



**Appendix 2: Notification of Land Use Consent**

**NOTIFICATION REPORT AND NOTIFICATION DECISION  
LUC24/48416**

<b>Applicant:</b>	Garry and Catherine Broadmore
<b>Site Address:</b>	373 Maude Road
<b>Legal Description:</b>	Lot 1 DP 521015 and Lot 2 DP 563612
<b>Site Area:</b>	6.9 Ha
<b>Environment Area:</b>	Operative District Plan: Rural Environment Area Proposed District Plan: Rural Production Zone
<b>District Plan Overlays:</b>	Operative District Plan: N/A Proposed District Plan: Waterbody
<b>Proposal:</b>	To undertake earthworks to construct an accessway and building platform in relation to a two lot rural subdivision
<b>Status:</b>	Operative District Plan: N/a Proposed District Plan: Restricted Discretionary Activity
<b>Date consent application received:</b>	2 February 2024

**PURPOSE OF THIS REPORT**

1. The purpose of this notification report is for the Council to decide whether or not the public or specific parties should be notified of a proposal requiring resource consent to give them an opportunity to have their say on the proposal. This report is not to consider whether or not resource consent should be granted; that will be a matter for a subsequent report.

## PROPOSAL

2. The applicant proposes to undertake earthworks in relation to a two lot fee simple subdivision of Lot 1 DP 521015 and Lot 2 DP 563612, 373 Maude Road (SUB22/48271). The subdivision application was applied for in October of 2022 and was limited notified in January 2023. The application has been on hold since this date for further information requested and for the applicant to work on a resolution with the submitter. this date. Following the release of the Proposed District Plan (PDP) Decisions and then Appeals Versions it was noted that land use consent was required under the PDP.
3. The earthworks include the establishment of the vehicle access point, access track and building platform areas for Lot 1 of the proposed subdivision.
4. To establish the proposed building platform 157m<sup>3</sup> of cut and 480m<sup>3</sup> of fill is required. Construction of the driveway will require 608m<sup>3</sup> of cut and 1,032m<sup>3</sup> of fill. An additional of 200m<sup>3</sup> of fill is also provided for adjoining the access track and Maude Road. The total proposed fill is 1,712m<sup>3</sup> (solid measure) and 765m<sup>3</sup> of cut (solid measure) resulting in an overall volume of 2477m<sup>3</sup>.
5. The maximum cut depth is 2.3 metres, and the maximum fill height is 3 metres. These will be battered. The accessway will be gravelled and the cut and fill batters will be re-grassed.
6. Pat Sole Surveyors has provided an Earthworks Plan (Figure 1) that includes cross section and cut fill calculations of the access track and building platform earthworks proposed. Sediment and erosion control measures in the form of sediment fences are also included within this plan.
7. Oneelevensix has provided an Engineering Report and Bluemarble have provided a Landscape Addendum which were included with the application of land use and subdivision consents.

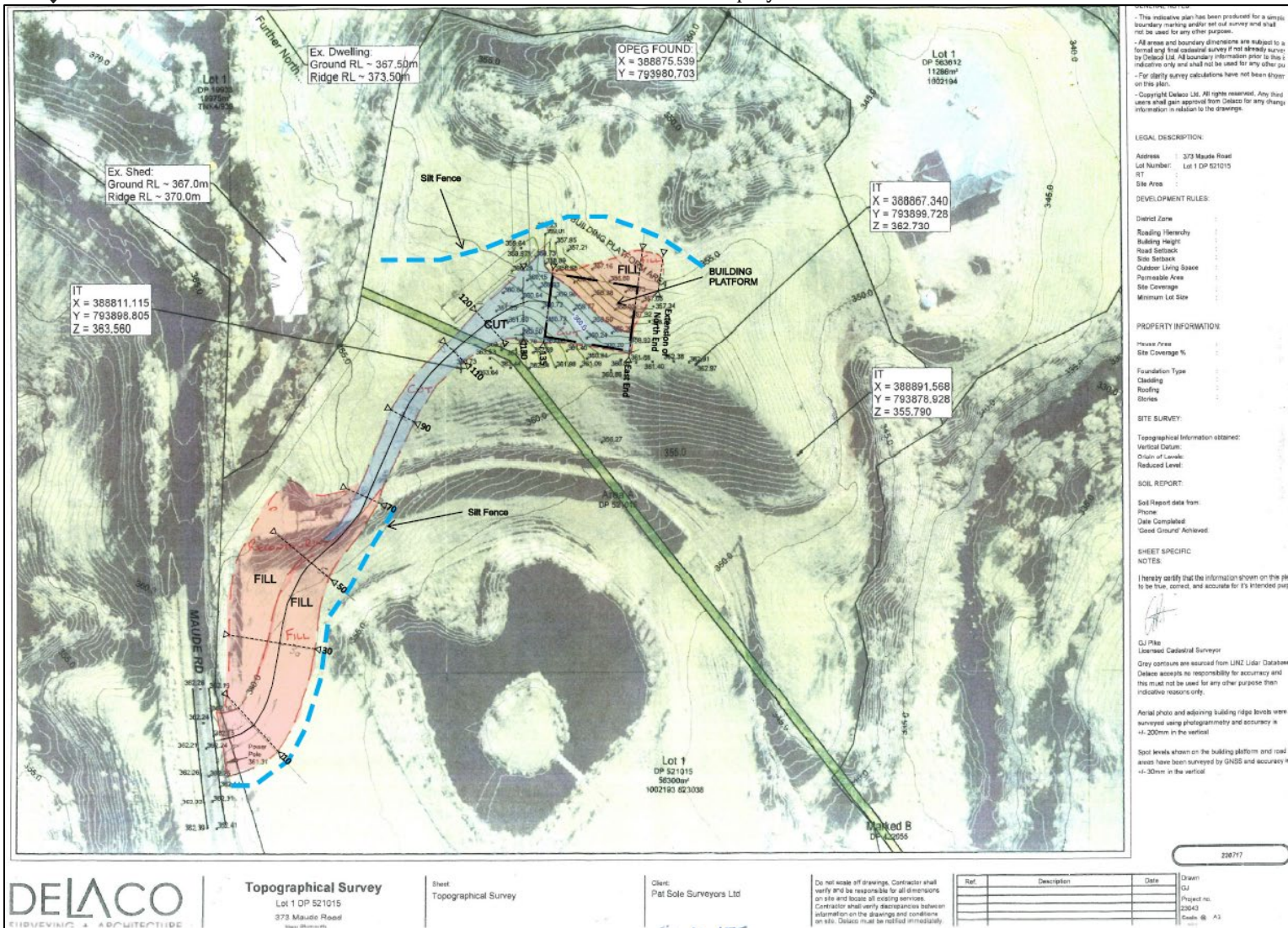


Figure 1: Earthworks Plan showing erosion and sediment control measures



### **ADEQUACY OF THE APPLICATION**

8. The applicant has provided an assessment of effects of the activity on the environment (AEE).
9. The AEE concluded that the actual and potential effects of the proposed earthworks on the character and amenity of the surrounding area will be no more than minor. Furthermore, the proposal is considered to be consistent with the relevant objectives and policies of both the Operative and Proposed New Plymouth District Plans.
10. I have assessed the application under Section 88 of the Resource Management Act 1991 (RMA) and have determined that the application is complete and contains sufficient information to allow for an assessment of effects as required for notification.

### **REQUIREMENT FOR OTHER CONSENTS**

11. It has been determined that no further resource consents under the RMA are necessary for the proposal. It is noted however that this application is being processed in conjunction with subdivision SUB22/48271 and the substantive consideration of these two applications under S104 of the Act will be undertaken in combination.

### **SITE AND SURROUNDING ENVIRONMENT**

#### **Site Description**

12. I carried out a site visit on 19 December 2022.
13. The subject site is a rural site located on Maude Road, approximately 2.5 km from the National Park. Maude Road has a posted speed limit of 100km/hr. There is one existing dwelling on the site.
14. The site has undulating topography, generally falling north towards the sea and towards the Mangakotukutuku Stream which makes up the eastern boundary of the property. The site is majority in grass with a large artificial pond area as well as what appears to be some small natural tributaries on Lot 2 DP 563612.
15. The subject site also contains an existing easements, a right to convey electricity and water in favour of Lot 1 DP 19933.
16. The site and immediate environment are within the Rural Environment Area and include a mix of large rural lots and lifestyle blocks varying in size.

17. The surrounding environment includes a mixture of large open spaces being utilised for traditional farming practices, with a small number of lifestyle blocks along Maude Road.
18. Overall, although there is a variety of lot size and use of land in the area it still provides an overall feeling of spaciousness, low density of buildings and structures, and enhanced by areas of vegetation.

<b>STATUTORY PROVISIONS AND STATUS OF THE ACTIVITY</b>
--

**National Environmental Standards**

19. Regulation 5(5) of the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES) describes subdivision as an activity to which the NES applies where an activity that can be found on the Ministry for the Environment Hazardous Activities and Industries List (HAIL) has occurred.
20. I have checked the TRC Selected Land Use register and NPDC’s record systems and there is no evidence that the site has contained an activity listed on the HAIL. Therefore the NES does not apply.

**Operative New Plymouth District Plan (2005)**

21. The New Plymouth District Plan (ODP) became operative on 15 August 2005.
22. Resource consent is not required under the ODP as the earthworks are listed as a permitted activity under Rule Rur60.

**Proposed New Plymouth District Plan (Notified 23 September 2019)**

23. The Appeals Version of the Proposed New Plymouth was released on 14 September 2023. At this point of time, all rules under the Appeals Version of the PDP have either legal effect (pursuant to s86B) or are treated as operative (pursuant to s86F).
24. The subject site is within the Rural Production Zone and is subject to a Statutory Acknowledgement (the Mangakotukutuku Stream).
25. The following rules of the Proposed District Plan are relevant to this proposal:

Rule #	Rule Name	Status of Activity	Comment
--------	-----------	--------------------	---------

EW-R13 Subject to appeal	Earthworks not otherwise provided for	Restricted Discretionary Activity	The proposed earthworks is related to a subdivision activity which falls under this Rule. The total volume of earthworks is 2477m <sup>3</sup> which exceeds the maximum permitted volume of 1,000m <sup>3</sup> . This Rule also requires compliance with the Earthworks Effects Standards which the assessment is below:
EW-S2 Subject to appeal	Maximum cut depth or fill height	Does not comply	The maximum permitted cut and fill depth/height is 1.5m which reduces to 0.5m within the building setback. Cuts and fills of more than 1.5m are proposed within the site. Cut and fill of more than 0.5m depth/height is proposed within 30 m of the road boundary and 15 m of the side boundary near the entrance of the site.
EW-S3 Subject to appeal	Site Reinstatement	Complies	Proposal complies with standard
EW-S4 Subject to appeal	Control of Silt and Sediment	Complies	Proposal complies with standard
EW-S5 Subject to appeal	Requirements for discovery of sensitive material during earthworks or land disturbance	Complies	Proposal complies with standard

26. The proposal is a restricted discretionary activity under the Proposed New Plymouth District Plan.

### **NOTIFICATION DECISION**

27. The Council as consent authority must follow the steps set out in the section below, in the order given, to determine whether to publicly notify an application for a resource consent (s95A(1)).

### **PUBLIC NOTIFICATION ASSESSMENT**

#### **Step 1: mandatory public notification in certain circumstances**

- The applicant has not requested that the application be publicly notified.

- The applicant has not refused to provide further information or refused to agree to commissioning a report under s95C.
- The application is not made jointly with an application to exchange recreation reserve land.

**Step 2: if not required by step 1, public notification precluded in certain circumstances**

- The application is not subject to a rule or national environmental standard that precludes notification.
- The application is not precluded from public notification as it is not a controlled activity nor a boundary activity landuse.

**Step 3: if not precluded by step 2, public notification required in certain circumstances**

- There is no rule or NES that requires public notification of the application.
- If the activity will have or is likely to have adverse effects on the environment that are more than minor the application must be publicly notified.

ASSESSMENT OF EFFECTS ON THE ENVIRONMENT  
Effects to be Disregarded (s95D(a-e))

28. The Council must disregard any effects on persons who own or occupy the land in, on, or over which the activity will occur; or any land adjacent to that land.
29. The permitted baseline has not been applied in this instance.
30. This consent is for a Restricted Discretionary activity and therefore Councils discretionary is restricted to the following matters:
  - *The extent to which the land disturbance or earthworks will compromise archaeological sites, sites and areas of significance to Māori or historic heritage and whether any adverse effects can be appropriately remedied or mitigated.*
  - *Whether the cut face and any retaining structures can be concealed behind development or effectively landscaped.*
  - *The potential to create new or exacerbate existing natural hazards, impact natural drainage patterns, redirect overland flow paths or flood flows or create instability, erosion or scarring.*
  - *Whether the earthworks are of a type, scale and form that is appropriate for the location and character of the zone, including the effects on visual amenity, and impacts on existing natural landforms and features.*
  - *Management of visual amenity effects through landscape treatment, site reinstatement and screening.*
  - *The management of the effects of dust, stormwater, sediment, noise and vibration.*

- *The control of vehicle movements to and from the site to manage effects on traffic safety and amenity.*
- *The effects of non-compliance with any Earthworks Effects Standards and any relevant matters of discretion in the infringed effects standards.*
- *The matters in EW-P3 to EW-P6.*

31. The Council must disregard trade competition and the effects of trade competition.

32. None of the adverse effects relate to trade competition.

33. The Council must disregard any effect on a person who has given written approval to the application.

34. Written approvals have not been provided for the land use consent however two written approvals were provided for the subdivision relating to this application.

#### Assessment of adverse effects on the Environment

35. The Council must publicly notify an application if it decides that the proposal will have or is likely to have adverse effects on the environment that are or are likely to be more than minor.

36. Earthworks associated with the activity to provide access to the site and preparation of the building platform have been detailed above under the proposal. There will be a total proposed fill of 1,712m<sup>3</sup> and 765m<sup>3</sup> of cut.

37. No sites of significance to Māori or archaeological sites recorded and identified in the PDP-AV are located on the application site or adjoining the application site.

38. The proposed earthworks to establish a metal driveway to proposed Lot 1 will include an vehicle access entering the site from Maude Road, the accessway will then cross the site in a northerly direction to connect to the proposed building platform. This alignment specifically avoids earthworks on the ridgeline landform and the driveway will be established through a low point prior to reaching the building platform. Metal tracks are common within the rural environment. The proposed metal driveway is proposed for a residential use but will have an ancillary use associated with agricultural for access to stock grazing for the paddocks within proposed Lot 1.

39. No retaining walls are required, all cuts and fills will be battered into the site. The metal driveway formation will be visible for a short section of Maude Road for north travelling traffic, the building platform earthworks will be concealed from Maude Road as a result of the topography of the site and existing vegetation.

40. There is a prominent ridgeline located on proposed Lot 1 which will be maintained through the proposed earthworks design which avoid this ridgeline . The ridgeline has been identified in the Bluemarble Landscape and Visual Impact Assessment.



The Bluemarble Addendum confirms that the earthworks proposed will have '*very low visual effects within this rural landscape*'.

41. The OneElevenSix Engineering report confirms that the subdivision and proposed earthworks will not create new or exacerbate existing natural hazards, impact natural drainage patterns, redirect overland flow paths or flood flows or create instability if the measures recommended within the report are followed. Council Development Engineer Rehan Ravi has agreed that subject to recommendations within the report the earthworks will not create new or exacerbate any of any of these types of effects.
42. The applicant has provided sediment and erosion control measures which sets out the methods in which stormwater will be managed during earthworks to ensure that sediment that may become entrained in stormwater does not leave the application site or enter any waterbodies.
43. Noise during construction, will comply with the construction noise standards and will be for a temporary duration. An excavator and a truck trailer will be used to form the access track and building platform, with the machinery remaining onsite until the works are completed. Any effects are considered to be no more than minor due to the temporary duration and small volume of works required.

### **Summary**

44. In my opinion the effects of the proposal are considered to be no more than minor on the environment.

### **Step 4: public notification in special circumstances**

45. The Council may choose to notify an application if it considers that special circumstances exist, even if the effects will be no more than minor or a rule or national environmental standards preclude notification (s95A(4)). Special circumstances are circumstances which are unusual or exceptional but may be less than extraordinary or unique. No special circumstances exist which warrant notification of the application. The proposal is for earthworks relating to constructing an accessway and building platform for a subdivision.
46. If the application is not required to be publicly notified, the Council must determine whether to limited notify the application under the four steps below, pursuant to section 95B.

Therefore, it has been determined that the application is not required to be publicly notified pursuant to section 95A(7)(a) of the RMA.

## LIMITED NOTIFICATION ASSESSMENT

### Step 1: certain affected group and affected persons must be notified

47. The Consent authority must determine if there are any:
- (a) affected protected customary rights groups; or
  - (b) affected customary marine title groups (in the case of a resource consent application for an accommodated activity).

I consider that no persons are an affected protected customary rights group or customary marine title group.

48. The Consent authority must determine:
- (a) whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in Schedule 11; and
  - (b) whether the person to whom the statutory acknowledgement is made is an affected person under section 95E.

49. The Mangakotukutu Stream is part of the statutory acknowledgement to Te Atiawa. A copy of this landuse application has been sent to Te Atiawa on 9 April 2024. No comment has been received from Te Atiawa at the time of preparation of this report. It is noted that the subdivision consent application was sent to Te Atiawa for their comment when it was received Te Atiawa replied on 14/2/23 with the following comments which related to the subdivision consent which included :

- a) The existing fencing and planting adjacent to the tributary within proposed Lot 3 traversing the property shall be retained, maintained, protected and enhanced in perpetuity.
- b) Appropriate silt and sediment control measures in place during the construction of building platform within proposed Lot 1.
- c) No mitigation measures are proposed for the proposal with regard to rural character. We assume the typical design measures will be recommended.
- d) No assessment of the matters to be considered under rule Rur78 has been undertaken. We consider matters (16) and (31) to be of particular interest.
- e) No Part 2 of the Resource Management Act 1991 assessment has been undertaken. We consider sections 6(e), 7(a) and 8 to be most relevant.
- f) No assessment of the higher order planning documents has been undertaken, including the Regional Policy Statement for Taranaki, the Regional Freshwater Plan for Taranaki and the National Policy Statement for Freshwater Management.
- g) No assessment of Tai Whenua, Tai Tangata, Tai Ao has been undertaken.

50. Comment b) above which requests appropriate silt and sediment control is relevant to the land use consent application. I consider that appropriate silt and sediment control will be undertaken as per the Earthworks Plan provided with the application. These measures will mitigate effects of the earthworks on the

Statutory acknowledgment area. Iwi have also commented directly on the effects of the earthworks relating to the subdivision which I have assessed in Step 3 below.

51. In this instance measures are proposed to safeguard the waterbodies within this site from the proposed earthworks. I consider that regard has been given to recognising and providing for the relationship of Maori, their values, culture and traditions and particularly their association with water. Therefore I am satisfied that the effects on Te Atiawa will be less than minor.

**Step 2: if not required by step 1, limited notification precluded in certain circumstances**

52. The application must not be limited notified if it meets any of the criteria below:
1. the application is for a resource consent for 1 or more activities, and each activity is subject to a rule or national environmental standard that precludes limited notification.
  2. the application is for a resource consent for either or both of the following, but no other, activities:
    - (a) a controlled activity other than a subdivision of land;
    - (b) a prescribed activity (see s360H(1)(a)(ii)).

There is no rule or National Environmental Standard that precludes limited notification of the application and the application is not for a controlled activity or a prescribed activity under Step 2.

**Step 3: if not precluded by step 2, certain other affected persons must be notified**

53. The Council must determine whether there are any affected persons in accordance with s95E, including:
1. in the case of a boundary activity, an owner of an allotment with an infringed boundary; and
  2. a prescribed person in the case of any activity prescribed under s360H(1)(b).

**ASSESSMENT OF AFFECTED PARTIES**

Parties not Affected (s95E(2)(a-b)&(3))

54. The Council may disregard an adverse effect of the activity on the person if a rule or NES permits an activity with that effect.
55. In the case of a controlled activity or restricted discretionary activity, the Council must disregard an adverse effect of the activity on the person that does not relate to a matter for which a rule or NES reserves control or restricts discretion.

56. As discussed under paragraph 29 above, Council has reserved its discretion to certain matters.
57. The Council must decide that a person is not an affected person if the person has given their written approval to the activity and has not formally withdrawn the approval.
58. Written approvals have not been received for the land use consent.

*Tangata whenua*

59. No sites of significance to Māori or archaeological sites recorded and identified in the PDP-AV are located on the application site or adjoining the application site. The site is subject to a Statutory Acknowledgement (the Mangakotukutuku Stream).
60. The applicant undertook consultation with Ngāti Tawhirikura and Ngāti Te Whiti Hapu in line with Policy EW-P3, the following comment was received:

*"On behalf of Ngāti Tawhirikura and Ngāti Te Whiti, we are comfortable with the proposed earthworks based on the sediment and silt controls (identified in the A3 erosion and sediment control plan) that will be put in place to prevent it entering waterbodies in the vicinity of the activity."*

61. Due to the above comment and the mitigation proposed within the application I am satisfied that effects on Hapu are less than minor in regard to the proposed earthworks.

*Lot 1 DP 19933 - 335 Maude Road*

62. Written approval has not been obtained from the owners/occupiers of Lot 1 DP 19933, Donald Murray and Martine Kotenko. These persons own the block of land, which contains a dwelling, directly adjacent to the subject site.
63. The subdivision consent was limited notified to the owners/occupiers of 335 Maude Road and a submission was received opposing the subdivision.
64. The potential adverse effects associated with the earthworks to construct an accessway and building platform will be land instability, erosion and sediment runoff and visual effects.
65. The applicant has provided an Earthworks Plan that includes erosion and sediment control measures with the application. The erosion and sediment control plan which will be certified before works commence and will ensure that dust and sediment runoff will be managed in such a way that it will not escape onto adjacent land.
66. The earthworks are away from the site boundaries. Therefore the works will not create any potential risk of instability on 335 Maude Road.

67. A landscape mitigation plan and Landscape Addendum has been prepared by Blue Marble for the purpose of mitigating potential adverse visual effects on the amenity values of the owners and occupiers at 335 Maude Road. This mitigation plan includes proposed planting which will successfully provide visual screening of all access driveway areas and the building platform earthworks (considering a mature established height of landscape planting which Blue Marble confirms will be achieved after 10 years of growth). The landscape addendum considers that the proposal will have very low effects (less than minor) on visual amenity of adjacent properties.
68. An excavator and a truck trailer will be used to form the access track and building platform, with the machinery remaining onsite until the works are completed therefore mitigating effects on traffic safety and effects of traffic on amenity.
69. For these reasons, I am satisfied that the effects of the earthworks on the owners and occupiers of 335 Maude Road will be less than minor.

291 Maude Road – Lot 1 DP 563612

70. Written approval was obtained from the owners/occupiers of 291 Maude Road for the subdivision component of the application, which included an approximate building location. However due to the land use consent application occurring after the subdivision application I cannot consider the written approval was also provided for the earthworks land use consent. These persons own the block of land, which contains a dwelling, directly east of the subject site.
71. The potential adverse effects associated with the earthworks to construct an accessway and building platform will be land instability, erosion and sediment runoff and visual effects.
72. The applicant has provided an Erosion and Sediment Control Plan with the application. The erosion and sediment control plan which will be certified before works commence and will ensure that dust and sediment runoff will be managed in such a way that it will not escape onto adjacent land.
73. The earthworks are away from the site boundaries. Therefore the works will not create any potential risk of instability on 291 Maude Road.
74. An excavator and a truck trailer will be used to form the access track and building platform, with the machinery remaining onsite until the works are completed therefore mitigating effects on traffic safety and effects of traffic on amenity.
75. The Blue Marble report states that the fill area on the northern side of the building platform will only be materially visible (as a peripheral view) from the dwelling at 291 Maude Road, the access will not be visible. This fill batter will be vegetated or landscaped and will blend in with the surrounding environment and dwelling (which written approval was provided for as part of the subdivision) therefore any

effects of the earthworks on persons associated with 291 Maude Road are less than minor.

Other Parties

76. There are no other persons associated with properties that have views into or that would be considered affected by the proposed earthworks.

**Step 4: further notification in special circumstances**

77. The Council must determine whether special circumstances exist in relation to the application that warrant it being limited notified to parties not already identified above (excluding persons precluded from notification under s95E).
78. No special circumstances exist that warrant further notification of the application.

Therefore, it has been determined that the application is to be processed on a **non notified** basis in accordance with section 95B.

**Report and decision by:**

Anna Johnston  
ENVIRONMENTAL PLANNER

**Date:** 11/4/24