

Notice of requirement MDC-M-50: Riversdale wastewater treatment and disposal

1 Introduction, factual context and hearing summary

Report purpose, requirements and outline

- 1.1 This is a decision of the Independent Commissioner appointed to determine the notice of requirement (**NoR**) for a new designation from Masterton District Council (**MDC**) for a wastewater treatment and disposal facility in Riversdale. I was appointed to hear and make decisions on submissions to the Proposed Wairarapa Combined District Plan (**PDP**) relating to this and other notices of requirement sought by the three Wairarapa District Councils.
- 1.2 As the Requiring Authority in this case is a Territorial Authority, Section 168A of the RMA provides the framework for my consideration of the NoR. Among other matters, it requires that I consider the environmental effects of allowing the requirement, having particular regard to:
- a. any relevant provisions of the applicable national, regional and local policy statements and plans¹;
 - b. whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if I find that it is likely that the work will have a significant effect on the environment or if the Authority does not have sufficient interest in the land for undertaking the work²;
 - c. whether the work and designation are reasonably necessary for achieving the Authority's objectives expressed in the NoR³; and
 - d. any other matter reasonably necessary to make a decision on the NoR⁴.
- 1.3 In considering the effects of the Proposal, the RMA makes it clear that those effects may include any positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from the activity enabled by the requirement, as long as those effects result from measures proposed or agreed to by the requiring authority⁵.
- 1.4 My consideration in the above respects is "subject to Part 2" of the RMA.
- 1.5 Having carried out my evaluation of the above matters, I may decide that the requirement be confirmed, modified or withdrawn. If confirmed or modified, the requirement may also be subject to conditions⁶.

¹ s168A(3)(a)

² s168A(3)(b)

³ s168A(3)(c)

⁴ s168A(3)(d)

⁵ s168A(3A)

⁶ s168A(4)

- 1.6 The remainder of this report is organised as follows:
- a. **Section 1** includes a summary of the proposal and the single submission received on the NoR, followed by a description of the hearing/post hearing sequence;
 - b. **Section 2** addresses the main question in contention for this proposal; namely whether the work and designation are reasonably necessary for achieving MDC's objectives for which the designation is sought;
 - c. **Section 3** includes a brief discussion about relevant statutory considerations;
 - d. **Section 4** addresses environmental effects of allowing the NoR; and
 - e. **Section 5** includes my overall evaluation and decision.

Proposal summary

- 1.7 The NoR provides relevant background information which I summarise here for context:
- a. the NoR relates (in part) to an existing operational wastewater treatment and disposal facility at 1759 Homewood Road, 2.5km southwest of Riversdale Beach;
 - b. the existing facility provides sewage disposal for 407 households, with the ability to accommodate flows from an additional 63 households;
 - c. the facility operates under existing resource consents granted by Greater Wellington Regional Council in 2009, including associated discharges to land and air; and
 - d. the facility is not subject to an active designation in the operative District Plan.
- 1.8 Also to provide context for the discussion that follows, I note that the NoR proposes to designate three separate titles, all of which are owned by MDC. For convenience I will refer to these as follows:
- a. 'Lot 1' – comprising Lot 1 DP 427108;
 - b. 'Lot 2' – comprising Lot 2 DP 427108; and
 - c. 'Lot 3' – comprising Lot 1 DP 451871.
- 1.9 Lot 1 comprises three active wastewater treatment ponds, with the balance of the land within Lots 1 and 2 irrigated with treated wastewater from which bailage is cut and stored. Lot 3 is physically separated from Lots 1 and 2 and is currently used for primary production activities and is not used for irrigating wastewater.⁷

⁷ Officer's Section 42A Council Designations, 4 April 2025, paras 197

- 1.10 **Figure 1** below illustrates Lots 1, 2, and 3 along with the facilities currently identified by MDC as part of the existing wastewater asset network for Riversdale.

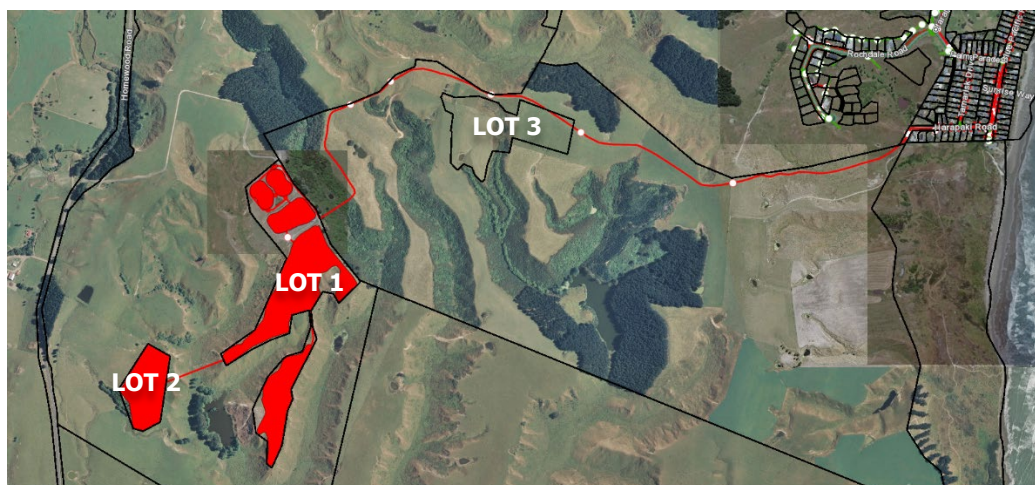


FIGURE 1: Existing treatment facilities in Lots 1 and 2 and location of Lot 3. Existing wastewater rising main connecting Riversdale Beach to treatment facility shown in thin red line.⁸

- 1.11 There are easements for access and wastewater pipes connecting Lot 3 to the reticulated wastewater network in Riversdale Beach and to the existing treatment facilities to the southwest. I understand from evidence presented at the hearing that these easements were put in place over the previous two decades through subdivision and land purchase between MDC and the previous owner of Lot 3, East Leigh Limited.⁹
- 1.12 The parcel that became Lot 3 was created as a separate allotment at the time the survey plan for the Southern Terrace within East Leigh's Riversdale Terraces residential development was deposited in 2007. Lot 3 encompassed the area intended for East Leigh's own wastewater treatment and disposal facility as there was no reticulated wastewater network in Riversdale at the time. Subsequently in 2012, the same parcel was defined on a new subdivision plan (Lot 1 DP451871 which was deposited in October 2013) and transferred to MDC.¹⁰
- 1.13 The NoR describes the nature of the proposed public work as follows:

To discharge treated and partially treated waste to land from a wastewater treatment plant, incorporating construction activities including stream crossings and discharge of construction related wastewater to land.

To discharge odours and aerosols to air from a wastewater treatment system, a land irrigation system and other activities on site.

Lot 1 DP 427108 contains three ponds for wastewater treatment purposes, the treated effluent is used to irrigate the remainder of the land from which bailage is cut and stored.

- 1.14 The NoR included a brief assessment of effects the proposal is anticipated to have on the environment and a statement as to why the works and designation are

⁸ Map source: <https://gis.mstn.govt.nz/WairarapaViewer> (Accessed 18 July 2025)

⁹ Evidence of Christine Foster (3 May 2025), para 3.2-3.3

¹⁰ Evidence of Christine Foster (3 May 2025), para 3.3-3.6

reasonably necessary for achieving MDC's objectives. I return to both aspects of the proposal shortly.

- 1.15 The NoR proposed no conditions to be imposed on the proposed designation.

Submission

- 1.16 East Leigh Limited was the lone submitter on the proposed NoR. The submission sought that the proposed designation be amended to exclude Lot 3. The reasons provided in the submission notice were as follows:

Proposed area in this designation includes Lot 1 DP 451871 (Record of Title 579619). EIL understands that the Council has no current plans to use that land for that purpose. The inclusion of that land in the designation is, therefore, not reasonably necessary for the proposed works. It should be excluded from the designation at this time.

Hearing/Post Hearing Sequence

Section 42A Report

- 1.17 The hearing sequence on this matter initiated with the circulation of Ms Fallowfield's s42A report on 4 April 2025. Relevantly, Ms Fallowfield expressed the following view on the NoR:
- a. any adverse effects arising from the proposal are likely to be the same or similar to those currently authorised by (regional) resource consents;
 - b. given that finding about effects, and given that the land is owned by MDC, no consideration of alternatives is required under the RMA;
 - c. the designation is reasonably necessary for ensuring the ongoing operation and maintenance of the existing regionally significant asset, but there is insufficient information in the NoR to confirm that part of the proposed designation within Lot 3.¹¹
- 1.18 Ms Fallowfield reserved her overall position on the NoR, pending further clarification being provided by MDC.

MDC evidence as requiring authority

- 1.19 MDC as requiring authority was to circulate any expert evidence by 17 April. No such evidence was supplied as of that date.

Planning evidence for East Leigh

- 1.20 On 3 May 2025, East Leigh circulated planning evidence by Ms Christine Foster in accordance with the timetable for evidence exchange. I discuss the substance of Ms Foster's evidence in detail shortly, but record here that her view was similar to Ms Fallowfield that a conclusion was unable to be reached that the requirements

¹¹ Officer's Section 42A Council Designations, 4 April 2025, para 198-203

of RMA s171 have been met for the proposed designation of Lot 3.¹²

Memorandum from Mr Evans for MDC

- 1.21 MDC then circulated a memorandum from its Asset Manager, Mr Philip Evans on 14 May, which he spoke to at the hearing the following week.

Hearing summary

- 1.22 After a brief overview from Ms Fallowfield confirming the substance of her s42A report, I then heard from Mr Evans.
- 1.23 At the conclusion of his presentation, Mr Evans provided helpful responses to several questions I asked. Distilling key points he made in this respect:
- a. Lot 3 was originally created by East Leigh to serve a wastewater treatment function for one of its residential developments, and MDC ultimately purchased Lot 3 with the intent of that function being fulfilled over time;
 - b. MDC ultimately surrendered the GWRC consents which enabled use of Lot 3 for wastewater disposal at the end of 2015 due to associated increases in environmental impact levies charged by GWRC and no firm plans by MDC for new facilities in Lot 3;
 - c. there is currently no funding committed in MDC's annual plan or long-term plan for any specific works or upgrades to the existing facility, including any such works in Lot 3;
 - d. the current facility in Lots 1 and 2 meets existing demands in Riversdale; however that could change if, for example, residential habits changed in the settlement over time – currently, the demands on services principally arise during the summer period and wane during other parts of the year, but if that changed the existing facility may require additional treatment infrastructure and/or disposal fields;
 - e. another factor that could lead to a need for increased treatment and/or disposal areas might arise if GWRC were to increase demands on water quality from discharges – for example, if lower nitrogen concentrations would be acceptable to GWRC, the disposal discharge may need to be more widely spread in the future;
 - f. based on current information, it is unknown whether or not any upgrade to the existing facility would be required over the life of the PDP;
 - g. while the most likely use of Lot 3 in Mr Evans' view would be as an additional irrigation/disposal field, he noted that a small pond within Lot 3 dug initially by East Leigh could potentially be modified to provide additional treatment – in either case, he noted that the MDC has not confirmed the ultimate use for Lot 3 at this stage;

¹² Evidence of Christine Foster (3 May 2025), para 7.1

- h. Mr Evans added also that Lot 3 is currently leased to East Leigh for grazing over the next 5 years, with an option to extend that to a further 5 years.
- 1.24 Following Mr Evans' presentation, I heard from Mr Davies and Ms Foster for East Leigh. Mr Davies submitted that MDC has presented no evidence to refute East Leigh's evidence that the Council has no real plans to use Lot 3 for treatment purposes into the foreseeable future. He drew my attention to a number of decisions of the High Court and Environment Court where the question of 'reasonably necessity' has been addressed.
- 1.25 I return to Mr Davies submissions again shortly, but note that he also provided some helpful responses to questions I asked at the hearing. When I asked as to the potential effects of the NoR on the surrounding land – which is entirely owned by East Leigh – Mr Davies focussed on the potential for health, safety and nuisance effects to arise on East Leigh's land. He also noted that, as no detail is known as to MDC's plans for Lot 3, it is difficult to gauge what the nature and scale of associated effects might ultimately be.
- 1.26 This said, Mr Davies also made clear that potential effects do not present a 'clear and present danger' to East Leigh. Rather, East Leigh's primary concerns relate to whether the relevant statutory tests have been met by MDC.
- 1.27 Mr Davies added that, had MDC clearly identified its objectives for the works and designation, and demonstrated that the designation is required to achieve those objectives, East Leigh would not have submitted on the NoR or had cause to present at the hearing.
- 1.28 Ms Foster then took the opportunity to reflect on Mr Evans' presentation. She questioned whether Mr Evans' evidence supports a finding that the 'power' of a designation is warranted given the lack of clear need established, the lack of funding committed, the uncertainty whether the works would actually eventuate over the life of the PDP, and the uncertainty around whether residential population dynamics or water quality requirements would eventuate in any material way.
- 1.29 Ms Foster noted also that at least some effects associated with an expanded facility at Lot 3 may reasonably be anticipated in the underlying Rural Zone provisions.
- 1.30 Following Ms Foster's comments, I invited Ms Fallowfield and Mr Evans to address any matter arising from the presentations of Mr Davies and Ms Foster. Neither raised any further matters at that point.
- 1.31 Before closing the hearing, I signalled to the parties that I would reflect on the various presentations and issue a minute confirming next steps.

Minute 31 and responses

- 1.32 Among other matters I addressed in Minute 31, I directed MDC to respond to the following matters:
- a. *Confirm if the objective for the Designation as outlined in the Notice of Requirement and/or the S42A Report appropriately captures the intended development and use of the site, particularly for Lot 1.*

- b. *Confirm the reasonable necessity for having a Designation (public works) in accordance with Section 168A(3)(c) of the RMA over Lot 1 of the Riversdale Wastewater Treatment and Disposal Designation (MDC-M-50) in order to achieve the objective(s) of the Designation. The response to this question should cross reference the confirmed objective(s) of the Designation as provided in the response to point (a) above. In responding to this question, the following matters must also be considered:*
 - i. *'Reasonable necessity' to be considered as it relates to both the necessity for the public works to be undertaken, and the necessity of the Designation as a tool for protecting the land for future works.*
 - ii. *Confirm what increase in households would necessitate the need for the additional disposal area in Lot 1. In responding to this, clarify the potential yield that would be enabled under the PDP, including in a scenario where the Settlement Zone was to be extended to accept relief sought by East Leigh Limited (S239).*
 - iii. *Confirm what status the activity would have under the Operative and Proposed District Plan if the Designation was not provided for. Specifically, would a land use resource consent be required to provide for the public works in the absence of any designation.*
- c. *Confirm if any conditions are necessary and/or volunteered for the proposed Designation to ensure that land use adverse effects can be appropriately managed and / or to ensure works align with the proposed Designation objective. Should conditions be put forward, provide the proposed wording.*

1.33 I then set out a timetable for receiving a response from MDC on the above, followed by any comments on the response from East Leigh and Ms Fallowfield.

1.34 In his initial response to the minute¹³, Mr Evans addressed the above matters as follows:

- a. the objective for the designation is not expressly set out in the NoR but the intent can be gleaned from the section which describes 'the nature of the proposed public work';
- b. regarding reasonably necessity, Mr Evans reiterated the description at Section 7 of the NoR document, and added that many areas in Riversdale have been rezoned from Rural to Settlement Zone through the PDP which would enable more population to reside in the area;
- c. the existing plant is designed to cater for a further 192 households, beyond which an upgrade would be required – the PDP, including new Settlement Zone areas, would enable a theoretical yield of a further 187 households up to 203 if 16 additional allotments are added to the Settlement Zone by the Panel in response to submissions;
- d. under the operative Plan, new treatment facilities could be permitted on Lot

¹³ Response to Minute 31 Questions raised by the Hearing Panel (05 June 2025)

3 where standards are met, but new treatment facilities require consent as a restricted discretionary activity;

- e. under the PDP, consent would be required for new facilities as a restricted discretionary or fully discretionary activity depending on the nature of what is proposed; and
- f. Mr Evans volunteered a single condition requiring that any future works be undertaken in general accordance with the NoR.

1.35 In his subsequent memo for East Leigh, Mr Davies scrutinised the numbers presented by Mr Evans. Mr Davies considered that the 187, 192 and 203 additional dwelling figures noted by Mr Evans are within margins of error and reflect varying degrees of conservatism and optimism depending on the assumptions relied upon. He added that if one assumes a rate of growth in Riversdale that is comparable to the rate since 2009, then the existing treatment facility in Lots 1 and 2 have three to four decades of capacity before Lot 3 would be required.¹⁴

1.36 Mr Davies further amplified his submissions in the response as follows:

14 As I observed in my submissions at the hearing, a designation will lapse five years after the date on which it is included in the District Plan unless it has been given effect to or there is a Council resolution declaring that the Council has made or is continuing to make substantial progress or effort towards giving effect to the designation. The surrender of the regional consents is evidence that this proposal is not reasonably necessary. The new evidence the Council has supplied appears to confirm the timeframes stretch beyond the statutory and practical life of the plan. It is not reasonably necessary in this plan to designate whatever work is proposed. [footnote omitted]

1.37 In response to Mr Evans' comment that MDC's objective is reflected in the NoR description of the nature of the proposed work, Mr Davies expressed that the drafting of that text does not read like an objective and the substance of the description relates almost exclusively to regional council functions. Given that there is little detail about the timing of any works, the nature of any works and the adverse effects of any works, Mr Davies considered it makes sense that the adverse effects of whatever might eventuate is addressed at consent stage once the need for the works has been established, and a design has been prepared.¹⁵

1.38 Mr Davies asserted that the Council's ownership of Lot 3 protects its interests in the land without any need for designation.¹⁶

1.39 In her reply, Ms Fallowfield signalled her agreement with Mr Davies that the NoR does not clearly specify MDC's objectives, and that the matters set out under the nature of the proposed work relate primarily to regional council functions. She nevertheless considered that the goal that MDC is seeking to achieve is clear from the NoR, being to futureproof wastewater disposal for Riversdale by authorising

¹⁴ Memorandum of Counsel for East Leigh Limited in response to Minute 31 questions raised by the Hearing Panel (13 June 2025), para 3-13

¹⁵ Memorandum of Counsel for East Leigh Limited in response to Minute 31 questions raised by the Hearing Panel (13 June 2025), para 15-16

¹⁶ Memorandum of Counsel for East Leigh Limited in response to Minute 31 questions raised by the Hearing Panel (13 June 2025), para 17

additional land for that purpose. Ms Fallowfield also was aligned with Mr Davies that the household estimates presented by Mr Evans suggest it is questionable whether the designation is needed over the life of the PDP.¹⁷

- 1.40 Ms Fallowfield also commented on the condition volunteered by Mr Evans. In her view the condition is not sufficient to manage the potential effects arising from the use of Lot 3 for wastewater disposal, noting also that the nature and scale of associated works are unknown at this stage. Ms Fallowfield cited the lack of any description of proposed structures, ponds, earthworks and the associated adverse effects on amenity values. More detailed conditions may be appropriate in order for any potential effects to be managed as a result in her view.¹⁸
- 1.41 Ms Fallowfield concluded that MDC has not provided sufficient information to demonstrate that the designation is reasonably necessary for achieving the objective for which the designation was sought. Given that, and her understanding that the existing facility is likely to have sufficient capacity to accommodate projected growth of the township over the life of the PDP, Ms Fallowfield recommended that the NoR be modified to exclude Lot 3.¹⁹
- 1.42 Mr Evans then filed a supplementary memo²⁰ responding to Mr Davies and Ms Fallowfield's comments. The memo was co-signed by Steve Watt and Alice Falloon in their respective roles for MDC as 3 Waters Operations and Transition Manager and Intermediate Resource Planner.
- 1.43 This memo did not introduce any new information; however, it did emphasise MDC's view that more permanent residence times in existing dwellings and increased household numbers both present a risk to the existing facility reaching capacity. These factors create uncertainty for MDC, and the designation is seen as the preferred way to manage that uncertainty.

Synthesis

- 1.44 An important detail for me to record here in distilling the above is that there was no contention by any party that the designation is inappropriate to apply over Lots 1 and 2.
- 1.45 Ms Fallowfield's ultimate recommendation was that the NoR be modified to exclude Lot 3; however, the residual effect of that recommendation is that the NoR is confirmed for Lots 1 and 2.
- 1.46 Similarly, Ms Foster's evidence emphasised that there is a key difference between the existing facilities in Lots 1 and 2 and the undeveloped rural land comprised in Lot 3. Regarding the existing facilities, Ms Foster stated the obvious – *'they exist, we understand what their effects are'*. In contrast, Ms Foster noted that, for Lot 3, *'we do not know what is proposed or what the effects might be'*.²¹

¹⁷ Officer's Reply Statement Council Designations, 19 June 2025, para 19-20

¹⁸ Officer's Reply Statement Council Designations, 19 June 2025, para 23

¹⁹ Officer's Reply Statement Council Designations, 19 June 2025, paras 24-25

²⁰ *Supplementary Response to Minute 31 Questions raised by the Hearing Panel* (23 June 2025)

²¹ Evidence of Christine Foster (3 May 2025), para 6.2

- 1.47 Indeed Ms Foster's evidence and the submissions and memorandum from Mr Davies are fully aligned with the East Leigh submission notice insofar as the submission sought Lot 3 to be removed from the designation extent.
- 1.48 This has framed the balance of my report below, which focusses almost exclusively on Lot 3 and the extent to which it should be comprised within the designation.

2 Consideration of reasonable necessity

Summary

- 2.1 As noted at the outset of this report above, the question of necessity was the main issue in contention.
- 2.2 Plain reading of the RMA s168A(3)(c) makes clear that – in order to form a satisfactory understanding of this matter – one must understand MDC's objectives for which the designation is sought, then determine whether the works and designation are reasonably necessary to achieve those objectives.
- 2.3 For the reasons I set out below, I find that the objectives of the proposal are not clearly stated in the NoR, nor have they been satisfactorily articulated in subsequent material provided by MDC. To the extent that MDC has pointed to the description of the proposed works as being synonymous with its objectives, those matters are limited to existing facilities within Lots 1 and 2, and/or are matters principally under GWRC's jurisdiction.
- 2.4 The works and designation can be said to be reasonably necessary in relation to the existing facilities in Lots 1 and 2. In the absence of a clear objective, or a clear understanding of what is proposed in Lot 3, however, I am unable to find that the works and designation are reasonably necessary within Lot 3.

MDC's objectives

- 2.5 For the purposes of this evaluation, I have considered both the original NoR and the suggestion of Mr Evans that the description of the proposed works can be substituted as MDC's objectives.
- 2.6 It was common ground that the NoR as lodged did not expressly identify MDC's objectives.
- 2.7 Regarding the alternative suggested by Mr Evans, I share Mr Davies' observations that the first two matters under the description of the proposed works are almost exclusively matters under GWRC's jurisdiction:

To discharge treated and partially treated waste to land from a wastewater treatment plant, incorporating construction activities including stream crossings and discharge of construction related wastewater to land.

To discharge odours and aerosols to air from a wastewater treatment system, a land irrigation system and other activities on site.

- 2.8 The third matter is limited to Lots 1 and 2 and the existing facilities therein.

Lot 1 DP 427108 contains three ponds for wastewater treatment purposes, the treated effluent is used to irrigate the remainder of the land from which bailage is cut and stored.

Reasonable necessity

- 2.9 If one relies upon the NoR as lodged, which is devoid of any clear objective, the original conclusions of Ms Fallowfield and Ms Foster must naturally be arrived at. One cannot conclude that the works and designation are necessary for achieving the objectives if the objectives themselves are not known.
- 2.10 Even allowing for Mr Evans' suggestion that the description of the nature of the proposed works can be substituted as the objectives does not remedy the omission.
- 2.11 To the extent that the objectives relate to discharges and works or structures in/over beds of rivers, such matters are not relevant to district council functions nor are they influenced by a designation in a statutory planning sense. These are matters to be authorised under the relevant regional plan(s) administered by GWRC.
- 2.12 To the extent that the NoR would allow for the ongoing operation, maintenance and protection of existing facilities, the works and designation can be said to be reasonably necessary for the purposes captured by the latter description referred to above – but again, only in relation to Lots 1 and 2.
- 2.13 There is an additional compounding factor here which weighs against the designation being applied over Lot 3. Namely, even if a clear understanding of MDC's objectives was available, and even if those objectives were fit-for-purpose, it would not be possible to fully evaluate whether the works and designation are reasonably necessary to achieve those aims due to the lack of clear guidance in the NoR as to the intended works within Lot 3.
- 2.14 There are no firm plans for Lot 3 at this stage, nor any funding currently set aside to advance the planning and implementation of such works. Mr Evans confirmed as much at the hearing, and this was not a matter in contest.
- 2.15 For the above reasons, I ultimately adopt the evidence of Ms Foster and Ms Fallowfield that MDC has not demonstrated that the works and designation are reasonably necessary to achieve the objectives of the work as relates to Lot 3.

3 Statutory considerations

- 3.1 There was no analysis of relevant policy direction in any of the documentation before me on this matter. Neither the NoR, nor the material produced by Mr Evans, Ms Fallowfield, Ms Foster or Mr Davies identified or evaluated such matters despite the direction in RMA s168A(3)(a).
- 3.2 Given my findings above regarding the necessity of the works, I do not feel the need to present a lengthy discussion in this respect or to compensate for any omissions in the evidence before me. I nevertheless record that I have had particular regard

to relevant direction in:

- a. the National Policy Statement for Freshwater Management;
- b. the National Policy Statement for Urban Development;
- c. the Regional Policy Statement and Proposed Change 1 to the Regional Policy Statement; and
- d. the operative Combined Wairarapa Plan and PDP.

- 3.3 I note the varying direction in the above documents regarding the associated outcomes anticipated for freshwater quality, well-functioning urban environments, and the need to recognise and provide for the benefits of infrastructure, whilst managing associated adverse effects.
- 3.4 There is no evidence before me to suggest that the NoR is inherently in conflict with any relevant direction in these respects, except as relates to potential adverse effects arising from future works on Lot 3 under the proposed designation. As I discuss further below, such effects are simply not known due to the lack of detail presented in the NoR and conclusions about related effects-based policies also cannot be clearly drawn – neither in terms of adverse effects nor potential benefits.
- 3.5 As the NoR relates to existing facilities within Lots 1 and 2, I find it would not be in conflict with any relevant statutory direction.

4 Environmental effects

- 4.1 Flowing from the preceding discussion, there is no evidence before me to suggest that the proposed NoR would result in adverse effects that are materially different to the existing environment as relates to Lots 1 and 2. I adopt the evidence of Ms Fallowfield and Ms Foster in this respect.
- 4.2 As discussed above, I also adopt Ms Foster’s evaluation that there is insufficient information before me as to the nature and extent of proposed works in Lot 3 to reach an informed view as to the actual and potential effects of those works. Given that uncertainty, and given the lack of any conditions volunteered by MDC which might otherwise provide a framework for ensuring any effects are appropriately avoided, remedied or mitigated, I am unable to conclude that the effects of allowing the requirement over Lot 3 would be acceptable.
- 4.3 Wastewater treatment and disposal may ultimately be an appropriate use for Lot 3; however, such a proposal should be informed by a clear understanding of the works and activities proposed so that a reasoned finding can be arrived at as to effects.

5 Overall evaluation and decision

- 5.1 In the preceding report sections, I have identified RMA statutory instruments and other matters that I must have particular regard to under s168A(3)(a) - (d). Taking those matters into account, I have considered the actual and potential effects of allowing the proposed NoR.
- 5.2 In doing so, I have found that – for Lot 3 – the proposed works and designation are not reasonably necessary for achieving MDC’s purported objectives and there is insufficient information to conclude that the associated effects will be appropriate. I also rely on the uncontested evidence before me that the proposed designation is appropriate as relates to Lots 1 and 2.
- 5.3 Considering the above factors ‘subject to Part 2’ of the RMA, I am satisfied that the NoR is aligned with the sustainable management purpose as relates to Lots 1 and 2. There is insufficient information before me, however, to reach the same conclusion for Lot 3, particularly as relates to unspecified wastewater treatment or disposal activities on that land and associated:
- a. avoidance, remediation or mitigation of adverse effects, including health and safety²²;
 - b. maintenance or enhancement of amenity values²³; or
 - c. maintenance and enhancement of the quality of the environment²⁴.
- 5.4 For the foregoing reasons, and acting under delegated authority, the requirement is hereby **modified** to exclude Lot 1 DP 451871 from the designation extent.

DJ McMahon
Independent Commissioner

26 September 2025

²² RMA s5

²³ RMA s7(c)

²⁴ RMA s7(f)