

# APPLICATION FOR SUBDIVISION CONSENT

44214 / STATE HIGHWAY 6, ADDISONS FLAT, WESTPORT  
/ PREPARED FOR JOHN MCLAUGHLIN

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Davis Ogilvie & Partners Ltd

**APPLICATION FOR RESOURCE CONSENT**

**SECTION 88 OF THE RESOURCE MANAGEMENT ACT 1991**

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To: Buller District Council

1. **John Raymond McLaughlin** hereby applies for subdivision consent described below:

Subdivision consent is sought to undertake an 18-lot fee simple subdivision.

2. The names of the owner and or occupier of land to which this application relates are as follows:

**John Raymond McLaughlin**

3. The location of the proposed activity is as follows:

State Highway 6, Addisons Flat, Westport

4. No additional resource consents are needed for the proposal to which this application relates.

5. There are no other activities that are part of the proposal to which this application relates.

6. In accordance with the Fourth Schedule of the Resource Management Act 1991 (as amended 3 March 2015), Section 5 of the application includes an assessment of environmental effects that the proposed activity may have in such detail to satisfy the purpose for which it is required.

7. No other information is required to be included in this application by the district / regional plan, the Resource Management Act 1991, of any regulations made under the Act.

*Alyce*

.....  
Davis Ogilvie & Partners Limited  
(On behalf of applicant).

Date: 28 January 2025

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## QUALITY ASSURANCE

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**Title:** Application for Subdivision Consent

**Applicant:** John Raymond McLaughlin

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## 1.0 INTRODUCTION

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The following report is an assessment of the actual and potential effects on the environment generated by creating an 18-lot fee simple subdivision at State Highway 6, Addisons, Westport.

This application addresses the character of the land, the proposed subdivision, and the relevant provisions of the Operative Buller District Plan (the Plan), and the Proposed Te Tai o Poutini Plan (TTPP). The report also includes an assessment of effects on the environment as required by the Fourth Schedule to the Resource Management Act 1991.

### 1.1 Summary of Applicant and Proposal Details

Applicant:	John Raymond McLaughlin
Owner:	John Raymond McLaughlin
Site Address:	State Highway 6, Addisons Flat, Westport
Legal Description:	Lot 3 DP 360520
Record of Title:	246193
Net Site Area:	88.6615 Hectares
Buller District Plan Zoning:	Rural Zone
Te Tai o Poutini Plan Zoning:	General Rural Zone (No overlays)
Proposal:	Subdivision consent is sought as a <b>Discretionary Activity</b> .

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## 2.0 SITE & SURROUNDS

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### 2.1 Site Description

The application site is legally described as Lot 3 DP 360520, as shown in **Figure 1** below. It is held in Record of Title 246193 along with Lot 4 and Lot 5 DP 360520. The Record of Title is attached as **Appendix A**.

Lot 3 DP 360520 is located on State Highway 6, approximately 8km southwest of Westport and 12km northeast of Charleston. The site is located opposite Wilsons Lead Road. The allotment has an area of 88.6615 hectares contains two terraces. The two terraces have an elevation difference of 80 metres, with the slope between the lower terrace and the upper terrace vegetation in both indigenous and exotic vegetation.

The lower terrace is approximately 25 hectares in area adjacent to State Highway 6 and contains farming pasture. It contains a pond area that was formed as a result of mining activities being undertaken on the site. Vegetation surrounding the pond is a combination of indigenous and exotic plan species. The lower terrace surrounds Lot 2 DP 360520, which is owned by Gareth Allen, Kevin McLaughlin and Valerie McLaughlin. A shed is located on the southern boundary of Lot 3 DP 360520, near the residential dwelling on Lot 2 DP 360520.

The upper terrace contains the remainder of Lot 3 DP 360520 and Lots 4 and 5 DP 360520. This terrace is undeveloped and contains a combination of indigenous and exotic vegetation.

Lot 4 and Lot 5 DP 360520 are two allotments that are located east of Lot 3 DP 360520 with Lot 4 having an area of 11.6188 hectares and Lot 5 having an area of 33m<sup>2</sup> (Lot 5). Vegetation on Lots 4 and 5 is a combination of indigenous and exotic vegetation. Two appellation areas identified as "*Crown Land Block II (under action) Waitakere Survey District*" are located between Lot 3 DP 360520 and Lot 1 DP 360520, and Lot 3 DP 360520 and Lot 5 DP 360520.

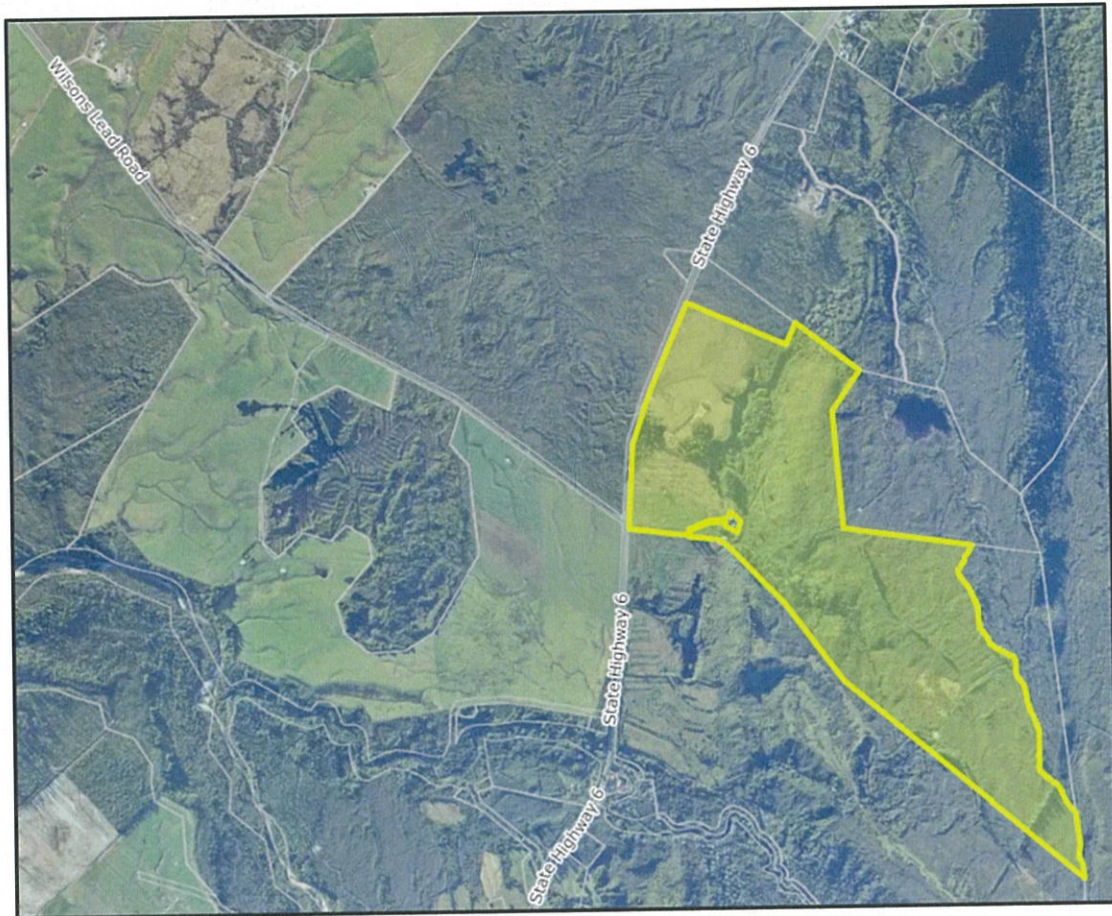


Figure 1: Application Site. Source: Grip.

## 2.2 Surrounding Land Use

Surrounding land use is a combination of agricultural farming, conservation land and land containing a combination of indigenous and exotic vegetation.

Part Section 19 Block II Waitakere SD is located on the western side of State Highway 6, opposite the proposed subdivision site. This land is public conservation land and is managed by the Department of Conservation. On a south-western angle from the site is a farm owned by Landcorp Farming Limited. Land adjacent to the eastern boundary of the site is a combination of indigenous and exotic vegetation owned by Pristine Manuka Honey Company Limited.

## 2.3 Recent Planning History

There is no recent planning history relating to the application site that is relevant to this proposal.

## 2.4 National Instruments

### 2.4.1 National Environmental Standard – Contaminated Soils

The National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCSCS) applies if any activities listed on the Ministry for the

Environment's Hazardous Activities and Industries List (HAIL) have ever been undertaken on the site. The NES requires territorial authorities to enforce the regulations for 'land' and 'activity' criteria.

Based on a review of the Selected Land Use Register held by West Coast Regional Council (refer attached email dated 6 September 2024, **Appendix B**), there is no evidence of ground contamination or of activities described Hazardous Substances and Industries List (HAIL) occurring or having occurred on the site. On this basis, the site is not considered contaminated and is not classified as a piece of land as outlined in the NESCS. Accordingly, the NES does not apply to the activity.

Attached as **Appendix C** is Buller District Council's declaration form for the NESCS.

#### **2.4.2 National Environmental Standard for Freshwater and National Policy Statement for Freshwater Management**

The National Environmental Standard for Freshwater (NES-F) sets out requirements for earthworks, vegetation clearance, and the taking, use, damming or discharge of water near natural wetlands. In terms of definition a natural inland wetland, the NES-F refers to the definition included in the National Policy Statement for Freshwater Management (NPS-FM).

Consultation with ecologist Professor David Norton was undertaken to confirm whether the pond area on the lower terrace of Lot 3 DP 360520 could be deemed to be a natural inland wetland as defined by the NPS-FM. Correspondence received from Professor David Norton and attached as **Appendix D**, confirms the ponds on the site were formed as a result of gold mining activities and as such are excluded from being a natural inland wetland under clause (b) of the definition as they have been deliberately constructed. On this basis none of the rules within the NES-F or objectives and policies of the NPS-FM are applicable to this proposed subdivision.

### **3.0 DESCRIPTION OF PROPOSAL**

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It is proposed to undertake an 18-lot fee simple subdivision of Lot 3 DP 360520. The development is to be in general accordance with the scheme plan attached as **Appendix E** and shown in **Figure 2**.

Proposed Lots 1 to 15 will have net site areas of between 0.8 hectares (Lot 10) and 3 hectares (Lot 7) and are intended to be sold for rural-residential purposes. No building development of Lots 1 to 15 is to occur as part of this proposed subdivision but is expected in the future. Lot 18 will be vested as road in Buller District Council and will provide access to Lots 1 to 15.

Lot 16 is to have an area of 0.5 hectares and is to be held in amalgamation with balance land Lot 17, and Lots 4 and 5 DP 360520. The purpose of Lot 16 is to provide access to Lot 17 and Lots 4 and 5 DP 360520. No building development or change in land use of proposed Lots 16 and 17, or existing allotments 4 and 5 DP 360520 is to occur as a result of this proposed subdivision. Overall, the proposed subdivision will result in 15 additional titles being created (Lots 1 to 15).



Figure 2: Scheme Plan

### 3.1 Access

Access to Lot 3 DP 360520 is currently via three entrances. The main entrance is located on Lot 2 DP 360520 with a legal right of way providing access to Lot 3 DP 360520. Two gates from the State Highway directly into Lot 3 DP 360520 provide access to the site. The first gate is located approximately 40 metres from the northern property boundary. The second gate is located approximately 320 metres from the northern entrance and approximately 420 metres from the southern property boundary. These two entrances to Lot 3 DP 360520 will be permanently closed as part of this proposed subdivision.

#### 3.1.1 Access to Lots 1 to 15

As shown on the Scheme Plan (**Appendix E**) a new road will be formed from State Highway 6 to provide access to Lots 1 to 15. This new road is to be vested as a road in Buller District Council. It is anticipated that a consent condition will require the new intersection with State Highway 6 to be designed and constructed to NZTA standards and then approved by NZTA. Consultation with New Zealand Transport Agency (NZTA) has been undertaken and their affected party approval has been requested.

The entrances from the vested road will be constructed to Councils standards.

#### 3.1.2 Access to Lots 16 & 17 and Lots 4 & 5 DP 360520

Access to Lots 16 & 17 and Lots 4 & 5 DP 360520 will be via the existing access to Lot 2 DP 360520. An existing right of way easement is registered on the underlying Record of Title for Lot 2 DP 360520 to enable the applicant to access Lot 3 DP 360520. This easement is only registered over the start of Lot 2 DP 360520 and will enable access to proposed Lot 16. New easement R is to be registered over the access to Lot 2 DP 360520 to enable access from proposed Lot 16 to proposed Lot 17 and Lots 4 and 5 DP 360520.

### 3.2 Servicing

Proposed Lots 16, 17 and Lots 4 and 5 DP 360520 are to remain in the ownership of the applicant and held in the same Record of Title. As these allotments will continue to be used for existing rural purposes following the proposed subdivision. A consent notice is anticipated to be registered on the new Record of Title requiring services to be provided if building development occurs in the future.

No servicing of Lot 18 is required as the allotment is to be vested in Buller District Council as a road.

The following outlines the proposed servicing for Lots 1 to 15.

### 3.2.1 Water Supply

Rainwater collection and tank storage can provide adequate water supply for any future residential dwelling constructed on proposed on Lots 1 to 15.

On two previous subdivisions located within the Rural Zone, Davis Ogilvie have consulted with Fire and Emergency West Coast. On both occasions Fire and Emergency West Coast have requested for the following consent notice to be registered on the new Record of Titles.

#### Requested Consent Notice:

*"Pursuant to section 221 of the Resource Management Act 1991, a Consent Notice shall be imposed on the Record of Title of Lot 1 to ensure the following conditions are met on a continuing basis. The Consent Holder is required to pay the costs of the Consent Notice.*

*That upon the construction of a habitable building, a minimum of 45,000 litres of water shall be maintained at all times as a static firefighting reserve. Alternatively, a 7,000-litre firefighting reserve is to be made available in association with a sprinkler system installed to an approved standard. Sufficient water volume, pressure and flows shall be provided in accordance with NZFS Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008 and that this water supply be accessible by emergency vehicles for firefighting purposes; and*

*A firefighting connection in accordance with Appendix B – SNZ PAS 4509:2008 is to be located within 90 metres of any proposed building on the site. In order to ensure that connections are compatible with New Zealand Fire Service (Fire and Emergency New Zealand) equipment, the fittings are to comply with the following standards:*

- a) Either: For flooded sources – 70mm Instantaneous Couplings (Female) NZS 4505, or for suction sources – 100mm Suction Couplings (Female) NZFS 4505 is to be provided.*
- b) Flooded and suction sources must be capable of providing a flow rate of 12.5 litres / sec at the connection point / coupling. The Fire Service connection point / coupling must be located so that it is not compromised in the event of a fire.*
- c) The connection shall have a hardstand area adjacent to it to allow for a New Zealand Fire Service appliance to park on it. The hardstand area shall be located in the centre of a clear working space with a minimum width of 4.5 metres and shall be within 5 metres of the coupling. Access shall be maintained at all times to the hardstand area.*

*Firefighting water supply may be provided by means other than the above if the written approval of Fire and Emergency New Zealand is obtained for the proposed method."*

The applicant has reviewed the above consent notice and requests this consent notice is registered on the new Record of Titles for Lots 1 to 15.

### **3.2.2 Stormwater Disposal**

Excess stormwater that is not collected for water supply purposes can be discharged to the ground onsite as a permitted activity under Regional Council rules. It is anticipated that the Council will impose a consent notice on the new titles for Lots 1 to 15 requiring stormwater runoff and drainage must be adequately controlled in accordance with the requirements of the local and regional authorities at the time of building development.

### **3.2.3 Sewage Disposal**

The discharge of sewage effluent is a permitted activity as long as the conditions outlined in Rule 79 of the West Coast Regional Council (WCRC) Regional Land and Water Plan (2014) are adhered to. Rule 79 states: *The discharge of any sewage effluent into or onto land, other than septage, from on-site sewage treatment and disposal systems is a permitted activity, provided that all of the conditions are met.*

Section 8.1 of the Geotechnical Report recommends that a suitably sized and located retention tank and/or drainage channels are incorporated into the design at building consent stage to manage runoff from hardstand areas. The most suitable means of effective disposal of stormwater, from any proposed impervious surfaces is to discharge runoff into existing onsite service water channels, however the presence of property boundaries and State Highway 6 may preclude this method. Any construction of a soakage system will require onsite soakage testing and engineer design. It is recommended that on-site verification is undertaken at the time of building consent at the location of the proposed wastewater system to ascertain the best on-site wastewater systems that will satisfy the WCRC and BDC assessment criteria. The system chosen for the proposed dwelling shall be approved by Buller District Council and be designed by a suitably qualified and experienced person.

Any culverts and swales will need to be sized in accordance with the New Zealand Building Code and relevant New Zealand standards, while stormwater swales and pipe networks will require maintenance to ensure the design capacity is maintained.

Appropriate erosion and sediment control must be in place prior to commencement of earthworks to prevent adverse effects on adjacent properties, including sediment transportation and ponding offsite, particularly towards nearby waterways.

It is anticipated that the Council will impose a consent notice on the new titles for Lot 1 to 15 requiring an appropriately designed sewerage system will be installed at the time of building development.

### 3.3 Easements

A full assessment of easements will be undertaken once the engineering design is completed and approved. This may result in additional easements as required.

#### 3.3.1 Existing Easements

Easement document 6913042.2 (**Appendix F**) is registered on the underlying Record of Title and is for the purpose of conveying electricity to Lot 3 DP 360520, Lot 2 DP 360520, and Lot 1 DP 36520. This easement will carry down onto Lots 1, 15, 14, 13, 12, 11, 10, 9, 8, 17, and 16 as easements A, C, D, E, F, G, H, I, K, L, M, T, U, X, and Y.

Easement document 6913042.2 is to be partially surrendered under Section 243(e) of the Resource Management Act 1991. Carrying down this easement document would result in two easements being placed over Lot 18 (easement areas B and J shown on the scheme plan). Because Lot 18 is to be vested in Buller District Council as a road, easement document 6913042.2 is required to be partially surrendered for easement areas B and J as a result of this subdivision.

Easement document 6913042.3 (**Appendix F**) is registered on the underlying Record of Title and is for the right to transmit telecommunication and electricity over Lot 3 DP 360520 to adjoining properties. This easement document will carry down onto the new allotments.

#### 3.3.2 New Easement

New right of way easement (Easement R) is to be registered on the Record of Title for Lots 16, 17 and Lots 4 and 5 DP 360520. The easement is to enable the applicant access over Lot 2 DP 360520 to Lots 17 and Lots 4 and 5 DP 360520.

### 3.4 Amalgamations

One new amalgamation will be required for this subdivision as follows:

- That Lots 16 and 17 and Lots 4 and 5 DP 360520 are to be held in the same record of title.

### 3.5 Consent notices

The existing Record of Title 246193 does not contain any existing consent notices.

The following consent notices will be registered on the Record of Titles for Lots 1 to 15

- Requiring compliance with the Geotechnical Report.
- Requiring provision of adequate water storage for firefighting purposes as per the requested consent notice included in Section 3.2.1 above.

A consent notice is to be registered on the Record of Title for Lots 16, 17 and Lots 4 and 5 DP 360520 requiring geotechnical investigation and services to be provided prior to any building development occurring on the allotments.

### 3.6 Geotechnical Assessment

A geotechnical investigation report has been prepared by Davis Ogilvie and is attached as **Appendix G**. The geotechnical report confirms the underlying ground conditions, assesses the natural hazards, confirms ground bearing capacity, and provides geotechnical recommendations. The report includes a Statement of Professional Opinion, which concludes that the application site is suitable for subdivision subject to several recommendations, specified in the statement of suitability.

A consent notice is anticipated to be registered on each of the new Record of Titles for Lots 1 to 15 requiring compliance with the geotechnical report prior to any development occurring.

A consent notice is to be registered on the Record of Title for Lots 16, 17 and Lots 4 and 5 DP 360520 requiring geotechnical investigation prior to any building development occurring on the allotments.

### 3.7 Additional Approvals

There are no additional consents required to facilitate this proposal. Any earthworks for the formation of the proposed road and construction of building sites are expected to comply with earthworks rules within the Regional Land and Water Plan.

### 3.8 Consultation

Consultation with Waka Kotahi NZ Transport Agency (NZTA) has been undertaken because the subdivision adjoins State Highway 6 and will result in a new intersection on State Highway 6 being created. Consultation with NZTA has been undertaken and their affected party approval has been requested. The affected party approval will be provided to Council once received.

Affected party approval has been requested from the following parties and will be provided to Council once received:

- Fire and Emergency West Coast
- Buller Electricity
- Gareth Allan, Kevin McLaughlin, Valerie McLaughlin (Lot 2 DP 360520)
- Devils Eye Limited (Lot 1 DP 360520)
- Trevor Thorpe (Section 46 Block II Waitakere SD)

#### **4.0 ASSESSMENT UNDER THE OPERATIVE BULLER DISTRICT PLAN AND PROPOSED TE TAI O POUTINI PLAN**

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In September 2018, the Local Government Commission announced its decision to require Westland, Grey, and Buller District Councils to combine their District Plans into one document. The combined plan has been named Te Tai o Poutini Plan. The Proposed Te Tai Poutini Plan covers the whole of the West Coast and was notified in 2022. Rules that relate to sites and areas of significance to Māori, historic heritage, natural character, the margins of waterbodies, ecosystems, and indigenous biodiversity, and include the rules relating to indigenous vegetation clearance all have immediate legal effect. At this stage none of the rules with immediate legal effect apply to this site therefore there is no rule assessment under the TTPP is required.

The Buller District Plan will remain operative until the process for implementing the Proposed TTPP has been completed. The proposal has therefore been assessed under the relevant provisions of the Operative Buller District Plan, as discussed below.

#### **4.1 Buller District Plan**

##### **4.1.1 Part 5 Character and Zone Rules**

Permitted Activity Rule 5.3.2.1.1 states:

*Residential, recreational, agricultural, exotic forestry or tourist related activities which comply with the standards for permitted activities in Table 5.7, and are not controlled, discretionary or restricted discretionary activities.*

No residential dwellings are to be constructed on the allotments as part of this application, but rural-residential development of Lots 1 to 15 is expected in the future. Lots 16 and 17 will be retained by the applicant and will continue to be used for existing rural purposes. Lots 1 to 15 are of a shape and size that future rural-residential development can comply with all relevant Rural Zone Standards.

Rule 5.3.2.1.1 permits two residential dwellings per allotment under Rule 5.3.2.1.1. The applicant does **not** volunteer a consent notice limiting the number of residential dwellings

to one per allotment. Instead, the applicant volunteers a consent notice to be registered on the new Record of Titles limiting residential development to one main dwelling and one minor dwelling per allotment.

No building development is to occur on Lot 16, 17 or Lots 4 and 5 DP 360520.

Pursuant to Rule 5.3.2.1.1, and having regard to the assessment above, the proposal is a **permitted activity** with regards to the relevant zone rules

#### 4.1.2 Part 6 Infrastructure, Services, and Other Activities District Wide

Table 1 below outlines the rules within the Infrastructure, Services, and Other Activities District Wide rules section (Part 6) of the Buller, District Plan that are relevant to this proposal.

Table 1: Infrastructure, Services, and Other Activities District Wide	
Rule	Compliance Comment
<b>6.4 Discretionary Activities</b>	
6.4.1 The following are discretionary activities and will be assessed according to the criteria in Part 9.	Lot 18 is to be vested as road in Buller District Council. This road will be formed to NZS 4404:2010 standard.
6.4.2 The following activities are discretionary throughout the District:	<b>Complies - Discretionary Activity</b>
6.4.2.6 New roads and associated facilities including retaining walls, culverts, bridges and traffic signs and control devices on legal road.	

Pursuant to Rule 6.3 and having regard to the assessment above, the proposal is a **discretionary activity** with regards to the relevant Infrastructure, Services, and Other Activities District Wide rules.

#### 4.1.3 Part 7 District Wide Rules

Table 2 below outlines the rules within the District Wide Rules section (Part 7) of the Buller, District Plan that are relevant to this proposal.

Table 2: District Wide Rules

Rule	Compliance Comment
<p><b>7.3. Subdivision</b></p> <p><b>7.3.3 Discretionary activities</b></p> <p>7.3.3.1 Rural Zone, Rural Airport Zone:</p> <p>7.3.3.3.1 Any subdivision for the purposes of creating one or more new allotments.</p> <p>7.3.3.7 Financial contributions may be required in accordance with Part 8.</p>	<p>The application is for the purpose of creating 15 new rural-residential allotments with balance land.</p> <p><b>Complies - Discretionary Activity</b></p> <p>The proposed subdivision will result in 15 new titles being created as a result of this subdivision, on which a reserves contribution can be imposed.</p> <p><b>Complies – Permitted Activity</b></p>
<p><b>7.4 Access</b></p> <p>7.4.1 Activities having frontage or access to a strategic route which is a State Highway (as listed in Part 12) shall comply with the following standards, while those activities that have frontage or access to a strategic route which is a non-State Highway (as listed in Part 12) shall comply with Council's roading standards:</p> <p>7.4.1.1 The minimum sight distances from an access, the location of property access relative to intersection and the minimum spacing between adjacent property accesses onto or off a strategic route which is a State Highway shall be as specified in Tables 7.1(a) and 7.1(b).</p> <p>7.4.1.2 Where the activity does not comply with the performance criteria in Table 7.1(a) or Table 7.1(b) or, the activity generates more than 60 vehicle movements per day, the activity will be assessed as a limited discretionary activity.</p> <p>7.4.2 Every owner or occupier of land shall provide vehicular access to the site for parking and loading over the site by provision of a vehicle crossing constructed to the boundary of the site.</p>	<p>Lots 16, 17 and 4 &amp; 5 DP 360520 will be accessed via an existing entrance from State Highway 6. This entrance is sealed to the property boundary.</p> <p>This entrance complies with the 250-metre sight distance required by Table 7.1(a) but does not comply with Table 7.1(a) the distance between a property access relative to an intersection. Table 7.1(a) requires this distance to be 150 metres, and the existing entrance is located approximately 20 metres from the Wilsons Lead Road intersection with State Highway 6.</p> <p>No upgrading of this entrance is intended as the entrance is existing and the number of titles accessed by this allotment will continue to be two and is sealed to the property boundary. Therefore, approval is sought for the entrance to remain as it currently does.</p> <p><b>Does not comply – Discretionary Activity</b></p> <p>Lots 1 to 15 will be accessed by Lot 18. Lot 18 is to be vested as road in Buller District Council. New entrances to each allotment from Lot 18 will be constructed to Council standard.</p> <p><b>Complies – Permitted Activity</b></p>

#### 7.5 Parking

7.5.5 Off-street parking facilities shall be located on the site unless otherwise provided for in this rule.

Dwellings: One space per dwelling

Each allotment is of a size that off-street parking facilities are able to be located on each of the proposed allotments at the time of building development occurring.

**Complies – Permitted Activity**

#### 7.9 Other General Rules

##### 7.9.2 Stormwater Disposal

7.9.2.1 Stormwater run-off from buildings shall be directed to the road channel, or to a watercourse within the property, or to an approved drain for that purpose.

Excess stormwater not collected for water supply purposes will be discharged to ground onsite as a permitted activity under Regional Council rules.

**Complies – Permitted Activity**

Pursuant to Rule 7.3.3, and having regard to the assessment above, the proposal is a **discretionary activity** with regards to the relevant District Wide rules.

#### 4.2 Proposed Te Tai o Poutini Plan

Section 104(b)(vi) Resource Management Act 1991 requires that Council must have regard to any relevant provisions of a plan or proposed plan. Section 86A (2) allows Council to give weight to objectives and policies in proposed plans before the plan becomes operative. The proposed Te Tai o Poutini Plan (TTPP) was notified on 14 July 2022 with submissions closing on 11 November 2022.

No rules within the TTPP that have immediate legal effect are relevant to this subdivision. The site is not located within a significant natural area nor is it a site of significance to Māori. No indigenous vegetation clearance is required as part of this proposal and the site is not located within any area of significance. Submission points have been made on all parts of the Proposed Te Tai o Poutini Plan and so none of the rules outside of the provisions that have immediate legal effect can be considered as part of this proposed subdivision.

#### 4.3 Conclusion with respect to District Plan Assessment

Having regard to the relevant rules under the Buller District Plan, and based on the assessment undertaken above, consent is sought for a **discretionary activity**.

## **5.0 ASSESSMENT OF ENVIRONMENTAL EFFECTS**

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Section 88(2)(b) Resource Management Act 1991 requires that any application for a resource consent must include an assessment of the activity's effects on the environment. Schedule 4 of the Act sets out the matters which must be addressed in this assessment and states that the assessment should provide sufficient detail to satisfy the purpose for which it is required.

### **5.1 Subdivision Effects**

As detailed previously, the proposal seeks to undertake an 18-lot fee simple subdivision at State Highway 6, Addisons Flat, Westport. The proposed subdivision will create 15 new titles as Lot 18 is to be vested in Buller District Council has a road, and Lots 16, 17 and Lots 4 and 5 DP 360520 are to be held in one title. No residential dwellings are to be constructed on the allotments as part of this application, but rural-residential development of Lots 1 to 15 is expected in the future. Lots 1 to 15 are of a shape and size that future rural-residential development is able to comply with all relevant Rural Zone Standards.

Lots 16, 17 and Lots 4 and 5 of DP 360520 will be retained by the applicant. Lots 16 will provide access to Lot 17, and Lots 4 and 5 DP 360520 via an existing easement and a new easement registered on the underlying Record of Title for Lot 2 DP 360520. All four allotments will continue to be used for existing rural purposes.

The District Plan sets out matters of discretion for discretionary activities under Part 9. These relate to a number of aspects which are applicable to the proposal and are discussed below.

### **5.2 Social & Economic Effects**

The development of this site as proposed will create 15 rural-residential allotments within the rural zone of the Buller District Plan.

The applicant will derive economic benefit from the sale of Lots 1 to 15. Council will benefit from the financial contributions payable in respect of the subdivision and will receive ongoing rates income from the new allotments. The community as a whole will benefit from the development of this site, as it will provide an option to live in the Addison Flat area. The location of the new allotments will provide the new owners with the ability to enjoy the rural environment while being within a 15 minute drive to Westport Township.

### **5.3 Productivity of the land**

The site will not adversely affect the productivity of the rural land. The site is not located within the Highly Productive Land overlay due to the site having a land use capability class of 6 and 7, which indicate the land use is not arable and there are moderate to severe limitations to pastoral

use. Therefore, the proposed development of this site will not adversely affect the productivity of rural land in this area.

#### **5.4 Access/ Traffic Movements**

Lot 18 is to be vested in Buller District Council as a road to provide legal and physical access to proposed Lots 1 to 15. Each allotment will have its own access onto the vested road with each entrance being constructed to Council standard. As defined in NZTA's planning Policy Manual (2007), a residential dwelling results in 10.4 equivalent car movements per day, resulting in a total of 156 vehicle movements per day from Lots 1 to 15. On this basis a condition of consent is anticipated to require the intersection to be designed and constructed to NZTA standards and signed off by NZTA prior to s224 certification.

The two existing entrances from State Highway 6 directly into Lot 3 DP 360520 will be permanently closed by the applicant prior to s224 certification.

Lots 16, 17 and Lots 4 & 5 DP 360520 will not result in additional traffic movements as these are to be held in amalgamation, no residential development is proposed, and they will utilise an existing entrance from State Highway 6. No upgrading of this entrance is intended as the entrance is existing and the number of titles accessed by this allotment will continue to be two and is sealed to the property boundary. Therefore, approval is sought for the entrance to remain as it currently does.

Overall, the proposed subdivision is expected to have less than minor effects on traffic movements along State Highway 6 due to an appropriately designed and constructed intersection and road being formed as part of this subdivision.

#### **5.5 Landscape and Visual Amenity**

As a result of this proposed subdivision, the landscape of this site will change from rural to rural-residential in nature.

Proposed Lots 1 to 15 are of sufficient size that any future rural-residential development will be able to comply with rural zone rules within both the Buller District Plan. Each allotment is of sufficient size that any residential dwelling will not be located immediately adjacent to the State Highway. Lots 16, 17 and Lots 4 and 5 DP 360520 will be retained by the applicant and will continue to be used for existing rural purposes, ensuring the open rural character of the surrounding environment is retained.

No building development is intended to occur on Lots 16, 17 or Lots 4 and 5 DP 360520. If building development occurs, it is expected to occur on Lot 17. Lot 17 is of sufficient size to ensure any

residential development on the allotment does not detract from the existing and surrounding landscape.

The site is not within any Outstanding Natural Landscape or Outstanding Natural Feature areas identified by the proposed Te Tai o Poutini Plan.

The Buller District Plan currently permits two residential dwellings per allotment, potentially resulting in 30 residential dwellings being constructed on Lots 1 to 15 because of this subdivision. The applicant volunteers a consent notice to be registered on the new titles restricting residential development to one main residential dwelling and one minor residential dwelling being constructed per allotment. This would require resource consent for a second dwelling being constructed on the new allotments. Any effects resulting from the second residential dwelling can be considered at this time. This will ensure the entire area is not dominated by residential development and rather each allotment will retain a level of open rural character.

As per the correspondence received from Professor David Norton and attached as **Appendix D**, the existing pond area on the site is not considered to be a natural inland wetland as defined by NPS-FM and as such is not protected under requirements of the NES-F. The geotechnical report recommends that no building development occurs within 10 metres of the existing pond area, ensuring the landscape of the pond is retained.

The proposed subdivision will have the largest visual and amenity impact on the owners of Lot 2 DP 360520 as the existing residential dwelling overlooks the site that is being subdivided. Affected party approval has been requested from the owners and occupiers of the allotment and will be provided to Council once received. Affected party approval has also been requested from the owners of Lot 1 DP 360520 and Section 46 Block II Waitakere SD as both of these allotments will directly look onto the proposed subdivision.

While the proposed subdivision will change the landscape, it is considered that adverse effects resulting from the additional rural-residential allotments, will be more than minor, and will be mitigated by the requirements of the TTPP.

## **5.6 Effects on Indigenous Flora, Fauna & Habitat**

The proposed subdivision will not have adverse effects on flora and fauna or the habitat of flora and fauna in the area. The area being subdivided is existing unproductive farming pasture.

## **5.7 Provision of Services**

When residential activity is established on Lots 1 to 15, an appropriately designed onsite wastewater treatment system will be installed, while stormwater will likely be discharged to ground

as permitted by the Regional Land and Water Plan. A new consent notice is expected to be registered on the new Titles for Lots 1 to 15 requiring a suitably designed sewage disposal system that meets the West Coast Regional Council requirement to be installed prior to any residential development occurring. Appropriately designed on-site systems will adequately mitigate any adverse effects.

A consent notice is to be registered on the new Record of Title for Lots 16, 17 and Lots 4 and 5 DP 360520 requiring appropriate services to be provided if building development occurs on this title.

Adverse effects resulting from the onsite discharge of household effluent and wastewater are considered to be no more than minor and adequately mitigated by the installation of suitable onsite disposal systems.

#### **5.8 Historic & Cultural Effects**

The site is not considered to hold any significant historic or cultural significance.

#### **5.9 Natural Hazards**

The geotechnical report (**Appendix G**) includes recommendations to mitigate the effects of potential natural hazards, including foundation requirements on the lots and stormwater management across the site. These recommendations will be registered on the new Record of Title for Lots 1 to 15. Accordingly, adverse effects resulting from potential natural hazards are considered to be adequately mitigated and less than minor.

No building development or change in land use of Lots 16, 17 and Lots 4 and 5 DP 360520 is to occur as a result of this proposed subdivision. Lot 16 is for the purpose of providing access to Lot 17 and Lots 4 and 5 DP 360520. All four allotments are to be held in amalgamation together. A consent notice is to be registered on the new Record of Title requiring geotechnical investigation prior to any building development occurring. This will ensure natural hazards are assessed prior to building development occurring.

#### **5.10 Reverse Sensitivity Effects**

The proposed subdivision will not have reverse sensitivity effects on existing surrounding land use. Surrounding land use is a combination of agricultural farming, conservation land and land containing a combination of indigenous and exotic vegetation. There are no industrial activities such as a sawmill or mining activities adjacent to the proposed subdivision. Therefore, the proposed subdivision will not have adverse reverse sensitivity activities on adjoining land.

### 5.11 Effects Conclusion

Overall, it is considered that adverse effects from the subdivision as proposed are minor and can be mitigated as described throughout this application.

## 6.0 OBJECTIVES AND POLICIES OF THE DISTRICT PLANS

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When considering an application for resource consent, pursuant to section 104(1)(b), the consent authority must, subject to Part 2, have regard to any relevant provisions of relevant planning documents.

### 6.1 Buller District Plan

The Buller District Plan contains a set of objectives and policies, which together provide the framework for assessment of resource consent applications as required by the Resource Management Act 1991. This section of the application assesses the proposal to the relevant objectives and policies of the District Plan.

#### The Built Environment

##### **Objective 4.3.17.1**

*To ensure that further settlement growth takes place in a manner and location which does not have significant adverse environmental effects.*

##### **Policy 4.3.18.3**

*To ensure that rural-residential development is either adequately serviced or capable of meeting its own requirements.*

The proposed subdivision is for the purpose of providing rural-residential living on the outskirts of Westport Township. Each allotment has been designed to be of a suitable size to enable appropriately designed onsite services to be installed on each of the allotments, ensuring that actual and potential adverse effects on the environment resulting from servicing this subdivision will be adequately mitigated, achieving the above objective and policy. Access to Lots 1 to 15 is to be from a road vested in Buller District Council, while Lots 16, 17 and Lots 4 and 5 DP 360520 are to be held in amalgamation and utilise an existing access from State Highway 6.

#### Rural Land and Water Resource

##### **Objective 4.4.4.1**

*To ensure that the overall integrity and character of the rural environment and productivity of rural land resources is protected while enabling rural communities to provide for their social, economic and cultural wellbeing.*

##### **Policy 4.4.5.1**

*A wide range of compatible activities which do not individually or cumulatively adversely affect the sustainability of rural land resources shall be generally permitted to locate in the rural area.*

The proposed subdivision achieves the above objective and policy as the land has a Land Use Capability of Class 6<sup>1</sup> and Class 7 and is not considered to be highly productive land. Therefore, development of this site will not have adverse effects on the productivity of rural land in this area.

#### **Natural Hazards**

##### **Objective 4.10.6.1**

*Taking into account community views, to reduce the risks to people and communities from natural hazards, and to avoid the establishment of activities which increase the likelihood of natural hazards occurring.*

##### **Policy 4.10.7.2**

*An assessment of natural hazard risk shall be provided where appropriate with all applications for resource consents.*

##### **Policy 4.10.7.4**

*Mitigation works to minimise the risks of natural hazards to the safety of people and communities shall be assessed according to the degree of risk.*

In relation to the above objective and policy, **Appendix G** contains a geotechnical report that includes an assessment under s106 of the RMA. The report includes recommendations to mitigate against actual and potential natural hazards.

#### **Conclusion with respect to Objectives and Policies of the Operative Buller District Plan**

The proposed subdivision is considered to be in general accordance with the relevant objectives and policies in the Operative Buller District Plan.

## **6.2 Proposed Te Tai o Poutini Plan**

Section 86A (2) allows Council to give weight to objectives and policies in proposed plans before the plan becomes operative. The proposed Te Tai o Poutini Plan (TTPP) was notified on 14 July 2022 and therefore the following assessment of relevant objectives and policies in the TTPP is provided.

#### **Rural Zone**

##### **Objective RURZ - O1**

*To provide for a range of activities, uses and developments that maintain the amenity and rural character values of the rural environment, while retaining highly productive land and rural activities, and supporting a productive rural working environment.*

##### **Objective RURZ - O2**

*To provide for low-density rural lifestyle living on the outskirts of settlements where this will support settlement viability and not lead to conflicts with productive rural land use or rural character.*

<sup>1</sup> Manaaki9 Whenua Landcare Research - [https://ourenvironment.scinfo.org.nz/maps-and-tools/app/Land%20Capability/lri\\_luc\\_main](https://ourenvironment.scinfo.org.nz/maps-and-tools/app/Land%20Capability/lri_luc_main)

**Objective RURZ – 03**

*To maintain and enhance the distinctive rural character and amenity of West Coast/Te Tai o Poutini settlements while:*

- a. Allowing settlements to grow and adapt as economic activity changes.*
- b. Providing for commercial and industrial land uses in larger settlements where these landuses provide for local community and rural services.*

**Objective RURZ - 06**

*To ensure appropriate levels of infrastructure servicing for communities and development within rural areas, recognising that outside of settlements or major developments, on site infrastructure servicing is expected.*

**Rural Amenity and Character**

**Policy RURZ - P1**

*Enable a variety of activities to occur within RURZ - Rural Zones while maintaining rural amenity and character. Outside of settlements, activities should:*

- (a) For buildings and structures have a bulk and location that is characteristic of rural environments.*
- (b) Maintain privacy and rural outlook for residential buildings.*
- (c) Be compatible with existing development and the surrounding area.*
- (d) Have appropriate setbacks from the road and significant natural and cultural features.*
- (e) Minimise adverse visual effects if sited on prominent ridges or immediately adjacent to public roads; and*
- (f) Have awareness of cultural landscapes and avoid activities being located on the ridgelines and peaks of ancestral mountains.*

**Policy RURZ - P2**

*Provide for growth and change to settlements that:*

- (a) Improves the long-term viability of the settlements and their communities.*
- (b) Fits with the historic, cultural, and environmental character of the existing settlement.*
- (c) Provides new housing opportunities in locations that are away from significant risks to life, safety, and property damage from natural hazards.*
- (d) Integrates with the existing residential settlement and maintains a consolidated settlement form.*
- (e) Supports rural community needs by providing for community facilities and educational facilities; and*
- (f) Does not compromise the dominance of the natural and cultural landscape setting and minimises ribbon residential development along the coastline, on prominent spurs, ridges and skylines and avoids development on the ridgelines and peaks of ancestral mountains.*

**Policy RURZ - P4**

*Provide for rural lifestyle development on the outskirts of towns and settlements where this will not conflict with rural production values, and recognising that these have the following characteristics:*

- (a) Large lots with onsite infrastructure servicing.*
- (b) A mix of activities.*
- (c) Low traffic and moderate noise levels.*
- (d) Dominance of open space and plantings over buildings; and*
- (e) Setbacks from property boundaries.*

**Infrastructure In Rural Areas**

**Policy RURZ - P11**

*Subdivision and development in GRUZ - General Rural and RLZ - Rural Lifestyle Zones, the SETZ - PREC3 - Coastal Settlement Precinct and the SETZ - PREC4 - Settlement Zone - Rural Residential Precinct should recognise the character and form of rural infrastructure including:*

- a. Roads with roadside ditches rather than kerb and channel.*
- b. An absence of streetlights and urban style footpaths; and*
- c. On site provision of water supply and on-site land treatment and disposal of stormwater and wastewater.*

The subdivision of this site achieves the above objectives and policies as the site is located on the outskirts of Westport Township, and outside of any outstanding natural character and feature areas. While the site is located within the general rural zone, it is located outside of the highly productive land precinct, and does not have land use capability classes that are suitable for productive agricultural farming.

All allotments are of sufficient size to enable future rural-residential development, whilst maintaining the character of the surrounds.

Onsite services will be able to be provided at the time of residential development occurring. All allotments will have appropriate access.

The balance land will continue to be used for existing rural purposes, retaining the rural character of the area.

**Subdivision Objectives and Policies**

**Objective SUB - O1**

*Subdivision achieves patterns of land development that are compatible with the purpose, character, and qualities of each zone.*

**Policy SUB - P1**

*Enable subdivision that creates allotments that:*

- a. *Are consistent with the purpose, character, and qualities of the applicable zone.*
- b. *Maintains the integrity of the zone with lot sizes and dimensions sufficient to accommodate intended land uses.*
- c. *Minimises natural hazard risk to people's lives and properties.*
- d. *Protects significant cultural, historical, natural, and ecological features sites and areas identified on the planning maps and in the Schedules in the Plan; and*
- e. *Have legal, physical, and safe access to each allotment created by the subdivision.*

**Policy SUB - P2**

*Ensure subdivision is appropriately serviced and integrated with existing or planned infrastructure that is provided in an efficient, integrated, and coordinated manner by ensuring:*

- a. *Infrastructure networks have sufficient capacity to accommodate the additional development and requiring any necessary upgrades to be completed at the time of subdivision.*
- b. *Infrastructure is installed at the time of subdivision, except for on-site infrastructure that cannot be determined until the allotment is developed.*
- c. *Sufficient provision has been made for legal and physical access to each allotment created by the subdivision.*
- d. *Provision of safe and efficient vehicle access.*
- e. *Provision for open space and reserves, including pedestrian and cycle linkages.*
- f. *Drinking water compliant with New Zealand Drinking Water Standards.*
- g. *Adequate water supply for firefighting.*
- h. *Treatment and safe disposal of stormwater that does not result in increased flooding and erosion risk.*
- i. *Treatment and safe disposal of wastewater with a preference for land-based treatment where no reticulated network is in place.*
- j. *Where community scale infrastructure is developed to support more than 10 privately owned lots this should be to appropriate standards and vested in the Council to ensure ongoing maintenance and renewal.*
- k. *Supply of electricity and telecommunications using a method that is appropriate to the type of development, location and character of the area including off-grid renewable electricity supply / wireless /satellite were deemed reasonable by the Council.*
- l. *Connections are made to wastewater, water supply and stormwater systems where they are available and there is capacity; and*
- m. *Where new community infrastructure is developed, that there is adequate provision for ongoing maintenance either by the vesting of the infrastructure in the relevant Council, or in the case of papakāinga developments, that an ongoing hapū entity may be responsible for maintenance.*

- n. *In all RESZ - Residential, INZ - Industrial and CMUZ - Commercial and Mixed-Use Zones requiring:*
  - i. *Roads to a sealed standard.*
  - ii. *Underground reticulation of services.*
  - iii. *Sealed footpaths.*
  - iv. *Streetlights in urban areas; and*
- o. *Financial contributions are provided where additional or upgraded network utility infrastructure is required to service development.*

The proposal achieves the above objectives and policies as each new allotment is of sufficient size for the intended rural-residential development. Access to the allotments will be completed prior to s224 certification, while a consent notice will be registered on the new Record of Titles requiring appropriate services to be provided at the time of building development occurring.

### **6.3 Conclusion with respect to Objectives and Policies of the TTPP**

The proposed objectives and policies discuss avoiding inappropriate subdivision, while achieving high amenity outcomes. Overall, it is considered the proposal is consistent with the surrounding rural environment, supports high amenity values, and is an appropriate subdivision consistent with the surrounding area.

## **7.0 OTHER MATTERS**

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### **7.1 Subdivision (S106)**

A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that the land is or is likely to be subject to or is likely to accelerate material damage from natural hazards, or where sufficient provision for legal and physical access to each allotment has not been made.

This consent seeks to create 15 allotments for rural-residential development, with balance land (Lots 16, 17 and Lots 4 and 5 DP 360520). As detailed in section 3.6 a geotechnical report has been prepared by Davis Ogilvie. The Geotechnical Report concluded the site is suitable for rural-residential development and it is therefore considered there are no grounds to refuse consent under section 106(1)(a).

In terms of section 106(1)(c) the proposal provides sufficient provision for legal and physical access to each allotment. It is therefore considered that there are no grounds to refuse the consent pursuant to Section 106.

## 8.0 RESOURCE MANAGEMENT ACT 1991

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### 8.1 Part 2 Matters

Part 2 of the Act "*Purpose and Principles*" comprises sections 5 to 8.

Section 5 sets out the Act's purpose as follows:

- 1) *The overall purpose of the Act is to promote the sustainable management of natural and physical resources.*
- 2) *In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -*
  - a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
  - b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and;*
  - c) *avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

In turn, sections 6 to 8 set out 'principles' relating to:

- Matters of National Importance (s6)
- Other Matters (s7)
- Treaty of Waitangi (s8)

The recent Court of Appeal decision in *R J Davidson Family Trust v Marlborough District Council* [2018] NZCA 316 confirms that RMA decision makers should usually consider Part 2 when making decisions on resource consents (that is the implication of the words "*subject to Part 2*" in section 104). However, where the relevant plan provisions have clearly given effect to Part 2, there may be no need to do so as it "*would not add anything to the evaluative exercise.*" It would be inconsistent with the scheme of the RMA to override those plan provisions through recourse to Part 2. In other words, "*genuine consideration and application of relevant plan considerations may leave little room for Part 2 to influence the outcome.*"

The District Plan gives effect to the higher order documents referred to in s104(1)(b) for all matters except the National Policy Statement on Urban Development (NPS-UD) which came into effect on 20 August 2020.

However, for completeness I consider that the application is consistent with Part 2, and that the following aspects of Part 2 are relevant:

- The section 5 direction to enable people and communities to provide for their wellbeing, while avoiding, remedying, or mitigating adverse effects.

- The section 7 direction to have particular regard to:
  - The efficient use and development of natural and physical resources (s 7(b)).
  - The maintenance and enhancement of amenity values (s 7(c)).
  - Maintenance and enhancement of the quality of the environment (s 7(f)).
  - Any finite characteristics of natural and physical resources (s 7(g)).

## 8.2 Notification

Section 95A sets out the steps a consent authority must follow to determine whether to publicly notify an application for resource consent. If under s95A there is no requirement to publicly notify an application, s95B sets out the steps that a consent authority must follow to determine whether to give limited notification of the application.

**Table 3: S95A Public Notification**

Rule	Compliance Comment
<b>Step 1 -</b> Does the application fall within the criteria for mandatory public notification under s95A(3)?	No. <ul style="list-style-type: none"> <li>• The applicant has not requested public notification.</li> <li>• Public notification is not required under s95C.</li> <li>• The application is not made jointly with an application to exchange recreation reserve land under section 15AA of the Reserves Act 1977.</li> </ul>
<b>Step 2 -</b> Does the application fall within the criteria where public notification is precluded under s95A(5)?	No. The application is for a discretionary subdivision resource consent application.
<b>Step 3 -</b> Does the application fall within the criteria for public notification subject to certain criteria under s95A(8)?	No. The proposal does not have adverse effects that are more than minor.
<b>Step 4 -</b> Are there any special circumstances under s95A(9) which requires public notification?	There are no special circumstances which require the application to be publicly notified.

The application does not meet the criteria for public notification under the provisions of s95A.

**Table 3: S95B Limited Notification**

Rule	Compliance Comment
<b>Step 1 -</b> Are there certain affected groups and affected persons who must be notified under s95B(2-3)?	No. <ul style="list-style-type: none"> <li>There are no affected customary rights groups or affected marine title groups.</li> <li>The proposed activity is not on or adjacent to, or affects land is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11.</li> </ul>
<b>Step 2 -</b> Does the application fall within the criteria where limited notification is precluded under s95B(6)?	No. <ul style="list-style-type: none"> <li>The application is not for an activity subject to a rule or national environmental standard that precludes limited notification.</li> <li>The activity is not for a controlled activity.</li> <li>The activity is not for a prescribed activity.</li> </ul>
<b>Step 3 -</b> Does the application fall within the criteria for other affected persons to be notified under s95B(7-8) and s95E?	The above assessment of environmental effects concludes the proposal will have minor adverse effects on the owners of Lot 2 DP 360520, Lot 1 DP 360520 and Section 46 Block II Waitakere SD. Therefore, their affected party approval has been sought. No other parties are considered to be adversely affected by the proposed subdivision.
<b>Step 4 -</b> Are there any special circumstances under s95B(10) which requires limited notification?	There are no special circumstances which require the application to be limited notified to any other persons (excluding persons assessed under s95E as not being affected persons).

Based on the above and the preceding assessment of effects, the proposal will have minor adverse effects on the owners and occupiers of Lot 2 DP 360520, Lot 1 DP 360520 and Section 46 Block II Waitakere SD. Therefore, their affected party approval has been sought and will be provided to Council once received. Any other adverse effects on other properties will be than minor and as such, no other parties are considered to be adversely affected by the proposal. It is considered that the application should not be limited notified in accordance with Section 95B of the RMA.

### 8.3 Section 104 – Consideration of Applications

Section 104 of the Resource Management Act 1991 sets out those matters that must be considered in assessing an application for resource consent. Subject to Part II of the Act, Section 104(1) requires a consent authority to have regard to:

- a) *any actual and potential effects on the environment of allowing the activity;*
- 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.*

When considering an application for resource consent, pursuant to section 104(1)(b)(vi), the consent authority must, subject to Part 2, have regard to any relevant objectives, policies, and other provisions of the District Plan.

As discussed in Section 6 of this application, the Proposed and Operative District Plan is each contain a set of objectives and policies, which together provide the framework for assessment of resource consent applications as required by the Resource Management Act 1991. The proposal is consistent with the relevant objectives and policies of the Buller District Plan and TTPP.

### 8.4 Section 104B – Discretionary Activities

Section 104B of the Act requires the consideration of any actual and potential effects on the environment arising from the proposal Section 104B states:

*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.*

An assessment of environmental effects has been undertaken in the preceding Section 7 of this application. The effects have been assessed as being minor and can be mitigated. The relevant objectives and policies have been assessed and discussed in Section 7 with the proposal considered to be consistent with these. Accordingly, it is considered that the application may be granted under Section 104B (a) of the Act.

## 9.0 CONCLUSION

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Section 104 of the Resource Management Act 1991 sets out the matters to be considered when assessing an application for resource consent. These matters require consideration of any actual and potential effects on the environment arising from the proposal, together with an assessment as to whether the proposal is consistent with the provisions of the Plan.

The proposal seeks to undertake an 18-lot fee simple subdivision that will result in 15 new Record of Titles and a new road being vested in Buller District Council.

The proposal is for a **discretionary activity**, which is anticipated by the Operative Buller District Plan. It has been demonstrated by the preceding assessment that the relevant matters of the District Plan have been addressed.

The proposal is in accordance with the Objectives, Policies, and Rules of the Operative Buller District Plan as they relate to the Rural Zone, and the relevant Objectives and Policies of the proposed Te Tai o Poutini Plan.

The relevant provisions of Part 2 of the Resource Management Act 1991 have been satisfied as it is considered that the proposed activity is consistent with the purpose of the Act, promoting sustainable management of natural and physical resources, with environmental effects being minor. Council can grant subdivision consent subject to appropriate conditions.

## **APPENDIX A**

### Record of Title

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