

**BEFORE AN INDEPENDENT HEARING PANEL
APPOINTED BY CENTRAL HAWKE'S BAY DISTRICT COUNCIL**

Application for subdivision and use of land at Punawaitai Road, Pourerere (creating 48 residential allotments, three shared open space allotments, a stormwater detention allotment and shared pedestrian and vehicle access).

CHBDC Reference RM220003

KEY POINTS FROM EVIDENCE OF CHRISTINE FOSTER

1. The proposed subdivision layout proposes residential allotments between 1832m² and 5320m² plus a very large Lot 22 and three generous shared open spaces.
2. Not including the shared open spaces, but including Lot 22, this creates an average residential site size of over 2500m².
3. That is a low density - the proposed allotments are exactly that: large sized residential allotments in the rural coastal setting of Pourerere.
4. There are two sets of District Plan requirements in play: the operative DP and the Decisions Version PDP.
5. The reason this proposed subdivision requires consent is because:
 - Under the operative DP: most of the proposed allotments have area less than (approximately half) the minimum 4000m² required and there are non-compliances with the fine detail of road access design; and
 - Under the PDP: most of the proposed allotments have less than the minimum 2500m² required for the smallest allotment type in the General Rural Zone and site is within the Coastal Environment zone defined on the PDP map.
6. Consent is not required due to the presence of highly productive soils – this is a consideration but not a 'trigger' requiring consent.
7. It is evident that there is more that is agreed between the Council's and the applicant's technical experts than is disputed.
8. The primary matters not agreed relate to landscape impacts and highly productive land.
9. The landscape assessment undertaken by Hudson Associates, confirmed in Ms Whitby's evidence, concludes that effects on the natural character of this part of the coastal environment will be low or very low.
10. With four quite large residential allotments and the three proposed shared open spaces, the footprint of the proposed subdivision is similar to that which would be occupied by a compliant controlled activity involving 4000m² allotments.

11. The landscape assessment is that effects on localised landscape character will be, at worst moderate (according to Ms Ryder) or low-moderate (according to Ms Whitby). Ms Whitby assesses the potential effects on natural character in the localised area as very low.
12. Potential effects on visual landscape and natural character at the broader and localised scale will not be significant.
13. Although there is a focus on 'more than minor' in the s. 42A report and in the landscape assessment undertaken by Ms Ryder – there is no threshold test of 'more than minor' for a discretionary activity application.
14. Ms Whitby's evidence describes the surrounding hills as creating an intimate scale in which smaller allotments, surrounded by the proposed shared open spaces, will be appropriate.
15. Mr O'Leary agrees that the location of the proposed subdivision is a logical extension to the existing built settlement in this part of Pourerere.
16. The assessment of very low effects on the natural character of the coastal environment is highly relevant to the reason for requiring consent under the PDP.
17. The density of the proposed subdivision, averaged overall of the proposed residential allotments (including the large Lot 22 but excluding the generous shared open spaces) is an average site size of over 2500m². This is also highly relevant to the reason consent is required under the PDP.
18. It is relevant that the Decisions Version PDP provisions that apply to this site are subject to unresolved appeals – including Mr Bridge's appeal seeking large lot residential zoning.
19. Leaving aside for a moment the matter of HPL, this proposed subdivision proposes a density of subdivision that is broadly similar to what the PDP intends in the General Rural Zone. The fact of location within the Coastal Environment Zone of the PDP does not raise any obstacles in this particular instance – the agreed assessments of the landscape architects that effects on the natural character of the coastal environment will be low or very low.
20. Mr O'Leary's s. 42A report encourages the Panel to give substantial weight to the policy provisions of the Decisions Version PDP. The factual position (the live appeals) means, in my view, that the PDP provisions should not be given the determinative weight Mr O'Leary recommends. For the purposes of determining a decision on this proposal, the only settled District Plan provisions are those of the Operative DP. There is substantive dispute, including about the site's zoning (rural vs large lot residential) and other aspects directly relevant to this proposal in dispute. Those disputed provisions cannot be given the weight Mr O'Leary suggests.
21. The presence of LUC Class 3 soils requires careful consideration. The applicant has looked carefully at the relevant issues.
22. The NPS-HPL overrides and is separate from the ODP and the PDP and sets rigorous requirements – but provides for exceptions. This proposal meets the exception provided for, on the basis Mr Bridge proposes (which is to improve the productive capacity of the balance farm area), following the approach discussed in Mr Grant's evidence.

23. The NPS-HPL does not require retention of productive land *area* – it requires retention of productive *capacity*. The proposal, amended by conditions as Mr Bridge proposes, will retain or improve overall productive capacity. That is a positive outcome for this district.
24. All of the usual engineering infrastructure requirements have been met or will be met through the implementation of conditions. There is no dispute between the relevant experts about that.
25. The application is supported by properly qualified and comprehensive technical assessments of cultural impacts, archaeology, natural hazards, traffic and road design, water supply, stormwater and wastewater engineering impacts and design, ecological impacts, landscape impacts, impacts on highly productive land.
26. The expression ‘highly productive land’ has a specific defined meaning in the NPS – but is not defined in the PDP, except in the policies that clarify that it applies to Central Plains HPL.
27. The technical assessments respond to all relevant issues and provide the Panel with a sound basis, in my opinion, for finding that the proposal aligns with the relevant RMA policy provisions and merits a grant of consent subject to conditions.
28. My view is that the draft conditions presented with Mr O’Leary’s s. 42A report need some refinement. It appears that some of the suggested conditions may be cut-and-pasted from elsewhere and they need to be particularised better to this proposal. A refined set of conditions will be tabled.
29. For completeness: The NPS-Indigenous Biodiversity (released 07.07.23) does not raise any issues: it pertains to terrestrial indigenous biodiversity, there are no areas of terrestrial indigenous biodiversity identified within or affected by the proposed subdivision (and, specifically, no significant natural areas) and no loss (only improvement – consistent with NPS-IB Policy 13: *‘Restoration of indigenous biodiversity is promoted and provided for’* and Policy 14: *‘Increased indigenous vegetation cover is promoted in both urban and non-urban environments.’*).

