

Before Independent Resource
Management Hearings Commissioner
Lindsay Daysh appointed by Masterton
District Council

In the matter of

A resource consent application
pursuant to section 88 of the Resource
Management Act 1991

By

G. Beatson

To

Masterton District Council (Consent
Authority)

Application for Subdivision Consent to create 2 allotments at 9 Milford Downs, Masterton

Section 42A Report
Prepared by Honor Clark
Consultant Planner
For Masterton District Council



INTRODUCTION

- [1] My name is Honor Clark, Consultant Planner for the Masterton District Council (MDC or Council). I hold a Bachelor of Resource and Environmental Planning with Honours from Massey University. I have 27 years' experience as a Resource Management Planner, formally working at Dunedin and Wellington City Council's, Tonkin and Taylor Environmental Consultancy, and for the past 15 years as a Consultant Planner, providing a variety of resource management related services to local bodies and private clients. I regularly provide planning expertise and assistance to MDC.
- [2] Under section 42A (1AA) of the Resource Management Act (RMA) a local authority may commission a consultant to prepare a report before a hearing on any matter described in section 39(1) of the RMA, including an application for resource consent.
- [3] This section 42A RMA report provides background information and a recommendation on the resource consent application made by G (Garth) Beatson for subdivision consent to create 2 allotments each of 5000m² at 9 Milford Downs, Masterton. The application also includes a permitted boundary activity approval for the existing house on proposed Lot 1 within the 25m dwelling setback standard against the proposed internal boundary.
- [4] This report adopts the information provided in the application, the relevant parts of which will be referred to where appropriate, in accordance with section 42A(1B)(b) of the RMA.
- [5] This report is structured as follows:
- Executive summary
 - An overview and summary of the proposal, the site and locality
 - Reasons for the application
 - Process, Notification and summary of submissions received
 - Matters requiring assessment under the Act (and other statutory requirements)
 - An evaluation of the proposal against the relevant objectives and policies of the Operative and Proposed Wairarapa Combined District Plan (WCDP)
 - WCDP analysis, including assessment of environmental effects
 - Statutory considerations, particularly the purpose and principles of the RMA
 - Conclusion and Recommendations, including recommended conditions
 - Appendices

Executive summary

The applicant, G Beatson, is seeking subdivision consent to create two 'lifestyle' sized allotments at 9 Milford Downs, Masterton, effectively splitting the site in half.

The proposal is a Non-Complying Activity under the Operative Wairarapa Combined District Plan (WCDP) 2011, and a Controlled Activity under the Proposed WCDP 2023.

The application has been subject to Public Notification under section 95A of the RMA and a total of 11 submissions have been received.

The conclusion and recommendation drawn from the assessment of effects on the environment (within the context of the relevant provisions of the District Plan and the decision-making framework of the RMA) are, that the effects of the proposal are no more than minor. The proposal can be granted consent with appropriate consent conditions imposed under sections 108 and 220 of RMA to ensure effects of the activity are able to be avoided or remedied or mitigated.

THE PROPOSAL

- [6] An application for resource consent has been made under section 88 of the Resource Management Act 1991(RMA). The proposal is outlined in the application material prepared by Tomlinson & Carruthers Surveyors, on behalf of the Applicant, G Beatson. The proposal consists of:
- Subdivision Consent to create 2 fee simple allotments, each of 5000m² (areas are rounded and subject to actual physical survey).
- [7] Proposed Lot 1 consists of the eastern half of the site and will contain all the existing buildings, including the existing dwelling. Proposed Lot 2 consists of the western half of the site and is a vacant lot under contract to be purchased by the Applicant. Both lots will have access to Milford Downs, a legal road and serviced to a rural standard.
- [8] The proposal also includes a permitted boundary activity approval under section 87BA of the RMA for the existing house on proposed Lot 1 sited closer than 25m (the dwelling setback standard of the Operative Wairarapa Combined District Plan), being 10.7m from the proposed internal boundary.
- [9] The application documentation includes the proposed subdivision scheme plan prepared by Tomlinson & Carruthers Surveyors (reference # 24-104 v2, Drawn Date Jul 10, 2024), included as Appendix 1 of this report. Along with the assessment of environmental effects, the application includes an Assessment of Land Productive Capability Report prepared by Fruition, and the relevant Record of Title for the site.

THE SITE AND LOCALITY

- [10] The site at 9 Milford Downs, Masterton is legally described as Lot 5 Deposited Plan (DP) 68587, and held in Record of Title WN37B/882. The Record of Title was issued on 7 December 1990. The site comprises a total area of 1.0095ha. Three interests are registered on the Record of Title, including an easement to convey water, land covenant and mortgage. However, none of these interests affect the assessment of the proposal. The land covenant is addressed below.
- [11] The site is located at the end of, and on the south side of Milford Downs, Lansdowne, approximately 3.5km from the Masterton town centre. Milford Downs was created in 1989/1990 as part of a 23-lot subdivision development. 9 Milford Downs is one of the 20 'rural-lifestyle' lots of around 1ha in size created by the original development. The other three lots within the original development were a 2.7ha lot, a 3.5ha vested recreation reserve lot and the road to vest.
- [12] The subject site contains an existing dwelling with accessory sheds and pool within the eastern half of the property. Access to the site is from Milford Downs. The existing dwelling is serviced to rural standard, but with an overflow connection into the reticulated sewer. There are hedges and landscaping around the dwelling, screening it substantially from the road. The remainder of the site, roughly the western half of the property, is in grass and fenced and currently used for temporary grazing.

- [13] The site is zoned Rural – Primary Production under the Operative Wairarapa Combined District Plan (WCDP) 2011. The site is zoned Rural Lifestyle, with the Highly Productive Land overlay under the Proposed Wairarapa Combined District Plan (notified on 11 October 2023). No other special management areas or notations apply to the site in both the Operative and Proposed WCDPs.

REASONS FOR THE APPLICATION

- [14] The application provides a rules and standards assessment against the provisions of the Operative and Proposed WCDP. I concur with this assessment and provide a summary below.

Operative WCDP (2011)

- [15] Subdivision Resource Consent is required under Non-Complying Activity Rule 20.1.7(a) of the Operative WCDP as follows:

20.1.7 *Non-Complying Activities*

The following are Non-Complying Activities:

Rural (Primary Production) Zone

- (a) *Any subdivision that does not comply with the minimum standards for Discretionary Activities in Rule 20.1.6.*

- [16] The proposal defaults to a Non-Complying Activity for not meeting the Controlled, Restricted Discretionary or Discretionary Activity standards contained within the WCDP. Specifically, the Operative WCDP Rural Zone subdivision standards that are not met by the proposal include: the minimum lot area of 4 hectares; and minimum 100m or 90m lot frontage for front lots (proposed Lot 2 only).

- [17] The application also includes a permitted boundary activity (PBA) approval under section 87BA of the RMA for the existing house setback on proposed Lot 1 sited closer than 25m (being the dwelling setback standard of the Operative WCDP 2011), with a proposed 10.7m setback from the new internal boundary. The Applicant is the neighbour or party affected in relation to the setback breach, therefore a PBA is appropriate.

- [18] It is noted that the 12m x 15m building platform shown on the Scheme Plan on proposed Lot 2 indicates that the 25m dwelling setback will also be breached against the internal boundary. Correspondence with the Applicant's agent regarding this is as follows:

"The building area shown is not to be conditioned or covenanted. It is shown on the scheme plan to demonstrate that there is a building area.

Come to building consent stage, future owners could choose other locations and depending on the status of the Proposed Plan, might not need to comply with the operative plan, or S87BA of the RMA will apply."

- [19] On this basis, additional land use consent for setbacks under the Operative WCDP is not required.

Proposed WCDP (notified 11 October 2023)

- [20] Subdivision Resource Consent is required under Controlled Activity Rule **SUB-R2 (2)**.
Activity status: Controlled
Where:
- a. The subdivision complies with or does not increase any existing or previously approved non-compliance with the underlying zone standards.
 - b. Compliance is achieved with:
 - i. SUB-S1 (minimum allotment size)

Weighting of the Proposed and Operative WCDP

- [21] At the time of writing this s42A report it is important to clarify what stage of the plan development process the Proposed Wairarapa Combined District Plan (PWCDP) is at. The PWCDP was notified on 11 October 2023, with the submission period ending on 19 December 2023, and the further submissions period closing on 29 March 2024. Hearings are currently being held on the PWCDP and will continue through to mid-2025. The hearings stream related to the Rural Zones is to be held from 14 October 2024, with a number of submissions and submission points to be heard relating specifically to the proposed Rural Lifestyle Zone.
- [22] Matters related to subdivision in the Rural Zones, including the Rural Lifestyle Zone under the PWCDP have been given legal effect by an Environment Court order from 11 October 2023 under S86D of the RMA 1991. In the PWCDP this is shown by the gavel symbol against the rule and standard, including the 5000m² minimum lot size standard for lots in the Rural Lifestyle Zone.
- [23] Therefore, although the relevant PWCDP provisions are subject to submissions, a separate hearings process and possibly subsequent appeals, substantial weight must also be given to the PWCDP provisions because of the Court order for immediate effect.
- Activity Status**
- [24] In taking a pre-cautionary approach to the assessment of the activity however, overall the proposal has been assessed as a Non-Complying Activity. This assessment aligns with the overall activity status provided in the application.

APPLICATION PROCESS TO DATE

- [25] Pre-application discussions were held between the Applicant and Council planning staff earlier this year. Council suggested to the Applicant they might want to wait until hearings on the Proposed WCDP for the Rural Zone had been heard, to provide more certainty regarding the new Rural Lifestyle Zone, given there are relevant submissions.
- [26] Despite the above-mentioned advice, the application was formally lodged with the Masterton District Council (MDC) on 31 July 2024.
- [27] The Applicant requested that the application be publicly notified.
- [28] Council has appointed Independent Resource Management Hearings Commissioner Lindsay Daysh pursuant to section 34A of the RMA to determine the application.

NOTIFICATION AND SUMMARY OF SUBMISSIONS RECEIVED

- [29] The application was publicly notified in accordance with section 95A of the RMA on 9 August 2024. The submission period closed at 4pm, Friday 6 September 2024. Eleven (11) submissions were received within this time frame.

- [30] A copy of the application was served on surrounding landowners of the site, as shown in red on the aerial photo included in Appendix 2 of this report; local iwi authorities; and the Greater Wellington Regional Council (GWRC), as required by the notification process of the RMA.

- [31] Of the total 11 submissions received, 8 submissions oppose the application, and three support the application. The submissions are summarised in the following table (in order as received by MDC). The information in the table includes the submitters address (and shown with purple on the aerial in Appendix 2 where their property is in close proximity to the site); their stance on the application; whether they wish to be heard or not in respect of their submission or if this is not stated (NS); the matters raised by them and the decision they wish the Council to make or the relief sought. MDC can confirm prior to the hearing whether the submitters who have not indicated whether they wish to be heard, or heard with others who have a similar submission to present a joint case (IOJC), actually wish to be heard.

	Submitter	Stance	Heard	Matters raised / relief sought
1	Mark Bridges 8 Milford Downs	Oppose whole proposal	IOJC	<ul style="list-style-type: none"> • Ripple effect – understood properties could not be subdivided, with minimum size of 10,000m² • Impact on character – cease to be rural • Wastewater • Traffic increase – impacts on pedestrians, risk = Decline the consent
2	John Peters 22 Milford Downs	Oppose whole proposal	Yes IOJC	<ul style="list-style-type: none"> • Effects of the Proposed District Plan provisions – change character, traffic flows. Restrictive covenant registered on Titles for non-subdivision. Why the urgency • Drainage – subject to run-off from the property, very poor drainage • Traffic – Milford Downs road is main link to Council’s walking trail, used by wide range of pedestrians/ cyclists = Decline the consent
3	Gem Hart 12 Roger Renall Ave	Support whole proposal	No	No reasons given = Grant the consent
4	Tim Beatson 22 Ardsley Lane	Support whole proposal	No	Support opening up opportunities for development = Grant the consent

	Submitter	Stance	Heard	Matters raised / relief sought
5	Joe Hart 109 Cole Street	Support whole proposal	IOJC	<ul style="list-style-type: none"> No available 3000-5000m² properties to build family homes 1-2ha blocks too big, too much time to maintain = Grant the consent
6	Kevin Higginson 24 Milford Downs	Oppose whole proposal	No IOJC	<ul style="list-style-type: none"> Oppose subdivision in entirety Increase water flow to Submitters section = Decline the consent
7	Mike and Georgie Shaw 4 Ardsley Lane	Oppose whole proposal	Yes IOJC	<ul style="list-style-type: none"> Weighting of the Operative and Proposed District Plan (objectives, policies and rules) – Operative Plan should be given more weight – new Lifestyle zoning is a significant policy shift subject to submissions – contrary to Operative Plan objectives as will not maintain open rural character, sets a precedent Servicing – Application does not contain detailed site investigation – question ability to dispose of wastewater and stormwater on site – poor drainage from clay soils, failure of other systems in the area. Site within Masterton groundwater community drinking protection area – on-site wastewater systems require GWRC consent. Roading and traffic – further subdivision will lead to pressure to upgrade roading corridor, who pays? Amenity and characteristics of the rural zone – proposed 5000m² more like large residential site, leaving no rural features or characteristics = Decline the consent
8	Aaron Slight 7 Milford Downs	Oppose whole proposal	Yes	<ul style="list-style-type: none"> Weighting of the Operative and Proposed District Plan (objectives, policies and rules) – Operative Plan should be given more weight – new Lifestyle zoning is a significant policy shift subject to submissions – contrary to Operative Plan objectives as will not maintain open rural character, sets a precedent Servicing – Application does not contain detailed site investigation – question ability to dispose of wastewater and stormwater on site – poor drainage from clay soils, failure of other systems in the area. Examples given of stormwater management required for their site. Council sewer services unable to take additional connections. Site within Masterton groundwater community drinking protection

	Submitter	Stance	Heard	Matters raised / relief sought
				<p>area - on-site wastewater systems require GWRC consent.</p> <p>Roading and traffic - further subdivision will lead to pressure to upgrade roading corridor, who pays? Proposed entrance on crest of hill and blind corner - danger to road users.</p> <ul style="list-style-type: none"> • Amenity and characteristics of the rural zone, Cumulative effect - 2nd application for subdivision. Proposed 5000m² more like large residential site, leaving no rural features or characteristics. • Land Covenant on No 9, No 7 and other neighbours Titles "No Lot shall be further subdivided without the further consent" - added value <p>= Decline the consent</p>
9	John Cockburn 26 Milford Downs	Oppose whole proposal	IOJC	<ul style="list-style-type: none"> • Weighting of the Operative and Proposed District Plan (objective, policies and rules) - Operative Plan should be given more weight - new Lifestyle zoning is a significant policy shift subject to submissions - contrary to Operative Plan objectives as will not maintain open rural character, sets a precedent • Servicing - Application does not contain detailed site investigation - question ability to dispose of wastewater and stormwater on site - poor drainage from clay soils. Failure of other systems in the area. Concern over road side 'floodway' (photo included). Site within Masterton groundwater community drinking protection area, on-site wastewater systems require GWRC consent. <p>Roading and traffic - further subdivision will lead to pressure to upgrade roading corridor, who pays?</p> <ul style="list-style-type: none"> • Amenity and characteristics of the rural zone - proposed 5000m² more like large residential site, leaving no rural features or characteristics • Will set a precedent <p>= Decline the consent</p>
10	Simon O'Donoghue 28 Milford Downs	Oppose whole proposal	IOJC	<ul style="list-style-type: none"> • Weighting of the Operative and Proposed District Plan (objectives, policies and rules) - Operative Plan should be given more weight - new Lifestyle zoning is a significant policy shift subject to submissions - contrary to Operative Plan objectives as will not maintain open rural character, sets a precedent

	Submitter	Stance	Heard	Matters raised / relief sought
				<ul style="list-style-type: none"> • Servicing – Application does not contain detailed site investigation - question ability to dispose of wastewater and stormwater on site – poor drainage from clay soils, failure of other systems in the area. Example of run-off given (photo included). Site within Masterton groundwater community drinking protection area - on-site wastewater systems require GWRC consent. • Roading and traffic – further subdivision will lead to pressure to upgrade roading corridor, who pays? • Amenity and characteristics of the rural zone – proposed 5000m² more like large residential site, leaving no rural features or characteristics <p>= Decline the consent</p>
11	Marc Danzer and Adele Bentley	Oppose	NS	<ul style="list-style-type: none"> • Non-Complying Activity therefore should be automatically declined • No mention of grazing paddocks in application Site Description (images included in submission) • Dwelling setback – does it include deck? • Applicant’s statements are subjective • Land does have a primary production component, soil is fertile and productive, used for grazing (images included) • Character – open space, semi-rural, adverse effects on aesthetics and open space values • Question another application • Access on a protruding corner, visibility issues • Sub-dividing will devalue intentions of original developer and community • Support integrated housing options, but this proposal doesn’t add value to a well-designed, well-established unique community. Already 0.5ha properties in the region <p>= Decline the consent</p>

[32] To assist the hearings process, the issues or matters raised in submissions have been grouped into the following:

- Weighting of Operative and Proposed WCDP provisions
- Contrary to Operative District Plan objectives and policies
- Amenity effects – effects on openness and rural character
- Servicing – adequacy of site to dispose of wastewater and storm water, storm water overflows and water supply, Drinking water area
- Access and roading matters - increase in the volume of traffic, road and pedestrian safety concerns, pressure to upgrade road with associated costs

- Building setbacks
 - Loss of productive soil – NPS-HPL
 - Land covenant restricting further subdivision
 - Another application – precedent setting
 - Lack of / supply of similar sized properties in the region.
- [33] As a result of matters raised in submissions, a letter requesting further information was sent to the Applicant under section 92 of the RMA on 13 September 2024. A copy of the letter is included in Appendix 3 of this report. In summary, further information was requested on the following matters:
- Servicing – a report on the feasibility of the additional allotment (proposed Lot 2) to support a compliant on-site wastewater system management system; and that the existing septic tank system servicing the existing dwelling (within proposed Lot 1) will be contained entirely within the proposed lot with no effects on proposed Lot 2 or adjoining properties;
 - Stormwater management – a stormwater assessment report on the feasibility of the additional allotment to adequately dispose of stormwater; and
 - NPS-HPL – further details of the viability of the land for productive purposes, in respect further fragmentation of Highly Productive Land in accordance with the NPS-HPL.
- [34] At the time of writing this section 42A report, the above matters had not been responded to by the Applicant. It is expected that this information will be made available as part of the Applicant’s written information circulated prior to the hearing and/or presented at the hearing.
- [35] Although not a submission, it is noted that Rangitane O Wairarapa responded to Council’s public notice within the submission period, stating they has “no major concern with this application”.

MATTERS REQUIRING ASSESSMENT UNDER THE RMA

- [36] Under section 104(1) of the Act the relevant matters requiring consideration when considering an application for resource consent and any submission received are as follows:
- (a) *any actual and potential effects on the environment of allowing the activity; and*
 - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *any relevant provisions of–*
 - (i) *a national environmental standard;*
 - (ii) *other regulations;*
 - (iii) *a national policy statement;*
 - (iv) *a New Zealand coastal policy statement;*
 - (v) *a regional policy statement or proposed regional policy statement;*
 - (vi) *a plan or proposed plan; and*
 - (c) *any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

- [37] This report firstly considers the matters in s104(1)(b), followed by any actual and potential effects in s104(1)(a). Any measures proposed by the applicant to address such effects, and the matters raised in the submissions are also considered.

National Environmental Standards

- [38] The application on pages 17 and 18 provides a brief assessment against the National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES - CS). The application states: *“The NES does not apply to this proposal as [it] involves land that has not had an activity described on the HAIL [Hazardous Activities and Industries List]. The proposed subdivision area has no sites of contaminated soil identified in the GWRC Land and Soil Monitoring map overlay of the District Plan. It is therefore considered that no significant risks to human health are likely to arise as a result of the proposed subdivision.”* I concur with this assessment and consider that no further investigation or consents under the NES-CS are required.

- [39] There are no other National Environmental Standards requiring consideration.

Other Regulations

- [40] The following provisions, in accordance with the Wairarapa Combined District Plans, are applicable to the proposal: New Zealand Standards, particularly NZS4404:2010 Land Development and Subdivision Infrastructure, and the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008.

- [41] There are no other regulations considered applicable to the proposal.

National Policy Statements

- [42] The National Policy Statement for Highly Productive Land (NPS-HPL) came into effect in October 2022. The policy seeks to protect highly productive land for use in land based and primary production, both now and in the future. The policy enables Council to identify and manage the most productive land in the district from inappropriate subdivision, use and development. The application on page 18 identifies the land use capacity class of the site as LUC 3 and is therefore considered under Part 3(3.4(1)(b)) as highly productive. The proposed WCDP mapping overlay identifies the subject site to be located within Highly Productive Land. The application included an assessment from FruitionHort, which includes a soil report, concluding that the property is not suitable for commercial agricultural or horticultural production. This matter will be discussed further in the assessment of effects section of this report.

- [43] There are no other National Policy Statements relevant to this proposal, including the New Zealand Coastal Policy Statement.

Wellington Regional Policy Statement (RPS)

- [44] The current operative RPS is the Regional Policy Statement for the Wellington Region (2013). The application provides a brief analysis of the relevant objectives and policies of the RPS on page 9 and 10. Considered of particular relevance are Objective 22 and Policy 56 relating to well designed and sustainable regional form. The implementation of Policy 56 is addressed by method of resource consents by District Councils. The application argues that the proposal is not contrary to the RPS policy due to the existing environment being *“a lifestyle block, with no primary production component”* and that *“the proposal will have negligible effects on the aesthetic and open space values of this semi-rural environment”*. Although it is acknowledged that the site contains a small paddock used

for grazing sheep, I concur with this assessment. These matters are addressed further in the effects assessment section of the report below. By way of a summary, it is considered that, with the recommendation provided and proposed conditions, the proposal, due to its’ nature and small scale is not contrary to the relevant objectives and policies of the RPS.

Natural Resources Plan

[45] The Natural Resources Plan for the Wellington Region became operative on 28 July 2023. The application provides a brief assessment against the provisions of the Natural Resources Plan on page 10. Of particular consideration here are Rules 62 and 63 which control discharges to land specifically for on-site wastewater systems. Rule 62 relates to existing systems and Rule 63 provides for new or upgraded systems as permitted activities as long as relevant conditions are met.

[46] The application has stated:
“Proposed Lot 1 with the existing dwelling will include the existing onsite wastewater systems without encroaching on the discharge setbacks required in Rule 63. Similarly, any future system servicing a future dwelling on proposed Lot 2 will meet the required standards”.

This will be confirmed by the response to the s92 RMA further information request.

[47] It is noted that a number of submissions state that the Masterton groundwater community drinking protection area is located over the site, and this will trigger the need for a resource consent from the Regional Council. I have sought confirmation from GWRC staff on the matter. The response is included in Appendix 4 of this report, and confirms the site does fall within the area. Therefore, a Controlled Activity consent would be required under Rule 64 of the Natural Resource Plan for an on-site domestic wastewater disposal and treatment system. This aside, regional consents are a separate and/or additional consent, and are not subject to an assessment by the local authority (MDC).

Wairarapa Combined District Plans (WCDP)

[48] As mentioned above in this report, the site is within the Rural – Primary Production Zone of the Operative WCDP, and Rural Lifestyle Zone with a Highly Productive Land overlay in the proposed WCDP. Overall, the proposal is assessed as a Non-Complying Activity under the provisions of the operative WCDP and a Controlled Activity under the provisions of the proposed WCDP, which are detailed below.

Operative Wairarapa Combined District Plan (WCDP)

Subdivision Rules

[49] Rule 20.1.2 ***Standards for Controlled Activities***

Lot Standards – Rural Zones

(b) Any subdivision in the Rural (Primary Production), Rural (Special) or Rural (Conservation Management) Zones shall comply with all of the relevant standards in the table below:

<i>Zone</i>	<i>Minimum Lot Area</i>	<i>Lot Frontage</i>
Rural (Primary Production)	All lots shall have a minimum lot area of 4 hectares; except for:	Minimum 100m for front lots.

	2.-Where the Certificate of Title for the site being subdivided was issued before 29 March 2008, or resource consent to subdivide was granted for the site before 29 March 2008, up to two lots may have a minimum lot area of 1 hectare provided they have a minimum average lot area of 2 hectares.	Minimum 100m for front lots
--	---	-----------------------------

Rule 20.1.4 (a) Standards for Restricted Discretionary Activities

Rural (Primary Production Zone and Rural (Special) Zone.

(a) Any subdivision within the Rural (Primary Production Zone and Rural (Special) Zone under Rule 20.1.3. (a) shall comply with all of the relevant standards in the table below:

	Zone	Minimum Lot Area	Lot Frontage
(i)	Rural (Primary Production)	All lots shall have a minimum lot area of 4 hectares, except for- Where the Certificate of Title for the site being subdivided was issued before 29 March 2008, or resource consent to subdivide was granted for the site before 29 March 2008, up to two lots may have a minimum lot area of 1 hectare provided they have a minimum average lot area of 2 hectares. Where two or more certificates of title are proposed to be subdivided in a proposal the entitlement to 1 hectare lots may be located on different Certificates of Title within the application site to that from which the entitlement is created.	Minimum 90m for front lots.

20.1.6 Standards for Discretionary Activities

Rural Zones.

(a) Any subdivision within the Rural (Primary Production) Zone under

Rule 20.1.5(f) shall comply with the following:

- (i) Minimum average lot area of 4 hectares, provided that, where there are any lots larger than 10 hectares, these lots shall be given a nominal size of 10 hectares when calculating the average lot size.

Rule 20.1.7 Non-Complying Activities

The following are Non-Complying Activities:

Rural (Primary Production) Zone.

- (a) Any subdivision that does not comply with the minimum standards for Restricted Discretionary Activities in Rule 20.1.6.

- [50] No form of subdivision is a permitted activity under the Operative WCDP. The proposed subdivision fails to meet the requirements of Rules 20.1.2 (b), 20.1.4 (a) or 20.1.6 (a) for a Rural Zone subdivision relating to: the minimum lot area of 4 hectares; and the minimum 100m or 90m lot frontage for front lots (proposed Lot 2).

WCDP Rural Zone Land Use Rules

- [51] 4.5.2 ***Standards for Permitted Activities***

Permitted activities shall comply with all of the following standards for the Rural Zone:

(d) Minimum Dwelling Setback

- (i) 10 metres from the front road boundary of sealed roads.*
- (iii) 25 metres from all other boundaries except, (that if the Certificate of Title for the site was issued before 29 March 2008, or resource consent to subdivide was granted for the site before 29 March 2008 then the setback can be 10 metres).*

4.5.5 ***Restricted Discretionary Activities***

The following are Restricted Discretionary Activities:

- (e) Any activity that does not meet one or more of the standards for permitted or controlled activities.*

Discretion is restricted to the following matters:

- (i) Avoiding, remedying or mitigating of any effects deriving from non-compliance with the particular standard(s) that is not met.*

- [52] Due to the location of the existing house against the new internal boundary (shown as 10.7m), the above 25m Rural Zone setback requirement cannot be met. It is noted that the 10m exemption for older Certificates of Titles doesn't apply as the proposal would create a new boundary and a new Record of Title. The application includes reference to a permitted boundary activity (PBA) approval under section 87BA of the RMA to address this matter, which is deemed appropriate. The Applicant is the 'neighbour' who would allow or give approval for the PBA. The intent of the setback Rule 4.5.2 is to maintain amenity values, such as openness and natural character of the rural environment and privacy. In relation to this, as the dwelling is existing the breach of this standard is a technical matter, with no material or visual change to openness and natural character of the environment.

Proposed WCDP Subdivision Rules

[53] ***Rural Zones***

SUB-R2 (2). Activity status: Controlled

Where:

- a. The subdivision complies with or does not increase any existing or previously approved non-compliance with the underlying zone standards.
- b. Compliance is achieved with:
 - i. SUB-S1 (minimum allotment size)

From SUB – Table 1 Minimum allotment sizes

RLZ: Rural Lifestyle Zone = 0.5ha

Matters of control:

1. The matters set out in Policies SUB-P1, SUB-P2, SUB-P5, SUB-P6 and SUB-P8.
2. The size, design, shape, location, and layout of lots.
3. Efficient use of land and compatibility with the role, function, and predominant character of the zone.
9. Separation distances, barriers, acoustic treatment, and orientation of buildings.
18. The matters referred to in sections 108 and 220 of the Act.

[54] The above stated rule, standard, and matters of control all relate to rural subdivision provisions that have been given legal effect from 11 October 2023 under the Proposed WCDP.

[55] No form of subdivision is permitted under the Proposed WCDP (2023). The proposed subdivision meets the standards for a controlled activity subdivision as above.

[56] The 10m setback requirement for dwellings under the Proposed WCDP will be met by the existing dwelling against the new boundary and any future buildings.

Assessment Criteria in Section 22 of the Operative WCDP

[57] Apart from the matters in section 104(1) of the Act covered earlier, the Operative WCDP requires non-complying activities to be assessed against, but not limited to, the relevant assessment criteria set out in Section 22 of the Plan. In this regard, the following relevant listed matters provide a useful guide for assessment and are addressed further in this report where appropriate.

22.1.1 Subdivision

General assessment criteria

Amenity

- (i) The extent to which the areas amenity values and character are protected and or enhanced.
- (ii) The ability to avoid, remedy or mitigate reverse sensitivity effects where specific site characteristics and the nature of adjoining or nearby land uses are likely to generate the potential for complaints about adjoining land based primary production activities, or other lawfully established activities.

Natural Resources

- (iii) The extent to which existing landform, significant trees indigenous vegetation and habitats and water bodies are protected and or/enhanced.*
- (iv) Whether the subdivision would create adverse effects on groundwater quality.*

Physical Resources

- (vi) Whether the subdivision is consistent with the requirements of New Zealand Standard 4404:2004 Land Development and Subdivision Engineering and other related standards.*
- (vii) The provision of a potable water supply.*
- (viii) The adequate and effective disposal of sewage and stormwater, or the ability of every lot to dispose of sewage and stormwater effectively without risk to public health and the environment.*
- (ix) The cumulative impacts on infrastructure and its efficient use and development, including the capacity, safety and efficiency of the roading and rail network, and the ability of the area's utility services to function efficiently.*
- (x) The adequate provision of access within every lot to meet modern vehicular standards.*
- (xi) The provision of renewable energy and energy efficiency in the design and construction methods of the subdivision, and the consequential land use development.*

Development

- (xii) Whether the design and layout of the subdivision avoids, remedies or mitigates any adverse effects on the surrounding environment.*
- (xiii) Whether the proposed subdivision will create an additional lot for Building / development or will change the use of the affected land.*
- (xiv) The ability of any existing or likely proposed building to comply with all standards in this Plan.*
- (xv) The ability of every allotment of land to accommodate a conforming Dwelling house or a principal building and to be utilised in a manner that can comply with the Plan provisions.*
- (xvi) The potential for financial contributions to avoid, remedy or mitigate any adverse effects on the environment.*

Heritage

- (xx) The effects on any historic or archaeological site and the surroundings associated with any historic or archaeological site.*
- (xxi) The effect of the subdivision on the values of any waahi tapu site and any sources of significance to Tangata Whenua.*

Hazards

- (xxii) The risk where land is subject to flooding or inundation, erosion, landslip or subsidence, or is within an identified natural hazard high-risk area.*
- (xxiii) The extent to which earthworks are required and the effects of earthworks on the site and surrounding environment.*
- (xxiv) The risk of fire, and whether mitigation measures will effectively mitigate this risk.*

[58] It is noted that, since the development of the District Plan there has been an updated version of the Land Development and Subdivision Engineering Standard. Reference is now taken from NZS4404:2010, as opposed to the 2004 version.

DISTRICT PLAN ANALYSIS

Operative Wairarapa Combined District Plan (2011)

[59] The objectives and policies for the Rural Zone are contained in Section 4 of the Operative WCDP. The relevant objectives and policies are listed below:

4.3.1 ***Objective Rur1 – Protection of Rural Character & Amenity***

To maintain and enhance the amenity values of the Rural Zone, including natural character, as appropriate to the predominant land use and consequential environmental quality of different rural character areas within the Wairarapa.

4.3.2 ***Rur1 Policies***

(a) *Identify areas within the Rural Zone where the predominant land use is primary production, which needs to operate and develop effectively – Rural (Primary Production) Zone.*

(d) *Maintain and enhance the amenity values, including natural character, of the differing Rural character areas through appropriate controls over subdivision and the bulk, location and nature of activities and buildings, to ensure activities and buildings are consistent with the rural character, including an appropriate scale, density and level of environmental effects.*

(e) *Manage subdivision, use and development in a manner which recognises the attributes that contribute to rural character, including:*

- (i) *Openness and predominance of vegetation*
- (ii) *Productive working landscape*
- (iii) *Varying forms, scale and separation of structures associated with primary production activities*
- (iv) *Ancillary living environment, with an overall low population density*
- (v) *Self-serviced allotments.*

[60] The above objective and policies of the Rural Zone look to maintain and enhance the rural amenity values and character of the rural area, such as natural character and openness, and to enable primary production and other land uses, provided the adverse effects on the environment are appropriately avoided, remedied or mitigated. Residential activities and buildings form part of the rural environment. The existing environment in and around Milford Downs is one of a 'rural lifestyle' nature, with smaller lot sizes generally around 1ha, and smaller still nearby in the larger part of Lansdowne. The area is already dominated by existing residential activities over primary production activities. Therefore, I consider that the proposal is not contrary to the above policies and objectives in relation to maintaining rural amenity and values. I consider the effects of the proposal on the rural amenity values and character of the area in more detail in the effects assessment in the following sections of this report.

4.3.4 ***Objective Rur2 – Provision for Primary Production and Other Activities***

To enable primary production and other land uses to function efficiently and effectively in the Rural Zone while the adverse effects are avoided, remedied or mitigated to the extent reasonably practicable.

4.3.5 ***Rur2 Policies***

(b) *Provide for other land uses as permitted activities in the Rural (Primary Production) Zone and Rural (Special) Zone, subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects.*

(c) *Manage the establishment and operation of a range of other activities in the Rural Zone such that their adverse effects on the environment are appropriately avoided, remedied or mitigated.*

(d) *Ensure activities that are potentially sensitive to the adverse external effects of primary production and any other lawfully established activities, particularly those activities with significant external effects, are either appropriately sited, managed or restricted to avoid or mitigate these effects.*

(f) *Provide interface controls on primary production and other activities that may have adverse effects on adjoining activities.*

[61] The above objective and policies of the Rural Zone look to manage primary production and 'other activities', which would include residential activities not associated with rural activities, which is the case with the outcome of this proposal. Realistically the subdivision proposal, if granted, will result in a residential activity (or dwelling) on proposed Lot 2. The above objective and policies also include the recognition of reverse sensitivity effects and the management of the interface between primary production activities and other activities, by ensuring that their adverse effects on the receiving environment are appropriately avoided, remedied or mitigated. Other than the grazing of a few sheep on the subject site, primary production activities are well removed from the site, with the nearest working farm situated north of No's 16 and 18 Milford Downs (+110m from the site and separated by existing residential activity) and on the far side of Manuka Street (+400m). Reserve sensitivity effects are not expected to arise in this case.

[62] The objectives and policies for subdivision, land development and urban growth are contained in Section 18 of the Operative WCDP, the relevant objectives and policies are listed below are:

18.3.1 Objective SLD1 – Effects of Subdivision & Land Development

To ensure subdivision and land development maintains and enhances the character, amenity, natural and visual qualities of the Wairarapa, and protects the efficient and effective operation of land uses and physical resources.

18.3.2 SLD1 Policies

(a) *Manage subdivision and land development in a manner that is appropriate for the character and qualities of the environmental zone in which it is located while recognising that such change may alter the character and qualities.*

(b) *Provide subdivision where it is compatible with the physical characteristics of the site, provided any adverse environmental effects are avoided remedied or mitigated.*

- (d) *Set minimum allotment sizes for the Residential and Rural Zones that provide a baseline for maintaining the character, scale and intensity of development of their Zones, including their servicing capacity, while recognising the differing constraints, qualities and characteristics within each zone.*
- (f) *Limit the intensity of subdivision and land development in those rural parts of the Wairarapa in which significant intensification may have adverse effects on the risks from natural hazards, the operational requirements of key infrastructural and land use assets, water supply catchments, and the growth of urban areas.*
- (g) *To provide for the subdivision of rural land for rural-residential purposes through minimum standards that seek to:*
 - i. *Avoid or mitigate any significant potential adverse effects on the viability and operational requirements of any productive use of any adjacent rural or industrial land;*
 - ii. *Ensure allotment sizes and the pattern of subdivision maintains the open rural character, particularly from public roads;*
 - iii. *Ensure allotments are able to accommodate the likely use in accordance with the other requirements of the Plan;*
 - iv. *Avoid adverse effects on the safe and efficient use of roads, and pedestrian and cycling networks;*
 - v. *Satisfactorily avoid or mitigate the potential reverse sensitivity effects in relation to either nearby industrial and rural productive activities, activities allowed by the zoning, or anticipated urban growth;*
 - vi. *Ensure the actual and potential effects on rural character, amenity and natural values will not be compromised by intensive and ad hoc urban development and/or through the cumulative effects of rural-residential development;*
 - vii. *Ensure the sewage effluent from all lots can be effectively disposed without any potential adverse effects on the environment.*
 - viii. *Ensure a potable water supply is available on each allotment.*
- (h) *Allotments below the minimum standards in the Rural Zone shall avoid all of the following outcomes:*
 - i. *The proposed subdivision is likely to have a significant adverse effect on the viability and operational requirements of any productive use of adjacent rural or industrial land, including activities allowed by the zoning, or anticipated urban growth;*
 - ii. *The allotment sizes and/or pattern of the subdivision would not maintain the open rural character, particularly from public roads and vantage points;*
 - iii. *Allotments are unable to accommodate the likely use in accordance with the other requirements of the Plan;*
 - iv. *The subdivision would require an extension or upgrading of any service or road that is not in the economic interest of the District;*
 - v. *The subdivision would compromise the safe and efficient use of the road network;*

- vi. *Any exacerbation of risks from flooding or other natural hazards that is likely to occur through intensified landholdings, occupation or where capital and infrastructural investment is more than minor;*
 - vii. *The proposal is unlikely to be able to satisfactorily and reliably dispose of effluent;*
 - viii. *The proposal is likely to lead to ad hoc urban development and/or adverse effects on rural character, amenity, and natural values through the cumulative effects of rural residential development in the vicinity;*
 - ix. *The proposal is unable to provide a potable supply of water.*
- (i) *Protect the quality, character and values of the Wairarapa’s rural environment from the cumulative effects of intensification by limiting subdivision below the rural minimum area standards to situations where there are special circumstances that would not create a precedent.*
 - (k) *To provide for subdivision below the minimum standards if it results in the more effective management of network utilities or the protection of significant heritage assets and natural areas.*

[63] The above objective and policies relating to subdivision and land development anticipate subdivision that is compatible with the characteristics of an area, with a baseline for maintaining character and qualities of the Rural Zone. A number of submitters have raised that the proposal does not avoid the unwanted outcomes detailed in Policy 18.3.2(h) {although incorrectly referenced as Objective 13.3.2(h) in the submissions}. The level of existing consented development within Milford Downs (and Ardsley Lane beyond) has already changed the character of the immediate area from that of a ‘normal’ working rural environment to a ‘lifestyle’ area. The existing section sizes, the overall density of development, park-like road design with relatively regular vehicle crossings (and sealed driveways in a number of cases), and the larger-sized dwellings in relatively close proximity to each other, all contribute to creating a semi-rural/semi-urban environment. In my opinion, the proposal is therefore not contrary to the above objective and policies. This is mainly due to the fact that the proposal is essentially an ‘in-fill’ development using existing land and roading infrastructure, and being supplementary to existing development. Additionally, the proposed new lot is of a sufficient size to accommodate the intended land use. This is addressed further in the effects assessment below.

18.3.4 Objective SLD2 – Effects of Servicing Requirements

To ensure that subdivision and land development is appropriately serviced to provide for the likely or anticipated use of the land.

18.3.5 SLD2 Policies

- (a) *Ensure adequate infrastructure is provided by the subdivider/developer to allow new activities and development to connect to wastewater and water reticulation where adequate capacity exists to meet the needs of the development.*
- (c) *Avoid, remedy or mitigate any adverse effects resulting from stormwater discharges.*
- (d) *Ensure that owners of unserviced lots are responsible for providing potable water supply....in a manner that avoids, remedies or mitigates any adverse effects.*

[64] In regard to the above objective and policy, appropriate conditions can be imposed to ensure that services can be provided to a standard that will ensure that adverse effects on the environment can be appropriately avoided, remedied or mitigated. It is expected that engineering design solutions will be available to ensure servicing effects are no more than minor.

[65] I note that adequate servicing of the site was a matter raised by a number of submitters, particularly in respect to wastewater and stormwater disposal on-site with the clay soil-type. As a result, a site-specific investigation has been requested on these matters under s92 of the RMA. It is expected the Applicant will address this matter in more detail at the hearing. Further assessment of servicing is provided in the assessment below.

[66] The following objective and policies relating to the road network are also considered relevant:

17.3.1 Objective TT1 – Managing the Road Network

To maintain the safe and efficient operation and development of the road network from the adverse effects of land use while maintaining the network's ability to service the current and future needs of the Wairarapa.

17.3.2 TT1 Policies

- (b) *Establish controls and standards on land use and subdivision to avoid, remedy or mitigate any effects of the land use on the safe and efficient functioning and operation of the road network, including loading, parking and manoeuvring.*
- (c) *Establish controls and standards on new intersections and access points onto roads to avoid, remedy or mitigate any adverse effects on the roads' safe and efficient functioning.*
- (d) *Promote knowledge and understanding of good roading and access design.*
- (e) *Support and encourage the safe provision of non-vehicular forms of transport within the road network, including cycling and walking,*
- (g) *Protect natural, amenity and landscape values from the effects of new, reconstructed and upgraded transport infrastructure.*

[67] These matters are addressed further in the assessment below, but it is concluded, after assessment from Council's Development Engineer that the transport and roading effects of the proposal on the road network can be appropriately managed. The Council is satisfied the subdivision and resultant development can be supported by the existing transportation infrastructure network, with appropriate conditions imposed. Therefore, the proposed subdivision activity, creating one additional lot, is not considered to be contrary to the above policies and objectives related to managing the road network.

Proposed Wairarapa Combined District Plan (2023)

[68] The relevant objectives and policies for the Rural Lifestyle Zone of the Proposed WCDP are listed below, noting the Zone has rules that have legal effect:

RLZ-01 Purpose of the Rural Lifestyle Zone

The Rural Lifestyle Zone is used primarily for a residential lifestyle within a rural environment on lots smaller than those of the General Rural Zone, while still providing for primary production to occur.

RLZ-02 Character of the Rural Lifestyle Zone

The predominant character of the Rural Lifestyle Zone is maintained, which include:

- a. low density residential living on rural lifestyle blocks, characterised by predominantly 1- to 2-storey buildings and high levels of on-site amenity, privacy, and large areas for landscape planting and small-scale primary production activities;
- b. a diversity of topography and land quality, including land without significant primary production values; and
- c. a general absence of urban infrastructure.

RLZ-03 Enable compatible activities

Residential activities, light primary production activities, and ancillary activities that are compatible with the character and amenity values of the Rural Lifestyle Zone are provided for.

RLZ-P1 Compatible activities

Enable residential activities, primary production and ancillary activities that are compatible with the purpose, character and amenity values of the Rural Lifestyle Zone.

RLZ-P3 Rural lifestyle character

Provide for subdivision, use and development that supports the purpose, character and amenity of the Rural Lifestyle Zone, by:

- a. maintaining low density of single detached residential unit on a site, maintain larger rural lifestyle lot sizes, and providing for high quality and spacious on-site amenity;
- b. maintaining building height and form that achieves the planned built character of predominantly 1- to 2-storey residential units, buildings and structures within a spacious rural lifestyle setting;
- c. building height, height, bulk and location maintains a reasonable level of sunlight access and privacy and to minimise visual dominance effects to the adjacent sites;
- d. buildings are setback from the road and side boundaries to maintain the spacious landscape character of the area;
- e. ensure allotments are of a large enough size to:
 - i. be self-sufficient in the provision of on-site water supply, wastewater, and stormwater disposal;
 - ii. be in keeping with the spacious landscape character of the area;
 - iii. not exacerbate any physical limitations such as land instability; and
 - iv. provide for setbacks from primary production activities; and
- f. avoiding, remedying, or mitigating reverse sensitivity effects.

[69] The subdivision proposal, being of an appropriate size (meeting the minimum lot area) provided for in Rural Lifestyle Zone of the Proposed WCDP is considered to be very much compatible with the purpose of the new Zone, and consequently it is considered to sit well with the relevant objectives and policies of the Zone, as listed above. Provided the site can be sufficiently serviced, which is to be confirmed, it is considered large enough to allow sufficient building setbacks from the road, and development and landscaping consistent with other properties in the immediate area. The site has no physical limitations and is also well removed from rural primary production activities to avoid reverse sensitivity effects.

[70] The relevant Subdivision objectives and policies of the Proposed WCDP are listed below, noting that the subdivision rules of the Rural Lifestyle Zone have legal effect:

SUB-01 Subdivision and Development Design

Subdivision and developments create allotments and patterns of land use and development that:

- a. *provide for the anticipated purpose, character, and amenity of each zone and the qualities and values of the site(s) including natural features and landscapes, waterbodies, indigenous biodiversity, historic heritage, and sites and areas of significance to Māori;*
- b. *provide for a variety of housing types that cater for the range of community needs, such as affordability, accessibility, and lifestyle;*
- c. *are well-functioning, accessible, integrated, and connected with adjoining neighbourhoods;*
- d. *provide accessible and well-designed open space areas;*
- e. *protect cultural, heritage, and natural values; and*
- f. *respond to the risks of natural hazards and is resilient to climate change.*

SUB-02 Servicing

Subdivision and developments are serviced to provide for the likely or anticipated use of the land while avoiding, remedying, or mitigating adverse effects on the environment by ensuring:

- b. *subdivisions in Rural Zones are capable of being serviced via on-site water, wastewater and stormwater measures when development occurs on the site.*

SUB-03 Future development

Subdivision and developments are provided for where they integrate with the existing and planned development of land, roads and infrastructure, and avoid fragmentation or development that undermines the effective and efficient provisions of infrastructure and roads.

SUB-P1 Creation and design of allotments

Allow subdivision and development that results in the efficient and productive use of land, provides for the needs of the community, and supports the policies of the District Plan for the applicable zones, where the design:

- a. *reflects patterns of development that are consistent, compatible, and reinforce the role, function, and existing or planned character and qualities of the zone as set out by the Objectives and Policies of the applicable zone*

- b. *maintains the integrity of the zone with lot sizes sufficient to accommodate intended land uses;*
- d. *has legal and physical access to each allotment created by the subdivision.*

SUB-P2 Provide integrated infrastructure at subdivision

Require subdivision to be located where appropriate infrastructure is available, or to provide infrastructure in an integrated and comprehensive manner by:

- a. *ensuring appropriate infrastructure has the capacity to accommodate the development or anticipated future development of the land in accordance with the purpose of the zone, is in place at the time of subdivision or development, and integrates with existing and planned infrastructure;*
- c. *ensuring allotments outside the urban boundary are of a sufficient size and shape with appropriate soil conditions to accommodate on-site wastewater, stormwater, and water supply infrastructure, and that there is sufficient water supply capacity for firefighting purposes;*
- d. *ensuring roads and any vehicle access to sites meet minimum design standards to allow for safe and efficient traffic movements and can safely accommodate the intended number of users and the intended functioning of the road or access;*
- e. *providing for transport network connections within and between communities;*
- f. *where consistent with the zone, providing for a variety of travel modes that reflect the purpose, character, and amenity values of the zone, including walking, cycling, and access to and infrastructure for public transport while recognising the role that efficient transport infrastructure and connectivity plays in reducing greenhouse gas emissions.*

SUB-P8 Subdivision of highly productive land

Avoid subdivision on highly productive land except as provided for in the National Policy Statement for Highly Productive Land.

[71] The above objective and policies relating to subdivision anticipate design and a quality of subdivision that is compatible with a sites' characteristics, with a baseline for maintaining character, scale and intensity of development, including servicing capacity. The proposed subdivision, in respect to the Rural Lifestyle Zone under the Proposed WCDP is considered appropriate with the proposed lot size meeting the minimum requirement of 0.5ha for this zone. Servicing is addressed in the assessment section of this report below, as is the NPS-HPL.

[72] The relevant Transport objectives and policies of the Proposed WCDP are listed below:

TR-01 Well-connected, integrated, safe, and accessible transport network

The transport network is a well-connected, integrated, safe, and accessible system that:

- a. *meets and is responsive to current and future needs;*
- b. *is efficient and effective in transporting people, goods, and services by all transport modes;*
- c. *supports healthy and liveable communities with a variety of transport options that are accessible;*
- d. *integrates with subdivision, land use, and development;*
- e. *supports transport mode options to increase the use and accessibility of public transport, walking, and cycling and reduces dependency on private motor vehicles where that is, or can be made, practicable and safe; and*
- f. *enables emergency service vehicles to respond to emergency call outs effectively and efficiently.*

TR-02 Adverse effects of the transport network

Adverse effects from the construction, operation, maintenance, and development of the transport network are avoided, remedied, or mitigated.

TR-03 Effects of activities on the transport network

The safe, effective, and efficient operation of the transport network is not compromised or constrained by incompatible land use, subdivision, and development, including High Traffic Generating Activities.

TR-P2 Good design outcomes

The transport network is maintained or improved in a way that:

- a. promotes integrated planning and supports strategic directions;*
- b. roads and vehicle crossings meet minimum design standards to allow for safe, effective, and efficient traffic movement and can safely accommodate the intended number of users and the intended functioning of the road or crossing;*
- c. is consistent with the Subdivision Design Guide and promotes good urban design, including connectivity, decreasing travel distances, and linking to existing transport networks;*
- d. considers and responds to safety and accessibility, including Crime Prevention Through Environmental Design (CPTED) principles.*

- [73] As summarised in paragraph 67 above and further in the traffic assessment below, the Councils Development Engineer and Roading Manager are satisfied the subdivision and land development can be supported by existing transportation and infrastructure, and therefore is not contrary to these objectives and policies.

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT

- [74] The actual and potential effects of the proposed activity on the environment have been grouped into the following matters, and assessed accordingly below:

- Amenity effects – effects on openness & rural character
- Building bulk and location effects – setbacks
- Servicing and infrastructure effects – adequacy of site to dispose of wastewater and storm water, storm water overflows and water supply, Drinking water area, fire safety
- Traffic effects- access, increase in the volume of traffic, road and pedestrian safety concerns, road upgrades with associated costs
- Loss of productive soil – NPS-HPL
- Effects on heritage
- Natural Hazards

Amenity Effects

- [75] Amenity effects or amenity values are largely a function of the existing and potential environment. The existing Milford Downs environment, although zoned Rural – Primary Production under the Operative WCDP is very much of a rural-residential, lifestyle or semi-urban nature, more in line with the purpose and objectives of the Rural Lifestyle Zone of the Proposed WCDP. With the exception of a few sheep grazing on proposed Lot 2 (half of the subject site), there is no evidence of land-based activities in the immediate environment.

Effects on openness and rural character

- [76] A number of submitters (Bridges, Shaw, Slight, Cockburn, O'Donoghue, Daner/Bentley) raised concern that the proposed allotments, at 5000m² each, will remove the existing rural character and amenity values that the Milford Downs area has at present. They state that: *"The "proposed 5000m² lots will display characteristics more like a large residential site, leaving no rural features or characteristics."* I would argue that the area already displays characteristics of large residential lots, with park-like gardens, generous front yards and substantial sized homes. I do not believe that this proposal is of a nature or scale that will adversely affect the rural character that the submitters are concerned about maintaining. It is acknowledged that the additional lot will create some visual change, especially in respect to the openness of the site as it is viewed from the road now. However, the nature of the changes, with one additional dwelling are still considered to be consistent with the character of the area. I believe the proposed lot is big enough to allow for generous setbacks, particularly from the road, extensive gardens, and screen planting (if necessary or desired).
- [77] In further consideration of the above, minimum lot size standards provide a baseline for maintaining the character, scale and intensity within the rural environment. Although the resultant lot size is below the minimum requirement of 4ha of the Operative WCDP, the receiving environment, including the subject site is already characterised by development that is well below the minimum of 4ha. Most lots accessed off Milford Downs are around 1ha, with some slightly larger lots around 1.3ha. The proposed lot sizes of the proposed subdivision development comply with the minimum lot size requirement of 0.5ha (5000m²) of the Rural Lifestyle Zone of the Proposed WCDP, making them consistent with the future policy direction for the area.
- [78] One other aspect of non-compliance against the Operative WCDP standards for the subdivision is the front boundary length. It is recognised that this frontage standard is a tool to help maintain openness of allotments within the Rural Zone, as they are viewed from a road. The front boundary length of proposed Lot 2 is approximately 50m against the legal road (Milford Downs). The front boundary length of proposed Lot 1 containing the existing dwelling is in excess of 100m, being around 125m. Although proposed Lot 2 doesn't meet this frontage standard, when viewing the lot from the road it appears to have a far greater frontage length due to its shape. This is aided by the cul-de-sac turning head adjoining the northern corner of the site and the access leg to rear properties along the western side boundary of the site. The site actually looks like it is fronted by road on two full sides, helping to keep it open, and certainly making it look larger than it actually is in area. The effects of a reduced front boundary length is therefore considered to be no more than minor. Additionally, it is noted the Proposed WCDP does not specify a minimum front boundary length requirement in the General Rural or Rural Lifestyle Zone.
- [79] Overall, the effects on rural character, including the openness of the rural environment are considered to be no more than minor.

Building Bulk and Location

- [80] Building bulk and location standards, such as setbacks, are a planning tool to preserve amenity, and help with things such as openness, shading, overlooking and privacy. Setbacks have been queried by submitter Danzer /Bentley, particularly as to whether the 10.7m setback of the existing dwelling to the new boundary includes decking.

- [81] The application includes reference to a permitted boundary activity (PBA) approval under section 87BA of the RMA to address the setback matter, which is deemed appropriate. The Applicant is the 'neighbour' who would allow or give approval for the PBA. Also, the dwelling is existing, therefore the breach of the setback standard is a technical matter, with no material or visual change to openness, and character on the wider environment. The Applicant is considered to be the only person affected by the setback breach; consequently the actual extent of the setback is not particularly important. The effects of the reduced boundary setback is considered no more than minor. It is noted the other setback encroachments on Lot 1 have existing use rights in relation external boundary setbacks. The matter of any future internal boundary infringement will not affect any external parties and could be managed under section 87AAB of the RMA, at the time of building construction on proposed Lot 2.

Servicing and infrastructure

- [82] A number of submitters (Bridges, Peters, Higginson, Shaw, Slight, Cockburn, O'Donoghue,) have raised concerns about the ability to service the proposed lots. Some submitters have stated that the clay-soil type has caused some existing septic systems in the area to fail. Based on this, further information has been sought from the Applicant under a section 92 RMA request, particularly a detailed site investigation relating to on-site wastewater and stormwater disposal.
- [83] The proposal has been reviewed by Council's Development Engineer. The different aspects of infrastructure provision and requirements are addressed individually below.

Wastewater - sewage disposal

- [84] The application states that the existing dwelling on Lot 1 is, and any future dwelling on proposed Lot 2 will dispose of sewage to a rural standard (with an on-site septic tank). Page 13 of the application states:

"The existing dwelling is serviced by on-site wastewater disposal, and this system will remain with the dwelling on proposed Lot 1. Any future dwelling on proposed Lot 2 would be able to be serviced by a modern system, or alternatively, connect to the sewer network, which is, according to Council's GIS, located within the site, at the southwest corner."

- [85] Council's Development Engineer confirms that there is an existing 80mm diameter reticulated sewer pipe to the property and a sewer portion is paid on the rates for 9 Milford Downs. This connection is for a septic tank overflow. It is understood that other properties within Milford Downs development also have overflow connections. The Development Engineer has also confirmed with Council's Assets Manager that proposed Lot 2 will not be able to connect to the reticulated sewer, stating: "MDC will not accept any new connections in Milford Downs, specifically connecting to the 80 mm pipe which is below the standard pipe size requirements".
- [86] It will be important therefore, for Applicant to confirm that on-site wastewater disposal is achievable through a detail site investigation. It is expected however, through appropriate engineering design, that an on-site system is practicable based on the size and characteristics of the property i.e. it is a flat site and seems to have little other site constraints.

- [87] In the interim, conditions of consent have been considered appropriate to require a site-specific investigation for on-site sewage disposal, and to include it as a consent notice under s221 of the RMA.
- [88] A number of submissions (Shaw, Slight, Cockburn, O'Donoghue) state that the Masterton groundwater community drinking protection area is located on the site, and on-site wastewater systems in this area will trigger the need for a resource consent from the Regional Council. Information in an email received 24 September 2004 from GWRC (included in Appendix 4 of this report) has confirmed the site falls within the area, stating: *"...if a wastewater system was to be constructed on the site, a consent would be required under Rule R64 of the NRP, and would be a controlled activity. Depending on proposed works, the activity may also fall under other rules in the NRP. I recommend a rule assessment before applying for consent or starting works."*
- [89] Regional consents are a separate and/or additional consent, and are not subject to an assessment by the local authority (MDC). To address this matter, a note has been added to the consent informing the Applicant that any other consents, including regional consents must be applied for. It is noted that GWRC were served a notice of the application and did not make a submission.

Water supply

- [90] The application has mentioned that future buildings will be required to provide water tanks for potable water and fire-fighting purposes. Conditions have been considered appropriate to include, and due to the on-going nature of conditions re: water supply for firefighting purposes, a suggested consent notice is also included.

Stormwater

- [91] Stormwater management and the overflow into adjoining properties is a matter raised in submissions (Peters, Higginson, Shaw, Slight, Cockburn, O'Donoghue). Photos have been provided by some submitters showing drainage issues in the area. The submissions highlighted that the clay soil in the area is not free-draining and may require alternative stormwater solutions to be investigated.
- [92] Similar to the matters about wastewater disposal, the detailed site investigation is important in addressing this matter. To ensure this matter is mitigated at the time of building construction, it is appropriate to impose consent condition imposing a s221 RMA consent notice on the title of proposed Lot 2, for a specific engineered stormwater design solution to be approved.
- [93] With conditions of consent ensuring appropriate engineer designed services, the effects of infrastructure can be avoided or mitigated.

Traffic effects

- [94] Potential traffic effects include traffic safety concerns from the new vehicle access location, effects on pedestrian and cyclists safety using the recreation trail and the increase in volume of traffic putting Council under pressure to upgrade the road, and who pays for that.

- [95] The submission by Danzer / Bentley has stated that the proposed location of the new vehicle entry to Lot 2 is un-safe, being on a brow and bend of Milford Downs. The Council's Development Engineer and Council's Roding Manager have reviewed the application. The Development Engineer was specifically asked whether the entranceway location was un-safe and should be moved toward to west, but this is not considered necessary. The slow speed environment and traffic volumes were considered. The Council's Development Engineer is satisfied that the new entry location will be safe. The existing access is also acceptable.
- [96] Submitters (Bridges, Peters) have also raised that any increase in traffic will have an adverse effect on pedestrians and cyclists who use Milford Downs to link through to Council's recreation trails. Again, due to the nature and small scale of the proposal, the Council's Development Engineer and Roding Manager is not concerned about this.
- [97] Submitters (Shaw, Slight, Cockburn, O'Donoghue) also raised concerns relating to additional demands on the roading network triggering upgrades to a residential standard. There has been no indication from the Council's Roding Manager or Development Engineer that the one additional lot will trigger any such upgrade requirements. The level of potential development within Milford Downs, even if every site was subdivided, is still able to be adequately serviced by the existing roading infrastructure.
- [98] Overall, it is considered the effects of development on the roading network are no more than minor.

Highly Productive Land

- [99] The submissions from Shaw, and Danzer / Bentley argue that the land is productive and therefore the proposed subdivision is inappropriate and contrary to the National Policy Statement – Highly Productive Land (NPS-HPL). Yes, the subject site is identified as containing highly productive land. The application correctly identifies the land use capacity class of the subject site as LUC 3 and it should therefore be considered under Part 3(3.4(1)(b)) as 'highly productive'. The application assessment on page 18 concluded, that due to future policy direction (proposed Rural Lifestyle Zone), the provisions of the NPS don't apply. The applicant provided an "Assessment of land productive capability" report prepared by Fruition, including a soil report. The report addresses all matters under Clause 3.8(1)(a) and 3.8(2) of the NPS-HPL. The report by Fruition concluded the following:

*"Considering these factors in combination means that this property in its entirety is **not suitable** for commercial agricultural or horticultural production".*

The factors or limitations referred to in the Fruition report are: that the soil is poorly drained and susceptible to drought, needing careful attention to water and nutrient management (essentially irrigation, drainage and fertiliser). This is very costly, and there is no current resource consent allocation for water (regional consent). Part of the section 92 further information request sought further assessment against the NPS-HPL.

[100] It is noted that the applicant has requested any technical soil reports commissioned for s32 evaluation reports and pending s42a reports for the proposed WCDP Rural zone hearings, including the Rural Lifestyle Zone, under the Local Government Official Information and Meetings Act (LGOIMA) 1987. This LGOIMA was responded to on 20 September 2024. The report titled "Assessment of the proposed rural lifestyle zone against the National Policy Statement for Highly Productive Land" dated August 2024, prepared by AgFirst, Independent Agricultural and Horticultural Consultants concludes that subdividing the area of land encompassing the site would not be contrary to the NPS-NPL. This report is available to the public through the Proposed WCDP website.

[101] I consider that, given the current land use of rural lifestyle on the site and the future policy direction (Rural Lifestyle zoning) of the PWCDP, being backed up by two agricultural/horticultural consultancy firms, the approval of the proposed 2-lot subdivision (with lots of 5000m² each) is very unlikely to have an adverse effect on the productive capacity of the land.

Heritage

[102] There are no known historic sites or features associated with the application, either within the site boundaries or in the immediate vicinity. However, as per normal conditions of consent, accidental discovery advice notes are recommended to be included, which will ensure that should any earthworks uncover unrecorded archaeological sites – work would stop immediately, and Heritage NZ would be contacted immediately to determine the next steps.

[103] Local iwi groups were consulted over the proposal, being sent a copy of the application, and have no comments or concerns with the application.

Natural Hazards

[104] The proposal is clear of any hazards identified in the Operative and Proposed WCDP GIS maps, including fault lines, flood hazards or liquefaction zones.

[105] In respect to fire risk, the Operative WCDP does not explicitly outline a standard of requirement, the matter is outlined in subdivision assessment criteria. However, under the Proposed WCDP the provision for on-site firefighting water supply is included as a matter of control for rural subdivision. Given this matter has not been given legal effect, it is considered appropriate to condition a s221 RMA consent notice on the Record of Title for proposed Lot 2 to satisfy the requirement of an alternative water source for firefighting purposes.

[106] With the above on-going condition included, it is thus considered that the requirements of s 106 of the RMA relating to hazards are satisfied.

Other matters I consider relevant (s104(c))

Weighting of the Operative WCDP and Proposed WCDP – legal effect

[107] Submitters (Peters, Shaw, Slight, Cockburn, O'Donoghue) raised the matter of the weighting given to the Operative and Proposed WCDP. The submitters raise that the Proposed WCDP is a significant policy shift that is yet to be tested through District Plan hearing and potentially the appeal process. The proposed plan was notified on 11 October 2023, with the notification period ending on 19 December 2023, and a further submissions period closing on 29 March 2024. It is noted that matters related to rural subdivision and residential activities in the Rural zones, have been given legal effect, by Environment Court order from 11 October 2023 under s86D of the RMA 1991. However, as the hearings stream related to Rural Zones is yet to be heard, and with a number of submission and submission points relating specifically to the proposed Rural Lifestyle zone, it is considered appropriate to take a more pre-cautionary approach in determining the overall activity status as non-complying activity, as prescribed under the Operative WCDP (2011). The Proposed WCDP has however been considered in respect to future policy direction, and the proposed subdivision outcome.

Land covenant registered on the Record of Title

[108] The Record of Title (WN37B/882) for the site includes a Land Covenant in Transfer B148679.3 that was registered in 1991, probably around the time the original sections in Milford Downs were sold. Clause 4 in this schedule of the covenant reads: *"No Lot shall be further subdivided without the further consent of the registered proprietor first had and obtained."* A number of submitters have mentioned this and have stated that the restriction was one of the reasons for attracting them to the area.

[109] The legal instrument is a private covenant which is not in favour of MDC. On that basis, Council is not responsible for enforcing the covenant and it has no bearing on the assessment of this consent application.

Another similar consent application in the vicinity

[110] Submitters [Danzer / Bentley) have raised that this application is the second such proposal within the Milford Downs area, with a very similar also being processed by Council for 10 Milford Downs (the property on the corner of Milford Downs and Manuka Street). Submitters are concerned that a dangerous precedent for development will be set if this proposal is granted. In response to this, I note that the current application needs to be assessed and considered on its own merits under the RMA process.

[111] Cumulative effects are a legitimate resource management concern, but I do not believe that this proposal, being of a small scale - in that only one additional lot is being created, does not cause or result in any cumulative effects. Any future subdivision activity would be subject to a new application and therefore assessment of effects, including cumulative effects. It should also be noted that the future policy direction under the Proposed WCDP has included the matter of the cumulative effects of subdivision under the proposed Rural Lifestyle Zone.

Availability of similar sized lots

[112] Submission in support (Joe Hart) states that the proposal should be granted as there is a lack of 3000m²-5000m² sections available in the Wairarapa for family homes. Conversely, submitters (Danzer and Bentley) state that there are similar sized options elsewhere. Without researching this in any detail, it is recognised that one of the drivers for the Rural Lifestyle Zone, with a minimum lot size of 0.5ha (or 5000m²) was because of the lack of such properties within the region. The s32 evaluation report for the Rural Zones of the Proposed WCDP states that the 0.5ha size was reached after discussing what the demand was with local surveyors.

Financial contributions

[113] The proposed subdivision will create an additional lot. As such, financial contributions will be imposed as conditions of consent for the additional lot in accordance with the requirements of the Operative WCDP, to manage the effects of servicing on the environment generated by the proposed subdivision. It is noted that the application states that the financial contributions should be imposed under the Proposed WCDP, however this section of the Plan does not have immediate effect and is subject to submissions.

PART 2 RMA ANALYSIS

Section 5 Purpose of the Act

[114] The overarching purpose in section 5 of the RMA, is promotion of the sustainable management of natural and physical resources. This requires a balance between the use, development and protection of natural resources on one hand, and enabling people and communities to provide for their social, economic and cultural wellbeing and health and safety on the other.

[115] In my opinion, with the inclusion of suitable conditions, based on the above assessment, the proposal can be undertaken in a manner that would avoid, remedy or mitigate any potential adverse effects on the environment.

Section 6 – Matters of National Importance

[116] There are no matters applicable to section 6 that are relevant to application.

Section 7 – Other Matters

[117] Section 7 of the RMA sets out a number of matters to which persons exercising functions under the RMA must have particular regard. In particular these include:

- The maintenance and enhancement of amenity values
- The maintenance and enhancement of the quality of the environment
- The efficient use and development of natural and physical resources.

[118] My assessment supports a conclusion that granting consent to the proposal subject to suitable conditions, would be consistent with the maintenance of rural amenity values, maintenance and enhancement of the environment, and the efficient and sustainable use of natural and physical resources.

Section 8 – Treaty of Waitangi

[119] I am not aware of any specific Treaty of Waitangi issues raised by the proposal.

Overall assessment with regard to Part 2 of the RMA

[120] Overall, I consider that the proposal is consistent with the purposes and principles of Part II of the RMA, subject to conditions.

CONCLUSION

[121] As a non-complying activity, this consent application has been considered under section 104(1) of the RMA.

[122] The determination of applications for non-complying activities is under sections 104B and 104D of the RMA. Under section 104B of the Act, after considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority–
(a) may grant or refuse the application; and
(b) if it grants the application, may impose conditions under section 108.

Section 104D Assessment

[123] *104D Particular restrictions for non-complying activities*

(1) Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either–

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of–

[124] In regard to the above, I consider that, the proposal can satisfy both “gateway tests”. In terms of part (a), the adverse effects of the proposal on the environment are considered to be no more than minor; and in terms of part (b), the assessment of the proposal against the Operative and Proposed WCDP has found that, the proposal is not contrary to the objectives and policies within the Plans.

RECOMMENDATION

[125] The following recommendations are made to the Resource Management Commissioner Lindsay Daysh:

(a) That the proposal to create two lots of 5000m² (area subject to actual survey) at 9 Milford Downs, Masterton, legally described as Lot 5 DP 68587 (held in Record of Title WN37B/882), labelled proposed Lots 1 and 2 on the Scheme Plan prepared by Tomlinson & Carruthers Surveyors (reference # 24-104 v2, Drawn Date Jul 10 2024), is granted subdivision consent;

- (b) That the Permitted Boundary Activity, pursuant to section 87BA of the RMA 1991, for the existing dwelling at 9 Milford Downs, Masterton, to be within 10.7m of the new internal side boundary between Lots 1 and 2, is granted;
- (c) That, if the Resource Management Commissioner sees fit to grant the application in accordance with the recommendation above, that the following conditions, or similar, should apply:

Recommended Conditions:

Survey

1. Subject to the further conditions of this consent, the subdivision shall be undertaken in accordance with the consent application RM240079, the assessment of environmental effects, further information and the scheme plan drawn by Tomlinson & Carruthers Surveyors (reference # 24-104 v2, Drawn Date Jul 10, 2024), subject to final survey.
2. Obtain and register all the necessary easements for rights of way, water, sewerage, storm water, power and telecom. These easements are to be created by schedule and memorandum and are to be registered against the certificates of title for the lots.

Servicing (may be amended if sufficient information is provided)

3. Pursuant to section 221 of the Resource Management Act 1991, the following condition shall be secured by way of a Consent Notice registered on the Title for proposed Lot 2 at no cost to the Council:
 - a. *A wastewater design report/details prepared by a suitably qualified person shall be provided at the time of building consent for Council approval to erect any new habitable buildings on Lot 2 which certifies that the proposed disposal system and effluent field are suitable for the subject site.*
 - b. *Stormwater design detail shall be prepared by a suitably qualified person and provided at the time of building consent for Council approval, to erect any new habitable buildings on Lot 2.*

Fire safety

4. That a Consent Notice pursuant to section 221 of the Resource Management Act 1991 shall be registered in the Certificate of Title for proposed Lot 2 requiring compliance with the following conditions on a continuing basis:
 - a. *Any dwelling to be constructed on proposed Lot 2 shall be provided with a dedicated means of Firefighting Water Source and access to that supply, in accordance with Appendix E of SNZ PAS4509:2008 New Zealand Fire Service Firefighting Water Supplies Code of Practice, prior to issue of a Building Code Compliance Certificate under Subpart 5 of Part 2 of the Building Act 2004 for such building(s) and must thereafter be maintained. This shall be provided at the expense of the land-owner(s).*

Vehicle Access

5. Prior to requesting approval under section 224 of the Resource Management Act 1991 the consent holder shall construct a new vehicle crossing to Lot 2, in accordance with the subdivision application, and meet Council specified design outlined in Wairarapa Combined District Plan to a Type A standard and NZS 4404:2010.

Engineering plans and certification

6. A suitably qualified person shall be engaged to undertake the design and supervision of any works associated with this subdivision and shall certify all of the work on completion. Certifications will be required in accordance with Schedules 1A, 1B and 1C of NZS 4404:2010.

Financial Contributions

7. A reserves contribution, being 2% (plus GST) of the land value of Lot 2 is to be paid in respect of the additional lot in accordance with 23.2.2(a) of the Council's Wairarapa Combined District Plan.

The value of the allotment is to be obtained from a registered valuer by and at the cost of the applicant and shall be no older than 3 months at the time of presentation to the Masterton District Council.

N.B. The maximum amount of total combined contribution for reserves and roading in the Rural Zone shall be \$7,500 (plus GST) per allotment created by a subdivision.

8. A roading contribution, being 3% (plus GST) of the land value of Lot 2 is to be paid in respect of the additional lot in accordance with 23.2.2(a) of the Council's Wairarapa Combined District Plan.

The value of the allotment is to be obtained from a registered valuer by and at the cost of the applicant and shall be no older than 3 months at the time of presentation to the Masterton District Council.

N.B. The maximum amount of total combined contribution for reserves and roading in the Rural Zone shall be \$7,500 (plus GST) per allotment created by a subdivision.

Advice notes:

1. Please note when applying for your section 224 completion certificate you will need to provide evidence that demonstrates all conditions of this consent have been met.
2. The resource consent is valid for five years from the date consent is granted.
3. If any archaeological site deposits are identified during any development of the land, the owner/contractor should act in good faith and avoid effect to the deposits and contact Heritage New Zealand, Rangitāne Tū Mai Rā, Rangitāne O Wairarapa, and Ngati Kahungunu Ki Wairarapa Taiwhenua immediately. Under the Heritage New Zealand Pouhere Taonga Act 2014 it is an offence to modify or destroy, or cause to be modified or destroyed, the whole or any part of an archaeological site without the prior authority of Heritage New Zealand. The accidental discovery protocol is to be followed.

4. All work or discharge to or within the road reserve requires a Corridor Access Request (CAR). This includes any upgrades to vehicle crossings and the installation of infrastructure, services. A Corridor Access Request (CAR) can be made via the BeforeUDig website or through Council's website. A Traffic Management Plan for the works shall be submitted with the CAR.
5. This subdivision consent approval does not include any regional consents. It is the Applicant's responsibility to seek any necessary regional consents.

Report prepared by:



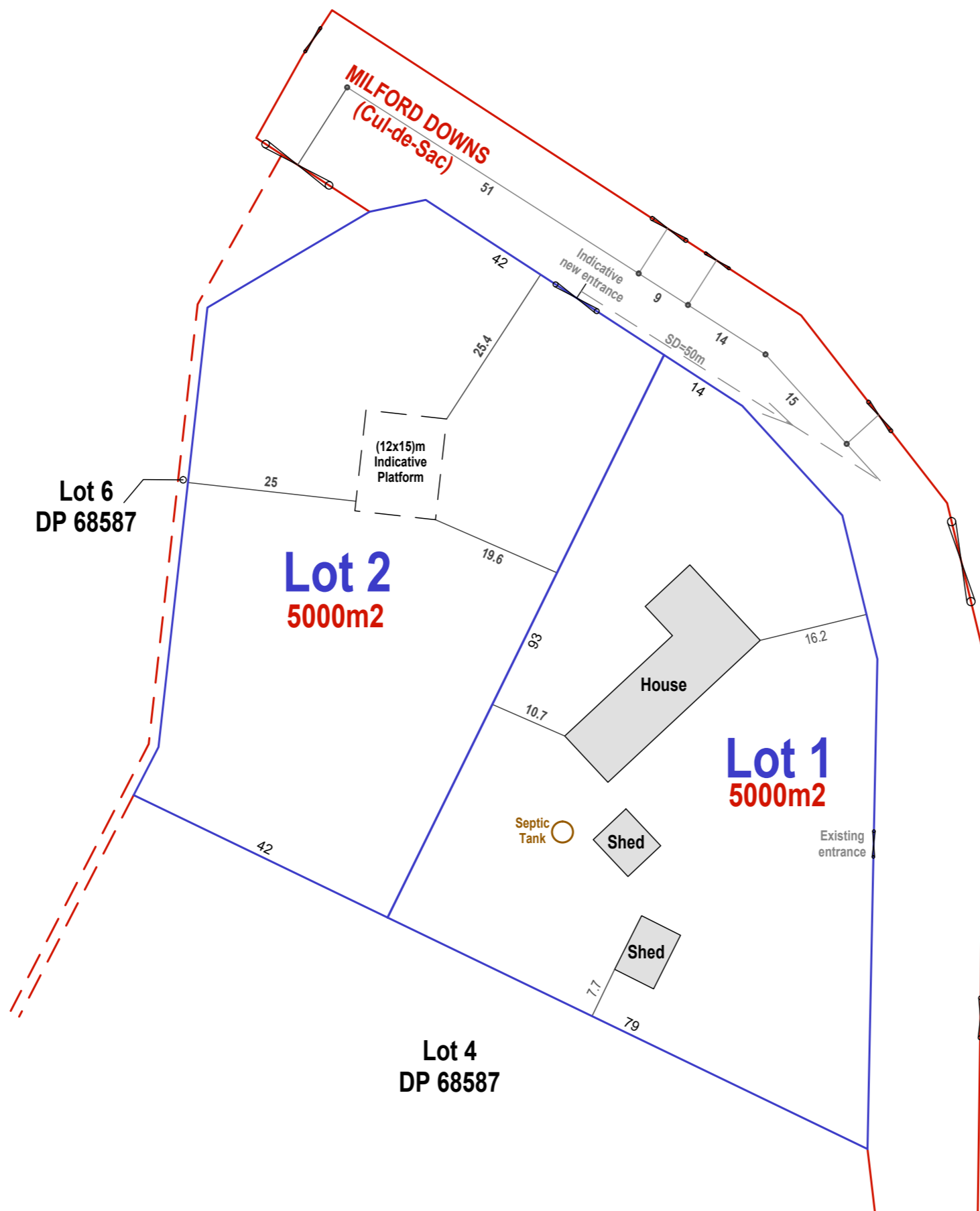
..... Date: 26 September 2024
Honor Clark
CONSULTANT PLANNER
for Masterton District Council

Report reviewed and approved for release by:



..... Date: 26 September 2024
Christine Chong
PLANNING AND CONSENTS MANAGER
Masterton District Council

Appendix 1 - Subdivision Scheme Plan



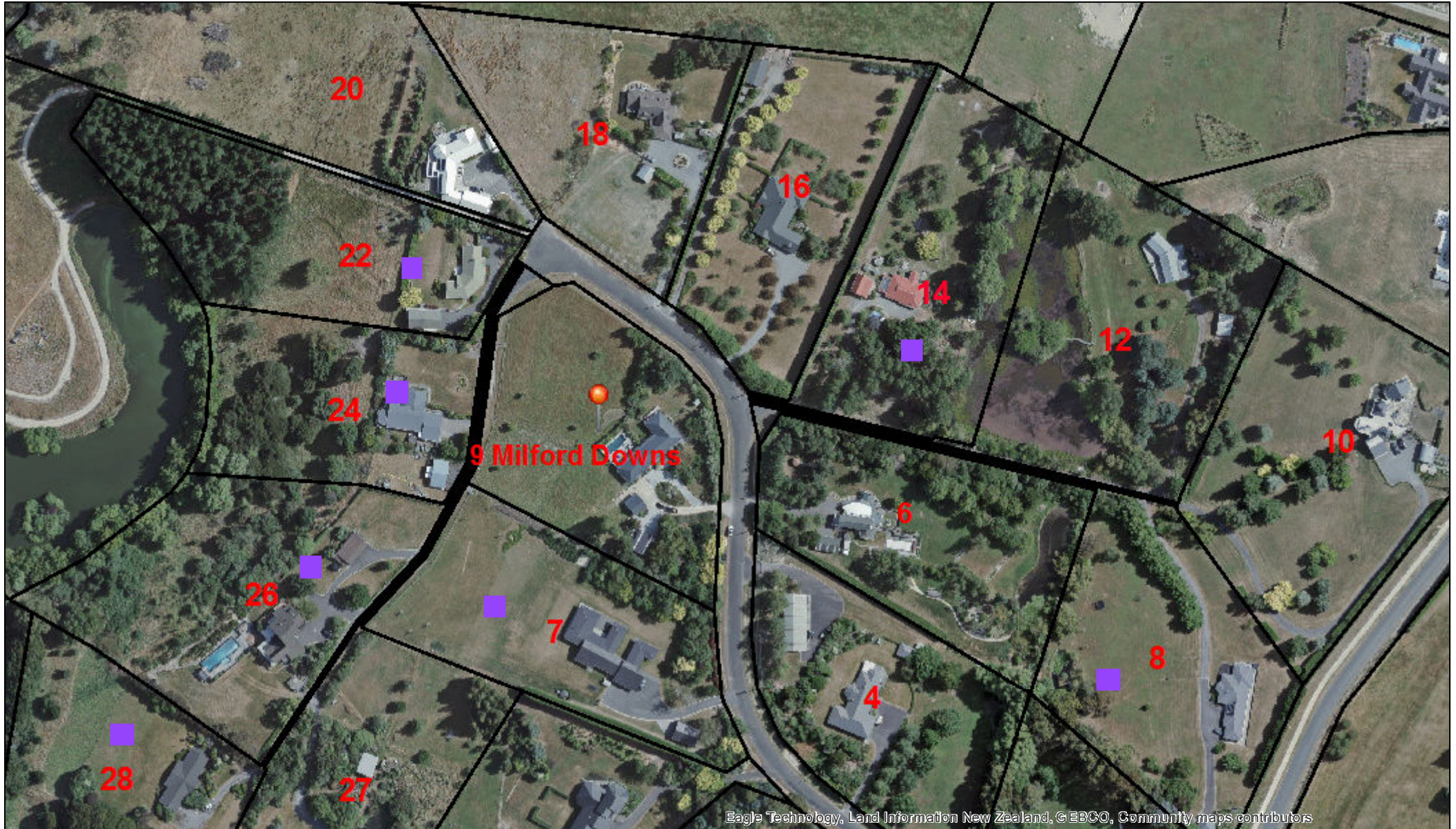
NOTE:
Areas and Dimensions subject to Final Survey
Some Details plotted from Aerial Photography

Prepared for:	Beatson
Drawn Date:	Wed Jul 10 11:22:27 2024
Comprised in:	WN37B/882
Territorial Authority:	MDC
Scale: 1:750 @ A3	Ref #: 24-104 v2



NOTE:
Areas and Dimensions subject to Final Survey
Some Details plotted from Aerial Photography

Prepared for:	Beatson
Drawn Date:	Wed Jul 10 11:23:19 2024
Comprised in:	WN37B/882
Territorial Authority:	MDC
Scale: 1:750 @ A3	Ref #: 24-104 v2



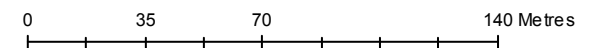
Eagle Technology, Land Information New Zealand, © EBCO, Community maps contributors

September 25, 2024

- Masterton Property
- Carterton Property
- South Wairarapa Property

DISCLAIMER
 The Masterton, Carterton, and South Wairarapa District Councils accept no responsibility for actions or projects undertaken or loss or damages incurred, by any individuals or company, or agency, using all or any of the information presented on this map. The Councils do not provide interpretation of this information or advice on how to interpret, or utilise this information. Your own independent and appropriate professional advice should be sought. The information displayed on this map may contain errors or omissions or may not have the spatial accuracy required for some purposes.

1:2,257



Appendix 3 – Copy of s92 Request for Further information letter (dated 13 Sept 2024)

RM240079
Your ref: T24/104

13/09/2024

G Beatson
c/- Tomlinson & Carruthers Surveyors
PO Box 246
Masterton



Email: edita@tcsurvey.co.nz

Dear Edita

Resource consent application – Further information required

Application number	RM240079
Applicant	G Beatson
Address	9 Milford Downs, Masterton
Proposed activity	2- Lot Rural Subdivision

At the end of the public notification period (6th September 2024) Masterton District Council has reviewed your application and submissions received for your proposal for a 2 -Lot Rural Subdivision located at 9 Milford Downs, Masterton.

Under section 92 of the Resource Management Act 1991 (RMA), the Masterton District Council requests further information detailed below, in respect to seeking clarification on the proposed subdivision and potential environmental effects.

Waste water disposal:

1. In respect to an appropriate system of wastewater disposal, submitters raised concerns with the drainage capability of the site. Please provide a report on the feasibility of the additional allotment (proposed Lot 2) to support a compliant on-site wastewater system management system.
2. Please also confirm that all parts of the existing septic tank system servicing the existing dwelling (within proposed Lot 1) will be contained entirely within the proposed lot with no effects on proposed Lot 2 or adjoining properties.

Stormwater management:

3. Please provide a stormwater assessment report on the feasibility of the additional allotment to adequately dispose of stormwater within the lots.

NPS-Highly Productive Land:

4. The Soil report provided under the original application concludes land is not suitable for primary production purposes due to irrigation constraints and lot size. Please provide further details of the viability of the land for productive purposes, in respect further fragmentation of Highly Productive Land, in accordance with the NPS-HPL.

Please note, Council does not intend to stop the clock on the processing of this application, with the information hopefully being made available prior to the release of the s42A Report or hearing.

You can object to this request for further information in accordance with Section 357 by writing to the Council within 15 working days of receiving this request.

Please do not hesitate to contact me if you have any questions or concerns regarding the above request or the further processing of the application.

Please do not hesitate to contact me if you have any questions or concerns regarding the above request or the further processing of the application on 027 408 8775, or email me directly at: honz@xtra.co.nz and copy in: planningadmin@mstn.govt.nz

Kind Regards,

A handwritten signature in blue ink, appearing to read 'H Clark', written in a cursive style.

Honor Clark
Consultant Planner
Masterton District Council

Reviewed and approved for release by:

A handwritten signature in blue ink, appearing to read 'Christine Chong', written in a cursive style.

Christine Chong
Planning and Consents Manager
Masterton District Council

Appendix 4 - Email from GWRC (dated 24th September 2024)

From: [Honor Clark](#)
To: [Sheryn Scanlan](#)
Cc: [Christine Chong](#)
Subject: Fwd: GWRC RE: 9 Milford Downs, Masterton - ? Community drinking water supply protection area? [#8EABBC]
Date: Thursday, 26 September 2024 12:23:33 PM
Attachments: [image001.png](#)
[image002.png](#)

GWRC email.

----- Original Message -----

From: Katherine Greenaway <Katherine.Greenaway@gw.govt.nz>

To: "honz@xtra.co.nz" <honz@xtra.co.nz>

Date: 24/09/2024 14:06 NZST

Subject: GWRC RE: 9 Milford Downs, Masterton - ? Community drinking water supply protection area? [#8EABBC]

Kia ora Honor

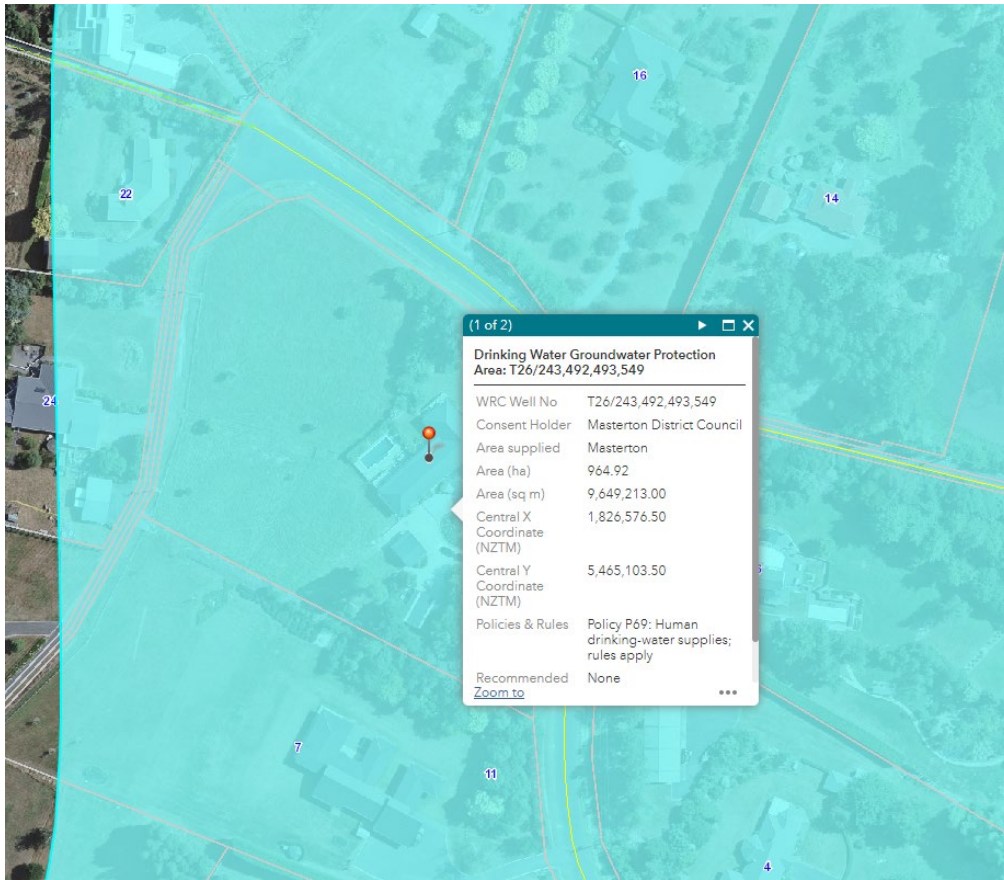
I'm contacting you regarding your query to GWRC regarding property at 9 Milford Downs.

I've attached a snip of our mapping system which shows that the property is located within a groundwater community drinking water supply protection area. This means if a wastewater system was to be constructed on the site, a consent would be required under Rule R64 of the NRP, and would be a controlled activity.

Depending on proposed works, the activity may also fall under other rules in the NRP. I recommend a rule assessment before applying for consent or starting works.

I hope this helps – please let me know if you have any further questions on this matter.

Ngā mihi, Katherine



Katherine Greenaway (she/her)

Kaitohutohu | Resource Advisor

Greater Wellington Te Pane Matua Taiao

021 497 538

100 Cuba St, Te Aro, Wellington 6011

Follow us online: Facebook | gw.govt.nz