

Sections 104, 104B and D, 106, 108, 220 Resource Management Act 1991



Report recommending whether or not an application for resource consent should be:

- Granted or declined, and if granted, the conditions of the consent

Author: Jane Anderson

Position: Consultant Planner

Resource Consent Number: RC205014

APPLICANT:	Johnston Civil Ltd
PROPOSAL:	To undertake a four lot residential subdivision
LOCATION:	28 Manse Road, Leeston
LEGAL DESCRIPTION:	Lot 2 DP69318 being 2.67 hectares in area more or less, as contained in Record of Title 604361.
ZONING:	The property is zoned Living 2 under the provisions of the Operative District Plan (Townships) Volume
STATUS:	This application has been assessed as a subdivision consent for a Non-Complying activity under the District Plan. As such the relevant provisions of the District Plan (Townships) Volume and the Resource Management Act 1991 have been taken into account
HEARING DATE	15 July 2020
RECOMMENDATION	Decline

Preamble

1. This report reviews the application for resource consent and addresses the relevant information and issues raised. The recommendation made in this report is not binding on the Council and it should not be assumed that the Hearings Commissioner will reach the same conclusion having considered all the evidence brought before the hearing by the applicant and submitters.

Report Author

2. My name is Jane Anderson. I am a consultant planner and director with Harakeke Consultants Ltd, a planning and resource management consulting company. I hold a Bachelor of Arts from the University of Canterbury and a Master of Regional and Resource Planning from the University of Otago. I have worked in the field of planning and resource management for more than 15 years and I am a full member of the New Zealand Planning Institute. I am currently employed by the Selwyn District Council as an in-house consultant.
3. Whilst this is a Council Hearing, I have read the Environment Court's Code of Conduct for expert witnesses, and I agree to comply with it. My qualifications as an expert are set out above. I confirm that

the issues addressed in this report are within my area of expertise and have relied on the expert advice of others where stated. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

4. I have been asked by the Selwyn District Council (the Council) to prepare this report pursuant to section 42A of the RMA relating to the substantive consideration of the resource consent under sections 104, 104B and 108 of the RMA to subdivide Lots 1, 2 and 3 of Lot 2 DP69318 created by RC165456 to create an additional allotment (Lot 8). This report follows a previous report prepared pursuant to sections 95A to F dealing with the matter of notification / affected parties (dated 20 February 2020).

Introduction

5. The applicant proposes to subdivide Lots 1, 2 and 3 of Lot 2 DP69318 created by RC165456 to create an additional allotment (Lot 8). The proposed lots will be as follows: Lot 1 – 2038m², Lot 2 – 3170m², Lot 3 – 3141m² and Lot 4 – 2000m². The average allotment size will be 2523m² (net). The proposed subdivision plan is attached as **Appendix 1**.
6. The original subdivision application, RC165456, sought to create 9 lots, varying in size from 2045m² to 6544m², with an average allotment size of 2588m² (excluding access). The application was publicly notified on 14th February 2017, with one submission in opposition received. A copy of the subdivision plan as notified is attached as **Appendix 2**. The applicant requested that the application be placed on hold upon the close of submissions to consider their options.
7. The applicant reduced the number of allotments and provided an amended subdivision plan. The revised plan increased the lot sizes by an average of 847m² and reduced the number of lots to seven. A copy of the revised subdivision plan is attached as **Appendix 3**. Resource Consent 165456 was granted on 25 May 2017. The consented lot sizes vary between 2814m² to 4030m² (including access), with an overall average lot size of 3489m² (including access).

Description of the Existing Environment

8. The application site is legally described as Lot 2 DP69318 being 2.67 hectares in area more or less, as contained in Record of Title 604361. The site is a back section located at 28 Manse Road.
9. As has been noted, a resource consent to subdivide the site into 7 allotments was granted on 25 May 2017. To date, a Section 224 certificate has not been issued for this subdivision. Access to the 7 lots is via a cul-de-sac and Right of Way. The site is relatively flat with an existing dwelling and associated utility shed located on Lot 6 of RC165456.
10. The area subject to the current consent application are Lots 1 – 3 of RC165456, being approximately 1 hectare of land.
11. The site is located to the north of the Leeston township. The site and surrounding area is zoned Living 2. The Living 2 zone is characterised by large section sizes, with extensive landscaping, open spaces and mature trees.
12. The residential area on the western side of Manse Road is zoned Living 1, and Living XA further to the north-west of the site. The Ellesmere Community Hospital is located immediately adjacent to the application site.
13. Manse Road is a sealed road with kerb and channel on the west side with a footpath. The eastern side of the road has an open culvert and an informal road edge, without a kerb and channel.

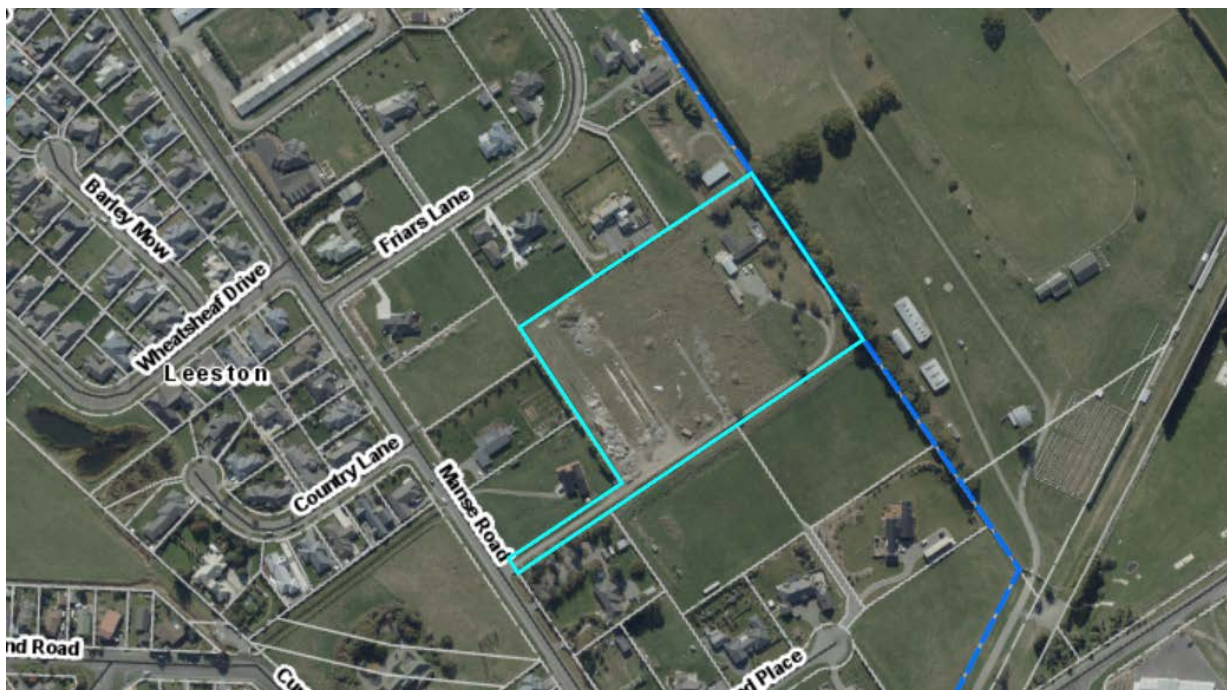


Figure 1 Locality Plan of Application Site (source: SDC GIS)

Operative Selwyn District Plan

14. The Selwyn District Plan ('the District Plan') was made operative on 03 May 2016. Under the District Plan the application site is zoned Living 2.

Subdivision

15. The table below sets out the applicable District Plan standards pertaining to the proposed activity:

RULE	TOPIC	COMPLIANCE
Rule 12.1.1.1		
A subdivision of land shall be a restricted discretionary activity if it complies with the standards and terms set out in Rule 12.1.3		
Rule 12.1.7		
Any subdivision subject to Rule 12.1.1 which does not comply with Rule 12.1.3 shall be a non-complying activity.		
Rule 12.1.3.7		
Any allotment created, including any balance allotment, complies with the relevant allotment size requirements set out in Table C12.1	The average net site area of Lots 1 – 3 and proposed Lot 8 will be 2523m ² .	Non-complying
The average allotment size in the Leeston Township shall be 5000m ² .		

Table 1 – District Plan compliance, subdivision rules

16. The land use proposal is therefore a Non-Complying activity under the District Plan.

National Environmental Standards

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

17. The NES manages activities which involve the disturbance of land which may be contaminated. This is determined by whether activities have or are likely to have occurred on the site, which are listed in the Hazardous Activities and Industries List (HAIL).
18. The site is identified as a HAIL site by Environment Canterbury's Listed land Use Register. The HAIL types identified as I – Any other land and A10 – Persistent pesticide bulk storage or use. A Preliminary Site Investigation and Detailed Site Investigation have been undertaken. Resource Consent RC165641 was granted on 25 May 2017, subject to conditions relating to site management and requiring a Site Validation Report (SVR) to be lodged with Council at the end of the remediation process. The remediation process has been completed and the SVR provided to Council. The Contamination Officer at Environment Canterbury has confirmed that the HAIL areas have been successfully remediated and currently listed as “below guidelines – residential”. Therefore, it is considered that the proposal is a permitted activity under the NES.

Notification

19. A decision regarding notification pursuant to sections 95A-E has been undertaken separately by a Council staff member with delegated authority. This decision is available to any party on request. In summary, it was determined that the application be publicly notified. Notice was served on the following parties:

NAME	ADDRESS
Andrew Ralph Irving and Georgina Louise Youl	22 Manse Road
Andre Hamilton and Heather Jean Goldsmith	34 Manse Road
Douglas Ray and Anna Maree Maginness	36 Manse Road
Stephen John Harteveld	15 Showground Place
Laura Jane Hull	19 Showground Place
Tracy Angela Lee Tierney and Craig Brent Perkins	6 Friars Lane
Christine Mary and William Stuart Lemon	10 Friars Lane

20. Notice of the application was served on the above parties on 11 March 2020 and the submission period closed on 26 May 2020. The submission period was extended during the Covid-19 lockdown period to ensure fair and equitable access to information, technology and advice for any potential submitters on the application and to ensure natural justice for both submitters and the applicant.
21. No affected party approvals were sought by the applicant.

Submissions

22. At the close of the submission period, the Council received two submissions. A brief summary of these submissions is provided below:

Submitter 1 – Craig Perkins

23. The submitter owns and occupies the property at 6A Friars Lane, adjoining the application site on the north-western boundary. The submitter notes that when they purchased this property, they carefully reviewed the District Plan as part of their due diligence to determine the character and amenity they could anticipate for the surrounding environment.
24. The submitter identifies the character and amenity of the area as providing an open, semi-rural amenity. The submitter's concerns relate to the potential adverse effects of the proposed smaller lots on the character and amenity of the surrounding environment. The submitter considers that the reduced lot sizes will reduce the development opportunities for proposed lots, resulting in increased site coverage that is out of character for the area, and is concerned about the potential impact on their enjoyment of the amenity values of the immediate surrounds of the application site. Further, the submitter considers the smaller lot sizes proposed will set a precedent, and is inconsistent with the objectives and policies of the District Plan. The submitter does not accept that the effects will be minor.

Submitter 2 – Andre Goldsmith

25. The submitter has lodged a neutral submission. As part of the submission, the submitter has identified concerns relating to inappropriate use of the accessway, and with the increased ground levels within the subdivision and associated water drainage. The submitter seeks to have speed bumps on the accessway to the subdivision. Further, the submitter seeks to have further information regarding the increased ground levels and information regarding their options for recourse should flooding on their property becomes an issue.

Matters to be Considered

26. Section 104(1) of the Resource Management Act 1991 sets out the matters which must be considered by Selwyn District Council in considering an application for resource consent. In this case the relevant matters are:
- Any actual and potential effects of allowing the activity (s104(1)(a));
 - The Canterbury Regional Policy Statement (s104(1)(b)); and
 - Any Plan or Proposed Plan (s104(1)(b))
 - The permitted baseline (section 104(2))
27. All matters listed in s104(1) are subject to Part 2 of the Act which contains its purposes and principles.
28. In addition, the following section(s) apply to the consideration of this consent.

Section 104B – Determination of applications for discretionary or non-complying activities

29. After consideration of an application for a discretionary or non-complying activity, a consent authority may grant or refuse the application and if granted, may impose conditions under section 108.

Section 104D – Particular restrictions for non-complying activities

30. In addition to section 104B, in respect to non-complying activities, the consent authority must only grant consent if the adverse effects of the activity on the environment will be minor or the application is for an activity that will not be contrary to the objectives and policies of the District Plan.

Section 106 – Consent authority may refuse subdivision consent in certain circumstances

31. Section 106 allows a consent authority to refuse an application for subdivision consent, or grant an application for subdivision consent with conditions, if it considers that there is a significant risk from

natural hazards or sufficient provision has not been made for legal or physical access. This section applies regardless of the status of the activity under the District Plan.

Assessment of Environmental Effects

Permitted Baseline

32. Section 104(2) of the RMA directs that the decision maker may disregard an adverse effect on the environment of an activity if a rule in the District Plan permits an activity with that effect, a concept known as the permitted baseline. The application of the permitted baseline is discretionary and case law has established that the permitted baseline test relates to the effects of non-fanciful hypothetical activities which could be carried out as of right under the District Plan, as well as any existing lawfully established activity on the site or any activity for which resource consent has been granted.
33. There is no relevant permitted baseline in relation to the proposed activity.

Residential Density and Character and Amenity

34. The Living 2 zone has an expectation of lower building density and development, reflective of the rural character provided by low density living environments. The larger lot sizes anticipated by the Plan provide for open space, extensive landscaping and a rural outlook. The Living 2 zone also acts as a buffer between the more intensive Living zones and the low density rural zones.
35. The Manse Road Living 2 zone is predominantly characterised by large allotment sizes, the majority of which are approximately 5000m² (refer **Table 1** below). It is acknowledged that there are a number of undersized lots (with lots sizes of between 3034m² to 3824m²) in Showgrounds Place, however it is noted that the average allotment size for the 12 lot development is 4937m². The median area of these sections is 4998m², with an average area of 8281m². The zone is bounded by Manse Road to the west and the rural Outer Plains zone to east. The zone provides a buffer between the Living 1 and Living XA zones to the west and the rural Outer Plain zones to the east.

Address	Area	Address	Area
1 Showground Place	3135 m ²	10 Friars Lane	5045 m ²
2 Showground Place	3110 m ²	13 Friars Lane	4701 m ²
3 Showground Place	3188 m ²	14 Friars Lane	5321 m ²
7 Showground Place	3217 m ²	17 Friars Lane	4998 m ² (median)
8 Showground Place	3822 m ²	18 Friars Lane	5047 m ²
11 Showground Place	3032 m ²	21 Friars Lane	5007 m ²
12 Showground Place	3331 m ²	22 Friars Lane	5208 m ²
15 Showground Place	9191 m ²	26 Friars Lane	5018 m ²
16 Showground Place	3419 m ²	56 Manse Road	4456 m ²
19 Showground Place	8815 m ²	62 Manse Road	4996 m ²
20 Showground Place	8352 m ²	72 Manse Road	1.5926 ha
23 Showground Place	6597 m ²	78 Manse Road	3.6641 ha
34 Manse Road	4999 m ²	90 Manse Road	4064 m ²
36 Manse Road	4528 m ²	92 Manse Road	2.7072 ha
42 Manse Road	4530 m ²	98 Manse Road	4004 m ²
48 Manse Road	4987 m ²	100 Manse Road	4994 m ²
5 Friars Lane	5103 m ²	106 Manse Road	1.2581ha
6 Friars Lane	5017 m ²	107 Manse Road	5.8967ha
9 Friars Lane	3997 m ²	Average Parcel Size	8281m ²

Table 1 Land parcel areas in Living 2 Zoned properties (excluding 28 Manse Road)

36. The existing character and amenity of the large allotment sizes in the Manse Road Living 2 zone is characterised by larger homes surrounded by open space, maturing trees and extensive landscaping. The allotments have a semi-rural, spacious character, with many of the properties accessed by long driveways and surrounded by rural style fencing. The zone is bounded to the west by Manse Road. This eastern side of Manse Road has an informal edge with an open culvert, and reflects the semi-rural environment of the Living 2 zone (refer **Figure 2** below).



Figure 2 Manse Road
(adjacent to entrance to 28 Manse Road looking towards Wheatsheaf Drive)

37. The immediately adjacent Living 1 and Living XA zoned properties, located along the western side of Manse Road, are predominantly characterised by large sections, with areas of between 800m² and 1.4241ha in the area between Wheatsheaf Drive and High Street (refer **Figure 3** and **4** below for lot sizes along Manse Road). The median area of these sections is 1018m², with an average area of 1913m². The size of the lots in these zones are significantly larger than the 650m² section size anticipated by the Plan (refer **Table 2** below). These larger section sizes enable the construction of larger houses, surrounded by lawns and landscaping. The larger sections along Manse Road, when read in the context of the proposed development, provide a distinctly open and spacious character to the surrounding environment.



Figure 3 Land parcel areas in Living 1, Living XA and Living 2 (north)



Figure 4 Land parcel Areas in Living 1, Living XA and Living 2 (south)

Address	Area	Address	Area
15 Manse Road	500 m ²	19 Manse Road	1033 m ²
1 Wheatsheaf Drive	800 m ²	43 Manse Road	1034 m ²
35 Manse Road	914 m ²	41 Manse Road	1034 m ²
17 Manse Road	936 m ²	2 Country Lane	1045 m ²
67 Selwyn Street	1004 m ²	21 Manse Road	1070 m ²
13 High Street	1011 m ²	45 Manse Road	1141 m ²
66 Selwyn Street	1018 m ² (median)	25 Cunningham Street	1.4241ha
		Average area	1913m ²

Table 2 Land Parcel Areas in Living XA and Living 1 Zoned Properties along Manse Road

(between Wheatsheaf Drive (approx. 250m from site accessway) and High Street (approx. 260m from site accessway))

38. The proposal will result in the creation of four undersized residential lots. The proposed lots will have the following areas: Lot 1 – 2038m², Lot 2 – 3170m², Lot 3 – 3141m² and Lot 4 – 2000m² (including access). The average net allotment size will be 2523m². The proposal seeks to create these undersized lots from three existing undersized lots consented by RC165456, being Lot 1 – 3329m², Lot 2 – 3509m² and Lot 3 – 3511m² (including ROW). Taking into account the lots consented under RC165456, the entire 8 lot subdivision of the application site (Lot 2 DP 69318) will have an average allotment size of 3053m². The proposed four lot subdivision will fail to meet the Living 2 requirement of 5000m² average allotment size, with all four lots being considerably undersized. Two of the proposed lots will be less than half the required lot size of 5000m² for this zone, with the remaining two lots more than 1500m² below the required lot size.
39. The submission lodged by Mr Craig Perkins refers to concerns with the proposed higher density and the potential adverse effects on the open, semi-rural amenity that the current environment provides to its residents. Mr Perkins states that “*our amenity value is enhanced by the zone setting the scene for larger lot sizes and owners can build where they chose as the zone provides*”.
40. The proposed subdivision and any future residential dwellings have the potential to adversely affect the existing low density residential character of the Living 2 zone. The scale of the undersized lots will reduce the opportunity for maintaining the spaciousness, and extensive tree plantings and landscaping that characterises the existing character and amenity of the zone. The proposed lots will create an isolated pocket of higher density living, creating a more urban character within an existing Living 2 zone, characterised by low density, semi-rural living. I accept Mr Perkins submission and consider that the

proposal will result in adverse effects on the character and amenity of the area that will be more than minor.

41. As has been noted, the Living 2 zone is intended to provide a buffer between the higher density Living 1 and XA zones and the Rural Outer Plains zone. The Living 2 zone is anticipated to provide a considerably lower density than that provided in the Living 1 and XA zones, providing a visually discernible transition of densities from the 650m² lots (average) anticipated in the Living zones and the 5000m² lots (average) in the Living 2 zone. In the context of the Manse Road environment, the existing character of the adjacent Living 1 and XA zones is defined by larger sized allotments. The proposal seeks to provide lots with areas of between 2000m² and 3141m², lot sizes that can be considered to have only marginally lower density than that provided in these adjacent living zones. It is considered that the proposed lots will not provide a visually discernible transition of densities from the existing character of the Living 1 and Living XA zone to the west and the Living 2 zone.
42. The rural density in the Rural Outer Plains zone is 20 hectares minimum. The proposed undersized lots of between 2000m² and 3141m² will be located within approximately 100 metres of the boundary between the Living 2 zone and the Rural Outer Plain zone. The proximity of these lots will create a significant visual transition between the two areas, removing the opportunity to provide a gradual transition between the urban environment to the west and the rural environment to the east. Further, it is noted that the proposed subdivision will increase the number of allotments located at the rural interface, consequently increasing the number of people exposed to potential reverse sensitivity effects from the adjacent rural zone.
43. It is considered that the location of the proposed lots down a long driveway / right of way will contribute to reducing the potential adverse effects on the surrounding environment. Further, the applicant has offered planting an evergreen hedge along the southern boundaries of Lot 1 and Lot 8 and along the western boundary of Lot 8 as a condition of consent in order to reduce the visual effects of the increased density proposed.
44. The applicant has provided information detailing how the increase in density proposed in the application will ensure that the overall density of the wider Living 2 zone will be maintained. This approach relies on other property owners maintaining their current property sizes to maintain the overall low density residential character of the area and therefore mitigate the adverse effects of the proposal. Given that these mitigation measures are not part of the application site, I have disregarded this for the purposes of this assessment.
45. It is considered that the establishment of significantly smaller allotments in this location will have significant adverse effects on the character and amenity of the existing environment by creating a more intensive residential density than that anticipated by the District Plan. Therefore, it is considered that the adverse effects of the proposed subdivision will be more than minor.

Flooding Issues

46. The submission lodged by Mr Andre Goldsmith states that the site of the subdivision has been raised 300mm in relation to their property, bordering the western boundary of Lot 8. Mr Goldsmith is concerned that the increased ground levels will result in increased potential for flooding on his property.
47. The applicant was granted consent under RC165641 to undertake earthworks of between 2000m³ and 3000m³ as part of the proposed subdivision (RC165456). These earthworks were to be undertaken in accordance with the DSI provided by Klaus Prusas Environmental Services Ltd. ECan has provided confirmation that they are satisfied that the site has been adequately remediated.
48. It is understood that the applicant has complied with the consent conditions relating to the earthworks and remediation works that have been undertaken on site. Any issues relating to earthworks that have been undertaken on site to date are outside the current resource consent process. It is on this basis that these matters should be discussed between the submitter and the property owner.

Accessway to the Subdivision

49. The submission lodged by Mr Andre Goldsmith identifies concern relating to potential inappropriate use of the new accessway to the subdivision and seeks speed bumps to be constructed on the new lane. Council officers have advised that the construction of any speed management device on the accessway is the developer's responsibility. Further, it is noted that should speed management devices be

considered appropriate for this accessway, the Council's preference would be for the construction of traffic calming devices like pinch points, rather than vertical deflection of vehicles.

Summary – Assessment of Environmental Effects

50. Overall, I consider that the environmental effects of this proposal will be *more than minor*.

District Plan Objectives and Policies

51. The objectives and policies that I consider relevant are:

Objective B3.4.1

The District's townships are pleasant places to live and work in.

Objective B3.4.2

A variety of activities are provided for in townships, while maintaining the character and amenity values of each zone.

Objective B3.4.4

Growth of existing townships has a compact urban form and provides a variety of living environments and housing choices for residents, including medium density housing typologies located within areas identified in an Outline Development Plan.

Policy B3.4.3

To provide Living zones which:

- *Are pleasant places to live in and provide for the health and safety of people and their communities;*
- *Are less busy and more spacious than residential areas in metropolitan centres;*
- *Have safe and easy access for residents to associated services and facilities;*
- *Provide for a variety of living environments and housing choices for residents;*
- *(...).*

52. The Objectives and Policies relating to character and amenity seek to provide for a variety of activities and living environments whilst maintaining the existing character and amenity of each zone. The character and amenity of the Living 2 zone in Leeston is characterised by a semi-rural environment, with large scale residential lots. The zone provides for open space and sufficient areas for extensive tree plantings and landscaping. The explanation and reasons for the Objectives and Policies seek to maintain the quality of the environment, identifying high aesthetic and amenity values.

53. The proposal seeks to create four undersized residential lots, with areas of between 2000m² and 3141m² in the Living 2 zone. The reduced lot sizes will restrict the opportunities for maintaining a high level of spaciousness on these sites. Further, opportunities for landscaping and tree plantings are likely to be reduced. It is considered that the proposed lot sizes will reduce the character and amenity of the surrounding Living 2 zone.

54. It is noted that the proposed subdivision will be located within the existing urban form of the Leeston township, and will add to the variety of living environments in the township in accordance with Objective B3.4.4.

55. On balance, it is considered that the proposal is inconsistent with Objective B3.4.1 and B3.4.2, and Policy B3.4.3.

Objective B4.1.1

A range of living environments is provided for in townships, while maintaining the overall 'spacious' character of Living zones, except within Medium Density areas identified in an Outline Development Plan where a high quality, medium density of development is anticipated.

Objective B4.1.2

New residential areas are pleasant places to live and add to the character and amenity values of townships.

Policy B4.1.2

Maintain Living 2 and 3 zones as areas with residential density which is considerably lower than that in Living 1 zones.

56. Objective B4.1.1 and B4.1.2 seek to provide a range of living environments, while maintaining spaciousness and the character and amenity of townships in the District. The explanation for these Objectives notes the value of Living 2 zones in maintaining compact urban form and providing for a range of living environments in the township. Further, the explanation identifies the role of low density living environments in providing a buffer between the rural environment and the higher density Living 1 zones, by:
- “increasing the size of allotments at the rural interface, reducing the number of people exposed to potential reverse sensitivity effects and in turn providing an appropriate buffer between the rural area proper and the more concentrated township areas.”*
57. Policy 4.1.2 seeks to maintain the low density character of the existing Living 1 zones, providing more spacious living environments that reflect the rural character of the adjacent zones. The explanation of this Policy seeks to acknowledge that low density living zones are spacious and reflect *“the sense of open space and ‘spaciousness’ anticipated by persons wishing to live in a low density residential environment”*. The Living 2 zone is intended to function as a transition zone between higher density residential zones and low density rural zones.
58. As has been noted, the existing environment of the Manse Road Living 2 zone has a distinctly semi-rural amenity, characterised by open spaces, plantings and landscaping. The area is visually discernible from the adjacent Living XA and Living 1 zones located to the west of the application site. The proposal seeks to create lots with areas of between 2000m² and 3170m², considerably less than the average lot size of 5000m² anticipated by the Plan for the zone, and the 6774m² average for the Manse Road Living 2 zone. It is considered that these lot sizes will reduce the opportunity for providing open space and landscaping on site, reducing the sense of spaciousness within the zone. I consider that the proposed undersized lots will not *“maintain”* the existing character and amenity of the Living 2 zone.
59. Significant reliance is placed on the explanation for Policy B4.1.2 by the AEE in determining that the four allotments are “in keeping” with the anticipated environmental outcomes for the Living 2 zone. The explanation of this policy states that:
- “The policy refers to ‘considerably lower’ which acknowledges that low density living zones be spacious and reflect something of the rural characteristics in which they are located. Currently they are from 6 to 12 times lower. The Council suggests average section sizes would need to remain between 3 and 6 times lower in the Living 2 zone and between 6 and 10 times lower in the Living 3 Zone than that of Living 1 zones, to have a visually discernible difference in residential density.”*
60. The applicant states in the Assessment of Environmental Effects that the proposal will result in an average allotment size 3.9 times larger than the Living 1 and Living XA zones in Leeston and therefore will meet the suggested average section size outlined in the explanation to Policy B4.1.2. The assessment states that the proposed development will be *“able to be discerned as being visually different from the Living 1 and Living XA”* zones.
61. It is noted that Policy B4.1.2 seeks to cover all Living 2 zones throughout the Selwyn District and does not take account of the variations in average allotment sizes and character of each township. Applying the identified ratio in the policy's explanation to a Living 2 zone without considering the existing context has the potential to result in a significant change in the character and amenity of the site and its surrounding environment.
62. Therefore, in order to determine whether there is a *“visually discernible difference in residential density”* between the proposed development and the adjacent living zones, it is important to consider the context of the development. As has been noted, the existing character and amenity of the Manse Road Living 2 zone is predominantly characterised by large spacious allotments, providing significant levels of open space, tree plantings and landscaping for each site. The majority of sections in the Living 2 zone meet the District Plan's 5,000m² average lot size. Similarly, the majority of the lots in the Living XA and Living 1 zones along Manse Road, in the immediate vicinity of the development site, have a median area of

1018m² with an average area of 1913m², considerably larger than the 650m² average lot size anticipated by the Plan.

63. Given the existing more spacious character of the adjacent Living XA and Living 1 zones, it is considered that the proposal will not provide lot sizes that are “*considerably lower*” than these adjacent zones¹. The proposal will in effect create an isolated pocket of higher density housing within an existing Living 2 zone that is currently characterised by lower density living. These smaller lots will reduce the opportunity for maintaining the spaciousness and landscaping that characterises the existing character and amenity of this zone. Further, it is noted that the proposed subdivision will increase the number of allotments located at the rural interface and consequently increase the number of people exposed to potential reverse sensitivity effects.
64. On balance, I consider that the proposal will not provide residential density that is considerably lower than that in the Living 1 zone, and will not maintain the overall spacious character of the Manse Road Living 2 zone in Leeston. Therefore, it is considered that the proposal is contrary to Objectives B4.1.1 and B4.1.2 and Policy B4.2.1.

Summary – District Plan Objectives and Policies

65. Overall, I consider the proposal to be contrary to the relevant Objectives and Policies of the District Plan.

Section 104D Threshold Test

66. Given my assessment above, the adverse effects of the proposal on the environment would be more than minor and it contrary to the objectives and policies of the District Plan (Townships) Volume.
67. The proposal therefore fails to pass both limbs of the Section 104D Threshold Test.

Canterbury Regional Policy Statement

68. The Canterbury Regional Policy Statement (‘CRPS’) sets out the resource management issues for the Canterbury region and the objectives, policies and methods to achieve integrated management of natural and physical resources. The CRPS became operative on 15 January 2013.
69. The proposal is not considered to be of a nature or scale that challenges the provisions of the operative or proposed Regional Policy Statement.

Greater Christchurch Regeneration Act 2016 and the Land Use Recovery Plan

70. The Greater Christchurch Regeneration Act (GCR Act) came into force on 19 April 2016 and replaces the Canterbury Earthquake Recovery Act 2011, which was repealed on the same date.
71. The application site is outside Greater Christchurch, as defined by the Act (within Selwyn, Springs and Selwyn Central Wards). As such, the GCR Act need not be considered in relation to this application.

Other Matters

Precedent Effects

72. Given the non-complying status of this application, it is appropriate to have regard to the issue of precedent, as well as the effect of granting consent upon the integrity of the Plan and on public confidence in its consistent administration.
73. I consider that the proposal is contrary to the objectives and policies of the Plan. Further, I consider that the proposal is not sufficiently unique so as to be differentiated from others seeking to create under sized residential lots within the lower density residential zones. As such, I consider that the proposal may create a precedent effect that will undermine the environmental results anticipated for the Living 2 zone.

¹ In order to achieve average section sizes of between 3 and 6 times lower than the Living zone, the proposed lots would need to be 3033m² – 6066m² in the context of the Manse Road Living 2 environment.

Part 2 Resource Management Act 1991

74. The purpose of the Resource Management Act 1991 is to promote the sustainable management of natural and physical resources. This is defined to mean:
- “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*
75. Section 6 sets out matters of national importance. No matters of national importance are affected by this proposal.
76. Section 7 requires particular regard to be had to “other matters”. Of relevant to this application are:
- (b) the efficient use and development of natural and physical resources;
 - (c) the maintenance and enhancement of amenity values;
 - (f) maintenance and enhancement of the quality of the environment.
77. It is considered that the proposed subdivision can be considered to be an efficient use and development of natural and physical resources, given that the proposal seeks to develop land that has been identified as appropriate for residential development the site. That said, I do not consider that the proposal will adequately maintain and enhance amenity values in the area, as the density proposed will have significant adverse effects on the amenity values for the Living 2 zone. I also consider that the proposal will fail to maintain, and will compromise the quality of the environment in a manner that is not contemplated by the Plan, and thus will not promote the purpose of the Act.
78. Section 8 requires the principles of the Treaty of Waitangi to be taken into account. No cultural matters arise in the consideration of this proposal.
79. For the above reasons, particularly those pertaining to Section 7, I consider that the proposal is inconsistent with Part II of the Resource Management Act.


Summary

80. After considering the actual and potential effects on the environment of allowing the application, it is my conclusion that the proposal will result in more than minor adverse effects on the character and amenity of the existing environment.
81. In my opinion the proposal is contrary to the objectives and policies of the Selwyn District Plan. I consider that the proposal is incompatible with the character of the receiving environment.
82. I consider that the proposal is inconsistent with Part II of the Resource Management Act 1991.
83. Having considered all of the relevant matters under Section 104, 104B and 104D, it is my opinion that consent should be refused.

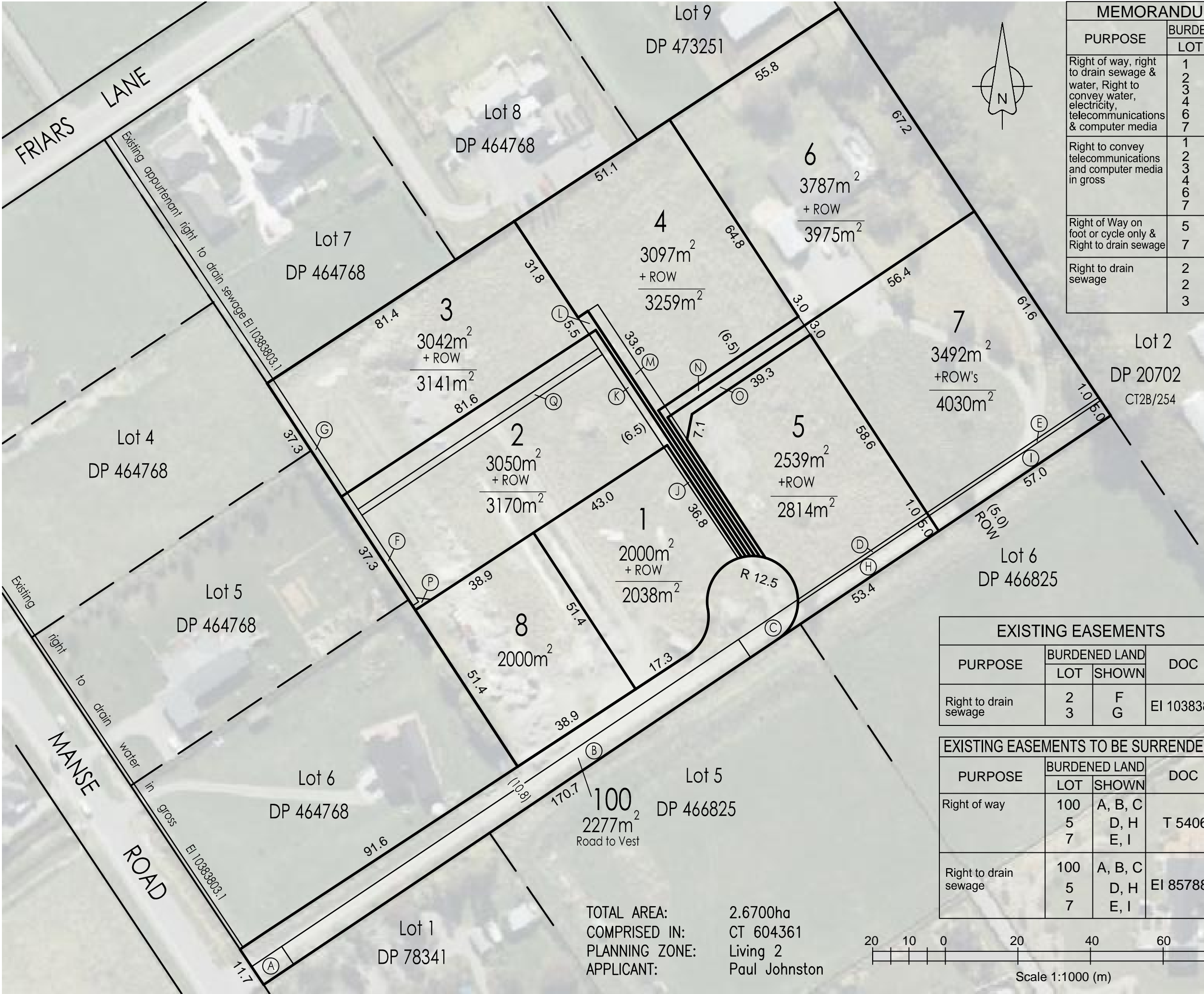
Recommendation

Resource consent **205014**

A. be declined pursuant to sections 104, 104B and 104D of the Resource Management Act 1991

Reported and recommended by  Jane Anderson Consultant Planner	Date: 23 June 2020
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Appendix 1 Subdivision Plan for RC205014



MEMORANDUM OF EASEMENTS			
PURPOSE	BURDENED LAND		BENEFITED LAND/GRANTEE
	LOT	SHOWN	
Right of way, right to drain sewage & water, Right to convey water, electricity, telecommunications & computer media	1	J	2-4, 6, 7
	2	K	1, 3, 4, 6, 7
	3	L	1, 2, 4, 6, 7
	4	M	1-3, 6, 7
	6	N	7
Right to convey telecommunications and computer media in gross	7	O	6
	1	J	Chorus New Zealand Ltd
	2	K	
	3	L	
	4	M	
Right of Way on foot or cycle only & Right to drain sewage	5	H	Lot 2 DP 20702
	7	I	
Right to drain sewage	2	F, Q	1, 3, 4-7
	2	F, P	8
	3	G	1, 2, 4-8

A full assessment of easements will be undertaken after the survey has been completed. This may result in additional easements to those already shown.

Areas and dimensions are subject to final survey.

EXISTING EASEMENTS			
PURPOSE	BURDENED LAND		DOC
	LOT	SHOWN	
Right to drain sewage	2	F	EI 10383803.1
	3	G	

EXISTING EASEMENTS TO BE SURRENDERED			
PURPOSE	BURDENED LAND		DOC
	LOT	SHOWN	
Right of way	100	A, B, C	T 540666
	5	D, H	
	7	E, I	
Right to drain sewage	100	A, B, C	EI 8578854.1
	5	D, H	
	7	E, I	

PROPOSED SUBDIVISION OF LOT 2 DP 69318

Scale	1:1000
Date	Dec 2019
Design	JF
Drawn	EY
Review	JF

C	13/1/20	Easements
B	3/12/19	Lots 1, 2, 3, 8
Rev.	Date	Amendment
Revision C		

Appendix 2 Subdivision Plan for RC165456 as notified

A full assessment of easements will be undertaken after the survey has been completed. This may result in additional easements to those already shown

Areas and dimensions are subject

PROPOSED
SUBDIVISION
OF LOT 2
DP 69318

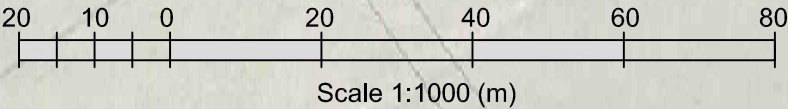
Scale	1:1000 (A3)
Date	Jan 2016
Design	JF
Drawn	EY
Review	JF

rev.	date	amendment
revision 1		
sheet 1 OF 1		

MEMORANDUM OF EASEMENTS			
NATURE	SERVIENT TEN		DOM TEN / GRANTEE
	LOT	SHOWN	
Right of way, right to drain sewage & water, Right to convey water, electricity, telecommunications & computer media	3	E	4-7
	4	F	3, 5-7
	5	G	3, 4, 6, 7
	6	H	3-5, 7
	7	I	3-6
Right to convey telecommunications and computer media in gross	3	E	Chorus New Zealand Ltd
	4	F	
	5	G	
	6	H	
	7	I	

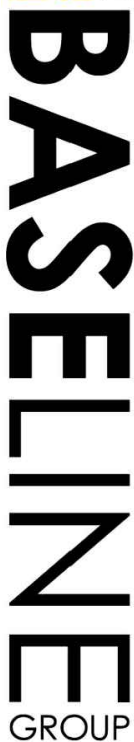
EXISTING EASEMENTS			
NATURE	SERVIENT TEN		DOC
	LOT	SHOWN	
Right of way	5	D	T 540666
Right to drain sewage	5	D	EI 8578854.1
Right to drain sewage	1	J	EI 10383803.1
	3	K	
	4	L	

EXISTING EASEMENTS TO BE SURRENDERED			
NATURE	SERVIENT TEN		DOC
	LOT	SHOWN	
Right of way	10	A, B, C	T 540666
Right to drain sewage	10	A, B, C	EI 8578854.1



TOTAL AREA: 2.6700ha
COMPRISED IN: CT 604361
PLANNING ZONE: Living 2
APPLICANT: Paul Johnston

Appendix 3 Subdivision Plan for RC165456 as approved



A full assessment of easements will be undertaken after the survey has been completed. This may result in additional easements to those already shown

Areas and dimensions are subject

**PROPOSED
SUBDIVISION
OF LOT 2
DP 69318**

Scale	1:1000 (A3)
Date	March 2017
Design	JF
Drawn	EY
Review	JF

1a	4/17	Easmt D,E
rev.	date	amendment

sheet 1 OF 1

