

## ATTACHMENT B - NOTIFICATION REPORT & DECISION



Te Kaunihera-ā-Rohe o Ngāmotu

# New Plymouth District Council

## PLANNER'S REPORT & RECOMMENDATION PURSUANT TO SECTIONS 95A & 95B OF THE RESOURCE MANAGEMENT ACT 1991

### TO THE PRINCIPAL PLANNER

### IN RESPECT OF A VARIATION TO RESOURCE CONSENT SUB22/48035

Summary of Application Details	
<b>Application Number:</b>	SUB22/48035.03
<b>Applicant:</b>	Heinrich and Sophie Fourie
<b>Owner:</b>	Heinrich and Sophie Fourie
<b>Site Address:</b>	263 Weld Road Lower, Oakura
<b>Legal Description:</b>	<p>Lot 2 DP 582431 - <i>ROT: 1090181 - Relevant Interests:</i></p> <ul style="list-style-type: none"><li>• Land covenant in easement instrument 7784375.1</li><li>• 96756762.2 – Subject to a right to convey water over part marked D on DP 582431</li><li>• Land covenant in easement instrument 1256106.5 affecting part marked X on DP 582431</li><li>• Land covenant in easement instrument 1256106.6 affecting part marked Y on DP 582431</li><li>• 12565106.1 - Consent Notice pursuant to Section 221 of the Resource Management Act 1991</li></ul>
<b>Site Area:</b>	4.1574 hectares
<b>Proposal:</b>	<p>The owner seeks to vary a condition specified in consent notice 12565106.1 pursuant to section 221(3)(a) of the Resource Management Act 1991 to provide for the alteration of a consent notice extent on the site related to a habitable dwelling location, such that the location of the consent notice extent will be in a different position to that currently imposed as follows:</p> <p><i>A maximum of one habitable dwelling shall be permitted on Lot 2 LT 582431. This building shall be located within the Area marked 'Z' on Lot 2 LT 582431. The habitable building shall not be erected outside of the Area marked 'Z' on Lot 1 LT 582431</i></p> <p>such that it will read:</p> <p><i>A maximum of one habitable dwelling shall be permitted on Lot 2 LT 582431. This building shall be located within the Area marked '<b>Z' 'A'</b>' on Lot 2 LT 582431 <b>as shown on the Site Plan by BTW Company, Drawing No. 230274-SU-01, Sheet 1, Rev B.</b> The habitable building shall not be erected outside of the Area marked '<b>Z' 'A'</b>' on Lot <del>1</del> <b>2</b> LT 582431.</i></p> <p>Note there is an administrative change required also to correct an error in the lot reference such that the reference should be to Lot 2, not Lot 1.</p>
<b>Operative District Plan:</b>	<p><b>Zone:</b> Rural</p> <p><b>Overlays:</b> Weld Road - Roding hierarchy: Rural Local Road</p>

Summary of Application Details Continued	
<b>Proposed District Plan (Appeals Version):</b>	<b>Zone:</b> Rural Production <b>Overlays:</b> Weld Road - Rooding hierarchy: Local Road
<b>Land Use Capability Classification</b>	NZLUC Class 4e-2 and 1c-2
<b>Status:</b>	An application for a variation or cancellation to a consent notice under section 221(3) of the Resource Management Act 1991 is assessed in a discretionary manner

## INTRODUCTION

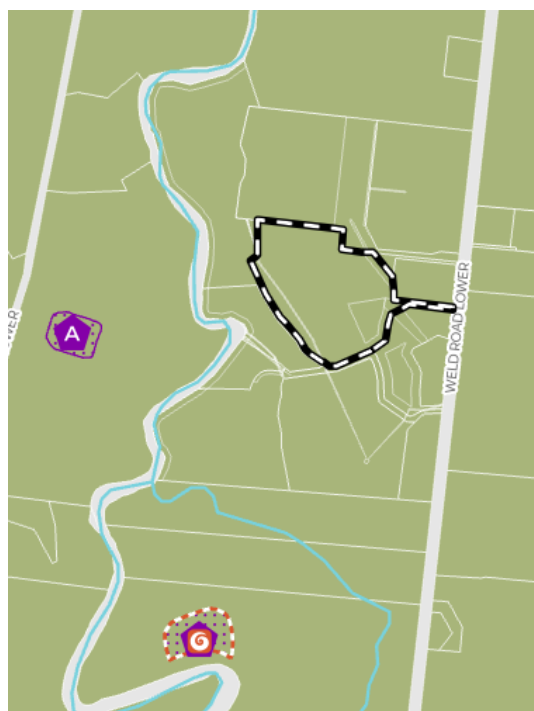
### Application and Legislative Clarification

1. This report has been prepared pursuant to sections 95A, 95B, 221(3A), and 127(4) of the Resource Management Act 1991 (**RMA**).
2. It relates to an application to vary a condition specified in consent notice 12565106.1 imposed on the Record of Title of Lot 2 DP 582431, being 263 Weld Road Lower, Oakura (**site**), as a condition (Condition 15) of subdivision consent SUB22/48035.
3. Section 221(3) of the RMA affords an owner the right at any time after the deposit of the survey plan to apply to a council to vary or cancel any condition specified in a consent notice.
4. A change to Condition 15 of subdivision consent SUB22/48035, being the condition which imposed the requirement for the consent notice, cannot be and is not applied for, as in relation to subdivision consents this can only occur under section 127 (RMA) before the survey plan is deposited.
5. Sections 88 to 121 and 127(4) to 132 of the RMA apply to applications to vary or cancel the consent notice, with all necessary modifications (section 221(3A) RMA).
6. For the avoidance of doubt, unless the context requires otherwise, any reference in this report to 'application' shall be taken to mean an application to vary a consent notice under section 221 of the RMA.

### New Plymouth District Plan

7. The Proposed New Plymouth District Plan (**Proposed Plan**) was publicly notified in September 2019. Following submission periods and hearings, the recommended decisions of an Independent Hearings Panel, contained in a series of 38 recommendation reports, were adopted by Council on 2 May 2023. The Proposed Plan (Decisions Version) was publicly notified on 13 May 2023.
8. Between 13 May and 26 June 2023, the provisions of the Proposed Plan (Decisions Version) had legal effect alongside the Operative New Plymouth District Plan 2005 (**Operative Plan**) provisions. From 26 June 2023:

- a. if a particular provision in the Proposed Plan (Decisions Version) is subject to an appeal, the relevant provision in the Operative Plan remains applicable in addition to the Proposed Plan (Decisions Version) until such time as that appeal is determined or withdrawn; and
  - b. any provision of the Proposed Plan (Decisions Version) that is not subject to an appeal is treated as operative and the Operative Plan is no longer applicable in respect of those provisions in accordance with section 86F of the RMA.
9. New Plymouth District Council (**Council**) has released a Proposed Plan (Appeals Version) which identifies and annotates those provisions that are subject to an appeal(s) filed in the Environment Court and Council's current understanding (as of 14 September 2023) of the scope of relief sought. As each appeal progresses and is withdrawn, resolved, or determined, the parts of the Proposed Plan that are subject to appeal will change. The Proposed Plan (Appeals Version) is a 'living' document as it will change as appeals are resolved. I have relied on this version of the Proposed Plan to the extent as identified in the following assessment.
10. The zoning and overlays applying to 263 Weld Road Lower (**the site**) are not identified in the Proposed Plan (Appeals Version) as being subject to appeal. The site as identified in the Proposed Plan (Appeals Version) is outlined and black in Figure 1 below.
11. Although this application is one that relates to a change to an existing subdivision consent condition, a review of the Subdivision District Wide Matters and Dwellings / Residential Units within the Rural Production Zone in the Proposed Plan (Appeals Version) identified objectives, policies, and standards relating to subdivision in the Rural Production Zone as being subject to appeal. Given this, where any reference to the objectives, policies, or rules / standards for subdivision are required in this report, consideration will also be given in respect of the Operative Plan as provided by section 86F of the RMA, otherwise all other considerations will be limited to the Proposed Plan (Appeals Version).



**Figure 1: The Site**

(Source: Council's Proposed Plan (Appeals Version) Emap)

## PROPOSAL

12. The owner wishes to vary consent notice 12565106.1 in part as it relates to Lot 2 DP 582431, under Record of Title 1090181.
13. The application seeks to provide for the alteration of a consent notice extent on the site related to a habitable dwelling location, such that the location of the consent notice extent will be in a different position within the site to that currently imposed.
14. In addition to, and because of, the above, it has been identified that the consent notice also contains an administrative error in that the final sentence of the consent notice condition refers to Lot 1, rather than to Lot 2. Changing the reference to Lot 2 results in the consent notice condition to be correct.
15. The changes are as follows (strikethrough for deletion and bold for addition):

### Change to consent notice 12565106.1

*A maximum of one habitable dwelling shall be permitted on Lot 2 LT 582431. This building shall be located within the Area marked 'Z' **'A'** on Lot 2 LT 582431 **as shown on the Site Plan by BTW Company, Drawing No. 230274-SU-01, Sheet 1, Rev B.** The habitable building shall not be erected outside of the Area marked 'Z' ~~on Lot 1~~ **on Lot 2** LT 582431.*

16. The proposed (revised) consent notice extent is delineated as 499.8m<sup>2</sup> (17 x 29.4 metres). It encompasses an existing building (a shed recently converted to and occupied as a dwelling) on the site, being approximately 192m<sup>2</sup> (11.775 x 16.325 metres). The existence of an existing building has compounded matters and as such for clarity, it is important to record here that this application only relates to seeking to move the location of the consented dwelling (stipulated in the consent notice) extent from one position within the site to another. The relationship of the consent notice and the existing converted shed is a separate matter and is addressed later in this report.
17. The reasons given for the application by the applicant are as follows:
  - a. To allow the building platform to be moved so an existing shed on the site can be converted into a dwelling.
  - b. The location is more practicable in terms of driveway access and reduces the quantity of earthworks and cut faces required in comparison to the current area set for the habitable dwelling.

## SITE DESCRIPTION

18. The Applicant in Section 1 'Introduction', which can be found on pages 3 and 4 of the application documentation titled: Proposed Amendment to Consent Notice – Change in Location of Permitted Dwelling Platform (SUB22/48035), dated 27 August 2024 (**application documentation**), has provided:
  - a. a description of the proposal,
  - b. detail of the changes to the consent notice, and

c. an overview description of the site and its surroundings.

19. I undertook a site visit on Friday, 4<sup>th</sup> October 2024. As a result of my site visit, I provide the following regarding the site which expands on that contained within the application documentation.
20. The site is located on the western side of Weld Road Lower approximately 2.6 kilometres north of Weld Road Lower intersection with South Road (SH45). The site is shown in Figure 2 below by the black and outline. Access from Weld Road is achieved via an excavated and formed (circa 2023) winding driveway, which can be seen in the aerial image in Figure 3 below.



**Figure 2: Site Location**

(Source: Proposed New Plymouth District Plan – Appeals Version - EMaps)



**Figure 3: Site Layout**

(Source: BTW Company Site Plan supporting application)



21. The site is elevated at the Weld Road Lower entrance and an upper tier exists on the eastern reaches of the site. As the driveway winds down beyond the reaches of the properties either side of the site at the Weld Road Lower entrance, the site opens to a larger flat paddocked area.
22. In the north-west of the site, as shown in Figure 3 above and Photographs 1 and 2 below, are established buildings and structures, consisting of:
- a shed,
  - two above-ground water tanks located immediately west of the shed, and
  - a building to the north of the shed, referenced in the application documentation as a 'shed', which on visiting the site was in conversion to a dwelling whereby part of the veranda area was also enclosed.



**Photo 1: Site**

(Source: Site visit - taken from the right-of-way to the south of the site)



**Photo 2: Buildings and Water Tanks (insert) on Site**

(Source: Site visit – taken from on-site)

23. Council officers have advised that after my site visit, they have received verbal confirmation from the Applicant that the conversion of the shed to a dwelling has been completed and the

building is now occupied as a residence. For the purposes of this report any reference to this building will be as the 'converted shed'.

24. There is established vegetation primarily around the perimeter of the site, some of which has been recently planted at the time of my site visit. The remaining ground cover is pasture. Fencing and tracks have also been established. These can all be seen in Photo 1 above.
25. The site is not clearly visible when travelling along Weld Road Lower due to the elevated level of the road above the site, rolling topography, and established road frontage vegetation and buildings fronting Weld Road Lower. During my site visit I drove down a right-of-way to the south of the site, serving approximately seven other dwellings / properties, where the site and existing buildings were visible, refer Photo 1 above.
26. The site is located within the Rural Production Zone of the Proposed Plan (Appeals Version) and is not subject to any overlays.
27. There are two Land Use Capability Classifications (**LUC**) that apply to the site, LUC Class 4e-2 and 1c-2 as mapped by the New Zealand Land Resource Inventory (**NZLRI**). The LUC Class 4 applies to that part of the site where the buildings are located, the flat and lower extent of the site, with the LUC Class 1 applying to that portion of the site that is elevated. Refer Figure 4 below.



**Figure 4: NZLRI Classifications**

(Source: Taranaki Regional Council – Property Information Map)

28. Council and Taranaki Regional Council's records do not identify potential activities occurring on or within the vicinity of the site as set out in the Hazardous Activities and Industries List (**HAIL**) set by the Ministry for the Environment.

## **SURROUNDING ENVIRONMENT**

29. As noted in paragraph 18 above, an overview description of the surrounding environment is provided in Section 1 'Introduction' (pages 3 and 4) of the application documentation.



30. The site is enveloped by nine other rural lifestyle properties, the majority of which are developed and in addition to open space and established vegetation, contain dwellings and accessory buildings.
31. Those properties having frontage to Weld Road Lower (east of the site) and to the south / south-west tend to be elevated or rise to an elevated position above the site, whilst those to the north, west, and north-west of the site, tend to be either level or at a lower level to the site.
32. Approximately 100 metres from the western boundary of the site is the meandering Timaru Stream.
33. Weld Road Lower is a 'local road' within the Proposed Plan (Appeals Version) with a posted speed limit of 100 km/hr in the vicinity of the site.

### **ADEQUACY OF THE APPLICATION**

34. The application lodged with Council on Monday, 26 August 2024. Due to not being engaged by Council until Friday, 27 September 2024, the ten working days under section 88 of the RMA had lapsed, the application was deemed as having been accepted and any matters were addressed in relation to section 92 (further information required) of the RMA.
35. A request for further information (**RFI**) was issued Wednesday, 9 October 2024, following the site visit, which placed the application processing on hold, requesting information relating to:
  - a. Provision of:
    - i. a detailed landscape plan for that landscaping already completed on the site,
    - ii. a dimensioned site plan accurately reflecting the constructed access / driveway to and all buildings on the site (including distances to site boundaries),
    - iii. building(s) floor plans reflecting those as physically on the site, and
    - iv. elevations of all buildings.
  - b. Confirmation of the location and extent of the proposed dwelling consent notice area.
  - c. Details of the earthworks undertaken in respect of establishing the existing building platform extent and vehicle access from Weld Road Lower to the building platform extent.
  - d. An assessment of environmental effects that addresses:
    - i. the site as physically exists with respect to the proposed consent notice extent, including the above matters,
    - ii. explains, provides evidence, of how the other consent notices relating to the site have been met / satisfied, and
    - iii. completing the 'Cultural and Heritage Sites of Significance' assessment within Section 3 of the application documentation.
36. The applicant sought an extension to the end of January 2025 to respond to the RFI. Council in an email on 6<sup>th</sup> November 2024 advised the Applicant's agent it considered such request to be too extensive due to:

- a. The information requested in the RFI was not onerous,
  - b. The RFI pertained to information relating to an existing physical situation on-site where such information should therefore be readily available, and
  - c. No justification was given as to why it would take overall four months to collate the information requested.
37. Given the above, Council advised that pursuant to section 92A(2)(b) of the RMA, the RFI was to be responded to no later than Friday, 29 November 2024. The RFI was responded to on Wednesday, 27 November 2024.
38. The application documentation and following plans, technical documents, and correspondence support the application:
  - a. Application documentation titled: Proposed Amendment to Consent Notice – Change in Location of Permitted Dwelling Platform (SUB22/48035), dated 27 August 2024, and prepared by Hansen Enterprises Taranaki Limited,
  - b. Landscape Memo, dated August 2024, Rev 1 (revised 1st October 2024), prepared by Bluemarle, and lodged with Council 1 October 2024 (**Landscape Memo**),
  - c. Site Plan, Ref: 230274-SU-01 Sheet 1 Rev B, dated 26 November 2024, and prepared by BTW Company (**site plan**),
  - d. Suite of building plans as lodged for building consent which reflect a shed and not the physical converted shed (dwelling) established on the site, last stamped BC23/132234-2 NPDC Approved Amendment, dated 4 March 2024, and prepared by Hill Design Engineering Ltd (**building plans**),
  - e. Geotechnical Assessment Report, Doc ID: 230274 Rev A, dated 1 June 2023, and prepared by BTW Company, and
  - f. Section 92 Response, dated 27 November 2024, and prepared by Tanya Hansen.
39. The application documentation and plans, technical documents, and correspondence set out above refer to the latest version of each piece of material received by Council. Reference to the documentation within this report is deemed to include any additional attachments or correspondence received by Council in respect of these.
40. For clarity, the RFI response did not address / capture the matter of the converted shed, such that throughout the applicant's response the status of the building is referred to as a shed. Whilst the Applicant has acknowledged to Council officers the conversion of that shed to an occupied dwelling/residence, this is a Council enforcement issue and not part of the remit for this report, such that any enforcement will be left to Council officers to address. However, the information provided has enabled assessment of the proposal for the purposes of this report.
41. For the purposes of the remainder of this report I clarify that this application doesn't relate to the existing shed being used for the purposes of a habitable dwelling (converted shed), it relates only to changing the consent notice condition to facilitate the alteration of the position where a habitable dwelling may be located on the site.

42. Within the application documentation landscape and visual amenity effects are those considered in respect of the proposal and the application documentation concludes that the adverse effects of the proposal on the environment will be less than minor due to:
- a. amenity being able to be largely discounted because the site already contemplates a dwelling and all that arises with that (vehicles, sounds, and general movements),
  - b. the conclusions of the landscape assessment whereby the proposal will not create landscape effects beyond those of permitted activity, and
  - c. the windows of the converted shed in the main facing the north-west with minimal facing existing neighbours.

## **REQUIREMENT FOR OTHER CONSENTS or APPROVALS**

43. As Council and Taranaki Regional Council's records do not identify potential activities occurring on or within the vicinity of the site as set out in the HAIL the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 are not applicable to this application.

## **REASONS FOR AND STATUS OF THE APPLICATION**

44. An application for a variation or cancellation to a consent notice under section 221(3) of the RMA is assessed in a discretionary manner, noting that neither the District Plans (Operative or Proposed – Appeals Version) nor RMA prescribe an activity status to an application of this type.



## **NOTIFICATION ASSESSMENT REPORT**

45. In addition to the notification matters addressed by sections 95D and 95E of the RMA, pursuant to section 221(3) of the RMA, as referred to section 127(4), as part of processing an application, a council must, in determining if there are any adversely affected parties, consider every person who made a submission on the original application and may be affected by the change.

## **Effects Disregarded**

46. The following effects have been disregarded for the purposes of the notification decision and section 104 assessment (sections 95D, 95E, and 104(2) & (3)(a)):
- a. I have considered permitted baseline in respect of the location for a future habitable building within the altered consent notice location. I do not consider it is relevant in respect to this proposal. Although in general, and subject to bulk and location standards, a dwelling could now establish on a 'site' zoned Rural Production per the Proposed Plan (Appeals Version) as a permitted activity, the subdivision consent (SUB22/48035) that established this site was for a non-complying activity and part of that consent process limited the location / area in which a dwelling could be located.

In other words, without the subdivision consent being granted there would be no permitted dwelling, and the subdivision was granted based on the condition limiting the location of the dwelling to a defined position on the subdivided site. As such the existence of the consent notice effectively nullifies any concept of a permitted baseline.

b. Effects on persons who own or occupy the site, and adjacent properties have been disregarded for the public notification assessment, which are identified by  and  in Figure 5 below; being:

- i. 271 Weld Road Lower (Lot 3 DP 582431): Gregory & Katy Sheffield,
- ii. 249 Weld Road Lower (Lot 1 DP 582431): Graeme and Tracey Beaton,
- iii. 247 Weld Road Lower (Lot 2 DP 393350): Fi's Trees Limited (Chris and Fiona Waugh),
- iv. 247A Weld Road Lower (Lot 2 DP 500285): Nicholas King, Marie Fleming, & Sioban Luttrell,
- v. 247C Weld Road Lower (Lot 1 DP 500285): Steven and Angela Blair,
- vi. 247B Weld Road Lower (Lot 2 DP 432478): Nick & Abi Hackling,
- vii. Weld Road Lower (Lot 1 DP 432478): James Dinnis and Claire Frost,
- viii. Weld Road Lower (Lot 2 DP 486355) – Stacey Bateman,
- ix. 283 Weld Road Lower (Lot 1 DP 486355) - Geoffrey Mockett & Dustine Palmer, and
- x. 255 Weld Road Lower (Lot 1 DP 484251) - Leanne and Bex Shaw.



**Figure 5: Site and Adjacent Sites for the Purposes of Notification**

(Source: Taranaki Regional Council – Property Information Map)

- c. Whilst three written approvals have been provided within Appendix I to the application documentation by the landowners and relate to the properties identified below and per paragraph 46(b)(ii), (iii), and (iv), above, these approvals are dated February 2023.
- Fiona Waugh: 247 Weld Road Lower,
  - Sioban Luttrell: 247A Weld Road Lower, and

- Tracey Beaton: 249 Weld Road Lower.

On reviewing Council's files for the site, the written approvals provided were those lodged with Council for an earlier application to vary Consent Notice 125651061.1 / Condition 15 of SUB22/48035 that was subsequently withdrawn (resource consent SUB22/48035.02).

The written approvals do not relate to the current application (resource consent SUB22/48035.03), or the Landscape Memo lodged with Council. As such they are not considered written approvals for the purposes of this application.

d. I am not aware of any trade competition effects relating to this application.

### **Public Notification (section 95A)**

47. Whether the application would be subject to public notification has been considered in accordance with section 95A of the RMA as follows:

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

- The Applicant has not requested that the application be publicly notified.
- While the Applicant did not necessarily respond to the RFI as expected / intended by the request per section 92 of the RMA, the Applicant did provide responses to each matter. A description of the information requested of and provided by the Applicant is discussed in paragraphs 35 – 40 above.
- The application is not made jointly with an application to exchange recreation reserve land.
- Outcome Step 1: Mandatory public notification is NOT required (section 95A(2)(b) of the RMA).

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

- A consent authority, in this instance Council, must publicly notify applications where that notification is required by a rule or national environmental standard.
- There is no rule or national environmental standard applicable to this application as noted in paragraphs 43 and 44 above.
- The activity does not relate to a boundary activity.
- Outcome Step 2: Public notification is NOT precluded by Step 2. Step 3 therefore applies.

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

- There is no rule or national environmental standard applicable to this application, as noted in paragraphs 43 and 44 above, that requires public notification.
- The activity will not have or is unlikely to have adverse effects on the environment that are more than minor as considered below.



### ***Effects More than Minor Assessment (section 95D)***

- i. The adverse effects on the environment have been assessed in accordance with section 95D of the RMA. The assessment of adverse effects that follows enables Council to decide whether the activity's adverse effects on the environment are not more than minor.
- ii. The key issue for consideration is that relating to rural context. As such, I have considered the adverse effects that will or are likely to result from the proposal as related to this key issue, being:
  - Rural character and amenity effects, including spaciousness / openness, and
  - Loss of land for primary production.
- iii. I have reviewed the application documentation and referred to the detailed information provided in support of the application and my assessment as to the likely adverse effects on the environment of the proposal is as follows.

#### ***Rural Character and Amenity***

- iv. In this context the effects considered are concentrated on rural character and amenity due to the proposal's intent to reposition the location of where a future habitable dwelling will be located within the site.
- v. Rural Character is the combination of elements that make an area 'rural' rather than 'urban'. Rural Amenity is the qualities that contribute to the appreciation of the pleasantness and aesthetic coherence of the rural environment. Rural areas are typically distinguished by a dominance of openness and rural practices over manmade structures not related to the primary use, where there is a general absence of large scale or concentrated development.
- vi. The Rural Production Zone is described in the Proposed Plan (Appeals Version) as characterised by an open, vegetated landscape interspersed with low density buildings and structures predominantly used for rural activities, such as barns and sheds, or larger, more numerous buildings of industrial scale and appearance used for intensive primary production or rural industry. Rural lifestyle subdivision is limited due to the potential for reserve sensitivity effects between living activities and primary production activities and the potential for fragmentation of productive land.
- vii. The existing surrounding environment has been described earlier in paragraphs 29 to 33. It comprises in the main rural-lifestyle holdings, with a varying topography from flat to undulating, accommodating dwellings and ancillary buildings.
- viii. While I concur with the Applicant to the extent that '*the site already contemplates a dwelling*', I consider that the effects that arise with a dwelling on this site was contemplated in respect of a particular location as delineated at the time of subdivision. The existing consent notice restricted the location for a dwelling site to a more discreet upper (eastern) portion of the site, although it was a larger extent, such that the dwelling would be obscure in the most part of adjoining properties as identified in paragraph 46(b), above.
- ix. The proposed altered location and consent notice extent would provide for a future habitable dwelling within an envelope consisting of an area of approximately 500m<sup>2</sup> with a maximum

height of 5.5 metres (imposed by consent notice). This is significantly greater in bulk than the existing converted shed in this location, being approximately 192m<sup>2</sup> with a roof apex of 5.5 metres. Given this, I do not consider that it is appropriate to limit this effect matter in relation to the existing converted shed given the significantly larger envelope the proposed consent notice would enable in the future.

- x. The Bluemarble Landscape Memo (paragraph 38(b)) does not address / assess the landscape amenity or visual impact related to a larger profiled building, rather it refers to the existing converted shed established within the proposed consent notice extent.
- xi. The materials and colours of the existing converted shed's exterior cladding is consistent with the environment and a consent notice requirement that was borne from the Landscape and Visual Assessment that supported the subdivision. This assists with reducing the visibility of the converted shed from afar. The colours and material for any future dwelling or extension to the converted shed will be reinforced by the consent notice that remains in situ. As such, the materials and colours of any future building within the altered consent notice location will assist with reducing the visibility of any such building.
- xii. Existing established vegetation, together with that more recently planted in accordance with the recommendations of the Landscape Memo will be maintained and retained. The vegetation, together with the topography, will screen the converted shed or any future dwelling from both Weld Road Lower and those rural properties beyond those properties identified above in paragraph 46(b). Such screening of buildings is not out of character with the area.
- xiii. The existing converted shed, together with the ancillary building / structures are of a scale that maintains spacious elements akin to the rural character elements present and evident in the area, however any future larger dwelling within the consent notice extent may impact on the low-density element of the rural area. Such building would be larger and in a more visible position than the existing converted shed, but such effects would be limited in respect to those adjoining properties as identified above in paragraph 46(b).
- xiv. Overall, I consider that in the context of the wider environment the proposal to alter the position of the consent notice extent that relates to a building platform area for a dwelling on the site is not inconsistent with the rural character experienced. For those properties within the immediate environment the building will be more visible and prominent, but those properties cannot be considered for the purposes of public notification. These effects are considered under the s95B assessment later in this report.
- xv. The location of the dwelling site is not visible from Weld Road Lower and is indistinct from Timaru Road, such that there is a lack of visibility from public locations.
- xvi. When considering the existing environment, the proposal will continue to achieve vegetated elements that assist in maintaining rural character in this locality. In this regard, despite the existing or potential size / scale of residential building, any potential adverse effects on density and spaciousness will be no more than minor given the context of the wider environment

- xvii. The proposal is consistent with the wider rural environment in that the overall magnitude of effect on rural character and amenity in the context of this proposal and the wider rural environment will be no more than minor.

***Loss of Land for Primary Production***

- xviii. In October 2022 the National Policy Statement for Highly Productive Land 2022 (**NPS-HPL**) came into force and although the NPS-HPL directs Councils in terms of decision making, it also defines 'highly productive land'. The application of the NPS-HPL is not directly relevant to the effects assessment required for notification, and I do not address the application of the NPS-HPL here. However, it is relevant for present purposes that:
- The site comprises land with LUC Classes 1 and 4 and shown in Figure 4 above, with the Class 1 land being the upper level (eastern extent) of the site and the Class 4 on the western extent of the site. Given the LUC Class 1 classification mapped by the NZLRI, the site is classed as 'highly productive land.'
  - That finding is relevant to considering the extent of any adverse effects relating to the loss of land for 'primary production'.
- xix. The subdivision was granted consent prior to the NPS-HPL and the buildings erected on the site presently were done so as permitted activities in respect of the Operative and Proposed District Plans, and in accordance with the consent notices applicable to the site.
- xx. The proposal seeks to ratify an existing situation, noting the greater extent of potential building identified in paragraph 47(ix) above, and as such what is established as the residential extent of the rural activity is not expanded where primary production can continue within the extent of the balance land. That balance area of the site contains the LUC Class 1 land originally delineated for the residential extent.
- xxi. When considering the existing environment, the proposal will not result in the loss of additional area from currently being used for primary production and given this, any potential adverse effects for the purposes of determining notification will be no more than minor.

***Overall Effect Summary***

- xxii. When considering all the potential adverse environmental effects of this proposal, it is considered that these are no more than minor in nature for the purposes of section 95D of the RMA.
- xxiii. Given the above, I have concluded that there is no requirement for the application to be publicly notified.
- Outcome Step 3: On the basis of the assessment above, I do not consider that the activity will have, or is likely to have, adverse effects on the environment that are more than minor. Public notification is therefore NOT required.

Step 4: public notification in special circumstances

- No special circumstances exist that warrant the application being publicly notified.

- Special circumstances are circumstances outside the common run of things, which make an application “exceptional, abnormal or unusual”, but which may be less than extraordinary or unique. If the Council decides that special circumstances exist, then it can publicly notify the applications.
- Dwellings are anticipated in the Rural Production Zone by the Proposed Plan (Appeals Version).
- Given the above, I consider there to be no special circumstances that exist that warrant public notification of the application.

#### Conclusion on public notification

48. I am satisfied the application can be considered without full notification to the public in accordance with section 95A(9)(b) of the RMA.

#### **Limited Notification (section 95B)**

49. Whether the application would be subject to limited notification has been considered in accordance with section 95B of the RMA as follows:

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

- No protected customary rights groups or customary marine title groups are affected by the activity.
- The proposal is not on or adjacent to, nor is it considered to affect, land that is subject to a statutory acknowledgement made in accordance with an Act specified in Schedule 11 of the RMA.
- Outcome Step 1: Limited notification is NOT required [section 95B(2) and (3)]

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

- The application is not subject to a rule or national environmental standard that precludes limited notification.
- The application is not for a controlled activity.
- Outcome Step 2: Limited notification is NOT precluded by Step 2. Step 3 therefore applies.

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

- The application is not for a boundary activity.
- A person is affected if the consent authority decides that the activity’s adverse effects on the person are minor or more than minor.

#### ***Assessment of Adverse Effects on Persons***

- Under section 95E of the RMA, a consent authority must decide that a person is an affected person if the activity’s effects on them are minor or more than minor (but are not less than minor), subject to the limitations in section 95E(2) and (3).
- I have turned my mind to the following as part of my consideration as to whether or not any persons may be adversely affected:

- I have considered individual persons within the immediate vicinity of the site as given in paragraph 46(b).
  - The existing building platform area for dwellings as set out in the consent notice in relation to the proposed location sought by this application.
  - The information supporting the application that concludes the effects will be less than minor and as such no persons are considered affected by the Applicant.
- iii. For the reasons that follow, I consider that the adverse effects on the environment as a result of the proposal are minor, but not less than minor, in the context of the immediately adjoining sites and existing subdivision consent SUB22/48035. Moreover, I conclude that those persons as identified above in Figure 5 and paragraph 46(b) are considered adversely affected by the proposal.
- iv. An assessment of effects on the environment in relation to:
- a. Rural character and amenity effects, and
  - b. Loss of rural production land,
- of the proposal for which consent is sought is provided within the content of paragraphs 47(i) to (xxiii) above. The conclusion being the adverse effects on the environment would be no more than minor.
- v. The effects of the proposal in a rural character and amenity context are not inconsistent with the rural character experienced, although for those properties within the immediate environment, as identified above in Figure 5 and paragraph 46(b), the existing converted shed or a potential proposed dwelling could be more visible and prominent than anticipated by resource consent SUB22/48035.
- vi. In respect of these persons, I have also considered whether the proposal contradicts the:
- a. purpose of having provided written approvals, and
  - b. statements made
- in respect of resource consent SUB22/48035.
- vii. The Bluemarble Landscape Memo considers the seven properties as identified above in paragraph 49(v), omitting to address those properties to the north of the site. The assessment by Bluemarble in summary is:
- a. For all properties, except 271 Weld Road Lower, there would have been no view of the consented (existing consent notice) building platform area related to the site.
  - b. Views to the existing converted shed and any proposed building extent occur in respect of all properties, although not from all dwellings on these properties and in many instances to a limited extent.
  - c. Distance from the properties and their dwellings when viewing the existing converted shed and proposed building platform area (consent notice extent) and landscaping on development minimises and will reduce the degree of visual effect in respect of these properties.
  - d. In respect of all properties there is an effect rating between moderate to very low, being described as more than minor to less than minor effects. However, with the



establishment of screen planting any effects are reduced such as to be minor to less than minor.

- viii. I note that the views from these properties are over and beyond the site and in the direction of the existing converted shed and other ancillary buildings. While the profile is currently limited to the existing converted shed, as noted in paragraphs 47(ix) and (x), the proposed consent notice extent would provide for a new dwelling or extensions to the existing converted shed enabled within a building envelope consisting of an area of approximately 500m<sup>2</sup> with a maximum height of 5.5 metres (imposed by consent notice). This is significantly greater in bulk than the existing converted shed, being approximately 192m<sup>2</sup> with a roof apex of 5.5 metres. The Bluemarle Landscape Memo does not address / assess the landscape amenity or visual impact related to a larger profiled building.
- ix. The effects of the smaller profiled existing converted shed with mitigation measures addressing the same are described in the Landscape Memo as being minor to less than minor in relation to visual / landscape effects. It would be reasonable to consider that a larger building could generate greater visual / landscape effects when viewed from these properties identified.
- x. The consent notice limiting where a dwelling may be erected on the site was established as part of the subdivision consent (resource consent SUB22/48035). Paragraph 11.4 of the application document related to resource consent SUB22/48035 states *'Alternative schemes have been considered but these have been refined and adapted based on frank consultation with surrounding neighbours. The final scheme being presented is the best layout for the site and has the full support of the landowners and the applicants.'*
- xi. Mitigation of the subdivision is described in paragraph 11.7 of the application document related to resource consent SUB22/48035 as *'Proposed mitigation measures are specific to the proposal and constrain built form in ways not required for controlled subdivision. In particular, the house site is precisely prescribed, height and colour of buildings is controlled, rural fences are prescribed.'*
- xii. Seven of the owners / occupiers of those properties identified above in Figure 5 were a party to the subdivision consent process and their written approvals related to the knowledge (as shown on the plans signed) of any future dwelling location, in addition to other restrictions related to the subdivision. Those properties are listed at paragraph 46(b)(i), (iii), (iv), (v), (vi), (viii), and (x).
- xiii. For these properties / persons, while the effects on rural landscape and amenity may be no more than minor, I do not consider that such effects are less than minor, particularly when considered in conjunction with the prior history of the resource consent process relating to the establishment of the site.
- xiv. For those properties to the north of the site, not addressed by the Bluemarle Landscape Memo, while two of the three do not presently contain habitable buildings the District Plan (Appeals Version) provides as a permitted activity for at least one habitable building. The view of the consented (existing consent notice) building platform area related to the site

given, as considered in the Landscape Memo, the distance from the properties would have minimised and reduced the degree of visual effect in respect of these properties.

- xv. With the proposed location and considering a greater profile building to that existing enabled by the extent shown within the site plan supporting the application, the existing converted shed or a future dwelling will be more visible to these properties to various extents, depending on where the view to the proposed building platform area is made from.
- xvi. For these properties / persons, while the effects on rural landscape and amenity may be no more than minor, I do not consider that such effects are less than minor, particularly given there is no evidence within the Bluemarble Landscape Memo to show otherwise.
- xvii. Given the above, I can reasonably conclude that in the context of the application, being to reposition the habitable (dwelling) platform area (i.e. amend the consent notice), the adverse effects on individual persons within the immediate vicinity of the site, that have not provided written approval, are considered minor, but not less than minor.
- xviii. I conclude that those persons as identified above in Figure 5 and paragraph 46(b) are considered adversely affected by the proposal.

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

- No special circumstances exist that warrant the application being limited notified.
- Special circumstances are circumstances outside the common run of things, which make an application “exceptional, abnormal or unusual”, but which may be less than extraordinary or unique. If the Council decides that special circumstances exist, then it can limited notify the application.
- The proposal is not considered “exceptional, abnormal or unusual”. Given the above, I consider there to be no special circumstances that exist that warrant limited notification of the application.
- Given the above, I consider there to be no special circumstances that exist that warrant public notification of the application.

#### Conclusion on limited notification

- 50. The application cannot be considered without notification on a limited basis to those persons identified in Figure 5, paragraph 46(b) above in accordance with section 95B(10)(b) of the RMA.

### **OVERALL NOTIFICATION RECOMMENDATION**

- 51. Having assessed the application in accordance with the steps contained within sections 95A and 95B of the RMA, and for the reasons provided within this report, it is recommended that this application be limited notified to the following persons.

- i. 271 Weld Road Lower (Lot 3 DP 582431): Gregory & Katy Sheffield,
- ii. 249 Weld Road Lower (Lot 1 DP 582431): Graeme and Tracey Beaton,

- iii. 247 Weld Road Lower (Lot 2 DP 393350): Fi's Trees Limited (Chris and Fiona Waugh),
- iv. 247A Weld Road Lower (Lot 2 DP 500285): Nicholas King, Marie Fleming, & Sioban Luttrell,
- v. 247C Weld Road Lower (Lot 1 DP 500285): Steven and Angela Blair,
- vi. 247B Weld Road Lower (Lot 2 DP 432478): Nick & Abi Hackling,
- vii. Weld Road Lower (Lot 1 DP 432478): James Dinnis and Claire Frost,
- viii. Weld Road Lower (Lot 2 DP 486355) – Stacey Bateman,
- ix. 283 Weld Road Lower (Lot 1 DP 486355) - Geoffrey Mockett & Dustine Palmer, and
- x. 255 Weld Road Lower (Lot 1 DP 484251) - Leanne and Bex Shaw.



**Persons to be Limited Notified**

Prepared By:

*J. Manning*  
Jacqui Manning (Consultant Planner)  
Resource Management Group Ltd

Reviewed By:

*David McMahon*  
David McMahon (Principal / Director)  
Resource Management Group Ltd

Date: 18 December 2024

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## **DECISION ON NOTIFICATION**

Accordingly, and for the reasons set out in the above assessment and recommendations, the application shall be processed on a limited notified basis in respect of those persons identified within Paragraph 51 of the Overall Notification Recommendation.

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**Notification Decision made under delegated authority by:**



**Richard Watkins**  
**Principal Planner**  
**NEW PLYMOUTH DISTRICT COUNCIL**

**Date: 30\* December 2024**

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