

Proposed Two Lot Subdivision of Lot 1 DP 434612 - Mr T Martin and Ms V Read

18 Weld Street
Martinborough



Resource Consent Application and
Assessment of Environmental Effects

13th April 2012

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1 Application Form

Form 9

Application for Resource Consent

Section 88, Resource Management Act 1991

To South Wairarapa District Council

Tim Martin and Victoria Read apply for the following types of resource consent:

- *Two lot subdivision (non-complying activity)*
- *Land use consent to enable a dwelling to be constructed on Lot 2 (discretionary (restricted) activity).*
- *Land use consent to enable the existing dwelling to encroach on the permitted activity internal boundary setback standard (discretionary (restricted) activity).*

The names and addresses of the owner or occupier (other than the applicant) of land to which the application relates are as follows: N/A

The location of the proposed activity is as follows:

18 Weld Street, Martinborough

No additional resource consents are needed for the proposed activity.

I attach, in accordance with the Fourth Schedule of the Resource Management Act 1991, an assessment of environmental effects in the detail that corresponds with the scale and significance of the effects that the proposed activity may have on the environment.

I attach any information required to be included in this application by the district plan, the regional plan, the Resource Management Act 1991, or any regulations made under that Act.

- Scheme Plan
- Historic resource consents
- Site photographs

As this is an application for a subdivision consent, I attach information that is sufficient to adequately define –

- (a) The position of all new boundaries; and
- (b) The areas of all new allotments; and
- (c) The locations and areas of new reserves to be created, including any esplanade reserves and esplanade strips; and

- (d) The locations and areas of any existing esplanade reserves, esplanade strips, and access strips; and
- (e) The location and areas of land below mean high water springs of the sea, or any part of the bed of a river or lake, to be vested in the Crown or local authority under section 237A of the Resource Management Act 1991; and
- (f) The locations and areas of land to be set aside as new roads.

.....

Signature of applicant (or person authorised to sign on behalf of applicant).

.....

Date

Address for service of applicant:

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2 Introduction

This is a resource consent application and assessment of effects on the environment prepared in accordance with s88 and Schedule 4 of the Resource Management Act 1991 (RMA). There are three components to this application:

1. Application for **subdivision consent** to subdivide the property into two lots (Lot 1 - 2,412.82m² net (2617m² gross)) and Lot 2 - 2,088m²).
2. **Land use consent** to enable a dwelling to be established on proposed Lot 2.
3. **Land use consent** to enable the existing dwelling on Lot 1 to be closer than 25m from the proposed internal boundary with Lot 2.

The assessment of effects has been prepared to a level of detail as corresponds with the scale of the actual and potential effects that the proposal is expected to have.

2.1 Background

The application site, Lot 1 DP 434612, is the product of a subdivision approved by South Wairarapa District Council in 2006 and completed in 2010 (SWDC ref. 3035). In 2008, land use consent was granted for an extension of the existing dwelling sited on Lot 1. In September 2010, land use consent was granted for the relocation of a dwelling to Lot 2 of the 2006 subdivision (Lot 2 DP 434612). Copies of the decision notices for each of the activities outlined here are included in Appendix 1 of this application.

3 Existing Environment

3.1 Project Site

The application site is located at 18 Weld Street, a 4,705m² section located on the western edge of Martinborough. The site is generally level throughout. The site is approximately 1.2km from the town square and is accessed via a metalled drive, the entrance of which has recently been sealed (as a condition of the 2006 subdivision consent).

The site contains an existing dwelling, which is sited on the northern portion of the site, approximately 5m off the north-east boundary (adjacent to no.



Figure 1: Application Site

16 Weld Street), and 10m off the north-west boundary (adjacent to no. 12 Weld Street). It is a timber clad, two storey dwelling, and was recently extended following granting of consent ref. SWDC 3432. The dwelling is connected to the mains sewer and water supply, and is also connected to mains electricity and telecommunications.

The grassed area to the south-east of the dwelling (the area of proposed Lot 2) is fenced from the main dwelling. Previously this part of the site contained a large glasshouse that was associated with a small organic salad-growing business, however the glasshouse was removed after the business ceased to operate.

A walnut tree (*Juglans regia*) is located close to the existing dwelling and is listed as a notable tree (Ts084) in the Wairarapa Combined District Plan (the District Plan). Other vegetation on the site includes boundary planting and amenity planting around the existing dwelling. The boundary planting includes a tall evergreen hedge along the length of the south west and south east boundaries of proposed Lot 2 which largely block views into and out of the site. Boundary planting along the existing boundaries of proposed Lot 1 is less established.

The site is zoned Rural (Special) in the District Plan.

3.2 Surrounding Environment

The application site sits within a low-density residential area, with surrounding properties ranging in size from 1400 m² to 4000 m², with the majority of properties being approximately 4000 m². The properties immediately adjoining the application site and fronting Weld Street are approximately 2000 m² (Lot 2 DP 74991) and 1400 m² (Lot 2 DP 434612).

The application site and the developed lots that immediately neighbour it are spacious but distinctly residential in character. The lot and development pattern of the application site and its immediate neighbours is very similar in terms of scale, density and character to the Residential Zone land to the north-east and east, and is in quite clear contrast with the open, rural land further to the north, and west and south-west of Ferry Road.

The Residential Zone land to the north-east of the application site and fronting Weld Street, has allotments of approximately 4000m² (1 to 19 Weld Street), while further to the north west (fronting Grey Street) the allotments are a mixture of 2000m² and 4000m² properties. This area of land (north-west of Roberts Street between Weld and Grey Streets) was initially zoned as Rural (Special) in the Proposed Wairarapa Combined District Plan as it was notified. As a result of submissions, the area's zoning was changed to Residential. Other land within the vicinity of the re-zoned area of similar character and development density (including the application site) was not re-zoned at the same time, and it is assumed that this was because there were no submissions requesting such re-zoning.

The rural land to the north, west and south-west of the application site beyond Ferry Road and 10 Weld Street is zoned Rural (Special), and is currently used for arable, pasture or vineyard activities. Residential density on this land is low and property sizes range in area from approximately 5ha to 35ha.

Weld Street, from which the application site is accessed, is a local road and runs in a north-west/south-east alignment, connecting with Jellicoe Street approximately 490m to the south-

east. Weld Street north-west of the application site provides access to a small number of low-density residential properties, a vineyard and the Martinborough Wastewater Treatment Plant north of the application site.

An unformed section of Roberts Street (between Weld Street and Ferry Road) borders the site along its southern edge. This section of Roberts Street is grassed and does not contain any buildings or structures.

Beyond Roberts Street to the south east are residential properties, all of which contain dwellings. These residential sections (22 and 24a to 24c Weld Street) are approximately 1200m² to 1900m².

A 20cm wide lot (Lot 3 DP 434612) separates the application site from the unformed section of Roberts Street, and is understood to have been created to prevent access from the application site directly onto Roberts Street.

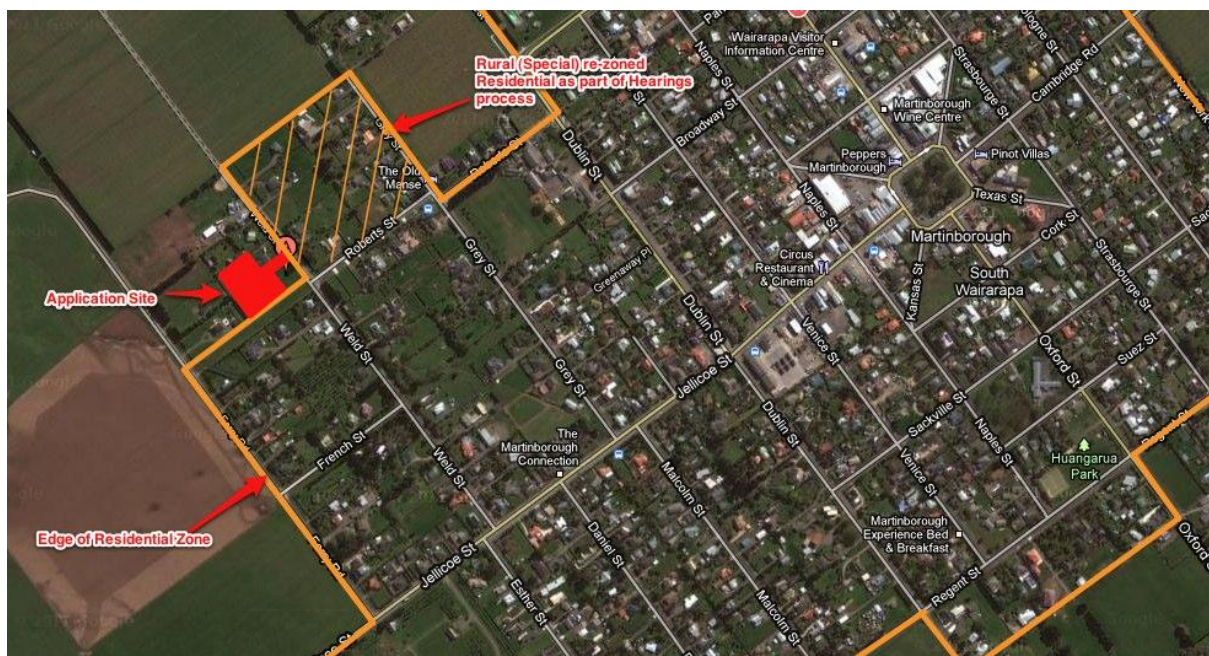


Figure 2: Application Site and Surrounding Area

Photographs of the site and the surrounding area are included in Appendix 2 of this report.

3.3 Proposed Development

3.3.1 Lot Areas

The subdivision is comprised of two lots, as follows:

Lot 1	-	2,412.82m ² (net) (2617m ² gross)
Lot 2	-	2,088m ²

Lot 1 contains the existing dwelling. The smaller lot, Lot 2, is currently vacant. The scheme plan is included in Appendix 3 of this report.

3.3.2 Vehicle Access

Both Lots 1 and 2 will be accessed by means of the existing driveway off Weld Street. The driveway will be either sealed or resurfaced with a compacted aggregate. Access over the driveway will be secured by means of a legal ROW, over Lot 1 in favour of Lot 2.

3.3.3 Building Sites

Lot 1 is already developed with a residential dwelling and therefore no additional building sites are specified on this lot. The dwelling will be approximately 13 metres from the proposed new boundary between Lots 1 and 2, and its separation from other existing boundaries will not alter. Should any future alterations or additions to the existing dwelling or accessory buildings be proposed, then it is requested that the Residential Zone provisions would apply to the site not the Rural (Special) Zone.

Lot 2 is currently vacant. This lot measures approximately 34 metres by 50 metres. Whilst the site's overall area and dimensions are capable of accommodating a good-sized dwelling and enable full compliance with the permitted activity standards for the Residential Zone, the current zoning of the site being Rural (Special) means that any proposed dwelling would not meet the applicable standards, and therefore resource consent would be required. Consequently, as part of this proposal, the applicant offers, by way of a consent notice on the new title for vacant Lot 2, fixed setbacks of 5m on all boundaries for future building development. The suggested wording for this is included in section 6.8 of this report.

Similarly, it is requested that a consent notice be applied to Lots 1 and 2 to ensure that any future development of the site is subject to the Residential Zone rules for land use (except for the minimum building setback stated above for Lot 2), not the Rural (Special) Zone rules. Again, suggested wording for this consent notice is set out in section 6.8 of this report.

A consent notice pursuant to s221 of the RMA would be a suitable means of signaling to future owners of both Lots 1 and 2 of what set back rules would apply.

3.3.4 Water, Wastewater and Stormwater Disposal

The existing dwelling is connected to the reticulated water supply. It is proposed that Lot 2 will similarly have a connection to the mains supply in Weld Street.

Stormwater from Lot 1 is disposed of by means of soakpits, and the location of these soakpits was confirmed as part of the 2006 subdivision process. It is proposed that the new, vacant allotment also drain stormwater to soakpits. The exact location of the soakpits will be determined as part of any building consent for a new dwelling in the future.

Lot 1 is connected to the reticulated wastewater system located in Weld Street. The applicant proposes that Lot 2 be connected to the reticulated system. Discussions with Council engineering staff indicate that there is capacity in the existing sewer and that a connection is likely to be possible. A sewer lateral will be laid along the existing driveway. An alternative connection may be available to the sewer that runs along the unformed section of Roberts Street, however the availability of this sewer will need to be confirmed with Council engineers.

3.3.5 Telecommunications and Power

Lot 1 is currently connected to the mains power and telecommunications system. Lot 2 will be separately serviced.

4 District Plan Provisions

4.1 Relevant District Plan and Status

The application site is within the South Wairarapa District, and is therefore subject to the Wairarapa Combined District Plan (WCDP), which was made operative in May 2011.

4.2 District Plan Requirements

4.2.1 Zoning

The application site is within the Rural (Special) Zone. The site itself is not subject to any additional designations or overlays other than a notable tree being present (as described above). Figure 3 and 4 below are extracts from Planning Maps 67 and 69 respectively.

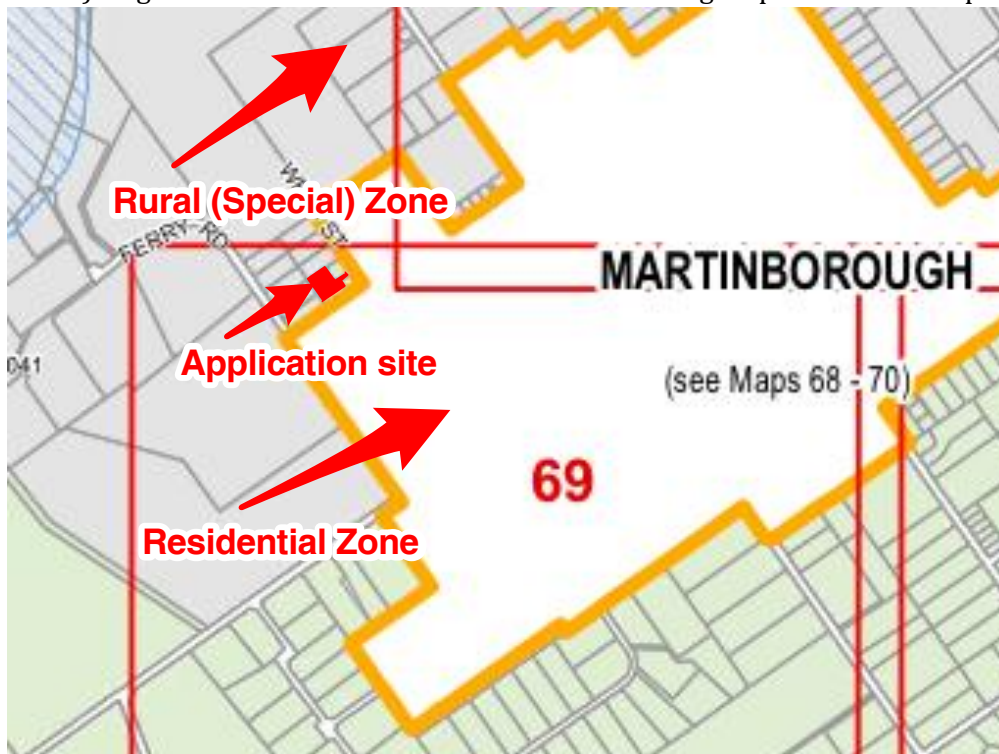


Figure 3: Planning Map 67



Figure 5: Planning Map 69

4.2.2 Rule Assessment

The following table identifies the relevant proposed rules and standards applicable to this proposal and specifies the level of compliance achieved.

Plan Provision	Compliance
20.1.2 (b) <i>Controlled Activities – Lot Standards: Rural Zones</i>	
(ii) Rural (Special)	
All lots shall have a minimum lot area of 4ha (and minimum lot frontage of 100m for front lots).	Does not comply
20.1.2 <i>Access Standards – All Environmental Zones</i>	
(c) All lots shall demonstrate compliance with section 21.1.25.	Complies – see AEE
(d) In the Rural (Special) Zone if there are two or more rear lots, they shall share a single vehicle access.	Complies – see AEE. Access/ROW will be sealed or resurfaced along entire length and will provide

	shared access to both proposed lots.
20.1.2 Development Standards – All Environmental Zones	
(e) Each lot shall contain a building area that:	
(i) Contains any dwelling house to be located on the lot, and complies with the Permitted Activity land use standards for dwellings in the respective Environmental Zone.	<p>Does not comply Lot 1 - The existing dwelling on Lot 1 has resource consent for breaches with side-yard rules associated with existing boundaries. The existing dwelling will not meet the Rural (Special) Zone dwelling setback of 25m from the proposed new boundary between Lots 1 and 2.</p> <p>Does not comply Lot 2 – The site is too small to provide for the required 25m boundary setbacks.</p>
(ii) Has minimum dimensions of 15m by 12m.	Complies
(iii) Shall be able to satisfactorily dispose of effluent on site	<p>Complies Lot 1 is connected to the mains wastewater disposal system. It is proposed that Lot 2 also be connected to the mains. The lot areas would enable on-site wastewater discharge to be undertaken if required.</p>
(h) All lots shall demonstrate compliance with the permitted activity land use standards for the respective Environmental Zone	See table below.
(i) All new water supplies, waste water supplies and stormwater systems shall be provided in accordance with NZS 4404:2004	Complies
(j) All financial contributions shall be in accordance with the requirements of Section 23	Complies

Rule 21.1.2(h) requires that all lots shall demonstrate compliance with the Permitted Activity land use standards for the respective Environmental Zone, in this case, the Rural (Special) Zone. The table below assesses proposed Lots 1 and 2 against the relevant permitted activity land use standards.

Plan Provision	Lot 1	Lot 2
4.5.2		
(a) <i>Maximum Building Height</i>		
(i) Dwellings: 10m	Complies	Complies

(ii) Other buildings: 15m	Complies	Complies
(b) <i>Maximum Height to Boundary</i>		
(i) 3m/45°	Complies	Complies
(c) <i>Minimum Building Setback (excluding dwellings)</i>		
(i) 10m from front road boundary of sealed roads	Complies	Complies
(ii) 25m from front road boundary of unsealed roads	N/A	N/A
(iii) 5m from all other boundaries	Complies Any breaches in relation to existing boundaries have the benefit of resource consent.	Complies
(iv) N/A		
(v) N/A		
(d) <i>Minimum Dwelling Setback</i>		
(i) 10m from front road boundary of sealed roads	Complies	Complies
(ii) 25m from front road boundary of unsealed roads	N/A	N/A
(iii) 25m from all other boundaries	Will not comply from new internal boundary Any breaches from existing boundaries have the benefit of resource consent.	Does not comply
(iv) – (ix) N/A		
(e) <i>No. of Dwellings</i>		
(i) In Rural (Special) Zone, one dwelling per CT	Complies	Complies
(i) <i>Roads, Access, Parking and Loading Areas</i>		
(i) Compliance with Appendix 5	Complies	Complies

In summary, the proposed subdivision does not comply with the Controlled Activity subdivision standards for the Rural (Special) Zone. The subdivision also does not meet the Discretionary (restricted) Activity subdivision standards for the zone. Rule 20.1.7 of the Combined Plan establishes that any subdivision in the Rural (Special) Zone that does not comply with the minimum standards for Restricted Discretionary Activities in Rule 20.1.4(a) (that lots meet the minimum lot area standard of 4ha) is a **Non-Complying Activity**.

Any future development on Lot 2 will not be able to comply with the boundary setback development standards of the Rural (Special) Zone and the proposed new boundary between Lots 1 and 2 will result in the existing dwelling being closer to that boundary than is permitted by the Plan. Rule 4.5.5(e) of the Plan establishes that any activity that does not meet one or more of the standards for permitted or controlled activities is a **Restricted Discretionary Activity**, with discretion restricted to the following matters:

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

Assessment criteria are set out in Section 22 of the Plan.

4.3 Rules Summary

Based on the analysis undertaken above, it has been assessed that the proposed activities are to be assessed as **Non-Complying** and **Discretionary (restricted) activities**. Adopting a bundling approach, whereby the most restrictive activity status is applied to the assessment of both activities, the over proposal is assessed as a **Non-Complying Activity**.

4.4 Objectives and Policies

Based on the above analysis, the following objectives and policies of the District Plan are relevant to the assessment of this application.

Relevant Objectives	Relevant Policies	Assessment matters
Rural Zone 4.3.1 Rur1 Protection of Rural Character and Amenity <i>To maintain and enhance the amenity values of the Rural Zone, including natural character, as appropriate to the predominant land use and consequential environmental quality of different rural character areas within the Wairarapa</i>	(c) Identify areas within the Rural Zone in which there are particular issues that require specific management approaches, including urban growth, flood hazards, and the operational requirements of key infrastructural facilities and intensive primary production activities – Rural (Special) Zone (d) Maintain and enhance the amenity values, including natural character, of the differing Rural character areas through appropriate controls over subdivision and the bulk, location and nature of activities and buildings, to ensure activities and buildings are consistent with the rural character, including an appropriate scale, density and level	<ul style="list-style-type: none"> • Amenity values of the rural zone • Amenity values of the rural zone

	of environmental effects.	
<p>4.3.4 Rur2 Provision for Primary Production and Other Activities</p> <p><i>To enable primary production and other land uses to function efficiently and effectively in the Rural Zone, which the adverse effects are avoided, remedied or mitigated</i></p>	<p>(a) Provide for primary production activities as permitted activities in the Rural (Primary Production) Zone and Rural (Special) Zone, subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects of primary production activities without unreasonably affecting landowners ability to use their land productively.</p> <p>(b) Provide for other land uses as permitted activities in the Rural (Primary Production) and Rural (Special) Zone, subject to such environmental standards as necessary to avoid, remedy or mitigate any adverse effects.</p>	<ul style="list-style-type: none"> • Efficient functioning of primary production activities • Efficient functioning of primary production activities
<p>Subdivision and Land Development</p> <p>18.3.1 Objective SLD1 – Effects of Subdivision & Land Development</p> <p><i>To ensure subdivision and land development maintains and enhances the character, amenity, natural and visual qualities of the Wairarapa</i></p>	<p>(a) Manage subdivision and land development in a manner that is appropriate for the character and qualities of the environmental zone in which it is located, while recognising that such change may alter the character and qualities.</p> <p>(b) Enable subdivision where it is compatible with the physical characteristics of the site, provided any adverse environmental effects are avoided, remedied or mitigated.</p> <p>(d) Set minimum allotment sizes for the Residential and Rural Zones that provide a baseline for maintaining the character, scale and intensity of development of their Zones including their servicing capacity, while recognizing the differing constraints, qualities and characteristics within each Zone.</p> <p>(g) To provide for subdivision of rural land for rural-residential purposes through minimum</p>	<p>Character and qualities of the Rural Zone</p> <p>Compatibility with the physical characteristics of the site</p> <p>Maintenance of the character, scale and intensity of development in the Rural zone</p>

standards that seek to:	
i. Avoid or mitigate any significant potential adverse effects or the viability and operational requirements of any productive use of any adjacent rural land	Viability and operational requirements of adjacent productive uses
ii. Ensure allotment sizes and the pattern of subdivision maintains the open rural character, particularly from public roads	Maintenance of open rural character, particularly from public roads
iii. Ensure allotments are able to accommodate the likely use in accordance with the other requirements of the Plan	Ability of lots to accommodate likely use
iv. Avoid adverse effects on the safe and efficient use of roads	Safe and efficient use of roads
(h) Allotments below the minimum standards in the Rural Zone shall avoid all of the following outcomes:	
i. The proposed subdivision is likely to have a significant adverse effect on the viability and operational requirements of any productive use of adjacent rural [...] land, including activities allowed by the zoning, or anticipated urban growth.	Viability and operational requirements of productive use on adjacent rural land
ii. The allotment sizes and/or pattern of development would not maintain the open rural character, particularly from public roads and vantage points.	Effects on anticipated urban growth
iii. Allotments unable to accommodate the likely use in accordance with other requirements of the Plan.	Maintenance of open rural character
iv. The subdivision would require an extension or upgrading of any service or road that is not in the economic interest of the District.	Accommodation of likely use
v. The subdivision would compromise the safe and efficient use of the road network.	Extension or upgrade of services that are not in the economic interest of the District
vi. Any exacerbation of risks from flooding or other natural hazards that is likely to occur through intensified landholdings, occupation or where capital and	Safe and efficient use of the road network
	Natural hazards

infrastructural investment is more than minor.	
vii. the proposal is unlikely to be able to satisfactorily and reliably dispose of effluent.	Effluent disposal
viii. the proposal is likely to lead to ad hoc urban development and/or adverse effects on rural character, amenity, and natural values through the cumulative effects of rural-residential development in the vicinity.	Ad hoc urban development Cumulative effects of rural-residential development in the vicinity
ix. The proposal is unable to provide a potable supply of water.	Potable water supply

4.4.1 Issues for Assessment

Section 22 of the Plan establishes the assessment criteria for resource consents under District Wide Rule. The following assessment criteria (state categories) provide a helpful framework in which to assess the proposed subdivision and land use consent. The following is a summary of the most relevant criteria:

Subdivision

- The extent to which the area's amenity values and character are protected and/or enhanced.
- Whether the subdivision is consistent with the requirements of New Zealand Standard 4404:2004 Land Development and Subdivision Engineering and other related standards.
- The provision of a potable water supply.
- The adequate and effective disposal of sewage and stormwater, or the ability of every lot to dispose of sewage and stormwater effectively without risk to public health and the environment.
- The cumulative impacts on infrastructure and its efficient use and development, including the capacity, safety and efficiency of the roading and rail network, and the ability of the area's utility services to function efficiently.
- The adequate provision of access within every lot to meet modern vehicular standards.
- Whether the design and layout of the subdivision avoids, remedies or mitigates any adverse effects on the surrounding environment.
- Whether the proposed subdivision will create an additional lot for building/development or will change the use of the affected land.
- The ability of any existing or likely proposed building to comply with all standards in this Plan.
- The ability of every allotment of land to accommodate a conforming dwellinghouse or a principal building and to be utilised in a manner that can comply with the Plan provisions.

- The potential for financial contributions to avoid, remedy or mitigate any adverse effects on the environment.

Roads, Intersections, Access, Parking and Loading Areas

- The vehicle type using the site, the time of day the site is inhabited and the anticipated vehicle generation.
- The extent to which the safety and efficiency of the road network or the safety of road users may be adversely affected.
- Proposed methods for avoiding, remedying or mitigating any potential adverse effects including:
 - Improving the visibility of vehicle crossing points;
 - Alternative design, construction or location.
- Whether the access [...] would have an adverse effect on the special character or amenities of the site.
- Any adverse visual effects on the amenity and character of surrounding allotments and the zone.

5 Consultation

Clause 1(h) of Schedule 4 of the RMA requires that an assessment of environmental effects should include

(h) identification of the persons affected by the proposal, the consultation undertaken, if any, and any response to the views of any person consulted.

While there is no duty to consult with people as part of an application (neither the consent authority nor the applicant is obliged to consult according to s36A of the RMA), the applicant has discussed the proposal with immediate neighbours who have been identified as being potentially affected by the proposal. Those identified and the consultation undertaken is set out in sections 5.1 and 5.2 below.

5.1 People Potential Affected by the Proposal

The following people or groups have been identified as being potentially affected by the proposal.

Address	Reason
16 Weld Street	Immediately adjoins proposed development (on boundary of proposed Lot 1).
20 Weld Street	Immediately adjoins proposed Lot 2. Any future development may encroach into the side yard boundary adjacent to the property.
17 Ferry Road	Immediately adjoins proposed development (on boundary of proposed Lot 2).

5.2 Consultation Undertaken

The applicants have been in contact with their immediate neighbours to discuss the proposed subdivision. The following comments have been made:

16 Weld Street: This neighbour has not expressed an objection to the proposal provided that the driveway is sealed its entire length. The applicant has agreed to undertake a driveway upgrade.

20 Weld Street: This neighbour has discussed several matters with the applicant.

17 Ferry Road: This neighbour has discussed several matters with the applicant.

6 Assessment of Effects

The following assessment of effects addresses the matters that are required to be assessed by the relevant district and regional planning documents and by the RMA.

Section 104 (1) of the RMA requires the following:

(1) When considering an application for a resource consent and any submissions received, the consent authority must, subject to Part 2, 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 policy statement;

(ii) a New Zealand coastal policy statement;

(iii) a regional policy statement or proposed regional policy statement;

(iv) a plan or proposed plan; and

(c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.

6.1 Activity Status

The proposed activity has been identified in Section 4.3 as a **Non-Complying Activity** as assessed against the rules of the relevant planning documents.

S104D of the RMA establishes particular restrictions in respect of the determination of a resource consent for a non-complying activity. The tests established by s104D are examined in more detail in Section 6.3 of this report.

6.2 Actual and Potential Effects

The principle actual and potential environmental effects associated with this development have been identified as those relating to:

- Effects of the subdivision on the character, qualities and amenity values of the Rural Zone, including the maintenance of open rural character, particularly from the public road.
- Effects of the creation of a new allotment on the privacy and amenity of adjoining neighbours.
- Ad hoc urban development and effects on anticipated urban growth areas.
- Effects of the proposal on the efficient functioning of adjacent primary production land uses.
- Ability of the allotments to accommodate the likely use.
- The extent to which the subdivision can be adequately serviced and the effects on the safe and efficient use of the roading network.
- Natural hazards.
- Issues of reverse sensitivity.

6.2.1 Effects of subdivision on the character, qualities and amenity values

The Operative Plan characterises the Rural Zone as comprising the following elements:

- Open space, natural landscapes, and vegetation predominate over the built environment;
- Working productive landscape, with a wide range of agricultural, horticultural and forestry purposes;
- Range of built forms, from reasonably large utilitarian buildings associated with primary production, through to small utility buildings; and
- Low population density.

Whilst these characteristics could readily be applied to the area of rural land west beyond Ferry Road, and north beyond 10 Weld Street, as Figure 6 below illustrates, they are not features that contribute to the character and appearance of the application site and its immediate residential neighbours.

From a character and amenity perspective, 18 Weld Street is part of the established, urban environment of Martinborough (edge of urban character area defined by the red dashed line in Figure 6 below) that extends along the length of Weld Street and continues to the east along

Roberts Street and surrounding streets. Allotments in this area are between 1,500m² and 4,000m², many of which have been established for some years. Whilst the lots in this area are certainly large when compared to residential sections closer to the centre of Martinborough, and have an 'urban fringe' ambience, they do not significantly contribute to the sense of rural openness that is an immediately obvious feature of the rural land to the west and north. Equally, the 'landscapes' of this part of Weld Street, Ferry Road and Roberts Street, whilst generally not 'manicured', are clearly domesticated in appearance and layout.

Since the removal of the large greenhouse from the rear garden of 18 Weld Street, there is no productive agricultural activity underway in the residential lots of this area. Built forms tend to be domestic in nature, and similarly domestic in scale and spacing, and the population density is clearly more dense within the residential area than further to the north and west in the productive, rural area. These characteristics of the application site and its immediate neighbours contribute to a distinctly residential amenity, quite different from the rural ambience to the north of 10 Weld Street and west of Ferry Road.

The proposal is for a two lot subdivision which will result in two lots each a little over 2,000m² in area. The proposed subdivision is visually and in terms of character and ambience clearly part of the urban environment described above, and immediate neighbours to two allotments of just under 1500m² in area. The two proposed allotments will be very similar in scale, design and layout to the pattern of development already established in this area.



Figure 6: Rural vs. Residential Character

Clearly, the proposal will result in the likely development of Lot 2 with a residential dwelling, and this proposal seeks authorisation for any future development to comply with the Residential Zone bulk and location rules, rather than those of the Rural (Special) Zone. The neighbour most likely to be affected by future development of Lot 2 is at 20 Weld Street. Discussions are ongoing with this neighbour regarding the subdivision proposal. Proposed Lot 2 is separated from its nearest neighbour to the south east by the paper road, which has a nominal width of 20m. This degree of spatial separation will mitigate any potential adverse effects such as overlooking or noise.

There are some 40m between the proposed rear boundary of Lot 2 and the back of the dwelling located on the allotment to the rear (south-west) –17 Ferry Road. This boundary is also supplemented by a significant evergreen hedge that effectively blocks views of the application site from the neighbouring allotment. This existing natural screen (or any future planting along the boundary) and the extent of the separation from Lot 2 and the nearest dwelling to the south west will ensure that the actual and potential environmental effects of the development on this neighbour are less than minor.

The application site can be seen indirectly from Weld Street. The existing dwelling is glimpsed at the rear of, and between, the two dwellings located on 20 and 12 Weld Street, both of which have road frontage. As discussed above, this area of Weld Street has a residential urban fringe character, not an open rural character. The application site is surrounded by development of a

residential nature and character forming a residential area that is spatially and visually distinct from the open rural character of the land west of Ferry Road and north of 10 Weld Street. From the public road of Weld Street, the views immediately in the area of the application site are therefore predominantly of residential urban fringe development in style, nature and density. The proposed subdivision is set back off the public road, and views of it, and any subsequent development of proposed Lot 2 will continue to be dominated by the existing development at 20 and 12 Weld Street. Given the siting of the subdivision, and the nature of the development that surrounds it, the subdivision will have no detrimental effect on the maintenance of the existing character when viewed from Weld Street.

Views of the application site from the junction of Weld Street and Roberts Street are obscured by the development of 20 Weld Street, and will have no detrimental effect on the maintenance of the existing character when viewed from this junction.

Similarly, the application site is completely screened from views from Ferry Road to the west by the development occupying 15-19 Ferry Road, and the tall, thick evergreen hedge along the rear boundary of 17-19 Ferry Road. 15 Ferry Road is itself screened from views from Ferry Road by a tree shelter belt along the road boundary. The subdivision will have no detrimental effect on the maintenance of open rural character of the west side of Ferry Road.

Figure 7 below illustrates the view from 19 Ferry Road looking east towards the application site. Figure 8 shows the tree shelter belt along the front boundary of 15 Ferry Road, which obscures direct views of the development occupying this lot, and also that of the application site.

In summary, the proposed subdivision is entirely in keeping with the established character, qualities and amenity of this part of Martinborough.



Figure 7: View from 17-19 Ferry Road towards application site (looking east)



Figure 8: View of 15 Ferry Road, looking north-west

6.2.2 Effects on the privacy and amenity of adjoining neighbours

The proposed subdivision will create a pattern of allotments, and pattern of residential development, very much in keeping with that already established in this location. Separation distances between dwellings in this area tend to be between 15m and 45m, and averaging around 26m (based on eight measurements between dwellings immediately surrounding the application site and the existing dwelling on Lot 1).

In discussions with the SWDC Planning Officer and as a result of the assessment of effects, the immediately adjoining neighbours at 16 Weld Street (Lot 2 DP 74911) and 20 Weld Street (Lot 2 DP 434612), and 17 Ferry Road (Lot 11 Deeds 24) were identified as the **only parties potentially affected by the proposal**. The applicant has consulted with all of these parties but has not obtained affected party approval for the proposal.

The south east boundary of the site is bounded (bar a narrow isolation strip) by the unformed section of Roberts Street, which is grassed for its length from the junction with Weld Street to its junction with Ferry Road. Roberts Street is approximately 20m wide. On the south east side of Roberts Street are a number of properties occupying sections which form part of the residential character described in this report. Roberts Street creates a generous separation distance between the application site and its nearest neighbours to the south-east, in excess of 25m from the south-east boundary of the application site and the north-west elevations of dwellings on Roberts Street.

Nevertheless, the proposed application seeks to create a vacant allotment that cannot meet the permitted standards of the Rural (Special) Zone in terms of boundary setbacks. In order to ensure that the actual or potential effects of the proposed development are no worse in scale and degree than what could be anticipated from a permitted activity subdivision, the applicant proposes a 5m setback from all boundaries for any future buildings (residential and non-residential). This measure, secured by means of consent notice on the title for Lot 2, coupled with the distance across the unformed Roberts Street, should minimise any adverse effects of new development on the privacy and amenity of properties on the south-east side of Roberts Street.

6.2.3 Effects of subdivision on anticipated urban growth

In introducing the resource management issues pertinent to the Rural Zone, the Plan states:

“Sporadic intensive development on the periphery of towns can conflict with the management of urban growth or with the special operational requirements of winegrowing areas.” (WCDP, p.4-2)

The nature of the environment within which the application site is located is, as discussed in 6.2.1 and 6.2.2 of this report, at odds with its current Rural (Special) zoning in the Plan. Despite the intention of the zoning, the proposed subdivision is undoubtedly located within the urban limits of Martinborough, and surrounded by residential sections and development of a scale, nature, appearance and ambience typical of a residential area, not a rural area engaged in primary production. Moreover, much of the surrounding residential development is long established. Recent subdivision activity, for example, that which created 20 Weld Street, has been granted by SWDC on the basis that “although zoned Rural, the area is visually residential” (Report to the Chairman and Members of the Hearings Committee, prepared by Emily Greenberg, dated 4th October 2006, paragraph 5.24). The residential nature of the similar development pattern along the east side of Weld Street and north-west of Roberts Street has been formally recognised and sanctioned by the re-zoning of the land from Rural (Special) to Residential during the recent Plan process.

An anomaly clearly exists between the current Rural (Special) zoning of the application site and its actual character, appearance and context. Given the site’s context, the proposed subdivision cannot be accurately described as ‘sporadic’. Rather it follows a pattern of residential development that has become established over a period of time, and is quite distinct from the development and usage of the rural land in primary production to the north of 10 Weld Street and west of Ferry Road.

As discussed in more detail in section 6.2.4 of this report, the proposed subdivision will have no adverse effects on the special operational requirements of the viticulture operation north of 10 Weld Street, or the general agricultural activity to the west of Ferry Road.

6.2.4 Effects on the productive capacity and potential of the land

Land included within the Rural (Special) Zone typically form ‘peri-urban’ environments “in which intensive horticultural or viticulture areas are facing pressure from intensive sporadic urban growth, particularly residential development”. The Rural (Special) Zone is a land management response the aim of which is “to recognise that [...] sporadic and unplanned intensification is generally inappropriate in these parts of the rural environment, and to place limitations as necessary to avoid future problems” (Combined Plan, Chapter 4, Rural Zone, p.4-5).

The residential nature of the area of which the application site is part contrasts quite sharply, both visually and in terms of the predominant land use and function, with the rural land to the north of 10 Weld Street and west of Ferry Road. Ferry Road and the northern border of 10 Weld Street form a visual and physical boundary between residential uses more typical of urban areas, and primary production uses. Indeed, the application site is in the midst of already established residential development, not at the fringe of the existing residential area and

therefore, the proposed subdivision cannot be described as an incursion into land able to be agriculturally productive.

The application site was, until relatively recently (sometime after 2006), partially in productive 'agricultural use', with organic salads being raised in a large greenhouse which has since been removed. The operation was 'boutique' in scale and nature, and, as Figures 1 and 2 illustrate, given the residential nature of surrounding sections, it would have been unlikely to be able to expand to form a larger operation in any financially viable sense. The development of commercial agricultural production on the application site or on its immediate residential neighbours is most unlikely. The size and scale of the land holdings, and issues of reverse sensitivity of introduced primary production activities on established residential uses, combine to make the introduction of new agricultural uses in the residential area, which could operate on a meaningful commercial scale, unlikely.

The proposed subdivision is located within an established pattern of residential development, and as such will have no adverse impact on the ability of neighbouring land to the north and west currently in primary production to continue to function as primary production land.

6.2.5 Ability of the proposed allotments to accommodate the likely use

This report has established that the use of the application site and its immediate neighbours within the existing residential area described above is resolutely residential in scale, character and appearance. The proposed allotments can comfortably accommodate likely residential use, however, the Rural (Special) zoning of the application site imposes bulk and location standards and rules more suited to rural residential and primary production activities – activities which could not realistically be achieved on either the current intact site, or within proposed Lot 1 or 2.

Given the dimensions of proposed Lot 2, it will be impossible to achieve realistic residential development in accordance with the location rules and standards of the Rural (Special) Zone. Equally, the creation of a new internal boundary between proposed Lots 1 and 2 will result in non-compliance with the side yard rule in respect of Lot 1. In order to enable realistic, likely development, in keeping with the existing and proposed site dimensions and features, it is proposed that a consent notice pursuant to s221 of the RMA be applied to the new titles of Lot 1 and Lot 2 signaling that the bulk and location standards of the Residential Zone apply (except for the minimum building setback for Lot 2); and to the new title of Lot 2 the imposition of a 5m setback off all boundaries for new residential and non-residential development. This is considered to be a practical solution to enable both lots to accommodate likely and continued residential use.

The effects of the use of proposed Lots 1 and 2 for residential purposes will be similar to those associated with the existing residential uses in the immediate area, including the existing residential use of proposed Lot 1. The allotments are spacious enough to allow the development of modest family homes, and the use of Residential Zone bulk and location rules will mirror the established pattern and spaciousness of development in the immediate residential area. Residential use of the lots will have no adverse effects on the privacy and amenity of neighbouring allotments.

6.2.6 Water, Stormwater, Wastewater, Access and Effects on the Roothing Network

Proposed Lot 1 is currently connected to the mains potable water and wastewater services. Stormwater is disposed of by means of soakpits.

Access to Lot 1 will be by way of the existing driveway. It will be either sealed or resurfaced with a compacted aggregate along its entire length, and will also provide the legal means of access to proposed Lot 2. The subdivision will not result in any increase in traffic movements than was previously associated with the dwelling and the business that previously operated from the glasshouse. Weld Street is straight in either direction from the junction of the access with the public road, providing generous sight lines, and will have no adverse effects on the efficient functioning of the roading network or the safety of road users. The sealing or resurfacing will ensure that the small increased use of the drive for two lots, as opposed to the current one lot, will not cause unreasonable dust or noise nuisance to immediately adjoining neighbours.

It is considered that there is capacity in the system for an additional connection to the potable water supply. It is proposed to connect Lot 2 to the reticulated wastewater services. The lot's dimensions limit the installation of an on-site wastewater treatment and disposal system.

A Council resolution made on 20 July 2005 resolved, "that provision of sewer and water services outside the urban zone would no longer be allowed". However, in its deliberations on the 2006 subdivision on this site, Council noted:

"the site [18 Weld Street] already has a sewer connection. Council's Manager Works and Services notes that capacity exists for additional houses to connect in this area and that, if consent were granted, the applicant should pay a financial contribution for the proposed Lot 2 to connect to this sewer lateral" (Report to the Chairman and Members of the Hearings Committee, in the matter of the application for subdivision consent, ref. 3035, dated 4th October 2006).

The applicant has sought to discuss the wastewater servicing arrangements with Council, and to date has not received any express discouragement to the proposal to connect to the mains system, and takes this as an indication that capacity continues to exist for additional dwellings to connect to the reticulated systems. The applicant therefore requests that Lot 2 be connected to mains wastewater.

6.2.7 Natural Hazards

The site is not within a flood zone or flood hazard area. The site is not known to be at risk from any other natural hazards. Stormwater from Lot 2 will be disposed of by means of soakpits, the location and size of which will be determined at the building consent stage. The existing house in Lot 1 currently disposes of stormwater to soakpits.

6.2.8 Reverse Sensitivity

Reverse sensitivity arises where a new incompatible activity is introduced into an environment which has the potential to limit the operation of existing activities. The existing activities immediately surrounding the application site are residential in nature. The nearest rural activity would be located 190m to the south-west or 160m to the north-west. The proposed activity is a residential activity, and therefore is unlikely to be incompatible with neighbouring

existing activities. The residential allotments surrounding the application site provide a reasonable buffer between the subject site and the rural activities to the north and northwest, and ensure that incompatibility between the new residential allotment and the rural environment is highly unlikely.

6.2.9 Summary Statement of Significance of Environmental Effects

The subdivision proposed will create two allotments, Lot 1 around the existing dwelling, and a second, vacant allotment. Lot 1 is currently adequately serviced in terms of water and wastewater, being connected to the reticulated systems in each case. It is proposed to service Lot 2 in a similar manner. This is not typical of allotments zoned Rural (Special), however, mains services currently exist in Weld Street, to which existing dwellings are connected, and there is evidence to suggest that sufficient capacity remains in those systems to service proposed Lot 2 with no adverse effects on the environment.

Legal and physical access to each lot is already established. The existing driveway currently serving the existing dwelling will be either sealed or resurfaced with a compacted aggregate that will be both aesthetically pleasing and will be designed to ensure no dust nuisance escapes onto neighbouring properties. The new surface of the driveway will ensure that its use will not result in any adverse effects on the amenity of immediate neighbours. A legal ROW will be established in favour of Lot 2. The driveway is the existing means of access for Lot 1, and it is not anticipated that its use by two dwellings will adversely affect the efficient functioning of the roading network, or the safety of road users.

The characteristics, appearance, and character of the site and the residential area immediately surrounding it are contrary to those features typically associated with the Rural (Special) Zone. Furthermore, the overwhelming and visible function and use of the site and immediate surrounding area is similarly contrary to those productive agricultural functions and uses associated with the Rural (Special) Zone. The creation of two residential allotments of areas just over 2,000m² each is entirely in keeping with the pattern and density of development that currently exists. The application site and its immediate neighbours are not spatially or physically capable of entering into viable productive, commercial agricultural activity. The privacy and amenity of immediate residents can be preserved in the long-term. The creation of two residential allotments in this location will have no adverse effect on the productive capacity of the rural land located some 150m or more to the north-west and south-west.

The actual and potential environmental effects of the proposed subdivision in regard to services, access, amenity and character are considered to be less than minor.

6.3 Assessment of District Plan Objectives and Policies

Based on the assessment of the rule structure of the District Plan, the proposed development is 'non-complying'. As a result of the non-complying status, the Council must consider the application against s104D of the Resource Management Act 1991, which specifies two 'gateways' through at least one of which the proposal must pass.

104D Particular restrictions for non-complying activities

(1) Despite any decision made for the purpose of section 93 in relation to minor effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—

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

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

(i) the relevant plan, if there is a plan but no proposed plan in respect of the activity; or

(ii) the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

The proposed development only needs to pass one of the gateway tests set out in s104D. Based on the assessment above, it is considered that the proposed development passes the test in s104D (1) (a) in that the actual and potential adverse effects of the activity on the environment have been assessed to be no more than minor.

Should the Council not agree with the evaluation of s104D (1) (a) and instead determine that the actual and potential adverse effects on the environment are more than minor, the proposal has also been assessed against the objectives and policies of the District Plan. The assessment is as follows:

6.3.1 Rural Zone and Character (Objective Rur1 and Policies (c) and (d))

Objective Rur1 seeks to “maintain and enhance the amenity values of the Rural Zone, including natural character, as appropriate to the predominant land use [...] of different rural character areas” (emphasis added). As demonstrated earlier in this report, the predominant land use of the application site and its immediate neighbours is distinctly residential in character and appearance. Whilst the residential development in this area is undoubtedly less dense than sections closer to the heart of town, it is evidently much greater than that clearly visible in parts of the Rural (Special) Zone which remain in commercial primary production.

The amenity values associated with the application site are very much those characteristic of residential parts of Martinborough, for example, buildings and dwellings of a domestic scale and character; modest separation distances; boundary features such as low fences and hedges; domesticated gardens and landscape features. The proposed subdivision will result in a pattern, appearance and density of development wholly consistent with the character of the area that immediately surrounds it.

The re-zoning of the residential block immediately opposite the application site (and bounded to the south east by Roberts Street) during the recent Combined Plan development process

indicates that Council has recently recognised that the residential style and character of development that is present in this part of Martinborough is inconsistent with the Rural (Special) Zoning further to the north and west, and that a Residential Zone overlay more accurately reflects the established nature, pattern and density of land use and is a more appropriate means of managing resource use and future development.

As the aerial photographs supplied in this application demonstrate, the application site and immediate residential neighbours share very similar spatial features and characteristics to the Roberts Street residential zone area. The proposed subdivision, whilst undoubtedly creating two allotments that do not meet the minimum lot standards for the Rural (Special) Zone, is wholly appropriate in terms of character, scale, and appearance to the predominant land use of the immediate surrounding area. The Rural (Special) Zoning of the application site and immediate neighbours is, as the re-zoning of the similarly residential land directly opposite suggests, an incongruity rather than a suitable means of managing resource use and associated environmental effects of land use. The proposed subdivision is consistent with aims of Objective Rur1 and relevant policies.

6.3.2 Provision for Primary Production and Other Activities (Objective Rur2 and Policies (a) and (b))

Objective Rur2 and associated policies (a) and (b) seek to ensure that activities associated with primary production are provided for in the Rural Zone, subject to environmental standards that will avoid, remedy or mitigate any adverse effects without ‘unreasonably affecting landowners ability to use their land productively’.

The application site is no longer in primary production use. Former primary production use was related to a single greenhouse producing organic salads, and very small in scale. Indeed, the scale of commercial production was out of keeping with that typical of the Rural (Special) Zone north of 10 Weld Street and west of Ferry Road. As discussed in section 6.2.3, given the land ownership pattern surrounding the application site, there was very little likelihood that the primary production on the site could have expanded in any meaningful sense. The subdivision of the allotment into two residential sections is entirely in keeping with the prevailing pattern of land use in the immediate area.

The site’s location within the residential area described in this report is isolated and distinct from the primary production activities that are in operation to the north of 10 Weld Street and west of Ferry Road. The creation of an additional residential allotment, which is of dimensions and scale very similar to that of surrounding residential allotments, will have no adverse effect on the ability of activities association with primary production located to the north and west to continue unimpeded. The provision for primary production and other agricultural activities within that part of the Rural (Special) Zone clearly in operation for primary production will not be adversely affected.

6.3.3 Effects of Subdivision and Land Development (Objective SLD1 and Policies (a), (b), (d) and (g))

The proposed subdivision is very much in line with the prevailing character of the residential area of which the application site forms a part. The lot areas, the means of access, and the bulk and location rules proposed for both lots are similarly in keeping with the character and

amenity values of the area. Whilst the subdivision is not of the scale envisaged for the Rural (Special) Zone, this observation is equally true of the residential area that surrounds the application site; the characteristics and features typical of the Rural (Special) Zone are not in evidence in the application site or the surrounding residential area.

The character and qualities of this part of Martinborough have, clearly over some years, shifted from primary production and agricultural to residential, albeit of a more generous, urban fringe style. The proposed subdivision will create two allotments which are, in terms of lot area, access and development potential entirely compatible with the characteristics of the site and the surrounding area which immediately surrounds it. The adverse environmental effects of such a subdivision are less than minor.

The proposed subdivision will have no adverse effect on the ability of the more rural land to the north and west to continue to function as commercial, agricultural land. The proposed subdivision will have no adverse effect on the efficient functioning of the roading network, or jeopardise the safety of road users. The subdivision will have no adverse impact, visually or in terms of other amenity values, on the open rural character of surrounding land. Views of the proposed subdivision from public roads will be limited to Weld Street, and possibly Roberts Street, and the appearance of the subdivision will be wholly in keeping with the residential scale of development which surrounds it.

It is proposed to apply the bulk and location provisions of the Residential Zone to proposed Lot 2. Such provisions have been applied (by way of a resource consent) to the existing dwelling in relation to the existing external boundaries within proposed Lot 1, which was extended in 2008/2009. Given the distinctly residential nature of both the parent lot and the surrounding area, the application of the Residential Zone rules is an appropriate tool by which to manage the effects of the subsequent development of the site.

6.3.4 Effects of Subdivision and Land Development (Objective SLD1 and Policy (h))

Policy (h) of Objective SLD1 provides an assessment framework against which to assess subdivisions which do not meet the minimum standards of the Rural Zone. Each item (i) to (ix) is addressed below:

- i. The proposed subdivision is residential in scale and nature, and located within a group of established residential sections. Rural land in productive use is in excess of 150m from the application site, and separated from the site by other sections of a residential scale and appearance. The subdivision will use an existing access onto Weld Street, and the increase in use of the access as a result of the subdivision is highly unlikely to lead to conflict with agricultural traffic. The subdivision will not have an adverse effect on the viability or operational requirements of any productive use.
- ii. The subdivision is located within an area of residential sections that, whilst larger than residential sections closer to the town centre, have a distinct residential character and appearance. The pattern of development which immediately surrounds the site, and to which the proposal will contribute, is less open and rural in character and appearance than the productive land to the north and west of the site. From the site, the views of the open rural land to the west is obscured by a tall, continue evergreen hedge. From public

vantage points, such as Weld Street, the subdivision will sit comfortably within its residential context.

- iii. The proposed subdivision will create two good-sized allotments suitable for residential use, and located within a residential area of Weld Street. Each allotment can comfortably accommodate a residence. The proposed consent notices will ensure this, and will also ensure, in respect of Lot 2 that future development will have no adverse effect on neighbouring privacy or amenity.
- iv. The proposed subdivision will require Lot 2 to be connected to mains water and wastewater services. These reticulated services already exist in Weld Street, and no extension of public mains is required. Private laterals from the main to Lot 2 will be necessary, but this will be undertaken at the applicant's own expense. It is understood that there is capacity in both the water and wastewater services to ensure that an additional connection has no adverse environmental effects.
- v. The proposed subdivision will use the existing access to Weld Street. It is proposed to seal or resurface the entire length of the driveway. The subdivision will result in a modest increase in the use of the drive, adding approximately another 10 car movements per day. This level of use is similar to that which would have been associated with the use of the site for a dwelling and organic salads operation. The sight lines at the junction of the driveway and Weld Street are very good, and vehicle speeds are generally 50kph or less. The safe and efficient functioning of the roading network will not be compromised.
- vi. The site is not within a flood zone or flood hazard area. The site is not known to be at risk from any other natural hazards. Stormwater from Lot 2 will be disposed of by means of soakpits, the location and size of which will be determined at the building consent stage.
- vii. Lot 1 disposes of effluent to the mains wastewater pipe in Weld Street. It is proposed that Lot 2 be similarly served with a separate private lateral to the main. Both allotments can therefore satisfactorily and reliably dispose of effluent.
- viii. The proposed subdivision will contribute an additional residential allotment to a discreet area of existing, and long established, residential allotments. The character of the area is quite separate from that of the rural productive land to the north and west of the site. The scale of the subdivision is wholly in keeping with the character, amenity and values of the residential area, and will have no adverse effect on the character, amenity and natural values of the productive, rural land to the north and west.
- ix. Lot 1 is connected to the public water supply. It is proposed that Lot 2 can be similarly connected to the mains supply with a separate private lateral.

6.3.5 Conclusion

The proposal has also been assessed against the objectives and policies of the District Plan. The assessment has demonstrated that the proposed development of a two lot subdivision will not

be contrary to the policies and objectives of the District Plan. The proposed development comfortably meets the gateway test set out in s104D(1)(b).

6.4 Precedent and Plan Integrity

The application site and the area of residential land and activity by which it is surrounded have features, characteristics, and use patterns quite distinct from those typically associated with the Rural (Special) Zone, and quite distinct from those anticipated by the implementation of the Rural (Special) Zone. Whilst the features typically associated with the Rural (Special) Zone – open rural character, primary production uses, predominance of natural features – can clearly be applied to land to the north of 10 Weld Street and west of Ferry Road, that do not apply to the application site or the residential land which surrounds it. As discussed earlier, the spatial and visual distinction between the two types of land use is quite marked, and the application site is firmly within an area of land that is in active residential use, and a clear part of existing residential land use and patterns.

That there is some disconnect between the Plan zoning and the actual use pattern is given considerable weight when the fact of the re-zoning from Rural (Special) to Residential of the land immediately opposite the application site during the recent Plan development process is considered.

It is not considered that the granting of this application for a two lot subdivision will set an unwelcome precedent which could see the granting of subsequent applications and the erosion of the integrity of the Rural (Special) Zone or that of the Plan in general. The application site and the surrounding residential area have qualities and features quite distinct from and at odds with the overlying Rural (Special) Zone. It has been demonstrated that the proposed activity will not be contrary to the provisions of the Plan, and will have a less than minor effect on the environment. The site's unique features and characteristics must be taken into account when assessing merits of the application.

6.5 Relevant Regional Policy Statement

The WCDP was prepared prior to the notification of the Proposed Regional Policy Statement, the decisions on which were approved by the Wellington Regional Council on 18 May 2010 and publicly notified on 22 May 2010. Nevertheless, the Proposed Regional Statement is now considerably advanced, and therefore has significant weight in the s104 assessment of this application. The following objectives and policies are considered relevant in this instance:

Objectives	Policies
Objective 21: (e) strategically planned rural development; (f) a range of housing (including affordable housing);	Policy 55: Managing development in rural areas When considering an application for a resource consent or a change, variation or replacement to a district plan, in rural areas (as at March 2009), particular regard shall be given to whether: a) the proposal will result in a loss of productivity of the rural area, including

- cumulative impacts that would reduce the potential for food and other primary production;
- b) the proposal will reduce aesthetic and open space values in rural areas between and around settlements;
- c) the proposals location, design or density will minimise demand for non-renewable energy resources; and
- d) the proposal is consistent with the relevant city or district council growth and/or development framework or strategy that
- e) in the absence of such a framework or strategy, the proposal will increase pressure for public services and infrastructure beyond existing infrastructure capacity.

The proposed subdivision will not result in the loss of productivity in the rural area. The application site is located in the midst of residential land use, of a similar scale, character and intensity of use as the application site and the proposed subdivision. The proposal will not reduce the aesthetic and open space values of the rural area. The application site is located in the heart of a group of residential sections, and spatially separate from the rural area by virtue of features such as the evergreen screen along the western boundary, and the presence of other residential sections. The subdivision will be appreciated within a residential not a productive rural context.

The recent re-zoning of a similarly developed block of land on the east side of Weld Street is indicative that the Council have considered that such residential development is inconsistent with the aims, objectives and principles of the Rural (Special) Zone. The established nature of the development on both sides of Weld Street in the vicinity of the application site is also indicative that the shift from productive use to residential use has been taking place over several years, if not decades. The proposed subdivision is consistent with the aims and objectives of the Residential Zone.

The proposed subdivision can connect to existing mains services for potable water and capacity appears available for wastewater connection. These connections will be consistent with what is occurring in the neighbourhood.

6.6 Relevant Regional Plan Provisions

The Regional Plan for Discharges to Land controls the proposed discharge of stormwater on the site.

Objectives

4.1.4 There is a significant reduction in contamination of surface water, groundwater and coastal water from discharges of human effluent to land.

The discharge of stormwater on site is a permitted activity and the method of disposal is consistent with the high level objectives of the Regional Plan.

6.7 Part II Assessment

6.7.1 Section 5 Assessment

Section 5 of the RMA specifies the purpose of the Act as being:

“...to promote the sustainable management of natural and physical resources.”

‘Sustainable management’ is thereafter defined as:

“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.”

The proposed activity is considered to promote the sustainable management of natural and physical resources. In particular, the life supporting capacity of air, water, soil and ecosystems is safeguarded, and the actual and potential adverse effects of the activity can be avoided or mitigated. The creation of a two lot subdivision will provide for the well-being, health and safety of the applicant, by providing the potential to realise the economic potential of proposed Lot 2 and retaining the residential character and ambience of Lot 1. The manner and scale of the proposed subdivision will ensure that it will not compromise the health and well-being of others.

6.7.2 Section 6 of the RMA – Matters of National Importance

Section 6 requires that all persons exercising functions and powers in achieving the purpose of the RMA shall ‘recognise and provide for’ the matters listed in (a) to (g). The proposed subdivision does not impinge or involve any of the matters raised in Section 6 of the Act.

6.7.3 Section 7 of the RMA – Other Matters

Section 7 lists the matters that all persons exercising functions and powers under the Act shall have particular regard to. Of those matters, the following are considered to be relevant to the assessment of this proposal:

(aa)The ethic of stewardship:

(b)The efficient use and development of natural and physical resources:

(c)The maintenance and enhancement of amenity values:

(d) Intrinsic values of ecosystems:

(f) Maintenance and enhancement of the quality of the environment:

(g) Any finite characteristics of natural and physical resources

The applicant upholds the ethic of stewardship of the land in pursuance of this subdivision. The subdivision seeks to maintain the amenity values that are inherent in the site, and which contribute to the amenity, character and appearance of this area of Martinborough. The intrinsic values of the ecosystems within and neighbouring the site are maintained, and the environmental qualities, potential and integrity of the land can be preserved.

6.7.4 Section 8 of the RMA – Treaty of Waitangi

Section 8 of the Act requires that all persons exercising functions and powers shall take into account the principles of the Treaty of Waitangi. This is acknowledged by the applicant.

6.7.5 Summary of Part II Assessment

Overall, the proposed development is assessed to be consistent with Part II of the Act.

6.8 Mitigation Measures

6.8.1 Proposed Conditions of Consent

The actual and potential environmental effects of the proposed subdivision are in line with those anticipated by the Combined Plan for the Residential Zone. It is anticipated that the conditions of consent will be similar to the standard condition Council applies to guarantee that the proposed lots and development are sufficiently serviced. In particular, we anticipate that the Council will seek to apply a condition which ensures the length of the driveway/proposed ROW is sealed or resurfaced to an acceptable standard.

In order that Lots 1 and 2 are subject to the bulk, height and location rules and standards of the Residential Zone (except the Minimum Building Setback for Lot 2), a consent notice pursuant to s221 of the RMA is proposed to be included on the new Certificates of Title raised for Lots 1 and 2. The following conditions are suggested:

That pursuant to Section 221 of the Resource Management Act 1991, the following condition shall be secured by way of a Consent Notice registered on the Certificate of Title for **Lot 1** at no cost to the Council:

Lot [X] is located within the Rural (Special) Zone. However, pursuant to resource consent no [ref], residential development on Lot [X] shall comply with the permitted standards for a dwelling in the Residential Zone as contained in the Wairarapa Combined District Plan, including rules regarding height and location.

That pursuant to Section 221 of the Resource Management Act 1991, the following condition shall be secured by way of a Consent Notice registered on the Certificate of Title for **Lot 2** at no cost to the Council:

Lot [X] is located within the Rural (Special) Zone. However, pursuant to resource consent no [ref], residential development on Lot [X] shall comply with the permitted standards for a dwelling in the Residential Zone as contained in the Wairarapa Combined District Plan, except that the Minimum Building Setback from all boundaries shall be 5 metres.

We would welcome discussion with the Council if it were to consider applying conditions which vary from the standard conditions or the proposed sealing or resurfacing (by way of compacted aggregate) condition.

6.9 Notification

6.9.1 S95A Assessment

Section 95A of the RMA states that a consent authority must publicly notify an application if it decides that the activity will have, or is likely to have, adverse effects on the environment that are more than minor (95A(2)(a)), or if the applicant requests public notification of the application (95A(2)(b)) (amongst other provisions).

The applicant **does not** request public notification of this application under s95A(2)(b) of the Act.

Notwithstanding that the proposed subdivision is inconsistent with the controlled activity subdivision standards for the Rural (Special Zone), this report has clearly demonstrated that the proposed subdivision, and subsequent likely development of the allotments, is not inconsistent with or contrary to the policies and objectives of the Rural (Special) Zone. Equally, the nature of the proposed subdivision, and its context, ensure that it will not have, and is not likely to have, adverse effects on the environment that are more than minor.

As discussed in detail above, the subdivision will have no adverse impact on the efficient functioning of nearby primary production activities, and similarly will have no adverse effects on the qualities, character or amenity of the Rural (Special) Zone, or the privacy and amenity of neighbouring dwellings. The subdivision will be wholly in keeping with the long established character and amenity of its immediate context. Both lots can be adequately serviced in terms of water, stormwater and wastewater, and access is assured to the public road without detriment to the efficient functioning of the roading network, or to the safety of other road users, including agricultural users. It is considered that the application can be processed without recourse to public notification.

6.9.2 S95B Assessment

Section 95B of the Act stipulates that if a consent authority does not publicly notify an application for a resource consent for an activity, it must decide if there are any affected persons or affected order holders in relation to the activity, and then give limited notification of the application to those affected persons/affected order holders. A council must decide if 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) (s95E).

This report has demonstrated that any actual or potential adverse effects associated with the activity are largely contained within the application site. Measures have been proposed to

mitigate the risk of nuisance arising from the use of the driveway, and to avoid the potential adverse effect of new development on the privacy and amenity of neighbouring allotments. Measures have also been proposed to ensure that future development of either lot can conform to the Residential Zone land use rules, which reflects the nature and style of development activity throughout the area.

Whilst it is considered that the actual and potential effects on the neighbours are minor, the applicant recognises that the immediate neighbours (16 and 20 Weld Street and 17 Ferry Road) could be considered as potentially affected by this application and should therefore be considered by Council as affected persons who should be notified pursuant to s95B.

7 Summary

This is a resource consent application and assessment of actual and potential effects for a two lot subdivision of Lot 1 DP 434612.

The proposed development has been assessed against the provisions of the Wairarapa Combined District Plan and against the relevant regional planning documents. This assessment has concluded that the proposed development will have no more than minor potential adverse effects on the environment and is consistent with the objectives and policies of the District Plan.

8 Appendices

Appendix 1	-	Historic decision notices
Appendix 2	-	Site photographs
Appendix 3	-	Scheme Plan
Appendix 4	-	Certificate of Title