

RECORD OF NOTIFICATION DECISION

NOTICE OF REQUIREMENT: ABBY ROAD TO JOHNSTONE DRIVE LINK ROAD

APPLICANT:	Palmerston North City Council
TERRITORIAL AUTHORITY:	Palmerston North City Council
LOCATION:	30 Abby Road and 33 Johnstone Drive, Aokautere, Palmerston North
LEGAL DESCRIPTION:	Lot 2 DP 484515 and Lot 1102 DP 51956.
DISTRICT PLAN ZONING:	Residential Zone
ACTIVITY:	Notice of Requirement to designate land for a two-lane 'link road' with a length of approximately 180m connecting Abby Road and Johnstone Drive, Palmerston North.
APPLICATION RECEIVED:	18 December 2019

1 THE NOTICE OF REQUIREMENT

- 1.1 The applicant, Palmerston North City Council ('PNCC') has applied for a Notice of a Requirement ('NOR') for "Roading Purposes". The application seeks to designate a two-lane 'link road' with a length of approximately 180m connecting Abby Road and Johnstone Drive, Palmerston North. It relates to two properties legally described as Lot 2 DP 484515 and Lot 1102 DP 51956 ('the application site'). Both of these allotments are presently owned by Aokautere Land Holdings Ltd, a party that is independent to the applicant for this NOR (being PNCC). The approximate location of the NOR is shown in Figure 1 below.



FIGURE 1: APPROXIMATE LOCATION OF THE NOTICE OF REQUIREMENT

1.2 Section 3.1 of the NOR application sets out that the stated objective of this NOR is:

“...to secure the potential to extend Abby Road so that it joins up with Johnstone Drive for the purpose of [sic]:

- To preserve and provide an efficient and logical connection between Abby Road and Johnstone Drive.*
- To preserve and provide an efficient and logical access to the eastern side of the Adderstone Reserve from Abby Road, to enable recreational opportunities”¹.*

1.3 The physical works associated with the NOR are described in Section 5.1 of the application. In summary, these include:

- Earthworks (cuts and fill) associated with the formation of the road. Such works will involve the partial filling of the existing gully to construct the road carriageway and supporting embankments to the required gradients;
- The installation of a culvert from the head of the gully to convey stormwater;
- The construction of a ‘T-intersection’ with Johnstone Drive; and
- The removal of vegetation associated with the construction works and replanting of the supporting embankments, once constructed.

1.4 The NOR application has been prepared by *WSP Global Consultants* on behalf of PNCC’s Transport and Infrastructure Manager, Mr Robert van Bentum (as applicant). The Territorial Authority (‘Council’) processing this application received this NOR on the 18th December 2019. The Council has contracted the author of this report, Ryan O’Leary (Senior Planner at *The Property Group Limited*), to process this application in an independent capacity on behalf of the Council’s Regulatory Division.

2. THE SITE DESCRIPTION

2.1 I visited the site on 17 January 2020 and I am familiar with the subject site and surrounds. Section 4 of the applicant’s NOR (and its subsections) sets out a description of the application site; it’s surrounds; and, the local roading environment. I do not repeat this here.

2.2 I agree with the applicant’s description of the site as outlined in Section 4.1 of the NOR application, as follows:

“The two parcels of land that form the application are legally described as Lot 2 DP 484515 and Lot 1102 DP 519561. Lot 2 DP 484515 is an irregular shaped parcel that appears to be a balance allotment that has been generated as a result of the development which has formed the allotments that front onto Abby Road and Woodgate Court. The northern corner of the allotment is generally flat and grassed. The southern part of the allotment contains a gully with vegetated sides with the embankment at the rear of 27 and 29 Johnstone Drive being long grass. Structured planting has been undertaken at the rear of 14, 22 and 24 Abby Road and 5 and 11 Woodgate Court.

Lot 1102 DP 519561 (also known as 33 Johnstone Drive) at its southern extent contains part of the gully that is also located on Lot 2 DP 484505 (this gully then forms the recreation reserve and associated ponds visible from SH57) and flatter grazing area (majority of the allotment). The sides of the gully are clad in a mix of long grass and scrub.

¹ NOR application, Section 3.1, page 7

- 2.3 I generally concur with the applicant's description of the '*Environmental Setting*' but specifically note that there is a newly constructed school (OneSchool Global) located at 50 Johnstone Drive. The applicant also indicates that the northern and southern sections of Johnstone Drive have not been joined. This is to say that the connecting section of Johnstone Drive has been formed (with hardfill) but not completely sealed. Public access is excluded to the extent that it is fit for use as a public road.



FIGURE 2: PHOTO OF JOHNSTONE DRIVE (UNCOMPLETED SECTION)

3. THE DISTRICT PLAN CONTEXT

- 3.1 Both properties to which the NOR relates are zoned 'Residential' in the Palmerston North City District Plan. The extent of this zoning is shown 'yellow' in Figure 3 below. To the north of Abby Road is a section of land denoted as 'light green' containing the *Adderstone Reserve*, zoned 'Recreation', adjoined by land to the west coloured 'dark green' which denotes the Conservation and Amenity Zone. To the north/north-east of the proposed link road is the *Manga o Tane Reserve*, also zoned Conservation and Amenity in the District Plan.



FIGURE 3: EXCERPT FROM PNCC DISTRICT PLAN (ONLINE) MAPS

3.2 The application site is also subject to an overlay which identifies portions of the land ‘Developable’ and ‘Limited Developable’, as shown in District Plan Map 10.1 *Aokautere Development Area*. An excerpt of this map is shown in Figure 4 below. the ‘primary purpose’ of the division between the Limited Development Area and Developable Land is to establish stability controls for housing development².

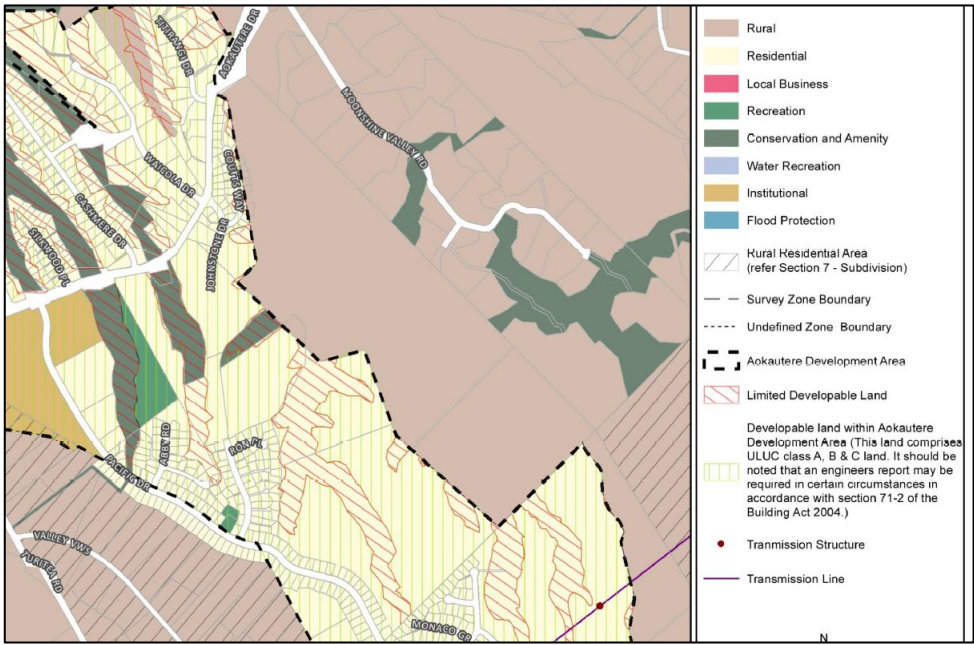


FIGURE 4: EXCERPT FROM PNCC DISTRICT PLAN MAP 10.1 AOKAUTERE DEVELOPMENT AREA

- 3.3 As shown in Figure 3 above, Johnstone Drive is subject to a Designation (Designation Reference 80) for Roding Purposes. The existing roading connection does not strictly follow the alignment of the existing designation. Once vested as a public road, the completed section of Johnstone Drive (as shown in Figure 2 above) will achieve a public connection between Aokautere Drive (State Highway 57) and Pacific Drive.
- 3.4 In the Council’s Roding Hierarchy in the District Plan, the following streets have been assigned the classification(s) below:

Road Name	Classification
Johnstone Drive	Collector Road
Pacific Drive	Minor Arterial
Aokautere Drive	State Highway
Abby Road	Local Road
Woodgate Court	Local Road

² The explanation under Rule 10.7.1.1(f) also signals that these limitations (e.g. the terrain) have also shaped the nature of housing development and the character of the Aokautere area.

4. THE NOTIFICATION TEST(S)

4.1 Sections 168A, 169 and 190 of the Act set out how Sections 149ZCB to 149ZCF are to be modified as they relate to designations, as summarised below:

- (i) a reference to an application or notice is to be modified as if it were a reference to the NOR;
- (ii) a reference to an applicant, the Minister, or the EPA is to be modified as if it were a reference to the territorial authority; and
- (iii) a reference to an activity is to be modified as if it were a reference to the designation.

4.2 A full table setting out the relevant provisions of the Act are set out in Appendix 1 to this report below.

Public Notification:

4.3 It is noted that PNCC as the applicant **has requested public notification** of the NOR application. Section 149ZCB(2) outlines that despite subsection (1), the Council must publicly notify the application. No further analysis under Section 149ZCB is provided in this regard as public notification of the application is mandatory.

Serving Notice:

4.4 Section 149ZCC sets out that if the Council decides not to require the applicant to publicly notify an application or a notice, the Council must, in relation to the Notice,

- (a) decide if there is any affected person (under section 149ZCF); and
- (b) identify any affected protected customary rights group or affected customary marine title group.

4.5 In this case, the applicant has requested public notification. It has not been required by the Council. As such, the Council must 'give notice' of the application to any affected persons or customary rights group or affected customary marine title group. Under Section 149ZCF, the Council must decide that a person is an affected person, in relation to a designation, if the adverse effects of the designation on the person are minor or more than minor (but are not less than minor). In making this decision, Section 149ZCF(2) sets out that the Council:

- (a) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect (the permitted baseline); and
- ...
- (b) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.

4.6 Earthworks and/or the restructuring of land in the Aokautere Development Area, as would be required to construct the link road, would require resource consent and is not an activity permitted by a rule in the District Plan. The application of the permitted baseline is the discretion of the consent authority (Council). It is noted that the applicant has not identified a permitted baseline comparison and nor have I identified a relevant permitted baseline that would be appropriate to disregard the adverse effects of the activity. As such, all adverse effects are considered.

4.7 The Manawatu River and its tributaries have Statutory Acknowledgement under the *Rangitāne o Manawatu Claims Settlement Act 2016*. In this case, the NOR application is not *within, adjacent to, or directly affecting* a recognised Statutory Acknowledgement Area.

5. EFFECTS ASSESSMENT

5.1 I consider that the following adverse effects are relevant to the assessment of this NOR application:

- a. Landscape character, natural character and visual effects;
- b. Traffic, parking and effects on the safe and efficient operation of the Rooding Network;
- c. Effects on amenity values;
- d. Construction effects;
- e. Stormwater and Natural Hazards;
- f. Cultural effects and Historic Heritage; and
- g. Effects on the landowner.

5.2 To facilitate the assessment of these above stated adverse effects, the applicant has provided the following reports, along with an assessment of environmental effects:

- a. Transport Assessment (WSP Opus) – Sam Thornton & Fiona Chapman; and
- b. Landscape Assessment (Hudson & Associates) – John Hudson.

Landscape Character, Natural Character and Visual Effects

5.3 Mr John Hudson has been engaged by the applicant to prepare a landscape assessment for the Notice of Requirement, included in Appendix D of the application. It is noted that as part of his analysis, he has compared the proposed PNCC road alignment (which he refers to as 'Option 1') with a comparative alignment that has been put forward by Mr Phil Pirie (Mr Hudson refers to this as 'Option 2'). The assessment of effects of Option 1 is of relevance to the Notification Decision and understanding the effects of the NOR (as proposed). Comparing these effects to those of Option 2 is of particular relevance to an assessment of alternatives under Section 171(1)(b) of the Act. This is not a matter that is addressed further at this point.

5.4 Mr Hudson has set out his conclusions in paragraphs 91 to 95 of his assessment. He acknowledges that the works resulting from the NOR will have adverse on the landscape and natural character, and the visual amenity of the area. He recommends in paragraph 92 of his assessment that *"the area outside the rooding corridor should be revegetated, enhancing the gully habitat and natural values of Abby Road and Manga o Tane Reserve"*. It is understood that this is proposed by the applicant.

5.5 Mr Hudson sets out his reasons in paragraph 94 of his assessment as to why he considers that the effects of the NOR will be: *moderate low* on natural character; *moderate* on landscape character; and, *moderate low* on visual amenity. He opines that the overall effect will be *minor* for adjacent parties and the wider public. However, Mr Hudson has not set out those *specific* parties he would consider adversely affected to a minor degree.

5.6 The application has also been assessed by the Council's Landscape Expert, Mr Shannon Bray. Mr Bray explains that: *"As this evaluation has been prepared for the purposes of determining notification only, the 'minor' visual amenity effects rating has been assumed as accurate at this time. Therefore, the following table provides an evaluation of adjacent and nearby properties that might be visually affected by the proposal and provides a rating score of either 'minor' or 'less than minor' for each property. A conservative approach has been taken, such that where a definitive assessment cannot be determined, a minor rating is provided"*. Mr Bray has proceeded to evaluate the effects on potentially affected parties as outlined in the table below:

Address Location Brief Evaluation Rating			
14 Abby Road	Rear section, single storey dwelling located middle of Abby Road, eastern side.	Property is largely screened from the proposal by neighbouring dwellings, although some oblique views might be possible from the end of the garden.	Less than Minor
20 Abby Road	Single storey dwelling located middle of Abby Road, eastern side.	Property is largely screened from the proposal by neighbouring dwellings.	Less than Minor

22 Abby Road	Rear section, single storey dwelling located towards end of Abby Road, eastern side.	Property is tucked behind the neighbouring dwelling (24 Abby Road) and is unlikely to have any clear views towards the proposal. Some fleeting views might be possible from driveway area and from end of the garden.	Less than Minor
24 Abby Road	Rear section, single storey dwelling located near end of Abby Road, eastern side.	Difficult to clearly ascertain views from this property, but likely that due to its elevated position above the gully that views of the eastern portion of the proposal will be possible, including construction activity.	Minor
26 Abby Road	Single storey dwelling located near end of Abby Road, eastern side.	Views to proposal from rear of property are restricted by boundary fences, including fence along adjacent driveway, and neighbouring dwelling. However, elevation above gully may result in some oblique views of proposal between neighbouring dwellings.	Minor
28 Abby Road	Single storey dwelling located end of Abby Road, eastern side.	Directly adjacent to proposal area, although rear and side of property has 1.8m high paling fence. Would be affected by any construction to north side, but is elevated above gully and would have views across the proposal from rear.	Minor
35 Abby Road	Single storey dwelling located in middle of Abby Road, western side.	Semi-open front yard with mature trees on boundary, house set back from road. Limited views to proposal as a result of neighbouring and opposite dwellings.	Less than Minor
37 Abby Road	Single storey dwelling located towards end of Abby Road, western side.	Open front yard, but views restricted by neighbouring and opposite dwellings. May have limited oblique views across to part of the proposal and construction.	Less than Minor
39 Abby Road	Single storey dwelling located near end of Abby Road, western side.	Open front yard, but views somewhat restricted by neighbouring dwelling. May have oblique views across to proposal and construction.	Minor
41 Abby Road	Single storey dwelling located end of Abby Road, western side	Open front yard and driveway, some views towards proposal. Likely to see whole of proposal and construction works.	Minor
25 Johnstone Drive	Single storey dwelling near to end of built development on Johnstone Drive, western side.	Property is largely screened from the proposal by neighbouring dwellings.	Less than Minor
27 Johnstone Drive	Rear section, single storey dwelling, near to end of built development on Johnstone Drive, western side.	Orientation of rear boundary looks away from proposal, and views to side restricted by neighbouring dwelling. May be some oblique views from end of garden.	Less than Minor
29 Johnstone Drive	Rear section, single storey dwelling, at end of built development on Johnstone Drive, western side.	Difficult to ascertain whether property is fenced on side boundary, but even so it is likely to have views over much of the proposal.	Minor
31 Johnstone Drive	Single storey dwelling at end of built development on Johnston Drive, western side.	Difficult to ascertain whether property is fenced on side boundary, but even so it is likely to have views over much of the proposal.	Minor
48 Johnstone Drive	Single storey dwelling on the northeast corner of Johnstone Drive and Ron Place.	Some oblique views towards the proposal, although these are restricted by boundary fences and vegetation.	Less than Minor
3 Ron Place	Single storey dwelling at end of Ron Place, northern side.	Some oblique views towards the proposal although these are restricted by boundary fences, the neighbouring dwelling and new plantings around the school.	Less than Minor
3 Woodgate Court	Single storey dwelling on northern side of Woodgate Court	Some oblique views towards the proposal down the gully, but restricted by rear section dwellings on Abby Road.	Less than Minor
5 Woodgate Court	Rear section, single storey dwelling on northern side of Woodgate Court	Located at head of the gully system, and potential for views towards proposal, although it is difficult to ascertain to what degree boundary and garden vegetation provides screening. Located some distance from the proposal, more likely to be affected by construction movement.	Minor
9 Woodgate Court	Single storey dwelling on northern side of Woodgate Court.	Property is largely screened from the proposal by neighbouring dwellings.	Less than Minor
11 Woodgate Court	Single storey dwelling, with dormer attic, on northern side of Woodgate Court.	Orientated on an oblique angle to the gully, with views partially screened by neighbouring property and potentially vegetation. However, some views possible from dormer windows. Located some distance from the	Minor

		proposal.	
17 Woodgate Court	Single storey dwelling near to turning circle on northern side of Woodgate Court.	May have some oblique views down gully towards proposal, but appear to be heavily restricted by vegetation on neighbouring property.	Less than Minor
19 Woodgate Court	Single storey dwelling off turning circle, northeastern end of Woodgate Court.	Appears to have relatively open views down gully towards proposal. Although some distance away is likely to see most of the construction works and completed road.	Minor

5.7 Mr Bray has concluded on visual amenity grounds, the adverse effects of the proposal may be minor on the following properties: 24, 26, 28, 39 and 41 Abby Road; 29 and 31 Johnstone Drive; and, 5, 11 and 19 Woodgate Court. The effects on all other properties he considers to be less than minor. Having visited the site and surrounds; and, having considered the advice of both Mr Bray and Mr Hudson, I am of the opinion that the adverse effects of the proposal on the parties identified by Mr Bray may be minor. The effects of the NOR on any other party will be less than minor in this respect.



FIGURE 5: GEOGRAPHIC LOCATION OF PROPERTIES ASSESSED BY MR BRAY

Traffic, parking, and effects on the safe and efficient operation of the Roding Network:

5.8 The applicant has provided an assessment of the effects on the local roading network, included in the Traffic Reports prepared by WSP Opus. These have been reviewed by the Council's Traffic Expert, Mrs Harriet Fraser.

5.9 Mrs Fraser has identified 'information gaps' in this assessment in several areas which she considers is needed to *determine* the application. However, these matters are not material to the identification of adversely affected parties in her opinion. These include, but are not limited to:

- analysing the performance of the options with Johnstone Drive fully connected;
- providing concept design and forecast intersection performance for the Abby Road Extension/ Johnstone Drive intersection including with Johnstone Drive connected as a through route;

- Further analysis in the 'Do Minimum' assessment of the intersection improvements required to bring the future 'without link' intersection performance up a minimum acceptable level of safety and efficiency;
 - provide analysis of the combined traffic effects accounting for the changes that may result from the Draft Aokautere Structure Plan, should it proceed; and
 - provide detail regarding change in level of access to the Adderstone Reserve and whether vehicle access and parking is to be included in the NOR to provide access to the reserve.
- 5.10 The predominant focus of the applicant's traffic reports appear to be in relation to the potential effects on the performance of the wider road network. Such effects are likely to be experienced by the Road Controlling Authorities (PNCC and the New Zealand Transport Agency). More localised effects have not been adequately considered. Mrs Fraser points out that the NOR application has not specifically considered any potential effects associated with the loss of on-street street parking associated with either, parked vehicles occupying spaces whilst accessing the reserve and/or changes to the road cross section. Providing access to the reserve is one of the NOR's stated objectives. There is not adequate information to determine the significance of these effects; but Mrs Fraser suggests that such adverse effects may be minor for local residents.
- 5.11 Mrs Fraser has summarised her comments with respect to the NOR application (as it is presently submitted) and the assessment of actual and potential effects of it as follows:
- In summary I consider that the traffic effects of the proposed NOR may be more than minor for the residents of the existing section of Abby Road and for NZTA with regard to the local intersections with SH57. In my view, the further information that I consider is needed will not identify additional affected parties but rather will assist with better understanding the scale and duration of any adverse traffic effects on the Abby Road residents and NZTA.*
- 5.12 I have confirmed with Mrs Fraser those parties who are likely to experience a minor or more than minor effect. She has identified NZTA as a potentially affected party. In addition, she has also identified all properties with direct frontage to Abby Road, being:
- 67 and 71 Pacific Drive; and
 - 3, 5, 6, 8, 10, 18, 20, 26, 28, 33, 35, 37, 39 and 41 Abby Road.
- 5.13 Determining the full scale or significance of these will require further analysis and information. However, I accept Mrs Fraser's advice (based on the information provided) that the effects of the proposal in this regard will be at least minor, if not more than minor on these parties.

Effects on Amenity Values

- 5.14 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*". Mr Hudson has assessed the *Landscape Character, Natural Character and Visual Effects* as being *minor* for adjacent parties. Mr Bray has identified those parties he considers to experience a minor adverse effect above. I do not wish to double-count these effects, other than to acknowledge that an adverse effect on amenity values on these parties go hand-in-hand.
- 5.15 Mrs Fraser has also identified that properties on Abby Road which will experience effects from increased traffic volumes. She states:

"Table 4 in Appendix C includes a potential forecast increase in traffic on Abby Road from 315 vehicle movements per day to 2,025 vehicle movements per day. While the increase in traffic flows is large the daily traffic flow remains at a level anticipated for a local road. My expectation is that with Johnstone Drive completed the traffic flows on Abby Road will be lower than the forecasts included in Table 4. As such I consider that the main traffic effects associated with the NOR will be for the residents of Abby Road.

- 5.16 Mrs Fraser acknowledges, as do I, that these volumes are consistent with those generally expected a Local Road. In my opinion however, the potential effects on amenity values from this change in comparison to the existing environment for those properties/parties immediately located on Abby Road will be adverse to at least a *minor* degree. The full scale and significance of these effects will need to be determined through the receipt of further information. The parties identified as adversely affected in this regard are:
- 67 and 71 Pacific Drive; and
 - 3, 5, 6, 8, 10, 18, 20, 26, 28, 33, 35, 37, 39 and 41 Abby Road.
- 5.17 Other properties on Abby Road, Pacific Drive or Woodgate Court would be further set back from Abby Road, being rear sections with access only to Abby Road. Similarly, existing residential properties on Johnstone Drive would be located further away from the connecting link road. Furthermore, Johnstone Drive is a Collector Road with higher anticipated traffic volumes and as Mrs Fraser outlines that the main traffic effects (e.g. increases in traffic volumes) will be for the residents of Abby Road rather than Johnstone Drive.

Construction Effects

- 5.18 The applicant has identified potential construction effects associated with the NOR which might include: earthworks (dust, silt and sediment); construction noise; traffic movements associated with construction vehicles and machinery; and, general construction activity. The applicant assesses that these effects will be temporary in nature and can be avoided or mitigated through routine site management measures. The applicant also refers to proposed designation conditions that would require construction noise to comply with the *New Zealand Standard 6803:1999 Acoustics - Construction Noise*. However, no specific designation conditions have been put forward in the NOR application. Notwithstanding this, I assume that the applicant is prepared to offer such conditions on the designation which will ensure that the temporary construction effects will be appropriately mitigated.
- 5.19 I consider that construction related effects will be limited in duration, localised, and will be temporary in nature. I agree with the applicant that such effects will be less than minor for any party.

Stormwater and Natural Hazard Effects

- 5.20 The application site is located at the head of a gully. The NOR involves the installation of a stormwater culvert underneath the proposed road formation. The application has been assessed by Consultant Stormwater Engineer, Mr Garth Flores. He notes that the final design will need to confirm the culvert size (likely to be 900mm in diameter but to be confirmed); scour protection around the outlet; hydraulics; and other relevant details at detailed design stage.
- 5.21 Mr Flores also notes that water quality should be considered. He suggested that the road design could incorporate rain garden area(s) to treat the first flush prior to discharging into the gully; alternatively some sort of propriety filtration / gross pollutant trap could be installed. The appropriate design and long-term maintenance and effectiveness of such devices will need to be considered during the detail design stage. I have discussed Mr Flores' comments with the applicant who confirmed that an appropriate option will be considered and selected detail design stage prior to the road being constructed to mitigate adverse effects.
- 5.22 The application site also traverses land denoted as 'limited developable' (for residential purposes), primarily due to land stability issues. The applicant has not provided any specific assessment on land stability. However, indicative plans of the cut and fill locations to achieve the desired contour have been provided. Earthworks will be wholly contained with the application site and are physically separated from other nearby properties. In my opinion, it is reasonable to assume that the construction of a road will be completed with appropriate level of engineering input, as would be required by the Palmerston North City Council's Engineering Standards for Land Development.
- 5.23 Based on Mr Flores' advice, I am satisfied that the stormwater related effects will be less than minor for any party. Effects with respect to land stability are also considered to be less than minor. There are no other known natural hazards of relevance to the application.

Cultural Effects and Historic Heritage:

- 5.24 The site has been previously modified by earthworks activities (a predominance of fill works rather than cut earthworks). There are no known archaeological sites or items of historic heritage in the area. I have also had regard to the specific effects on cultural values. The site is not identified as a Statutory Acknowledgement Area and there are no known items of cultural significance. I have no reasons to believe that there will be potential adverse effects on historic heritage and cultural values.

Effects on the Landowner

- 5.25 The applicant has requested public notification. Regulation 10(2)(a) of the Resource Management (Forms, Fees and Procedures) Regulations 2003 requires the Council to serve notice on any persons who is the owner or occupier of the land to which the NOR relates. Unsurprisingly, there are adverse effects on the landowner, Aokautere Land Holdings Ltd, which will be minor or more than minor as a result of the NOR application on land in which they private own.

6 NOTIFICATION DECISION

- 6.1 The applicant has requested public notification of the NOR application. Under Section 149ZCB(2) the Council must publicly notify the application.
- 6.2 Under Section 149ZCC, notice must be served on any party considered to be adversely affected under Section 149ZCF. Based on the assessment above, it is considered that any effects from the NOR would be at least minor for those particular parties identified below. As these parties are considered to be affected notice should be served on these parties, in addition to those otherwise required under Regulation 10(2)(a).
- 6.3 In this case, adverse effects are considered to be minor (if not more than minor) on the following parties:
- a. the owners and occupiers of:
 - 67 and 71 Pacific Drive;
 - 3, 5, 6, 8, 10, 18, 20, 24, 26, 28, 33, 35, 37, 39 and 41 Abby Road;
 - 5, 11, 19, 29 and 31 Woodgate Court;
 - 30 Abby Road and 33 Johnstone Drive (the application site)
 - b. The New Zealand Transport Agency
- 6.4 Notice should also be served on the following parties:
- a. The owner of the application site (under Regulation 10(2)(b);
 - b. Horizons Regional Council (under Regulation 10(2)(c); and
 - c. *Tanenuiarangi Manawatū Incorporated*, being an Iwi Authority who should have notice of the application (under Regulation 10(2)(d).



Ryan O'Leary
Contracted Planner
on behalf of Palmerston North City Council

Appendix 1 – Notification Test

Section 149ZCB - Public Notification of application or notice at Minister's discretion		YES	NO
(1)	The Minister may, in his or her discretion, decide whether to require the EPA to publicly notify an application or a notice.		X
(2)	Despite subsection (1), the EPA must publicly notify an application or a notice if— (a) the Minister decides (under section 149ZCE) that the activity that is the subject of the application or notice will have, or is likely to have, adverse effects on the environment that are more than minor; or (b) the applicant requests public notification of the application or notice; or (c) a rule or national environmental standard requires public notification of the application or notice.	X	
(3)	Despite subsections (1) and (2)(a), the EPA must not publicly notify the application or notice if— (a) a rule or national environmental standard precludes public notification of the application or notice; and (b) subsection (2)(b) does not apply.		X
(4)	Despite subsection (3), the EPA may publicly notify an application or a notice if the Minister decides that special circumstances exist in relation to the application or notice.		X
Section 149ZCC – Limited Notification of application or notice		YES	NO
(1)	If the Minister decides not to require the EPA to publicly notify an application or a notice, the Minister must, in relation to the activity,— (d) decide if there is any affected person (under section 149ZCF); and (e) identify any affected protected customary rights group or affected customary marine title group		X
(2)	The EPA must give limited notification of the application or notice to any affected person unless a rule or national environmental standard precludes limited notification of the application or notice.	X	
(3)	The EPA must give limited notification of the application or notice to an affected protected customary rights group or affected customary marine title group even if a rule or national environmental standard precludes public or limited notification of the application or notice.		X
(4)	In subsections (1) and (3), the requirements relating to an affected customary marine title group apply only in the case of applications for accommodated activities.		X
Section 149ZCE – Minister to decide if adverse effects are likely to be more than minor		YES	NO
For the purpose of deciding under section 149ZCB(2)(a) whether an activity will have or is likely to have adverse effects on the environment that are more than minor, the Minister— (a) must disregard any effects on persons who own or occupy— (i) the land in, on, or over which the activity will occur or apply; or (ii) any land adjacent to that land; and			X
(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and			X
(c) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and			X
(d) must disregard trade competition and the effects of trade competition; and			X

(e) must disregard any effect on a person who has given written approval in relation to the relevant application or notice.			X
Section 149ZCE – Minister to decide if a person is affected person		YES	NO
(1)	The Minister must decide that a person is an affected person, in relation to an activity, if the adverse effects of the activity on the person are minor or more than minor (but are not less than minor).	X	
(2)	The Minister, in making his or her decision,— (c) may disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect; and (d) in the case of a controlled activity or a restricted discretionary activity, must disregard an adverse effect of the activity on the person if the activity does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and (e) must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11.		X
(3)	Despite anything else in this section, the Minister must decide that a person is not an affected person if— a) the person has given, and not withdrawn, approval for the activity in a written notice received by the authority before the authority has decided whether there are any affected persons; or (b) it is unreasonable in the circumstances to seek the person's written approval.		X