

Application for Resource Consent

Rural Subdivision

25 Wyborn Road

NJ and TM Manning Limited

June 2023

Quality control

Title:	Rural Subdivision – 25 Wyborn Road
Client:	Surveying Services
Job number:	718778
Prepared by:	Sarah Osborne
Signature:	
Reviewed by:	Peter McCoskrie
Signature:	

1. Introduction

This resource consent application seeks approval from Matamata-Piako District Council to undertake a subdivision to create one rural lifestyle lot and a rural balance lot from one existing title via two hypothetical stages. The property involved in this subdivision is located at 25 Wyborn Road, Te Aroha. The site is located in the Rural Zone of the Matamata-Piako District Plan (District Plan) and requires resource consent for the reasons outlined in Section 4 of this report. The application includes a Scheme Plan for each of the hypothetical stages and includes one master Scheme Plan which demonstrates the final lot layout all of which are attached as Appendix 2.

2. Site description

2.1 Location and description

The site is held in one Record of Title which is held in the ownership of NJ and TM Manning Limited and is described in the table below:

Record of Title Details				
Identifier	Legal Description	Area	Date	Interests
SA188/138	Part Section 5B Block V Aroha Survey District	32ha	19 February 1912	5053 Proclamation taking part of the within land for a road - 23.2.1921 at 10.00 am
				5413 Proclamation taking part of within land for road - 29.5.1922 at 10.00 am
				S225684 Notice imposing Building Line Restriction - 30.1.1962 at 9.00 am
				Subject to a right to convey water over part created by Transfer S483800 - 10.8.1970 at 2.45 pm
				5921669.1 Notice pursuant to Section 94C Transit New Zealand Act 1989 declaring the adjoining State Highway No. 26 to be a limited access road - 5.3.2004 at 9:00 am

A copy of the Record of Title and Title Plan are included as Appendix 1. The above interests are not considered relevant to the proposal. The notice imposing a Building Line Restriction (S225684) requires a minimum 5m setback from the State Highway. The subject site does not directly adjoin State Highway 26 and no new access will be provided to this limited access road (5921669.1).

The aerial image included as Figure 1 on the following page demonstrates the location and extent of the subject site in yellow (land held within RT SA188/138).

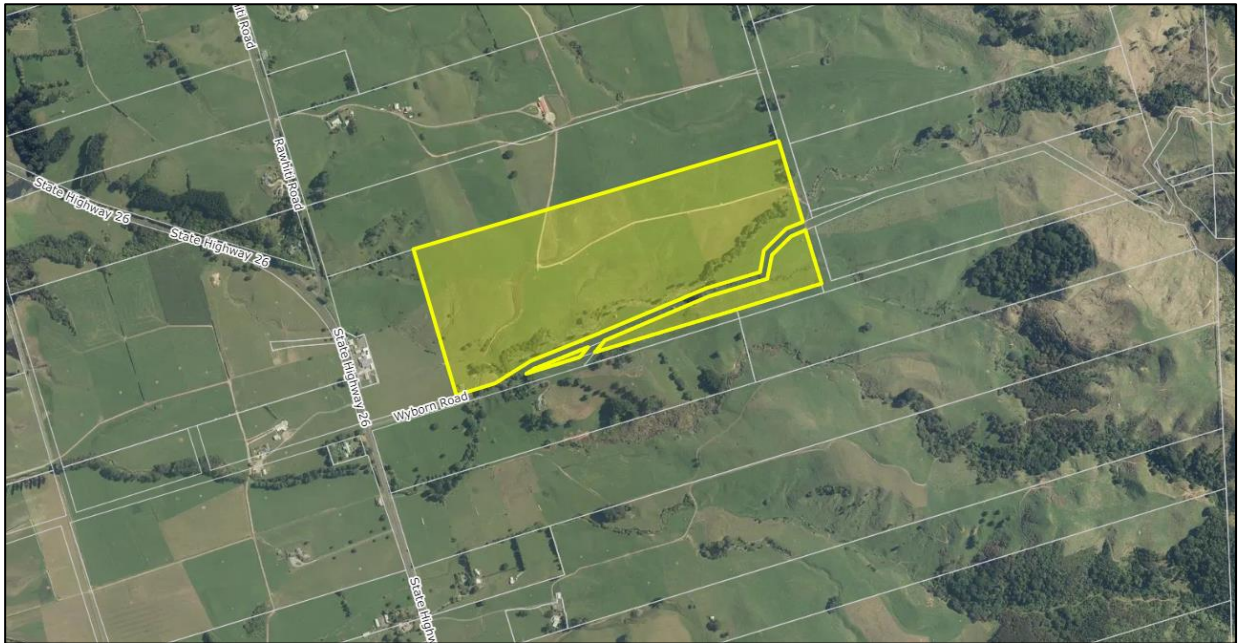


Figure 1: Aerial Photograph of the Site (Source: GRIP)

The subject site is located 3.5km north of the township of Te Aroha. The site comprises an area of 32ha and is utilised for grazing and cropping purposes in association with a dairy farming activity (the farming activity is operated over a number of adjoining titles). The parcels of land that are held within the RT that forms the subject site are segregated by a road parcel as demonstrated in Figure 1.

The topography of the site is undulating, and it is located at the base of the foothills of the Kaimai Ranges. The Omahu Stream runs through the property as demonstrated in the Contour Map which is contained in Figure 2 below.

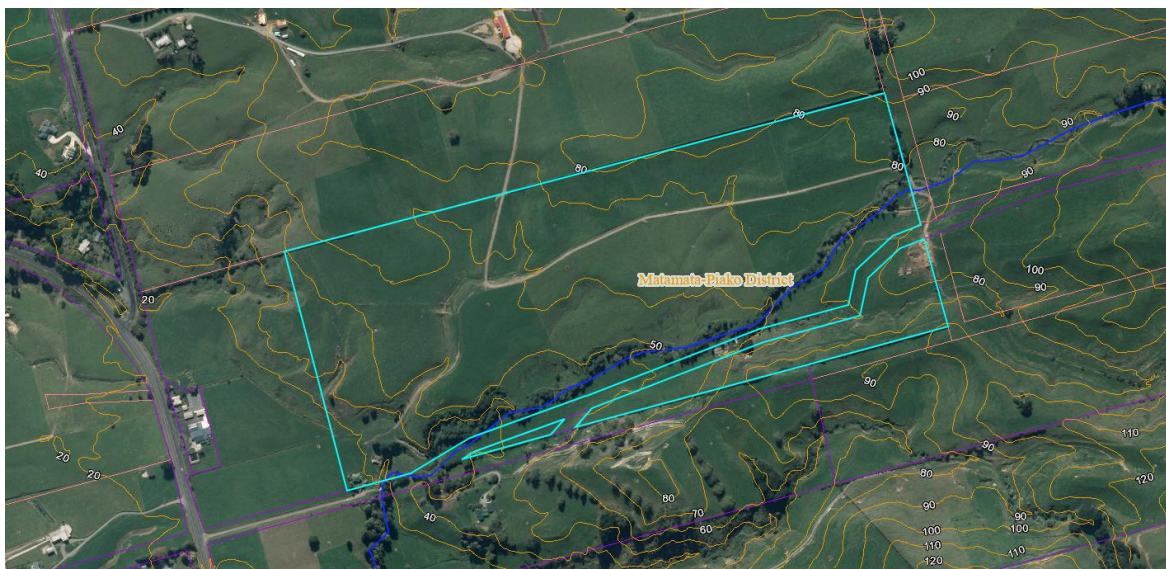


Figure 2: WRC Contour Map (Source: WRC Drainage Maps)

Figure 3 below contains the Waikato Regional Council’s (WRC) River Flooding Plan in the context of the subject site, which confirms that the site is not subject to this hazard overlay.

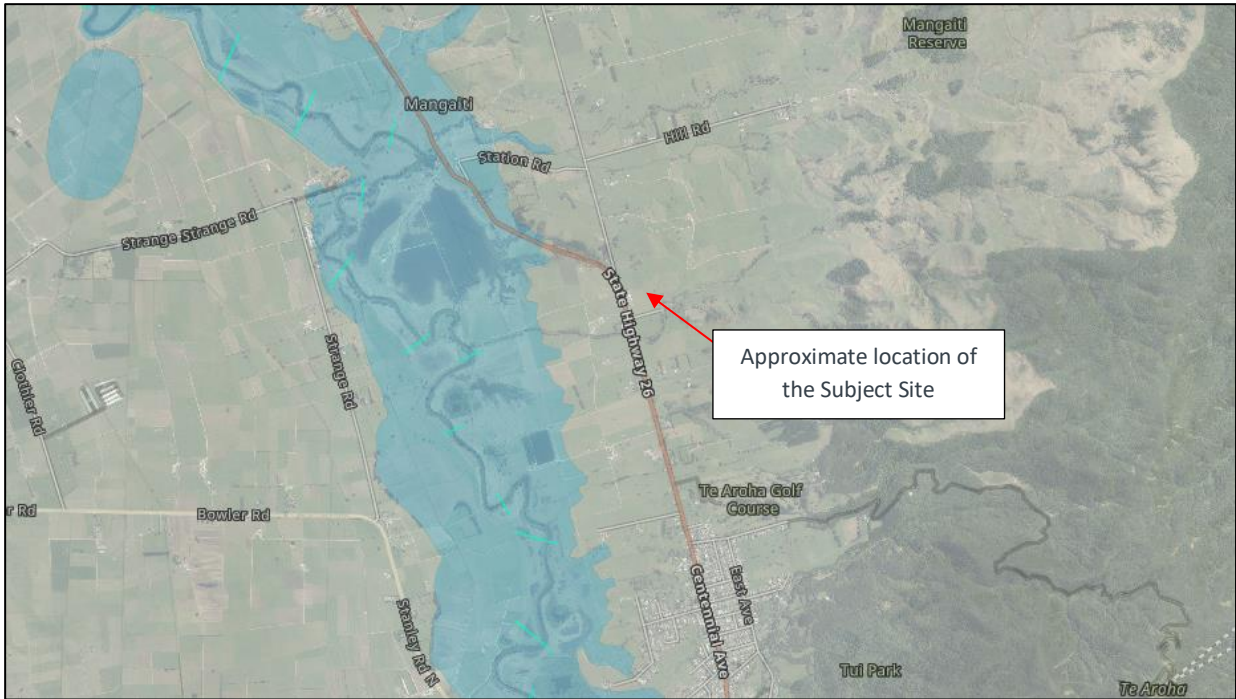


Figure 3: WRC River Flooding Map (Source: WRC Hazards Portal)

The soils contained in the subject property are identified by the MPDC Soil Classification Map and the NZLRI Land Use Capability Map 2021 as comprising a mix of class 2, 4 and 6 soils. Figure 4 included below contains the MPDC Soil Classification Map in the context of the subject site and is consistent with the classification shown on the NZLIR Map.

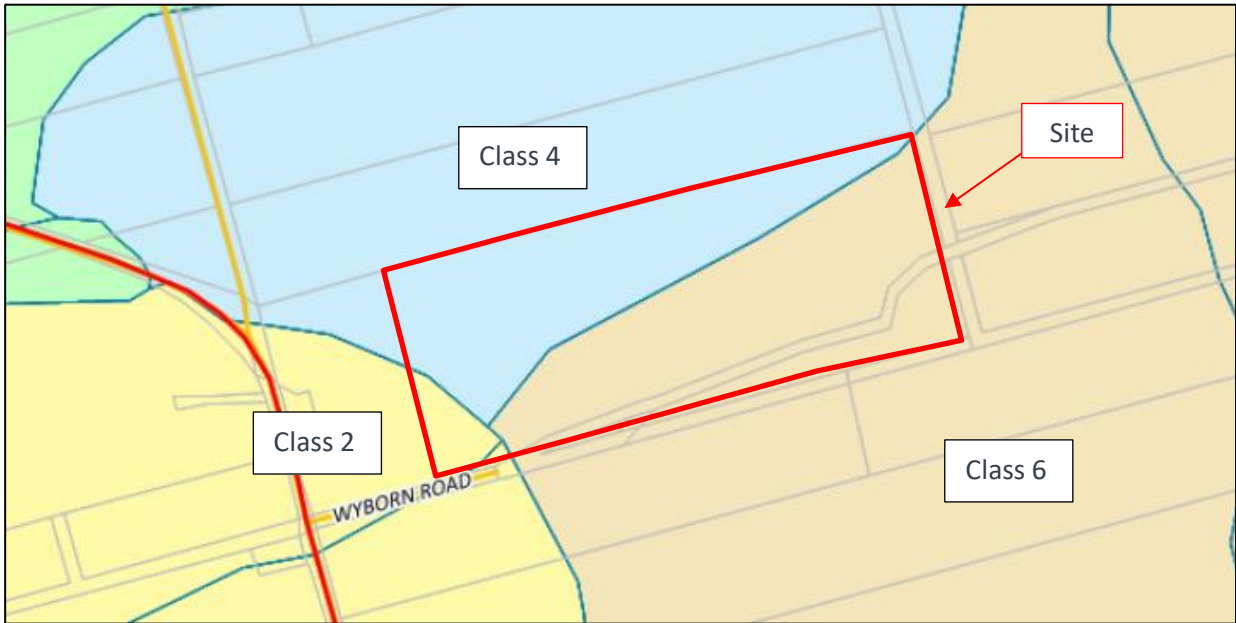


Figure 4: MPDC GIS Soil Classification Map (Source: MPDC Soil Map)

The subject site contains one existing dwelling and an associated accessory building which are situated within the south-western corner of the site. The site otherwise contains no other built development.

The subject site and all surrounding properties are located within the Rural Zone and are not subject to any identified or know hazard features. It is noted that surrounding properties are largely utilised for agricultural and horticultural purposes however, there are a number of lifestyle sized properties scattered throughout the locality.

Figure 5 included below contains the District Plan Map in the context of the subject site.



Figure 5: District Plan Map (Source: MPDC GIS: District Plan)

3. Proposal

The Applicant seeks to undertake a subdivision to create one lifestyle lot and one balance lot via two hypothetical stages from one existing parent title.

As demonstrated in Figure 4 of this report, the subject site comprises an area of 30.5ha of class 4 and 6 soils which equates to approximately 95% of the subject property, thereby, only 5% of the subject site comprises class 2 soil (being high quality). District Plan Rule 6.3.4 states that for subdivisions utilising the general quality soils subdivision rules the parent title shall contain no more than 25% high quality soils. Due to the composition of the soils located within the subject site it is considered appropriate to utilise the general quality soil provisions in this instance.

In order to create the final lot layout, the following consenting process is proposed:

Hypothetical Stage 1:

“Stage 1” hypothetically demonstrates the ability to create a small rural lot (Lot 100) as a Controlled activity in accordance with District Plan Rule 6.1.5(b). The completion of this stage would result in the creation of the following lots:

- Lot 100 of 8ha. This lot would be the small rural lot which will contain the existing dwelling and all existing services which serve this dwelling.

- Lot 101 of 21ha (24ha once amalgamated with Lots 3 and 4). This lot will be the balance lot and will continue to be utilised for productive purposes in conjunction with the adjoining titles which are owned by the Applicant.

The lot layout proposed through the completion of “Stage 1” is demonstrated in the Scheme Plan included as Figure 6 below.



Figure 6: “Stage 1” Scheme Plan (Prepared by Surveying Services)

Access to Lot 100 would be provided from the existing vehicle crossing located at Rapid No. 25 Wyborn Road which will continue to serve the existing dwelling which will be located within this lot. This crossing would not change in use as a result of the subdivision. A second crossing would be provided within the frontage of Lot 101 located approximately 10m east of the existing crossing serving Lot 100 and would be formed to a compliant standard.

Lot 100 would retain the existing connection to electricity and existing connection to the telecommunication services located within Wyborn Road. This lot would contain the existing dwelling and will therefore retain the existing connection to Councils water supply and the existing on-site wastewater disposal system. Stormwater associated with all existing buildings and hardstand areas within Lot 100 will continue to be disposed of onsite to ground soakage.

Lot 101 (amalgamated with Lots 3 and 4) would not be provided with connections to any services through the completion of the subdivision. Furthermore, this lot will also not be provided with any onsite three waters infrastructure, it would be expected that a consent notice would be registered on the title of Lot 101 to advise future owners/occupiers that there are no on-site services provided to this lot.

Hypothetical Stage 2:

“Stage 2” demonstrates the final lot layout (what will actually be created) and utilises the boundary relocation provisions of the District Plan to relocate the boundaries of Lot 100 and Lot 101 created in “Stage 1” to create the following lots:

- Lot 1 of 2500m². This lot will contain the existing dwelling and will retain the existing onsite services which cater for the stormwater and wastewater disposal associated with the existing dwelling/buildings. This lot will retain the existing electricity connection and the connection to Councils water supply network.
- Lot 2 of 28.75ha (31.75ha once amalgamated with Lots 3 and 4). This lot will not contain any existing built development and will be owed a development opportunity. No service connections or on-site services will be provided to this lot upon the completion of the subdivision.

The access arrangements established through the completion of “Stage 1” will not change through “Stage 2”.

The lot layout proposed through the completion of “Stage 2” is demonstrated in the Scheme Plan included as Figure 7 below.

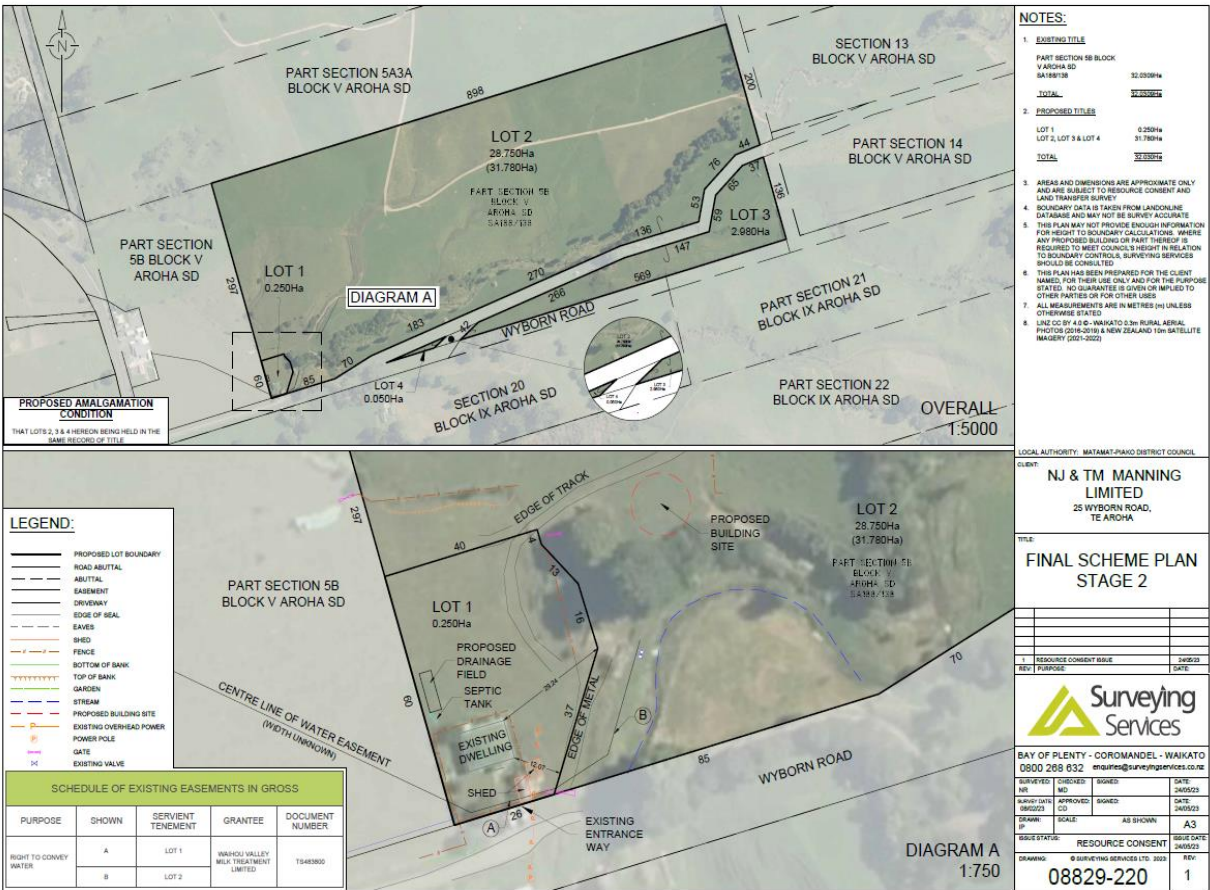


Figure 7: “Stage 2” Scheme Plan (Prepared by Surveying Services)

The servicing arrangements for the proposed lots upon the completion of the two final stages are summarised below:

Service	Lot 1	Balance Lot (Lots 2, 3 and 4)
Water Supply	The existing dwelling has a connection to Council's water supply reticulation which will be retained to service Lot 1.	No water supply will be provided to this lot. It is anticipated that a Consent Notice will be registered on the title of this lot to advise that there was no supply provided at the time of subdivision.
Wastewater	The existing onsite effluent disposal system which serves the existing dwelling appears to not be wholly contained within the subject title. Following subdivision approval this will be located and if required a new disposal field will be created to ensure it is wholly located within the Lot 1 boundaries.	No wastewater disposal system is proposed to be established within this lot. At the time of development, a compliant wastewater disposal system will be required.
Stormwater	Stormwater associated with the existing dwelling and sheds will continue to be disposed of to ground.	This lot does not contain any existing buildings.
Electricity	Existing connection retained to service the existing dwelling located within this Lot.	This lot will not be provided with a connection to electricity at the time of subdivision. Powerco have confirmed that given this lot will be a large rural balance lot, a new connection would be best provided at the time of development within the said lot. Pre-application correspondence with Council's Engineer (Allan Jessep) has confirmed that this would be an acceptable option in this context (refer to Appendix 4).
Telecommunications	Existing fixed line connection retained to service the existing dwelling/lot.	This lot will not be provided with a fixed line telecommunication connection. Netspeed have confirmed that they are able to provide wireless coverage to service the site (see Appendix 3).
Access	The existing crossing located at 25 Wyborn Road will be retained to service this lot. There will be no change to the character, scale or intensity of use of this vehicle crossing as a result of the subdivision.	Access to this lot will be provided from a new crossing which will be formed to a compliant standard and will be located within the frontage of proposed Lot 2 approximately 10m from the vehicle crossing serving Lot 1.

4. Statutory framework

4.1 Matamata-Piako District Plan

The following table provides an assessment against the relevant rules of the Matamata-Piako District Plan:

Table 1: Stage 1 Subdivision Rule Assessment

Rural Zone Subdivision Standards: Stage 1 (Hypothetical Stage)		
Rule	Description	Comments
6.1.5(b)	General Quality – Small Rural Lot This rule provides for the creation of one small rural lot per title as a Controlled activity where the following is complied within - <i>One Small Rural Lot per title in existence at 4 December 2013 or per title created after 4 December 2013 where an entitlement to apply for subdivision of a Small Rural Lot as a controlled activity has been recorded in a consent notice registered against that title under Rule 1.1.1(ix) with a proposed lot size between 8ha and 20ha and subject to a balance lot area of 20ha or more.</i>	The parent title comprises 95% general quality soils and has a title date of 19 February 1912. “Stage 1” of the subdivision seeks to create one 8ha lot (small rural lot) and one balance lot (to be amalgamated) with an total area of 24ha. This “stage” therefore meets the date and area requirements of this rule and therefore triggers a Controlled activity status.
		Lot 100 created through “Stage 1” would contain the existing dwelling, however, if this lot were vacant, it would be capable of containing a compliant 150m² building platform and would be free of impediments. Lot 101 (amalgamated with Lots 2 and 3) created through “Stage 1” would comprise an area of 24ha and would offer multiple locations where a compliant building platform could be located that would be free of impediments.
6.2.4	Development Suitability This rule sets out the information required to demonstrate that a lot is suitable to contain the intended development.	The site is not subject to any natural hazard overlay identified by the District Plan and does not appear to otherwise be subject to any potential hazards. Due to the above, a site suitability report is not considered necessary at the time of subdivision. It is noted that where necessary (under the Building Act 2004), site suitability reporting would be provided at the time of building consent application for any future buildings on the lot. The proposal is considered to comply with this rule.
6.2.15	Existing Buildings This rule relates to existing buildings and the requirement for them to comply with the relevant development controls in respect of the new lot boundaries.	All existing buildings will comply with the Rural Zone development controls in respect of the lot boundaries that would be created through “Stage 1”.

Section 5 – Servicing Performance Standards

This rule requires that each lot be serviced in accordance with the following: Infrastructure and Servicing Performance Standards 5.9.1 i. <i>Stormwater shall be managed on site in accordance with the Development Manual</i> ii. <i>Wastewater – Shall be connection to Councils reticulation (where available)</i> iii. <i>Water supply – Shall be connection to Councils Reticulation (where available)</i> iv. <i>Transportation – Assess Section 9</i> v. <i>Other reticulation</i> vi. <i>Fire fighting water supply – N/A</i>	Lot 100 would contain the existing dwelling which is connected to electricity and telecommunication infrastructure within Wyborn Road. The lot would be provided with water supply from the Council water supply which the site is already connected to. Wastewater and stormwater associated with the existing development within Lot 100 would continue to be managed within the lot boundaries utilising the existing methods. Lot 101 (amalgamated with Lots 2 and 3) would be a vacant balance lot and would not be provided with connections to any services or provided within any onsite servicing infrastructure. A Restricted Discretionary activity status would be triggered for the lack of service connections to Lot 101.
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Section 9 Transportation

9.1.2 ii. 3.1, 9.1.2 ii. 3.7 and 9.1.2 v. Access: Local Roads <i>An existing vehicle crossing that does not change in character, scale, or intensity of use – Permitted activity</i>	Lot 100 would be provided with access from Wyborn Road from the existing vehicle crossing. The use of this crossing would not change in character, scale or intensity of use as a result of the subdivision. Therefore, the continued use of this crossing is assessed as being a Permitted activity in accordance with District Plan Rule 9.1.2(ii)3.1. A second crossing would be constructed to a complying standard within the frontage of proposed Lot 101. The location of this second crossing would be located approximately 10m east of the existing crossing formation serving Lot 100. Considering the nature of Wyborn Road, being a gravel, no exit road and noting that the subject site is at the end of the road, it would be expected that the operating speed would be 50km/hr or less in the vicinity of the subject site. Due to this, the separation distance required between the two crossings would be 15m. Consequently, the location of the second crossing does not comply with this requirement and would trigger a Restricted Discretionary activity status in accordance with 9.1.2(ii)3.7.
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Summary of Stage 1 Rule Assessment

If “Stage 1” were to occur as an independent stage, a **Restricted Discretionary activity** status would have been triggered overall due to the lack of services to be provided to the balance lot and due to the proposed crossing not complying with separation requirements

Rural Zone Subdivision Standards: Stage 2

Boundary Relocation

The subdivision activity status table confirms that boundary relocation in the Rural Zone is a Discretionary activity subject to compliance with the performance standards listed in Rule 6.3.9 which are listed below –

For subdivisions utilising the boundary relocation lot rule (Rule 6.1.7(a) the following standards shall apply:

- a) *The relocation of the common boundary between two existing directly adjoining Certificates of Title (excluding Certificates of Title created by stopped road or railway severances);*
- b) *No additional potential for development shall be created for the new lots that did not exist prior to the application for boundary relocation;*
- c) *The resultant lot size of one title has a maximum area of one hectare and a minimum area of 2,500m²*
- d) *The before and after number of Certificates of Title containing in excess of 40ha shall be at least the same;*

Any non-compliance with the above standards is to be assessed as a Non-complying activity.

“Stage 2” involves a boundary relocation between the two “lots” created through the completion of “Stage 1” to create the following:

- Lot 1 – 2500m²
- Lot 2 (amalgamated with Lots 3 and 4) – 31.7ha

The boundary relocation is proposed between two existing fee simple titles and does not create any additional development potential that did not already exist prior to the subdivision.

The resulting lot sizes comply with the performance standards.

Therefore, the boundary relocation that occurs through this stage can be completed as a Discretionary activity.

6.2.7

Development Suitability

This rule sets out the information required to demonstrate that a lot is suitable to contain the intended development.

Lot 1 will contain the existing dwelling, however, if this lot were vacant, it would be capable of containing a compliant 150m² building platform and would be free of impediments.

Lot 2 will comprise an area of 31ha and would offer multiple locations where a compliant building platform could be located that would be free of impediments.

The site is not subject to any natural hazard overlay identified by the District Plan and does not appear to otherwise be subject to any potential hazards.

Due to the above, a site suitability report is not considered necessary at the time of subdivision.

6.2.4

		It is noted that where necessary (under the Building Act 2004), site suitability reporting would be provided at the time of building consent application for any future buildings on the lot. The proposal is considered to comply with this rule.
6.2.15	Existing Buildings This rule relates to existing buildings and the requirement for them to comply with the relevant development controls in respect of the new lot boundaries.	Lot 1 will contain all existing buildings which will comply with the relevant Rural Zone development controls in respect of the new lot boundaries. Lot 2 will not contain any existing buildings.

Section 5 – Servicing Performance Standards

Servicing

This rule requires that each lot be serviced in accordance with the following:

Infrastructure and Servicing Performance Standards

5.9.1	<i>i. Stormwater shall be managed on site in accordance with the Development Manual</i> <i>ii. Wastewater – Shall be connection to Councils reticulation (where available)</i> <i>iii. Water supply – Shall be connection to Councils Reticulation (where available)</i> <i>iv. Transportation – Assess Section 9</i> <i>v. Other reticulation</i> <i>vi. Fire fighting water supply – N/A</i>	The servicing arrangements provided for “Stage 1” will be unchanged through the completion of “Stage 2”.
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Section 9 – Transportation

9.1.2(ii)	9.1.2 ii. 3.1 Access: Local Roads An existing vehicle crossing that does not change in character, scale, or intensity of use – Permitted activity	The existing access arrangements provided for through “Stage 1” will not change as a result of “Stage 2” therefore, the continued use of the access arrangements is assessed as a Permitted activity.
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Summary of Stage 2

Stage 2 of the subdivision proposal triggers a Discretionary activity status in accordance with District Plan Rule 6.2.7. Stage 2 achieves compliance with all other District Plan performance standards.

4.2 Activity status

The proposed subdivision triggers a **Non-complying activity** status due to the hypothetical stages being completed in one go which is not provided for by the District Plan.

4.3 Scope of application

This application seeks resource consent under the Matamata-Piako District Plan to undertake subdivision of the property located at 25 Wyborn Road.

If Council is of the view that resource consent is required for alternative or additional matters to those identified in Section 4 of this report, it has the discretion to grant consent to those matters as well as, or in lieu of those identified in this AEE.

Additionally, if Council is of the view that the activity status of any of the matters requiring consent is different to that described in Section 4 of this report, Council has the ability under Section 104(5) of the Act to process the application, regardless of the type of activity that the application was expressed to be for.

5. Assessment of environmental effects

In accordance with section 88(2)(b) of the Act and Clause 1(d) of Schedule 4 to the Act, this assessment of environmental effects of the proposed activity has been prepared in such detail as corresponds with the scale and significance of the effects that it may have on the environment.

- The effects that are considered relevant to this proposed include:
- Lot layout and Site Suitability
- Amenity and character
- Servicing
- Traffic

These matters are assessed in turn in the following sections.

5.1 Permitted baseline

In forming the opinion for the purposes of s95 and s104(1)(a), adverse effects on the environment can be disregarded if the Plan permits an activity with that effect.

All forms of subdivision require a resource consent to be obtained and therefore there is no permitted baseline.

5.2 Lot Layout and Site Suitability

The parent title involved in this subdivision is located within the Rural Zone in a location that is clear of identified hazards and comprises a total area of 32ha.

The proposed subdivision has been designed around the existing dwelling while also utilising the existing access and servicing arrangements that are available to the site.

The subdivision creates one additional developable lot, thereby creating one development opportunity that did not exist prior to the subdivision occurring.

As noted earlier in this report, the subject site comprises approximately 95% class 4 and 6 soils which are not considered to be highly productive soils. Due to this, the District Plan allows the 'general quality' soils rules to be utilised.

The ability to create an additional lot within the subject site is offered through the subdivision entitlement available to the parent title (due to the soil quality, area of the lot and title date) by District Plan Rule 6.1.5(b). This subdivision entitlement is utilised through "Stage 1" where an 8ha lot is created as a Controlled activity (not considering the performance standard non-compliances). Through the completion of this "stage" a new development opportunity is created on the balance lot. "Stage 2" then proposes to essentially shrink the 8ha lot created in "Stage 1" to 2500m² and consequently increase the area of the balance lot. The resultant lot sizes are consistent with those which are provided for by the District Plan. The District Plan provides for the creation of lifestyle sized lots by way of boundary relocation, where the resulting lot size of one of the lots is no less than 2500m² and no greater than 1ha. In this case, the creation of Lot 1 meets this size requirements and the balance lots (amalgamated) comprising an area of 31.7ha is considered to be a suitable sized lot to be used for typical rural practices.

Lot 1 will contain the existing dwelling and Lot 2 (amalgamated with Lots 3 and 4) is able to offer a compliant building platform which is free of yard setbacks and impediments. The subject site is not identified to be subject to any known natural hazards. Due to this, it is not expected that there will be any expectation for site suitability reporting at this time. At the time of applying for a building consent for any future development on either lot, any geotechnical requirements can be addressed through the Building Act 2004, as relevant.

In light of the above assessment, any potential adverse effects associated with the lot layout and site suitability are considered to be less than minor. For further assessment relating to fragmentation of Rural Zoned land, please refer to the assessment included in Section 8.2 of this report.

5.3 Amenity and Character Effects

Subdivision itself does not have any effects on visual amenity and character values, rather it is the development that a subdivision enables that would have an impact on these matters. In the context of this application, the creation of Lot 1 will not create any visual and amenity effects as no physical development is enabled by the subdivision. The creation of the balance lot has the potential to generate amenity and character effects as the subdivision creates a development opportunity within this lot that didn't exist prior to the subdivision occurring. The effects associated with the development opportunity created through this subdivision is assessed below.

A new development opportunity is created within the balance lot as a consequence of the creation of Lot 1 around the existing dwelling. As noted above, the existing dwelling is subdivided from the balance land through the completion of "Stage 1", which creates an 8ha lot and occurs as a Controlled activity in accordance with District Plan Rule 6.1.5(b). Due to the Controlled activity status triggered through this stage, the development opportunity which is created on the balance land is deemed to be provided for

by the District Plan. Upon the completion of “Stage 1” a dwelling could be constructed in any location within the balance lot (provided it complied with Rural Zone development controls and performance standards) as a Permitted activity. Consequently, any potential effects associated with the new development opportunity are largely anticipated to occur on a rural title of this nature.

Further to the above, the Applicant owns the properties to the east, west and north of the subject site and therefore any potential effects that may be experienced by persons associated with these adjoining properties shall be disregarded. If considering other parties located within the receiving environment effects on any party are anticipated to be less than minor for the following reasons:

- The development opportunity is originally offered as a Controlled activity by subdivision Rule 6.1.5(b), the subsequent “Stage” does not create any additional development potential;
- The new development opportunity is available to Lot 2 (amalgamated with Lots 3 and 4), being the balance lot, which comprises an area of 31.7ha which will ensure that any future development will be viewed in the context of the large rural lot that it is located within;
- Any future development within Lot 2 will be required to comply with Rural Zone development controls;
- No additional development is enabled within Lot 1.

In light of the above assessment, any potential character and amenity effects resulting from the subdivision will be less than minor.

5.4 Servicing Effects

Both proposed lots are located within the Rural Zone and therefore connections to Council’s three waters infrastructure are generally not available and onsite servicing is not always expected on vacant lots. The proposed servicing arrangements to each of the lots are detailed in Section 3 of this report.

Lot 1 will contain the existing dwelling and will retain all existing servicing arrangements which are assessed as being compliant with the Section 5.9 performance standards. It is noted that Lot 1 will be serviced with water supply from the Council network which is a historical connection that will be retained through the subdivision.

Lot 2 will be the vacant balance lot which is presently operated in conjunction with neighbouring properties which are also owned by the Applicant. Due to this, the Applicant has no current urgency to provide service connections to this lot. At the time of development, water supply as well as wastewater and stormwater disposal systems will be required and will be designed and installed through the building consent process. It has been confirmed that a wireless telecommunication service is available to the site from Netspeed as well as One (refer to Appendix 3). Due to this, a fixed line telecommunication connection is not warranted. Furthermore, Powerco have confirmed that a fixed line electricity connection would be best provided at the time of development as the lot is a large rural lot where multiple compliant building platforms are available. Pre-application correspondence with Council’s Engineer (Allan Jessep) confirmed this approach would be suitable in this instance (Appendix 4).

For the above reasons, the proposed servicing arrangements are deemed to be suitable for the lots which are to be created as a result of the subdivision consequently, any potential effects associated with servicing will be less than minor.

5.5 Traffic effects

The existing and proposed access arrangements to each lot are described in Section 3 and 4 of this report.

The existing vehicle crossing will continue to serve Lot 1 and will not change in character, scale or intensity of use as a result of the subdivision application. Due to this, the use of the crossing is assessed as a Permitted activity and no upgrade is required.

The Applicant is proposing a second crossing for proposed Lot 2, which will be located approximately 10m east of the existing crossing serving Lot 1. The crossing will be formed and constructed to a complying standard. The District Plan requires new vehicle crossings to comply with the minimum sight and separation distances contained within the Development Manual. The proposed crossing location can comply with the minimum sight distances and separation to intersection distances, however, it is unable to comply with the minimum separation distance requirements in respect of the existing vehicle crossing serving Lot 1. The Development Manual requires a minimum separation distance of 15m between crossings within a 50km/h speed environment, therefore, with an approximate separation distance of 10m, the location of this crossing will result in a 5m non-compliance.

When assessing the traffic effects associated with the crossing non-compliance it is important to consider the nature of Wyborn Road. Wyborn Road is a local road with a gravel surface and expected operating speed would be no greater than 50km/h in the location of the proposed vehicle crossing. The road narrows down even further after the proposed crossing location into a single lane gravel driveway that serves the dwelling at 28 Wyborn Road. As such, high traffic volumes are not anticipated. The traffic generated from the farming and residential activities will not exceed 250 car equivalent movements per day. Any additional movements are unlikely to have detrimental effects on the adjoining roading network or the safe and efficient use of the existing and proposed crossings in this location.

Furthermore, the crossing is located in the most practical position for accessing a building platform within Lot 2 given the gully that runs through the site. As mentioned, the vehicle crossing has compliant sightlines and adequate separation from the Wyborn Road/State Highway 26 intersection. The ROW will also be formed to meet the appropriate Development Manual Standards.

In consideration of these matters, any effects on the function, safety, and efficiency of the transport network associated with the proposed access arrangements will be less than minor.

5.6 Conclusion

Overall, any potential adverse environmental effects are assessed to be less than minor.

6. Objectives and policies

The following objectives and policies of the Matamata-Piako District Plan are relevant to this proposal.

3.3.2 - Land and Development

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| Objectives | <ol style="list-style-type: none">1) To manage all activities in a manner that maintains and enhances the district's high quality soils and to ensure that the productive capability of rural land is not compromised.3) To safeguard the life-supporting capacity of the District's high quality soils by preventing inappropriate further fragmentation of rural land titles. |
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| Policies | <ol style="list-style-type: none">1) Subdivision, use or development must minimise the coverage of good quality soils.2) To limit fragmentation of rural land by limiting opportunities for residential or rural-residential subdivision in the Rural zone to conserve the land for the use of future generations.3) To ensure that the productive potential of high quality soils in the Rural zone is retained by promoting large lot sizes that provide for a range of productive uses. |
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Comment: The above objectives and policies seek to retain good quality rural soils for productive land use through preventing inappropriate fragmentation of titles.

As noted throughout this report, the majority of the site (95%) does not contain high quality soils and due to this, the general quality subdivision provisions have been utilised. Due to this and also for the reasons discussed in section 8 of this report (NPS-HPL assessment) the subdivision is not seen to result in inappropriate fragmentation of the subject land. The resulting lot sizes are practical and well suited for their future use. For these reasons, the subdivision is deemed to be consistent with the above.

3.4.2 – Subdivision

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| Objectives | <ol style="list-style-type: none">1) To ensure that land subdivision results in allotments that are suitable for activities anticipated by the zone and that existing activities and resources in the vicinity of the site are not unreasonably compromised. |
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| Policies | <ol style="list-style-type: none">1) To ensure that each allotment has suitable natural and physical characteristics including infrastructure services for the activities anticipated by the zoning or resource consent.2) To provide for limited rural lifestyle subdivision in the rural environment that does not reduce or restrict the ability of the rural land resource to be used primarily for rural production activities. |
|-----------------|---|

Comment:	The above objectives and policies seek to ensure that when undertaking a subdivision in the Rural Zone, that the lots created do not compromise future land use activities. Both proposed lots are of a size and shape which is deemed suitable for the intended future use. The proposed lots are created from one existing title and from a subdivision entitlement which is offered by the District Plan as a Controlled activity. Due to this, the subdivision outcome is considered to align with the development outcomes sought by the District Plan. For these reasons, the subdivision is consistent with the intentions of the objectives and policies above.
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3.5.2 Amenity

Objectives	3) To ensure that the design of subdivisions and the potential future development maintains or enhances the rural character, landscape and amenity of the zone and the surrounding area.
Policies	7) To ensure that the rural landscape, character and amenity values are maintained by avoiding inappropriate adverse effects, including cumulative adverse effects, from subdivision and potential future development.
Comment	The “amenity” objectives and policies seek to ensure that the characteristics which contribute to people appreciating the amenity of a rural environment are not compromised. The subdivision will not directly result in any change to the amenity appreciated within the existing rural environment. For the reasons discussed in the amenity and character assessment in Section 5.3 of this report the subdivision, will be consistent with the expectations of the receiving rural environment. The subdivision aligns with the outcomes sought by the objectives and policies above.

Transportation

Objective	3) The avoidance, remediation or mitigation of the adverse effects of transportation.
Policies	5) To ensure that access points and intersections meet safe sightline and spacing standards for the class of road within the hierarchy and are formed to appropriate design standards. 7) To ensure that the safety and efficiency of the state highways and district road networks are not compromised by proposed subdivision and/or development and the cumulative effect of subdivision and/or development. 12) To ensure that subdivision and development takes into account the existing and proposed capacity and design of the transportation networks and that any adverse effects are avoided, remedied or mitigated.

Comment	The above objectives and policies seek to ensure that the safe and efficient operation of the adjoining road network is not compromised as a result of subdivision and development. For the reasons highlighted in the traffic assessment in Section 5.5 of this report, any adverse effects associated with the new vehicle crossing on the adjoining road network will be less than minor. The subdivision is congruous with the purpose of the objective and policies above.
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Overall, the proposed is consistent with all relevant objectives and policies of the District Plan.

7. Notification assessment

7.1 Public notification – section 95A

The matters to be considered by the consent authority when deciding whether or not to publicly notify an application are set out in Section 95A of the RMA. In October 2017, Section 95A was amended to have a four-step process to determine whether to publicly notify an application.

Step 1 – Mandatory Public Notification in certain circumstances (sections 95A (2) and (3):

Mandatory public notification is not required as the applicant does not request public notification s95A(3)(a), and the application has not been made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act s95A(3)(c).

Step 2 – Preclusion to Public Notification:

Public notification is not precluded because the activity is not subject to any rule in the District Plan that precludes public notification s95A(5)(a) and the activity is not for a controlled activity s95A(5)(b)(i), or a restricted discretionary, discretionary or non-complying activity, but only if that activity is a boundary activity s95A(5)(b)(iii).

Step 3 - Public Notification – Rule/Adverse Effects:

Public notification is not required as the application does not include an activity that is subject to any rule in the District Plan or NES that requires public notification, and in accordance with section 95D adverse effects on the environment will not be more than minor s95A(8)(a) and (b).

Step 4 – Special circumstances:

There are no special circumstances that warrant public notification under section 95A(9) because none of the circumstances of the application are exceptional or unusual.

Accordingly, it is considered that this application should be processed without public notification.

7.2 Limited notification – section 95B

Section 95B relates to limited notification of consent applications and (in summary) directs that, where notification of an application for resource consent is not required under Section 95A, the consent

authority must give limited notification of the application to any affected person. Section 95B is also a four-step process to determine whether to limited notify an application.

Step 1 – Customary Rights and Marine Title Groups, and Statutory Acknowledgements:

There are no protected customary rights groups or customary marine title groups that will be affected by the proposal, and the proposal is not on, adjacent to, or likely to affect land subject to a statutory acknowledgement s95B(2)(a) and (b) and s95B(3).

Step 2 - Preclusions to Limited Notification:

There is no preclusion to limited notification as there is no rule in the District Plan that precludes limited notification of the application s95B(6)(a) and the application is for neither a district land use consent with controlled activity status or an activity prescribed by regulations made under section 360H(1)(a)(ii), which precludes limited notification [s95B(6)(b)].

Step 3 – Limited Notification – Affected Persons:

Limited notification is not required as the effects on any person will be less than minor [s95B(8)]. Refer to the assessment of effects and conclusions in section 5 of this report.

Step 4 – Special circumstances:

There are no special circumstances that exist relating to the application that warrant limited notification to any persons who have not been excluded as affected persons by the assessment above s95B(10). There are no special circumstances that warrant limited notification under section 95B(10) because none of the circumstances of the application are exceptional or unusual.

Accordingly, it is considered that this application should be processed without limited notification.

7.3 Notification conclusion

Section 95 of the Act sets out the requirements for the Council to consider when determining whether an application for resource consent should be notified.

The assessment has found at Section 5 of this AEE that any effects on specific parties and the wider environment will be less than minor. Therefore, in accordance with the steps outlined above, notification of the proposal is not required.

8. Statutory assessment

8.1 Section 104D Assessment – Gateway Test

As the proposal is for a Non-Complying Activity the gateway test of section 104D must be fulfilled, namely that either the effects of the proposal are minor, or that the proposal is not contrary to the objectives and policies of the District Plan, before the application can be considered under to section 104B of the Act.

Under the Assessment of Adverse Effects section above the effects of the proposal have been determined to be less than minor. Taking into account the further matters relevant under section 104 of the Act, I have determined that the overall adverse effects of the proposal will be less than minor.

The objectives and policies of the District Plan that are relevant to the proposal have also been assessed above and I have determined that the proposal is not contrary to these objectives and policies. Accordingly, the proposal passes through both of the limbs of the 'gateway tests'.

8.2 Section 104 of the RMA

Section 104

In considering an application for land use consent, the consent authority must have regard to Part 2 (Purposes and Principles) of the RMA, and to the matters to be considered as set out in section 104(1). Section 104(1) states that, subject to the provisions of Part 2, a consent authority must have regard to:

- (a) any actual and potential effects on the environment of 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 matter the consent authority considers relevant and reasonably necessary to determine the application.*

In respect of Section 104(1)(a), an assessment of any actual or potential effects is included in Section 5 of this report. Ultimately, it is concluded that the resulting effects will be less than minor and acceptable.

I have considered the higher order planning documents specified at section 104(1)(b)(i) – (vi) of the Act. In particular, it is my opinion that the only NES and NPS of relevance include, the National Environmental Standard or Assessing and Managing Contaminants in Soil to Protect Human Health (NЕСS) and the National Policy Statement for Highly Productive Land (NPS-HPL) both of which are assessed below:

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

The NЕСS 2011 applies to land that currently has, or historically had, an activity or industry undertaken on it that is included in the Hazardous Activities and Industries List (HAIL). There is no known history of an activity on the HAIL list occurring on the subject site and the site is not identified on the Waikato Regional Council Selected Land Use Register (SLUR). In addition, there is nothing to suggest that previous activities and use of the site would result in the land being potentially contaminated, nor is there any new activity or use proposed by this application which could lead to potential contamination. The proposal therefore does not require consideration under the NЕСS 2011.

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

The National Policy Statement for Highly Productive Land (NPS-HPL) came into effect on 17 October 2022.

The NPS-HL seeks to protect highly productive land for use in land-based primary production, both now and for future generations. HPL is defined as being land which is zoned Rural and is classified as being Class 1-3. The subject site is located within the Rural Zone and a small portion of the site (5%) is identified as containing Class 2 soils (NZLRI) therefore a detailed assessment of the NPS-HPL is required. The relevant regulations of the NPS have been assessed below:

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 applicant 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: (N/A)*
 - 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. (N/A)*

Assessment

As noted above, approximately 5% of the site is identified as containing high quality soil (Class 2), the remainder of the subject site (95%) is identified as being made up of class 4 and 6 soils which are not considered to be highly productive. The existing dwelling and its associated curtilage are presently located on the portion of the site which is identified as being high quality. Due to this, this area, being approximately 700m² is already considered to be withdrawn from the HPL resource which leaves an area of approximately 1.4ha containing HPL. It is noted that this is located in an isolated area of the south-western corner of the subject site.

Stage 1 of the subdivision demonstrates how an 8ha lot could be created as a Controlled activity in accordance with District Plan Rule 6.1.5(b). In this case, Stage 1 would be processed without the requirement for a detailed assessment under the NPS-HPL as highly productive soils is not a matter of control which is reserved by the District Plan. Upon the completion of Stage 1, Lot 100 and a balance lot (Lot 101 amalgamated with Lots 3 and 4) will exist. I note that Stage 1 does trigger a Restricted Discretionary activity status, however, this is due to the departures sought associated with providing servicing to the balance lot and the non-compliant separation distance between the two crossings.

Stage 2 of the subdivision proposal involves a boundary relocation between Lot 100 and Lot 101 (both created through Stage 1) resulting in the creation of Lot 1 being 2500m², and Lot 2 (amalgamated with Lots 3 and 4) being 31.75ha in area. The proposed boundaries of Lot 1 are around the curtilage of the existing dwelling, incorporating the fenced residential curtilage, the effluent field and the minimum area that is required to achieve compliance with onsite effluent disposal requirements. The boundary relocation that occurs through this stage will not withdraw any HPL that is not already withdrawn as a result of the existing dwelling.

Based on the above, no HPL will be withdrawn from the subject site as a result of the subdivision over and above what is able to be withdrawn through the ability to create an 8ha small rural lot as a Controlled activity.

On this basis, it is concluded that the lots created do retain the overall productive capacity of the subject land over the long term.

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

- a) avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*
- b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.*

Assessment:

The proposal is not seen to contribute to a loss of HPL as a result of cumulative effects. Further to this, it is noted that the proposed lots are created through an existing subdivision entitlement available to parent title and via one hypothetical boundary relocations.

Reverse sensitivity effects have the potential to be generated as a result of the creation of Lot 1, as future occupiers of this lifestyle lot may complain about rural activities occurring on the surrounding rural properties. In this case, Lot 1 will be surrounded by Lot 2, being the rural balance lot as well as other larger rural blocks which aids to retain the expectation of a rural environment for any future occupiers of the lot.

As noted in this report, the subject property is operated as part of a larger dairy farming operation where the main farm infrastructure, including the effluent pond, main farm access, dairy milking shed, and any farm accessory buildings are located on a neighbouring land parcel. Due to this, the proposed lifestyle lot (Lot 1) is separated a significant distance from these activities.

The proposed Lot 1 boundaries are positioned a compliant distance from the existing dwelling which will ensure that future rural activities are located a distance that is deemed appropriate (as per the minimum required setback) from the existing dwelling. Furthermore, a consent notice can be imposed as a condition of consent which would advise future owners / occupiers of Lot 1 that they must receive the effects of the lawful agricultural activities on Rural zoned land in proximity to the said lot without complaint or request for enforcement action.

In light of the above assessment, the granting of this subdivision proposal will not contribute to the cumulative loss of HPL within the District and will not generate any reverse sensitivity effects.

In respect of Section 104(1)(b), the document that provides the relevant statutory context is the Matamata-Piako District Plan. As discussed at Section 6 above, the proposal is generally consistent with the relevant objective and policies of the District Plan.

There are no other matters that the consent authority should consider in the determination of this application.

8.3 Section 106

Section 106 of the RMA specifies certain circumstances in which consent authorities may refuse subdivision consent. It reads as follows:

Section 106

- (1) *A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—*
- (a) *there is a significant risk from natural hazards; or*
 - (c) *sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*

The subject site itself is not identified by the District Plan as being subject to any natural hazards. In terms of access, both lots will be provided with physical and legal access.

Overall, there are no outstanding matters which we are aware of which would prevent subdivision consent being granted in accordance with s106.

8.4 Resource Management Act 1991 – Part 2 Assessment

I have had regard to matters under Part 2 of the RMA when considering resource consent applications. The Matamata-Piako District Plan is a valid planning document. It has complete coverage over the proposed activities and anticipated effects. In achieving the purpose of the Act (Section 5) all persons exercising functions under it, shall recognise and provide for matters of national importance including the protection of historic heritage (Section 6), have particular regard to any other relevant matters (Section 7), and take into account the principles of the Treaty of Waitangi Section 8. Having weighed these matters, I consider that the proposal is consistent with the sustainable management purpose of the Act and Section 5 more generally.

9. Conclusion

This application seeks resource consent from Matamata-Piako District Council to undertake a subdivision to create one rural lifestyle lot and one balance lot from one existing title.

Section 5 details an assessment of effects and Section 7 outlines the key planning considerations for this assessment. These assessments conclude that there are less than minor effects and no persons will be adversely affected. The proposal is also consistent with the objectives and policies of the District Plan.

On this basis, it is considered that consent can be granted on a non-notified basis in accordance with Sections 104 and 104B.

We request the opportunity to review the draft conditions prior to the decision being issued.

Appendix 1 – Record of Title

Appendix 2 – Scheme Plan

Appendix 3 – Servicing Correspondence

Appendix 4 – MPDC Pre-Application Correspondence