Attachment 12:

Approved Earthworks Land Use Consent

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RM number: RM220258
Date: 21 December 2022
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Our reference:RM220258

APPROVAL OF RESOURCE CONSENT FOR BULK EARTHWORKS, VEGETATION CLEARANCE AND UPGRADE OF CULVERTS AT 30 BENMORE CRESCENT MANOR PARK (SEC 1 SO 493901)

Council granted consent for the following reasons:

- Onsite earthworks will be staged and controlled such that adverse effects on amenity values will be acceptable.
- The site is not visually prominent as observed from the wider environment.
- The contaminated land thresholds are below the human health index and the applicant has submitted to council a Detailed Site Investigation which concludes that disposal of the proposed material is appropriate.
- The building within the fault study overlay setback is non-habitable and will be utilised in a transient fashion, with the building to be removed upon completion of the work.
- No persons are deemed affected by the works to an extent that warrants notification.
- Conditions imposed on the consent under section 108 of the Resource Management Act 1991 will control, mitigate and remedy any environment effects caused by the subdivision.
- The property does not appear on Greater Wellington Regional Council's selected land use register as a contaminated site or as having been the site of a verified hazardous activity. As a result, Council considers the likelihood of earthworks uncovering contamination at the site to be negligible.
- The proposal is consistent with the policies and objectives of the city's District Plan.
- Council has given due regard to the New Zealand Coastal Policy Statement, any national, regional or proposed regional policy statement and any other regulations in reaching its decision. Council considers there are no other relevant matters that need to be dealt with.
- The proposal is consistent with the purposes and principles of Part II of the Resource Management Act 1991.

1. PROPOSAL

The applicant is seeking resource consent to undertake bulk earthworks across a 13.1ha rural property in Manor Park. The earthworks will include a cut volume of approximately 130,000m^3 and a fill volume of approximately 160,000m^3. The proposal will also include the importation of fill, if suitable material is not available on site, which could compose approximately 100,000m^3 of imported fill.

The proposal will also include an onsite temporary office which may be located within 20m of the fault line study zone pending the construction management plan. Vegetation removal associated with the bulk earthworks is a permitted activity and can be undertaken as of right and hence will not be considered further throughout this report. The proposal will also include the demolition and removal of the onsite abandoned buildings which is a permitted activity under the District Plan. The proposal does not include the formation of roads or trenching for services as a part of this resource consent.

The earthworks and vegetation removal will occur across the majority of the site to form a platform for future use and development. The platform will range from approximately RL 35m in the northeast of the site to RL 26m in the southwest of the site. The earthworks will include a maximum vertical alteration of up to 6m. No detonations are proposed for the earthworks. The proposal will also include a remedial action plan to manage the asbestos and heavy metal removal of land identified as contaminated and includes appropriate disposal in accordance with the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health Regulations 2011 (NES).

The proposal will also involve instating a 20m riparian margin along dry creek and native planting. The proposal will also allow for up to four culverts to be built along Dry Creek to provide for vehicle crossings.

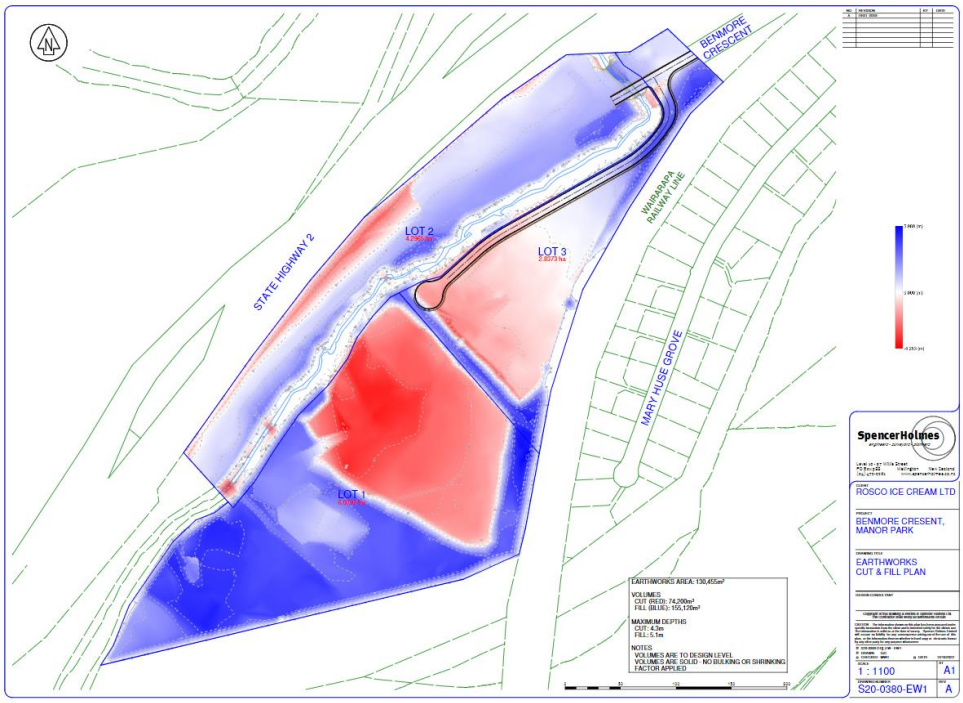


Figure 1. Earthworks Cut and Fill Plan

2. SITE DESCRIPTION

The applicant has included the following site description which I have accepted as accurate and adopt noting the following:

The site is located at Benmore Crescent, Manor Park, Lower Hutt.

The majority of the site is undeveloped and is comprised of grasses, vegetation and open gravel areas. There are several abandoned buildings onsite and remnants of old buildings. There is evidence of historic filling to create raised earth platforms and access tracks and dumping of waste.

There is a cycling/walking trail on land owned by GWRC along the southern boundary of the site and adjacent to the Hutt River. The Wairarapa railway line runs along the eastern site boundary and residential dwellings are present beyond this. State Highway 2 (SH2) is located to the west of the site. Access to Benmore Crescent and the site is available off SH2 via the existing Manor Park intersection.

The topography onsite is varied due to the historic filling that has occurred. There are large flat yard areas, raised fill platforms, embankments and low-lying areas. Overall, the site topography slopes from approximately r34m (Wellington Datum 1953) adjacent to SH2 down towards the Hutt River, where, at the site boundary, the land height is approximately RL 26m.

Dry Creek runs through the site and discharges into the Hutt River. At the northern extent of the site the stream channel is shallow with low, poorly defined, banks. The channel becomes more incised with taller banks as it flows through the site to the Hutt River. There are four existing culverts within Dry Creek.

Static water level measurements were recorded during the drilling of four fault investigation boreholes. Groundwater beneath the site is located within the overlying alluvial deposits between approximately 21 to 24 m RL. The groundwater level is shallowest along the southeast margin of the site nearest the Hutt River (approximately 3 m below ground level), and deepest at the northern end (approximately 8 m below ground level).

Native vegetation is present onsite including kawakawa, mahoe, seven finger, ngaio, karamu and cabbage tree. However, the site is largely dominated by exotic species such as blackberry, tradescantia, popular, gorse, tree lucerne, fennel and willow. Northern grass skink may be present onsite and New Zealand Peripatus was observed at the site in October 2021. No observations of bats have been made in the vicinity of the site. However, their temporary presence cannot be ruled out. Indigenous bird species are likely to utilise the site for breeding and foraging; and two wetlands were identified onsite. These wetlands have formed in areas where earthworks occurred between 2005-2018. The ecological investigation concluded that the two wetlands onsite met the definition of a 'natural wetland' under the National Policy Statement for Freshwater and NESF.

The District Plan does not identify any archaeological or heritage features onsite. A review of the ArchSite3 archaeological database has been undertaken to identify if there are any

registered archaeological features present. Site R27/536 is located in the northern area of the site. It is the location of the former Wellington-Wairarapa railway line built between 1874 and 1880. The notes on the database indicate that "Sections of the old line have been converted to roadways and cycle lanes. Most of the railway features have been removed/destroyed, though some subsurface features may exist". The former rail bed can be regarded as a historical route, rather than a detailed, archaeological feature.

The site is not included within the Wellington Regional Council SLUS/HAIL database. However, a DSI has been prepared for the proposed works which notes:
Overall, the soil onsite is contaminated above background levels, but below the relevant commercial/industrial human health criteria.

30 Benmore Crescent is legally described as Section 1, 6 SO 493901 and held in Record of Title Identifier 738223. The Record of Title includes the following interests

- *Subject to Part IV A Conservation Act 1987*
- *Subject to Section 11 Crown Minerals Act 1991*
- *B645270.1 Gazette Notice (1997/1066) declaring that portion of State Highway 2 adjoining hereto to be a Limited Access Road*
- *11032732.1 Gazette Notice (2018- In 656) declaring Section 6 SO 493901 to be set apart for Local Purpose Reserve (Soil conservation and river control purposes) and shall remain vested in Her Majesty the Queen*
- *Fencing Covenant in Transfer 11676592.2*
- *11676592.3 Encumbrance to New Zealand Transport Agency - 5.3.2020 at 2:08 pm*

3. RELEVANT PLANNING RULES AND REGULATIONS

Operative District Plan
The District Plan is the appropriate planning instrument with which to assess the proposal. Rules relating to the General Residential Activity Area, which this proposal falls within, are contained in chapters 8B (Rural), 11 (Subdivision) and 14 (General Rules). The Lower Hutt District Plan 'Wellington Faultline Study Zone' overlay extends across the site.

District Plan as modified by Plan Change 56:

On 18 August 2022 Plan Change 56 (PC56) was notified which introduces 'medium density residential standards' (MDRS) as required by the Intensification Planning Instrument of the Resource Management Act 1991 (RMA). Under PC56 the application site is located within the Rural Zone. The application site is not newly zoned for residential activity, nor is it within a qualifying matter area, whereby in accordance with s86BA(1) of the RMA, the MDRS permitted rules as incorporated by PC56 have taken legal effect from the time the plan change was notified. The non-compliances with the District Plan (including any MDRS standards incorporated within PC56) for which resource consent is required and any relevant assessment matters of the Operative District Plan are identified in the following assessment.

The proposal requires resource consent for the following District Plan non-compliance:
The proposal will comply with the new permitted standards which have taken legal effect.

Operative District Plan permitted rules and standards which continue to have legal effect:

Rule 14H 2.1(a) All structures and buildings on any site where the whole site or a portion of the site falls within the Wellington Fault Special Study Area, excluding proposed accessory buildings which are not required for habitable or working purposes.
The proposal includes a site office which is located within 20m of the fault line study area.

Rule 14I 2.1(a): Earthworks in all activity areas, except Hill Residential and others specified activity areas, are permitted activities up to a maximum volume of 50m^3 and vertical alteration of 1.2m.
The proposed earthworks will exceed the allowable volume by approximately 390,000m^3, of which 130,000m^3 is proposed as cut, 160,000m^3 as fill, with potentially up to 100,000m^3 of imported fill with a cut depth of up to 6m and fill height of up to 6m.

I consider the proposal to be a restricted discretionary activity under Rules 14H 2.1(a) and 14I 2.2.(a).

<u>Matters of Discretion:</u>

- Effects on visual amenity values
- Effects on natural features and topography
- Natural hazard effects
- Effects on surrounding cultural or historical features of significance
- Safe Separation Distance of Structures and Buildings from the Wellington Fault

National Environmental Standards (NES)
The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 is implemented in order to ensure that land affected by contaminated soil is appropriately assessed and made safe for human use. The Regulation is applicable to all proposals involving the following activities which will occur on land that is being used, has been used, or is more likely than not to have been used for hazardous activity or industry use (HAIL):

- Removal of fuel storage systems and associated soil from a piece of land or replacement of a fuel storage system in or on a piece of land.
- Soil sampling
- Soil disturbance
- Subdivision of land
- A change in land use

Via a check of the Greater Wellington Regional Council SLUS database, Council can conclude that the subject site is not recorded as affected by historical HAIL activity. The applicant has however prepared a Detailed Site Investigation (DSI) for the subject site which notes:

The site is currently a mixture of commercial, industrial, farmland, and scrub land with some open grassed areas and it is proposed to undertake bulk earthworks over the site in preparation for future land development for likely mixed use activities; some of the earthworks have already begun. Additional fill will be imported to various portions of the site to increase its elevation above the flood plain.

A Preliminary Site Investigation was completed in September 2020 which identified eight potential site activities included on the Hazardous Activities and Industries List, specifically the following:

- *Horticulture/ nursery activities*
- *Potential fuel storage for quarrying*
- *Timber storage yard*
- *Metal blasting and protective coating*
- *Uncontrolled demolition of former buildings*
- *Concrete truck storage, quarrying vehicles and equipment*
- *Clean-fill operations, undocumented fill*
- *Burn-off Areas*

The report identifies nine categories included on the Hazardous Activities and Industries List, namely the following:

- *HAIL ID A10 – Persistent pesticide bulk storage or use including sport turfs, market gardens, orchards, glass house or spray sheds; Chemical manufacture, application and bulk storage;*
- *HAIL ID A17 – Storage tanks or drums for fuel, chemicals or liquid waste; Chemical manufacture, application and bulk storage;*
- *HAIL ID A18 - Wood treatment or preservation including the commercial use of anti-sapstain chemicals during milling or bulk storage of treated timber outside; Chemical manufacture, application and bulk storage;*
- *HAIL ID D1 – Abrasive blasting including abrasive blast cleaning (excluding cleaning carried out in fully enclosed booths) or the disposal of abrasive blasting material); Metal extraction, refining and reprocessing, storage and use;*
- *HAIL ID D3 – Metal treatment or coating including polishing, anodizing, galvanizing, pickling, electroplating, or heat treatment or finishing cyanide compounds; Metal extraction, refining and reprocessing, storage and use;*
- *HAIL ID E1 – Asbestos products manufacture or disposal including site with building containing asbestos products known to be in a deteriorated condition; Mineral extraction, refining and reprocessing, storage and use;*
- *HAIL ID E8 – Transport depots or yards including areas used for refuelling or the bulk storage of hazardous substances; Mineral extraction, refining and reprocessing, storage and use;*
- *HAIL ID G5 – Waste disposal to land (excluding where biosolids have been used as soil conditioners); Cemeteries and waste recycling, treatment and disposal; and*
- *HAIL ID I – Any land that has been subject to the intentional or accidental release of a hazardous substance in sufficient quantity that it could be a risk to human health or the environment*

A land use change, soil disturbance and subdivision on sites where an activity included on the HAIL is, has, or is more likely than not to have occurred, requires an environmental assessment under the NES. As the proposal includes bulk earthworks, the proposal is considered to be disturbing soils.

The permitted standards pursuant to Regulation 8(3) Disturbing Soil under the NES allow for a volume of disturbance of 25m^3 per 500m^2 as a permitted activity. The proposal is in excess of this volume across the site and therefore is a Restricted Discretionary Activity in accordance with Regulation 10 of the NES, as Regulation 10(2) is considered satisfied.

Matters of Discretion

- The adequacy of the detailed site investigation, including—
    - (i)site sampling:
    - (ii)laboratory analysis:
    - (iii)risk assessment:
- The suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:
- The approach to the remediation or ongoing management of the piece of land, including—
    - (i)the remediation or management methods to address the risk posed by the contaminants to human health:
    - (ii)the timing of the remediation:
    - (iii)the standard of the remediation on completion:
    - (iv)the mitigation methods to address the risk posed by the contaminants to human health:
    - (v)the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:
- The adequacy of the site management plan or the site validation report or both, as applicable:
- The transport, disposal, and tracking of soil and other materials taken away in the course of the activity:
- The requirement for and conditions of a financial bond:
- The timing and nature of the review of the conditions in the resource consent:
- The duration of the resource consent.

Both the proposed earthworks and disturbance of contaminated soils are intrinsically tied to one another for the proposed bulk earthworks and therefore assessing the application separately is not considered appropriate as the contamination is fixed to the underlying allotment. The proposal is therefore considered to be bundled as a **Restricted Discretionary Activity.**

4. PERMITTED BASELINE

It is appropriate to disregard adverse effects of the activity on the environment or on any persons, if the effects are comparable to an activity or development that is permitted by the District Plan; this is known as the permitted baseline.

In this instance, a relevant permitted baseline would include earthworks up to 50m^3 in volume and up to 1.2m in vertical alteration. This permitted baseline is of limited relevance considering the scope of the proposed earthworks and therefore will not be taken into consideration throughout this decision report.

The permitted baseline for the Rural Zone however does not include restrictions with regard to vegetation clearance and therefore the vegetation onsite can be cleared as part of the permitted baseline, which can be included within the permitted baseline with regard to effects relating to amenity. It is our understanding that the applicant has applied for a land use consent with Greater Wellington Regional Council (GWRC) for the vegetation clearance on erosion prone land.

5. NOTIFICATION ASSESSMENT UNDER THE DISTRICT PLAN

Council must assess any resource consent application under section 95 of the Resource Management Act 1991 to determine whether a resource consent application should be notified. The Resource Management Act 1991 details a four step process that must be followed, and triggers or precludes notification of applications in certain circumstances. The sections below follow the four step process for public notification (under section 95A) and limited notification (under section 95E).

5.1 - PUBLIC NOTIFICATION STEPS – SECTION 95A

Pursuant to section 95A of the Resource Management Act, this section follows the 4 step process to determine if public notification is required.

Step 1 - Public notification is mandatory in certain circumstances
Public notification is mandatory in certain circumstances.

Has the applicant requested public notification?	No
Is public notification required under s95C?	No
Is the application made jointly with an application to exchange recreation reserve land under s15AA of the Reserves Act?	No

Public notification is not mandatory under step 1.

Step 2 - Public notification is precluded in certain circumstances
If public notification is not required under step 1 it may be precluded in certain circumstances (unless special circumstances apply under step 4).

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding public notification?	No
Is the application for one or more of the following (but no other) activities? ▪ A controlled activity ▪ A boundary activity with a restricted discretionary, discretionary or non-complying activity status	No

Rule 14H 2.1(a) is excluded from public notification pursuant to 14H2.1(a)(i) and hence will not be considered in the public notification assessment. However, breaching the earthworks rules is not precluded from public notification. Therefore, Public notification is not precluded under step 2.

Step 3 - Public notification is required in certain circumstances
If public notification is not precluded under step 2, public notification may be required in certain circumstances.

Is any activity in the application subject to a rule in a Plan or National Environmental Standard that requires public notification?	No
Does the activity have, or is likely to have, adverse environmental effects that are more than minor in accordance with s95D?	No (see assessment below)

Does the activity have, or is likely to have, adverse environmental effects that are more than minor in accordance with s95D?

Public notification is required under step 3 if the activity will have or is likely to have adverse effects on the environment that are more than minor.

In considering if the adverse effects on the environment are more than minor, the effects on persons who own or occupy the land in, on, or over which the activity will occur; or any land adjacent to that land must be disregarded. I have therefore disregarded the effects on the persons who own or occupy properties at the following properties in making an assessment under s95D:

- 10 Benmore Crescent
- 50 Benmore Crescent
- 8 Hutt Rail Way Central
- Properties on the western side of Mary Huse Grove (from number 27 to 70)

The adverse effects on the environment are considered to be less than minor for the following reasons:

<u>Amenity Values</u>

Adverse effects resulting from earthworks can occur during construction and following works if the site is not appropriately remediated or finished. Construction activity can result in adverse temporary construction effects such as noise, dust, vibration, sedimentation or traffic. Temporary construction effects are the cumulative effects resulting from construction activity for the duration construction is underway. This usually corresponds to the scale and complexity of the construction activity. The proposal involves the cut and fill of a cumulative 390,000m^3 of earth and a vertical alteration of up to 6m to create a level platform for future development on the site.

The applicant has not applied to breach construction noise, vibration, high trip generator vehicle movement thresholds or dust standards of the District Plan, and therefore the effects resulting from this will be consistent with the permitted baseline. Construction effects associated with these works will be temporary, noting that the District Plan allows for some additional noise during such times in accordance with NZS 6803P “Measurement and Assessment of Noise from Construction, Maintenance and Demolition Work”. The applicant has also noted that sediment control measures will be installed for the duration of the site development works. Vibrations will be managed on site through the earthworks management plan, which will include controls for reducing the effects to an appropriate level. The proposal will result in less than 500 vehicle movements per day, both to and from the site, with access primarily being via the adjacent state highway, which will appropriately limit the effects as vehicle movements will be absorbed by background traffic levels. Dust will be managed through the earthworks management plan, with the applicant identifying several methods in the application, including textile covering, wetting and polymer binding, with the final methodology to be submitted as part of this management plan. With the exception of the

proposed scale of works, the effects of the proposal will be largely consistent with the permitted baseline.

Amenity effects arising from earthworks will also be managed through the earth worked areas being built over, landscaped or sealed as soon as practicable. The applicant has proposed to submit to council, an earthworks management plan which includes the staging of the proposed earthworks prior to the works being undertaken. The staging of the proposed earthworks will result in the activity being localised to parts of the site at any one time, reducing adverse effects associated with long term scarring of the site, in consideration of the scale of earthworks proposed. This will mean there are no areas of exposed cuts, reducing the appearance of scarring onsite, and scope for amenity effects relating to dust and sedimentation. Further the vertical alteration is to make the site more consistent in terms of topography, as presently the site is characterised by an inconsistent, rugged design, which is out of character with the surrounding area. It is also noted that the current terrain is not a natural formation, and the subject site has already been heavily impacted by human activity over time. Potential adverse amenity effects associated with the proposed earthworks will be less than minor.

Finally, A condition of consent will be included under s.108 that will require erosion and sediment control measures to be implemented during the earthworks phase of the proposal in accordance with the Greater Wellington Regional Council's guide "Erosion and Sediment Control Guideline for Land Disturbing Activities in the Wellington Region" and will include specific measures to reduce the effects of the proposal to an appropriate scale that will not adversely impact the amenity as experienced by the wider community.

<u>Existing Natural Features and Topography</u>

The proposal will result in the disturbance of 390,000m^3 of soil across an area of 130,455m^2, consisting of bulk earthworks to create a level platform on the site for future activities, which will either be permitted or assessed independently of this report. Upon completion of earthworks, the area will be seeded, sealed, stabilised or covered by landscape treatments meaning there will be no permanent scarring or obvious changes to the site topography. The key site feature being that the site is rugged and overgrown will be lost, however the proposed design will result in the site being flat and of a more functional form. It is also noted that the site in the past was flat in nature during the 90's where the site was utilised for agricultural activities, and that the changes to the site, are not the result of the fault zone, or tectonic activity but human influence which has resulted in the current shaping of the site. As discussed in the application and permitted baseline, the site does include vegetation however none of the trees are of an iconic or protected status, and as per the rules of the Rural Activity Area can be cleared as of right. Therefore, the site lacks any existing vegetation which would require preservation. Finally, no changes to significant ridgelines, hilltops, or areas visible from public spaces are proposed. The site is partially visible from the State Highway, however it is noted that due to the fall only limited amounts of the area are visible.

On this basis, effects associated with changes to the natural topography and features of the site will be less than minor.

Historical or Cultural Significance

The site is not identified in the District Plan as being of cultural or historical significance, nor is it identified by Heritage New Zealand as being a site of archaeological significance. On this basis, works are unlikely to disrupt or destroy any artefacts or values of historical or cultural significance.

The applicant has included within the application an archaeological report prepared by Capital Heritage Limited, an archaeology and heritage consultancy. The report concludes the following from the site visit and conclusion of the report:

No probable or likely archaeological materials or features were seen during the site visit.

The general property shows numerous signs of demolition and soil disturbance and there has clearly been a great deal of activity there in recent years. Little in the way of topsoil has survived over most of the site which mostly shows mixed alluvial soils and gravels at surface.

Although this general area was surveyed out for pastoral and railway purposes during the 1850s and 1870s, it appears that there was little in the way of direct, pre 1900 archaeological activities carried out here that are likely to have left tangible, physical remains today

Although the railway line ran through this area from the early 1870s, the 1950s removal of the line and subsequent grading and asphalting of the former rail bed will have substantially obscured and altered the original railbed. The former rail bed can be regarded as an historical route, rather than a detailed, archaeological feature. There is also no evidence to suggest that there was additional railway related activity in the area such as construction of a railway station or siding.

It is therefore concluded that the site is of limited historical or archaeological significance and it is determined that a General Archaeological Authority (as per the Heritage New Zealand Pouhere Taonga Act) will not be required in this instance as the site.

As the Council does not recognise the site as being of historic value, the archaeology report prepared by Capital Heritage Limited, Archaeology and Heritage Consultancy is considered appropriate and the conclusion of the report is accepted. An Accidental Discovery Protocol will also be included within the conditions of the consent that the council has proferred and been accepted by the applicant which will ensure that the discovery of any material of a historic nature will be preserved.

The site is owned by Te Runanga O Toa Rangatira Incorporated, who have provided written approval for the proposal as the owners of the land. Cultural effects upon are also not considered in accordance with s. 95D(e) of the RMA. The site is also not included in a cultural overlay, nor recognised in the District Plan. Cultural effects have therefore been assessed as less than minor.

Natural Hazards

The proposed earthworks will alter the topography of the site. The applicant has prepared a flood assessment report, prepared by River Edge Consulting Limited, which concludes that where the flood design proposed in the report is included within the design of the site, future

development of the site will protect the existing site, whilst causing no adverse effects off-site. Models of the existing and proposed flooding depths are included within the report in figures 7-1 and 7-2 which appropriately show that flooding can be controlled on the site in association with the proposed development. The proposal will not result in flooding which will affect the wider community. The proposal will therefore not create, accelerate, worsen or exacerbate the natural hazards associated with flooding.

The site also includes the fault hazard of the district plan running through the north-western portion of the site. The applicant at this stage has solely applied for bulk earthworks to level the site. The proposal therefore does not include the provision of structures either habitable or inhabitable and therefore there is no risk to human life, resulting in the proposal being consistent with the provisions of Chapter 14H as a permitted activity. Further the levelling of the site will not result in changes to the site which could adversely affect the public or wider community. The proposal will therefore not create, accelerate, worsen or exacerbate the natural hazards associated with earthquakes or liquefaction.

The site is currently rugged, with the proposal to create a platform for future works on the site. The proposal will involve the flattening of mounds, reducing the risk of erosion or slips as a result of the proposed alteration. The proposed earthworks will also be carried out in accordance with the earthworks management plan, which will reduce the risks of the proposed earthworks including compliance with the Health and Safety At Work Act of 2015 which will appropriately mitigate any risk to human life associated with slips or erosion. The proposal will also include a restricted work site, which will not allow for public access which will reduce any risk to the wider community or public to an acceptable level. The proposal will therefore not create, accelerate, worsen, or exacerbate the natural hazards associated with slips or erosion.

Overall effects associated with the proposed earthworks with respect to natural hazards will be less than minor, and do not warrant public notification.

<u>Contaminated Land.</u>

The proposal is taking place on land that has been assessed as likely to have been used for HAIL activities in the past, despite not being on the Greater Wellington Regional Council SLUS Database. The Detailed Site Investigation (DSI) has been carried out by a separate party from the applicant, which included laboratory analysis and a recommendations. The findings of the report show that the subject site does include contamination; however, no human health criteria were exceeded. The proposal also included five bulk PACM samples, two of which contained chrysotile (white asbestos), which were also below the human health criteria.

The DSI identifies that a remedial action plan will be provided to Council prior to the works taking place which will be prepared in accordance with the Ministry for the Environment (MfE) Guideline which will address the timing of remediation, and standard upon completion. A condition of consent will also require that the remedial action plan earthworks and the remaining site development shall be overseen by a suitably qualified an experienced individual who is familiar with identifying asbestos containing material and other contaminated soils. A site validation report shall also be submitted to council upon completion of the works, with evidence that the site has been made safe for the intended future use.

The soil requiring disposal will be removed to a Class A landfill subject to approval from the landfill manager. The proposal is therefore consistent with the restricted discretionary matters in controlling the adverse effects that contaminated land can cause with management plans in place, which will ensure that the works are carried out in a professional manner. The proposal will therefore not result in public harm or risk public exposure to the contaminants of the site. Overall, the effects from the use of the site are less than manner, and disturbance of the land will be undertaken in a controlled manner.

Public notification is not required under step 3.

Step 4 – Public notification is required in special circumstances
If public notification is not required under step 3 it may still be warranted where there are special circumstances.

Do special circumstances exist that warrant public notification?	No

Special circumstances have been defined as circumstances that are unusual or exceptional, but may be less than extraordinary or unique. The proposal relates to bulk earthworks consent to prepare the subject site for future development. The proposed earthworks are of a considerably large scale, however the District Plan is considered to provide clear policy direction and assessment matters relevant to the proposal, and it is considered that public notification will not reveal any new information relevant to determination.

On this basis, it is not considered necessary to publicly notify the application due to special circumstances.

Conclusion
Public notification is not required.

5.2 - LIMITED NOTIFICATION STEPS - SECTION 95B

As determined in section 5.1, public notification is not required. Pursuant to section 95B of the Resource Management Act, a 4 step process must therefore be followed to determine if limited notification is required.

Step 1 – Certain affected groups/persons must be notified
Limited notification is mandatory for certain groups/persons.

Are there affected customary rights groups?	No
Are there affected customary marine title groups (for accommodated activities)?	No
Is the proposal on or adjacent to, or may affect, land that is subject to a statutory acknowledgement and whether the person to whom the statutory acknowledgement is made affected under section 95E?	Yes

The subject site is adjacent to Te Ati Awa (Hutt River), and is owned by Te Runanga O Toa Rangatira Incorporated. Ngati Toa have provided written approval for the proposal. Port Nicholson Block Settlement Trust have been notified of the application. It is also noted that the site is setback approximately 80m from the river bed. Further as identified above in section

5.1 the effects of the proposal are limited in scope to the underlying allotment, and is not considered that limited notification is necessary considering the localised scale of works with regard to the adjacent statutory acknowledgement area.

Limited notification is not required under step 1.

Step 2 – Limited notification is precluded in certain circumstances
Limited notification to any other persons not referenced in step 1 is precluded in certain circumstances (unless special circumstances apply under step 4).

Are all activities in the application subject to a rule in a Plan or National Environmental Standard precluding limited notification?	No
Is the application for the following, but no other activity: ▪ A controlled activity (other than a subdivision) under the District Plan	No

Rule 14H 2.1(a) is excluded from limited notification pursuant to 14H2.1(a)(i) and hence will not be considered in the limited notification assessment. However, breaching the earthworks rules is not precluded from limited notification. Therefore, limited notification is not precluded under step 2.

Step 3 – Certain other persons must be notified
If limited notification is not precluded under step 2, limited notification is required for any persons found affected under s95E.

Are any of the following persons 'affected' under s95E? ▪ For 'boundary activities' an owner of an allotment with an 'infringed boundary'	No
For all other activities, are there any affected persons in accordance with s95E?	No (see below assessment)

In accordance with s95E are there any affected persons?
Section 95E(3)(a) stipulates that those individuals who give written approval to a proposal cannot be considered to be an affected person/s. The following persons have given written approval:

- Naomi Solomon on behalf of Te Runanga O Toa Rangatira Incorporated

In accordance with section 95E, I have considered whether the proposal could adversely affect any other persons. This assessment has considered the owners and occupiers of the following properties:

- 27, 29. 31, 32, 34, 36,37, 38. 39, 40, 41, 42, 43, 44, 45, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68 and 70 Mary Huse Grove
- 8 Hutt Rail Way Central
- 10 Benmore Crescent
- 50 Benmore Crescent

I consider there to be no affected persons as the potential environmental effects will be less than minor for the following reasons.

27, 29. 31, 32, 34, 36,37, 38. 39, 40, 41, 42, 43, 44, 45, 46, 48, 50, 52, 54, 56, 58, 60, 62, 64, 66, 68 and 70 Mary Huse Grove

The above properties are each dwellings located along the western side of Mary Huse Grove and are the closest to the proposed development site. The dwellings are separated from the subject site by the railway, which provides an approximately 35m buffer between the sites.

Potential earthworks effects on the environment relating to visual amenity, natural features and topography, historical and cultural sites of significance, and natural hazards were discussed in detail in Section 5.1 above in relation to effects on the environment. In particular the noxious effects that can be associated with large scale earthworks were discussed, and it was noted that the applicant has applied to meet the permitted standards with regard to noise, dust, vibration, and vehicle movement standards, and due to the context of the permitted baseline the effects assessment in 5.1 is considered applicable to these properties.

The proposal will change the amenity as observed by these properties particularly with regard to outlook; however, it is noted that the permitted baseline allows for the removal of vegetation in the Rural Zone as a permitted activity. Further no notable vegetation is proposed to be removed. The proposal is largely consistent with the permitted baseline with regard to effects, with the notable failure being due to the scale of the proposed works. The works are proposed to be staged over 6-8 months but may take place over two earthworks seasons depending upon the timing of the proposed works. The proposal includes stabilising earthworks upon completion, such that the effects will be retained to the underlying allotment and will not result in long term scarring or exposed cuts on the site. Further due to the topography of the site in relation to Mary Huse Grove and their separation from the subject site by the railway, the occupants of the site will have limited views of the proposed earthworks. The site is also large with only a small portion being visible to the occupants of the above properties, such that the bulk of the proposed works will not be visible to the above properties and will occur internally within the site. The effects as visually observed will have less than minor impacts with regard to the effects upon amenity.

As identified above in the natural hazards assessment in section 5.1 the proposal will not create, accelerate, exacerbate or worsen the natural hazards as experienced by the wider environment, and the assessment is also considered applicable to the above properties, as per the reports included in the application.

Overall, the effects on the above properties is considered less than minor.

Waka Kotahi (NZTA)

The subject site is adjacent to the State Highway corridor (SH2). The applicant has volunteered transport conditions to mitigate any adverse effects on the State Highway designation. Waka Kotahi supports the proposal based on those volunteered conditions.

KiwiRail

The subject site is adjacent to the KiwiRail rail corridor, however the applicant provided confirmation that the proposed works will not involve the disruption of the railway corridor. The proposal will not involve vehicle movements over the railway, nor will works encroach into this property. The site is characterised by a clear distinction along the boundary, due to the cut into the topography of the railway. The proposal is also not considered to be a sensitive activity, whereby reverse sensitivity is unlikely to be an issue, considering the time limited

nature of the proposed works and that no human habitation of the site is proposed as a part of this resource consent.

The noxious effects of the proposal has been confirmed to be in accordance with the permitted activity standards of the District Plan, with the applicant proffering a condition of consent that an earthworks management plan is submitted to council prior to works taking place, that will include appropriate controls, such that the effects of the proposal are localised to the underlying allotment. The proposal will therefore not interfere with the railway activity or result in discernible adverse effects. The effects in relation to earthworks have been assessed above in Section 5.1 with regard to effects on amenity and the public and these are considered to be true in relation to the Kiwi Rail site.

50 Benmore Crescent

The above property is located to the south of the subject site and is currently vacant. The site is a thin vegetated strip that is located around the approximate site of the existing stream, which then runs through the subject site. The site is not habited, nor includes any physical improvements, with the land held by Greater Wellington for soil conservation and river control purposes. As the property does not include any improvements, it is considered appropriate that the assessment made under section 5.1 is applicable, particularly with regard to amenity and natural hazard effects.

10 Benmore Crescent

10 Benmore Crescent is located to the north of the subject site, sharing a common boundary with the subject site. The site includes fenced off storage of machinery and includes an onsite container. The property is not habited.

Potential earthworks effects on the environment relating to visual amenity, natural features and topography, historical and cultural sites of significance, and natural hazards were discussed in detail in Section 5.1 above in relation to effects on the environment. In particular the noxious effects that can be associated with large scale earthworks were discussed, and it was noted that the applicant has applied to meet the permitted standards with regard to noise, dust, vibration, and vehicle movement standards, and due to the context of the permitted baseline the effects assessment in 5.1 is considered applicable to these properties. The most notable change for the above property will be with regard to vehicle movements, which will be a noticeable departure from the existing use of the site, which is presently vacant, however it is anticipated that the scale of works will be readily absorbed by the receiving environments. Further the proposed work is for a period of 6-8 months and will therefore be of a time limited nature which will not have ongoing effects. Further it is anticipated that traffic levels may be higher during construction works of a site, and be of a temporary nature.

The proposal includes a staged approach which will reduce the amenity effects of the proposal to an acceptable level, as the proposal will be incremental, with only portions of the proposed design being visible from the above property. Further as the above property is utilised for storage it is not anticipated that the change in amenity upon completion of the earthworks will have effects that would warrant notification.

All Other Persons

- Effects associated with earthworks, construction, subdivision and servicing have been assessed as having less than minor effect on all persons for the reasons set out in section 5.1 above. This assessment is applicable to the owners and occupiers of the above adjacent sites and persons beyond adjacent properties.
- Onsite earthworks required for the development will be managed through adherence to the proposed conditions of consent requiring erosion and sediment control measures to be designed, implemented and maintained in accordance with the Greater Wellington Regional Council's guide "Erosion and Sediment Control Guideline for Land Disturbing Activities in the Wellington Region" and will include specific measures to reduce the effects of the proposal to an appropriate scale that will not adversely impact the amenity as experienced by the wider community. Other conditions of consent are proposed to manage the noise and vibration effects associated with the earthworks and construction of the proposed dwellings. Consequently, earthwork and construction effects are considered to be less than minor on all persons.
- Effects associated with Natural Hazards have been assessed in section 5.1 and concluded that the effects will be less than minor. This assessment is applicable to the owners and occupiers of the above adjacent sites and persons beyond adjacent properties.
- The contamination of the site is limited to the underlying property and matters associated with the contaminated spoil will be addressed in the remedial action plan and subsequent plans submitted to council, with the soil being removed and disposed of in a Class A landfill. The conditions of consent will ensure there will be no exposed contaminants and that the site will be appropriately remediated such that there will be no public risk or risk to the above and adjacent properties is anticipated as a part of this disposal process.
- All other persons are sufficient setback or screened such that effects will be less than minor.

Overall, the effects on the above property is considered less than minor.

Limited notification is not required under step 3.

Step 4 – Limited notification is required under special circumstances
If limited notification is not required under step 3, limited notification may still be warranted where there are special circumstances.

Do special circumstances exist that warrant notification of any persons to whom limited notification would otherwise be precluded?	No

For the reasons outlined under step 4 in section 5.1 above I do not consider there to be any special circumstances that warrant limited notification of this proposal.

Conclusion
Limited notification is not required.

5.3 - NOTIFICATION DECISION

In accordance with the notification steps identified in section 5.1 and 5.2 the application shall proceed on a non-notified basis

6. DETERMINING THE APPLICATION

Section 104 requires, when considering a resource consent application, that Council must, subject to Part 2, have regard to any actual or potential effects on the environment; any measure agreed or proposed by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any negative effects; any relevant provisions of a National Environmental Standard; other regulations; a National Policy Statement; a New Zealand Coastal Policy Statement; a Regional Policy Statement or proposed Regional Policy Statement; a plan or proposed plan; and any other matter the consent authority considers relevant and reasonably necessary to determine the application.

6.1 - ASSESSMENT OF ACTUAL OR POTENTIAL EFFECTS ON THE ENVIRONMENT UNDER S104(1)(A)

Amenity

Regarding visual amenity effects, the consent will be subject to conditions which manage earthworks nuisance effects, such as dust, sedimentation, tracking, construction noise and traffic and vibration. Amenity effects arising from earthworks will also be managed through the earth worked areas being built over, landscaped, or sealed as soon as practicable. The staging of the proposed earthworks will result in the activity being localised to parts of the site at any one time, reducing adverse effects associated with long term scarring or exposure of the site, such that the amenity effects are appropriately reduced. Further due to the size of the site in comparison to the neighbouring allotments and the topography of the site in relation to adjacent land parcels the visible works proposed on the site are limited. Overall, the amenity effects are to be managed onsite and there will be no long-term scarring.

Existing Natural Features and Topography

The site has no notable features or topography which could be affected by the proposal, being rugged and having no onsite notable vegetation. Section 5.1 assessed that the changes to the subject site proposed via this resource consent is not a loss of natural topography as the subject site has been substantially altered over time to the current topographical formation. The excavated area will be stabilised and subsequently hydroseeded or covered upon completion of the earthworks such that no areas of exposed cut will remain, and while there will be a loss of vegetation it is noted that this is consistent with the permitted standards for the Rural Zone. Overall, the effects of the change in topography will be appropriately managed and will not adversely affect the receiving environment.

Historical or Cultural Significance

As identified in section 5.1 the site is not of a known cultural site, nor is the site of archaeological or heritage value as per the archaeological report prepared by the applicant.

Natural Hazards

As identified in s.5.1 of this Report the site is located in close proximity to the wellington fault zone, however as identified the proposal does not include the construction of buildings or

physical improvements, which means that there will be no risk to human life. The proposal is also unlikely to result in a change in flooding as per the report prepared by River Edge Consulting Limited which notes that where the recommendations of the report are observed the consent will not result in flooding upon the adjacent area. The site is not included within the flood or inundation overlay of the District Plan.

The proposal also includes a geotechnical report prepared by Tonkin & Taylor for the application in which it includes a natural hazards assessment. Specifically it notes the following:

A significant geotechnical issue concerning future development of the site is the proximity to the Wellington Fault and the consequences of fault rupture. The Wellington-Hutt Valley segment of the Wellington Fault lies within the site and therefore presents a risk of future development. Estimates suggest that there is a 10-15% likelihood of fault rupture in the next 100 years that could result in the order of 5 m horizontal and up to 1 m vertical displacements.

The alluvial soils that underly the site may be susceptible to liquefaction particularly where they are non-cohesive and lie below the groundwater table (are saturated). Liquefaction could result in ground deformation (sand boils, settlement, undulation, and cracking), damage to infrastructure, buildings, and foundations

The alluvial deposits that underly the site may contain isolated zones of compressible cohesive and organic material that may result in settlement of the ground surface when loaded by the proposed fill platform, buildings or structures. Similarly, the uncontrolled fill soils present at the ground surface may also present a settlement risk due to the nature of the material and uncontrolled method of placement. Settlement of the alluvial deposits or uncontrolled fill soils at depth below the proposed fill platform may result in subsidence of the fill surface levels and may result in damage to building or structures. Ground settlement can be mitigated through specific engineering foundation design of any proposed buildings or structures

With regard to the above information supplied with the Geotechnical report it is noted that the proposal is solely for bulk earthworks, and no human occupation or activities which could include a human risk are included within the scope of this resource consent. Further the report concludes that these matters can be specifically managed through adherence to building and engineering standards, which will be a matter of consent for future use of the site.

<u>Wellington Fault Zone</u>

The proposal will include the establishment of a site office within the 20m fault line setback. As per the conditions of consent which have been proffered by council and subsequently accepted by the applicant, the applicant is to submit to council an earthworks management plan which will include the final location of the proposed office and where necessary engineering design to confirm that the building design is acceptable and in accordance with the Building Act. It is noted that the office is a non-habitable building which will be occupied on a temporary basis during the proposed bulk earthworks and is to be removed upon completion of the proposed works. The risk to human safety is considered minimal.

<u>Contaminated Land</u>

As identified in s. 5.1 of this report the subject site includes contaminated areas, as per the findings included in the DSI, however it is also noted that no human health criteria were exceeded. The DSI is held on record at council and should be read in conjunction with this report, which includes the adopted methodology for 66 sampling points taken across the site. The report concludes that where a remedial action plan is provided to council prior to the works in accordance MfE Guidelines, the use of the contaminated land is appropriate. These effects will be appropriately managed through the conditions of consent which have been provided and reviewed by the applicant and subsequently accepted. The proposed works will limit public access to the site, and works will be overseen by a suitably qualified individual skilled in the identification and management of contaminants such that the risk to human health is minor.

Conclusion
I consider the actual or potential effects on the environment to be acceptable for the reasons outlined above.

6.2 - ASSESSMENT OF THE RELEVANT PROVISIONS OF THE DISTRICT PLAN UNDER S104(1)(B)

Objectives and policies of the District Plan
I consider the proposal is consistent with the relevant District Plan objectives and policies identified below:

14H Natural Hazards

Objective
To avoid or reduce the risk to people and their property from natural hazards associated with seismic action, landslides, flooding and coastal hazards.

Policy

a) *That the area at risk from fault rupture causing permanent ground deformation along the Wellington Fault be managed by the Wellington Fault Special Study Area to address the effects of subdivision and development on the safety of people and their property.*
b) *That suitable engineering and emergency management measures be adopted to safeguard people and their property from liquefaction, groundshaking and tsunami hazards.*
c) *That where areas susceptible to landslide have been identified, appropriate conditions of compliance will be provided to mitigate the adverse effects of subdivision and development on the vulnerability of people and their property.*
d) *That suitable engineering, emergency management and land use control measures be adopted to reduce the vulnerability of people and their property to flood hazards.*
e) *That suitable engineering, emergency management and land use control measures be adopted to reduce vulnerability of development along the coast.*

<u>Assessment</u>
The proposal will include the establishment of a site office within the 20m fault special study area, which will be temporary and removed upon the completion of works. As per the District

Plan rule, due to the purpose of the office being in association with the proposed bulk earthworks it fails the above standard.

The engineering design for the proposed office will be submitted to Council. It is also noted that the office will be occupied on a transitory basis, with limited occupation, as such the proposal is unlikely to result in risk to human health or safety. Further as a temporary structure that is an accessory building and is set to be removed, the building will not have permanent fixtures to ground.

A geotechnical assessment has also been submitted as part of this resource consent which concludes that the chance of an earthquake occurring is relatively low, and that while the site is at liquefaction risk this is dependent upon the earthquake and the bulk of works are occurring outside of the buildings with further geotechnical investigation to be undertaken for future developments on the site. A condition of consent will also provide for an emergency management measures to be provided within the scope of the proposed earthworks management plan. The site is also not susceptible to landslides and as identified in the flooding report where the recommendations are observed the proposal will not result in flooding of the surrounding area. The proposal is therefore consistent with the above provisions.

14I Earthworks

14I 1.1 Natural Character

Objective
To ensure that earthworks are designed to maintain the natural features that contribute to the City's landscape.

Policy

a) *To ensure that earthworks are designed to be sympathetic to the natural topography.*

14I 1.2 Amenity, Cultural and Historical Values

Objective
To ensure earthworks do not affect adversely the visual amenity values, cultural values or historical significance of an area, natural feature or site.

Policy

a) *To protect the visual amenity values of land this provides a visual backdrop to the City.*
b) *That rehabilitation measures be undertaken to mitigate adverse effects of earth upon the visual amenity values.*
c) *To protect any sites with historical significance from inappropriate earthworks.*
d) *To recognise the importance of cultural and spiritual values to the mana whenua associated with any cultural material that may be disinterred through earthworks and to ensure that these values are protected from inappropriate earthworks.*

<u>Assessment</u>

The proposal will result in the cut of 390,000m^3 of soil across an area of 131,121m^2, which consists of altering the topography of the entire site to create a level platform for future works on the site. The proposal is an alteration of the topography of the site, from the present rugged terrain, however it is noted through aerial images over time that the site has been influenced through human intervention to the present state, and therefore the levelling of the site is not considered as a loss of important or natural terrain.

The site is also not of historical significance with the archaeological report noting that pre-1900's activity has been removed from the site and a number of land uses have taken place on the site since. The applicant has also proffered an accidental discovery protocol such that any accidental discoveries will be appropriately managed. The proposal includes affected party approval from Ngati Toa with regard to the cultural effects on land owned by Te Runanga O Toa Rangatira Incorporated.

The proposal will also not create, accelerate, exacerbate, or worsen natural hazards, as identified in the geotechnical or flooding report included within the application. The existing environment contains little topsoil material, and is predominantly covered with gravel or vegetation, with the vegetation being removed as a permitted activity. The proposal will result in the site being immediately filled over by material such that the proposal will not result in exposed cuts and there will be no long-term visual impact from the works. The application area is also not visible from surrounding public areas, and thus is not considered to be an area forming the 'backdrop of the city'. Overall, the proposal is considered to be consistent with the provisions identified above.

6.3 - ASSESSMENT OF THE RELEVANT PROVISIONS OF OTHER STATUTORY PLANNING DOCUMENTS UNDER S104(1)(B)

<u>National Policy Statement for Freshwater Management</u>

The revised National Policy Statement for Freshwater Management (NPSFM) came into effect on the 3rd of September 2020. It sets out the objectives and policies for freshwater management and provides direction for local planning and decision-making in regard to managing freshwater under the RMA.

The NPSFM contains one overall objective which seeks to ensure that natural and physical resources are managed in a way that prioritises the health and well-being of waterbodies and freshwater ecosystems, the health needs of people, and the ability of people and communities to provide for their social, economic, and cultural wellbeing, now and in the future.

The proposal is considered as to affect the above policy statement due to the location of the stream which flows through the property, which will be affected by the proposed works. The proposal includes erosion and sediment controls will be developed in conjunction with the contractor. The installation of erosion and sediment controls will avoid or minimise sediment discharges to surface water as far as practicable. With the installation of erosion and sediment controls, the proposal is not expected to further reduce freshwater quality such that it will be detrimental to the habitat of freshwater species or impinge on their protection, while allowing the applicant to provide for the communities social and economic well-being. The proposed culverts for site layout 1 are upgrades to the existing culverts in the same locations, with

larger culverts. Therefore, the loss of river extent and values has been avoided to the extent practicable while ensuring crossings are available. Additionally, fish passage upstream/downstream will be retained. Overall, the proposal is considered to be consistent with the NPSFM.

6.4 – PURSUANT TO S104(1)(C) ARE THERE ANY OTHER MATTERS RELEVANT AND REASONABLY NECESSARY TO DETERMINE THE APPLICATION?

I consider there are no other matters relevant and reasonably necessary to determine the application.

6.5 - PART 2 OF THE RESOURCE MANAGEMENT ACT

(5) The proposal will allow for earthworks across the site to level the property creating a platform, which will allow for subsequent development or use of the site. This will allow for appropriate use and development of the existing physical resource in a way that will provide for the applicants economic and social wellbeing without unacceptably compromising the life supporting capacity of the surrounding environment.

(6) Section 6(h) provides for the management of significant risks from natural hazards. The proposal is considered to be in line with the above provision as the proposal is solely for bulk earthworks at this stage, with the applicant identifying that engineer approaches will be undertaken with respect to future development or use of the site. The applicant has also provided evidence that the subject site, while subject to risk from natural hazard at this stage will not involve a risk to human life, as the proposal sis solely for earthworks across the site. The proposal will also not create, accelerate, exacerbate or worsen the existing natural hazards. The proposal is considered consistent with meeting this section of the Act.

(7) The proposal will not unacceptably affect established amenity values for surrounding land. The proposal is for bulk earthworks which have an expected duration of works of 6-8 months thus being temporary in nature, and while it will change the amenity of the site as observed from the surrounding environment it is noted that this change in use is in line with historical uses of the site, and will alter the topography in a beneficial manner which is more aesthetically pleasing rather than the current environment which is characterised by overgrown vegetation, rugged topography abandoned buildings and large gravel areas. The site is also not visually prominent as observed from the wider environment, with views toward the site being transient due to the viewpoint being from SH2 or via the bike tracks. The proposal will also include grassing such that no exposed areas of cuts will remain exposed. The proposal is considered consistent with the matters of s.7 of the RMA.

(8) The Principles of the Treaty of Waitangi have been taken into account as a part of this assessment. It is considered that the proposal will not be contrary to the relevant principles and consultation with local Tangata Whenua has been appropriately undertaken.

6.6 - SUBSTANTIVE DECISION

In accordance with section 104C, I have considered those matters over which discretion is restricted in a national environmental standard or other regulations or plan or proposed plan and have decided to grant the application subject to conditions under s108 relating to those matters over which discretion is restricted.

7. CONDITIONS OF RESOURCE CONSENT

In accordance with s108 of the Resource Management Act, resource consent has been granted subject to the following conditions:

General

1. That the proposal is carried out generally in accordance with the information and approved plans submitted with the application and the further information request of which includes information supplied on the following dates:
   - 8 September 2022 (s92(1) response regarding earthworks)
   - 12 December 2022 (updated earthworks information and confirmation of Wellington Regional Council consent granted)
   - 14 December (updated earthworks volumes)

   And the following plans of which includes
   - Earthworks Levels, Benmore Crescent, Manor Park, Prepared for Rosco Ice Cream Ltd by SpencerHolmes, Drawing Number S20-0280-EW2, Revision A, Dated 12 November 2022.
   - Earthworks Cut and Fill Plan, Benmore Crescent, Manor Park, Prepared for Rosco Ice Cream Ltd by SpencerHolmes, Drawing Number S20-0380-EW1, Revision A, Dated 12 November 2022.

2. That the consent holder advises Council (enforcement@huttcity.govt.nz or 04 560 1044) a minimum of five working days before any work starts on site to arrange a pre-commencement meeting; and that the consent holder also supplies the name, phone number and address of the main contractor and, if applicable, the same details for the earthworks company.
   Important notes:
   - *When given notice of a start date, a compliance officer will suggest an on-site meeting to run through a checklist of things to make sure the project runs as smoothly as possible. This service is included in the resource consent application fee. Using it could avoid difficulties later on. Please note that additional monitoring visits will be charged at $180 per hour.*
   - *Notification of work commencing is separate to arranging building inspections.*

3. The consent holder shall maintain a permanent record of any complaints received alleging adverse effects from or related to the works. This record shall include:
   - The name and address of the complainant (if provided);
   - The date and time that the complaint was received;
   - Details of the alleged event;
   - Weather conditions at the time of the complaint; and
   - Any measures taken to mitigate/remedy the cause of the complaint.
   - This record shall be made available to the Council on request.

Earthworks

4. Prior to the commencement of any works on site, the consent holder shall submit details of how stormwater and surface water run-off will be controlled during site works to ensure they do not affect adjoining properties. The consent holder shall alert council within 48 hours of any changes to the stormwater and surface water controls and cease all works should this affect the neighbouring allotments.
   Note: *Compliance with this condition can be achieved by the consent holder submitting the approved Erosion and Sediment Control Plan as required by Greater Wellington Regional Council consent WGN230031 [38481] [38483]*

5. That the consent holder undertakes all earthworks in such a way that no sediment enters the HCC stormwater system, will not exacerbate effects flooding effects on the surrounding properties; and that the consent holder installs and maintains sediment control measures in compliance with Greater Wellington Regional Council's Erosion and Sediment Control Guide for Land Disturbing Activities in the Wellington Region.

6. That the consent holder paves, metals, re-grasses, hydro-seeds or plants all areas exposed by earthworks trenching or building work as soon as possible after excavation or, at the latest, within a month of completing earthworks to the satisfaction of Council subdivision engineer; and that the consent holder repeats any seeding or planting that fails to become fully established within 12 months of the completion of earthworks.

7. That the consent holder ensures vehicles and machinery leaving the site do not drop dirt or other material on roads or otherwise damage road surfaces; and that if such spills or damage happen, the consent holder cleans or repairs roads to their original condition, being careful not to discharge the material into any stream, stormwater system or open drainage channel in the process. (The term "road" includes footpaths, vehicle crossings and berms.)

8. That the consent holder takes into account the geotechnical report prepared by Tonkin Taylor Ltd dated May 2022 and engages a qualified geotechnical engineer or engineering geologist who shall supervise construction of earthworks and that all works are in general accordance with the considerations outlined within the site-specific geotechnical report. The engaged engineer must make sure the site is in a safe condition at the end of all works.

<u>Contaminated soils</u>

9. That the consent holder undertakes the works in general accordance with the Site Management Plans prepared by ENGEO and submitted with the application, and any subsequent amendments. A qualified professional with experience with contaminated sites shall supervise the earthworks.

10. That prior to any soil disturbance the applicant shall erect a notice which shall be visible to all persons entering the site noting the contamination hazard. The sign shall be a minimum of A3 size, laminated and replaced as necessary such that it remains onsite until the disturbance of earth and soil stabilisation is completed.

11. That upon completion of the earthworks a site validation report or a long-term site management plan will be prepared in general accordance with the Contaminated Land

Management Guidelines No. 1- Reporting on Contaminated sites in New Zealand and provided to Council to hold on Record.

Landscaping

12. Prior to earthworks commencing onsite, a suitably qualified and experienced Landscape Architect shall prepare a planting plan for the reach of Dry Creek within the property identified as Fee Simple, 1/1, Section 1, 6 Survey Office Plan 493901. The planting plan shall, as a minimum, cover an area extending 10 m outwards over both banks when measured from the centre of the Dry Creek channel. The objective of the planting plan is to enhance the natural character values of the riparian margin and shall address the following as a minimum:
    a) Pest plant removal;
    b) Native planting to be undertaken, including species and composition; and
    c) Ongoing maintenance of pest plants and native planting undertaken. The consent holder shall complete the planting outlined within the planting plan within 2 years of the earthworks being completed; and
    d) Any plantings which fail to establish or dying or diseased plants within 12 months of the initial planting will be replaced.

Office

13. That upon completion of the proposed earthworks the site office is to be removed from the site within 3 months, or moved internally, such that the office is more than 20m outside of the fault study overlay area.

Transport

14. All earthworks shall be carried out in general accordance with the drawings and assumptions included in the conclusions of the Memo from Tonkin and Taylor title 'Te Rangihaeata Development – Proposed earthworks Slope Stability – Rev B' dated 1 December 2022; and the Spencer Holmes design plans titled 'Earthworks Cut & Fill Plan – drawing number S20-0380-EW1 REVA, dated 12.10.2022' and 'Earthworks Levels – drawing number S20-0380-EW2 REVA, dated 12.10.22'.

15. Should the consent holder identify discrepancies between the existing contours on the drawings and the actual ground contour when setting out the works, then they shall immediately (within 24 hours) bring such discrepancies to the notice of Hutt City Council.
    Note: *any notification under this condition must also be raised to Waka Kotahi (via the Wellington Transport Alliance).*

16. Should the consent holder identify any unexpected ground conditions during the earthworks, then they shall immediately (within 24 hours) bring such discrepancies to the notice of Waka Kotahi (via the Wellington Transport Alliance) so that Waka Kotahi's geotechnical engineers can be informed; undertake a site visit if required; and approve of any alternative design solution if required. Any further design and construction work deemed necessary to protect State Highway 2 assets (including the carriageway) shall be carried out by the consent holder at their cost.

17. To achieve the requirements of the Bridge Manual (v3.4), Table 6.1 Total settlement, differential settlement and horizontal displacement limits for DCLS (ULS) event, for a 1:1000-year event, cut slopes shall not exceed 6m in height from actual existing ground levels (on the land between the western side of Dry Creek and adjacent to State Highway 2). Should actual ground contours or actual ground conditions give rise to the need for cuts of greater than 6m, Hutt City Council shall be notified (within 24 hours) so that the Waka Kotahi geotechnical engineers can undertake a site visit if required; and approve any alternative design solution. Any further design and construction work deemed necessary to protect State Highway 2 assets (including the carriageway) shall be carried out by the consent holder at their cost.
    Note: *any notification under this condition must also be raised to Waka Kotahi (via the Wellington Transport Alliance).*

18. Hutt City Council shall be immediately notified (within 2 hours) of any damage to State Highway 2 resulting from the earthworks and all damage shall be remedied by the consent holder at their cost.
    Note: *any notification under this condition must also be raised to Waka Kotahi (via the Wellington Transport Alliance).*

19. Dust from carrying out the earthworks shall be reduced through appropriate means so that dust does not become a nuisance to motorists or the state highway pavement surface. Dust will be deemed a nuisance if either the contractor or Waka Kotahi receive complaints from the motoring public about dust; or if advised by the Wellington Transport Alliance.

20. Hutt City Council shall be informed when works commence, and when works are completed.
    Note: *any notification under this condition must also be raised to Waka Kotahi (via the Wellington Transport Alliance).*

21. Finalised as built drawings of the earthworks platform shall be provided to Hutt City Council at the completion of the works.
    Note: *the as built drawings under this condition must also be provided to Waka Kotahi (via the Wellington Transport Alliance).*

<u>Accidental Discovery Protocol</u>

22. That in the event of an “accidental discovery” of suspected archaeological material, the consent holder is to undertake the following steps:
    a. All activity affecting the immediate area (work within 20m of the discovery) shall cease and the Regional Archaeologist of Heritage New Zealand, Port Nicholson Block Settlement Trust, Ngāti Toa Rangatira Incorporated and Heritage New Zealand shall be notified;
    b. Steps shall be taken to secure the site and ensure that archaeological matter remains undisturbed;
    c. Works at the site shall not recommence until an archaeological assessment has been made and archaeological material has been dealt with appropriately;
    d. If any archaeological remains or sites of interest to Maori are identified, no further modification of those remains shall occur until Heritage New Zealand

Regional Archaeologist and Tangata Whenua have been consulted and appropriate response has been advised. 22 of 23

e. For burials/koiwi, steps a) to d) above shall be taken and the Regional Archaeologist Heritage New Zealand, the New Zealand Police, and the Iwi representative(s) for the area contacted immediately. The Consent Holder must allow the above parties to inspect the site and in consultation with them, identify what needs to occur before Construction Works can resume

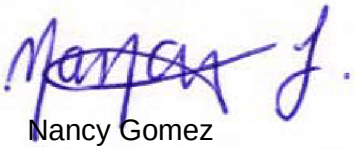
Note: The consent holder is advised that under the Heritage New Zealand Pouhere Taonga Act (2014) an archaeological site is defined as a place associated with pre-1900 human activity where there may be evidence relative to the history of New Zealand. For pre-contact Maori sites this evidence may be in the form of bones, shells, charcoal, stones etc. In later sites of European origin artefacts such as bottle glass, crockery etc. may be found, or evidence of old fountains, wells, drains or similar structure. Burials/koiwi tangata may be found from any historic period.

Note: This condition is required to mitigate any adverse effects upon potential sites of historical, cultural or archaeological significance

Processing Planner:

Zachery Montgomery
Intermediate Resource Consents Planner

Peer reviewer:



Nancy Gomez
Senior Resource Consents Planner

Application lodged: 29 July 2022
Application approved: 21 December 2022
No of working days taken to process the application: 99

Application on s92(1) hold: 30 August 2022
Application off s92(1) hold: 08 September 2022
Application on applicant agreed hold: 28 September 2022
Application off applicant agreed hold: 21 December 2022
S37A(4)(b)(i) days added to timeframe due to special circumstances: 20 days*

**Note: Assessment timeframes were extended by 20 working days in accordance with S37A(4)(b)(i). Due to cumulative factors including the high volume of applications, an increase in the size and complexity of applications and staff shortages, workloads have exceeded Council's processing capacity. Council have taken every possible step to outsource the excess workload.*

8. NOTES:

- In accordance with section 357 of the Resource Management Act 1991, the consent holder is able to object to the conditions of the consent. The consent holder must submit reasons in writing to Council within 15 working days of the date of this decision.

- In accordance with section 120 of the Resource Management Act 1991, the applicant, on the review of consent conditions may appeal to the Environment Court against the whole or any part of this decision by the consent authority.

- The consent lapses, in accordance with section 125 of the Resource Management Act 1991, if the proposal is not given effect to within five years.

- The consent applies to the application as approved by Council. The consent holder should notify Council if there are changes to any part of the plans. Council may require that the consent holder submits a new resource consent application.

- The proposal has been assessed against the requirements of the city's District Plan. Bylaws may apply to the proposal that may require separate approval from Council before starting any site works. See huttcity.govt.nz for a full list of bylaws.

- The proposal has not been checked for compliance with the Building Act 2004. No associated building work should start without first getting a building consent.

- The consent is not a licence to create adverse effects such as unwarranted dust, noise or disruption. It does not change the legal duty to avoid, remedy or minimise such effects. Council may enforce the provisions of the Resource Management Act 1991 if the consent holder fails to meet this obligation.

- Failure to comply with an abatement notice may result in Council imposing an infringement fine or initiating prosecution.

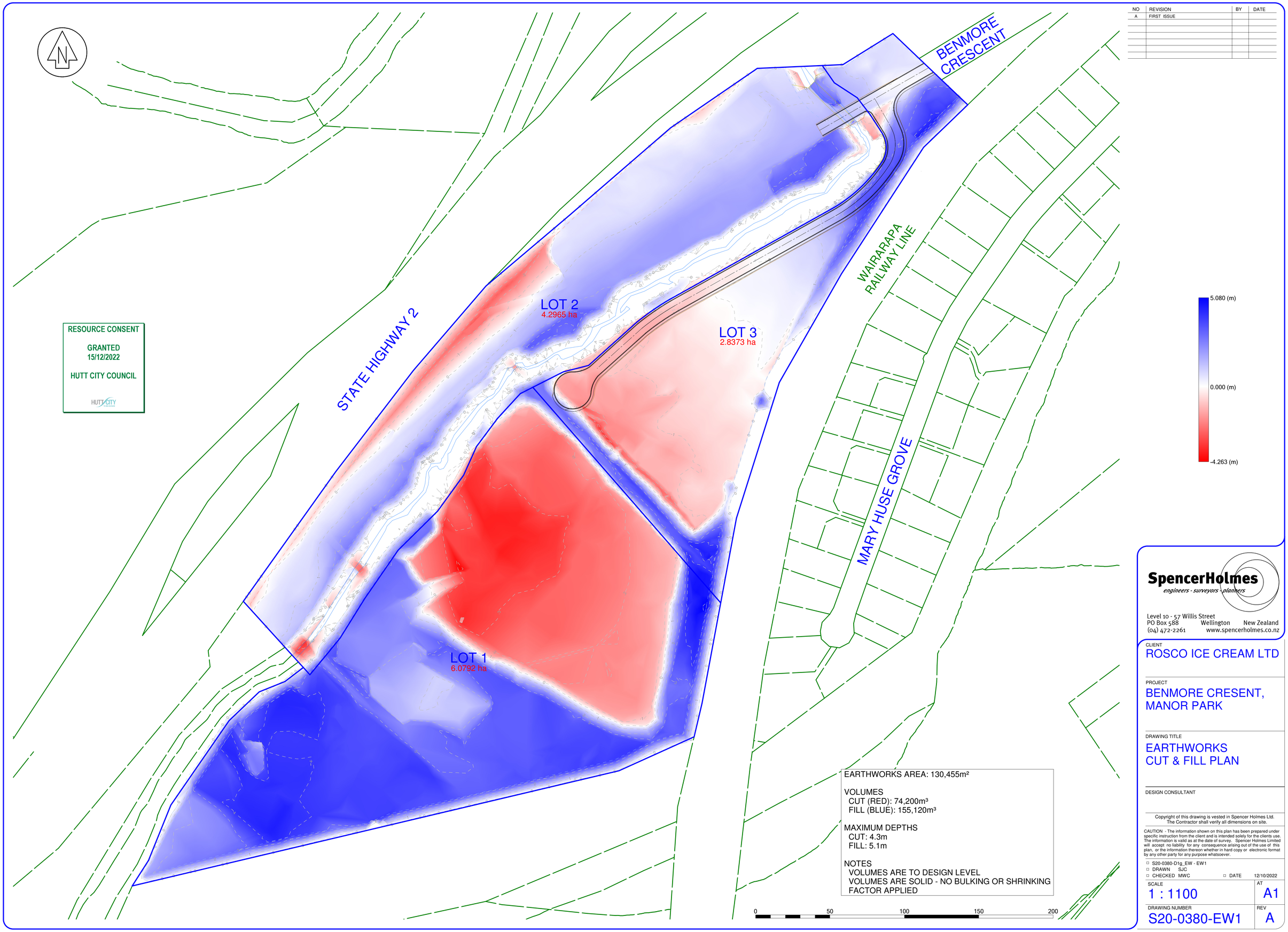
- Advice note from Heritage New Zealand: The property has, or is likely to have been occupied prior to 1900. Any disturbance of land or damage or destruction of any building or structure associated with human activity prior to 1900, may require an archaeological authority from Heritage New Zealand under the Heritage New Zealand Pouhere Taonga Act 2014. Please contact Heritage New Zealand for further information.

- Before commencement of any work within the legal road corridor, including the laying of services, application is to be made for a Corridor Access Request (CAR). A CAR request can be made through contacting BeforeUdig either on their website: beforeudig.co.nz or

0800 248 344. Work must not proceed within the road reserve until the CAR has been approved, including the approved traffic management plan if required.

- Constructing, modifying or repairing a vehicle crossing requires separate Council approval, in addition to the approved resource consent. The vehicle crossing is to be constructed in accordance with Council's standards and codes. For more information contact the Transport Division via (04) 570 6881 or click the following link: https://www.huttcity.govt.nz/services/roads-and-parking/roads/vehicle-crossings

NO	REVISION	BY	DATE
A	FIRST ISSUE		



SpencerHolmes
engineers - surveyors - planners

Level 10 - 57 Willis Street
PO Box 588 Wellington New Zealand
(04) 472-2261 www.spencerholmes.co.nz

CLIENT
ROSCO ICE CREAM LTD

PROJECT
BENMORE CRESENT, MANOR PARK

DRAWING TITLE
EARTHWORKS CUT & FILL PLAN

DESIGN CONSULTANT

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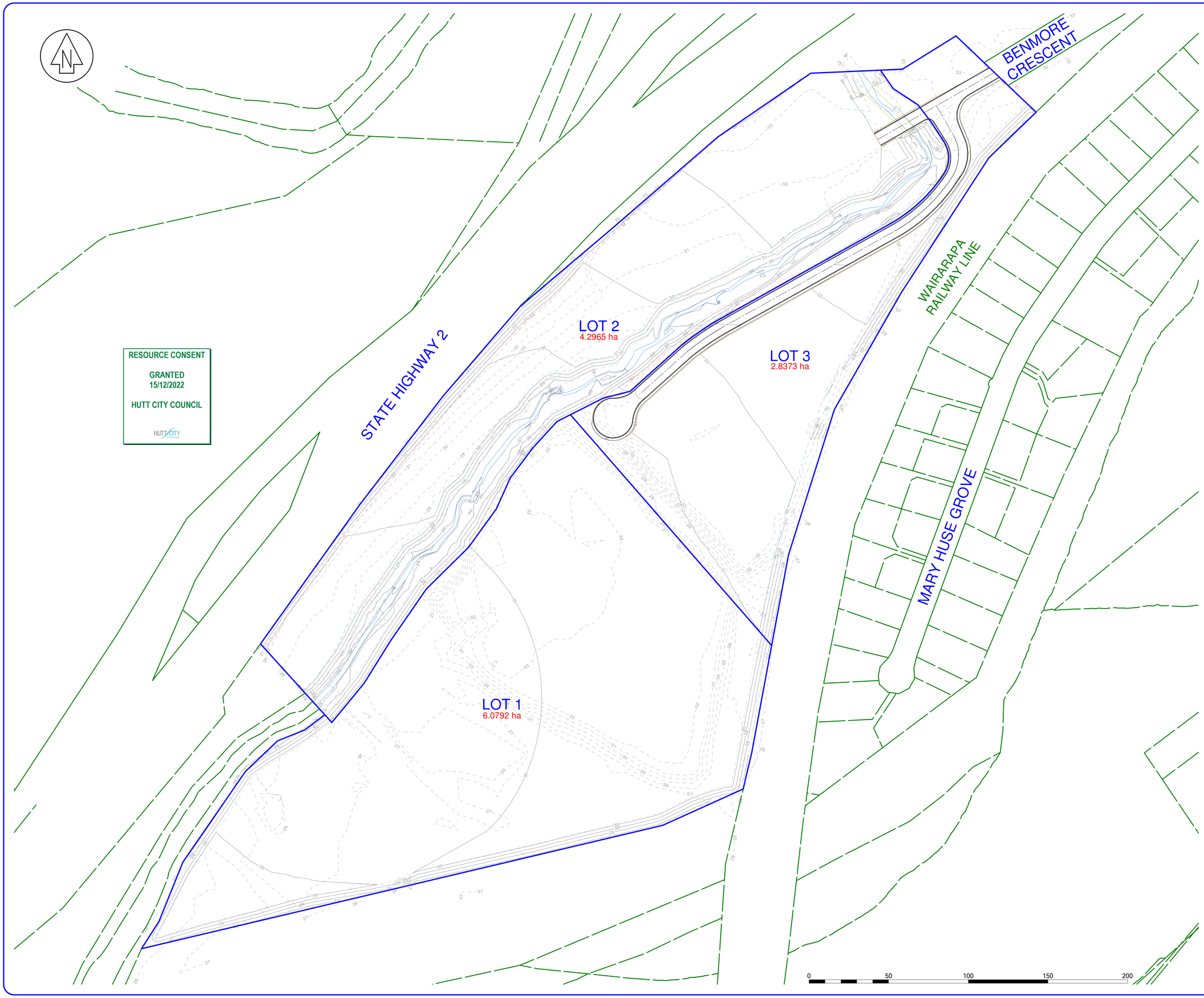
S20-0380-D1g_EW - EW1
DRAWN SJC
CHECKED MWC DATE 12/10/2022

SCALE	AT
1 : 1100	A1
DRAWING NUMBER	REV
S20-0380-EW1	A

RESOURCE MANAGEMENT - LAND PLANNING - SURVEYING - STRUCTURAL - CIVIL - FIRE

NO	REVISION	BY	DATE
A	FIRST ISSUE		



COORDINATE DATUM - WELLINGTON 2000

HEIGHT ARE IN TERMS OF
- WELLINGTON DATUM 1953

ORIGIN OF LEVELS
- MARK NAME PIN I SO 497033
- REDUCED LEVEL 31.522m
- SOURCE LINZ GDB

DESIGN CONTOUR

EXISTING GROUND CONTOUR

SpencerHolmes
engineers - surveyors - planners

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CLIENT
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PROJECT
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MANOR PARK

DRAWING TITLE
EARTHWORKS
LEVELS

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- S20-0380-D1g_EW - EW2
- DRAWN SJC
- CHECKED MWC
- DATE 12/10/2022

SCALE	AT
1 : 1100	A1
DRAWING NUMBER	REV
S20-0380-EW2	A

RESOURCE MANAGEMENT - LAND PLANNING - SURVEYING - STRUCTURAL - CIVIL - FIRE