

Minor corrections to the Operative Hurunui District Plan

The following memo outlines the correction of a minor error identified in the Operative Hurunui District Plan. The correction of this error is pursuant to clause 20A of Schedule 1 of the Resource Management Act 1991.

Clause 20A allows the Council to amend the Operative Hurunui District Plan to correct any minor errors without using the Schedule 1 process.

Update	Reason
Correct the location of heritage item H20 – Horsley Down Homestead in Schedule 14.1 and the planning maps. The correct location is 383 Horsley Down Road, NOT 14 Lake Sumner Road as currently identified.	This needs to be amended to ensure the correct planning rules can be identified and applied to this category II heritage building. See Appendix A for further detail.

This change is a correction of a minor error under clause 20A and has been approved under delegated authority granted by Council resolution 31 May 2018.



Judith Batchelor, Chief Strategy and Community Officer

15 September 2023

Errata changes:

- Add comment to notable tree T17 in Schedule 14.3 and the planning maps to note RC210175 was granted on 8 December 2021 for its removal. The officer's report is attached as Appendix B.
- Update designation D95 in Schedule 9.1 and the planning maps. RC230038 was granted on 23 May 2023 to partially remove designation D95. As per section 182 of the RMA, this can be amended without using the process in Schedule 1. See Appendix C for further detail.

Appendix A

Heritage New Zealand
Pouhere Taonga

Tūrangawaewae Places
Tira Māori Māori Heritage
Poutairangahia Archaeology
Rauemi Resources
Mō Tātou About Us

Contact us

Horsley Down Homestead

383 Horsley Down Road, Horsley Down, HAWARDEN | Private

Quick links: Location Details





Appendix B



DECISION OF THE HURUNUI DISTRICT COUNCIL
NOTIFICATION UNDER SECTION 95 & DETERMINATION UNDER SECTION 104
RESOURCE MANAGEMENT ACT 1991

Consent Number:	RC210175
Applicant:	D Douglas-Clifford
Site Address:	2 Bankview Place, Amberley
Legal Description:	Lot 12 Deposited Plan 37209 (RT:CB16F/217)
Description of Application:	To remove a notable tree
Activity status:	Discretionary activity
Zoning:	Residential 1A Zone

Introduction

Proposal

Consent is sought to remove a notable tree identified as T17 - White manuka (*Leptospermum scoparium*) in Schedule 14.3 - Notable trees in the Hurunui District Plan. The applicant has advised that part of the tree recently fell in strong winds and had to be removed. They noted that the remainder of the tree is partially dead with a split in the middle. The applicant requests that the tree be removed before it does any damage to their dwelling.



Figure 1: Fallen limb of tree in recent strong winds

Existing environment

The notable tree is located on a privately owned property located at 2 Bankview Place, Amberley. The tree is located in the front yard, close to the southeast boundary of the site. The 678 m² site is located on the corner of Bankview Place and Bank Street. The site contains an existing villa style dwelling with separate garage located to the rear of the dwelling.

The site and surrounding environment are zoned Residential 1A with the adjoining properties containing well-established residential activities.

I viewed the site and tree on 7 December 2021.

Planning framework

Hurunui District Plan

The site is zoned Residential 1A in the Amberley Settlement in the Hurunui District Plan. The following rules are relevant in determining the status of the proposal:

Chapter 14 – Heritage

14.4.6 Discretionary activities

The following activities are discretionary activities:

1. ...
5. *The damage, removal or destruction of a tree listed in Schedule 14.3 – Notable trees.*

The proposal would result in the removal of a notable tree identified as T17 - White manuka (*Leptospermum scoparium*) in Schedule 14.3 - Notable trees in the Hurunui District Plan. Therefore the proposal is a **discretionary activity** in terms of Rule 14.4.6.5 of the District Plan.

Relevant objectives and policies

I note that regard must be had to the objectives and policies in the District Plan to get a full understanding of the context for assessing effects of the environment and effects on persons. I consider that the following objectives and policies are relevant to the proposal:

Chapter 14 - Heritage

Objective 14.1

The identification and protection of resources which have significant historic heritage value to the community and Ngai Tahu from inappropriate subdivision, use and development.

Policy 14.2

To protect significant heritage resources from inappropriate subdivision, use and development.

Policy 14.4

To recognise and provide for the relationship that a historic heritage resource may have with the land surrounding it.

The following assessment criteria are relevant to the proposal:

Chapter 14 – Heritage

14.5 Assessment criteria

When considering an application and whether or not it can be granted pursuant to Part 2 of the RMA, the Council will have regard to the relevant assessment criteria:

2. Notable trees

- (a) *The nature, form and extent of the proposed activity and the effect of these factors on the character and integrity of the tree; and*

- (b) *Whether the applicant has the ability to undertake a complying development without work affecting the tree; and*
- (c) *Any measures proposed which will protect or enhance the characteristics of the tree; and*
- (d) *The outcome of any consultation undertaken with the Department of Conservation, Regional Council or any other relevant person or body, including any recommendations made by those parties; and*
- (e) *The effect of any trimming or disturbance of the root system on its appearance or health.*

National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES)

Based on a review of Environment Canterbury’s Listed Land Use Register, the piece of land to which this application relates is not a HAIL site, and therefore the NES does not apply.

Has the applicant requested that the application be publicly notified? [Section 95A(3)(a)]

No

Does the application require public notification under section 95C? [Section 95A(3)(b)]

Yes– the applicant has provided sufficient information for Council to proceed with and process the application.

Has the application been made jointly with an application to exchange recreation reserve land under section 155AA of the Reserves Act 1977? [Section 95A(3)(c)]

No

Recommendation:

- **That the application need not be publicly notified in accordance with Section 95A(2)(a) of the Resource Management Act 1991.**

Is the application for an activity subject to a rule or national environmental standard that precludes (i.e. prevents or prohibits) public notification? [Section 95A(5)(a)]

No

Is the application for one or more of the following, but no other, activities:
 - a controlled activity;
 - a restricted discretionary, discretionary, or non-complying application for a boundary activity?

No the proposal is for a discretionary land use activity.

Does a rule or national environmental standard require public notification of the application? [Section 95A(8)(a)]

No

Written approvals (Sections 95D, 95E(3)(a) and 104(3)(a)(ii))

No written approvals have been provided with the application.

Permitted baseline

The permitted baseline has not been considered in this instance as I do not consider it relevant to the proposal.

Pursuant to Section 95D, will the activity for which consent is sought have, or is likely to have, adverse effects on the environment that are more than minor?

The proposal is a discretionary activity and therefore any adverse effects can be assessed. In considering the proposal, I have taken into account the assessment criteria in section 14.5.2 of the District Plan as referred to earlier.

The nature, form and extent of the proposed activity and the effect of these factors on the character and integrity of the tree; and

The notable tree is a large white manuka (*Leptospermum scoparium*). The Council's Notable Tree Register does not identify why the tree was included in the register. A review of the register in 2000 identified the tree as being in good health.

As shown in Figure 1, the tree lost two large limbs in recent strong winds. Figure 2 shows damage to the trunk from this event and also that these limbs were subject to rot. From my observations, the tree is in decline with approximately two thirds of the remainder of the tree appearing to be dead. If the dead part of the tree were to be removed, the physical form of the tree would be compromised as the remaining live portion of the tree leans strongly to the east. The tree also appears to be competing for resources including sunlight due to the presence of a large stature tree within the Bank Street road reserve.

I note that the dead part of the tree is located towards the dwelling on the site and towards Bankview Place. As such, there is the potential for the dwelling to be damaged should these limbs fall during any future strong wind events, or for the public using the road reserve to be injured.



Figure 2: Trunk of tree showing damage and rot

For these reasons, I agree with the applicant that the tree should be removed. While the removal of the tree would result in a visual change to the site as viewed from the streetscape, I do not consider that the visual effects would be minor or more than minor. Furthermore, I consider that the potential safety concerns outweigh any adverse visual effects that may result on the site.

I do not consider it necessary that the tree be replaced given that it is not clear why the tree was included in the notable tree register. In addition, given the presence of the existing street tree within the road reserve, there would be significant shading and competition for resources for any new tree to be planted in the same location.

I have considered the relevant objectives and policies and assessment criteria, as outlined in the planning framework section, above. I am satisfied that the proposal will be consistent with these objectives and policies. Overall, I am satisfied that any adverse effects on the environment of removing the tree, would be less than minor.

Notwithstanding the above, do any special circumstances exist in relation to this application which would lead you to conclude that the application should be notified? If the answer is yes, why? [Section 95A (9)]

No – The application is for the removal of a notable tree. There has been no known public interest in the application. I have not identified any factors that would bring the application outside the common run of things, unusual or abnormal or exceptional, but may be less than extraordinary or unique. Taking into account what the District Plan signal for this site, I consider the circumstances of this application are not outside the normal run of things, unusual, abnormal or exceptional.

Recommendation:

- That the application need not be publicly notified in accordance with Section 95A of the Resource Management Act 1991.

Are there any affected protected customary rights groups or affected customary marine title groups? [Section 95B(2)]

No

Is the proposed activity on or adjacent to, or may affect, land subject to a statutory acknowledgment? [Section 95B(3)] If yes, is the person or party affected under Section 95E and if so why?

No

Does a rule or national environmental standard preclude limited notification of the application? [Section 95B(6)(a)]

No

**Is the application for a resource consent for the following, but no other, activities: [Section 95B(6)(b)]
- a controlled activity (but not a subdivision)?**

No

**Who may be considered an affected person in relation to this application?
A person is an affected person if the activity's adverse effects on the person are minor or more than minor (but are not less than minor). [Section 95E]**

The proposal is for consent to remove a notable tree that is in decline. Given that the tree has been severely damaged in recent wind events and that the majority of the tree appears to be dead, it is considered that any adverse effects of its removal on any persons would be less than minor.

As such, no persons are considered to be adversely affected.

Has the written approval of every person who may be considered an affected person in relation to this application been obtained? [Section 95E (3)(a)]

N/A

Notwithstanding the above, do any special circumstances exist in relation to this application that warrant notification of the application to any other persons not already determined to be eligible for limited notification? If the answer is yes, why? [Section 95B(10)]

No – I consider my explanation to section 95A(9) is applicable.

Recommendation:

- **That the application need not be limited notified in accordance with Section 95B of the Resource Management Act 1991.**

Statutory Requirements

Applications for **discretionary activities** are considered under Sections 104 and 104B which states that the consent authority may grant or refuse the application, and impose conditions under Section 108 if granted.

Section 104 states that subject to Part II, the consent authority must have regard to –

- (a) any actual and potential effects on the environment of allowing the activity; and
- (b) any relevant provisions of –
 - (i) a national environmental standard;
 - (ii) other regulations;
 - (iii) a national policy statement;
 - (iv) a New Zealand coastal policy statement;
 - (v) a regional policy statement or proposed regional policy statement;
 - (vi) a plan or proposed plan; and
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

Section 104(3)(a)(ii) states the consent authority must not consider any effects on any person who has given written approval to the application.

When considering an application for resource consent the consent authority shall have regard to Section 104(1) of the Resource Management Act 1991. What are the actual and potential effects on the environment of allowing the activity?

I considered the adverse effects in my section 95D and 95E assessments above, and I consider this assessment covers off the actual and potential effects. Additional to this, I note that the removal of the notable tree would ensure the safety of the public and property owners which would be a positive effect.

Relevant provisions of a national environmental standard, other regulations, national policy statement, New Zealand coastal policy statement, regional policy statement, proposed policy statement, regional plan or proposed regional plan [Section 104(1)(b)]

The District Plan was made operative on 21 June 2018 and gives effect to the higher order instruments referred to in section 104(1)(b), including the Canterbury Regional Policy Statement and regional plans. I have no reason to consider there is any illegality, uncertainty or incompleteness in the District Plan. Accordingly, I have not addressed the higher order instruments specifically in this decision.

Are there any other matters which are relevant and reasonably necessary to determine the application (including Part II matters)?

With respect to Part II of the Act, the proposal will continue to promote the sustainable management of natural and physical resources. Section 5 requires the promotion of the sustainable management of natural and physical resources. This means ensuring that the use and development of physical resources is managed in such a way as to enable people and communities to provide for their social and economic well-being while meeting the reasonable foreseeable needs of future generations and avoiding, remedying or mitigating the adverse effects of the proposal on the environment.

If the application is for a non-complying activity, does it meet at least one of the provisions of Section 104D (1)?

N/A – the proposal is for a discretionary activity.

Recommendation: That for the above reasons the application **be approved** pursuant to Sections 104 / 104B of the Resource Management Act 1991, subject to the following conditions:

CONDITIONS OF CONSENT

There are no conditions of consent.

Reported and Recommended by:

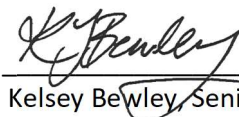


Helga Bennett, Senior Planner

Date: 7 December 2021

DECISION:

I have read and considered the above report and recommendation by the Council's officer, Helga Bennett, and the information available to Council in respect of the application for consent to remove a notable tree. I agree with the recommendations made and decide that the Council officer's recommendations should be adopted.



Kelsey Bewley, Senior Planner

Date: 8 December 2021

Appendix C

Extract from officer's report, RC230038:

Partial Removal of Designation D95

Schedule 9.1 Designations

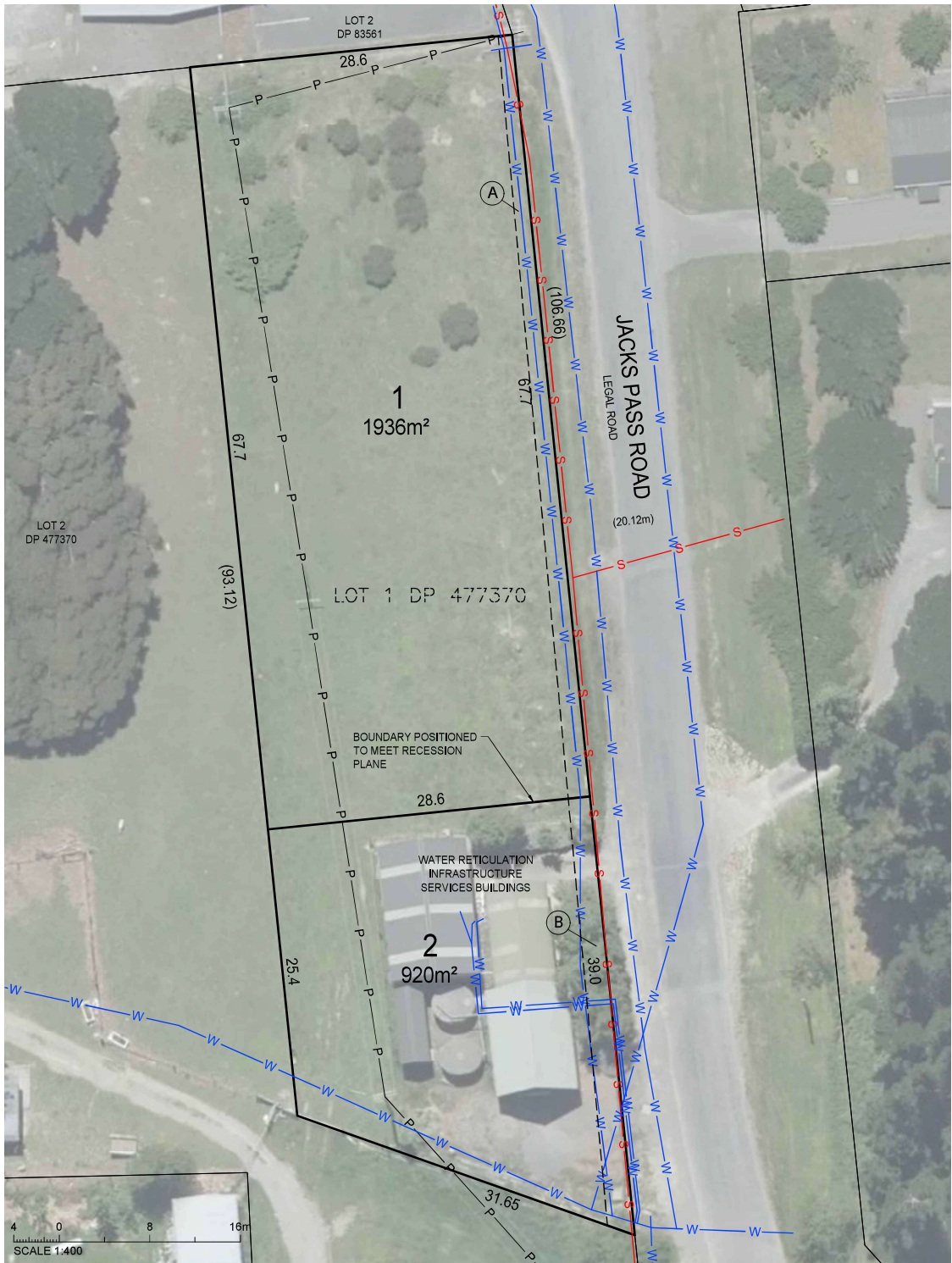
Requiring Authority: Hurunui District Council

<i>ID</i>	<i>Site Name</i>	<i>Purpose</i>	<i>Location</i>	<i>Legal Description</i>	<i>Area (ha)</i>
<i>D95</i>	<i>Hanmer Springs Water Treatment Plant</i>	<i>Water supply</i>	<i>193 Jacks Pass Road, Hanmer Springs</i>	<i>Pt Lot 1 DP 477370</i>	<i>0.276</i>

The site is designated by Hurunui District Council as the requiring authority and notice has been given that it no longer wants that part of the designation affecting Proposed Lot 1 of the proposed subdivision. Section 182(2) of the Resource Management Act 1991 requires the territorial authority to, without using the process in Schedule 1, amend its district plan accordingly and as soon as reasonably practicable.

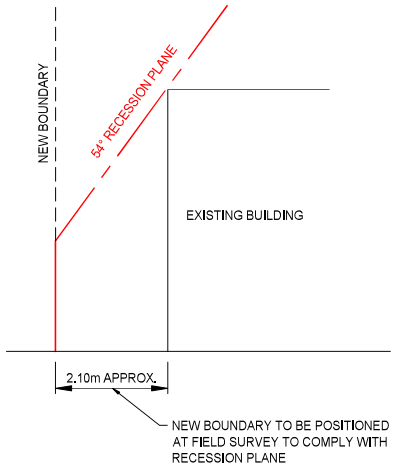
Section 182(5) requires a territorial authority to consider whether the effect of the removal of part of a designation on the remaining designation is more than minor, and may decline to remove that part of the designation. I have considered the effect of the removal of part of the designation on the remainder of the designation and concluded that it will be less than minor as the land identified as Proposed Lot 1 is currently vacant and is unused in relation to the water treatment activities. Its removal will have no effect on the continued operation of the water treatment plant. The new boundary between proposed Lots 1 and 2 will be positioned to ensure that the existing buildings on proposed Lot 2 comply with recession plane requirements.

Therefore, no further assessment of this request is required, and the Council will amend its District Plan to remove that part of D95 over Proposed Lot 1 accordingly.



- NOTES:**
1. ALL AREAS AND DIMENSIONS ARE APPROXIMATE ONLY AND SUBJECT TO FINAL SURVEY.
 2. THIS PLAN IS PREPARED FOR RESOURCE CONSENT PURPOSES ONLY AND IS NOT TO BE USED FOR ANY OTHER PURPOSE.
 3. ADDITIONAL EASEMENTS MAY BE REQUIRED AND WILL BE ASSESSED IN THE FINAL LEGAL SURVEY.
 4. A SUBDIVISION CONSENT HAS NOT BEEN ISSUED IN RESPECT OF THIS PROPOSED LAYOUT.
 5. SERVICES HAVE BEEN PLOTTED FROM HDC RECORDS.

SERVICES LEGEND	
	EXISTING WATER LINE
	EXISTING SEWER LINE
	EXISTING OVERHEAD POWER



REV	DATE	COMMENT	BY	APP
A	-	ISSUED FOR INFORMATION	LK	MH
B	-	EASEMENTS AND RECESSION PLANE ADDED	LK	MH

TITLE:
SCHEME PLAN
PROPOSED SUBDIVISION
OF LOT 1 DP 477370

CLIENT: **HURUNUI DISTRICT COUNCIL**

PREPARED BY:
M.J. HANRAHAN
Registered Professional Surveyor
6/03/23
DATE

MISURA
ADDRESS: UNIT 5A - 337 HAREWOOD ROAD
BISHOPDALE, CHRISTCHURCH
PHONE: (03) 365 1888
WEBSITE: www.misura.nz

SCHEDULE OF EASEMENTS

PURPOSE	SERVIENT TENEMENT (BURDENED LAND)		GRANTEE
	LOT No	SHOWN	
RIGHT TO CONVEY WATER AND DRAIN SEWAGE	1	A	HURUNUI DISTRICT COUNCIL
RIGHT TO DRAIN SEWAGE	2	B	

DRAWN	L.KIDWELL	DATE	-
SURVEYED	-	DATE	-
APPROVED	M.HANRAHAN	DATE	-

PROJECT:
193 JACKS PASS ROAD, HAMNER SPRINGS
COMPRISED IN RT 661461
TOTAL AREA = 2856m²



Form 23 – Resource Management Act 1991

Notice of removal of part of a designation

Section 182, Resource Management Act 1991

To: Hurunui District Council
c/o Planning Team
via email to: planning@hurunui.govt.nz

Hurunui District Council ('the Council') gives notice that it no longer requires part of the following designation as listed in Schedule 9.1 of the Operative Hurunui District Plan.

ID	Site name	Purpose	Location	Legal description	Area (ha)
D95	Hanmer Springs Water Treatment Plant	Water supply	193 Jacks Pass Road, Hanmer Springs	Pt Lot 1 DP 477370	0.276

The site identified above is only partially used for the Hanmer Springs Water Treatment Plant and the Council has no plans to expand the treatment plant on this site. Therefore, the Council seeks to remove the designation from the remainder of the site as per Appendix A. The Council is the sole owner and occupier of the site.

The section of the site from which the designation would be removed is vacant land. The underlying zoning of the site is Open Space Zone. The removal of the designation changes the potential range of future uses for this land from those associated with water treatment to those associated with recreational and community amenity (as outlined in Rule 4.20.1).

The land to the north is zoned industrial, to the west is zoned open space and to the south and east is zoned residential 1H.

In the opinion of the Council there are no persons likely to be affected by the partial removal of this designation. While the nature of the activities able to take place on the site will change from what would be expected under the designation, I consider the standards for permitted activities in Rule 4.21 would provide sufficient controls to ensure the effects of any future potential permitted activities on the site would manage any effects. The size of the site also constricts the types of open space uses that are viable. Additionally, I consider an open space use of the vacant site would have improved amenity and visual values compared to an expansion of the Water Treatment Plant.

Accordingly, Hurunui District Council request the territorial authority to amend the Hurunui District Plan Chapter 9, Schedule 1 as below, and the planning maps, accordingly, as required by section 182 of the Resource Management Act 1991.

ID	Site name	Purpose	Location	Legal description	Area (ha)
D95	Hanmer Springs Water Treatment Plant	Water supply	193 Jacks Pass Road, Hanmer Springs	Pt lot 1 DP 477370 ¹	0.092

¹ It is noted that if the proposed subdivision is granted the relevant legal description will change and need to be updated accordingly.



Hamish Dobbie, Chief Executive
Signature on behalf of requiring authority

Date: 17 March 2023

Electronic address for service of requiring authority:	planning@hurunui.govt.nz
Telephone:	03-314 8816
Postal address:	66 Carters Road, Amberley
Contact person:	Nicola Kirby