

Application for SUBDIVISION Consent:

101.2023.12818, NJ and TM Manning Limited,
25 Wyborn Road, Te Aroha

1 Application Details

Council Reference	101.2023.12818
Applicant	NJ and TM Manning Limited
Property Address	25 Wyborn Road, Te Aroha
Legal Description	Part Section 5B Block V Aroha SD
Record of Title	SA188/138
Date Lodged	14 June 2023
Proposal	To create a Small Rural Lot and a rural balance. This is to be created by way of a 2-stage theoretical proposal that creates a rural lifestyle lot utilising Rule 6.1.5(b), and a Boundary Relocation using Rule 6.1.7(a).
Rules	Rule 5.9.2(v) Rule 6.1.5(b) Rule 6.1.7(a) Rule 9.1.2(ii)3.7
Application	Section 88 Resource Management Act 1991
Activity Status	Non-Complying

2 Location Map

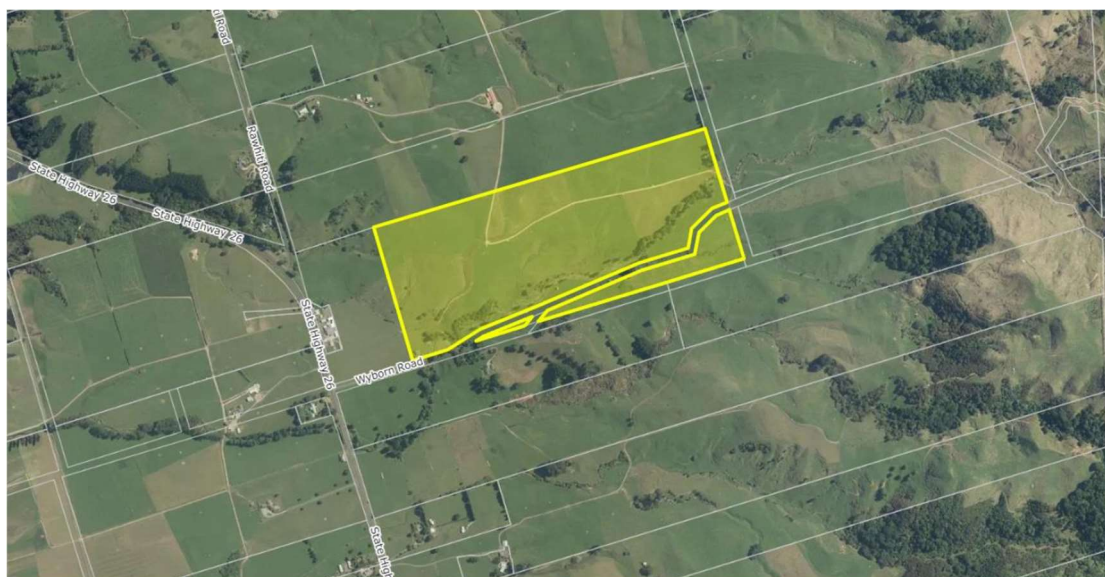


Figure 1: Aerial View of the Subject Property (Not to Scale)

3 Site and Surroundings

3.1 Overview

This report deals with an application by NJ and TM Manning Limited to undertake a subdivision on their property at 25 Wyborn Road, Te Aroha. The application has been lodged by Surveying Services Ltd on behalf of the applicants.

Identifier	Legal Description	Date	Area (ha)	No. of Dwellings
SA188/138	Part Section 5B Block V Aroha Survey District	19 February 1912	32ha	1

The following interests are registered on the title:

- 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

Conclusion:

None of these legal interests will restrict the proposal from proceeding.

- 3.2 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 Record of Title that forms the subject site are segregated by a road parcel as demonstrated in Figure 1.
- 3.3 The topography of the site is undulating, 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.
- 3.4 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.
- 3.5 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.
- 3.6 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 known hazard features. It is noted that surrounding properties are largely utilised for agricultural and horticultural purposes, however, there are several lifestyle sized properties scattered throughout the locality.
- 3.7 Figure 5 included below contains the District Plan Map in the context of the subject site.

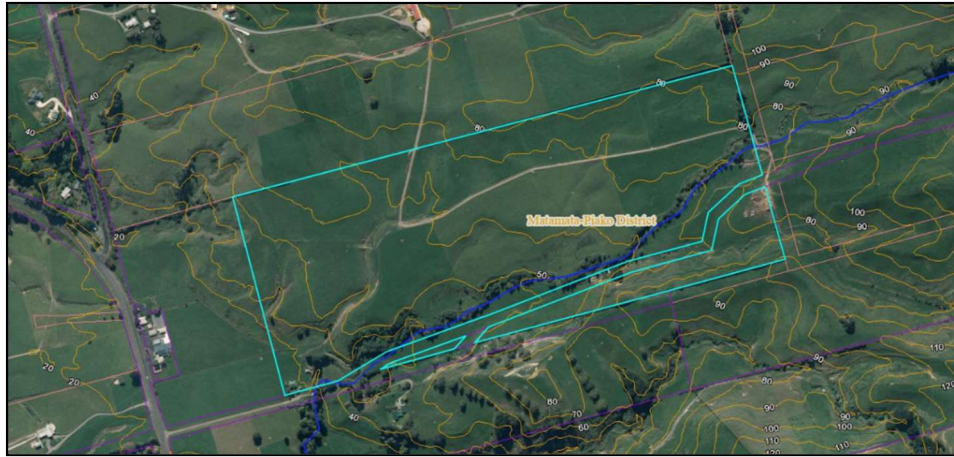


Figure 2: WRC Contour Map



Figure 3: WRC River Flooding Map

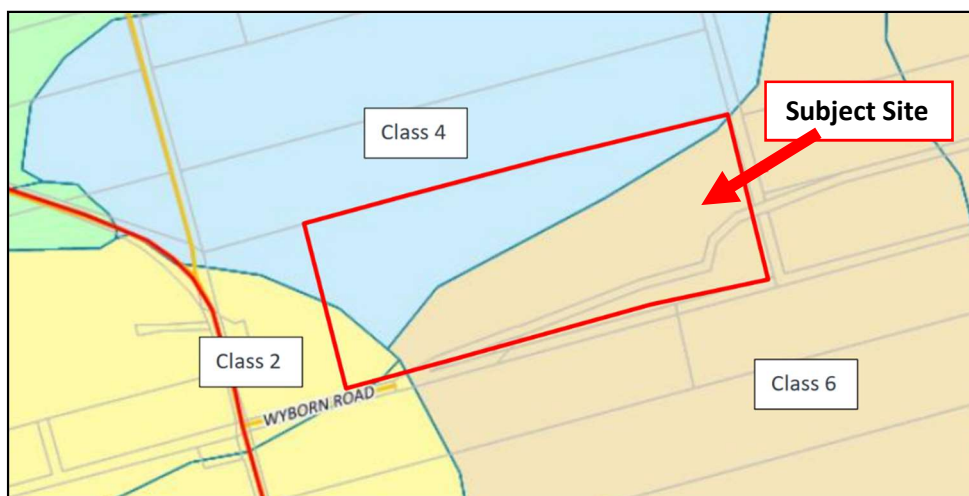


Figure 4: MPDC GIS Soil Classification Map

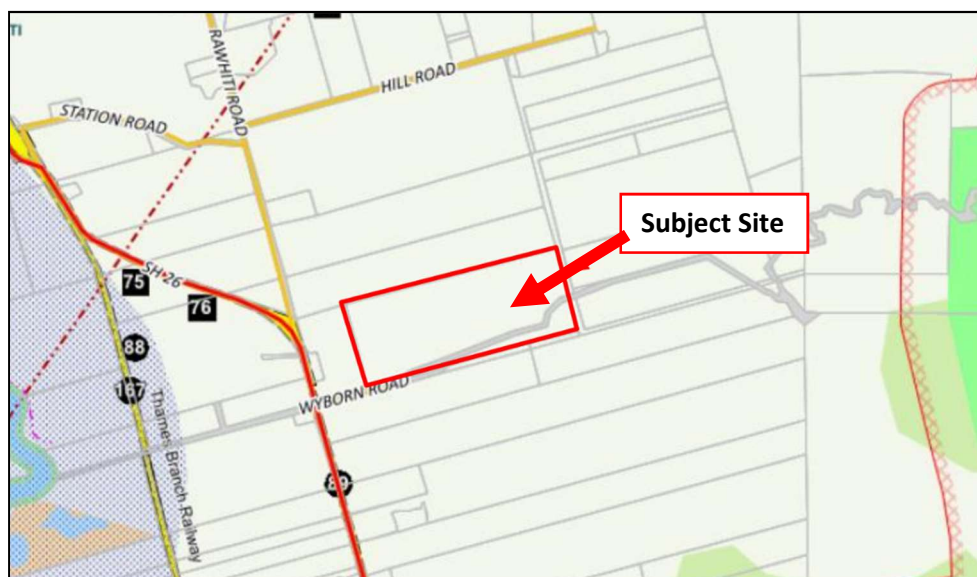


Figure 5: District Plan Map

4 Description of Proposal

- 4.1 The applicants seek resource consent for a Non-Complying Activity subdivision under the Operative Matamata-Piako District Plan (District Plan); the predominant planning document to be considered in assessing this application.
- 4.2 The subdivision is proposing to create a Small Rural Lot and a rural balance. This is to be created by way of a 2-stage theoretical proposal that creates a small rural lot utilising Rule 6.1.5(b), and a Boundary Relocation using Rule 6.1.7(a).

Stage One (Theoretical)

- 4.3 "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	SIZE	DESCRIPTION
Lot 100	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	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

Stage Two (Theoretical)

- 4.4 “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	SIZE	DESCRIPTION
Lot 1	2500m ²	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	28.75ha (31.75ha once amalgamated with Lots 3 and 4)	This lot will not contain any existing built development and the servicing and access proposed for this lot is outlined in Section 4.5 below

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.

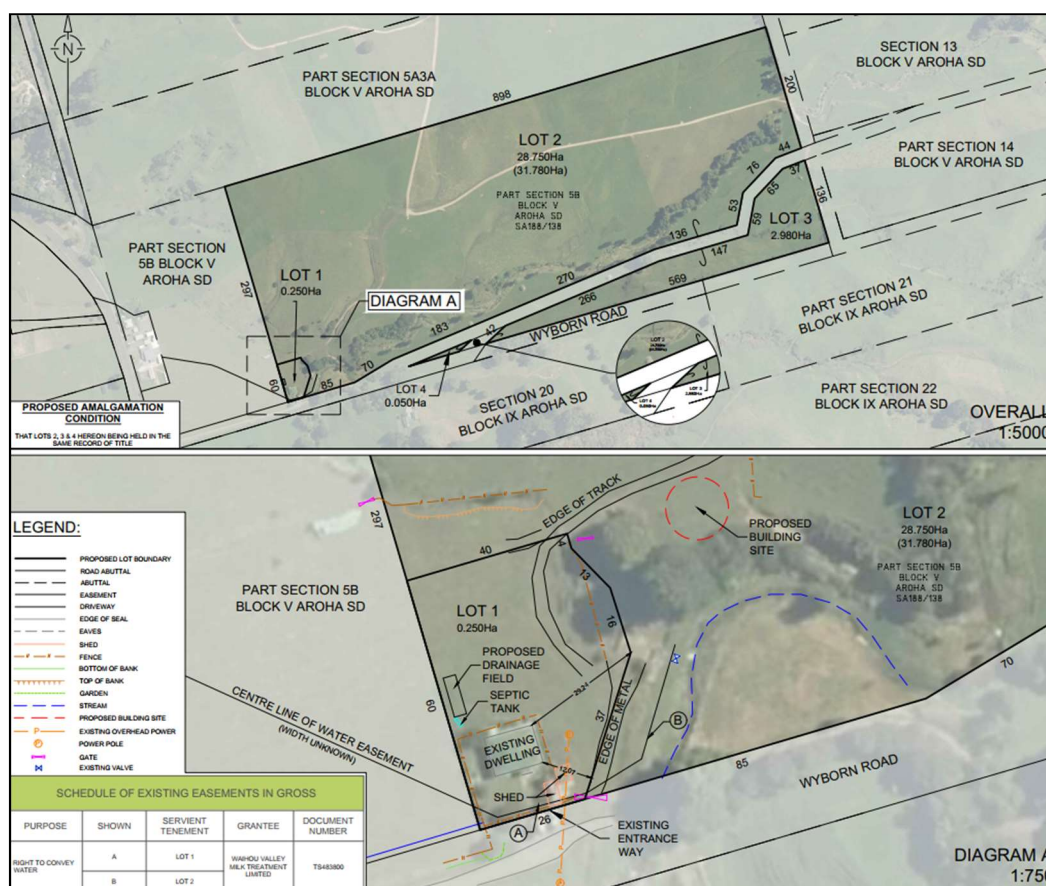


Figure 7: "Stage 2" Scheme Plan

4.5 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 domestic or stock water 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 generated from any existing structures on Lot 1 will be contained satisfactorily within the proposed lot boundaries.	Lot 2 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. A consent notice will be imposed to advise future owners of this.
Telecomms	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 of the application documents).
Access	An over width vehicle crossing will at the common road front boundary of Lot 1 and Lot 2 to provide independent vehicle access to each lot.	
Development suitability and hazard areas	The property is clear of any natural hazards identified in the DP layer of Councils GIS system. WRC contour maps show elevated areas for future development and good flow paths for land drainage.	
Consent Notices	There are no Consent Notices registered that are relevant to this application.	
Site Suitability	The scheme plan shows the building platform is located Lot 2 to the South of the site. There is an ample amount of space available for the building platform.	

5 Reasons for Consent

Rules of the Operative Matamata-Piako District Plan

- 5.1 Resource consent is required as Section 11 of the Resource Management Act 1991 (RMA) states that no person can subdivide land unless expressly allowed by a national environmental standard, a Rule in a District Plan or a resource consent.

The District Plan stipulates that the subdivision of land requires resource consent in all cases. However, the activity status of a subdivision application will depend on its ability to comply with the relevant Rules and performance standards of the District Plan. An assessment of the activity against these has been provided below.

Theoretical Stage One

- 5.2 The subdivision would involve the creation of a small rural lot and rural balance lot, which is provided for as a controlled activity under Rule 6.1.5(b) of the District Plan.

6.1.5(b) - This Rule allows for the creation of a small rural lot subject to certain criteria, which includes:

- (a) The parent title must be in existence at 4th December 2013
- (b) The small rural lot must be between 8ha and 20ha, and
- (c) The balance lot area must be 20ha or more.

Comment:

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 a total area of 24ha. This "stage" therefore meets the date and area requirements of this Rule and therefore triggers a Controlled activity status.

Stage Two

- 5.3 Stage Two involves a boundary relocation between the small rural lot and the rural balance created in Stage One, using Rule 6.1.7(a) to create a lifestyle lot.

The District Plan provides for a boundary relocation in accordance with Rule 6.1.7(a) as a discretionary activity.

6.1.7(a) – This Rule allows for the creation of a boundary relocation lot subject to certain performance standards, which includes:

- Must be a relocation of the common boundary between two existing directly adjoining Records of Title,
- No additional potential for development can be created that did not already exist,
- The resultant lot size of one title has a maximum area of one hectare and a minimum area of 2,500m².
- The before and after number of Certificates of Title containing in excess of 40ha shall be at least the same.

Comment:

“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 (had Stage One been implemented) is proposed between two 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. However, as Stage One has not been implemented, the boundary relocation that occurs through this stage must be assessed as a Non-Complying activity.

- 5.4 Fixed line telecommunications and power connections will not be provided to the resultant lots, which requires consent under rule 5.9.2(v). This is a Restricted Discretionary activity, where discretion is restricted to the effect on the resultant rural lots. 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. Netspeed and One NZ have confirmed that they are able to provide wireless coverage to service the site.

- 5.5 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.

- 5.6 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health

The proposal has been assessed under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESC). The NESC is not considered to be applicable in this instance.

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. Accordingly, the NES does not apply to this proposal.

Further to the above in which no identified history of activities on the HAIL list was flagged through the SLUR; the owner of the property has been consulted with regarding any information they have regarding the land use. They have confirmed that there is no record of previous activities on the site that would result in the land being potentially contaminated. I am agreeable with this assessment.

5.7 Overall Summary: Activity Status

Typically, a subdivision proposal that meets the general performance standards carries controlled status unless a Rule elsewhere in the District Plan assigns it an alternative activity status.

The creation of a small rural lot carries a controlled status under Rule 6.1.5(b). The proposal is not able to comply with all of the boundary relocation (6.1.7(a)) standards as the common boundaries between the Lots would not be between two 'existing' directly adjoining Certificates of Titles. This carries non-complying status.

As the most restrictive activity status shall be applied to an application for Resource Consent in accordance with the bundling principle, the application overall will be assessed as a Non-Complying Activity.

6 Notification Assessment

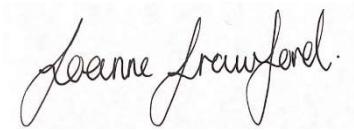
- 6.1 On receiving a resource consent application, the consent authority has 20 working days to determine the notification pathway of the application and notify it if it chooses to do so. Sections 95A through 95E of the RMA provide criteria that enable the consenting authority to determine the notification status of an application. Sections 95A and 95B contain a mandatory four-step process for determining public notification and limited notification respectively.
- 6.2 Stepping through Section 95A, public notification of the application is not mandatory, but neither is it precluded. If the activity is subject to a rule or national environmental standard (NES) that requires public notification, or the consent authority considers that the activity would generate adverse effects that are more than minor, then public notification is required in these circumstances. Public notification is not required by a rule or NES, and the proposal is unlikely to generate significant adverse effects. Lastly, the consent authority is still able to notify the application publicly if it considers special circumstances exist. It is determined that none would, therefore public notification is not an appropriate pathway for this application.
- 6.3 Under steps 1 and 2 of Section 95B, limited notification is required in some circumstances and precluded in others. Neither step would apply to this application. Step 3 requires the consent authority to determine whether any persons would be affected by the activity and notify those persons. Given that the subdivision would result in allotments that are suitable for activities anticipated by the zone, no persons are considered affected. Further justification for this is provided in the assessment under Section 104 of the RMA. Again, the consent authority is still able to notify the application if it considers special circumstances exist. It is determined that none would, and therefore it is recommended that the application proceed without notification.

7 Section 95 Recommendation

That pursuant to Sections 95A-95E of the Act, this application proceeds on a non-notified basis because:

- 1 Notification of the application is not mandatory.
- 2 The adverse effects of the activity on the wider and immediate environment would be less than minor.
- 3 There are no special circumstances that warrant public or limited notification.

Report prepared for submission by:



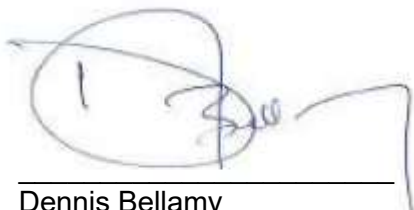
Joanne Crawford
Consultant Consents Planner

Report reviewed by:



Sarah Osborne
Resource Consents – Team Leader

This notification decision has been granted under delegation from the Matamata-Piako District Council, pursuant to section 34A of the Resource Management Act 1991, and in accordance with Council Resolution 7.8 dated 14 December 2022 by:



Dennis Bellamy
Group Manager Community Development

Date: 22/08/2023

101.2023.12818 - Consideration Assessment

Non-Complying Activity

8 Processing Details

Section 37 Section 37 allows the consent authority to extend a time period specified in the RMA subject to certain requirements. Under Section 37A (4), the consent authority may extend a time period in accordance with Section 37 only if the period does not exceed twice the maximum period specified in the RMA, and either, special circumstances apply or, the applicant agrees to the extension. In this case, the processing has been extended to twice the maximum due to the level development occurring in the district. This is considered to be a “special circumstance”.

9 Statutory Context

- 9.1 Section 104 of the Act sets out those matters that, subject to Part 2, a consent authority must have regard to when considering an application for resource consent. These matters include any actual or potential effects on the environment of allowing the activity, any offsets proposed or agreed to by the applicant, any relevant provisions of several national and local planning documents, and any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- 9.2 For a non-complying activity pursuant to Section 104B of the Act, after considering an application for resource consent, a consent authority may grant or refuse the application, and if it grants the application, may impose conditions under Sections 220 and 108 of the Act. In addition, pursuant to Section 104D, the Council must consider the ‘threshold tests’ for non-complying activities. Therefore, the Council may only grant a consent for a non-complying activity if it is satisfied that either:
- a) The adverse effects of the activity on the environment will be minor; or,
 - b) The application is for an activity that will not be contrary to the objectives and policies of the relevant plan.
- 9.3 Looking at the assessment of effects under Section 10 below, it is concluded that the proposal would pass through the first threshold defined by Section 104D. The Council is therefore not precluded from granting the consent if it considers it appropriate to do so.

10 Actual or Potential Effects on the Environment

- 10.1 In considering a resource consent application, Section 104 of the RMA directs the consent authority to have regard to the actual and potential effects of an activity. This differs from the assessment under Sections 95A and 95B, where the consent authority is only determining the extent of the adverse effects for the purposes of notification.
- 10.2 In addition to the subdivision performance standards under Section 6.2, the District Plan also sets out specific assessment matters for rural subdivision under Section 6.6. Given that Stage One is a ‘theoretical stage’ where no lots will land in situ, I am concentrating my assessment of effects on Stage Two of the subdivision, as follows.

Amenity

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 did not 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 as written approval is implicit. 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 31.75ha 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.

Overall, due to the reasons listed above, it is considered the subdivision would not result in any amenity effects that are minor or more than minor.

Productive capability

The District Plan asks the decision maker to look at the effects a subdivision may have on the productive capacity of the soil resource and the degree to which, in the potential area of development it has already been compromised. Rural lifestyle lots are provided for under the District Plan in certain circumstances and are often removed from productive farming use.

No Class 1, 2 or 3 soils under the Land Use Capability Index 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. This is discussed further in Section 12 below.

Overall, it is considered that the proposed subdivision would not generate any adverse effects on productive capability that are minor or more than minor.

Reverse Sensitivity

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 2 will partially surround Lot 1, 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 an appropriate distance (as per the minimum required setback) from the existing dwelling. Furthermore, a consent notice is recommended 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.

There is an industrial activity, New Zealand Meat Processors Limited at 5264 State Highway 26, Te Aroha, located approximately 165 metres from the boundary of the subject title, and 250 metres from the proposed building platform for Lot 2. This involves the processing of up to 15,000 chickens per day and game meat. The activity is approximately 200 metres from the existing dwelling upon Lot 1. The proposal will result in an additional development opportunity Lot 2, therefore reverse sensitivity effects need to be considered. Reverse sensitivity effects also need to be considered in relation to the existing dwelling, as this would have previously been associated with a rural use, however it will now contain rural residential occupants (if sold independently).

The effects of interest in relation to that activity and the subject property are odour (from the activity and irrigation) and noise. The noise condition applied by the Planner was that noise is to comply with at the notional boundary of any dwelling. The dwelling within Lot 1 is situated closer to the activity than the proposed building platform within Lot 2. Therefore, any noise created is anticipated to comply at this location. With regard to odour, any irrigation would be on the Rigtters property on the opposite side of the State Highway, further away than the activity itself. Any odour generally created by the activity is required to comply with conditions 26 and 27, where there shall be no objectionable or offensive odour (or dust) as a result of the processing activity, beyond the boundary of the property. I also note that there is one other property in between the activity and the subject site. On this basis, the reverse sensitivity effects on the rural activities occurring within any of the directly adjoining properties are considered to be less than minor.

Traffic and Access

An over width vehicle crossing will be constructed at the common road front boundary of Lot 1 and Lot 2 to provide independent vehicle access to each lot.

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. High traffic volumes are not anticipated. Any additional movements are

unlikely to have detrimental effects on the adjoining roading network on the safe and efficient use of the existing and proposed crossings in this location.

The vehicle crossing has compliant sightlines and adequate separation from the Wyborn Road/State Highway 26 intersection. The access will also be formed to meet the appropriate Development Manual Standards. Councils Engineer has reviewed this application and has not raised any concerns surrounding the roading/access situation. It is noted that any effects on Waka Kotahi/NZTA will be less than minor.

Overall, it is considered that the proposed subdivision would not generate any adverse effects on traffic that are minor or more than minor.

Servicing

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 – However it is noted that the existing dwelling does have a Council water supply. The proposed servicing arrangements to each of the lots are detailed in Section 4 of this report.

It is concluded that the servicing of the proposed lots would largely meet the expectations of the District Plan and would not result in adverse effects on the environment that are minor or more than minor.

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 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.

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.

As stated by Councils Rural Engineer 'The property is clear of any natural hazards identified in the DP layer of Councils GIS system. WRC contour maps show elevated areas for future development and good flow paths for land drainage. I am satisfied that several suitably elevated and complying 10m x 15m building platform can be provided on Lot 2, one of which is shown on the scheme plan. The requirement for a Development Suitability Report pursuant to Section 6.2.4 of the DP is not considered necessary in this instance'.

Overall, given the reasons above, it is considered that the allotments would be suitable for the activities anticipated in the Rural Zone and the potential adverse effects as a result of the proposal would be less than minor.

Summary

Having regard to the above assessment, it is concluded that the subdivision would not generate any adverse effects on the wider and immediate environment that are minor or more than minor.

- 10.3 In order to avoid, remedy or mitigate any adverse effects of the proposal, and to ensure its consistency with the Rules and performance standards of the District Plan, conditions of consent relating to the following matters are recommended:
- **General Accordance Condition** – in order to ensure the effects considered within this application are consistent with those that result, a condition shall require the proposal to be given effect to in accordance with the information and details provided in support of the application.
 - **Engineering Conditions** – to ensure that all engineering works are carried out in accordance with Council’s Engineering Standards and the standards of the appropriate utility providers.
 - **Development Contributions Condition** - to ensure the development contribution in respect of the creation of one additional development opportunity shall be paid.
 - **Reverse Sensitivity Condition** - in order to inform any future owners of the rural lifestyle lot that it is located within an existing rural environment and that they must receive the effects of any lawfully established and operating rural activities on the adjoining rural zoned land without complaint or request for enforcement action.
- 10.4 Overall, with the imposition of the above conditions, the effects of the activity beyond the property’s boundary are considered to be less than minor and are therefore minimal.

11 Relevant Provisions of the Operative District Plan

- 11.1 Section 104 of the RMA requires the consent authority to have regard to the relevant provisions of a District Plan. The term “provisions” is wide ranging and includes objectives, policies, rules, and performance standards as well as extending into the explanation of policies and methods of implementation. The objectives and policies of relevance to this application generally relate to subdivision.
- 11.2 For subdivision, the objectives of the District Plan look to ensure that 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. The policies that enable these objectives ensure that each allotment has suitable natural and physical characteristics including infrastructure services for the activities anticipated by the zoning or resource consent. As previously noted, the servicing of the proposed lots would largely meet the expectations of the District Plan, the lifestyle lot would be of a suitable size for residential and lifestyle use, and the balance area would be large enough to maintain the productive use of the farming operation. Therefore, the proposal is considered to be consistent with the relevant objectives and policies of the District Plan.

12 Relevant Provisions of National and Regional Policy Statements

National Policy Statement for Highly Productive Land

- 12.1 The National Policy Statement for Highly Productive Land (NPS) came into effect on Monday 17 October 2022 and was created as a high-level document to provide direction to local authorities (both territorial and regional) to significantly improve the way in which highly productive land is managed. The National Policy Statement for Highly Productive Land (NPS: HPL) 2022 is applicable to the subject site as it is zoned Rural and comprises land identified as Land Use Capability Class 1, 2 or 3.

The NPS: HPL gives a list of matters that local authorities must do to give effect to these objectives and policies. The Objectives and Policies can be found within Part 2 of the National Policy Statement.

Comment:

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 in an isolated area of the southwestern 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.

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 because of the existing dwelling and this curtilage. Based on the above, no HPL will be withdrawn from the subject site because 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 because 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 because 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 partially 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.

Considering 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.

To conclude, the proposal is consistent with Section 3.8 or 3.9 of the NPS HPL.

13 Other Matters

District Plan Integrity and Precedent

- 13.1 A precedent effect is a generally recognised principle and established in case law that all applications for resource consent should be assessed on their own individual merits. I accept this principle and I also accept that we cannot make any assumptions about what may happen in the future.
- 13.2 The Plan recognises the natural and physical environmental values and attributes of the district as well as the need to manage growth and address the sometimes-conflicting outcomes that such growth imposes on this environment. This includes impacts on the character and amenity of localities. There is also a need to recognise the importance of activities that rely on these resources and their contribution to the well-being of the district and region and the potential for those activities to be curtailed or restricted by residential and other sensitive activities occurring in inappropriate locations.
- 13.3 The public relies on the District Plan to provide guidance on how development proposals will be assessed. The first focus for the public is more likely to be looking at the proposal against the relevant District Plan rules. Proposals which closely comply with the District Plan rules are likely to be perceived by the public as to be granted, while those that significantly depart from the District Plan rules are likely to be perceived by the public as to be declined.
- 13.4 In this instance, the proposal will not create a precedent due to the fact that what is proposed, a theoretical two stage subdivision, is common practice and widely accepted.

14 Part 2 Matters

- 14.1 The overarching intent of the purpose and principles of the RMA has been taken into consideration during the assessment of this application. Having regard to the intensity, scale and location of the proposal, no apparent conflicts have been identified with the purpose and principles of the Act.

15 Section 106 – Consent Authority May Refuse Subdivision Consent in Certain Circumstances

- 15.1 Sufficient provision has been made for legal and physical access to each allotment created by the subdivision.

To meet section 106 (1)(a), the applicant has provided a risk assessment of natural hazards identified for the site.

This assessment provides a combined assessment of:

- (a) The likelihood of natural hazards occurring (whether individually or in combination) and
- (b) The material damage to land in respect of which the consent is sought, other land, or structures that would result from natural hazards; and
- (c) Any likely subsequent use of the land in respect of which the consent that is sought would accelerate, worsen, or result in material damage of the kind referred to in (b) above.

- 15.2 Despite the proposal creating one additional development right. Councils Engineer has reviewed this application and has not raised any concerns regarding natural hazards, in particular is satisfied with the location of the potential additional building platform. Therefore, there is no reason to decline this application under section 106 of the RMA.

16 Conclusion and Recommendation

- 16.1 Having considered the application against the relevant provisions of the Act, it is recommended that this application be granted, subject to the conditions identified in Section 10 of this report that will avoid, remedy, and mitigate any adverse effects of the activity on the environment.

The reasons for this recommendation are as follows:

- 1 Any actual or potential effects on the environment are considered to be less than minor, and capable of mitigation through the imposition of appropriate conditions.
- 2 The proposal is considered consistent with the objectives and policies of the Operative District Plan.
- 3 The proposal would be consistent with Part 2 of the Resource Management Act 1991.

Notice of Decision

Subdivision Consent: 101.2023.12818

Application

Application for Resource Consent by NJ and TM Manning Limited at 25 Wyborn Road, Te Aroha being Part Section 5B Block V Aroha SD undertake a subdivision to create a Small Rural Lot and a rural balance. This is to be created by way of a 2-stage theoretical proposal that creates a small rural lot utilising Rule 6.1.5(b), and a Boundary Relocation using Rule 5.9.2(v) Rule 6.1.5(b) Rule 6.1.7(a) and Rule 9.1.2(ii)3.7 with other access and services non compliances too.

Decision

Pursuant to Sections 104, 104B, 104D 108 and 220 of the Resource Management Act 1991 Council grants, subject to the conditions below, subdivision consent to NJ and TM Manning Limited at 25 Wyborn Road, Te Aroha being Part Section 5B Block V Aroha SD undertake a subdivision to create a Small Rural Lot and a rural balance. This is to be created by way of a 2-stage theoretical proposal that creates a small rural lot utilising Rule 6.1.5(b), and a Boundary Relocation using Rule 5.9.2(v) Rule 6.1.5(b) Rule 6.1.7(a) and Rule 9.1.2(ii)3.7 with other access and services non compliances too.

Pursuant to Section 113 of the Act the reasons for the decision are:

- 1 Any actual or potential effects on the environment are considered to be less than minor and capable of mitigation through the imposition of appropriate conditions.
- 2 The proposal is considered consistent with the objectives and policies of the Operative District Plan.
- 3 The proposal would be consistent with Part 2 of the Resource Management Act 1991.

Conditions

In General Accordance

1. That the subdivision shall proceed in general accordance with the scheme plan titled "*Scheme Plan Stage 1*", drawing number 08829-240, reference number A3, dated 24 May 2023, Version 1 and "*Final Scheme Plan Stage 1*", drawing number 08829-220, reference number A3, dated 24 May 2023, Version 1 and except as amended by the conditions below.
2. That prior to any subdivision design and development, a written statement must be provided for approval to Council, appointing a representative experienced in design, development, and construction work. All discussions and correspondence relating to subdivision, design and development matters will be undertaken with Council staff **only** through this nominated representative.

Reverse Sensitivity

3. That a Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the computer freehold register of Lot 1 to advise owners that the said lot is located in a working rural environment and that the owners and occupiers must receive any effects of neighbouring lawfully established and operating rural activities without complaint or request for enforcement action. Owners and occupiers of the said lot shall not participate in any legal or other action in opposition to lawfully established and operating rural activities on rural zoned land in proximity to the said lot.

Roading

4. That the consent holder shall submit to Council's Consents Engineer (consentengineers@mpdc.govt.nz) for comment and approval, Engineering Design Plans (Plans) for the construction of a new combined entrance to provide independent vehicle access to Lot 1 and Lot 2. As a minimum, the Plans must show:
 - The vehicle entrance for Lot 2 needs to be generally designed to a minimum of an Intermediate Vehicle Entrance - Rural Zone - MPDC DG 307(b) as contained within the MPDC Development Manual.
 - The entrance finished to a metaled surface.
 - Gates, if required, setback no less than 12 metres from the edge of the existing road formation and hung so that they are only able to swing in towards the property.

Advice Note: *A turning splay to the east does not need to be provided due the entrance being located at the end of the formed road.*

Advice Note: *An entrance designed in accordance with Condition 4 will have a width at the edge of the road carriageway of no less than 15 metres and a formation width of no less than 4.0 metres within Lot 1 and 4.0 metres within Lot 2.*

5. That the entrance shall be constructed in accordance with the Council approved Engineering Design Plans.
6. That prior to undertaking any work within either the formed or unformed road corridor, the Consent Holder shall submit a Corridor Access Request (CAR) that includes a Traffic Management Plan (TMP) through beforeudig.co.nz which has been prepared by a qualified Temporary Traffic Management Planner (TTMP). No works must be undertaken within the road reserve until such time as the CAR is approved by Council in writing.
7. That a Consent Notice (pursuant to Section 221 of the Resource Management Act 1991) must be entered on the computer freehold register for Lot 2 to advise future owners that at the time of subdivision, the said lot was provided with a vehicle that was constructed generally in accordance with an Intermediate Vehicle Entrance – Rural Zone (MPDC DG 307(b) and that any activity undertaken on Lot 2 in the future requiring regular servicing (more than one vehicle trip per week) by Heavy Trailer and Vehicle Combination vehicles (as defined by Waka Kotahi – NZTA) may trigger the requirement for additional upgrading of the entrance up to a Large Vehicle Entrance - Rural Zone (MPDC DG307c) standard and road widening opposite the entrance in accordance with Section 3.12.3 of the MPDC Development Manual.

Advice Note: *Any future development on Lot 2 may trigger the requirement for additional upgrading of the entrance up to and including a Large Vehicle Entrance - Rural Zone (MPDC DG307c) standard plus road widening as per Section 3.12.3 of the*

Matamata-Piako Development Manual. The consent holder may wish to consider upgrading the entrance to the higher standard at this time if their intention is to undertake further development on Lot 2 that has the potential to change the character, scale or intensity of use of the entrance.

Advice Note: Rural Address Property Identification (RAPID) numbers are determined based on a distance measured from a pre-determined point which is normally an intersection of roads. If your consent conditions require you to close an existing vehicle entrance or create a new vehicle entrance the RAPID number is likely to change. Further, if an additional dwelling or community building or commercial site is to be accessed from an existing entrance, the original RAPID number at that entrance may be required to have a letter suffix added e.g. 75 becomes 75A and 75B. Additionally, if a new road is formed, a new road name will be assigned which means your RAPID number will change. Please note that a new Rapid Number will only be issued upon the issue of a Building Consent for a new dwelling or community building or commercial site.

Water

8. That prior to the issue of a certificate pursuant to Section 223 of the Resource management Act 1991, **either** an independent and operational roof catchment, storage and delivery potable water supply system must be established within Lot 1 **and** the storage capacity of the water tank/s must be at least 25,000 litres and the catchment shall comprise of a minimum of the entire area of the roof area of the dwelling **and** a Consent Notice (pursuant to Section 221 of the Resource Management Act 1991) must be entered on the computer freehold register for Lot 1 to advise future owners that at the time of subdivision, the said lot was not provided with a water supply suitable for stock purposes **or** the existing water supply connection to the Council's Urban Supply Main that will serve Lot 1 shall be provided with a high hazard, above ground and testable backflow prevention device and water meter installed by a Council approved installer in accordance with Councils backflow prevention requirements (<https://www.mpdc.govt.nz/water/backflow-prevention>) **and** the backflow device shall be adequately housed or covered to protect the device from damage by stock or vehicles **and** a current Test Certificate for the device shall be provided **and** as-built plans of the connection and the supply lines shall be provided **and** if the as-built plans show that the said connection or supply lines are located within Part Section 5B Block V Aroha Survey District (SA1A/1061), suitable easements Burdening SA1A/1061 and Benefitting Lot 1 shall be provided in a Memorandum of Easements.
9. That any existing water supply lines crossing the common Lot 1 / Lot 2 boundaries must be permanently disconnected and a statement to this effect must be provided to Council by the consent holder.
10. That a Consent Notice (pursuant to Section 221 of the Resource Management Act 1991) must be entered on the computer freehold register for Lot 2 to advise future owners that at the time of subdivision, the said lot was a vacant title that was not provided with a water supply for either domestic or stock purposes.

Advice Note: The New Zealand Fire Service - Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 provides guidance to developers and property owners on establishing and accessing a suitable water supply for firefighting purposes in rural areas without a suitable reticulated water supply. Consideration should be given to establishing water storage for firefighting purposes in accordance with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice (SNZ PAS 4509:2008).

Sewage

11. That a location diagram of the septic tank and effluent drainage system serving the dwelling on Lot 1 must be provided to Council to confirm that the sewage system is contained wholly within the boundaries of the said lot. The plan must be prepared by a licensed cadastral surveyor and show the separation distances from the lot boundaries. Should the drainage field lie outside the said lot boundaries then the drainage field must be relocated within the site and upgraded to comply with the requirements of the Waikato Regional Plan permitted activity Rule for the discharge of domestic sewage from existing on-site systems. Upon installation the Owner must provide to Council a producer statement from the system installer certifying the sewage system has been installed in accordance with the Waikato Regional Plan requirements.

Advice Note: Building Consent may be required in the event that the septic tank and effluent drainage system is upgraded and/or relocated.

Electricity

12. That **either**, an electricity connection must be provided to Lot 2 and written evidence must be submitted to Council from the supply authority which confirms an electricity connection has been provided to the said lot and that the supply authority has no further requirements over and above the standard connection requirements, **or** a Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the computer freehold register of Lot 2 advising that an electricity connection was not provided to the said lot at the time of subdivision as per the Powerco email dated 3 February 2023 submitted with the application documents. Should reticulated electricity services be required in future, these will need to be obtained via a new electricity connection to the network installed at a cost in all matters to the owner of the property at the time the connection is applied for.

Telecommunications

13. That **either** a telecommunication connection must be provided to Lot 2 and written evidence must be submitted to Council from the supply authority which confirms a telecommunication connection has been provided to the said lot and that the supply authority has no further requirements over and above the standard connection requirements, **or** a Consent Notice pursuant to Section 221 of the Resource Management Act 1991 shall be registered on the computer freehold register of Lot 2 advising that a telecommunication connection was not provided to the lot at the time of subdivision and that should telecommunication services be required thereafter, these will need to be obtained either via an alternative service (potential service providers are Netspeed and One NZ as demonstrated in documents attached to this Consent Notice) or via a copper or fibre telecommunications connection installed at a cost in all matters to the owner at the time that the connection is applied for.

Legal

14. That prior to requesting approval under Section 223 of the Resource Management Act 1991, the consent holder must provide to Council a written statement from a Licensed Cadastral Surveyor, accompanied by any necessary evidence, to the effect that all services are confined to their respective lots or provision has been made for suitable easements to be granted and reserved in the Land Transfer Plan where appropriate.

Amalgamation

15 That Lots 2, 3 and 4 hereon be held in the same record of title (CSN Request 1859777).

Development Contributions

16 That a development contribution for Reserves in respect of the creation of one additional development opportunity on the site shall be paid (See attached schedule).

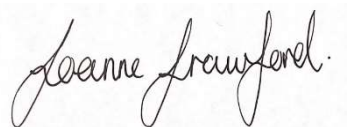
Fees and Charges

17 That the charges set out in accordance with Section 36 of the Resource Management Act 1991 shall be paid to Council for the carrying out of its functions in relation to the administration of this resource consent.

Advice Note - Local Government Act 2002

That pursuant to Section 198 of the Local Government Act 2002, development contributions for Rounding in accordance with Council's Development Contribution Policy be paid in respect of the creation of one additional development opportunity on Lot 2 (see attached schedule).

Report prepared for submission by:



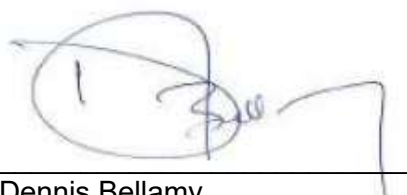
Joanne Crawford
Consultant Consents Planner

Report reviewed by:



Sarah Osborne
Resource Consents – Team Leader

This consent has been granted under delegation from the Matamata-Piako District Council, pursuant to section 34A of the Resource Management Act 1991, and in accordance with Council Resolution 7.8 dated 14 December 2022 by:



Dennis Bellamy
Group Manager Community Development

Date: 22/08/2023

Matamata-Piako District Council

Development Contribution

Assessment Notice

101.2023.12818 DD – Mrs Theresa Manning

25 Wyborn Road RD 2 Te Aroha



PLEASE NOTE

This assessment is indicative only, based on information received as at 19 June 2023

This assessment is based on the 2021-2031 LTP Development Contributions Policy (DCP) and the Operative District Plan.

As per the policy, if the amount assessed is not paid in the year it is assessed, then the policy as it stands on the 1 July each subsequent year it remains unpaid will be charged. Please contact Council prior to payment to ensure the latest figures for your consent have been supplied.

Should any of the information provided in the application be altered and/or amended by Council or the applicant after the 06 June 2023 this assessment may be reassessed to take into account those alterations and/or amendments.

Description:

Proposed creation of 2 Household Equivalent Unit's (HEU's) within the Rural zone, Te Aroha

Rural

Assessment based on creation of 1 additional Te Aroha Rural HEU's

Development Contributions – LTP 2021-2031

Activity	Total HEU's	Credit HEU's	Extra HEU's	Value per	Total incl. GST
Water					
Wastewater					
Stormwater					
Roading	2	1	1	\$1178.40	\$1178.40
Development Contribution - District Plan					
	2	1	1	\$1536.31	\$1536.31
Total to be paid			GST inclusive		<u>\$2,714.71</u>

Objection to or reconsideration of Development Contributions

Under the Local Government Act 2002 (Act) you can object or request reconsideration of any development contributions levied by Council. The Act states objections and requests for reconsiderations must be lodged and resolved in accordance with the procedure set out in the Council's Development Contributions Policy (Clause 8.2 and 8.2A).

To contest development contributions you can:

- apply for reconsideration
- lodge an objection

Request for Reconsideration

Your request must be made in writing within 10 working days of receiving the notice of development contributions from Council (Section 199A of the Act).

You can request reconsideration of Development Contributions if you believe:

- The development contribution was incorrectly calculated or assessed under the Council's development contributions policy; or
- The Council incorrectly applied its development contributions policy; or
- The information recorded or used to assess the Development Contribution was incomplete or contained errors.

Your request for reconsideration will be assessed by Council and a written notice of the outcome will be sent within 15 working days of the date we receive all relevant information. Once the decision has been made by Council you can lodge an objection if you wish. You cannot apply for a request for reconsideration if you have already applied for an objection.

Request for an Objection

An objection must be lodged within 15 working days from the date you receive the development contribution notice from Council or 15 working days from when you receive your notice of reconsideration outcome (Clause 1, Schedule 13A of the Act).

The notice of objection must:

- be in writing, and
- set out the grounds and reasons for the objection, and
- state the relief sought, and
- state whether you wish to be heard on the objection.

Objections are considered by independent commissioners at a hearing and can only be made on the grounds specified in the Act. The content of a development contributions policy cannot be challenged. The Act specifies we must use commissioners appointed by the Ministry.

A hearing may not be needed if:

- you indicate that you do not wish to be heard or
- otherwise agree that no hearing is required and
- the commissioner(s) hearing and deciding the objection also need(s) to be satisfied that they are able to determine the objection without a hearing.

If a hearing is held the Development Contributions Commissioners must fix the date, time and place of the hearing. Notice of the hearing must then be served on the Council and the objector at least 10 working days before the date the hearing begins. Council will have to recover costs involved relating to the hearing. These fees are available on our website as part of the fees and charges.

If you are the agent acting on behalf of your client, it is important to advise them of their right to dispute development contributions immediately due to the limited timeframes.

If you require further information regarding reconsiderations and/or objections see the Development Contribution Policy, Clause 8.2 and 8.2A at www.mpd.govt.nz/building or contact us on 07 884 0060.