

|                           |                |                       |                         |
|---------------------------|----------------|-----------------------|-------------------------|
| <b>Date:</b>              | 28 March 2024  | <b>App Number:</b>    | SP/0117/23 & LU/0210/23 |
| <b>Reporting Planner:</b> | Layla Gruebner | <b>Site Visit on:</b> | 05 December 2023        |

|                           |   |
|---------------------------|---|
| <b>Applicant:</b>         | Muscle Developments Ltd   |
| <b>Property Address:</b>  | 318 Lamb Street Leamington Cambridge 3432   |
| <b>Legal Description:</b> | LOT 2005 DP 535418, LOT 2003 DP 535418 & LOT 2 DP 593787 as held in Record of Title 1143238<br>LOT 1 DP 593787 as held in Record of Title 1143237   |
| <b>Site Area:</b>         | 6.13ha  |
| <b>Activity Status:</b>   | Non-Complying   |
| <b>Zoning:</b>            | Large Lot Residential (LLRZ)  |
| <b>Policy Area:</b>       | Leamington Large Lot Residential Structure Plan   |
| <b>Designation(s):</b>    | N/A   |
| <b>Special Features:</b>  | Filled Ground and HAIL Site   |
| <b>Proposal:</b>          | Subdivide one lot into twenty LLRZ lots to be undertaken in two stages, create a road to vest and local purpose reserve and undertake an amalgamation in conjunction with LU/0210/23 for earthworks |

## 1 INTRODUCTION

Blue Wallace Surveyors Limited ('the agent') is seeking subdivision consent on behalf of Muscle Developments Ltd ('the applicant') to undertake a two staged twenty lot subdivision, create a road to vest and local purpose reserve and undertake an amalgamation. Land use consent is also sought for earthworks.

- Lots 7, 10, 12 and 13 are less than 2,500m<sup>2</sup> lot area requirement for LLRZ.
- Lot 7 cannot accommodate a complying shape factor.

- The subdivision will be creating three rear lots.
- The proposed road (Lot 200) is different to the road layout in the approved structure plan.
- Earthworks will exceed 25m<sup>3</sup> and 250m<sup>2</sup>.

Therefore, resource consent as a Non-Complying activity is required.

## **1.1 Description of site**

The subject site is bound by Lamb Street and Te Mara Drive. The site contains one freehold record of title comprising three parcels with a total area of 6.13ha.

The property is currently undergoing earthworks (as consented under LU/0142/23) and contains an existing dwelling and shed.

Surrounding properties are predominantly residential in nature ranging from 2,500m<sup>2</sup> to 3,000m<sup>2</sup> in area. A larger rural property is located to the east of the site which is a blueberry orchard, and Council owned reserve land is located to the west.

The property is located within the Large Lot Residential Zone and the Leamington Large Lot Residential Structure Plan area of the Waipā District Plan ('District Plan').

Council's Special Features Map identifies the subject site as having filled ground in the centre of the property.

Refer to Figures 1 to 23.

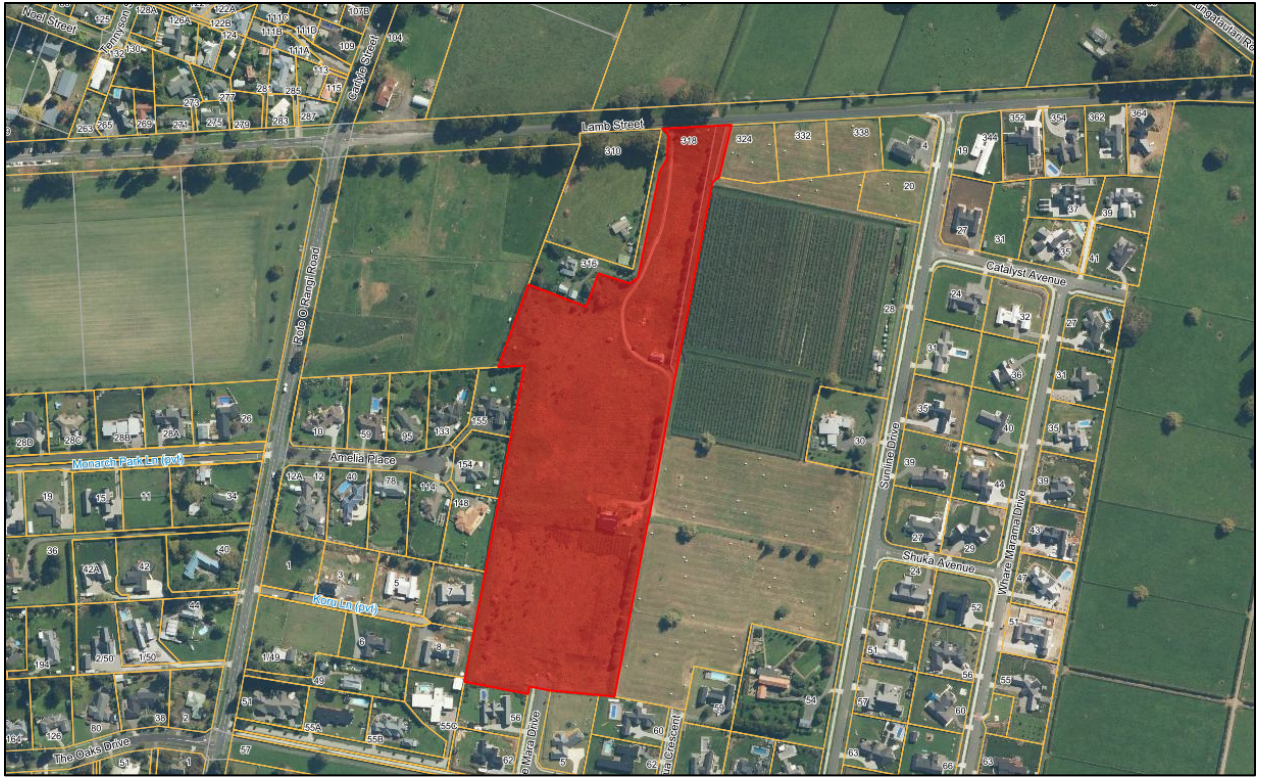


Figure 1: Aerial photograph of site.

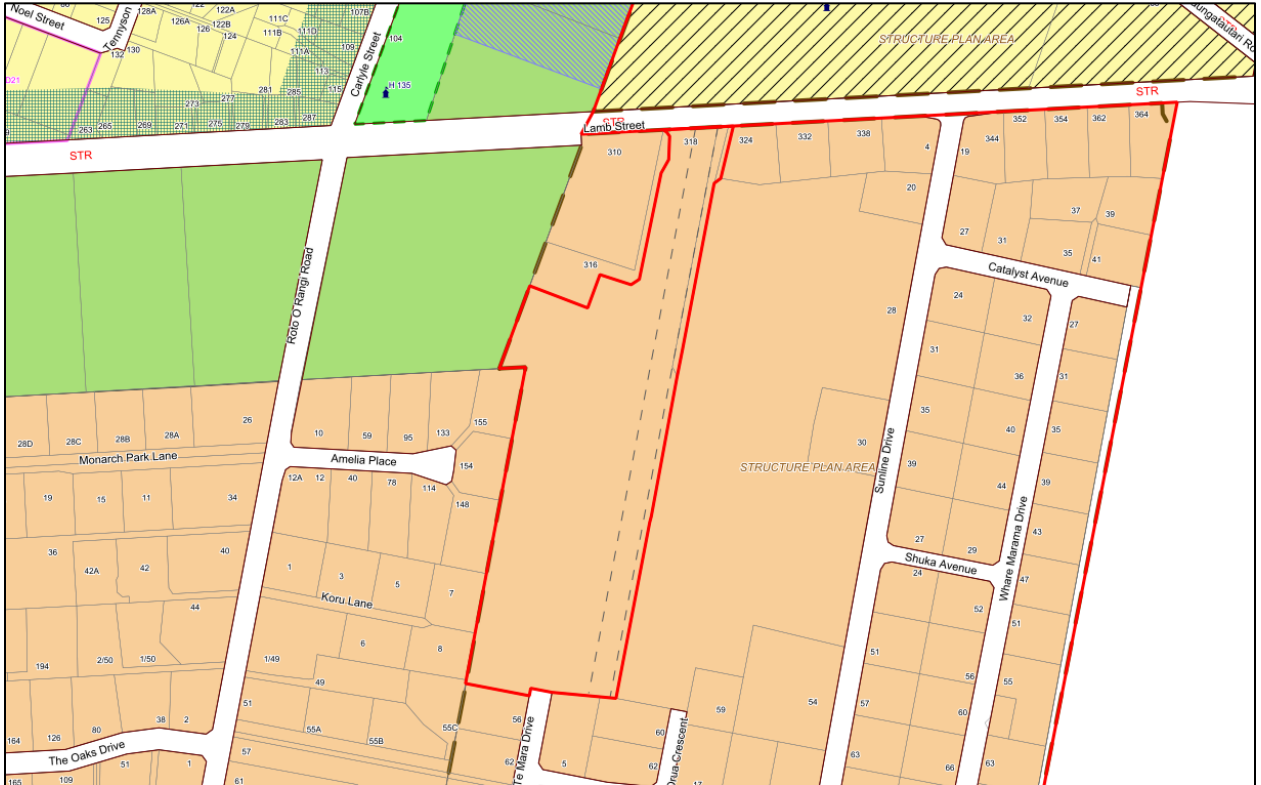


Figure 2: District Plan Zone and Policy Overlays.

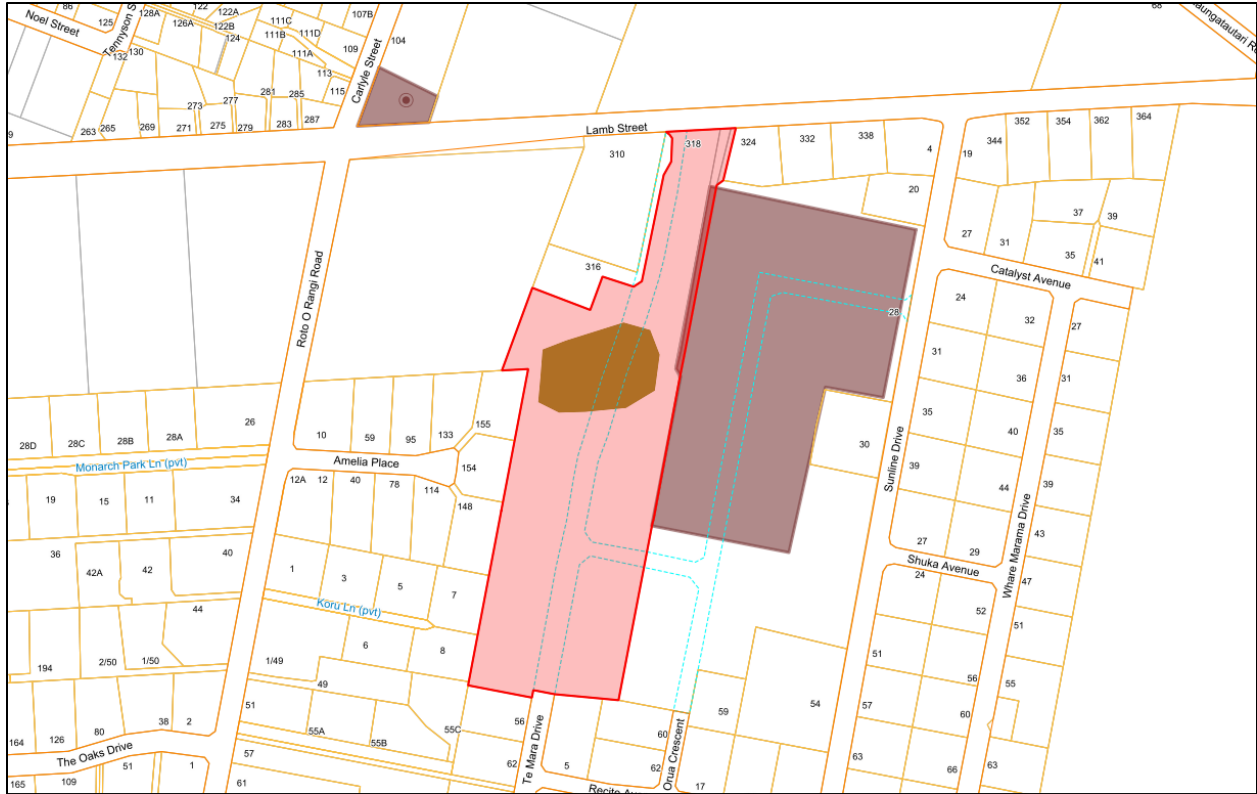


Figure 3: Special Features.



Figure 4: Site visit photo showing entrance to site off Lamb Street.

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ECM reference: 11153871



Figure 5: Site visit photo showing Lot 14 from site entrance.



Figure 6: Site visit photo showing Lamb Street from the site entrance.



**Figure 7:** Site visit photo showing Lot 13/14 from driveway.



**Figure 8:** Site visit photo showing Lot 11.



**Figure 9:** Site visit photo showing Lots 9 and 10.



**Figure 10:** Site visit photo showing Lot 11.



**Figure 11:** Site visit photo showing Lots 11, 12 and 13 bordering neighbour at 28 Sunline Drive.



**Figure 12:** Site visit photo showing Lots 11 and 15 and part of road/Lot 200.





**Figure 13:** Site visit photo showing the southern end of the site towards Lots 1-3 and 18-20.



**Figure 14:** Site visit photo showing Lots 18-20 and neighbouring properties.



Figure 15: Site visit photo showing neighbouring properties.



Figure 16: Site visit photo showing neighbouring pastureland at 54 Sunline Drive.



Figure 17: Site visit photo showing earthworks on site.



Figure 18: Site visit photo showing neighbouring property at 316 Lamb Street.

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Figure 19: Site visit photo showing area of contaminated site works as consented under LU/0142/23.



Figure 20: Site visit photo showing Council reserve land.



Figure 21: Site visit photo showing end of Te Mara Drive where new road/Lot 200 will start.



Figure 22: Site visit photo showing end of Te Mara Drive where new road/Lot 200 will start.



Figure 23: Site visit photo showing down existing road of Te Mara Drive.

## 1.2 Legal interests in the property

Table 1 below summarises the relevant interests on the existing titles.

| Record of Title | Legal Description   | Size   | Date Issued    | Relevant Interests  |
|-----------------|---|--------|----------------|---|
| 1143238         | LOT 2005 DP 535418<br>LOT 2003 DP 535418<br>LOT 2 DP 593787 | 6.13ha | 25 August 2023 | <ul style="list-style-type: none"> <li>▪ Easement Instrument 7738812.5</li> <li>▪ Easement Instrument 11094821.8</li> <li>▪ Covenant Instrument 11552809.30</li> <li>▪ Fencing Agreement in Deed 11590062.1</li> <li>▪ Easement Instrument 11733651.4</li> <li>▪ Easement Instrument 11733651.5</li> <li>▪ Easement Instrument 11733651.6</li> <li>▪ Covenant Instrument 11733651.10</li> </ul> |

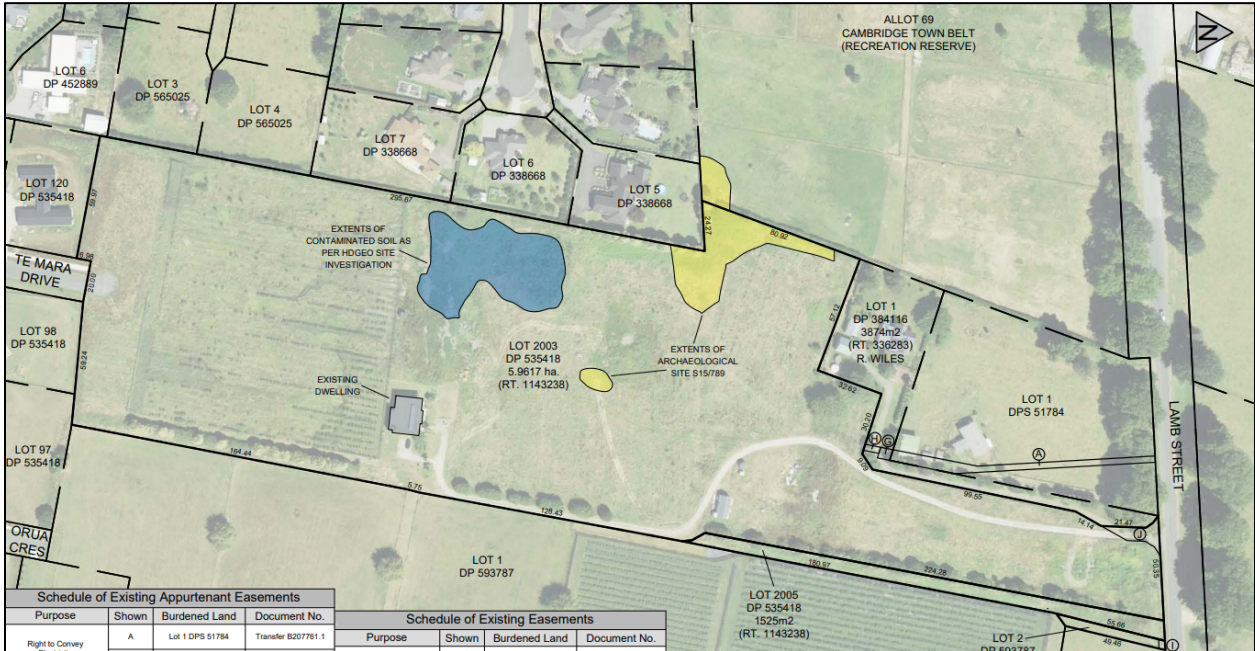
|         |                 |        |                |   |
|---------|-----------------|--------|----------------|---|
|         |                 |        |                | <ul style="list-style-type: none"> <li>11830293.1 Fencing Agreement</li> <li>11896794.1 Consent Notice</li> </ul>   |
| 1143237 | LOT 1 DP 593787 | 8.30ha | 25 August 2023 | <ul style="list-style-type: none"> <li>Easement Instrument 11094821.8</li> <li>Covenant Instrument 11552809.30</li> <li>Fencing Agreement in Deed 11590062.1</li> <li>Covenant Instrument 11733651.10</li> <li>11830293.1 Fencing Agreement</li> <li>11896794.1 Consent Notice</li> <li>Easement Instrument 11896794.3</li> <li>Covenant Instrument 12787914.7</li> </ul> |

**Table 1:** Existing titles and interests.

The above listed interests do not restrict the proposal from proceeding.

### 1.3 History

LU/0142/23 was granted 18 September 2023 to undertake disturbance of soil for remediation purposes and change of use on a site subject to the NES-CS. The application was processed on a non-notified basis. Refer to Figure 24 below which indicates the area of contaminated soil (area in blue) that was remediated under LU/0142/23.



**Figure 24:** Plan showing extent of contaminated soil area (area in blue).

## 1.4 Proposal

Pursuant to Section 88 of the Resource Management Act 1991 ('the Act'), Muscle Developments Ltd have applied for a subdivision consent to undertake a two staged twenty lot subdivision, create a road to vest and local purpose reserve and undertake an amalgamation. Land use consent is also sought for earthworks.

The proposed lots, their respective areas, and the proposed method of subdivision are summarised in Table 2.

| Lot Reference | Size   | Method/rule  |
|---------------|--|--|
| 1             | 2,500m <sup>2</sup>                                      | Stage 1  |
| 2             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 3             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 4             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 5             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 6             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 7             | 2,137m <sup>2</sup>                                      | Stage 2  |
| 8             | 2,754m <sup>2</sup> (gross)<br>2,478m <sup>2</sup> (net) | Stage 2  |
| 9             | 2,500m <sup>2</sup>                                      | Stage 2  |
| 10            | 2,445m <sup>2</sup>                                      | Stage 2  |
| 11            | 2,500m <sup>2</sup>                                      | Stage 2  |
| 12            | 2,315m <sup>2</sup>                                      | Stage 2  |
| 13            | 2,300m <sup>2</sup>                                      | Stage 2  |
| 14            | 2,676m <sup>2</sup> (gross)<br>2,500m <sup>2</sup> (net) | Stage 1  |
| 15            | 2,640m <sup>2</sup>                                      | Stage 2  |
| 16            | 2,500m <sup>2</sup>                                      | Stage 2  |
| 17            | 5,000m <sup>2</sup>                                      | Stage 2  |
| 18            | 2,500m <sup>2</sup>                                      | Stage 2  |
| 19            | 2,500m <sup>2</sup>                                      | Stage 2  |
| 20            | 2,500m <sup>2</sup>                                      | Stage 2  |
| 100           | 733m <sup>2</sup>  | Access Lot for Lots 12 and 13                            |
| 200           | 7,460m <sup>2</sup>                                      | Road to vest into Council                                |
| 201           | 657m <sup>2</sup>  | To vest as local purpose reserve (pedestrian access)     |
| 300           | 253m <sup>2</sup>  | Land swap for maintenance on neighbouring land – Stage 1 |
| 400           | 5.59ha   | Balance lot – Stage 1                                    |

**Table 2:** Proposed method of subdivision.



## ***STAGE 1 – Lots 1, 14, 300 (Boundary Adjustment), and 400***

### Lots 1 and 14

Lots 1 and 14 will be two vacant residential lots. Lot 1 will be provided access off Te Mara Drive and Lot 14 will utilise existing access off Lamb Street. Both lots are able to be serviced with three waters. Wastewater will be managed using primary systems onsite via septic tanks with effluent disposal fields. Stormwater will be managed via new road swales within the proposed road (Lot 200). Water supply will be provided via new connections to the extension of the existing water main within Te Mara Drive. There are existing fire hydrants within Te Mara Drive (for Lot 1) and Lamb Street (for Lot 14) that will provide for firefighting water supply. New connections for power and telecommunications will be required for Lots 1 and 14.

### Lot 300

A concurrent boundary adjustment is also proposed to allow for a land swap to provide the neighbour at 28 Sunline Drive (Lot 1 DP 593787) with a 253m<sup>2</sup> portion of land (Lot 300) to allow for maintenance.

### Lot 400

Lot 400 is the balance lot remaining within Stage 1 that will be further subdivided in Stage 2 as detailed below.

## ***STAGE 2 – Lots 2 to 13, 15 to 20, 100, 200, and 201***

### Lots 2 to 13 and 15 to 20

Lots 2 to 13 and 15 to 20 will be subdivided from Lot 400 (Stage 1 balance lot). All lots will be vacant of development, with the exception of Lot 17 which will contain the existing dwelling on the property. All lots will be provided with a new entrance from Lot 200, with Lots 12 and 13 gaining access via an access lot (Lot 100) off Lot 200. All lots are able to be serviced with three waters. Wastewater will be managed using primary systems onsite via septic tanks with effluent disposal fields. Lots 7, 10, 12, and 13 will require secondary systems via drip irrigation. Stormwater will be managed via new road swales within the proposed road (Lot 200). Water supply will be provided via new connections to the extension of the existing water main within Te Mara Drive. There are existing (within Te Mara Drive and Lamb Street) and proposed (within Lot 200) fire hydrants to provide for firefighting water supply for Lots 2 to 13 and 15 to 20. New connections for power and telecommunications will be required for Lots 2 to 13, 15, 16, and 18 to 20.

### Lot 100

Lot 100 is an access lot off Lot 200 that will provide access to Lots 12 and 13.

### Lot 200

Lot 200 is to be vested as road to Council and will provide access to Lots 2 to 11 and 15 to 20.

### Lot 201

Lot 201 is to be vested as local purpose reserve to Council and will provide for pedestrian access to the recreation reserve land within the western adjoining site.

### **LAND USE**

Land use consent is sought to undertake earthworks exceeding the permitted volume and area. An earthworks total of 6,360m<sup>3</sup> is proposed across the site with a max cut depth of 1.25m and max fill height of 1m.

The following earthworks are proposed for roading (including access lot and pedestrian crossing):

- Cut: 5,320m<sup>3</sup>
- Fill: 110m<sup>3</sup>
- Total: 5,430m<sup>3</sup>

The following earthworks are proposed for the filling of the pit within Lots 5 and 6 (as soil was removed as part of LU/0142/23):

- Cut: 0m<sup>3</sup>
- Fill: 930m<sup>3</sup>
- Total: 930m<sup>3</sup>

Refer to Figures 25 to 28 below for the proposed scheme plan, servicing plans, and earthwork plans for the subdivision.

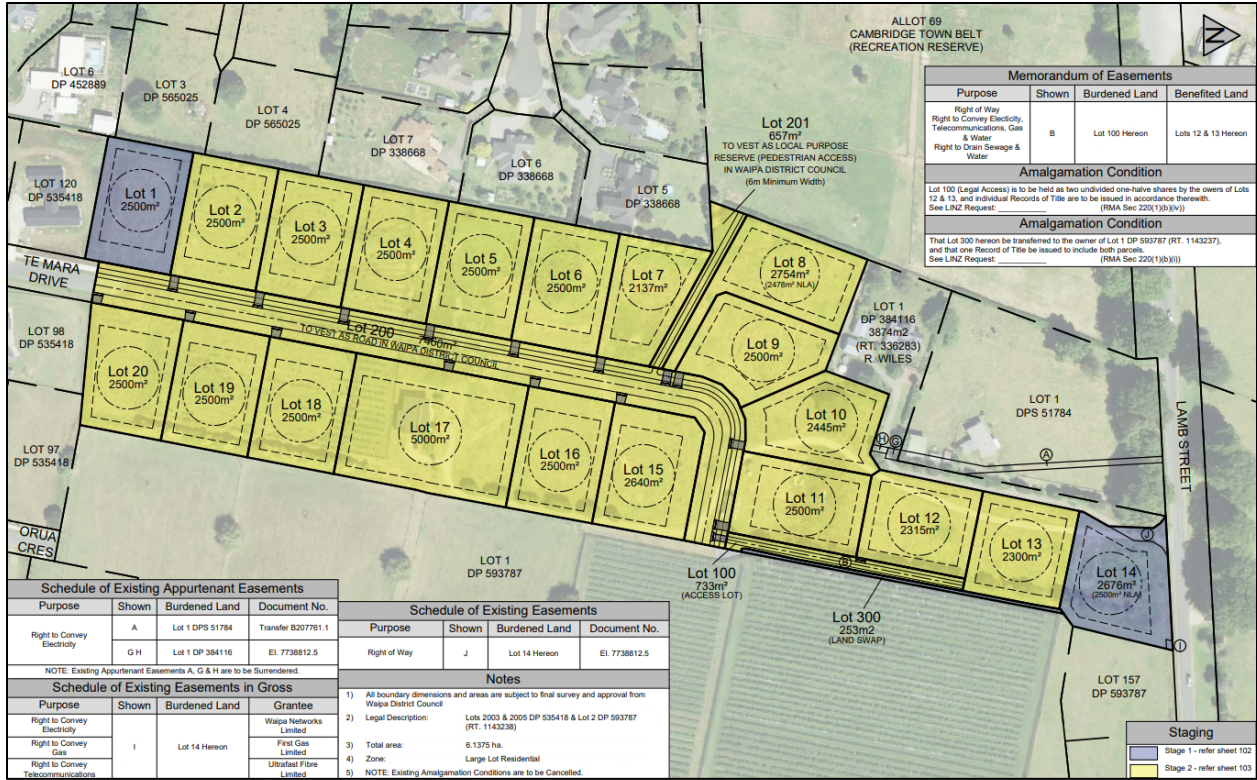


Figure 25: Proposed Scheme Plan.

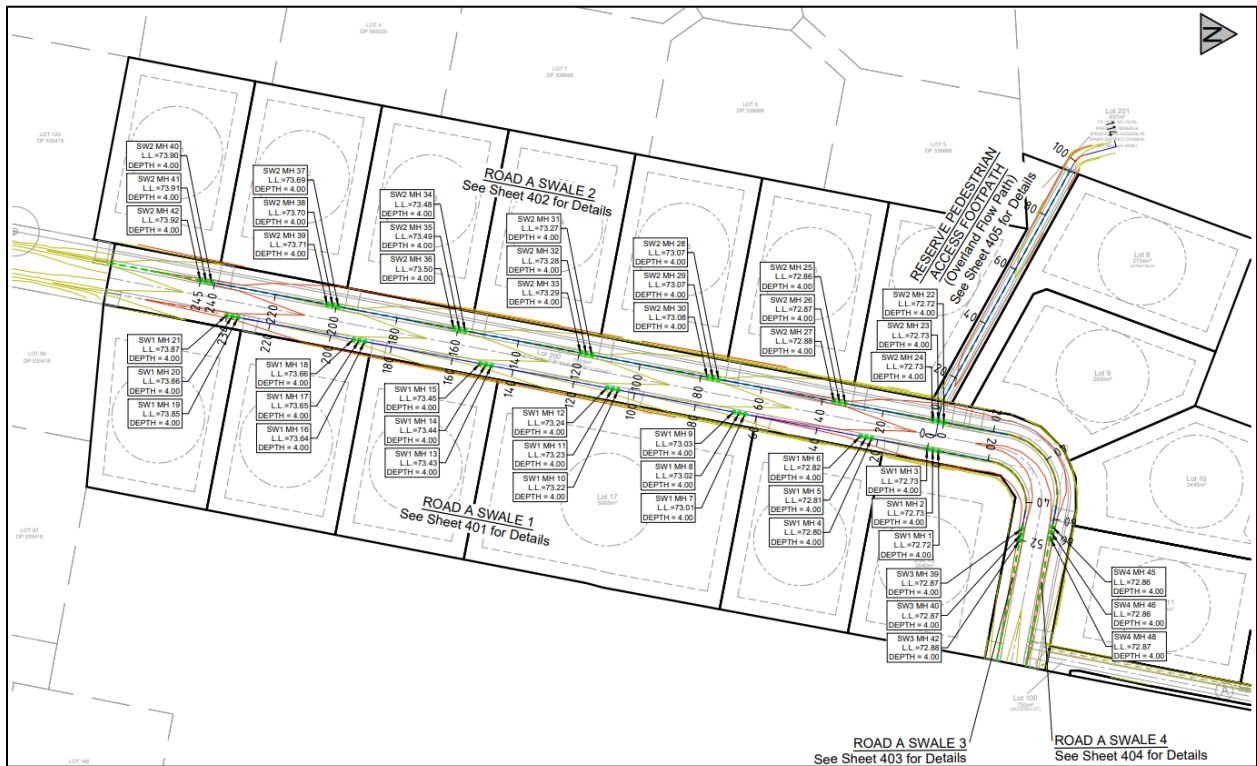


Figure 26: Proposed Stormwater Plan.

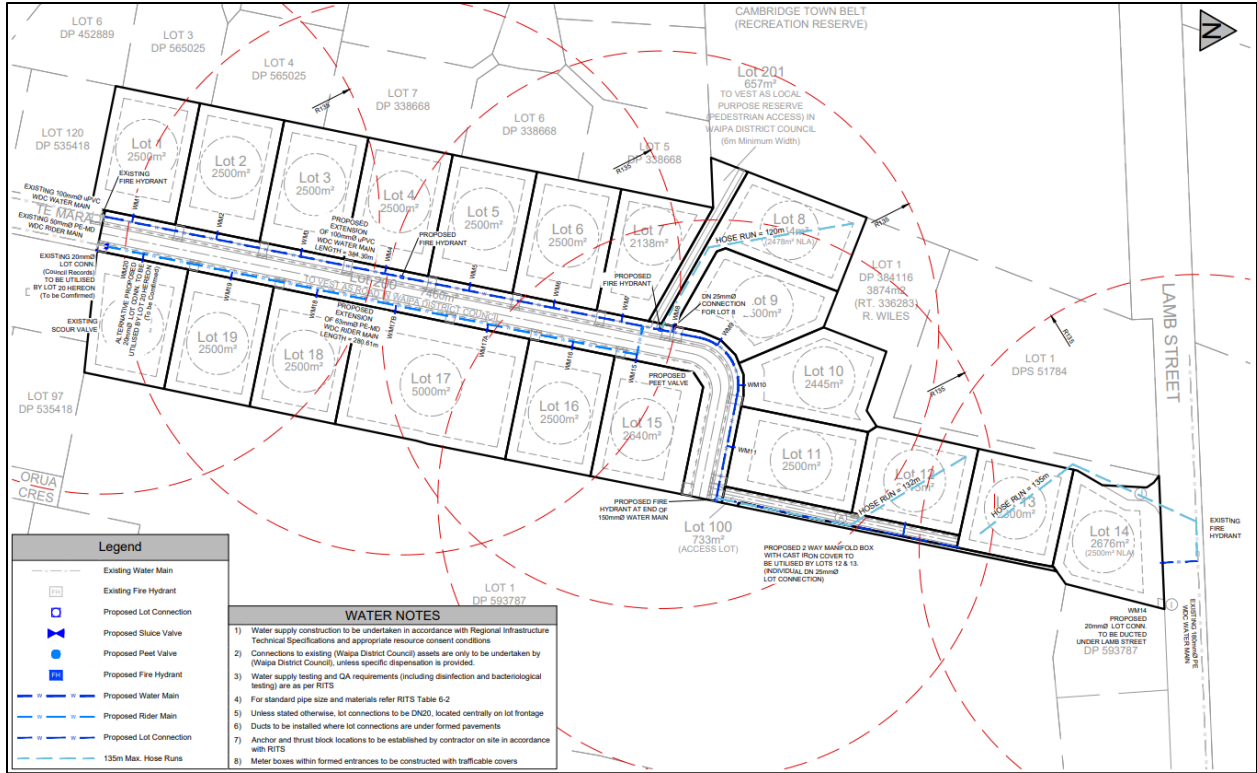


Figure 27: Proposed Water Supply and Firefighting Supply.

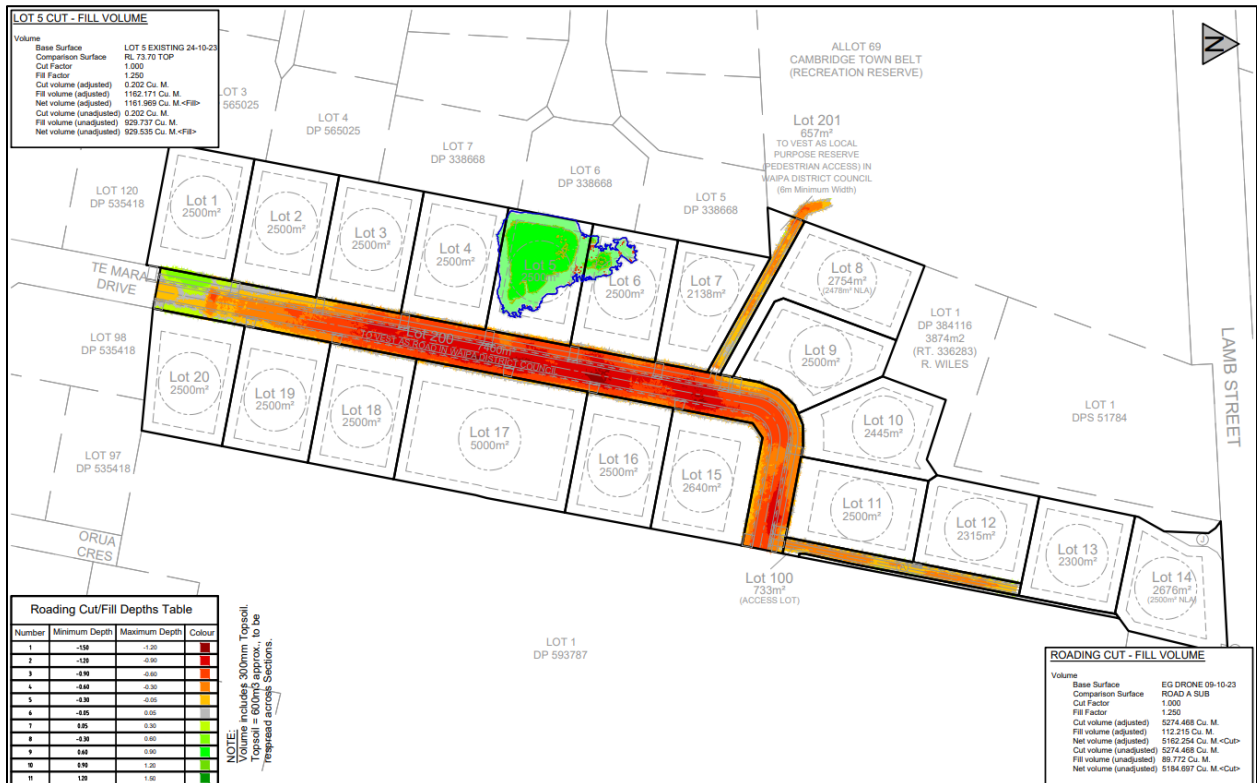


Figure 28: Proposed Cut and Fill Plan.

## 1.5 Process Matters

A request for further information was sent to applicant's agent on 18 December 2023 which requested the following information:

- 1. Provide the Cultural Impact Assessment as per the application.*
- 2. Demonstrate a temporary gravel turning head at the eastern end of Lot 200 to facilitate vehicle manoeuvring. This will need to have it's own lot reference (separate from Lot 200) as temporary infrastructure cannot be vested to council, as such the maintenance will remain with the developer until it becomes permanent infrastructure.*
- 3. The SWMP has recommended to use soakage that was also used in previous stages. However, as commented by Water Services, the previous stage found out that the site has a high water table and the SW system (Swale/soakage) is ineffective. There's anticipation that this issue could be the same for this subject site. As such, the SW management should be amended as needed. This was also noted in the pre-application meeting.*
- 4. As the site is adjoining the 1% AEP flooding area, please confirm FFL of lots adjoining the flooding area in accordance with rule 15.4.2.14 of the District Plan.*

Information satisfying points 2-4 have been provided, however, point 1 requesting the cultural impact assessment (CIA) is still outstanding. The applicant has entered into discussions with Ngāti Korokī Kahukura and provided a draft Cultural Impact Assessment to Council. However, the applicant has requested Council to complete the notification decision without a Cultural Impact Assessment to Council.

No other further information or written approvals were requested as part of this application.

## 2 REASON FOR THE APPLICATION

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A resource consent as described under Section 87A of the Resource Management Act 1991 is required for the reasons set out below.

### 2.1 Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ('NES')

These regulations came into force on 1 January 2012 and apply when a person wants to do an activity described in Regulation 5(2) to 5(6) on a piece of land described in Regulation 5(7) or 5(8).

Historically, part of the site had been used as a rubbish pit. Soil testing within this area also confirmed elevated traces of lead and arsenic, with such level being deemed a risk to human health. This was addressed under LU/0142/23 for which consent was granted to undertake soil disturbance for remediation of contaminated land and change of use. Therefore, as the site has been remediated, consent is not required under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.

## 2.2 Waipā District Plan Rule Assessment

An assessment of the proposal's compliance with the relevant rules of the District Plan has been completed. In summary, Table 3 below outlines the relevant rules relating to the proposed subdivision.

| Rule #             | Rule Name  | Status of Activity   | Comment   |
|--------------------|--|----------------------|---|
| <b>Land Use</b>    |  |                      |   |
| 3.4.2.9            | Earthworks   | <b>Discretionary</b> | The earthworks required for the construction of the roading totals 5,430m <sup>3</sup> and 930m <sup>3</sup> of fill for Lot 5, exceeding the maximum 25m <sup>3</sup> permitted.<br><br>This non-compliance results in the proposal requiring resource consent for a Discretionary activity. |
| <b>Subdivision</b> |  |                      |   |
| 15.4.1.1           | Activity Status Table                                | <b>Non-Complying</b> | The subdivision does not meet the performance rules in Part A, as set out in the below rule assessment. As such, there is no applicable rule in the activity table and the application therefore defaults to a Non-Complying activity.  |
| 15.4.2.1(k)        | Net lot area rules                                   | <b>Non-Complying</b> | Lots 7, 8, 10, 12 and 13 are less than 2,500m <sup>2</sup> in area, not meeting the minimum lot size requirement.<br><br>This non-compliance results in the proposal requiring consent for a Non-Complying activity.  |
| 15.4.2.3           | Lot frontage, lot shape factor and vehicle crossings | <b>Discretionary</b> | Lot 7 is unable to contain a 30m diameter shape factor circle exclusive of setbacks. Lot 7 demonstrates a 28.43m diameter shape factor circle.<br><br>This non-compliance results in the proposal   |

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|           |  |                      |  |
|-----------|--|----------------------|--|
|           |  |                      | requiring resource consent for a Discretionary activity.   |
| 15.4.2.5  | Lot design   | <b>Discretionary</b> | Lot 7 is unable to demonstrate a complying shape factor within setbacks.<br><br>This non-compliance results in the proposal requiring resource consent for a Discretionary activity.                                   |
| 15.4.2.6  | Lot design   | <b>Discretionary</b> | The subdivision will result in three rear lots (Lots 8, 12 and 13).<br><br>This non-compliance results in the proposal requiring resource consent for a Discretionary activity.  |
| 15.4.2.69 | All development and subdivision in areas subject to a Structure Plan, Development Plan or Concept Plan | <b>Discretionary</b> | The proposed road (Lot 200) is in general accordance with the structure plan, with some small alterations.<br><br>This non-compliance results in the proposal requiring resource consent for a Discretionary activity. |

**Table 3:** District Plan rule assessment.

As outlined in the table above, the application is deemed to be a **Non-Complying Activity** being the highest status indicated by the above rules.

### 3 STAFF COMMENTS

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#### 3.1 Development Engineering

Council's Development Engineer, Jonathan Marteja, has reviewed the application and notes the following points:

##### Stage 1

- New vehicle entrance must be provided for lot 1, lot 14 and lot 400.
- Lots 1 and lot 14 to have new water connection to council main.
- SW and WW system are to be on-site as per lot at building stage. SW design will be based on 100yr event as per SWMP submitted.

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- Site has found to have potential for liquefaction, a consent notice has been recommended.

## Stage 2

- DE is satisfied with the proposed roading and has recommended conditions.
- DE is satisfied with stormwater management.
- DE is satisfied with the proposed water supply and has recommended conditions.
- A consent notice has been recommended for wastewater on all lots. Lots less than 2500m<sup>2</sup> will require secondary treatment as per Waikato Regional Council requirements.
- A consent notice has been recommended for foundations due to the site having potential for liquefaction.

## **3.2 Reserves**

Council's Reserves Planner, Aidan Kirkby-McLeod, has reviewed the application and notes the following points:

- *The proposed scheme plan incorporates a 6m wide (minimum) accessway that connects the proposed development with the Town Belt reserve, in line with the Structure Plan for this growth cell. Following discussion at the pre-application stage, the accessway has been designed to provide a straight path with clear sightlines that enables users to identify the entry and exit points and assists with their safety. The accessway should be designed to incorporate a 3-metre wide concrete path with grass on either side. The scheme plan design accessway incorporates a splay to the western end of the accessway that opens up an area for additional planting. A condition of consent that requires the consent holder to provide detailed design for the accessway, including landscaping, is recommended.*
- *Development on the proposed sites adjoining the accessway and the Town Belt will be subject to the existing District Plan requirements regarding fencing adjoining these features, which require fencing to be designed as low lying and/or visually permeable. Subject to development adhering to these controls, the proposal will result in a positive interface that balances intervisibility and sightlines with privacy of private property. A condition of consent is recommended that requires the fencing to be established prior to the titles being created, as well as resulting in a consent notice being placed on the future land titles of the adjoining properties confirming that the council will not be liable for any costs associated with fencing along the common boundaries with the reserves.*
- *The proposal requires some earthworking to occur within the Town Belt reserve, in order to accommodate overland flow of stormwater (being at a volume of flow that is consistent with pre-development levels only as per comments in the pre-application meeting advice),*



*as shown in application drawing titled “Cut – Fill Volume Engineering Works” prepared by Blue Wallace Surveyors Ltd, ref. 23095-00-EN-202 rev. A, dated 03/11/23 (refer page 48 of ECM # 11140901) and as discussed in the assessment of archaeological values prepared by Matthew Gainsford, W. Gumbley Ltd Archaeologists provided with the application. Subject to these works being appropriately managed in line with best practice guidelines for earthworks and recommendations of the archaeological assessment, there will be no adverse impacts in this regard. Given that there are grazing leases that sit within this part of the Town Belt reserve, the works will need to be managed to ensure lessees are not impacted. A condition of consent that requires advanced warning of the works is recommended in this regard.*

Mr Kirkby-McLeod suggests conditions relating to the vesting and landscaping of the local purpose reserve, street trees, as-built plans, fencing and notification of works commencing. I concur with Mr Kirkby-McLeod’s comments and conditions.

## **4 ASSESSMENT FOR THE PURPOSE OF PUBLIC NOTIFICATION**

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### **4.1 Adequacy of information**

It is my opinion that the information contained within the application is substantially suitable and reliable for the purpose of making a recommendation of and decision on notification. The information within the application is sufficient to understand the characteristics of the proposed activity as it relates to provisions of the District Plan, for identifying the scope and extent of any adverse effects on the environment, and to identify persons who may be affected by the activity’s adverse effects.

### **4.2 Mandatory Public Notification - Section 95A(2) & (3)**

Council must publicly notify the resource consent where:

- a) it has been requested by the applicant; or
- b) a further information request has been not been complied with or the applicant refuses to provide the information pursuant to Section 95C; or
- c) the application has been made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977.

In this instance, none of the above situations apply, therefore public notification is not required under Section 95A(3).

### **4.3 Public notification precluded – Section 95A(5)**

The application is not for a resource consent for one or more of the following:

- a) Controlled activity;
- b) A restricted discretionary, discretionary, or non-complying activity, but only if the activity is a boundary activity.

This subdivision is not for a controlled activity or a boundary activity and public notification is therefore not precluded pursuant to Section 95A(5)(b).

There are no rules a National Environmental Standard or the District Plan relevant to this proposal that preclude public notification.

### **4.4 Public notification required in certain circumstances – Section 95A(8)**

Council must publicly notify the resource consent where:

- a) The application is for a resource consent for one or more activities, and any of those activities is subject to a rule or national environmental standard that requires public notification; or
- b) The consent authority decides, pursuant to Section 95D, that the activity will have or is likely to have adverse effects on the environment that are more than minor.

In this instance, public notification is not required by a rule or a national environmental standard. Refer to Section 4.6 of this report for Council's assessment of the effects.

### **4.5 Effects that may or must be disregarded – Section 95D(a), (b), (d) and (e)**

Pursuant to Section 95D, if a rule or national environmental standard permits an activity with that effect the adverse effect of that activity may be disregarded.

#### **4.5.1 Permitted Baseline**

All forms of subdivision within the District Plan require resource consent. Therefore, there are no subdivision activities permitted by the District Plan which can be considered with respect to the permitted baseline.

#### 4.5.2 Land excluded from the assessment

For the purpose of assessing an application to establish whether public notification is required, effects on owners and occupiers of the subject site and adjacent sites, and persons whom have given written approval **must** be disregarded. The adjacent properties to be excluded from the public notification assessment are listed in Table 4 and shown in Figure 29 below.

| ID# | Street Address  | Legal Description                      | Owner  |
|-----|---|--|--|
| 1   | 26 Maungatautari Road<br>RD 3 Cambridge 3495          | LOT 2 DPS 35800 BLK IX CAMBRIDGE<br>SD | Paul G Garland, Lynette M Garland,<br>Lewislegal Trustees 2008 Ltd |
| 2   | 324 Lamb Street<br>Leamington Cambridge<br>3432       | LOT 157 DP 593787                      | Simon R Makgill  |
| 3   | 28 Sunline Drive<br>Leamington Cambridge<br>3432      | LOT 1 DP 593787                        | Simon R Makgill  |
| 4   | 60 Orua Crescent<br>Leamington Cambridge<br>3432      | LOT 97 DP 535418                       | Sarah J Lowe, Richard J Lowe,<br>Cornwall Trustees 68 Limited      |
| 5   | 5 Recite Avenue<br>Leamington Cambridge<br>3432       | LOT 98 DP 535418                       | Stephen R Johnston & Helen M<br>Johnston                           |
| 6   | 56 Te Mara Drive<br>Leamington Cambridge<br>3432      | LOT 120 DP 535418                      | Corey J Verran & Sarah E Verran                                    |
| 7   | 55C Roto O Rangi Road<br>Leamington Cambridge<br>3432 | LOT 6 DP 452889<br>LOT 2000 DP 535418  | Brendon J Lafferty, Anita S Lafferty,<br>Matthew P Hanna           |
| 8   | 8 Koru Lane Leamington<br>Cambridge 3432              | LOT 3 DP 565025<br>LOT 100 DP 565025   | Daniel B Stapleton & Catherine R<br>Carleton                       |
| 9   | 7 Koru Lane Leamington<br>Cambridge 3432              | LOT 4 DP 565025<br>LOT 100 DP 565025   | Boddie Family Trustees Limited,<br>Michelle Amy Boddie             |
| 10  | 148 Amelia Place<br>Leamington Cambridge<br>3432      | LOT 7 DP 338668                        | Barry C Brewer & Miriam H Brewer                                   |
| 11  | 154 Amelia Place<br>Leamington Cambridge<br>3432      | LOT 6 DP 338668                        | Michael J Fitzpatrick & Wendy S<br>Fitzpatrick                     |
| 12  | 155 Amelia Place<br>Leamington Cambridge<br>3432      | LOT 5 DP 338668                        | Amy S Stewart & Gerard Molloy<br>Trustee Services Limited          |

| ID# | Street Address                                    | Legal Description  | Owner                            |
|-----|---|--|----------------------------------|
| 13  | Wordsworth Street<br>Leamington Cambridge<br>3432 | ALOT 91 CAMBRIDGE TN BELT ALOT 53 CAMBRIDGE TN BELT ALOT 89 TBLT CAMBRIDGE Pt ALOT 90 TBLT CAMBRIDGE and 38 more | Waipa District Council           |
| 14  | 316 Lamb Street<br>Leamington Cambridge<br>3432   | LOT 1 DP 384116  | Royce Wiles                      |
| 15  | 310 Lamb Street<br>Leamington Cambridge<br>3432   | LOT 1 DPS 51784 BLK XIII CAMBRIDGE SD  | May Boyce & Peter M Boyce Estate |

**Table 4:** Properties excluded for purposes of public notification assessment.



**Figure 29:** Adjacent properties map (Subject site highlighted in red).

No written approvals were provided with the application.

#### 4.6 Assessment of Adverse Environmental Effects – Section 95D

The meaning of ‘effect’ is defined under the Act as:

*In this Act, unless the context otherwise requires, the term **effect** includes—*

- (a) any positive or adverse effect; and
- (b) any temporary or permanent effect; and

- (c) *any past, present, or future effect; and*
- (d) *any cumulative effect which arises over time or in combination with other effects — regardless of the scale, intensity, duration, or frequency of the effect, and also includes—*
- (e) *any potential effect of high probability; and*
- (f) *any potential effect of low probability which has a high potential impact.*

With the definition of ‘effect’ in mind, it is considered appropriate to further examine the effects of the proposed activity relating to character and amenity, traffic, infrastructure, contaminated soil, and archaeological effects. It is acknowledged some of these effects are temporary and directly related to the construction of the subdivision and future development.

A comprehensive assessment of effects is included in Section 5 of the application. In accordance with Section 42A(1A) and (1B) of the Act I wish to generally adopt the Applicant’s assessment and provide the additional commentary below.

#### **4.6.1 Effects on character and amenity**

The Act 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”*. The Large Lot Residential Zone accommodates the Districts urban areas and considers bulk, existing environment, density, noise and the relationship between private and public spaces. Collectively these elements form the character of the area.

In terms of character and amenity, the proposed subdivision will be changing the function of the site in that it is currently vacant land (undergoing earthworks for development), however, given the site is zoned large lot residential and is within the structure plan enabling development such as the proposed, the proposed lots are consistent with the anticipated density outcomes. In addition, the proposed development will fit into the surrounding environment given the properties range from 2,500m<sup>2</sup> to 3,000m<sup>2</sup> in area and continues the lot layout further down Te Mara Drive. Therefore, the proposal is considered to be in accordance with what is anticipated within the zone, structure plan, and is consistent with the surrounding area, maintaining residential character

The undersized lots were deemed acceptable by Council at the pre application meeting, given that this would result in a complying road width. In addition, the lots are able to accommodate a shape factor circle exclusive of setbacks, with the exception of Lot 7, and therefore are of sufficient size to fit a dwelling. Despite Lot 7 not being able to accommodate a complying shape

factor, a 28.43m shape factor is demonstrated exclusive of setbacks, and the lot is still of a size that can accommodate a dwelling.

Overall, the adverse effects on the wider environment with regard to the character and amenity will be less than minor.

#### 4.6.2 Effects on the roading network

Traffic and the effects on the roading network are an instrumental part of the District Plan direction to ensure an integrated approach to land use and transport. At a local scale the integration of new activities need to ensure that the roading network can continue to function in a safe and efficient manner.

An Integrated Transportation Assessment (ITA) prepared by Gray Matter dated 10 November 2023 was included with the application (Appendix F). This assessment notes that the proposal could generate approximately 156 vehicles a day and 17 vehicles an hour during a peak hour which equates to one additional vehicle movement every 3.5 minutes. The assessment concludes that the safety and efficiency effects related to the proposal are likely to be less than minor. Figure 30 below was included in the ITA demonstrating the minimal change to the road layout compared to the structure plan and shows that connection is still possible with the proposed road.

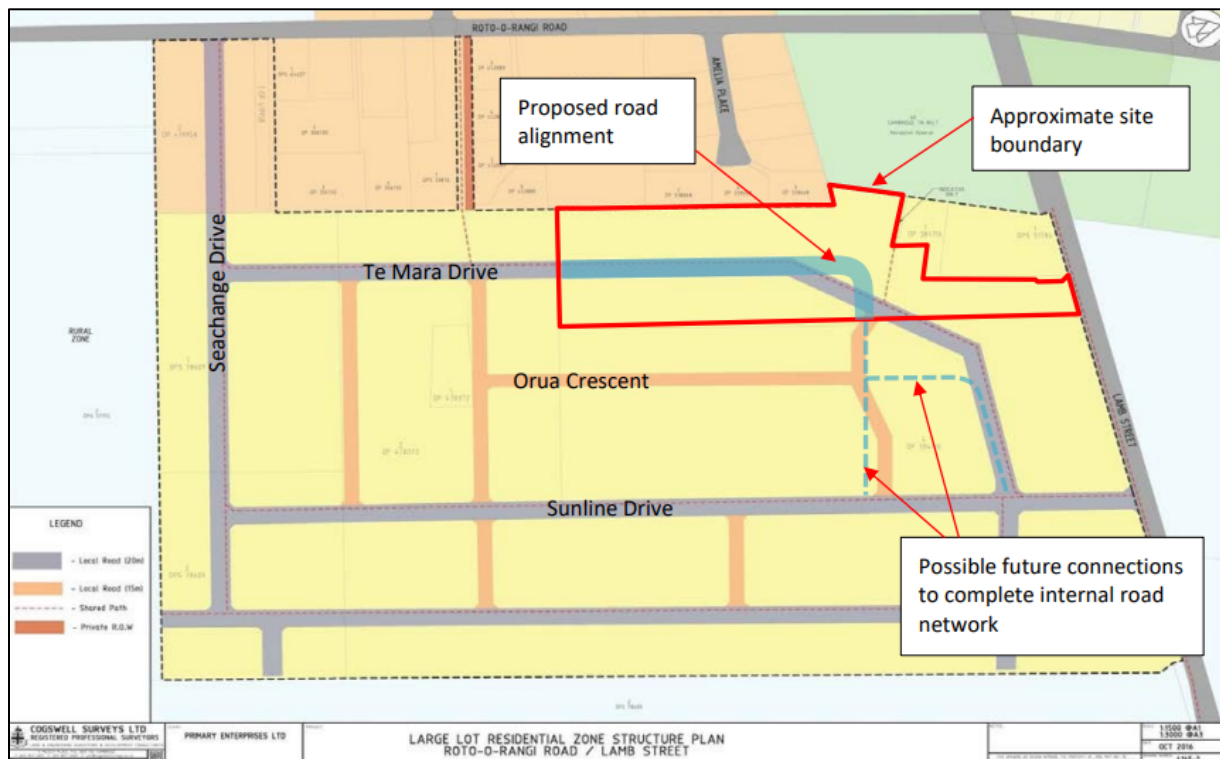


Figure 30: Road proposed compared to structure plan roading (image sourced from Gray Matter ITA).

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Council's Development Engineer, Jonathan Marteja, has reviewed the design and is supportive of the roading design and traffic assessment. In addition, Council is supportive of the roading design slightly differing from the structure plan layout given future connection is still able to be achieved, and is therefore in accordance with the structure plan.

Overall, it is concluded that any adverse effects on the roading network as a result of this proposal will be less than minor.

#### **4.6.3 Effects on Infrastructure**

How and where infrastructure occurs is critical to the suitability of a subdivision and the resulting use of the area. The infrastructure required for the development in the Residential Zone includes water supply, stormwater disposal, wastewater disposal, power and telecommunication connections.

The application has provided a Three Waters Report (Appendix G of the application) which outlines the proposal for wastewater, water supply and stormwater disposal. This report confirms there is a workable design for each reticulation to ensure the development is serviced appropriately.

Council's Development Engineer, Jonathan Marteja, has reviewed the application and is supportive of the proposed infrastructure reticulation.

Overall, based on the technical reports provided with the application and Council's Development Engineering Team advice, it is my opinion that any adverse effects on infrastructure will be less than minor.

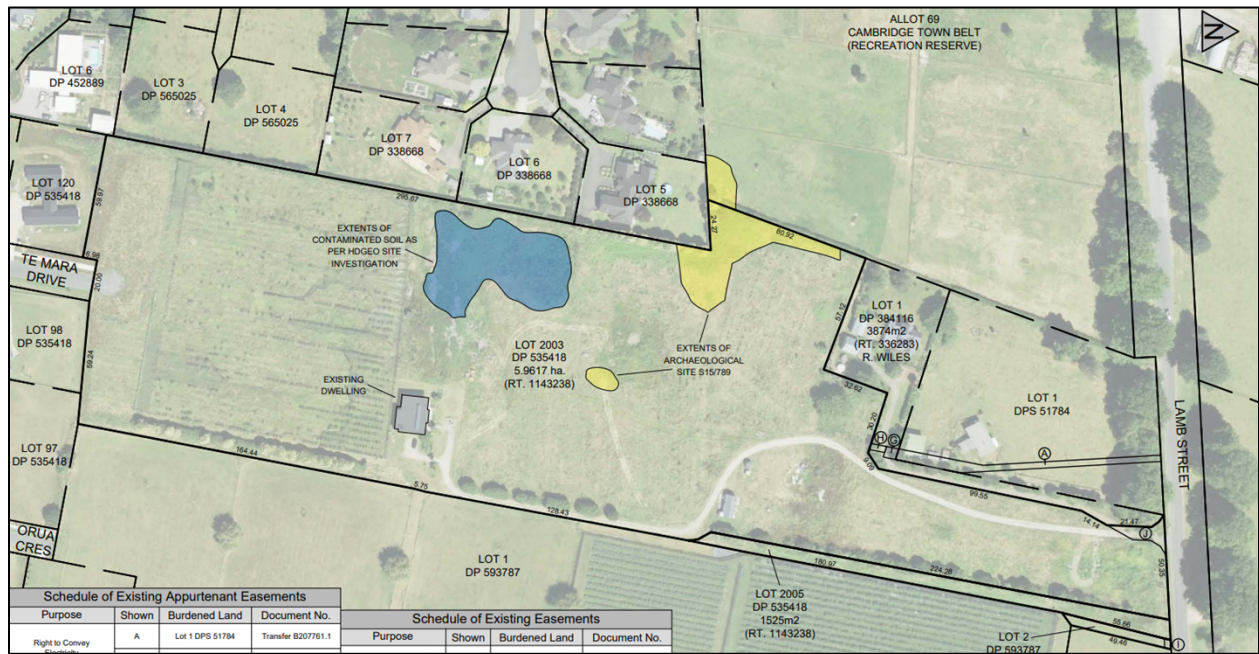
#### **4.6.4 Contaminated Soil**

As previously discussed in this report, LU/0142/23 granted consent under the NES-CS to undertake soil disturbance for remediation of contaminated land and change of use. Therefore, as the site has been remediated, which is subject to confirmation by the Site Validation Report (SVR) being provided (as conditioned under LU/0142/23), any effects or risks associated with contaminated soil are considered to be less than minor.

#### **4.6.5 Archaeological Effects**

An archaeological report was provided with the application (Appendix E) which determined the archaeological site (S15/789) relates Māori horticulture after testing was conducted and found horticultural soils and charcoal deposits within the site and the adjoining Council reserve. The extent of the archaeological site is shown as the yellow area in Figure 31 below. The

archaeological report concluded *“If any archaeology is to be modified/destroyed then an Authority must be sought from Heritage New Zealand Pouhere Taonga (HNZPT) prior to any earthworks commencing and that the mitigation of the archaeological resource be through the archaeological investigation and recording of archaeological remains prior to earthworks.”* Therefore, for any disturbance to the archaeological site, the consent holder will be required to obtain approval from HNZPT prior to any works taking place.



**Figure 31:** Extent of Archaeological Site S15/789 shown in yellow.

#### 4.6.6 Summary of Effects

Overall, it is concluded that any adverse effects of the proposal will be less than minor. On this basis the adverse effects are below the more than minor threshold and the proposal does not require public notification.

#### 4.7 Special Circumstances – Section 95A(9)

Council must publicly notify an application if it considers that special circumstances exist. In effect, special circumstances ‘trumps’ other notification provisions. Special circumstances have been defined as circumstances that are unusual or exceptional, but may be less than extraordinary or unique. Special circumstances provide a mechanism for public notification of an application which may otherwise appear to be routine or uncontentious or minor in its effects.



The purpose of considering special circumstances requires looking at matters that are beyond the plan itself. The fact that a proposal might be contrary to the objectives and policies of a plan is not sufficient to constitute special circumstances. Special circumstances must be more than:

- where a Council has had an indication that people want to make submissions;
- the fact that a large development is proposed; and
- the fact that some persons have concerns about a proposal.

In this instance, the proposal is not considered to have unusual or exceptional circumstances warranting public notification.

#### **4.8 Summary of Public Notification Assessment**

Pursuant to Section 95A, the application has been assessed to determine if public notification is required. In this instance, and for the reasons outlined in Sections 4.1 to 4.7 above, it is not considered that the proposal warrants public notification. For this reason the application is required to be assessed pursuant to Section 95B for limited notification.

## **5 ASSESSMENT FOR THE PURPOSES OF LIMITED NOTIFICATION**

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Pursuant to Section 95B(1), where a consent authority decides that public notification is not required under Section 95A of the Act, an assessment is required to determine whether limited notification of an application is required.

### **5.1 Affected Customary Rights or Marine Title Groups – Section 95B(2)**

The property subject to this consent is not within an protected customary rights group area or a customary marine title area as defined by the Marine and Coastal Area (Takutai Moana) Act 2011.

### **5.2 Statutory Acknowledgment Area – Section 95B(3)**

The property subject to this consent is within Ngati Haua and Raukawa Areas of Interest.

The application was sent to the Ngaa Iwi Toopu o Waipā iwi representatives and they were not opposed to the application. Therefore, the proposal is not contrary to the cultural, spiritual, historical, and traditional association of Ngāti Hauā and Raukawa with this identified area.

### **5.3 Limited Notification Precluded in Certain Circumstances – Section 95B(6)**

There are no rules in a National Environmental Standard or in the District Plan relevant to this proposal that preclude limited notification.

The application is not a controlled activity requiring consent under the District Plan.

There are no circumstances relevant to this proposal that preclude limited notification.

## **5.4 Assessment of adversely affected persons - Section 95E**

The following provides an assessment of the adverse effects on the potentially affected persons.

### **5.4.1 Property 1**

This property is located across the road to the north of the subject site. The property is developed with a historic dwelling/homestead and multiple sheds, with large amounts of vegetation and trees surrounding the dwelling and sheds. Given the dwelling in the property is over 280m from the subject site boundary and the existing vegetation providing for screening, the views of future development and the subdivision will be limited. Therefore, the owners and occupiers of Property 1 are not considered to be affected by the proposal.

### **5.4.2 Properties 2 & 3**

These properties are located to the east of the subject site. The properties are in the same ownership and are predominantly used as a blueberry orchard and pasture land and is developed with sheds along the eastern boundary. Given the nature of the site being for horticultural/farming production, the owners and occupiers of Properties 2 and 3 are not considered to be affected by the proposal.

### **5.4.3 Properties 4 to 12**

These properties are located to the south and west of the subject site. All these properties are LLRZ properties developed with a dwelling, sheds, and swimming pools. The proposed lots continue the existing development pattern that is down Te Mara Drive. These properties will experience a change as a result of this proposal given each proposed lot is anticipated to be developed for residential purpose. However, as abovementioned, the proposal is consistent with the surrounding area, what is anticipated in the District Plan, and is continuing the development pattern as is currently down Te Mara Drive. In addition, properties 6, 10 to 12 have existing boundary hedging and vegetation, providing for additional screening from the site. Therefore, the owners and occupiers of Properties 4 to 12 are not considered to be affected by the proposal.

#### **5.4.4 Property 13**

This property is located to the west of the subject site. The property is Council owned reserve land that will be provided access to from the proposed subdivision. The site is currently used for grazing and is vacant of built development. Given the nature of the site being a reserve and the subdivision enabling public access to the reserve, the owners and occupiers of Property 13 are not considered to be affected by the proposal.

#### **5.4.5 Property 14**

This property is located to the west of the subject site. The property is developed with a dwelling, multiple detached sheds, and water tanks as well trees and vegetation along all boundaries surrounding the dwelling. This property will experience a change as a result of this proposal given each proposed lot is anticipated to be developed for residential purpose. However, as abovementioned, the proposal is consistent with the surrounding area and what is anticipated in the District Plan. In addition, there is existing vegetation within the property that provides for some screening, and the outdoor living area is oriented towards the adjoining Council reserve. Therefore, the owners and occupiers of Property 14 are not considered to be affected by the proposal.

#### **5.4.6 Property 15**

This property is located to the west of the subject site. The property is developed with a dwelling and multiple detached sheds as well as vegetation along all boundaries, including a dense strip of trees along the boundary facing the subject site running along the property's driveway. This property will experience a change as a result of this proposal given each proposed lot is anticipated to be developed for residential purpose. However, as abovementioned, the proposal is consistent with the surrounding area and what is anticipated in the District Plan. In addition, there is existing vegetation within the property that provides for screening, and the outdoor living area is oriented towards the adjoining Council reserve. Therefore, the owners and occupiers of Property 15 are not considered to be affected by the proposal.

#### **5.4.7 Iwi – Ngāti Koroki Kahukura**

Initial consultation was undertaken by the applicant with Beth Tauroa of Ngāti Korokī Kahukura regarding the archaeological site on the property. The applicant having only provided a draft Cultural Impact Assessment to Council, Council is not satisfied that any adverse cultural effects will be less than minor. The proposed application is therefore considered to result in minor or more than adverse cultural effects to Ngāti Korokī Kahukura.

Overall, the adverse cultural effects are considered to be minor or more than minor (but not less than minor).

#### **5.4.8 All other persons**

Ngāti Hauā and Raukawa have not expressed an interest in the application and are therefore not considered adversely affected.

Persons owning or occupying all other properties beyond those discussed above are not deemed affected given the separation distances between them and the development and the orientation of the properties.

#### **5.4.9 Summary of Assessment**

Based on the above assessment, the proposal will have adverse effects on the identified persons that are minor or more than minor. There will be some temporary effects associated with construction, however given their temporary nature, these are considered to have effects that will be less than minor. Overall, the adverse effects on persons are minor.

### **5.5 Special Circumstances – Section 95B(10)**

Council must limited notify an application, to any other persons not already determined to be eligible for limited notification, if it considers that special circumstances exist in relation to the application.

Special circumstances have been defined as circumstances that are exceptional, abnormal or unusual but may be less than extraordinary or unique. Special circumstances provide a mechanism for limited notification of an application which may otherwise appear to be routine or uncontentious or minor in its effects.

In this instance, the proposal is considered not to have exceptional, abnormal or unusual circumstances warranting limited notification.

### **5.6 Summary of Limited Notification Assessment**

Pursuant to Section 95B, the application has been assessed to determine if limited notification is required. In this instance, and for the reasons outlined in Sections 5.1 to 5.4 above, it is considered that the proposal warrants limited notification to Ngāti Korokī Kahukura.

## 6 SECTION 95 A & B NOTIFICATION RECOMMENDATION AND DECISION UNDER DELEGATED AUTHORITY

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Pursuant to Section 95 A & B application SP/0117/23 and LU/0210/23 for a Non-Complying Activity shall proceed on a **Limited Notified** basis for the reasons outlined in this report. The application shall be notified to the following persons:

- Ngāti Korokī Kahukura.

**Reporting Officer:**



**Layla Gruebner**  
**Planner**

**Dated: 26 March 2024**

**Approved By:**



**Quentin Budd**  
**Consents Team Leader**

**Dated: 28 March 2024**