of wastewater disposal or stormwater disposal, which can protect the health and safety of residents and can avoid any significant adverse effects on the environment.

Comment:

The existing site is serviced by rainwater tanks for potable water, an on-site wastewater treatment system, and stormwater discharge to ground. The same servicing approach is proposed for the new lifestyle allotment. Given the flat topography and sufficient site size, it is expected that all necessary on-site services can be provided in accordance with Hawke's Bay Regional Council requirements.

Accordingly, the proposal is considered consistent with Objective SLDO4 and Policies SLDP8 and SLDP9, as it ensures appropriate servicing can be achieved to protect the health and safety of future residents and avoid significant adverse environmental effects.

SLDP10 - Require the provision of safe and practicable access for pedestrians and vehicular traffic from a public road to each site.

Comment:

Each proposed site currently has a vehicle crossing from Puketapu Road, which is proposed to be used for access. These crossings offer clear sightlines and allow for safe and practical access to both the proposed lifestyle site and the balance lot. Council's Transportation Engineer has recommended upgrading the crossing for the lifestyle site and constructing a new crossing for the existing dwelling on the balance lot to mitigate safety concerns related to the parallel slip road. Subject to these upgrades, the proposal is considered to provide safe and practical access and is therefore consistent with Policy SLDP10.

SLDP14 - Ensure that earthworks associated with providing vehicle access, building platforms or services on land being subdivided will neither detract from the visual amenities of the area, nor have adverse environmental impacts, such as dust, or result in the destruction of heritage sites (include archaeological sites), cause natural hazards, or increase the risk of natural hazards occurring.

Comment:

The proposal is considered consistent with SLDP14. Only minor earthworks are required for access, servicing, and a building platform, given the flat topography and road-front location. The limited scale of works, combined with existing boundary vegetation and distance from the public cycleway, means visual amenity will be maintained. Standard construction management practices will be sufficient to mitigate environmental effects such as dust. No impact on the identified archaeological site is anticipated, as it is located approximately 440 metres from the proposed works, with no earthworks proposed on the balance lot.

SLDO5- To ensure that reverse sensitivity effects are avoided where practicable, or mitigated where avoidance is not practicable.

SLDP16 - To ensure that, when assessing the subdivision of existing sites, potential reverse sensitivity effects are considered and avoided where practicable or otherwise mitigated.

Comment:

In relation to potential reverse sensitivity effects, the subject site is located adjacent to established residential activity to the north and an existing dwelling with associated accessory buildings to the south. To the east, rural land is used for primary production activities that are either small in scale or carried out at low intensity, with no intensive horticultural or agricultural operations currently present. Given this context, the creation of one additional residential lifestyle site is unlikely to result in significant land use conflict or constrain the continued operation of surrounding rural production activities.

It is also noted that the proposed building platform is capable of complying with the required District Plan setbacks for residential buildings, further minimising any potential conflicts with adjoining rural uses.

Accordingly, it is considered that the proposal avoids or is able to mitigate potential reverse sensitivity effects and is not contrary to Objective SLDO5 or Policy SLDP16.

8.5.4 Section 17.1 Natural Features and Landscapes

OBJECTIVE LSO3 - The values that define the District's Rural and Coastal Landscape Character Areas are identified and maintained.

POLICY LSP12 - To identify, recognise, and maintain the District's Rural and Coastal Landscape Character Areas, where broad areas are highly valued for their cultural patterns of land use, including rural patterns, rather than their natural landscape values.

The identified management issues for RCL3 are:

- Maintaining the balance of open space and rural productive land with built form.
- Maintaining recognition of the surrounding hills and the skyline, avoiding built form along the ridgelines.
- Maintenance of its representativeness characteristics of the Hastings Districts productive landscape.
- Low density development contributes to the character of the area.
- Maintain and enhance the character of the natural river system and its margins.

Comment:

The proposal is considered to be contrary to the relevant Rural Character Landscape Objective LSO3, Policy LSP12, and the identified management issues for RCL3. The introduction of an additional lifestyle site and associated development rights will diminish the sense of open space and increase the presence of built form along this section of Puketapu Road. This will create a visual continuum of development that is inconsistent with the area's rural character, which is typically defined by a balance between open productive land and limited, low-density built form.

While some mitigation is provided by existing vegetation, the proposal overall erodes the representative characteristics of the Hastings District's productive rural landscape and compromises the low-density development pattern that underpins the landscape values of this Rural Character Landscape Area.

8.5.5 Assessment of Objectives and Policies

The weighing up of a proposal's consistency with the objectives and policies requires that an overall assessment is made of how the proposal 'sits' within the policy framework of the Plan, rather than

whether each objective and policy is individually satisfied. As such, it is the overall intent of the above objectives and policies that has been assessed in this case.

On balance, and when reading the Objectives and Policies as a whole and in the context of this non-complying Plains Production Zone subdivision application, it is considered that the proposal, is overall, contrary to the relevant Objectives and Policies of the Operative Hastings District Plan.

9.0 SECTION 104(1)(c) ANY OTHER RELEVANT MATTERS

9.1 Precedent Effects ad District Plan Integrity

The potential for a grant of consent to a proposal that is contrary to important objectives and policies to create an adverse precedent is a relevant "other matter" under section 104(1)(c) of the Resource Management Act 1991. An adverse precedent may be created where the approval of a non-complying activity could lead to similar applications that Council, in maintaining consistency, may be compelled to approve. The granting of consent to non-complying activities—particularly where the proposal lacks unique or site-specific qualities—may also undermine public confidence in the consistent administration of the District Plan.

9.2 The applicant has provided a letter (Appendix 5), prepared by Ms Blomfield, addressing precedent and District Plan integrity in relation to the application. Ms Blomfield argues that the proposal is distinguishable from other Plains Production subdivision scenarios due to unique circumstances and site characteristics, and that granting consent would not undermine the integrity of the Plan or create an adverse precedent. The key points raised in support of that position include:

- The application is non-complying solely due to the site's zoning as Plains Production. Ms Blomfield submits that if the site were zoned Rural, the subdivision would be enabled as a controlled activity under Plan Change 6, and that the proposal reflects the kind of subdivision enabled by Plan Change 6.
- The soils on the site no longer exhibit the qualities of highly productive land due to silt deposition from Cyclone Gabrielle. It is suggested the site is unlikely to be capable of productive use for the next 30 years.
- The site is considered "orphaned" from other Plains Production zoned land, bordered by Puketapu Road, a Council drain, and public cycle paths.
- The applicant's personal circumstances, including displacement from their Dartmoor Road property following the cyclone, participation in the voluntary buyout scheme which subsequently provides that the Dartmoor Road property could be used productively or amalgamated to form a larger productive block.
- The site adjoins a more intensive rural residential type development, although that land is also zoned Plains Production.

9.3 **Comment:**

In response to the matters raised by Ms Blomfield, the following assessment is provided:

Plan Change 6 and Zoning Relevance

Plan Change 6 involved a change to the Hastings District Plan through a streamlined planning process under the Severe Weather Emergency Recovery (Resource Management – Streamlined Planning Process) Order 2023. It made changes to the Subdivision section of the District Plan (Section 30.1) to enable Category 3 landowners who have reached a voluntary buy-out agreement to create a lifestyle site within the Rural and Rural Residential zones where this would otherwise be more strictly controlled. The intention for Plan Change 6 was to assist Cyclone-affected landowners to provide a permanent housing solution in the community from which they have been displaced.

During the preparation of Plan Change 6, a range of subdivision options was evaluated, including enabling lifestyle subdivision within the Plains Production Zone. It was ultimately determined that this was

inconsistent with the Strategic Direction of the District Plan, which seeks to protect the versatility and productive potential of Plains land.¹ The Section 42A report explained this as follows:

The provisions introduced through PC 6 only apply to the Rural and Rural Residential zones within the district and not to land in the Plains Production zone. The District Plan actively discourages lifestyle subdivision in the Plains Production zone with the only provision for such subdivision being where non – complying sized lots are to be amalgamated with an adjoining site and no additional sites will be created. The Plains Production zone comprises almost entirely of Class 1-3 soils and therefore is classified as highly productive land and must be managed in accordance with the National Policy Statement for Highly Productive Land (NPS-HPL). Clause 3.8 of the NPS-HPL states that territorial authorities must avoid the subdivision of highly productive land except in very limited circumstances, which are highly unlikely to apply to lifestyle subdivision. Clause 3.8(4) requires territorial authorities to include objectives, policies and rules in their district plans which give effect to the requirements of cl 3.8. A new rule to allow for controlled activity lifestyle subdivision on highly productive land would be contrary to that national direction.

Accordingly, Plains Production zoned land was deliberately excluded from the Plan Change provisions.

Given this clear policy intent, the argument that the subdivision would be enabled under Plan Change 6 if the site were zoned Rural is not relevant to the current application.

It is also not a correct argument, as a requirement of the Plan Change 6 subdivision is that the replacement site not be located “on land in the Rural Zone defined as “highly productive land” for the purposes of the National Policy Statement on Highly Productive Land.” Here the new lot is defined as highly productive land, so even if it was zoned Rural, the relevant performance standards would not be met, and the rule could not be relied on.

To the extent that this argument is relied on as differentiating the current proposal from others, it is not considered that the applicant’s circumstances are “exceptional”. A significant number of landowners have been similarly displaced by Cyclone Gabrielle and have participated in voluntary buyout agreements. This proposal could readily be replicated, and approving it could oblige Council to consider granting similar applications for subdivision of Plains Production Zone land, creating a clear precedent and undermining the integrity of the District Plan, particularly as it relates to preserving the versatile land resource for productive purposes.

Soil Productivity and Site Characteristics

It is acknowledged that the site has been significantly affected by Cyclone Gabrielle, and that the current soil conditions do not presently exhibit the characteristics of highly productive land. However, the claim that the land will remain unproductive for the next 30 years is not considered to be substantiated by robust or comprehensive evidence.

The Landvision report submitted with the application asserts that there is no water availability on site. This is factually incorrect. The site currently holds an operative water take permit authorising irrigation over 7 hectares, which remains valid until 2028 and is potentially renewable, subject to future allocation decisions based on past use. While it is accepted that the future water allocation may differ, the existence of the current permit establishes that there is, at present, water availability. Furthermore, the report has not considered alternative land management practices or productive land uses that could be implemented despite the current soil condition and where water availability exists, except to the extent that a brief comment regarding alternatives may be possible were there water availability. As such, its conclusions cannot be wholly relied upon in determining long-term land productivity.

¹ For instance, See Table 2 of the s 32 Report <https://www.hastingsdc.govt.nz/assets/Documents/Plan-Change-6/Initial-consultation-documents/Plan-Change-6-Section-32-Evaluation-Report.pdf>

Importantly, when considering the versatile soils, the District Plan and relevant Environment Court case law recognise that soil quality alone does not define land as “versatile” or highly productive. In *Hastings District Council v New Zealand Apple and Pear Board* [2000] NZRMA 325 HC, the Court held that:

"Soil quality, while important, is only one factor in assessing land versatility. Other factors such as topography, climate, access to infrastructure and water availability must be taken into account in determining the productive potential of a site."

This principle was reaffirmed in *Endsleigh Cottages v Hastings District Council* [2010] NZEnvC 227, where the Court found that:

"The productive potential of land within the Plains Zone cannot be assessed solely on the basis of soil quality. It is the combination of factors, including flat topography, favourable climate, and proximity to infrastructure, that underpins the strategic importance of such land."

As such, while the site's current soil conditions have been impacted by silt deposition, the flat topography, temperate Hawke's Bay climate, and access to infrastructure mean the land still exhibits key characteristics of versatile and productive land. These features are common to many Plains Production sites and do not represent a unique or exceptional situation.

Alienation from Contiguous Plains Land

The site adjoins a 6.5ha Plains Production property and a further 20ha property to the south. The presence of a drain, in particular, does not restrict physical or functional integration with adjoining land. Physical features such as drains, streams or roads are common throughout the Plains zone and are not seen as an impediment to productive use of sites. Accordingly, the site is not considered “orphaned” in a planning sense, and the constraints cited are not an exceptional or differentiating factor.

Personal Circumstances

The personal circumstances of the applicant, including displacement as a result of Cyclone Gabrielle and the surrender of residential rights on the Dartmoor Road property, are acknowledged. However, such personal factors are not considered relevant under the statutory framework for assessing resource consent applications.

The Environment Court has consistently held that personal circumstances, including financial hardship or property loss, are not valid planning considerations under the Resource Management Act 1991. In particular, the Court in *Creed v Waikato District Council* [2010] NZEnvC 319 stated:

"The Resource Management Act is not concerned with the personal circumstances of applicants. Planning decisions must be based on the effects of the activity on the environment and the provisions of the relevant planning documents—not the personal situations or needs of the applicant."

This principle has been reaffirmed in multiple decisions, including *Shotover Park Ltd v Queenstown Lakes District Council* [2013] NZEnvC 35, where the Court emphasised that consent authorities must focus on environmental outcomes, not individual benefits.

In this instance, while the applicant's personal circumstances may be sympathetic, they are not unique in the post-Cyclone context. Many other landowners across the District have been similarly affected, and some have also participated in voluntary buyouts. Additionally, the Dartmoor Road site remains in the family's ownership, and no evidence has been presented regarding its future productive use or amalgamation. Therefore, the applicant's situation does not present sufficient grounds to justify a departure from the District Plan's strategic objectives.

Adjacent Rural Residential Type Development

Although the site is adjacent to an area with more intensive rural residential type development, that land has distinctly different characteristics, particularly in terms of its topography which includes rolling to steep hills with little in the way of flat land excepting a small area immediately adjacent the subject site. In contrast, the subject site is flat and displays the typical features of Plains Production land. The change in contour between the site and neighbouring development is clearly observable. The presence of

neighbouring residential development is not an uncommon or exceptional circumstance at the periphery of Plains zoned land. Approving further encroachment on this basis would contribute to gradual “urban creep,” a pattern of development that the District Plan specifically seeks to avoid.

Conclusion

The arguments advanced by the applicant have been carefully considered, however individually or combined, they do not demonstrate that the site or its circumstances are unique or exceptional. The proposal is capable of replication, particularly given the number of similarly affected properties within the District. Approval would likely create an adverse precedent, undermining the consistent application of the District Plan’s policies and compromising its integrity.

For these reasons, the proposal raises significant precedent effects under section 104(1)(c) of the RMA and for these reasons cannot be supported.

10.0 PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES - s104D

Under Section 104D a non-complying activity must pass at least one of the 'gateway' tests of either Section 104D(1)(a) or Section 104D(1)(b) before a decision can be made on whether to grant a resource consent application under Section 104B.

If an application fails to pass both tests of Section 104D(1) then it must be declined.

In this case, the proposal satisfies the effects tests of Section 104D(1) because the adverse effects on the environment (identified in section 4 and 6 above) will be no more than minor.

The proposal does not satisfy the second test as it is considered that the proposal overall is contrary to the relevant objectives and policies of the District Plan.

As the application meets the effects tests of Section 104D(1), the application can be assessed against the provisions of Section 104B and a substantive decision made.

11.0 PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

The Act seeks to promote the sustainable management of natural and physical resources. Part II of the Act deals with the purposes and the principles of the Act. It is noted that recent case law in the Court of Appeal decision on *RJ Davidson Family Trust v Marlborough District Council* (2018) NZCA 316 determined that:

‘If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so. That is the implication of the words “subject to Part 2” in s 104(1), the statement of the Act’s purpose in s 5, and the mandatory, albeit general, language of ss 6, 7 and 8.’

This decision confirms that Part II can be considered when assessing a resource consent, but that it will only add value in some cases. In this instance, the Hastings District Plan has been relatively recently prepared although there have been several national directions (for instance the NPS-HPL and the NPS-Urban Development) issued since, which mean the Plan is not necessarily fully reflective of Part II. However, I am satisfied in the context of this application that resort to Part II is unnecessary, particularly when the outcomes sought by the NPS-HPL are well aligned with the objectives and policies applicable to the PPZ in the District Plan. Nevertheless, for completeness, a brief assessment of the application against Part II is provided below.

Section 5 Purpose of the Act:

Section 5 sets out the overarching purpose of the RMA: to promote the sustainable management of natural and physical resources. As discussed in Sections 4, 6 and 8 of this report, the proposed lifestyle subdivision would result in the fragmentation and loss of productive Plains Production land. This is not considered a sustainable or efficient use of the soil resource. Accordingly, the proposal is contrary to the purpose of the Act as expressed in Section 5.

Section 6 – Matters Of National Importance

Section 6 of the Act outlines matters of national importance that must be recognised and provided for. None of the matters listed in Section 6 are considered directly relevant to this proposal.

Section 7 – Other Matters

Section 7 of the Act sets out matters that Council shall have particular regard to in administering the Act. Of particular relevance are:

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

Section 7(b) – *The efficient use and development of natural and physical resources:*
As discussed above, the proposal involves the permanent alienation of part of the Plains soil resource for lifestyle residential purposes. Given the finite and highly productive nature of the Heretaunga Plains soils, it is considered that the proposal does not represent an efficient use or development of this natural and physical resource.

Section 7(c) – *The maintenance and enhancement of amenity values:*
The assessment has concluded that the proposal will have a minor adverse effect on amenity and rural character as future development on the site will create a visual continuum of residential buildings reducing the characteristic low intensity built environment and open nature of the Plains Production zone.

Section 7(f) – *Maintenance and enhancement of the quality of the environment:*
Based on the assessment under sections 95A, 95B and 104, it is considered that the proposal will have no more than a minor effect on the environment. Accordingly, the quality of the environment will largely remain unchanged.

Sections 6(e), 7(a), and 8 require that the Council recognise and provide for the relationship of Māori and their culture and traditions with ancestral lands, water, wāhi tapu, and other taonga; have particular regard to kaitiakitanga; and take into account the principles of the Treaty of Waitangi. The site does not affect any identified archaeological sites or wāhi tapu, and consultation with mana whenua has been undertaken in accordance with statutory obligations.

Overall Conclusion:

While the proposal is consistent with the broader quality of the environment in that it is anticipated that the site can be serviced without creating adverse environmental effects, it is considered to be contrary to the maintenance and enhancement of amenity values as a result of the increased built environment affecting the open characteristics of the Plains Production zone and the sustainable management purpose of the RMA 1991 under Part II. In particular, the permanent removal of a portion of highly productive soil from primary production does not promote the efficient use of natural and physical resources nor safeguard the life-supporting capacity of the soil resource, as required by section 5(2)(b).

12.0 CONCLUSION

HERETAUNGA
HASTINGS DISTRICT COUNCIL

Resource Management Act 1991

RESOURCE CONSENT DECISION

RMA20240415



Applicant:	Tuck Childrens Trust
Address of Site:	613 Puketapu Road, Puketapu
Legal Description:	LOT 1 DP 26268 (RT HBW1/700)
Zoning / Overlays:	PPZ – Operative Hastings District Plan (July 2024)
Decision:	<p>Pursuant to:</p> <p>(a) Rule SLD25 of the Operative Hastings District Plan (July 2024);</p> <p>(b) Sections 104, 104B, 104D and 106 of the Resource Management Act 1991;</p> <p>Resource Consent as a Non-Complying Activity is REFUSED to Tuck Children's Trust to subdivide Lot 1 DP 26268 (RT HBW1/700) to create one additional Plains Production Zone Lifestyle Site.</p>
Recommended By:	<p>Kelly Smith</p> <p>ENVIRONMENTAL PLANNER (CONSENTS)</p>
Issued under Delegated Authority By:	<div><p>Caleb Sutton ACTING GROUP MANAGER PLANNING & REGULATORY SERVICES</p></div>
Date:	1 May 2025

RMA20240415



With the Reasons for this Decision being:

1. As assessed in the Section 95A and Section 95B notification reports for this application, there are no special circumstances that would warrant limited or public notification and there are no affected persons in terms of Section 95E of the Resource Management Act 1991.
2. The proposal is unlikely to result in any more than minor adverse effects on the environment. The reasons are discussed in Section 4 of the Section 95A, 95B and 104 Planning Report, and are summarised as below:

Rural Character and Amenity:

Effects on the wider environment are considered minor due to the reduction in characteristic openness and low-density development from increased built form. However, screening from existing mature trees and the separation distance and limited visual connection between the proposed lifestyle lot and adjacent dwellings ensure that effects on neighbouring sites are less than minor.

Productive Land (Soil Resource):

While there are differing views with regards to the productive capacity of the land due to cyclone-related silt, it is concluded that the proposal represents a small proportion of the Plains resource as a whole and means any adverse effects on the wider versatile land resource will be no more than minor.

Reverse Sensitivity:

Reverse sensitivity effects are likely to be less than minor due to the site's location adjacent to an existing dwelling on the balance lot and more intensive residential development to the north. The adjacent land use is primarily low-intensity agricultural or low intensity production, further reducing the potential for conflict.

Transportation Effects:

Effects on the local and wider transportation network are considered less than minor. Puketapu Road is a low-volume road capable of absorbing the minimal traffic increase from one additional lifestyle lot. The proposed lifestyle site will use an existing access with clear sightlines, and a new crossing for the existing dwelling on the balance lot is recommended. Use of the existing ROW access at the northern end of the site will maintain the existing level of use subject to the construction of the new crossing for the dwelling on the balance lot.

Servicing Effects:

Each lot has sufficient unconstrained land area to accommodate onsite wastewater and stormwater disposal in accordance with Hawke's Bay Regional Council requirements, with no cross-boundary effects anticipated. Overall servicing effects are considered less than minor.

Archaeological Effects:

Effects on both identified and unclassified archaeological sites in the southern corner of the site are considered less than minor, as no development is proposed or required in this area to give effect to the subdivision.

Natural Hazard Effects:

Effects from natural hazards are considered no more than minor.

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3. The proposal has been assessed as contrary to relevant objectives, policies and other provisions of the Hastings District Plan and the Hawke's Bay Regional Policy Statement (**RPS**) (which forms part of the Regional Resource Management Plan). The reasons are discussed in Section 8 of the Planning Report, and are summarised below:

Regional Policy Statement (RPS)

The Regional Policy Statement (RPS) establishes a high-level framework for land use and growth management, with a strong emphasis on protecting the versatile soils of the Heretaunga Plains and promoting the efficient use of existing infrastructure. The proposed subdivision is considered inconsistent with Objective UD1(d), as the creation of a new lifestyle site in this location is not deemed "necessary" in terms of meeting strategic growth needs. It is also contrary to Policy UD1(a), which seeks to retain versatile land for primary productive use, and to Policy UD3, which directs that lifestyle development should be avoided outside of established rural residential zones. Overall, the proposal is inconsistent with the intent of the relevant objectives and policies of the RPS.

Rural Resource Strategy

The proposal is contrary to the strategic intent of the Rural Resource Strategy, particularly Objectives RRSO1, RRSO2 and Policies RRSP1, RRSP2, and RRSP4, which aim to safeguard rural land productivity and promote sustainable land use. While the proposal does not raise concerns regarding access or reverse sensitivity, it fails to protect the site's productive capacity, and is therefore inconsistent with the strategy's purpose of sustaining natural and physical resources.

Plains Strategic Management Area

Objective PSO1 and Policies PSMP1, PSMP2, and PSMP5 are most relevant to this non-complying subdivision. Subdivision has a lasting impact, as land once divided for lifestyle purposes is unlikely to return to productive use. This proposal does not support or maintain the productive potential of the parent site and is not for a productive purpose. It represents the type of fragmentation these provisions aim to discourage, and is therefore considered contrary to the Plains Strategic Management Area policy framework.

Plains Production Zone

Objective PPO1 and Policies PPP1, PPP3, PPP6, and PPP11 are most applicable due to their focus on subdivision within the zone. Subdivision has a permanent effect, and these policies provide clear direction on how it should be managed to protect productive land. While other policies address broader land use matters (e.g., land-based production, commercial/industrial activity), this lifestyle subdivision—with no amalgamation—is considered to reduce the productive potential of the site. As such, it is contrary to both the specific and overall intent of the Plains Production Zone provisions.

Subdivision and Land Development

- The proposal is contrary to Objectives SLDO1 and Policy SLDP1, as it does not align with the Plains Production Zone objectives and policies and does not include amalgamation of the balance to form a larger productive lot.
- The proposal is **not** contrary to Objectives SLDO3, SLDO4 and their associated policies, as natural hazards can be mitigated through site-specific design, without adverse environmental effects. Both lots can be serviced, and safe, practical access is available.

RMA20240415



- The proposal is **not** contrary to Objective SLDO5 and Policy SLDP16, as it complies with required setbacks and is located in an area characterised by low-intensity agriculture and rural residential uses. The addition of one lifestyle site is unlikely to result in land use conflict or constrain nearby production activities.

Natural Features and Landscapes

The proposal is considered contrary to Objective LSO3, Policy LSP12, and the management issues for Rural Character Landscape Unit RCL3. The creation of an additional lifestyle site and associated built form will erode the area's sense of openness and contribute to a visual continuum of development along Puketapu Road. This is inconsistent with the rural character, which is typically defined by open productive land and limited low-density built form.

National Policy Statement for Highly Productive Land

4. In terms of the National Policy Statement for Highly Productive Land, the proposal was assessed as being an inappropriate use of Highly Productive Land in accordance with Clause 3.8 and does not meet the exemption in Clause 3.10 in that the applicant has not provided sufficient evidence that the constraints are long-term or permanent, nor that they are unable to be addressed through alternative land management approaches.

Precedent and Integrity

5. The applicant has advanced several arguments to suggest that the proposal is exceptional and would not establish an adverse precedent or compromise the integrity of the District Plan. However, it is considered that the circumstances of this application the proposal does not meet the threshold for exceptionality and that granting consent would, in fact, create an adverse precedent and directly undermine the integrity of the District Plan. This conclusion is supported by the assessment set out in Section 9 of the Planning Report and is summarised as follows:
 - The location and physical characteristics of the site are not unique. Many Plains Production Zone properties are bordered by natural or constructed features such as drains, roads, or streams. These are commonplace and do not impede productive use either individually or in conjunction with adjoining land.
 - The site's proximity to an area of more intensive rural residential development does not differentiate it from numerous other Plains Production Zone sites located at the urban-rural interface. This feature is not uncommon and is not sufficient to justify a departure from the planning framework.
 - Although the site has been affected by cyclone-related silt deposition, its flat topography, temperate climate, and proximity to infrastructure remain consistent with the defining features of versatile and productive Plains Production Zone land. Adverse soil characteristics are shared by many cyclone-impacted sites in the district and do not render the subject site exceptional.
 - The applicant's personal circumstances, including displacement due to Cyclone Gabrielle and participation in the voluntary buy-out scheme, are acknowledged. However, these are not unique, as many landowners across the district have experienced similar impacts. As such, the proposal is readily capable of replication.
 - Collectively, the applicant's reasons do not demonstrate a set of unique or site-specific circumstances that would justify a departure from the District Plan's strategic objectives and policy framework. Granting consent in these circumstances would risk setting a precedent

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for further similar applications, particularly from other cyclone-affected landowners, and would undermine the integrity of the District Plan.

Overall Decision

While acknowledging that the grant of consent to this proposal would have only minor adverse effects on the environment, for the reasons stated under sections 3-5 above, and as discussed in greater detail in the Planning Report, the sustainable management purpose of the Act is better served by refusing consent.

Before the Hastings District Council

In the matter	of an objection under section 357A of the Resource Management Act 1991
Between	Tuck Children's Trust
	Applicant
And	Hastings District Council
	Consent Authority

**Notice of objection under section 357A of the
Resource Management Act 1991 by the Tuck Children's Trust**

23 May 2025

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**OBJECTION TO HASTINGS DISTRICT COUNCIL UNDER SECTION 357A OF
THE RESOURCE MANAGEMENT ACT 1991**

- 1 The trustees of the Tuck Children's Trust (**the Trust**) object to a decision on its application for resource consent to subdivide the property at 613 Puketapu Road, Puketapu to create an additional lot of 5,000m² and a balance lot of 6.7760 hectares (**the Application**) made under delegated authority.
- 2 The Application was processed on a non-notified basis.
- 3 The decision on the Application was made by Mr Caleb Sutton, Acting Group Manager, Planning & Regulatory Services acting under delegated authority pursuant to section 34A of the Resource Management Act 1991 (**the Act**). The Trust received notice of the decision on 2 May 2025.
- 4 The land affected is the property at the property at 613 Puketapu Road, Puketapu, more particularly described as Lot 1 DP26268 contained in Record of Title HBW1/700.
- 5 The Trust has a right of objection pursuant to section 357A(1)(g) and 357A(2) of the Act.
- 6 The decision the Trust is objecting to is the officer's decision refusing to grant subdivision consent under section 104B of the Act. The Decision included the following findings in relation to the proposed subdivision, all of which are accepted by the Applicant:
 - 6.1 The proposal is unlikely to result in any more than minor adverse effects on the environment.
 - 6.2 Screening from existing mature trees and the separation distance and limited visual connection between the proposed lifestyle lot and adjacent dwellings will ensure that effects on neighbouring sites, in terms of rural character and amenity, are less than minor.

- 6.3 The proposal represents a small proportion of the Plains resource as a whole and means any adverse effects on the wider versatile land resource will be no more than minor.
- 6.4 Reverse sensitivity effects are likely to be less than minor due to the site's location adjacent to an existing dwelling on the balance lot and more intensive residential development to the north.
- 6.5 Effects on the local and wider transportation network are considered less than minor. Puketapu Road is a low-volume road capable of absorbing the minimal traffic increase from one additional lifestyle lot.
- 6.6 Servicing effects are less than minor. Each lot has sufficient unconstrained land area to accommodate onsite wastewater and stormwater disposal in accordance with Hawke's Bay Regional Council requirements.
- 6.7 Effects on both identified and unclassified archaeological sites in the southern corner of the site are considered less than minor, as no development is proposed or required in this area to give effect to the subdivision.
- 6.8 The proposal is not contrary to Objectives SLDO3, SLDO4 and their associated policies, as natural hazards can be mitigated through site-specific design, without adverse environmental effects. Both lots can be serviced, and safe, practical access is available.
- 6.9 The proposal is not contrary to Objective SLDO5 and Policy SLDP16, as it complies with required setbacks and is located in an area characterised by low-intensity agriculture and rural residential uses. The addition of one lifestyle site is unlikely to result in land use conflict or constrain nearby production activities.

- 7 The Decision included the following findings in relation to the proposed subdivision, which are not accepted by the Applicant:
- 7.1 The proposal is contrary to the strategic intent of the Rural Resource Strategy, particularly Objectives RRSO1, RRSO2 and Policies RRSP1, RRSP2, and RRSP4, which aim to safeguard rural land productivity and promote sustainable land use.
- 7.2 This proposal does not support or maintain the productive potential of the parent site and is not for a productive purpose. It represents the type of fragmentation the Plan's provisions aim to discourage, and is therefore considered contrary to the Plains Strategic Management Area policy framework (Objective PSO1 and Policies PSMP1, PSMP2, and PSMP5).
- 7.3 The proposed lifestyle subdivision is considered to reduce the productive potential of the site and is therefore contrary to both the specific and overall intent of the Plains Production Zone provisions (Objective PPO1 and Policies PPP1, PPP3, PPP6, and PPP11).
- 7.4 The proposal is contrary to Objectives SLDO1 and Policy SLDP1, as it does not align with the Plains Production Zone objectives and policies and does not include amalgamation of the balance to form a larger productive lot.
- 7.5 The proposal was assessed as being an inappropriate use of Highly Productive Land which did not meet the exemption in Clause 3.10 the National Policy Statement for Highly Productive Land.
- 7.6 The proposal does not meet the threshold for exceptionality and granting consent would create an adverse precedent and directly undermine the integrity of the District Plan.

- 8 The reasons for the objection are as follows:
- 8.1 The proposal meets the gateway test in section 104D of the Act. The adverse effects of the proposed subdivision on the environment will be minor (see paragraphs 6.1-6.7 above).
- 8.2 When considering the application, a decision-maker is required to 'have regard to' any relevant provisions of a national policy statement, regional policy statement or district plan. The requirement to 'have regard to' does not mean 'must give effect to'. The decision-maker must give genuine thought and attention to the provisions of relevant planning documents, but those provisions are not necessarily determinative of the application.
- 8.3 While the plan provisions do not favour the grant of consent, there are qualities in the proposal to distinguish it from the generality of non-complying applications for consent to create a lifestyle lot in the Plains Production Zone.
- 8.4 The proposal and the circumstances of the Applicant are sufficiently unique that the proposal does not directly challenge the integrity of the District Plan, and granting consent will not undermine confidence in the consistent administration of the Plan. Those circumstances are:
- (i) As a result of damage from Cyclone Gabrielle, the site is dominated by raw soils, rather than LUC3 soils depicted on LUC Capability Maps.
- (ii) The site is an orphaned site without any physical connection to any other Plains Production zoned land. It is bounded by Puketapu Road to the north, a large and deep Council drain to the east, and public cycle paths located adjacent to the southern and western boundaries.

- (iii) The proposed lifestyle site is on the western side of Puketapu Road and abuts an area of rural lifestyle development (all within the Plains Production zone), with site sizes ranging from 0.4ha to 3.043 ha.
- (iv) The circumstances of the applicant are exceptional. The property the Tucks owned in the Dartmoor Valley (also Plains Production zoned land) was inundated during Cyclone Gabrielle (floodwaters reached partway up the roof) and has been deemed to be Category 3. The Tucks accepted a buy-out offer for that land and in doing so, relinquished their development right at the Dartmoor Property. They have lived in the Puketapu community for over 30 years and wish to remain there.
- (v) No other property owners in the Dartmoor Valley who have accepted buy-out offers intend to subdivide in order to relocate within the same community. They have either purchased land on which to relocate, or own land on which they can rebuild.
- (vi) All of these circumstances, taken together, mean that the proposal is not readily capable of replication. There is little risk that other, similar applications will follow.
- (vii) The Council has done no assessment to support its assertion that there is a risk of the council receiving further, similar applications from other cyclone-affected landowners to subdivide land which is:
 - (a) Itself cyclone-affected;
 - (b) Located on the fringes of an area of rural lifestyle development which has been allowed to occur within the Plains Production zone; and

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(c) Physically disconnected from other Plains
Production zone land.

- 8.5 While there is a water permit for the site enabling irrigation of 7.05 hectares of process crops, that permit will expire in 2028. The volume of water which will be granted when a replacement consent is sought is the maximum annual water use in the 10 year period prior to May 2020¹ which, for this water permit was 14,764m³/year in the 2012/2013 season. That volume of water is insufficient to grow pasture, process crops, apples, peaches and kiwifruit across 7.05 hectares. 14,764m³/year will provide water sufficient water to grow approximately 3 hectares of process crops (the consented activity) at less than 90%ile certainty.
- 8.6 Post Cyclone Gabrielle the site has no irrigation infrastructure available meaning further capital expenditure would be required to implement any irrigated land use.
- 8.7 The proposed subdivision does not fragment a large and geographically cohesive area of highly productive land.
- 8.8 The area proposed to be subdivided is only a small part (0.5ha) of an undersized site which is unlikely to be economically viable for at least 30 years due to the dominance of raw soils on the site and insufficiency of water. The subdivision will not result in a significant loss of productive capacity of highly productive land in the district, individually or cumulatively.
- 8.9 In Plan Change 6 Hastings District Council included rules enabling displaced Category 3 landowners to subdivide Rural Zoned land to create a residential lifestyle lot, provided that land was not defined as highly productive land for the purposes of the

¹ Proposed plan Change 9 (Tūtaekuri, Ahuriri, Ngaruroro and Karamū Catchments), Policy 34(d)

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National Policy Statement for Highly Productive Land. In Puketapu, the only such land is in the medium to steep hill country and not easily accessible, or is owned by landowners with no wish to subdivide. The Tuck family believes there is no viable option other than the current proposal if they wish to remain in the Puketapu community.

- 9 The Trust seeks the following relief:
- 9.1 That its objection is upheld; and
- 9.2 Resource consent is granted to the Trust to subdivide the property at 613 Puketapu Road, Puketapu into two lots, being one lot of 5,000m² and a balance lot of 6.7760 hectares.
- 10 The following documents are **attached** to this notice:
- 10.1 a copy of the Trust's application (**Attachment A**);
- 10.2 a copy of the decision on the Trust's application (**Attachment B**).

23 May 2025



Lara Blomfield
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Attachment A – Copy of the Trust’s original application

Attachment B – Copy of Decision on the Trust’s application