



**Appendix 1: Notification of Subdivision Consent**

**NOTIFICATION REPORT AND NOTIFICATION DECISION  
SUB22/48271**

<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 a two lot rural subdivision
<b>Status:</b>	Operative District Plan: Discretionary Activity Proposed District Plan: Discretionary Activity
<b>Date consent application received:</b>	28 October 2022

**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 subdivide Lot 1 DP 521015, 373 Maude Road into two lots (as detailed in Figure 1) and one lot to vest as road. The subdivision will result in:
  - Lot 1, of 2.7 ha,
  - Lot 2, of 200m<sup>2</sup> (Road to vest) and
  - Lot 3, of 4.2 ha.

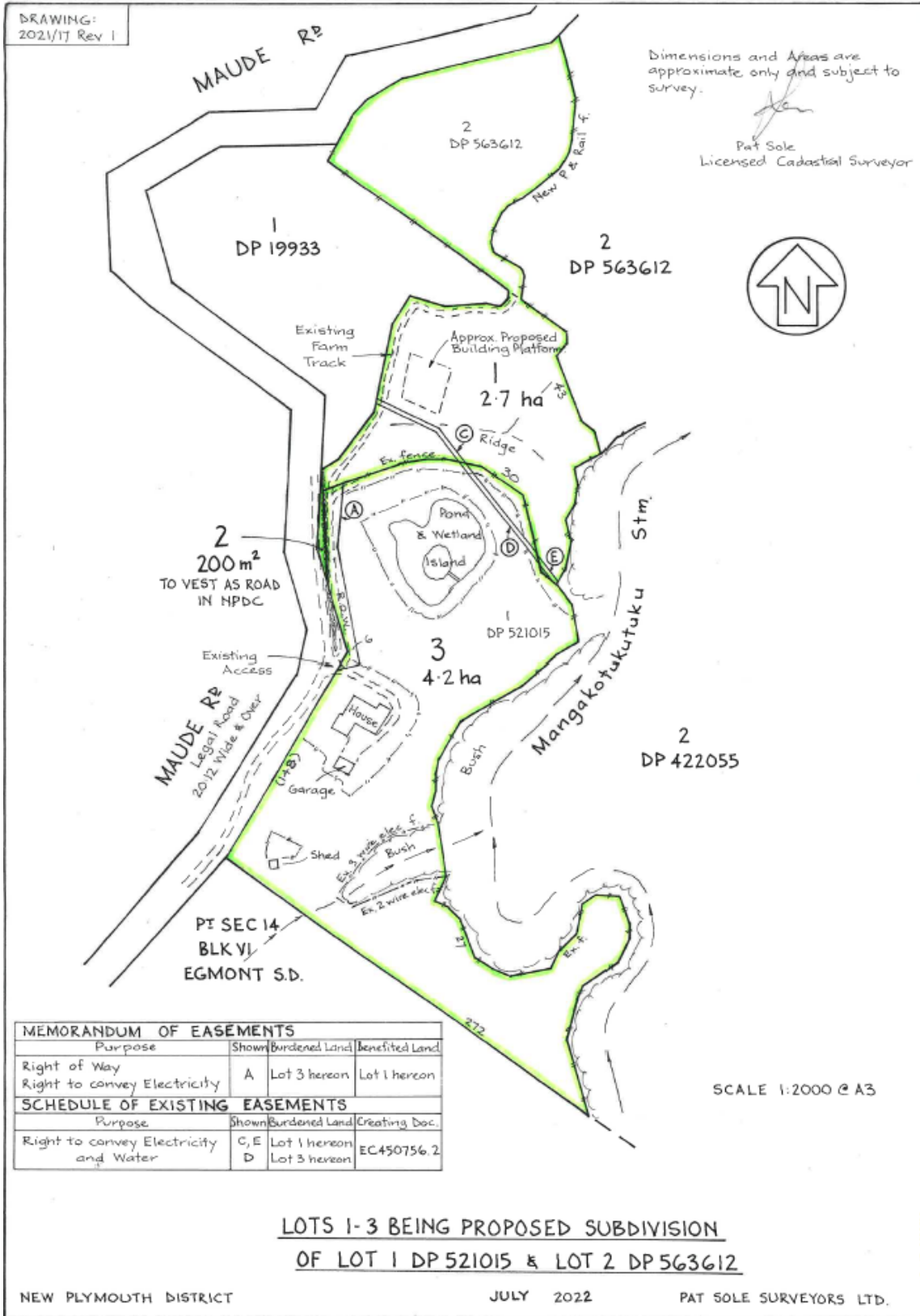


Figure 1. Proposed two lot subdivision

3. As detailed in the application there are no reticulated services in the vicinity of the proposed subdivision, there is one existing dwelling on the site which is serviced to a rural standard.
4. Any future building erected on proposed Lot 1 will utilise on-site servicing. This will include rainwater collection for a potable water supply, sewage disposal via septic tank and soakage field system and excess stormwater disposed of to ground by way of soak holes.
5. It is proposed that access to proposed Lot 1 will be from the existing vehicle crossing serving the existing dwelling on Lot 3 by right of way.
6. A consent notice applies to Lot 2 DP 563612 related to location and number of dwelling, this subdivision does not propose any activity in this area.

#### **ADEQUACY OF THE APPLICATION**

7. The applicant has provided an assessment of effects of the activity on the environment (AEE).
8. The AEE concluded that the actual and potential effects of the proposed subdivision 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. However, as the written approval from the owners/occupiers of 335 Maude Road (Lot 1 DP 19933) has not yet been obtained the applicant has requested that the application be Limited Notified to these owners.
9. 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**

10. It has been determined that no further resource consents under the RMA are necessary for the proposal.

#### **SITE AND SURROUNDING ENVIRONMENT**

##### **Site Description**

11. I carried out a site visit on 19 December 2022.

12. 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.
13. 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 wetland and pond area as well as what appears to be some small natural wetlands on Lot 2 DP 563612.
14. The subject site also contains an existing easements, a right to convey electricity and water in favour of Lot 1 DP 19933.
15. As detailed in the application these easements are not proposed to be altered as a result of the proposed subdivision.
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.

## **STATUTORY PROVISIONS AND STATUS OF THE ACTIVITY**

### **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 (District Plan) became operative on 15 August 2005. The subject site is within the Rural Environment Area and is subject to a Statutory Acknowledgement (the Mangakotukutuku Stream).

22. The following District Plan rules are relevant to the subdivision consent application:

- Rur76 - An increase in the number of lots served by a ROW – The proposed subdivision will create a ROW serving 2 lots, which was previously an accessway serving 1 lot.
- Rur78 - Minimum allotment size – The proposed subdivision will subdivide the second lot no less than 4000m<sup>2</sup> from the parent title(s) with a balance area remaining from the computer freehold register subject to subdivision that exceeds 4 ha in area.
- Rur79 - Requirement to provide practicable vehicular access from a road – Controlled Activity.
- Rur81 - Requirement for services – stormwater disposal, water supply and sewage disposal – Controlled Activity.
- Rur82 - Requirement for a building platform - Controlled Activity.
- Rur83 – Requirement for existing buildings to meet standards in relation to new boundaries –Controlled Activity.

### Activity Status

23. In circumstances where there are differing activity statuses, the most severe applies in determining overall activity status. The proposal is therefore a discretionary activity under the Operative New Plymouth District Plan being the highest status under the above Operative Plan.

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

24. The Proposed District Plan was notified on 23 September 2019. The land is proposed to be zoned as Rural Production Zone.
25. No decisions have yet been made on the Proposed Plan.
26. The following rules of the Proposed District Plan relevant to this proposal have immediate legal effect:

Rule #	Rule Name	Status of Activity	Comment
WB-R5 (Effects standard SUB-S09)	Subdivision of land containing or adjoining a waterbody. Where subdivision of land creates an allotment of less than 4 hectares which adjoins or contains a waterbody, an esplanade reserve or esplanade strip of 5 metres or more in width shall be provided	Restricted Discretionary Activity	The Mangakotukutuku Stream, which is identified as a Waterbody under the Proposed District Plan, adjoins the eastern boundary of the site. Effects Standard SUB-09 is not complied with as there is an allotment less than 4 hectares is created that adjoins a waterbody. No

	along the bank(s) of the waterbody.		esplanade strip has been proposed.
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## **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 a restricted discretionary rural subdivision.

### **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. Section 104(2) provides discretion to apply the permitted baseline. Section 104(2) of the RMA provides that when forming an opinion about whether there are any actual or potential effects on the environment of the following activity, the consent authority:

*"may disregard an adverse effect of an activity on the environment if a national environment standard of the plan permits an activity with that effect".*

30. The permitted baseline has not been applied in this instance.
31. This consent is for a Discretionary activity and therefore Councils discretionary is not restricted.
32. The Council must disregard trade competition and the effects of trade competition.
33. None of the adverse effects relate to trade competition.
34. The Council must disregard any effect on a person who has given written approval to the application.
35. Written approval have been received from the following owners/occupiers and therefore the effects on these owners has been disregarded:
  - George Swan, Hua & Waiwakahio HUND
  - Grant Meddings, Lot 2 DP 563612

#### Assessment of adverse effects on the Environment

36. Adverse effects on the environment considered in this assessment relate to:
  - Rural Character and Amenity; and
  - Transport Effects.

#### Rural Character and Amenity

37. 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, except for any public notification preclusions or adverse effects to be disregarded as discussed above.
38. I consider the following adverse effects on the environment that will or are likely to result from the proposal are as follows:
39. Since the parent title (5 March 1999) there has been one allotment subdivided off the parent title that was less than 20ha. The proposed two lot subdivision will therefore result in a second allotment (less than 20ha but not less than 4000m<sup>2</sup>) from the parent title.
40. The subdivision is within the Rural Environment Area. Rural character includes the key elements of spaciousness, low density, vegetated, production orientated, working environment, rural based industry and rural infrastructure. The proposal will increase the density of the area by creating an additional rural lifestyle allotment (Lot 1). Proposed Lot 1 currently contains no buildings, however it is anticipated that it will be developed in the future. Proposed Lot 3 contains an existing dwelling.



41. The surrounding environment consists predominantly of larger rural allotments, apart from a number of small lots on Maude Road. As detailed in the application by maintaining the balance lots it allows for farming activities to continue if desired and amenity values of the area can be maintained.
42. The expectation of retaining rural character is identified in the Operative District Plan through its objectives, policies and rules. Rural land within the district is an important resource and the Operative District Plan aims to ensure that the character of the rural environment is maintained both to protect amenity values and to promote the sustainable management of rural resources over the long term.
43. The purpose of rural character is to retain open space and visual characteristics of the rural environment through appropriate subdivision and land use activity. It is important that the density is such that the visual and open space characteristics of the rural area is maintained.
44. Rural character is defined in the Operative District Plan as *'the combination of elements that make an area 'rural' rather than 'urban'. Rural areas are typically distinguished by a dominance of openness and rural practices over manmade structures not related to the primary use. Rural character includes the key elements of spaciousness, low density, vegetated, production orientated, working environment, rural based industry and rural infrastructure. The elements of rural character are further defined under these categories in the reasons to issue 4.'*
45. People's appreciation of that rural character is rural amenity. The RMA defines amenity values as *'those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes'*.
46. I consider that this application is able to uphold the values associated with rural amenity and any adverse effects will be no more than minor. Any effects on the environment that will or are likely to result from the proposal are localized to the adjoining properties.
47. All allotments are able to be serviced (stormwater disposal, water supply and sewage disposal) in accordance with the requirements of Appendix 22.2.

#### Transport effects

48. As detailed in the application vehicle access to proposed Lot 1 will be via the existing vehicle crossing from Maude road which will become a ROW servicing Lot 1 and 2.
49. The proposed subdivision is not considered to result in a change in adverse effects on the wider roading network as the crossing to be used for both Lots 1 and 2 is existing and meets the requirements of Appendix 23 of the District Plan.

50. It is considered that Maude Road and the wider roading network has the capacity to absorb any additional traffic movements associated with this subdivision. Overall, I consider that the proposal will not adversely affect the traffic safety or efficiency of the area in a manner that is more than minor.

Waterbody effects

51. The Mangakotukutuku Stream borders the site. The waterbody is clear of any proposed new boundaries and no earthworks or development is proposed in these locations as part of the subdivision. In this regard any adverse waterbody effects would not be more than minor on the environment.

Therefore, it has been determined that overall the adverse effects of the proposal on the environment will be no more than minor and the application is not required to be publicly notified pursuant to section 95A(7)(a) of the RMA.

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

52. 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 a subdivision of an existing freehold rural allotment into two lots.
53. If the application has not been publicly notified, the Council must determine whether to limited notify the application under the four steps below, pursuant to section 95B.

**LIMITED NOTIFICATION ASSESSMENT**

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

54. 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.

55. 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.

It has been determined that the proposed activity is not located on or adjacent to, nor will affect, a statutory acknowledgement area.

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

56. 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 other than subdivision of land or a prescribed activity under Step 2.

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

57. 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))

58. The Council may disregard an adverse effect of the activity on the person if a rule or NES permits an activity with that effect.
59. 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.
60. As discussed under paragraph 35 above, no matter over which Council has not reserved its control or discretion has been considered.

61. 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.
62. Written approvals have been received from the following owners/occupiers and therefore the effects on these owners has been disregarded:
  - George Swan, Hua & Waiwakahio HUND
  - Grant Meddings, Lot 2 DP 563612

#### Lot 1 DP 19933

63. 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.
64. I have considered the effects of the proposed intensification of land due to subdivision and subsequent effects on amenity values, outlook and privacy primarily on the owners/occupiers of Lot 1 DP 19933. The applicant has already identified that the effects on this person as minor and has requested limited notification be served on the owners of Lot 1 DP 19933. The existing dwelling on Lot 1 DP 19933 is setback approximately 60m from proposed Lot 1. Despite the setback, the building platform on Lot 1 is elevated above Lot 1 DP 19933 and therefore the new lot will potentially be visible to persons from the dwelling and associated residential curtilage. The outlook of the dwelling is primarily to the north, however the residents will experience some visual effects due to the proposed subdivision. Further the applicant has not proposed any mitigation measures (i.e landscaping or building platform/layout considerations) to reduce the adverse visual effects of the subdivision on the surrounding rural environment, particularly, Lot 1 DP 19933.
65. For the above reasons, I am in agreement with the applicant, that the proposed two lot subdivision will result in minor effects on the amenity and outlook of Lot 1 DP 19933.

#### Other Affected Persons

66. Effects have been considered on all adjoining owners/occupiers beyond those that have provided their written approval. The subdivision is within the Rural Environment Area. The size of the proposed lots are as anticipated in the District Plan. The overall density of the development is anticipated in the area, rural character and amenity can be maintained, and the larger Lot 3 can continue operating for farming purposes as productive rural land. No other persons are considered to be affected by the proposed subdivision development.

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

67. 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).
68. 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 **limited notified** basis in accordance with section 95B, and that notice of the application be served on all persons identified in paragraph 70 above.

**Report and decision by:**

Anna Johnston  
ENVIRONMENTAL PLANNER

**Date:** 10 Jan. 23