



# MASTERTON DISTRICT COUNCIL

Application for Resource Consent under Section 88 of the Resource Management Act 1991

## Sections 95A to 95F Resource Management Act 1991

**Decision whether an application for resource consent should be processed as publicly notified, limited notified or non-notified**

<b>Consent Number</b>	RM210207
<b>Applicant</b>	East Leigh Limited
<b>Description of Activity</b>	Subdivision consent to create 21 allotments, a 2-lot boundary adjustment of existing Lots 13 and 14 DP 383390, and Lot 200 to vest as reserve; and Land Use consent to allow future dwellings and accessory buildings on the proposed allotments to breach the minimum setbacks of the Rural Zone, and instead to comply with the Residential Zone setbacks
<b>Site Address</b>	Rochdale Road (and in the vicinity of), Riversdale, Masterton
<b>Legal Description of Site</b>	Lot 102 DP 517369 and Lots 12 and 13 DP 383390 (held in Records of Title 808940, 358614, 358615 respectively)
<b>Zone</b>	Rural – Primary Production Zone; Coastal Environment Management Area overlay; 40m Coastal Contour
<b>Type of Consent Sought</b>	Subdivision and Land Use
<b>Activity Status</b>	Non-Complying Activity under the Wairarapa Combined District Plan
<b>Date Application received</b>	25 November 2021

### Preamble

This report has been prepared on the matter of determination as to whether the application for resource consent should be processed as publicly notified, limited notified or non-notified in accordance with Sections 95A – 95F of the Resource Management Act 1991 (RMA).

### 1.0 Proposal

- 1.1 East Leigh Limited lodged an application for resource consent, prepared CF Consulting Services Ltd and Adamson Shaw, for Subdivision consent to create 21 residential sized allotments, a 2-lot boundary adjustment of existing Lots 13 and 14 DP 383390, and Lot 200 to vest as reserve; and Land Use consent to allow future dwellings and accessory buildings on the proposed allotments to breach the minimum setbacks of the Rural Zone, and instead to comply with the Residential Zone setbacks.

- 1.2 The proposal is clearly described in the application material. The application includes a proposed subdivision plan (prepared by AdamsonShaw, reference Project No 1044, Drawing No SC-20, Revision D). Along with the assessment of environmental effects, the application includes a number of accompanying assessments, including a Landscape and Visual Assessment; Geotechnical Engineering Evaluation; Traffic Assessment; and Stormwater Assessment.
- 1.3 20 additional allotments are proposed on the flatter plateau parts of Lot 102, near Rochdale Road, and 1 additional allotment (proposed Lot 323) is located adjacent to Lot 13 DP 383390 (1 of the lots subject to the proposed boundary adjustment). The area of each of the 21 proposed allotments is detailed in Table 1 of the application, with the allotments varying in size from 940m<sup>2</sup> to 1746m<sup>2</sup>. All 21 allotments are intended to be used for residential development. Some of the proposed allotments will have frontage and access directly onto Rochdale Road (proposed Lots 301, 308, 313, 319 and 320). All other proposed allotments will have access from Rochdale Road by way of shared private accessways. No new roads are proposed.
- 1.4 All 21 proposed allotments are to be connected to the existing Riversdale reticulated sewerage network and have on-site rainwater supply. Stormwater will be to ground soakage and will drain to the gullies on either side of Rochdale Road.
- 1.5 The remaining hillsides and the gully on the southern side of Rochdale Road are to be comprised of proposed Lot 200 and vested as reserve. The applicant has planted proposed Lot 200 and intends to provide for a 2-metre-wide walking path within the lot for a pedestrian connection between Rochdale Road and Harapaki Road. The location of the walking path is shown indicatively on the scheme plan, with the final alignment to be determined at detailed engineering design stage to follow ground contours.
- 1.6 The application states:  
*The applicant's design intention is that the additional allotments will complete the southern terrace subdivision, filling in gaps within the existing subdivision layout.*
- 1.7 The subdivision is likely to proceed in stages, although the number and order of staging are not specified in the application. The intention is that survey plans will be lodged for s224 RMA certification in stages, with each stage providing the necessary access and wastewater connections to support the lots within that stage, and financial contributions paid pro rata for the number of allotments within each stage.

## **2.0 Site Description**

- 2.1 The site comprises part of the balance area of the Riversdale Terraces southern terrace subdivision (Lot 102 DP 517369) and two existing allotments within the Riversdale Terraces southern terrace subdivision (Lots 12 and 13 DP 383390). Lot 102 includes pasture paddocks that surround the existing Rochdale Road subdivision and the planted gully that extends from Harapaki Road towards the cul-de-sac end of Rochdale Road. There is a farm dam within the planted gully that acts as a stormwater retention dam.
- 2.2 The Riversdale Terraces subdivision was granted consent in 2005. The Riversdale Terraces consent includes three clusters of residential development connected by Otaia Road as follows:

- (a) the southern terrace (30 residential sections along Rochdale Road);
  - (b) the middle terrace (45 residential sections along Tama Road and cul-de-sac roads off Tama Road); and
  - (c) a northern terrace (52 residential sections along a loop road extending from Otarara Road – not yet developed).
- 2.3 The site is legally described as Lot 102 DP 517369 and Lots 12 and 13 DP 383390, held in freehold Records of Title 808940, 358614, 358615 respectively. A number of interests are registered on the Records of Title, including Consent Notices, easements and covenants, none of which affect the assessment of the proposal.
- 2.4 The site is zoned Rural – Primary Production under the Wairarapa Combined District Plan (WCDP). All of the proposed allotments, except proposed Lot 323 are also within the Coastal Environment Management Area overlay. The 40m Coastal Contour also dissects the site, with as many as half of the proposed allotments above the contour.

### 3.0 Reasons for the Application

3.1 Table 2 of the application provides a detailed rules and standards assessment against the provisions of the WCDP. I concur with this assessment.

3.2 Subdivision resource consent is required under Non-Complying Activity Rule 20.1.7(a) 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.*

3.3 Specifically, the subdivision standards that are not met by the proposal for subdivision in the Rural Zone include the minimum lot area of 4 hectares, minimum 100m lot frontage for front lots, the permitted land use standards for dwelling setbacks, and the sites not being of sufficient area to allow the disposal of effluent on-site.

3.4 The application also seeks land use consent for future buildings on the proposed allotments as buildings will not be able to comply with the minimum setback distances specified in Rural Zone Rules 4.5.2 (d) (i) and (iii) for dwellings (10m setback from front boundaries and 25m from all other boundaries) and Rule 4.5.2 (c) (i) and (iii) for other buildings (10m setback from front boundaries and 5m from all other boundaries).

3.5 Specifically identified in the application is the requirement for land use consent under Rural Zone Restricted Discretionary Activity Rule 4.5.5 (e) as follows:

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.*

3.6 In addition to the above rule, it is considered that land use consent is also required under District Wide Restricted Discretionary Activity Rule 21.4.3(a) for structures in the Coastal

Environment Management Area, particularly any structures above the 40m Coastal Contour, as follows:

21.4 *Restricted Discretionary Activities*

*The following are Restricted Discretionary Activities:*

21.4.3 *Structures in the Coastal Environment Management Area*

(a) *Any structure not complying with the permitted activity standards for structures in the Coastal Environment Management Area.*

3.7 It is noted that, although structures in the Coastal Environment Management Area were identified in Table 2 of the application as a matter of non-compliance, this has not been identified as a rule under which consent is required.

3.8 Overall, on a bundled basis, the proposal has been assessed as a Non-Complying Activity. This aligns with the overall activity status assessment in the application.

## 4.0 Notification Assessment

4.1 In deciding public or limited notification of an application the consent authority must consider the matters set out in s95A to 95E of the Act. This includes consideration of adverse effects (s95D).

4.2 Section 95A of the Act provides 4 steps to determine whether an application is publicly notified:

4.3 Step 1 (S95A(3)) *The criteria for step 1 are as follows:*

(a) *the applicant has requested that the application be notified:*

Not applicable, as the applicant has not requested notification.

(b) *public notification is required under S95C: after request for further information*

No request for further information has been made.

(c) *the application is made jointly with an application to exchange recreation reserves land*

Not applicable, as the application is not made jointly to exchange recreation reserve land.

4.4 Step 2 (S95A(5))

The public notification of the application is not precluded by Step 2, as there is no rule or National Environmental Standard (NES) for the activity that precludes public notification, therefore Step 3 applies.

4.5 Step 3 (S95A(8)(b))

This requires consideration of whether the activity will or is likely to have adverse or potential effects on the environment that are more than minor. Sections 95D(b) and (c) provide that, when determining the extent of the adverse effects of an activity or the effects on a person respectively, a council 'may disregard an adverse effect if a rule or NES permits an activity with that effect'. There is no rule or national standard that

permits such an activity. Also, under S95D(a) any effects on the people within the site or adjacent to it are not to be considered for the purposes of public notification.

It is considered that the proposal is likely to have adverse or potential effects on the environment that are more than minor for the reasons set out in Section 5 of this report below.

It is noted that the original application was publicly notified, and although the application states this is not a reason to require notification again, for which I agree, public notification does align with Masterton District Council's consistent approach to residential-sized development within the Rural Zone assessed under the WCDP.

Furthermore, it is also noted that the applicants' agent was informed in a pre-application meeting with Council on 12 March 2021 that public notification of a proposal of this nature was highly likely.

#### 4.6 Step 4 (S95A(9))

This requires the consideration of whether special circumstances exist that warrant the application being publicly notified.

Further to the matters identified in the effects assessment below, it is considered special circumstances exist, in that residential-sized or style subdivision and development is not generally contemplated in the resource management framework of the WCDP for the Rural Primary Production Zone. As a result, there are likely to be a range of matters that generate wider public interest or concern about the use of the rural land resource in this way. The application recognises that is a public interest in the application, and reported that two public meetings have been held to discuss proposal.

If the area were to be rezoned as Residential, that would require a Plan Change, which would be publicly notified. Incremental residential development or expansion into Rural Zone areas on a piecemeal basis potentially undermines the resource management framework of the Rural Zone. Enabling the proposal to proceed without public notification sets an unwanted precedent as to how Masterton District Council should view residential-sized and intended use allotments within the Rural Zone.

## 5.0 Assessment of Environmental Effects

5.1 As the application is for a Non-Complying Activity, Council is not limited to the matters that it can consider. Section 22 of the WCDP provides guidance on matters for assessment.

5.2 The application provides a comprehensive assessment of environmental effects and associated technical assessments. The potential effects that are considered to be potentially more than minor are addressed below:

### **Residential activity in the Rural Zone**

5.3 Although the application argues that the proposal is simply an addition to, or "filling the gaps" within the existing Terraces subdivision, the proposal seeks to enable 21 residential-sized allotments within the Rural Zone that fall well short of a permitted baseline for development under the provisions of the WCDP. Due to the recent issue of the main Record of Title (24 April 2020), and that the allotments are within the Coastal

Environment Management Area, the minimum lot area required for subdivision, as prescribed by the WCDP, is 4 hectares. As stated above, the proposed size of the intended residential use sites are 940m<sup>2</sup> to 1746m<sup>2</sup>, all well under the 4-hectare minimum. The proposal is deemed to be a Non-Complying Activity under the WCDP due to failing to meet the above stated subdivision standards. Furthermore, the small nature of the proposed allotments means that the applicant is also seeking the Residential Zone development setback standards for buildings, relating to amenity, privacy and access to sunlight, all resulting in a residential character.

- 5.4 An assessment of the relevant objectives and policies of the Rural Zone (within Section 5 of the WCDP) and Subdivision, Land Development and Urban Growth (within Section 18 of the WCDP), among others, are included in the application. Of particular relevance here, and at odds with the applicants' assessment, are Effects of Subdivision and Land Development Policy 18.3.2 (h) and (i) that specifically look to avoid allotments below the minimum standards in the Rural Zone leading to ad hoc urban development and/or adverse effects on rural character, amenity and natural values through the cumulative effects of rural-residential development; and not creating a precedent by limiting subdivision below the rural minimum area standards. In particular, this is seen as extremely relevant to the way in which the application is processed, as the proposal is seen as one that may create an unwanted precedent.

#### **Effects on Natural Character of the Coastal Environment**

- 5.5 Riversdale Beach settlement is located at the base of the coastal escarpment, largely along Blue Pacific Parade running parallel to the beach and other parallel streets, such as Pinedale Crescent and Tamarisk Drive. The existing Riversdale Terraces development is located on the plateau areas above the coastal escarpment.
- 5.6 The application provides a Landscape and Visual Assessment undertaken by Hudson Associates Ltd. This includes a number of viewpoints (photos) of the existing Riversdale Terraces development and simulations from the same viewpoints once the proposed allotments, resultant buildings and plantings are to be established. In all of the simulations, and from all of the public viewpoints shown, it is considered that the proposal may have more than minor adverse effects on the natural character of the coastal environment, even with the proposed mitigation measures, such as planting, considered. In particular, Viewpoint 4 Simulation, taken from Riversdale Beach itself, shows how potentially dominant the houses may be in relation to the existing buildings within the Riversdale Terraces development.

#### **Landscape and visual amenity effects**

- 5.7 Similar, to the assessment made under the effects on the Natural Character of the Coastal Environment above, the proposal is considered to have potentially more than minor adverse effects on the landscape and visual amenity of the wider Riversdale Beach area and the Rural environment, even with the proposed mitigation measures considered.
- 5.8 Further to the points made under 5.3 above, the proposed residential standards requested for development on the proposed allotments, i.e., reduced front yards, reduce the ability to mitigate any potential adverse effects of the proposal when viewed from public areas, such as the roads and reserves.
- 5.9 At a more localised level, the application has identified that a number of properties within the existing Riversdale Terraces development (2, 12, 22, 35, and 39 Rochdale Road and 26

Tama Road); the property at 137 Blue Pacific Parade; and the NZ Motor Caravan Association Inc. proposed caravan parking facility at 272 Riversdale Beach Road as being adversely affected by visual amenity effects. Written approvals from these parties have been included in the application. It is considered that potential landscape and visual effects extend beyond those parties identified in the application, and may affect the public generally.

#### **Servicing and infrastructure**

- 5.10 The 21 new allotments are proposed to connect to the Riversdale reticulated sewer disposal system. It is yet to be determined whether there is capacity within the existing reticulated sewer system for the additional allotments, based on the fact that they are located within the Rural Zone, and that there is development potential within the existing Urban Zone land. It is questionable therefore, whether there may be an adverse effect on the functioning of Council's sewerage infrastructure should the proposal proceed.
- 5.11 There is no water supply at Riversdale, and while the application has mentioned that future buildings will be required to provide water tanks for potable water and fire-fighting purposes, there is little space within each allotment to provide for the required water tanks. This matter has arisen on a number of the sites created by the earlier Riversdale Terraces development, and additional land use consents to allow water tanks within yards have had to be sought. Furthermore, with respect to firefighting requirements, no evidence as be provided of consultation with the FENZ Wairarapa Area Fire Commander about whether there are any concerns about the incremental increase in residential development at Riversdale.
- 5.12 A Stormwater Assessment report by EQOnz Ltd has been included in the application for stormwater detention dam 6. The stormwater report says that if the stormwater detention dam outlet channel and culverts block, flows could overspill and form a secondary flow-path (Figure 6), 'which could compromise some assets'. It will also flow cross private land, and may result in the property owners/occupiers in Harapaki Rd and at the end of Blue Pacifica Parade to experience an adverse effect that is more than minor associated with the increased stormwater runoff.

#### **Earthworks – construction effects**

- 5.13 The more restrictive Coastal Environment Management Area WCDP standards for earthworks will apply to all but one of the proposed allotments (proposed Lot 323 is outside the area). Earthworks greater than 1.5m (cut or fill) measured vertically is subject to land use consent. As has been the case with a number of the developed sites created by the earlier Riversdale Terraces subdivision, additional land use consents for earthworks may be required to allow dwellings or water tanks to be set into the ground contour. The cumulative effects of additional earthworks required may have an adverse effect on the physical environment from run off and so on and adverse visual effects.

#### **Summary of effects**

- 5.14 The effects of some aspects of the activity have been assessed as being potentially more than minor.
- 5.15 Considering the matters discussed above, I conclude that the public generally may be adversely affected by the proposal.

## 6.0 Notification Decision

- 6.1 Having assessed the relevant provisions of Section 95A-95F of the RMA, the application shall be processed on a **notified** basis.

Report prepared by



.....Date: 07 December 2021  
Honor Clark  
Consultant Planner for Masterton District Council

Report approved for release by:



.....Date: 07 December 2021  
Delegated Officer  
Peter Matich – Planning & Consents Manager  
Masterton District Council