

HEARINGS COMMITTEE UPDATED AGENDA

FRIDAY, 13 JUNE 2025, 2.00 PM
Council Chamber, Dunedin Public Art Gallery,
30 The Octagon, Dunedin

MEMBERSHIP: Commissioner Louise Taylor and Councillors Kevin Gilbert and Steve Walker

IN ATTENDANCE: Phil Marshall (Senior Planner/Committee Advisor), Elisabeth Boyle (Planner), Lee Paterson (Senior Geotechnical Engineer, Stantec), Simon Smith (Asset and Funding Manager, Transport), Reese Martin (Planner, Transport), Luke McKinlay (Urban Designer) and Wendy Collard (Governance Support Officer)

PART A (Committee has the power to decide these matters):

1 RESOURCE CONSENT APPLICATION – LUC-2023-36, 12 ANNIE STREET, OSBORNE

Introduction

Applicant to introduce themselves and their team.

Procedural Issues

Any procedural matters to be raised.

Presentation of the Planner's Report

Report from Elisabeth Boyle

Refer to pages 1 - 27

The Applicant's Presentation

Application

Refer to pages 28 – 56

Revised Site Plan

Refer to pages 57 – 58

Photographs – Site Visit

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Submissions

Refer to pages 72 – 81

Site Inspection Record

Refer to pages 82 – 88

Recommending Conditions and Advice Notes

Refer to pages 89 - 91

Council Officers' Evidence

Memorandum from Planner, Transport

Refer to pages 92 - 96

Memorandum from Landscape Architect

Refer to pages 97 - 101

Emails from Stantec

Refer to pages 102 - 111

The Planner's Review of their Recommendation

The Planner reviews their recommendation with consideration to the evidence presented

The Applicant's Response

The Applicant to present their right of reply

PLEASE NOTE: The **only** section of the hearing which is not open to the public is the Committee's final consideration of its decision, which is undertaken in private. Following completion of submissions by the applicant, submitters and the applicant's right of reply, the Committee will make the following resolution to exclude the public. All those present at the hearing will be asked to leave the meeting at this point.

RESOLUTION TO EXCLUDE THE PUBLIC

To be moved:

"That the public be excluded from the following parts of the proceedings of this meeting, namely, Item 1.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under Section 48 (1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

	General subject of each matter to be considered.	Reason for passing this resolution in relation to each matter.	Ground(s) under section 48 for the passing of this resolution.
1	Resource Consent application – 12 Annie Street, Osborne	That a right of appeal lies to any Court or Tribunal against the Dunedin City Council in these proceedings.	Section 48(1)(d)

TO: Hearings Committee

FROM: Elisabeth Boyle, Planner

DATE: 25 March 2025

SUBJECT: **RESOURCE CONSENT APPLICATION**
LUC-2023-36
12 Annie Street, Osborne

APPLICANT: Paul Napier

INTRODUCTION

- [1] This report has been prepared on the basis of information available on 25 March 2025. The purpose of the report is to provide a framework for the Committee's consideration of the application and the Committee is not bound by any comments made within the report. The Committee is required to make a thorough assessment of the application using the statutory framework of the Resource Management Act 1991 (the Act) before reaching a decision.

SUMMARY OF RECOMMENDATION

- [2] I consider that the application should be granted.
- [3] I consider that the adverse effects of the earthworks will be no more than minor as remediation measures have been undertaken to enhance the stability of the batters and to make sure stormwater runoff is directed to a water table in the road reserve.
- [4] The application involves a completed earthworks project on private land that has negatively affected the stability of land and the amenity of surrounding properties. The activity also involves the proposed establishment of a boundary fence. Overall, both the completed earthworks and the proposed boundary fence are considered to have a minor effect on the amenity of three neighbouring properties - an effect that is closely linked to impaired access to the affected properties. However, the proposed boundary fence is a permitted activity, and no right of way easement exists to the benefit of the affected parties. Therefore, considering the limited range of matters that council has discretion to consider, and considering that work has already been completed to remediate the original earthworks breaches, it is my opinion that the relevant adverse environmental effects of the activity can be adequately mitigated through conditions and will not be significant to the wider environment.
- [5] I consider the application to be inconsistent, but not contrary to the key policies of the Partially Operative Second Generation District Plan relevant to this application. I therefore consider that it is open to the panel to consider granting consent for the proposal.

SUMMARY OF PROPOSAL

- [6] Retrospective resource consent is sought for earthworks already undertaken for the realignment of an existing accessway. Since the application was submitted, the area of the subject site has been reduced, and the scope of the application has been changed. Remediation earthworks have been completed. A proposed boundary fence with gates is yet to be established.
- [7] A copy of the original application is contained in Appendix 1 of this report.
- [8] A copy of the revised site plan, showing the reduced area of the works, is contained in Appendix 2 of this report.

DESCRIPTION OF SITE AND LOCATION

- [9] The subject site is freehold, legally described as Lot 1 DP 397919 (held in Record of Title 388398). It has an area of 0.4047 ha. There are no easements registered on the title (right of way or otherwise). Consent notice 7694857.2 is imposed on the title:
 - i. *Prior to residential activity occurring on the site a report shall be obtained from a suitably qualified person confirming the suitability of Lot 1 for establishment of a dwelling. Any site mitigation measures that are identified in the report as necessary to ensure slope stability are to be implemented in accordance with the reports recommendations.*
 - ii. *In the absence of a site-specific design by a suitably qualified person the on-site effluent disposal system shall be situated on slopes not exceeding 15° to the horizontal.*
- [10] The subject site is rectangular and slopes steeply to the horizontal in a south-easterly direction. Council's GIS Data Map registers a slope of 15-20 degrees at the relevant part of the site. The site occupies the land bounded by Annie Street and Bradley Road, Osborne, both of which are unformed roads in that location. The site is vacant of development, with two existing, unsealed access ways traversing the north-eastern corner, thereby forming an access link between the Bradley Road and Annie Street road reserves. The formation history of these access ways is explained in the Background section below. Figure 1 below contains an aerial photograph extract of the subject site and surrounding sites (dated 2023-2024), showing the location of the original access road (to the west) and the new access road (to the east). The photograph is overlaid with approximate boundary lines and contour lines.



Figure 1: image showing the subject site and surrounding properties.

- [11] The image in Figure 1 also shows existing dwellings situated at the surrounding sites of 17, 15, and 13 Annie Street and 17 Bradley Road. Since the adjacent roads are unformed (they are what is commonly referred to as ‘paper roads’), vehicular access to these sites is only achievable over the access formations that traverse 12 Annie Street.
- [12] The subject site is near the south-eastern edge of the settlement of Osborne. The surrounding topography is similarly steep, with an aspect to the south-east. Kanuka dominant forest and scrub encircles Osborne to the south, west and north. Fragments of this vegetation type are also present within 12 Annie Street, scattered amongst pastoral areas.
- [13] There is no council-owned reticulated water or wastewater infrastructure present within the subject site or within the surrounding area.

HISTORY OF THE SITE AND BACKGROUND TO THE APPLICATION

- [14] The subject site was created by way of boundary adjustment subdivision SUB-2007-185. No easements were conditioned as part of that subdivision consent.
- [15] The neighbouring sites to the north-east and south-east (17, 15, and 13 Annie Street, and 17 Bradley Road) were created in the 1930s. Those sites all have physical and legal access to Annie Street and Bradley Road, respectively. However, due to the steep local topography, no formed carriageway has been developed adjacent to those properties by Council. 17, 15, and 13 Annie Street, and 17-19 Bradley Road therefore have legal road access but no formed access suitable for vehicles. Pedestrian access is also difficult to achieve due to the local steep terrain and mature vegetation present within the road reserve.

- [16] The original developments on these neighbouring sites were cribs, and the only way to access them was by way of walking tracks. The applicant has explained that, in the 1960s, the former landowner of 12 Annie Street formed a vehicular access way that curved through the eastern corner of 12 Annie Street and switched direction due north when it reached the road reserve before continuing towards the Bradley Road-Annie Street intersection. It is my understanding that occupants of the downslope neighbouring sites have used the access way to reach their sites ever since. No right of way easement was put in place however, so the use of the access way has been at the pleasure of the owner of 12 Annie Street.
- [17] On 1 June 2022, a complaint (COM-2022-66) was lodged with Council for unconsented earthworks that had been undertaken within 12 Annie Street as well as within the Bradley Road and Annie Street road reserves. The unconsented earthworks created a new access way to the east of the original access way within 12 Annie Street. Council's consultant engineer, Stantec New Zealand Ltd (Stantec) visited the site in June 2022 as part of the compliance investigation. During that visit, they flew a drone to help identify areas of concern, which were labelled in the drone image shown in Figure 2.



Figure 2: drone image with labels showing 2022 earthworks

- [18] The owner of 12 Annie Street, Mr Paul Napier (the Applicant), subsequently submitted a resource consent application (LUC-2023-36) on 2 February 2023, to cover both the work already done and further work proposed to be done. The application proposed to undertake remediation earthworks both within the road reserve and within 12 Annie Street. The legend included on the site plan showed that part of the original access way was to be closed, while the new access way was to be retained. The application also noted that unspecified retaining structures (one retaining wall and one rock buttress) were to be established. A telephone cable was also to be moved.

- [19] I issued a Request for Further Information (RFI) and placed the application on hold Pursuant to s92(1) of the Resource Management Act 1991 (RMA) on 8 February 2023. The RFI required:
1. A long-section of the entire accessway, including the part that is located within the road reserve,
 2. A more detailed site plan, including the location of the proposed retaining structures,
 3. Design details of the proposed retaining structures,
 4. Confirmation of the maximum change in ground level caused by the cut already carried out,
 5. Written approval from the owners of the existing telecommunications and electricity utilities at the subject site,
 6. Sedimentation and erosion mitigation measures pertaining to the outfall from the drainage beneath the new access road, and
 7. A geotechnical assessment.
- [20] A site visit was conducted on 9 February 2023. Photographs taken during the site visit are included in Appendix 3.
- [21] The application remained on hold for an extended period of time while Council's Transportation Department (DCC Transport) and Mr Napier corresponded on the subject of the required remediation of the access way and land tenure. In August 2024 it became clear that their correspondence had not borne fruit, and I arranged for a second site visit for 29 August 2024. In attendance during that site visit were: Simon Smith (Asset and Funding Manager, DCC Transport), Nic Jepson (Senior Planner, Resource Consents), Peter Woods (Monitoring and Enforcement Officer, Resource Consents), Cory Barnes (Compliance Officer, Building Services), and myself. Paul Napier and Sarah Napier (the applicant's daughter) were on site at the time.
- [22] During the site inspection, Council's Building Compliance Officer assessed that the site drainage was acceptable. He also confirmed that the original cuts required remediation and that he would issue a Notice to Fix (NTF) in that respect.
- [23] During the site inspection, Mr Napier (the applicant) stated that he no longer wanted any work within the road reserve to be part of the resource consent application. I explained that a new site plan would be required for this reduced scope and that he would still need to submit the relevant outstanding items from the original RFI.
- [24] DCC Building Services issued a Notice to Fix (NTF) on 16 September 2024 (NTF-2024-277). The NTF required:
1. *Apply for a building consent under section 45 of the Building Act 2004 for the erection of a suitable retaining structure,*
- OR*
2. *Batter the bank back to no less than a 1-1 ratio.*
- [25] In October 2024, Dunedin City experienced an extreme weather event in the form of heavy rainfall. During that weather event, a minor land slip occurred at the subject site.
- [26] The applicant confirmed via email on Thursday 28 November 2024 that, on advice from his engineer, he had opted to batter the original cuts rather than constructing a retaining wall and rock buttress. He further confirmed via email on 3 December 2024 that the final

width of the new access way (the eastern access way) will be ‘around 3 meters’, and that he intends to restrict access over 12 Annie Street to emergency services only – by way of road boundary fencing and locked gates. Those changes form part of the application’s new scope.

[27] The applicant completed the abovementioned remediation works in January 2025. Council’s Building Compliance Officer Cory Barnes confirmed a 1:1 batter in a letter on 29 January 2025, thereby resolving NTF-2024-277.

[28] The following report is based on the new application scope, which includes:

- retrospective consent for the original earthworks within the property boundaries of 12 Annie Street only, being the land owned by Mr Napier,
- remediation earthworks in the form of reducing the slope of the cut and fill batters created at the time of the original earthworks,
- moving of an existing telecommunications network facility, and
- the erection of road boundary fencing and gates.

DESCRIPTION OF PROPOSAL

[29] As mentioned above, resource consent is sought retrospectively for earthworks undertaken at 12 Annie Street, Osborne. When the application was initially submitted, further works (such as the establishment of retaining structures) were proposed. In terms of the purpose for the works, the application stated, “*The track constructed is intended for the use of all the surrounding residential properties, including the applicant*”. Since then, the overall scope of the application has been amended and remediation earthworks have been carried out. Work yet to be completed comprises the establishment of road boundary fencing with locked gates.

[30] The earthworks already undertaken in 2022 to construct the new access way involved:

1. Excavation of material was carried out within both the road reserve and 12 Annie Street for the construction of the new access road. The approximate excavated area was 374m² and volume excavated was 134m³. The cuts are illustrated on the plans and cross-section submitted with the original application. The application states that the maximum depth of excavation was 1.3m with maximum slope of cut batters at 0.7h:1v.
2. Measurements made by myself and Compliance Officer Peter Woods during the site visit on 29 August 2024 showed that the maximum change in ground level was between 1.7-1.8m. Several cut and fill batter gradients exceeded 45°.
3. The earthworks had been carried out less than 1.5m distance from an existing telecommunications ‘dome’ and an electricity pole at the site.
4. Approximately 70m³ of crushed concrete fill had been placed on the new access way, both within the road reserve and within 12 Annie Street. This crushed concrete was 300mm deep and was originally intended to be a base layer that was to be compacted before a layer of AP20 was compacted on top.
5. The application states that metal ‘was also sourced from Palmers for the portion of the new access that joins with the existing access as it runs south, referred to as the ramp by the applicant’.
6. A 250 mm dia culvert was placed under the new access way, to divert stormwater runoff into an informal drain that discharges onto the eastern corner of the site of 12 Annie Street.

[31] The proposed earthworks initially included:

1. Construction of a rock buttress 'downhill of the southern portion of the new access near 13 Bradley Road'.
2. Construction of a retaining wall 'along the western side of the new access at the southern end where the largest cut has been made exceeding the permitted 1h:1v ratio'.
3. Relocation of the existing telecommunications network utility (marked 'P' on the site plan).
4. Partial closure of the original access way.

[32] As explained in the Background section above, the scope of the application has been amended as follows:

1. The site of works has been reduced to 12 Annie Street only; the previously proposed work within the road reserve has been removed from the application. This has been reflected in the new site plan. As shown by the site plan's legend, the new access way (the eastern access way) is to be retained, while the original access way (the western access way) is to be partially closed.
2. Cut and fill slopes will be re-battered. Those works will replace the previously proposed retaining wall and rock buttress.
3. The width of the new (eastern) access way is to be approximately three meters.
4. A boundary fence with gates is proposed to be erected along the subject site's road boundaries, restricting access to 12 Annie Street to emergency services only. The proposed fence has not been shown on the amended site plan.
5. The applicant mentioned via email on 16 September 2024 that 'planting' will be carried out along the original drive at the conclusion of the works. No planting plan has been provided.

ACTIVITY STATUS

[33] Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 ("the District Plan 2006"), and the Proposed Dunedin City Second Generation District Plan ("the 2GP"). On 19 August 2024, the 2GP became partially operative and now supersedes the District Plan 2006, except for limited specific provisions and identified areas that are still subject to appeal. Where these provisions and appeals are relevant, the District Plan 2006 must still be considered. In this instance, there are no relevant appeals, and this application has been processed with reference to the 2GP only.

[34] The activity status of the application is fixed by the rule provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the rule provisions in force at the time of the decision that must be had regard to when assessing the application. This application was submitted before the 2GP became partially operative. None of the applicable activity statuses have changed since the application was lodged.

Partially Operative Dunedin City Second Generation District Plan 2024

[35] Zoning: The subject site is split zoned. The western half is zoned Rural Residential 2 and is subject to the Significant Natural Landscape overlay zone of Pūrākaunui and Orokonui. The eastern half is zoned Township and Settlement and is situated within the Archaeological Alert Layer and No DCC Reticulated Wastewater mapped areas. The part of the site that is subject to this application is the eastern half.

[36] Definition: The proposal falls under the definition of Earthworks, which is a city-wide activity:

The disturbance and alteration of land surfaces by the re-contouring of land and/or the excavation or deposition of materials including clean fill, soil, or rock. This definition excludes:

- *earthworks associated with cultivation, harvesting and tilling, which are included as part of the definition of farming;*
- *earthworks associated with quarrying or mining, which are included as part of the definition of mining;*
- *vegetation clearance that is associated with earthworks, which is included as part of the definition of vegetation clearance;*
- *earthworks associated with the maintenance of: sports fields, landscaping or gardens, farm tracks, private roads, private ways, dams, farmyards, drains, farm service areas, silage pits, and fences; which are not managed by the Plan; and*
- *earthworks that meet the definition of natural hazard mitigation earthworks.*

*The following activities are managed as sub-activities of earthworks:
earthworks - large scale; and
earthworks - small scale.*

This definition is currently subject to 2GP Plan Change 1 but the proposed changes will have no bearing on the proposed activity. I note that while the definition excludes maintenance of private roads, it does not exclude the creation of new private roads.

[37] Activity status: The completed and proposed earthworks are **restricted discretionary** activities, for the reasons listed below.

- **Rules 8A.5.1.3 and 8A.3.2.3** - change in finished ground level:
Pursuant to Rule 8A.5.1.3, the maximum change in finished ground level to be considered earthworks – small scale in residential zones is 1.5m. The change in ground level resulting from the earthworks already undertaken was measured to be 1.7-1.8m. Since the change in ground level is over 1.5m in height, it is considered to be Earthworks Large Scale. Pursuant to Rule 8A.3.2.3, the activity status for Earthworks Large Scale is **restricted discretionary**.

Pursuant to Rule 8A.7.2, Council's discretion is restricted to:

- Effects on visual amenity,
 - Effects on amenity of surrounding properties, and
 - Effects on the stability of land, buildings, and structures.
- **Rule 8A.5.3** – batter gradients:
Earthworks must:
 1. have a maximum cut batter gradient of 1h:1v (i.e., rising 1m over a 1m distance); and
 2. have a maximum fill batter gradient of 2h:1v (i.e., rising 1m over a 2m distance)

The retrospective earthworks breach the cut batter rule as can be seen on the B-B long section, and was observed by myself during past site visits. The work also breaches the fill batter gradient where side cast fill is sitting on the eastern shoulder of the new access way. Activities that contravene this performance standard are **restricted discretionary** activities.

Pursuant to Rule 8A.6.3.1, Council's discretion is restricted to:

- Effects on the stability of land, buildings and structures.

- **Rule 8A.5.4.1.a** – setback from property boundaries:
Earthworks over 600mm in height or depth not supported by retaining walls must be set back from property boundaries the following minimum distances:

- i. a distance at least equal to the maximum height of the fill, as measured from the toe of the fill;
- ii. a distance at least equal to 1.5 times the maximum depth of the cut, plus 300mm, as measured from the toe of the cut; and
- iii. 300mm, as measured from the crest of any cut.

The completed earthworks breach this rule at the north-east boundary of the Bradley Rd road reserve, and at the south-east boundary of the Annie St road reserve. Pursuant to rule 8A.5.4.2, activities that contravene this performance standard are **restricted discretionary** activities. Pursuant to rule 8A.6.3.2, Council's discretion is restricted to:

- Effects on the stability of land, buildings and structures.

- **Rule 8A.5.6** – setback from network utilities:
Earthworks must comply with rule 5.6.2, which requires that earthworks must be set back 1.5m from network utilities. The original earthworks were carried out within this setback in terms of a 'Telecom dome' (depicted with a 'T' on the site plan) and also around the power pole south of the driveway to #17 Bradley Road. Pursuant to rule 5.6.2.2, Activities that contravene this performance standard are **restricted discretionary** activities. Pursuant to rule 5.7.4.2, Council's discretion is restricted to:

- Effects on health and safety, and
- Effects on efficient and effective operation of network utilities.

- **Rule 6.6.3.3.a.i**: - maximum width of vehicle access:
The maximum width for a vehicle access for residential purposes is 6.0m. The new vehicle access terminating at Annie Street appears to be around 10m, breaching this rule. Pursuant to rule 6.6.3.3.b, activities that contravene this performance standard are **restricted discretionary** activities. Pursuant to rule 6.10.5.2, Council's discretion is restricted to:

- Effects on the safety and efficiency of the transport network.

- **Rule 6.6.3.6.b**: - surfacing of driveways:
The full length of any driveway that serves more than 2 residential properties must be hard surfaced. The new access way will not be hard surfaced, which is a breach of this rule since the access way serves more than 2 residential properties. Pursuant to rule 6.6.3.6.c, activities that contravene this performance standard are **restricted discretionary** activities. Pursuant to rule 6.10.5.6, Council's discretion is restricted to:

- Effects on the safety and efficiency of the transport network.

- **Rule 6.6.3.7.b** – gradients of driveways
The gradient of the first 5m measured from the road boundary into the site must be no greater than 1 in 8. While the gradient of the first 5.0m of the new accessway has not

been provided, I consider it unlikely that this requirement has been complied with, given its obvious steepness. Pursuant to rule 6.6.3.7.c, activities that contravene this performance standard are **restricted discretionary** activities. Pursuant to rule 6.10.5.6, Council's discretion is restricted to:

- Effects on the safety and efficiency of the transport network.

National Environmental Standards

- [38] The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NES-CS) came into effect on 1 January 2012. The NES-CS applies to any piece of land on which an activity or industry described in the current edition of the Hazardous Activities and Industries List (HAIL) is being undertaken, has been undertaken or is more likely than not to have been undertaken. Activities on HAIL sites may need to comply with permitted activity conditions specified in the soil contamination NES-CS and/or might require resource consent.
- [39] The subject site is not listed as a HAIL site in the Otago Regional Council's Land Use Register. I have searched the Council's consent record for the subject site and have not found any evidence that a HAIL activity has occurred on the site. I note that the earthworks described above included placing fill in the form of gravel and crushed concrete. If that fill does not constitute clean fill, then Category G5 (Waste disposal to land) may potentially apply. In this situation, however, the land where fill was placed is to be used as an access road and no subdivision, change of use, residential activity or other sensitive activity is proposed for the site. I therefore consider that the NES-CS does not apply in this instance.
- [40] There are no other National Environmental Standards relevant to this application.

Overall status

- [41] Where an activity requires resource consent under more than one rule, and the effects of the activity are inextricably linked, the general principle from case law is that the different components should be bundled, and the most restrictive activity classification applied to the whole proposal.

In this case, the rules all have the same activity status. The proposal is therefore a **restricted discretionary** activity.

NOTIFICATION AND SUBMISSIONS

- [42] No written approvals were provided with the application at the time of lodgement. However, the applicant subsequently provided written approvals in the form of emails from the parties listed in the Table 1 below:

Name	Position	Company	Obtained
Jangez Khan	Network Project Manager	Chorus	29 March 2023
David Steele	Project Manager	Powernet.co.nz	9 March 2023

Table 1: List of parties that have provided written approval

[43] In accordance with Section 104 of the RMA, where written approval has been obtained from affected parties the consent authority cannot have regard to the effects of the activity on that person.

[44] In terms of affected parties, the application states as follows:

There are multiple parties affected as they used the existing track for vehicular access to their residential properties:

- 21 Bradley Road
- 19/19A Bradley Road
- 17 Bradley Road
- 13 Annie Street
- 15/17 Annie Street

No formal consultation was undertaken.

[45] During the processing of this application, Council received communications from the owners and residents of these properties, expressing their concerns pertaining to the trafficable state of the access way that traverses 12 Annie Street (and the road reserves on either side). On 8 June 2023 I also received a telephone call from Dr Charles Lamb, acting as an agent for these neighbouring owners, expressing their concerns about health and safety. Dr Lamb informed me that sanitary truck services had now refused to service some of the neighbouring sites due to the changed accessway situation. Dr Lamb also communicated with DCC Transport at the time.

[46] When determining the extent of adverse effects, it is common practice to think about the level of effects along a continuum to ensure that each effect has been considered consistently:

- Nil Effects
No effects at all
- Less than Minor Adverse Effects
Adverse effects that are discernible day-to-day effects, but too small to adversely affect other persons
- Minor Adverse Effects
Adverse effects that are noticeable but will not cause any significant adverse environmental impacts
- More than Minor Adverse Environmental Effects
Adverse Effects that are noticeable that may cause an adverse environmental impact but could be potentially mitigated or remedied
- Significant Adverse Effects that could be remedied or mitigated
An effect that is noticeable and will have a serious adverse impact on the environment but could potentially be mitigated or remedied

[47] I agree with the applicant that the environmental effects from the earthworks that were undertaken in 2022 by the applicant in order to create the new access way over 12 Annie Street impacted negatively on the neighbouring persons listed above. The old access way served its purpose well; although it was unsealed, it posed no risk to land stability, it was well positioned within the existing environment with an appropriate gradient, and it appears to have drained effectively without effects beyond the site

boundaries. The new access way has a steeper gradient with a sharper and steeper switch-back curve at the intersection with the Annie Street (at the eastern corner). Furthermore, the earthworks that were undertaken for the construction of the new access way have had, and will continue to have, a negative effect on visual amenity and the amenity of surrounding properties, and also presented a land stability issue - as demonstrated by the land slip that occurred in October 2024.

- [48] While the land stability issue has now been taken care of by battering, I consider that the activity has had a negative environmental effect on the parties listed above.
- [49] "Amenity values" are defined in section 2(1) of the RMA as "those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes." The Courts have emphasized the breadth of characteristics that can be considered under the ambit of "amenity". I consider that the completed earthworks (and the proposed boundary fence and locked gates) will make it more difficult than before for the neighbouring residents to the south-east to access their properties, and for essential services such as septic tank trucks to service those properties. It is my opinion that the environmental effect in the form of impaired access will result in a minor effect on the amenity of the surrounding properties as defined by the RMA. Additionally, there could be factors for residents that Council is not aware of as to why vehicle access is needed, such as possible mobility issues, that further justifies this conclusion.
- [50] The lack of formal legal access (i.e., a right of way easement) across the subject does not rule out the neighbours being "affected" in an environmental sense, by the completed as well as the proposed works.
- [51] I consequently consider that the neighbours could be considered "affected persons" under section 95E of the RMA.
- [52] I consider that the adverse environmental effects of the earthworks would be minor but not more than minor, having regard to the existing environment and the remediation earthworks that have already been completed.
- [53] Based on the above justification, it was determined that the effects of the earthworks would be restricted to a limited number of parties being the owners of the properties listed in Table 2 below:

Name	Property
Nicole Maree Rogers & Kent Ransome Rogers	17 Bradley Road
Jodie Kristina Gilmore & Antony Thomas Ferguson	13 Annie Street
Christopher Timothy Waite	15 Annie Street 17 Annie Street

Table 2: Parties served notice of the application

- [54] The written affected party approval of all these parties was not obtained and the application was, therefore, notified on a limited basis on 29 January 2025.
- [55] I cannot consider the owners and occupiers of 21 Bradley Road and 19 Bradley Road affected since the scope of the proposal was reduced to works within 12 Annie Street only, thereby excluding the work that had been done within the official road reserves (paper roads). Vehicular access to 21 Bradley Road and 19 Bradley Road could be

achievable directly from Bradley Road following future remediation work by Council and is considered to be excluded from the application's new scope.

- [56] Copies of the application were sent by mail to the parties listed in Table 2 above, with submissions closing on 28 February 2025.
- [57] Two submissions were received by the close of the submission period. Both submissions were opposed.
- [58] The submissions are summarised in the table below, and a full copy of the submissions is attached in Appendix 4.

Name of Submitter	Support/ Oppose	Summary of Submission	Wish to be heard?
Christopher Timothy White – 15 and 17 Annie Street	Oppose	The submission opposes the establishment of a fence and gates along the road boundaries of the subject site. The submission states that there had been no issues with access to 15 and 17 Annie Street prior to the commencement of the completed earthworks. The submission states that the proposed fence and gates will remove access to 15 and 17 Annie Street. The submission seeks that the applicant reconsiders establishing road boundary fencing.	No
Jodie Kristina Gilmore & Anthony Thomas Ferguson – 13 Annie Street.	Oppose	The submission opposes the establishment of a fence and gates along the road boundaries of the subject site. The submission points out that the proposed establishment of a fence and gates contradicts the purpose for the earthworks as expressed in the original application. The submission states that the proposed fence and gates will give the applicant control over sanitation and emergency services' access to neighbouring sites. The submission states that the lack of access by sanitation services to attend septic tanks may cause sewage seepage. The submission states that poor	Yes

		drainage and under-runners will lead to environmental degradation during periods of heavy rainfall. The submission states that the situation at Annie Street is a cross-department issue for the DCC. The submission seeks that the committee delays their consideration of the application until after the relevant DCC departments have resolved the access issues at Annie Street	
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As part of a standard Limited Notified administration process, several council departments and statutory parties were served notice of the application. In response, James Sutherland, on behalf of Heritage New Zealand Pouhere Taonga (HNZPT), pointed out that:

12 Annie Street is located in close proximity to the Pūrākanui inlet which is identified on Kā Huru Manu, the Kāi Tahu atlas which is publicly available online and publishes significant cultural places within the South Island.

HNZPT recommended that the remediation earthworks that were originally proposed in the application should be assessed by a consultant archaeologist. HNZPT suggested that a condition is imposed on the consent, requiring an archaeological authority.

ENVIRONMENTAL EFFECTS OF ALLOWING THE ACTIVITY

[59] Section 104(1)(a) of the Act requires that the Council have regard to any actual and potential effects on the environment of allowing the activity. 'Effect' is defined in Section 3 of the Act as including-

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

Permitted Baseline

[60] An important consideration for the assessment of effects is the application of what is commonly referred to as the permitted baseline assessment. The purpose of the permitted baseline assessment is to identify the non-fanciful effects of permitted activities and those effects authorised by resource consent in order to quantify the degree of effect of the proposed activity. Effects within the permitted baseline can be disregarded in the effects assessment of the activity.

[61] In this situation, the 2GP Township and Settlement zone permits 15m³ of earthworks per 100m² of site, on sites where the slope is 20°. Based on that, the baseline for earthworks volume on the part of the subject site that is zoned Township and Settlement is 349.2m³.

Batter slope gradients, setback requirements and other performance standards would still be applicable.

- [62] Fences are a permitted activity pursuant to 2GP rule 15.3.4.4 subject to the fence being no higher than 2m and maintaining visual permeability for 50% of the length of the boundary measured at a height of 1.4m above ground level.

Receiving environment

- [63] The existing and reasonably foreseeable receiving environment is made up of:
- The existing environment and associated effects from lawfully established activities;
 - Effects from any consents on the subject site (not impacted by proposal) that are likely to be implemented;
 - The existing environment as modified by any resource consents granted and likely to be implemented; and
 - The environment as likely to be modified by activities permitted in the district plan.
- [64] For the subject site, the existing and reasonably foreseeable receiving environment comprises a split zoned, vacant site with scattered vegetation and two vehicular access ways traversing the eastern corner. Prior to the commencement of the original earthworks, the receiving environment would have comprised one access way rather than two.
- [65] Adjacent land to the south-west is zoned Rural Residential 2 and has a rural character featuring a mixture of meadow open space and established vegetation.
- [66] Adjacent land to the other directions broadly consists of residential zoned land and residential activities complimented with surrounding vegetation.
- [67] It is against the existing and reasonably foreseeable receiving environment that the effects of the activity, beyond the permitted baseline, must be measured.
- [68] Under Section 104C of the Act, the Council, when considering an application for resource consent for a restricted discretionary activity must consider only those matters over which its discretion is restricted, and if granting consent, can only impose conditions only for those matters over which discretion is restricted. As mentioned above, in this case the Council's discretion is restricted to:
- Effects on visual amenity,
 - Effects on amenity of surrounding properties,
 - Effects on the stability of land, buildings, and structures,
 - Effects on health and safety (in terms of earthworks within setbacks from network utilities),
 - Effects on efficient and effective operation of network utilities (in terms of earthworks within setbacks from network utilities), and
 - Effects on the safety and efficiency of the transport network.

Assessment of Effects

- [69] Consideration is required of the relevant assessment matters in the 2GP.

Effects on the stability of land, buildings and structures (2GP rules 8A.7.2.1.c, 8A.6.3.1, 8A.6.3.2)

- [70] After their initial site visit in June 2022 (mentioned in the Background section above), Stantec provided comments pertaining to the steepness of the new access way and the cuts and fill that had taken place at the subject site and within the road reserve. They also provided the following advice:

Advice

It is difficult to be overly concerned about the scale of the works from a natural hazards perspective. I think that most of the concerns over the work will actually be drivability / gradient and interruption / disruption during construction, which is yet to be completed.

Much of the work could be underwritten relatively simply by a professional, and indeed that professional might provide detailing of further earthworks to avoid construction of retaining structures. However, in its current geometry, side cast fill would have to be pulled back, and some of the excavated faces supported, as they support driveway accesses above (if this is to be retained).

- [71] Following a second site visit in February 2023, after the resource consent application had been submitted to Council, Stantec provided further comments, which aligned with the previous ones:

The road is steep and loose in places, and clearly going to be a hazard to traverse on foot or on many vehicles, due to a combination of gradient and surfacing material.

The entire outside shoulder of the road edge, between the concrete driveway to #17 Bradley, down to the Hairpin opposite #13 Bradley is failing.

The local residents made it clear that there have been near-misses of this shoulder giving way under vehicle loading. This is a safety concern.

It is very likely that this material comprises fill immediately on soil, with no stripping, benching or subsoils involved in this construction. This needs to be ripped and remade in accordance with good practice, and where the edge fill slope is steeper than 2h:1v, this will require specific engineering design, including possibly retaining works.

The steep cutting in old fill, between the recent cut track, and the new cut track, is showing signs of failure. This is clearly a potential hazard for those accessing the upper track. Especially if road users are undertaking a point-turn on top of this bank. If access is to continue above this cutting, then a retaining wall will be required. This cutting is tall enough, and supporting sufficient slope and surcharge loading, that a retaining wall here must have engineering design and building consent.

The stormwater has been concentrated into a single discharge location. This has eroded significantly in the time since the previous visit. The local landowners have attempted to place stones and rubble in this channel to reduce the rate of erosion. The culvert and discharge arrangement needs to be completely revisited to mitigate the erosion risk that has been created and avoid discharge of sediment off site.

- [72] In November 2024, Mr Napier provided a geotechnical assessment report by Geosolve (GeoSolve Ref: 240732), as requested in my RFI mentioned above. The following is an extract from that report:

Site Observations

The recent earthworks have created a track approximately 3 m in width located roughly 1-4 m east of the existing track. The track appears to have been formed primarily through a cut-to-waste method, with the excavated soils disposed of elsewhere on site. The cuts are primarily less than 1.3 m in depth, with a maximum depth of approximately 1.7 m. Batters have been formed at an average gradient of approximately 60°. The stratigraphy apparent in the cuts typically consists of firm to stiff uncontrolled fill (grey and brown clayey SILT with minor gravel and trace cobbles), underlain by very stiff colluvium (clayey SILT with trace gravel and cobbles). Both soil types are of low plasticity and were observed to be moist in condition. The recent cuts have been formed in both colluvium and uncontrolled fill soils. Some side-cast fill was noted on the downslope side of the new track. This fill appears to overlie older existing uncontrolled fill blanketing the relatively steep slope. Pre-earthworks LiDAR data suggests the slope was approximately 25° in this area, while now the slope averages 28-30°, with local maximum gradients of 35° across from the recent landslide discussed below. Based on this geometry, the depth of this fill (or fill + recent landslide debris) at its deepest point is approximately 0.5 m, averaging 0.3 m deep. Notably, the fill appears to have remained in place despite the recent storm event.

A landslide has occurred near the highest point of the cut slope, resulting in inundation onto the new track. The landslide debris has been mostly removed, though there is some residual material on the downslope shoulder of the track, which has created locally steeper track margins across from the landslide. The landslide measures approximately 5.5 m in width and is up to approximately 4 m in height. From our discussions on site, we understand the landslide occurred during the large storm event which recently affected Dunedin on 3-4 October 2024.

Discussion and Recommendations

The landslide has occurred as a result of soil saturation caused by runoff from the upslope catchment area. Soil instability would have been exacerbated by the steep gradient of the earthworks cut in this area, and the existing steep gradient of the historical uncontrolled fill.

To promote long-term slope stability, we recommend the entire cut slope on the subject property from just past the first flax bush at its southern extents adjacent to Annie Street road reserve to the northern margin of the site adjacent Bradley Road is regraded to a more stable batter. Very stiff colluvium should be reformed to a maximum gradient of 1.5:1 (horizontal to vertical), while the overlying uncontrolled fill should be reformed to 2:1 (horizontal to vertical). Re-battering these slopes will substantially reduce the old track width in some locations, depending on fill depth and slope geometry. Alternatively, these slopes could be retained to provide physical support. Any retaining wall proposed should be designed by a chartered professional engineer.

Additionally, the recent side-cast fill and any remaining landslide debris should be removed from the track margins, and no further side-cast fill should be placed on

the track margins. All soils removed during the re-contouring process should be disposed of elsewhere, ideally on a subhorizontal area, or on ground sloping less than 10° which has been stripped of topsoil prior to fill placement. Topsoil should be kept segregated from the underlying soils and re-spread on top of any newly placed fill. Fill certification is generally not required in yard areas but ideally a compaction methodology should be specified to minimise future settlement and landslip risk in areas where fill is placed.

While it appears stormwater runoff is generally controlled and disposed of adequately on the site, care must be taken to ensure no water flows are directed to these slopes. The existing drains must be maintained and cleared of any debris on a regular basis.

GeoSolve are able to inspect the site during construction to assist the earthworks contractor with distinguishing the various soils present on site, and confirm the above recommendations are implemented, if required.

- [73] After peer-reviewing the geotechnical report, Stantec commented that the proposed re-battering works within 12 Annie Street will be acceptable as long as guidance from a Geotechnical Specialist is followed.
- [74] Geosolve Site Inspection Record Ref 240732 confirms that the completed remediation earthworks were completed according to the recommendation of the Geotechnical report. The Site Inspection Record is contained in Appendix 5 of this report.
- [75] Accordingly, I consider that the effect on the stability of land, buildings, and structures will be acceptable.

Effects on visual amenity, & Effects on amenity of surrounding properties (2GP rule 8A.7.2.1.a-b)

- [76] Council's landscape architect has visited the subject site and provided comments on the remediation earthworks before they had been completed. An extract is shown below:

From a visual amenity perspective, the primary effects of the proposed works will be related to the re-battering of the cut face. As I understand it, following the proposed earthworks, this batter will have a gradient of 1h:1v from its base to near the top of the slope, where it will flatten to a 2h:1v slope. The applicant intends to re-plant this flatter, upper part of the slope once the earthworks are complete (the existing flax will be removed).

It is noted that this cut batter will exceed the standard for small-scale earthworks (max change in finished ground level – 1.5m (Rule 8A.5.1.3)) by a relatively small amount (0.2-0.3m). In addition, it is noted that the existing batter face is an existing feature that does not have a notable adverse effect on the visual amenity of the surrounding area. As such, impacts of the proposed works on the visual amenity of the surrounding area will be relatively low.

Nearby dwellings are located well below the level of the proposed earthworks and are predominantly oriented to the northeast or southeast (away from the site of the proposed works). Further, there is considerable, well-established vegetation between these dwellings and the works, which provides visual screening. For these reasons, it is considered that the proposed earthworks will not be highly prominent from these dwellings and effects of the earthworks on existing visual amenity values will likely be low. From more distant locations, such as from Pūrākaunui, tall vegetation surrounding the site will screen views of the earthworks.

As an advice note, it is recommended that the proposed planting at the top of the batter slope consists of locally appropriate native species.

- [77] I partially agree with this assessment. The completed remediation earthworks were contained within the subject site and were designed to improve the land stability situation. As mentioned previously, Mr Napier intends to restrict access to 12 Annie Street, and thereby also restricting use of the portion of the access way that lies within 12 Annie Street. The effects of the earthworks experienced by neighbouring property owners and residents will be the effects as experienced from outside of the subject site. I consider it appropriate, however, to impose a condition that the battered slopes should be grassed in order to improve visual amenity in the medium term.
- [78] I expect that there would have been noise effects associated with the completed remediation earthworks, and possibly a discharge of dust. An advice note has been included in the decision document, instructing the applicant to manage the disturbed ground to prevent dust or sediment escaping from the property boundary. Noise, dust and sediment effects are controlled by 2GP rules 4.5.4.1.a (construction noise), 8A.5.12 (dust control), and 8A.5.7 (sediment control).
- [79] For the sake of clarity, I reiterate here that the road boundary fencing and locked gates that Mr Napier plans to erect is a permitted activity pursuant to 2GP rule 15.3.4.4 subject to the fence being no higher than 2m and maintaining visual permeability for 50% of the length of the boundary measured at a height of 1.4m above ground level. However, the said fence and locked gate form part of the wider proposal, and can be assessed as such. Caselaw supports the holistic assessment of the effects of a proposal, including both permitted activities and those that require resource consent. Under RMA section 95E(2), Council has discretion to disregard an adverse effect of an activity if a rule of a national environmental standard permits an activity with that effect, but is not required to do so.
- [80] In terms of impaired access to neighbouring properties, as mentioned in the Notification section above, I consider that the earthworks and erecting a gate at the road boundaries would result in a minor negative effect on the amenity of the surrounding properties. The decision to notify the affected neighbours was therefore justified.
- [81] However, declining this application on the basis of a permitted activity would be neither practical or logical. The permitted activity of erecting a fence forms part of the overall activity contained within this application, but if the application is declined, it would still be the land owners prerogative to erect a compliant fence in the near future as a stand-alone activity in any case. It follows on from there that, due to the absence of a right of way easement over the subject site, the question of access over 12 Annie Street remains a civil matter.
- [82] In summary, I consider that the effects on visual amenity and the effects on amenity of surrounding properties caused by the remediation earthworks and planned fence will be minor but no more than minor. Grassing of the battered banks would mitigate visual amenity effects in the medium term and declining the application on the basis of a permitted fence, in spite of impaired access to neighbouring sites, would not be a logical outcome.

Effects on the safety and efficiency of the transport network (2GP rules 6.10.5.2.a and 6.10.5.6.a)

- [83] After reviewing the Geotechnical report, Stantec pointed out in an email dated 27 November 2024:

Geosolve's report recognizes that re-battering the fill slopes may well reduce the trafficable width of the road access, and that if the existing road width is to be kept, then retaining works will also be required to support the road surcharge, instead of the existing over-steep fill.

All this said, the revised site plan is going to do little to allay the local residents' concerns over the steepness of the access, given the friction resistance of the constructed surface, or the stability of the existing edges of fill that have been placed.

- [84] In terms of the track width being reduced, the geotechnical report only refers to the old access way. That accessway is due to be closed, as shown on the site plan, and the applicant has stated that he intends to establish plants in that area of the site. However, as can be deduced from the new site plan, the new access way will also be reduced by the re-battering work. I therefore asked the applicant to confirm the final width of the 'new' (the eastern) access way at the conclusion of the remediation works. Mr Napier confirmed via email on 3 December 2024 that the new access way will be 'around 3 metres wide and will be only available to Emergency services'.

- [85] The Council's Transportation Planner has considered the application and has provided the following comments (abbreviated):

[The] width of the new accessway where it transitions to a private driveway within the Annie Street Road Reserve has a formed width of approximately 10.0m at the present time and therefore does not comply with [Rule 6.6.3.3]. [This] is considered to be more of a technical non-compliance in this instance on the basis that the accessway does not front onto a formed road, enables practical use of the private accessway within the site and is unlikely to result in any noticeable concerns. Therefore, the effects of this technical rule breach is considered to be less than minor.

...

[While] the old and new vehicle accessway through 12 Annie Street and within unformed Legal Road previously provided physical access to three additional properties addressed as 17 Bradley Road and 13 and 15 Annie Street, this appears to have been via an informal vehicle access arrangement. The new vehicle accessway within 12 Annie Street has been constructed with an unsealed surface comprising of metalled material and other crushed building material and therefore technically does not comply with [rule 6.6.3.6.b].

It is acknowledged that while the owners of 13 and 15 Annie Street have raised concerns about the new accessway being unsuitable for their intended usage, this is matter best considered between the applicant and those landowners.

...

While the gradient of the first 5.0m of the new accessway has not been measured by Transport or the applicant, given the steep nature of the new accessway, conservatively it is considered unlikely that this requirement has been complied with.

However, it should be acknowledged that the original long existing private accessway both within Road Reserve and within the site is also a relatively steep

formation that also likely does not comply with this requirement and is also consistent with the relatively steep topography of the surrounding area.

The purpose of this requirement is more generally to ensure that vehicles using the accessway are not bottoming out or scraping and damaging the road carriageway or vehicles as well as ensuring that mud, stone, gravel, and other material is unlikely to be carried onto the road. It also ensures that vehicles have a level platform to wait on before crossing any footpath/berm and onto the road from a site. However, this concern is less relevant in this instance given that the accessway within the site transitions onto a privately formed accessway within Road Reserve which then transitions onto the Council sealed and maintained road carriageway within Bradley Road.

As noted already above, on the basis that the driveway slopes down away from the formed section of Bradley Road the potential for loose material being trafficked out onto the formed road due to the proposed gradient of the accessway is considered to be low. It also appears that there are no sharp/steep changes in gradient within the new accessway and transitions appear to be provided and therefore it is considered that the new accessway likely complies with Rule 6.6.3.7.a within the site and therefore the potential for vehicles to bottom out while transitioning between the access and the formed road is also considered to be low. On that basis the effects of this rule breach is considered to be less than minor.

For the avoidance of any doubt, the applicant should note that the Council regards the old and new vehicle access [within the road reserve] to be a private access on a legal road, and will not assume any responsibility for its maintenance.

Once these works are completed the applicant has advised that the new accessway will be fenced/gated and will only be available for access by emergency vehicles (the proposed fencing/gating is understood to be a permitted activity). Whilst the old accessway has up until the recent earthworks provided vehicle access to 17 Bradley Road and 13 and 15 Annie Street it appears that there is no legal mechanism to provide physical access to these properties over the subject site. As noted, it is understood that the proposed fencing/gating works can be carried out as a permitted activity and in any case does not form part of this proposal. It is therefore considered that this is a civil matter between neighbouring landowners that should be resolved outside of the resource consenting process.

- [86] The Transportation Planner concluded that the effects of the proposed development on the transportation network would be acceptable.
- [87] I accept the Transportation Planner's conclusion. In doing so, it is appropriate to elaborate on 2GP Objective 6.2.4, which seeks ensure that vehicle accesses are limited in number and width, in order to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on:
- pedestrian and cyclist safety and ease of movement; and
 - the safety and efficiency of the multi-modal transport network (Policy 6.2.4.4).
- [88] The general assessment guidance in 2GP Rule 6.10.5.2.a.iii states:

In assessing effects on pedestrian safety with ease of movement, Council will take into account potential changes in levels of pedestrian traffic on the frontage road. Estimates of future pedestrian traffic will take into account the location of the road in relation to the strategic pedestrian network, local centres and schools, and existing and permitted activities in the surrounding area that have the potential to increase pedestrian numbers with priority given to provisions for pedestrian safety and connectivity.

Potential circumstances that may support a consent application include:

iv. Volumes of pedestrian, cycle and vehicle traffic using the frontage road are low and likely to remain low.

v. Potential adverse effects from the additional vehicle crossing(s) are minimal due to the physical form of the road, for example the presence of a solid median to prevent right hand turns.

- [89] The volume of pedestrians where the new (eastern) accessway connects with Annie Street is very low, considering only four properties have frontage to that part of Annie Street, one of which is undeveloped. The only vehicular traffic that connects with the unformed Annie Street road reserve is the few vehicle movements that come down from the accessway in the first place. Furthermore, the applicant has stated that the accessway will only be used for emergency services, which will virtually eliminate vehicular movements within that part of Annie Street.
- [90] Due to the steep local topography and the informal formation of the Annie Street road reserve, pedestrians already find it challenging to walk in the vicinity. The width of the vehicle crossing/vehicle access being ten meters rather than 6 meters does not exacerbate the conditions.
- [91] Further, in terms of steepness, I note that while the new accessway most likely breaches the steepness requirement in the first five meters from the Bradley Road boundary, the steepest section of the re-aligned access way is in fact situated within the road reserve (which is out of scope). From contour information on TL Survey Services plan dated Oct 2022 the planning consents team calculated the gradient of the new access in road reserve as in the order of 1 in 4 (1 vertical 4 horizontal). With respect to the property owned by Mr Napier at 12 Annie Street the old access had a maximum gradient of about 1 in 8 while the new access has a gradient approaching 1 in 4 but only over a distance of about 10m and flattening slightly towards the intersection with Annie Street. DCC Transportation may wish to confirm these calculations. Nevertheless there is still a steep, tight, descending left hand curve from the new access over Mr Napier's property onto Annie Street. As mentioned above, the sections of Bradley Road and Annie Street that bound the subject site are unsealed and not officially formed. Any negative effects on the safety and efficiency of the transport network due to the steepness of the private access way would be less than minor.
- [92] Overall, based on the above assessment, I consider that the effects on the safety and efficiency of the transport network will be acceptable.

Effects on health and safety (in terms of proximity of earthworks to network utilities), and Effects on efficient and effective operation of network utilities (rule 5.7.4.2)

- [93] As explained above, the previously completed earthworks breached the 2GP performance standard for setback from network utilities. Since submitting the application, the applicant has obtained approval from the network utilities, and the telecommunications facility has been moved. I can therefore not have regard to any

effects from the earthworks on the owners of the affected network utilities. Accordingly, the effects on health and safety and the effects on efficient and effective operation of network utilities (in terms of earthworks proximity to network utilities) are acceptable.

Effects Assessment Conclusion

- [94] After considering the likely effects of the completed earthworks, I consider that the effect on land stability has been mitigated by the remediation work already completed. Retrospective resource consents may have conditions that specify necessary improvements, modifications, or other steps necessary to remedy or mitigate adverse environmental effects. The proposed condition mentioned above is considered to be adequate to prevent any ongoing effects on visual amenity effects to reach beyond the property boundaries. The recommended advice notes will remind the consent holder of their responsibility to prevent dust and sediments from causing a nuisance beyond the property boundaries.
- [95] The purpose of a retrospective consent is to legalise an activity that satisfies normal consent requirements, but that for some reason does not have the necessary consent. As discussed above, the boundary fence and gates that the applicant plans to erect in the future form part of the overall activity and the amenity of surrounding properties is considered to be affected to a minor degree. However, it is important to keep in mind that the fence is a permitted activity; it is the prerogative of a property owner to erect a compliant fence along their property boundary. Since no right of way easement exists over the subject site, the lack of access over 12 Annie Street will remain a civil matter. Granting of consent is therefore appropriate.

OFFSETTING OR COMPENSATION MEASURES ASSESSMENT

- [96] Section 104(1)(ab) of the Resource Management Act 1991 requires that the Council have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity.
- [97] In this case, no offsetting or compensation measures have been proposed or agreed to by the applicant.

OBJECTIVES AND POLICIES ASSESSMENT

Assessment of Objectives and Policies of the District Plan (Section 104(1)(b)(vi))

- [98] In accordance with Section 104(1)(b) of the Resource Management Act 1991, the objectives and policies of the District Plan 2006 and the 2GP were taken into account in assessing the application. The 2GP was made partially operative on 19 August 2024. No consideration of the objectives and policies of the District Plan 2006 is required, unless the proposal relates to the specific provisions and identified areas of the 2GP that remain subject to an appeal. In this instance, none of the appeals are relevant to this application.

The following objectives and policies of the 2GP were considered to be relevant to this application:

Transportation Section

Objective/Policy	Commentary
Objective 6.2.4	The surfacing and gradient of the new

Parking areas, loading areas and vehicle accesses are designed and located to: a. provide for the safe and efficient operation of both the parking or loading area and the transport network; and b. facilitate the safe and efficient functioning of the transport network and connectivity for all travel modes.	accessway are in breach of 2GP performance standards. While the original driveway was not sealed, its gradient was gentler and the lack of hard surfacing was not recorded as an issue. The surface of the new accessway is also not sealed, which could lead to reduced traction on steep slopes. However, the intended future use of the new accessway is for low speed and low volume residential traffic, and neither of the ends of the accessway terminate in an officially formed and sealed road. The new driveway could therefore be considered inconsistent with, but not contrary to, Policy 6.2.4.2.a.
Policy 6.2.4.2 Require driveways to be designed to ensure that: a. the surfacing and gradient of the driveway allows it to be used safely and efficiently; b. mud, stone, gravel or other materials are unlikely to be carried onto hard surface public roads or footpaths; c. the width of the driveway is sufficient to allow the type and number of vehicles (including emergency vehicles), likely to be using it to do so safely and efficiently; and d. sufficient distance is provided between shared driveways and dwellings.	The minimum formed width required by 2GP Rule 6.6.3.9.a.i.3 is 3m. The new driveway achieves compliance with that rule by having a formed width of 3m. I note that the New Zealand Building Code Acceptable Solution C/AS1 requires that buildings be provided with certain driveway dimensions for Fire Service access (e.g., a minimum 4m wide vehicular access is required to be provided to a hard standing within 20 metres of any inlets). However, that regulation sits outside of the reaches of the RMA. The role of rules in a district plan is to give effect to the plan's objectives and policies. Therefore, regardless of the more stringent requirements stipulated by the New Zealand Building Code, I consider the new driveway consistent with 2GP Policy 6.2.4.2.c.
Policy 6.2.4.4 Require vehicle accesses to be limited in number and width, in order to avoid or, if avoidance is not practicable, adequately mitigate adverse effects on: a. pedestrian and cyclist safety and ease of movement; and b. the safety and efficiency of the multi-modal transport network.	In terms of the width of the new vehicle access created for the new driveway: the access is too wide to comply with the maximum width stipulated by Rule 6.6.3.3. However, the road onto which the access way connects is an unformed road and the volume of cyclist and pedestrian traffic is very low. As a result, the non-compliance is purely a technical matter and any resultant negative environmental effects are negligible. The activity is therefore not contrary to Policy 6.2.4.4.

Earthworks Section

Objective/Policy	Commentary
Objective 8A.2.1 Earthworks necessary for permitted or approved land use and development are	The original earthworks affected the stability of the land within the subject site, as demonstrated by a minor land slip that

enabled, while avoiding, or adequately mitigating, any adverse effects on: a. visual amenity and character; b. the stability of land, buildings, and structures; and surrounding properties.	occurred during an extreme weather event in October 2024. Visual amenity was affected as a natural consequence since the original cut faces were left in an untidy state. The amenity of surrounding properties was also affected by the original earthworks because the accessway that downstream neighbours were dependent on for access to their properties was made more difficult to navigate. Nonetheless, the subsequent remedial earthworks, which involved battering the original cut and fill faces, has rectified the situation and the site is now considered to be stable. Initial concerns about changes to drainage patterns have also been put to rest. Subject to the site being grassed as recommended, and subject to compliance with 2GP rules pertaining to dust and sediment effects, the application will not be contrary to the relevant 2GP objectives and policies for Section 8A (Earthworks).
Policy 8A.2.1.1 Require earthworks, and associated retaining structures, to be designed and located to avoid or minimise, as far as practicable, adverse effects on the stability of land, buildings, and structures by: a. being set back an adequate distance from property boundaries, buildings, structures and cliffs; and b. using a batter gradient that will be stable over time.	
Policy 8A.2.1.2 Require earthworks and any associated retaining structures, to be designed, located and undertaken in a way that minimises, as far as practicable, adverse effects on surrounding sites and the wider area, including from: a. sediment run-off onto any property, or into any stormwater pipes, drains, channels or soakage systems; and b. dust nuisance on the amenity of surrounding sites.	
Policy 8A.2.1.3 Only allow earthworks that exceed the scale thresholds (earthworks - large scale) and any associated retaining structures, where the following effects will be avoided or, if avoidance is not practicable, adequately mitigated: a. adverse effects on visual amenity and character; b. adverse effects on the amenity of surrounding properties, including from changes to drainage patterns; and c. adverse effects on the stability of land, buildings, and structures.	

Overall Objectives and Policies Assessment

- [99] Having regard to the relevant objectives and policies individually, the above assessment indicates that the application is consistent with the relevant provisions.
- [100] Certain aspects of the original earthworks that were undertaken before this application was submitted to Council were inconsistent with the relevant objectives and policies of the 2GP. However, the remediation works that were subsequently completed in January

2025 will have mitigated the adverse effects on the stability of land, buildings, and structures, the effects on visual amenity and the amenity of surrounding properties to the extent that the works can now be considered as consistent with the objectives and policies listed above. As explained in the Assessment of Effects section above, the erection of a boundary fence where no right of way easement exists is a permitted activity, and therefore it would be beyond Council's jurisdiction under the RMA to impose any conditions to hinder that activity. Negotiations between neighbours and the applicant in terms of land tenure and easements remains a civil matter.

- [101] Having regard at the relevant objectives and policies individually, and considering these in an overall way, the above assessment indicates that the application is consistent with those provisions.

Assessment of Regional Policy Statements (Section 104(1)(b)(v))

- [102] Section 104(1)(b)(v) of the Act requires that the Council take into account any relevant regional policy statements.
- [103] The Otago Regional Policy Statement 2019 (RPS) was made fully operative from 4 March 2024. It is considered that the provisions of the RPS does not have any direct relevance to the proposal.

DECISION MAKING FRAMEWORK

Part 2 Matters

- [104] It is considered that there is no invalidity, incomplete coverage or uncertainty within either the operative Dunedin City District Plan or the 2GP. As a result, there is no need for an assessment in terms of Part 2 of the Resource Management Act 1991.

Section 104

- [105] Section 104(1)(a) states that the Council must have regard to any actual and potential effects on the environment of allowing the activity. This report assessed the environmental effects of the proposal and concluded that the likely adverse effects of the proposed development overall will be minor, and can be adequately avoided, remedied, or mitigated provided the recommended condition of consent is adhered to.
- [106] Section 104(1)(ab) requires the Council to have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects. No offsetting or compensation measures have been proposed or agreed to by the applicant.
- [107] Section 104(1)(b)(vi) requires the Council to have regard to any relevant objectives and policies of a plan or proposed plan. This report concluded that the application would be consistent with the key objectives and policies relating to the 2GP.
- [108] Section 104(1)(b)(v) requires the Council to have regard to any relevant regional policy statement. It is considered that there are no provisions of the RPS that have any direct relevance to the proposal.

Other Matters

- [109] Having regard to section 104(1)(c) of the Resource Management Act 1991, no other matters are considered relevant.

CONCLUSION

[110] Having regard to the above assessment, I recommend that the application be granted subject to the appropriate conditions.

RECOMMENDATION

[111] Having regard to the above assessment, I recommend that the application be granted subject to appropriate conditions as set out in Appendix 6.

REASONS FOR RECOMMENDATION

[112] Provided that the recommended conditions of consent are implemented, I consider that the likely adverse environmental effects of the proposed activity, as far as Council's discretion is applicable, can be adequately mitigated and will not be significant to the wider environment.

[113] The proposal is considered to be consistent with the key relevant objectives and policies of the 2GP.

[114] The proposal is considered to be consistent with the objectives and policies of the RPS.

[115] Overall, I consider that the granting of the consent would be consistent with the purpose of the Resource Management Act 1991, which is to promote the sustainable management of natural and physical resources.

Report prepared by:

Report checked by:




Elisabeth Boyle
Planner

Phil Marshall
Senior Planner

25 March 2025
Date

25 March 2025
Date

APPENDIX 1: THE APPLICATION



APPLICATION FORM FOR A RESOURCE CONSENT

PLEASE FILL IN ALL THE FIELDS

Application details

I/We

(must be the FULL name(s) of an individual or an entity registered with the New Zealand Companies Office. Family Trust names and unofficial trading names are not acceptable: in those situations, use the trustee(s) and director(s) names instead) hereby apply for:

☒ Land Use Consent ☐ Subdivision Consent

I opt out of the fast-track consent process: ☐ Yes ☐ No

(only applies to controlled activities under the district plan, where an electronic address for service is provided)

Brief description of the proposed activity:

Have you applied for a Building Consent? ☐ Yes, Building Consent Number ABA ☐ No

Site location/description

I am/We are the: (☒ owner, ☒ occupier, ☐ lessee, ☐ prospective purchaser etc) of the site (tick one)

Street address of site:

Legal description:

Certificate of Title:

Contact details

Name: (☐ applicant ☒ agent (tick one))

Address:

Postcode:

Phone (daytime):

Email:

Chosen contact method (this will be the first point of contact for all communications for this application)

I wish the following to be used as the address for service (tick one): ☒ Email ☐ Post ☐ Other:

Ownership of the site

Who is the current owner of the site?

If the applicant is not the site owner, please provide the site owner's contact details:

Address:

Postcode:

Phone (daytime):

Email:

Planning Application Fees Payment Details (Who are we invoicing)

THIS FORM MUST BE COMPLETED FOR ALL PLANNING APPLICATIONS THAT ATTRACT A FEE. ALL FIELDS ARE MANDATORY.

This information is required to assist us to process resource consent invoices and refunds at lodgement and the end of the process. If you have any queries about completing this form, please email planning@dcc.govt.nz

Deposit Payment Payee Details:

Full Name of Deposit Payee (Person or Company): Paul Napier

Mailing Address of Deposit Payee (please provide PO Box number where available):

7 Rowland Street, Osborne, 9081

Email Address of Deposit Payee: napierdn@yahoo.com

Daytime contact phone number: 021 0386 334

Important Note: The Payee will automatically be invoiced for the deposit and/or any additional costs. Should a portion of the deposit be unspent, it will be refunded to the payee.

Fees

Council recovers all actual and reasonable costs of processing your application. Most applications require a deposit and costs above this deposit will be recovered. A current fees schedule is available on www.dunedin.govt.nz or from Planning staff. Planning staff also have information on the actual cost of applications that have been processed. This can also be viewed on the Council website.

Development contributions

Your application may also be required to pay development contributions under the Council's Development Contributions Policy. For more information please ring 477 4000 and ask to speak to the Development Contributions Officer, or email development.contributions@dcc.govt.nz.

Occupation of the site

Please list the full name and address of each occupier of the site:

Paul Napier

Monitoring of your Resource Consent

To assist with setting a date for monitoring, please estimate the date of completion of the work for which Resource Consent is required. Your Resource Consent may be monitored for compliance with any conditions at the completion of the work. (If you do not specify an estimated time for completion, your Resource Consent, if granted, may be monitored three years from the decision date).

(month and year)

Monitoring is an additional cost over and above consent processing. You may be charged at the time of the consent being issued or at the time monitoring occurs. Please refer to City Planning's Schedule of Fees for the current monitoring fee.

Detailed description of proposed activity

Please describe the proposed activity for the site, giving as much detail as possible. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please provide proposed site plans and elevations.

See attached report.

Description of site and existing activity

Please describe the existing site, its size, location, orientation and slope. Describe the current usage and type of activity being carried out on the site. Where relevant, discuss the bulk and location of buildings, parking provision, traffic movements, manoeuvring, noise generation, signage, hours of operation, number of people on-site, number of visitors etc. Please also provide plans of the existing site and buildings. Photographs may help.

See attached report.

(Attach separate sheets if necessary)

District plan zoning

What is the District Plan zoning of the site? Township and settlement

Are there any overlaying District Plan requirements that apply to the site e.g. in a Landscape Management Area, in a Townscape or Heritage Precinct, Scheduled Buildings on-site etc? If unsure, please check with City Planning staff.

Archaeological alert mapped layer
No DCC Reticulated Wastewater Mapped Area

Breaches of district plan rules

Please detail the rules that will be breached by the proposed activity on the site (if any). Also detail the degree of those breaches. In most circumstances, the only rules you need to consider are the rules from the zone in which your proposal is located. However, you need to remember to consider not just the Zone rules but also the Special Provisions rules that apply to the activity. If unsure, please check with City Planning staff or the Council website.

See attached report.

Affected persons' approvals

I/We have obtained the written approval of the following people/organisations and they have signed the plans of the proposal:

Name:

Address:

Name:

Address:

Please note: You must submit the completed written approval form(s), and any plans signed by affected persons, with this application, unless it is a fully notified application in which case affected persons' approvals need not be provided with the application. If a written approval is required, but not obtained from an affected person, it is likely that the application will be fully notified or limited notified.

Assessment of Effects on Environment (AEE)

In this section you need to consider what effects your proposal will have on the environment. You should discuss all actual and potential effects on the environment arising from this proposal. The amount of detail provided must reflect the nature and scale of the development and its likely effect. i.e. small effect equals small assessment.

You can refer to the Council's relevant checklist and brochure on preparing this assessment. If needed there is the Ministry for the Environment's publication "A Guide to Preparing a Basic Assessment of Environmental Effects" available on www.mfe.govt.nz. Schedule 4 of the Resource Management Act 1991(RMA) provides some guidance as to what to include.

See attached report.

(Attach separate sheets if necessary)

The following additional Resource Consents from the Otago Regional Council are required and have been applied for: ☐ Yes ☐ No
☐ Water Permit ☐ Discharge Permit ☐ Coastal Permit ☐ Land Use Consent for certain uses of lake beds and rivers ☐ Not applicable

Assessment of Objectives and Policies

In this Section you need to consider and assess how your application proposal aligns with the relevant objectives and policies in the District Plan relating to your activity. If your proposal is a discretionary or non-complying activity under the District Plan more attention to the assessment will be necessary as the objectives and policies of the District Plan may not always be in support of the proposed activity.

See attached report.

Declaration

I certify that, to the best of my knowledge and belief, the information given in this application is true and correct.

I accept that I have a legal obligation to comply with any conditions imposed on the Resource Consent should this application be approved.

Subject to my/our rights under section 357B and 358 of the RMA to object to any costs, I agree to pay all the fees and charges levied by the Dunedin City Council for processing this application, including a further account if the cost of processing the application exceeds the deposit paid.

Signature of: ☐ Applicant ☒ Agent (tick one):

LK Hayes

Date: 02/02/2023

Privacy – Local Government Official Information and Meetings Act 1987

You should be aware that this document becomes a public record once submitted. Under the above Act, anyone can request to see copies of applications lodged with the Council. The Council is obliged to make available the information requested unless there are grounds under the above Act that justify withholding it. While you may request that it be withheld, the Council will make a decision following consultation with you. If the Council decides to withhold an application, or part of it, that decision can be reviewed by the Office of the Ombudsmen.

Please advise if you consider it necessary to withhold your application, or parts of it, from any persons (including the media) to (tick those that apply):

- ☐ Avoid unreasonably prejudicing your commercial position
- ☐ Protect information you have supplied to Council in confidence
- ☐ Avoid serious offence to tikanga Māori or disclosing location of waahi tapu

What happens when further information is required?

If an application is not in the required form, or does not include adequate information, the Council may reject the application, pursuant to section 88 of the RMA. In addition (section 92 RMA) the Council can request further information from an applicant at any stage through the process where it may help to a better understanding of the nature of the activity, the effects it may have on the environment, or the ways in which adverse effects may be mitigated. The more complete the information provided with the application, the less costly and more quickly a decision will be reached.

Further assistance

Please discuss your proposal with us if you require any further help with preparing your application. The Council does provide pre-application meetings without charge to assist in understanding the issues associated with your proposal and completing your application. This service is there to help you.

Please note that we are able to provide you with planning information but we cannot prepare the application for you. You may need to discuss your application with an independent planning consultant if you need further planning advice.

City Planning Staff can be contacted as follows:

IN WRITING: Dunedin City Council, PO Box 5045, Dunedin 9054

IN PERSON: Customer Services Centre, Ground Floor, Civic Centre, 50 The Octagon

BY PHONE: (03) 477 4000

BY EMAIL: planning@dcc.govt.nz

There is also information on our website at www.dunedin.govt.nz

Information requirements

- ☒ Completed and Signed Application Form
- ☒ Description of Activity and Assessment of Effects
- ☒ Site Plan, Floor Plan and Elevations (where relevant)
- ☐ Written Approvals
- ☒ Payee details
- ☐ Application fee (cash, eftpos, direct credit or credit card (surcharge may apply))
- ☒ Certificate of Title (less than 3 months old) including any relevant restrictions (such as consent notices, covenants, encumbrances, building line restrictions)
- ☐ Forms and plans and any other relevant documentation signed and dated by Affected Persons

In addition, subdivision applications also need the following information:

- ☐ Number of existing lots
- ☐ Number of proposed lots
- ☐ Total area of subdivision
- ☐ The position of all new boundaries

In order to ensure your application is not rejected or delayed through requests for further information, please make sure you have included all of the necessary information. A full list of the information required for resource consent applications is in the Information Requirements Section of the District Plan.

OFFICE USE ONLY

Has the application been completed appropriately (including necessary information)? ☐ Yes ☐ No

Application: ☐ Received ☐ Rejected

Received by: ☐ Counter ☐ Post ☐ Courier ☐ Other:

Comments:

(Include reasons for rejection and/or notes to handling officer)

Planning Officer:

Date:

APPLICATION FOR RESOURCE CONSENT – EARTHWORKS

Earthworks consent is being sought for the earthworks being undertaken at 12 Annie Street, Osborne and the adjoining Bradley Road and Annie Street legal road reserve. This is a retrospective application done on behalf of the land owner to gain consent for the work that has already been undertaken and allow them to complete the site works.

The earthworks have been undertaken in order to construct a more usable road access along Annie Street for the benefit of both the applicant (12 Annie Street) and their neighbours (13 – 17 Annie Street).

The existing access to properties on Annie Street and Bradley Road was via a metal access that curved through the eastern corner of 12 Annie Street to 17 Annie Street and then a switchback along Annie Street within the road reserve to 13 Annie Street.

The existing access is believed to have been constructed sometime in the 1970s when 13 or 15 Annie Street was first built on. Seemingly the existing access was constructed to follow the topography and minimise earthworks. As a result, the access has been constructed largely on the applicant's private land, 13 Annie Street.

The applicant has constructed a second access that is closer to being within the road reserve, so that they can close a portion of the existing access on their private property. This new access is still mostly within their private property as it leads south. To construct access entirely within the legal road reserve would require significant vegetation removal, earthworks and engineering thus was not considered possible.

TL Survey Services became aware of the earthworks when they were approached by the applicant to help complete resource consent aspects required by the Dunedin City Council.

Earthworks consent is required due to the earthworks breaching the small scale thresholds listed in tables 8A.5.1.4 and 8A.5.1.5 under the 2GP in relation to maximum area for earthworks and maximum volume of combined cut and fill for the site which is zoned a Significant Natural Landscape – Purakanui and Orokonui. The earthworks completed is assessed as a restricted discretionary activity under the 2GP.

Prepared by: TL Survey Services Ltd

Applicant: Paul Napier

**Address for Service: TL Survey Services Ltd
PO Box 901
DUNEDIN**

APPLICATION DETAILS

Current Registered Owners: Paul Napier

Current Legal Description: Lot 1 DP 397319

Certificate of Title reference: RT 388398 (copy attached).

Locality: The site is located at 12 Annie Street, Osborne, Dunedin and the adjoining Annie Street and Bradley Road reserve intersection.

Zone: The land is zoned Township and Settlement under the 2GP. Archaeological Alert Layer Mapped Area. Landscape Overlay Zone Purakanui and Orokonui SNL

DESCRIPTION OF EARTHWORKS ACTIVITY

Earthworks consent is required for the earthworks associated with the construction of the new access road cut into the existing surroundings, see attached plans 01- 03.

Approximately 70m³ of crushed concrete fill sourced from Hall Brothers has been used to form the access from the northern end to past the existing concrete driveway serving 17 Bradley Road and most of the new access. This crushed concrete is 300mm deep and intended to be a base layer that will be compacted further and then have a layer of AP20 compacted on top.

Metal was also sourced from Palmers for the portion of the new access that joins with the existing access as it runs south, referred to as the ramp by the applicant.

The existing stormwater runoff is managed by an open drain running along the western side of the existing access until it reached the existing culvert and then under the new access via a new 250dia culvert to the existing watercourse.

The new access stormwater runoff is being managed by means of an informal drain that directs it around the toe of the cut and then under the new access via a new 250dia culvert to the existing watercourse.

The site is partially included in the archaeological alert layer mapped area in the 2GP District Plan maps, however there are no scheduled archaeological sites in the area of works.

Further landscaping works are planned by the applicant. The applicant intends to place large rocks downhill of the southern portion of the new access near 13 Bradley Road.

The applicant intends to complete a retaining wall along the western side of the new access at the southern end where the largest cut has been made exceeding the permitted 1h:1v ratio. The applicant has been advised by TL Survey that building consent would be required for the new retaining wall and to seek design from a qualified engineer.

There is a telecom dome located between the existing access to be closed and new access, see Sheet 01 Site Plan attached, that the applicant intends to have removed so that the batter and the ramp widened. The applicant will confirm with Spark whether this will be possible.

The applicant intends to divert the open drain beside the existing access at his road frontage boundary to the new 250dia culvert.

CONSTRUCTION METHODOLOGY

The earthworks were undertaken before TL Survey Services Ltd became aware of the work.

Construction began in October 2021.

Earthworks Details:

- | | |
|---|-----------------------------------|
| • Approximate area excavation covers: | 374m ² |
| • Estimated maximum depth of excavation: | 1.3m |
| • Approximate volume of material excavated: | 134m ³ |
| • Where surplus material was excavated to: | Applicant's property |
| • Maximum slope of cut batters: | 0.7h:1v |
| • Hard fill was sourced from: | Hall Brothers and Palmers |
| • Hard fill material: | Crushed concrete and metal |
| • Estimated maximum depth of hard fill: | 0.3m |
| • Volume of hard fill placed on site: | 70m ³ crushed concrete |

Due to the construction occurring before TL Survey Services became aware of the project the extent of construction has had to be estimated. A topographical survey was undertaken on 5 October 2022 to measure the surface levels of the construction that had occurred. TL Survey Services have estimated the original ground level based on the terrain outside the construction area. Two surface models have been used to calculate the extent of the work (see attached plans 01 - 03).

AFFECTED PERSONS

There are multiple parties affected as they used the existing track for vehicular access to their residential properties:

- 21 Bradley Road
- 19/19A Bradley Road
- 17 Bradley Road
- 13 Annie Street
- 15/17 Annie Street

No formal consultation was undertaken.

EFFECTS ON THE ENVIRONMENT

The earthworks involved shaping of the land in order to construct more convenient access for all parties.

The earthworks have already been undertaken so we are unsure of how they were managed to mitigate such things as noise, vibration, stormwater runoff and dust.

The immediate surrounding area is made up of residential properties between dense native vegetation.

The track constructed is intended for the use of all the surrounding residential properties, including the applicant.

The southern portion of the new access has been constructed to avoid the removal of any native vegetation.

There are no known archaeological sites in this area.

ATTACHED DOCUMENTS

These documents are:

- Application Form for a Resource Consent
- Earthworks Resource Consent Checklist
- Copy of the Certificate of Title
- Site photos
- 01 Site Plan
- 02 Plan of cut volumes
- 03 Sections

Application prepared by:

Lena Hayes
 BSurv
 Licensed Cadastral Surveyor, TL Survey Services Ltd

Caution: Aerial Imagery has significant spatial distortion of elevated features and should not be scaled - use as an approximate visual guide only.

Legend:

Existing access to be retained	
Existing access to be closed	
New access constructed	

DO NOT SCALE - IF IN DOUBT, ASK
100
90
80
70
60
50
40
30
20
10
0
ORIGINAL SIZE A3

Attribution:
Boundary Layer:
Sourced from LINZ Data Service
<https://data.linz.govt.nz/layer/50772-nz-primary-parcels/> and licensed by
LINZ for re-use under the Creative Commons Attribution 4.0 International
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Background Aerial Image:
Sourced from LINZ Data Service
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International Licence

File Ref:

Prepared For:

Paul Napier

No.	Amendments	Drawn	Date

12 Annie Street
Osborne, DUNEDIN

Site Plan
Retrospective Earthworks Consent

Project No.: 22138	Surveyed: LH
Scale: 1:350 @ A3	Designed: -
Date: Oct 2022	Drawn: LH
Sheet: 01	Checked: MG

**Survey
Services**

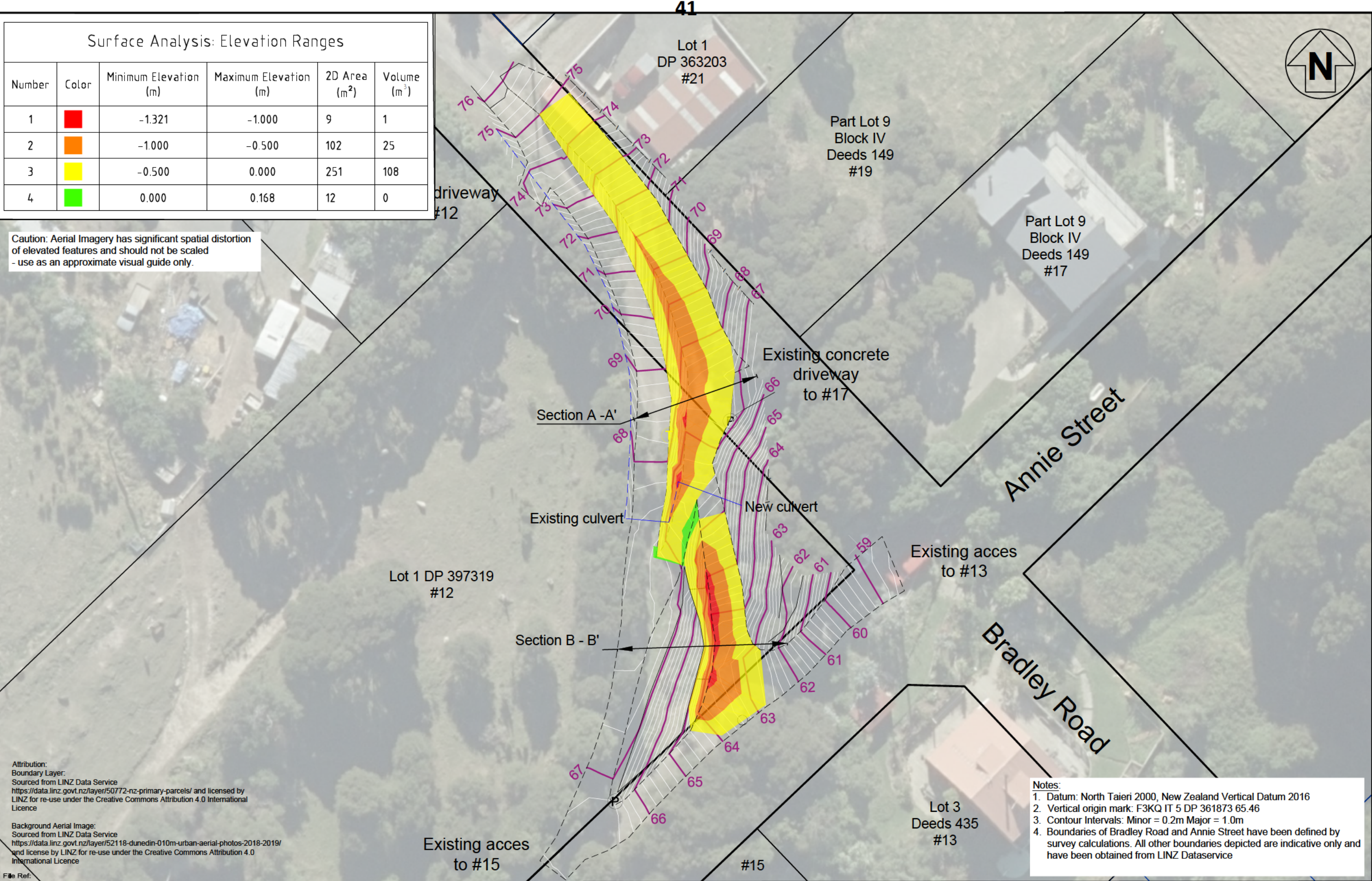
**Surveying
Consultants**

TL Survey Services Limited
P.O. Box 901 DUNEDIN
Phone (03) 477 1133

Notes:
1. Datum: North Taieri 2000, New Zealand Vertical Datum 2016
2. Vertical origin mark: F3KQ IT 5 DP 361873 65.46
3. Contour Intervals: Minor = 0.2m Major = 1.0m
4. Boundaries of Bradley Road and Annie Street have been defined by
survey calculations. All other boundaries depicted are indicative only and
have been obtained from LINZ Dataservice

Surface Analysis: Elevation Ranges					
Number	Color	Minimum Elevation (m)	Maximum Elevation (m)	2D Area (m ²)	Volume (m ³)
1	Red	-1.321	-1.000	9	1
2	Orange	-1.000	-0.500	102	25
3	Yellow	-0.500	0.000	251	108
4	Green	0.000	0.168	12	0

Caution: Aerial Imagery has significant spatial distortion of elevated features and should not be scaled - use as an approximate visual guide only.

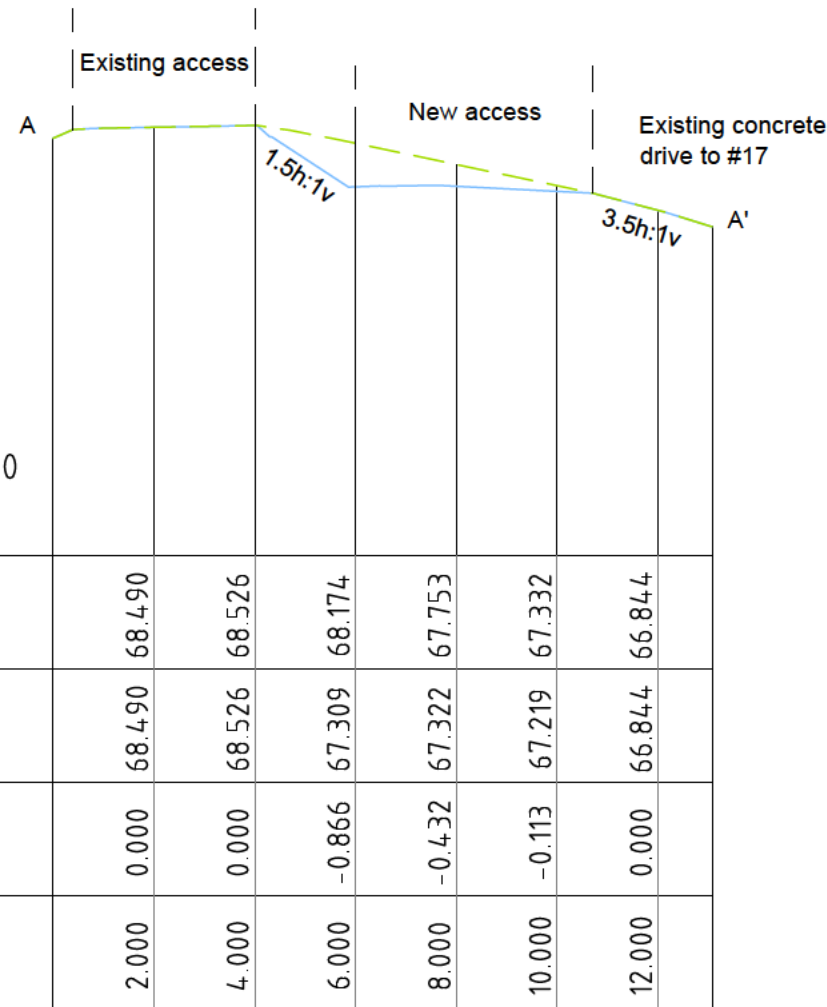


Attribution:
Boundary Layer:
Sourced from LINZ Data Service
<https://data.linz.govt.nz/layer/50772-nz-primary-parcels/> and licensed by LINZ for re-use under the Creative Commons Attribution 4.0 International Licence

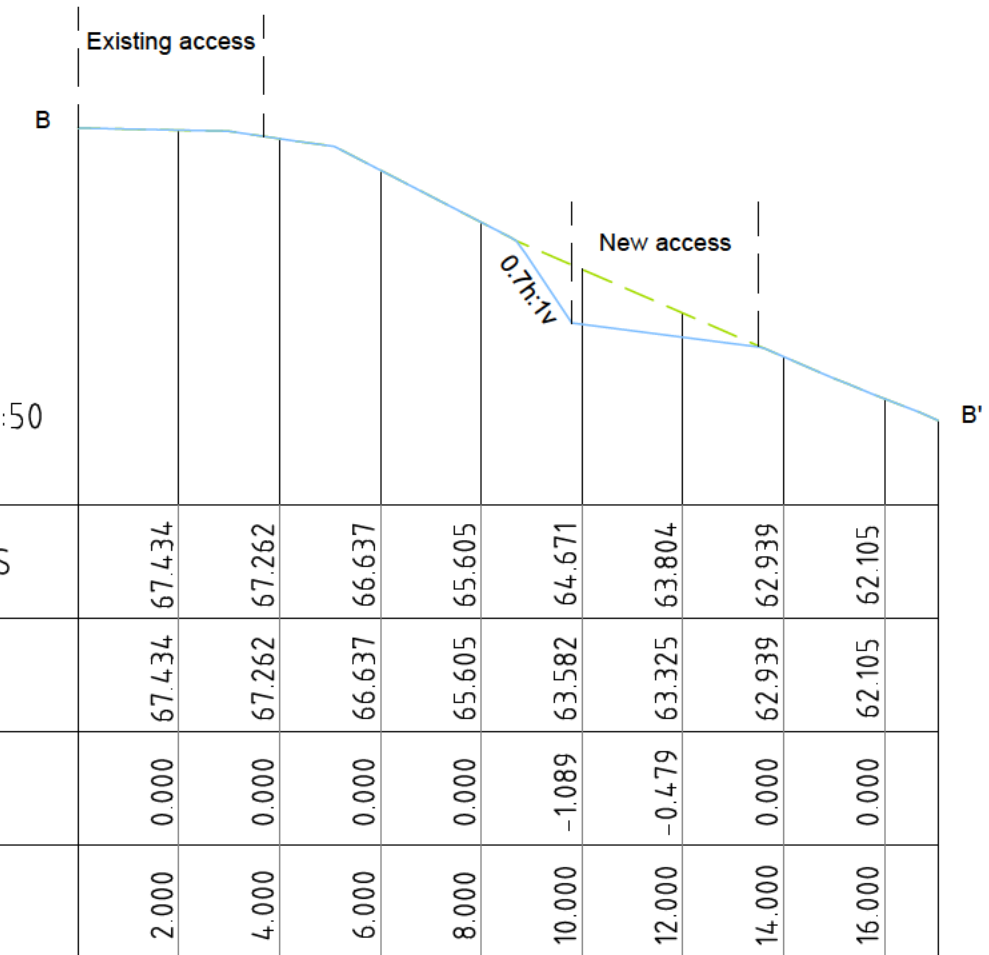
Background Aerial Image:
Sourced from LINZ Data Service
<https://data.linz.govt.nz/layer/52118-dunedin-010m-urban-aerial-photos-2018-2019/> and license by LINZ for re-use under the Creative Commons Attribution 4.0 International Licence

File Ref:

Prepared For: Paul Napier	<table><tr><th>No.</th><th>Amendments</th><th>Drawn</th><th>Date</th></tr><tr><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td></tr><tr><td> </td><td> </td><td> </td><td> </td></tr></table>	No.	Amendments	Drawn	Date																					12 Annie Street Osborne, DUNEDIN Cut Volumes Retrospective Earthworks Consent	<table><tr><td>Project No.: 22138</td><td>Surveyed: LH</td></tr><tr><td>Scale: 1:350 @ A3</td><td>Designed: -</td></tr><tr><td>Date: Oct 2022</td><td>Drawn: LH</td></tr><tr><td>Sheet: 02</td><td>Checked: MG</td></tr></table>	Project No.: 22138	Surveyed: LH	Scale: 1:350 @ A3	Designed: -	Date: Oct 2022	Drawn: LH	Sheet: 02	Checked: MG	Survey Services Surveying Consultants TL Survey Services Limited P.O. Box 901 DUNEDIN Phone (03) 477 1133
No.	Amendments	Drawn	Date																																	
Project No.: 22138	Surveyed: LH																																			
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Date: Oct 2022	Drawn: LH																																			
Sheet: 02	Checked: MG																																			


 DO NOT SCALE - IF IN DOUBT, ASK
 ORIGINAL SIZE A3


A - A' LONG SECTION



B - B' LONG SECTION

File Ref:

Prepared For:

Paul Napier

No.	Amendments	Drawn	Date

12 Annie Street
Osborne, DUNEDIN

Section Views
 Retrospective Earthworks Consent

Project No.: 22138	Surveyed: LH
Scale: 1:350 @ A3	Designed: -
Date: Oct 2022	Drawn: LH
Sheet: 03	Checked: MG

Survey Services
Surveying Consultants
TL Survey Services Limited
 P.O. Box 901 DUNEDIN
 Phone (03) 477 1133

GRIP TITLE INFORMATION
PREVIEW
Freehold



Show Historical View

Identifier 388398
Land Registration District Otago
Date Issued 28 January 2008

Prior References
[268343](#) [232967](#)

Estate Fee Simple
Area: 4047 square metres more or less
Legal Description Lot 1 Deposited Plan 397319

Registered Owners
Paul James Napier

Interests
7694857.2 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 29.1.2008 at 9:00 am
8468999.6 Mortgage to ANZ Bank New Zealand Limited - 3.2.2017 at 3:52 pm

Disclaimer: This preview provides an indication of the likely content of Record of Title 388398, it is not a substitute for an authoritative Record of Title. For an authoritative Record of Title of 388398 please contact Land Information New Zealand. This content of this preview has been generated using data sourced from LINZ Data Service on 27/01/2023



















EARTHWORKS RESOURCE CONSENT CHECKLIST

Applicant's Name: _____

Site Address: _____

This check list has been produced to assist you in the preparation and lodgement of your earthworks resource consent application. The provision of correct and accurate information will enable the effective processing of your application and will ensure that delays are kept to a minimum.

Tick each box that is relevant as you compile the information. If it is not relevant, please write NA across the box.

Please consult our front counter staff for additional guidance if you are not sure what is relevant to your resource consent application.

Customer Use		Office Use Only
☒	Application Form: ☐ Completed, signed and dated application form; ☐ Full description of the proposal.	☐
☒	Certificate of Title: ☐ Copy of current Certificate of Title (max 3 months old) from Land Information New Zealand or Copy of Sale and Purchase Agreement where Certificate of Title not yet issued; ☐ Copy of any relevant restrictions on the Certificate of Title (such as consent notices, covenants, encumbrances, building line restrictions).	☐
☐	Application Fee/Deposit: ☐ Fees payable as per the Planning Fees and Charges for the current financial year. Cash, cheque or EFTPOS only; no Credit Cards accepted.	☐
☒	Description of Earthworks Activity including (where relevant): ☐ Description of earlier earthworks that have been carried out on-site within the previous 2 year period (detailing the volume of earthworks, change in ground level and purpose of the earthworks); ☐ Description of the proposed earthworks, the intended methodology and what the proposed earthworks are for; ☐ Name of designer/engineer used to design the proposed earthworks and comment on whether they will supervise the work; ☐ Name of contractor to be used to carry out the earthworks; ☐ Length of time to complete earthworks (start date and finish date) and length of time to carry out any rehabilitation measures; ☐ Statement as to whether building consent has already been obtained, is being sought or will be sought in addition to resource consent; ☐ Answers to the following questions: - What area does excavation cover? - What will be the maximum depth of the excavation? - What volume of soil is to be excavated? - Where is surplus excavated soil and rock to be disposed? - What is the maximum slope of cut batters? - Where will hard fill be sourced from? - What is the area to be hard filled? - What will the maximum depth of fill be? - What volume of hard fill is to be placed on site? - What is the maximum slope of fill batters? - Whether engineered fill is to be placed in accordance with New Zealand Standard NZS 4431:1989 <i>Code of practice for earth fill for residential development</i>; ☐ What measures will be used to avoid effects on neighbours (such as not removing support next to the boundary and avoiding filling against fences and hedges)? ☐ Will the work interfere with any watercourse? If so, in what way? ☐ How will dust, mud and falling rubble be controlled whilst the work is being carried out? ☐ How will noise be controlled while the work is being carried out? ☐ How will stormwater and general runoff be controlled, whilst the work is being carried out and once the work has been completed? ☐ How are the excavated cut slopes and fill embankments to be stabilised following the earthworks? ☐ Location of vehicle access for transport of material and estimated type and number of vehicle movements.	☐



Assessment of Environmental Effects including (where relevant): [also see the separate guide and related District Plan provisions]



Earthworks that require resource consent are normally controlled or restricted discretionary activities. This means that the Council's control or discretion is restricted to certain matters only, depending on what rules are breached. The assessment of effects only needs to consider the relevant matters.

- Earthworks not complying with Minimum Setback Distances of Cuts from Property Boundaries and of Earthworks from Existing Building Foundations and Cliff Tops or Toes (Rule 17.7.3(i))
 - Design and engineering of retaining structures and earthworks;
 - Effects on the stability of land and buildings;
 - Effects on the surface flow of water and on flood risk;
 - Effects on underground utilities.
- Earthworks not complying with Minimum Setback Distances of Fill from Property Boundaries (Rule 17.7.3(ii))
 - Adverse effects on the amenity of neighbouring properties;

For earthworks that were not granted an earthworks permit prior to 1 July 2010 and that do not form part of a project that was granted building consent on or after 1 July 2010, also need to assess:

 - Design and engineering of retaining structures and earthworks;
 - Effects on the stability of land and buildings;
 - Effects on the surface flow of water and on flood risk;
 - Effects on underground utilities.
- Earthworks not complying with Scale Thresholds in Rule 17.7.3(i) but complying with conditions in Rule 17.7.4(iii)

Need to provide a copy of any granted archaeological authority, any required archaeological assessment and the results of consultation with tangata whenua. Also need to cover:

 - Effects from noise, dust and vibration;
 - Effects on any archaeological or cultural site;
 - Effects from the release of sediment beyond site boundaries, including transport of sediment by stormwater systems;
 - Visual effects.

For earthworks that were not granted an earthworks permit prior to 1 July 2010 and that do not form part of a project that was granted building consent on or after 1 July 2010, you also need to assess:

 - Design and engineering of retaining structures and earthworks;
 - Effects on the stability of land and buildings;
 - Effects on the surface flow of water and on flood risk;
 - Effects on underground utilities.
- Earthworks not complying with Scale Thresholds in Rule 17.7.3(i) **nor** complying with conditions in Rule 17.7.4(iii)
 - Adverse effects on the amenity of neighbouring properties;
 - Effects on visual amenity and landscape;
 - Effects on any archaeological site and/or any cultural site;
 - Effects on the transportation network, caused by the transport of excavated material or fill;
 - Effects from the release of sediment beyond site boundaries, including transport of sediment by stormwater systems;
 - Cumulative effects relating to any of these matters.

For earthworks that were not granted an earthworks permit prior to 1 July 2010 and that do not form part of a project that was granted building consent on or after 1 July 2010, you also need to assess:

 - Design and engineering of retaining structures and earthworks;
 - Effects on the stability of land and buildings;
 - Effects on the surface flow of water and on flood risk;
 - Effects on underground utilities.
- Earthworks close to Natural Surface Water Bodies and Mean High Water Springs (Rule 17.7.3(iii))
 - Sedimentation of the nearby surface water body/bodies or coastal water;
 - Inundation or erosion of land caused by the alteration of the direction, rate or depth of flow of the nearby surface water body/bodies.
- Earthworks within Groundwater Protection Zones (Rule 17.7.3(iv))
 - The nature and extent of the proposed work and the degree to which it may disturb the protective mantle over the Groundwater Protection Zone as identified on District Plan maps;
 - The extent to which the proposed works may increase the risk of groundwater contamination.
- Earthworks close to Water and Waste Infrastructure (Rule 17.7.3(v))
 - Effects on the integrity of water, stormwater and/or foul sewer reticulation.
- Earthworks close to High Voltage Transmission Lines and Support Structures (Rule 17.7.3(vi))
 - Any effects on the integrity of the transmission line;
 - Volume, area and location of the works, including temporary activities such as stockpiles;
 - Timing of the works;
 - Site remediation;
 - The use of mobile machinery near the transmission line which may put the line at risk;

	- Compliance with the NZ Electrical Code of Practice for Electrical Safe Distances 34:2001. □ Earthworks within Conservation Areas (Rule 16.5.5(iii) and Rule 16.6.2(ii)) - The cumulative effect of the incremental loss or modification of areas of indigenous vegetation and habitats of indigenous fauna; - The necessity of the proposed activity for the purpose of maintaining or enhancing the conservation values of the area; - The sensitivity of the area of significant conservation value to the actual and potential adverse effects of the proposed activity in terms of the likelihood of, and projected time frame for, complete recovery from any such effects. □ Earthworks involving High Class Soils (Rule 6.5.3(viii)) - Extent to which high class soils will be taken out of production.	
☒	Locality Plan or Aerial Photograph: □ Showing the physical location of the subject site.	☐
☒	Site Plan showing (where relevant): □ Certificate of Title boundary lines and dimensions; □ Foundations of any existing or proposed buildings; □ Existing ground contours/levels and proposed ground contours/levels; □ Top or toe of any cliff (i.e. existing slope with an average gradient of over 63° or 1 to 2 horizontal to vertical ratio); □ Extent of cut and extent of fill (including location of toes and crests, and depth and volume) and including specification of distance of work from site boundaries; □ Extent of engineered fill to be placed in accordance with New Zealand Standard NZS 4431:1989 <i>Code of practice for earth fill for residential development</i>; □ Known geological features (including any areas of instability); □ Depth to bedrock; □ Areas of known site contamination; □ All existing and proposed retaining walls, indication of whether they support fill or a cut, and wall heights; □ Existing and proposed fencing, including fence type and height (especially in Residential zones); □ All underground services (both public and private) including any effluent disposal systems; □ Proposed field drains; □ Proposed sediment and erosion control features; □ All surface water courses, including catchment orientation and secondary flow paths; □ On-site catchment boundaries and offsite sources of runoff; □ Mean High Water Springs mark where next to coast; □ Groundwater Protection Zone location as shown on the District Plan Maps; □ Areas of existing vegetation to be retained and areas of proposed vegetation to be planted; □ Protected trees (including the canopy spread) on the site or adjoining sites; □ Any areas of indigenous vegetation and fauna defined by the District Plan within the Rural and Rural-Residential zones; □ Archaeological sites.	☐
☒	Typical Elevations/Cross Sections through the site showing (where relevant): □ Certificate of Title boundary lines; □ Existing buildings and retaining walls; □ Extent of proposed earthworks, showing areas of cut and fill (including depth and volume), slopes of cut and fill batters, and existing and proposed ground profiles; □ New retaining walls; □ Existing and proposed fences (particularly for Residential zones); □ Areas of existing vegetation to be retained and areas of proposed vegetation to be planted; □ Physical details of retaining walls, back fill and foundations.	☐
☐	Written Approvals: □ "Affected Person(s) Consent Form" completed; □ Site plan, and any other relevant documentation, signed and dated by affected person(s).	☐

This is a preliminary checklist only. It is general in nature and does not cover all possible information requirements, nor is all of the information relevant to all types of application.

Please check with a planner at the Council if you are unsure of the information requirements for your particular application.

Please also note that the detailed technical review of your application once lodged may reveal the need for you to supply further information, in which case you will be advised as soon as possible.

APPENDIX 2:

The revised site plan showing reduced area of works.

Caution: Aerial Imagery has significant spatial distortion of elevated features and should not be scaled - use as an approximate visual guide only.

Legend:

Existing access to be retained	
Existing access to be closed	
New access constructed	

DO NOT SCALE - IF IN DOUBT, ASK
100
90
80
70
60
50
40
30
20
10
0
ORIGINAL SIZE A3

Attribution:
Boundary Layer:
Sourced from LINZ Data Service
<https://data.linz.govt.nz/layer/50772-nz-primary-parcels/> and licensed by LINZ for re-use under the Creative Commons Attribution 4.0 International Licence

Background Aerial Image:
Sourced from LINZ Data Service
<https://data.linz.govt.nz/layer/52118-dunedin-010m-urban-aerial-photos-2018-2019/> and license by LINZ for re-use under the Creative Commons Attribution 4.0 International Licence

File Ref:

Prepared For:

Paul Napier

No.	Amendments	Drawn	Date
R1	Road reserve excluded from site BDY, re-battering added	LH	11/24

12 Annie Street
Osborne, DUNEDIN
Site Plan
Retrospective Earthworks Consent

Project No.: 22138	Surveyed: LH
Scale: 1:350 @ A3	Designed: -
Date: Oct 2022	Drawn: LH
Sheet: 01	Checked: MG

**Survey Services**

Surveying Consultants

TL Survey Services Limited

P.O. Box 901 DUNEDIN
Phone (03) 477 1133

- Notes:**
- Datum: North Taieri 2000, New Zealand Vertical Datum 2016
 - Vertical origin mark: F3KQ IT 5 DP 361873 65.46
 - Contour Intervals: Minor = 0.2m Major = 1.0m
 - Boundaries of Bradley Road and Annie Street have been defined by survey calculations. All other boundaries depicted are indicative only and have been obtained from LINZ Dataservice

DO NOT SCALE - IF IN DOUBT, ASK

ORIGINAL SIZE A3

File Ref:

APPENDIX 3:

**Photographs taken during the site visit on 9
February 2023.**



1. Top of old road (left) and new road (right), mostly within road reserve, now mostly out of scope



2. Top of old and new access ways, showing cuts. Top part within road reserve is now out of scope



3. New access way viewed from Annie St below



4. New hairpin access to Annie St, seen from above



5. New Hairpin access to Annie St from below



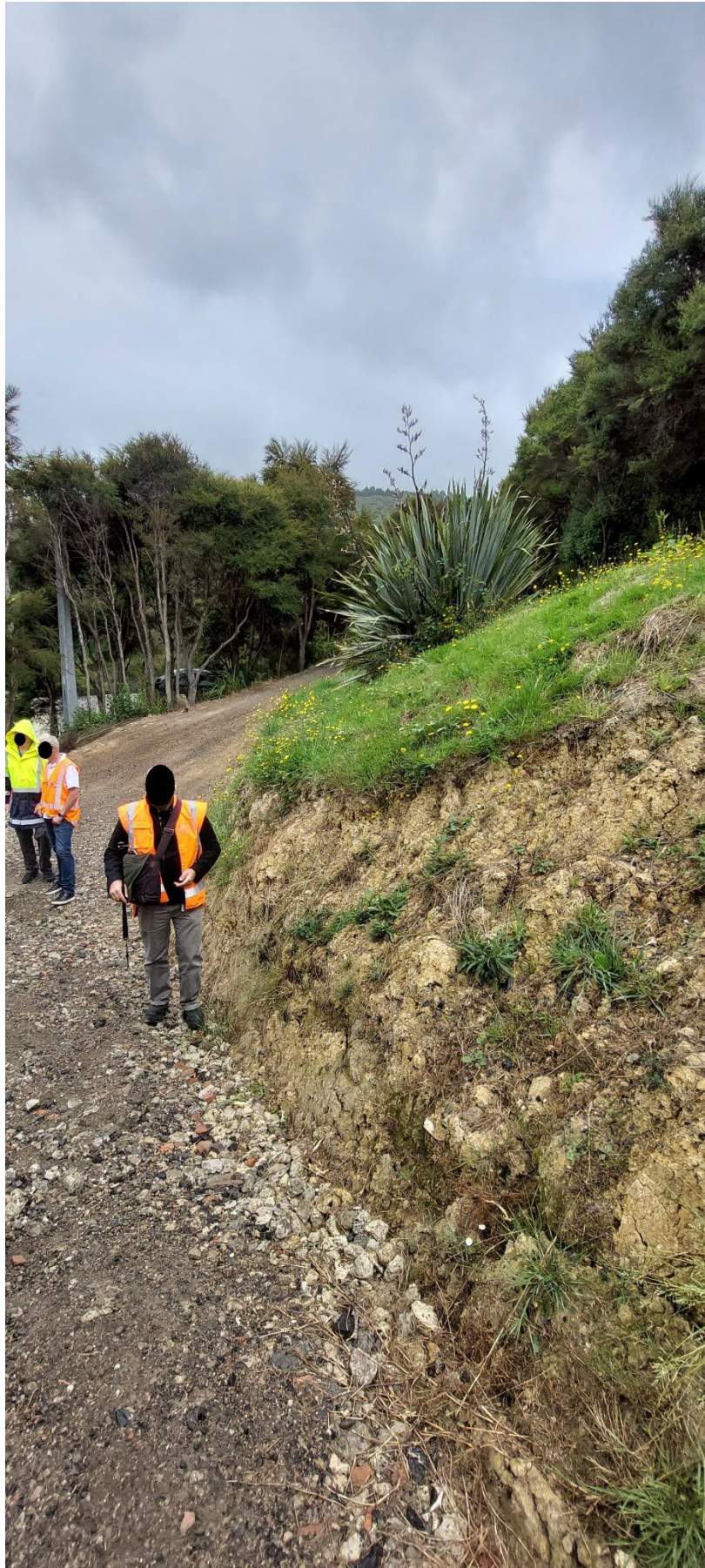
6. Old hairpin access to Annie St seen from southern end



7. Earthworks near electricity pole



8. Earthworks near telecommunication utility



9. Large cut shown next to person for scale (faces redacted for privacy)



10. Stormwater diverted towards new culvert



11. New culvert discharge point viewed from above



12. New culvert discharge point viewed from above

APPENDIX 4: Submissions



DUNEDIN
CITY COUNCIL

kaunihera
a-rohe o
ōtepoti

SUBMISSION FORM 13

Submission concerning resource consent on limited notified application under section 95B, Resource Management Act 1991

To: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

Resource Consent Number: LUC-2023-36

Applicant: Paul James Napier

Site Address: 12 Annie Street Osborne

Description of Proposal: Land use consent is being sought retrospectively for earthworks undertaken, and proposed remediation earthworks, at 12 Annie Street, Osborne.

RECEIVED

28 FEB 2025

BY: *CR Thomas*

I/We wish to lodge a submission on the above resource consent application (please read privacy statement):

Your Full Name:

Christopher Timothy Waite

Postal Address:

*P.O. Box 13
Waitati*

Post Code: *9069*

Telephone:

Email Address:

I wish the following to be used as the address for service (choose one): email post other:

I would like my contact details to be withheld: Yes ☐ No ☒ (tick one)

I Am/Am Not (delete one) a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

Trade competitors only:

I Am/Am Not (delete one) directly affected by an effect of the subject matter of the submission that—

- (a) adversely affects the environment; and
- (b) does not relate to trade competition or the effects of trade competition.

Note: If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

I: Support/Neutral/**Oppose****this Application (choose one)**

The specific parts of the application that this submission relates to are [give details]:

The memorandum dated 21st January 2025 - changes to scope. As the owner of 15 and 17 Annie Street the memorandum indicates intent to "establish a fence and locked gate along the site boundaries, stating restricted access to any parties except for emergency services. This would block access to both 15 and 17 Annie Street. Because of this I oppose this addition to the Resource consent application.

Please attach other pages as required

My submission is [include the reasons for your views]:

As the affected party, owner of 15 and 17 Annie Street we simply need access to our property which this resource consent application removes. Prior to works undertaken, there had been no issue with access. Initial and subsequent works to the access, we have not opposed and have approached this situation as a wait and see in good faith to Paul Napier. We had hoped it wouldn't reach this point as we believed between the council and Paul Napier resolution would

PLEASE TURN OVER

have been made. We hope that Paul Waiver acts in good faith and access is maintained to our properties

Please attach other pages as required

I seek the following decision from the Council [give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought]:

That access to remain to affected properties and they ask Paul to reconsider fencing site boundary and just fence as per original application

Please attach other pages as required

Note: If you have a right of appeal under section 120 of the Resource Management Act 1991, you may appeal only respect of a matter raised in your submission (excluding any part of the submission that is struck out).

I: ~~Do~~ / **Do Not** wish to be heard in support of this submission at a hearing (delete one)

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Yes ☐ No ☒ (tick one)

I request, pursuant to section 100A of the Resource Management Act 1991, that you delegate your functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the Council.

Yes ☐ No ☐ (tick one)

Note: If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

Signature of submitter: _____

Date: 28/2/2025

(or person authorised to sign on behalf of submitter)

Notes to Submitter:

Closing Date: The closing date for serving submissions on the Dunedin City Council is **Friday, 28th February 2025 at midnight**. A copy of your submission must be served on the applicant as soon as reasonably practicable after the service of your submission on the Dunedin City Council. The applicant's address for service is 7 Rowland Street RD1 Port Chalmers or via email: napiern@yaho.com

Electronic Submissions: A signature is not required if you make your submission by electronic means. Submissions can be sent by email to resconsent.submission@dcc.govt.nz

Privacy: Please note that submissions are public. Your name, contact details and submission will be included in papers that are available to the media and the public, **including publication on the Council website**. You may request your contact details be withheld. Your submission will only be used for the purpose of the limited notified resource consent process.

Strike Out: Please note that your submission (or part of your submission) may be struck out if the Council is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious.
- It discloses no reasonable or relevant case.
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further.
- It contains offensive language.
- It is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.



SUBMISSION FORM 13

Submission concerning resource consent on limited notified application under section 95B, Resource Management Act 1991

To: Dunedin City Council, PO Box 5045, Moray Place, Dunedin 9058

Resource Consent Number: LUC-2023-36

Applicant: Paul James Napier

Site Address: 12 Annie Street Osborne

Description of Proposal: Land use consent is being sought retrospectively for earthworks undertaken, and proposed remediation earthworks, at 12 Annie Street, Osborne.

I/We wish to lodge a submission on the above resource consent application (please read privacy statement):

Your Full Name: Jodie Kristina Gilmore, Anthony Thomas Ferguson

Postal Address: [Redacted] 9081

Post Code:

Telephone: [Redacted] Email Address: [Redacted]

I wish the following to be used as the address for service (choose one): email ☒ post ☐ other: ☐

I would like my contact details to be withheld: Yes ☒ No ☐ (tick one)

I Am/Am Not (delete one) a trade competitor for the purposes of section 308B of the Resource Management Act 1991.

Trade competitors only:

I Am/Am Not (delete one) directly affected by an effect of the subject matter of the submission that—

- (a) adversely affects the environment; and
(b) does not relate to trade competition or the effects of trade competition.

Note: If you are a trade competitor, your right to make a submission may be limited by the trade competition provisions in Part 11A of the Resource Management Act 1991.

I: ~~Support~~/Neutral/Oppose this Application (choose one)

The specific parts of the application that this submission relates to are (give details):

See attached page

Please attach other pages as required

My submission is (include the reasons for your views):

See attached page

PLEASE TURN OVER

Please attach other pages as required

I seek the following decision from the Council (give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought):

Do not approve this consent and defer until further council investigation

1. Adverse effect on neighbours
2. ~~Env~~ Environmental damage

Please attach other pages as required

Note: If you have a right of appeal under section 120 of the Resource Management Act 1991, you may appeal only respect of a matter raised in your submission (excluding any part of the submission that is struck out).

I: ~~Do~~ **Do Not** wish to be heard in support of this submission at a hearing (delete one)

If others make a similar submission, I will consider presenting a joint case with them at a hearing.

Yes ☒ No ☐ (tick one)

I request, pursuant to section 100A of the Resource Management Act 1991, that you delegate your functions, powers, and duties required to hear and decide the application to 1 or more hearings commissioners who are not members of the Council.

Yes ☒ No ☐ (tick one)

Note: If you make a request under section 100A of the Resource Management Act 1991, you must do so in writing no later than 5 working days after the close of submissions and you may be liable to meet or contribute to the costs of the hearings commissioner or commissioners.

Signature of submitter: Joie Culmore Date: 26.02.2025

(or person authorised to sign on behalf of submitter)

Notes to Submitter:

Closing Date: The closing date for serving submissions on the Dunedin City Council is **Friday, 28th February 2025 at midnight**. A copy of your submission must be served on the applicant as soon as reasonably practicable after the service of your submission on the Dunedin City Council. The applicant's address for service is 7 Rowland Street RD1 Port Chalmers or via email: napiern@yaho.com

Electronic Submissions: A signature is not required if you make your submission by electronic means. Submissions can be sent by email to resconsent.submission@dcc.govt.nz

Privacy: Please note that submissions are public. Your name, contact details and submission will be included in papers that are available to the media and the public, **including publication on the Council website**. You may request your contact details be withheld. Your submission will only be used for the purpose of the limited notified resource consent process.

Strike Out: Please note that your submission (or part of your submission) may be struck out if the Council is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- It is frivolous or vexatious.
- It discloses no reasonable or relevant case.
- It would be an abuse of the hearing process to allow the submission (or the part) to be taken further.
- It contains offensive language.
- It is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

I oppose this resource consent for the following reasons:

The application states:

*The earthworks have been undertaken in order to construct a more usable road access along Annie Street for the benefits of **BOTH** the applicant (12 Annie St) **AND THEIR NEIGHBOURS (13 – 17 Annie Street)**. (Emphasis added).*

... multiple parties used the existing track for vehicular access"

"The track constructed is intended for the use of all the surrounding residential properties, including the applicant".

However, the stated intention of the applicant to construct a fence and a gate not only contradicts the statements in the resource application highlighted above, but:

1. Provides the applicant with total control over access of sanitation (septic tank management) and emergency services visiting neighbouring properties.
2. Contradicts the stated claims in the application that the reason is to provide **IMPROVED ACCESS TO NEIGHBOURS**. This will stop access. (Emphasis added).

ENVIRONMENTAL CONCERNS

1. Lack of access by sanitation (septic tank) services means a definite likelihood of sewage seepage polluting the environment.
2. Poor drainage and under runners will lead to environment degradation during periods of heavy rainfall.

The Annie Street situation is a cross department issue within the DCC and I would ask that those relevant departments resolve the issues with all effected parties, **BEFORE** this consent is considered.



HERITAGE NEW ZEALAND
POUHERE TAONGA

21 February 2025

Dunedin City Council
PO Box 5045
Moray Place
Dunedin 9058

By email: resconsent.submission@dcc.govt.nz

Tēnā koe Sir/Madam

**SUBMISSION OF HERITAGE NEW ZEALAND POUHERE TAONGA ON RESOURCE CONSENT APPLICATION
LUC-2023-36 BY PAUL NAPIER OF 12 ANNIE STREET OSBORNE.**

To: Dunedin City Council

Name of submitter: Heritage New Zealand Pouhere Taonga (HNZPT)

1. This is a submission on resource consent application LUC-2023-36 for a land use consent to undertake earthworks to construct an accessway to 12 Annie Street. This is a retrospective consent as the applicant has undertaken works without prior consent.
2. HNZPT could not gain an advantage in trade competition through this submission.
3. HNZPT's submission relates to the protection, preservation, and conservation of New Zealand's historic and cultural heritage.
4. There are two main pieces of legislation in New Zealand that control work historic heritage. These are the Resource Management Act 1991 (RMA) and the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA). HNZPT administers the HNZPTA.

Resource Management Act 1991

5. The RMA requires district councils to manage the use, development, and protection of natural and physical resources in a way that provides for the wellbeing of today's communities while safeguarding the options of future generations. The protection of historic heritage from inappropriate subdivision, use, and development is identified as a matter of national importance (Part 2, subsection 6(f)).
6. Historic heritage is defined as those natural and physical resources that contribute to an understanding and appreciation of New Zealand's history and cultures, derived from

archaeological, architectural, cultural, historic, scientific, or technological qualities. Historic heritage includes:

- a. historic sites, structures, places and areas;
 - b. archaeological sites;
 - c. sites of significance to Māori, including wāhi tapu; and
 - d. surroundings associated with the natural and physical resources (section 2, RMA).
7. Where resource consent is required for any activity the assessment of effects is required to address cultural and historic heritage matters (4th Schedule, RMA).

Heritage New Zealand Pouhere Taonga Act 2014

8. Under the Heritage New Zealand Pouhere Taonga Act 2014 (HNZPTA), the permission of HNZPT must be sought prior to the modification, damage, or destruction of any archaeological site, whether the site is unrecorded or has been previously recorded. An archaeological site is described in the Act as:
- a. any place in New Zealand, including any building or structure (or part of a building or structure), that:
 - i. is associated with human activity that occurred before 1900 or is the site of the wreck of any vessel where the wreck occurred before 1900; and
 - ii. provides or may provide, through investigation by archaeological methods, evidence relating to the history of New Zealand; and
 - iii. includes a site for which a declaration is made under section 43(1).

Site Works

9. 12 Annie Street and the road reserve are located within the Dunedin City Council Second Generation District Plan (2GP) archaeological alert layer. The purpose of this layer is to help landowners, developers and planner to identify whether a property with proposed works has the potential to encounter unrecorded archaeological sites. This layer identifies that any below ground earthworks have the potential to encounter Māori archaeological sites that are not yet recorded on the 2GP or the New Zealand Archaeological Association site recording scheme (ArchSite).
10. 12 Annie Street is located in close proximity to the Pūrākanui inlet which is identified on Kā Huru Manu, the Kāi Tahu atlas which is publicly available online and publishes significant cultural places within the South Island. These places have been carefully recorded over generations and have been verified by at least three sources before being available to the public to ensure accuracy.
11. Under the HNZPTA 2014, archaeological sites are defined as any place occupied prior to 1900 that may provide archaeological information on the history of New Zealand. An authority is required for any works that may modify or destroy an archaeological site; this includes earthworks on a site occupied prior to 1900, and modification of currently unknown sites.
12. HNZPT strongly recommends that any earthworks at 12 Annie Street, such as earthworks to complete the retaining wall along the wester side of the new access are assessed, by a consultant archaeologist, who can determine whether an archaeological authority is required.

13. The site of works is not recognised on the New Zealand Heritage List / Rārangī Kōrero.

Effects on Archaeology

14. An archaeological assessment relating to the proposed works has not been included in the resource consent application. HNZPT strongly suggests that a consent condition for the proposed works is that an archaeological authority is obtained under the HNZPTA. The application has considered the potential impacts on known archaeology on site, however, has failed to recognise the potential for there to be unknown archaeology sub surface. An authority is required regardless as to whether other consents or permissions have been granted pursuant under other legislation, for example resource or building consent. An archaeological authority is a separate requirement that applies to all archaeological sites, whether recorded or not.
15. Any earthworks within the Archaeological Alert Layer may trigger requirements under the archaeological provisions of the HNZPTA and may require an archaeological authority to be obtained. To determine the effect on historic heritage values of the development area from the proposed activity, including any archaeological sites that has not yet been identified, HNZPT recommends that an archaeological assessment is undertaken by a consultant archaeologist. An archaeological assessment covers the history of occupation within the development area, the scope of the development and the likelihood of modifying, damaging, or destroying any archaeological sites. The archaeological assessment will determine whether an archaeological authority is required for the proposed works.
16. HNZPT recommends avoidance of potential archaeological features and mitigation of adverse effects to any archaeological sites wherever possible. The archaeological assessment will inform decisions around the avoidance of adverse effects to archaeology. For any areas not covered by an archaeological authority (if required), the Heritage New Zealand Accidental Discovery Protocol should be followed.

Relief Sought by Heritage New Zealand Pouhere Taonga

- a. Should Dunedin City Council grant resource consent LUC-2023-36 the following is included as a condition of consent:
 - i. An assessment of the proposed works is to be undertaken by a suitably qualified and experienced consultant archaeologist prior to the commencement of any works. The archaeological assessment will cover the history of occupation within the development area, the scope of the development, existing works and the likelihood of modifying, damaging, or destroying any archaeological sites. The archaeological assessment will determine whether an archaeological authority is required for the proposed works.
17. Heritage New Zealand Pouhere Taonga wishes not to be heard in support of this submission.

Kā mihi,

A handwritten signature in black ink, appearing to read 'Sarah Gallagher', with a stylized, cursive script.

Sarah Gallagher
Area Manager – Otago/Southland

Address for service:

James Sutherland
Planner
Heritage New Zealand Pouhere Taonga
PO Box 5467
Dunedin 9058

Phone: 03 470-2366

Email: jsutherland@heritage.org.nz

cc. Astrid Raats, Otago Southland Administrator

APPENDIX 5:
Site Inspection Record



Site Inspection Record

Page 1 of 6

Project: Slope re-battering earthworks		Project Number: 240732
Date: 27/01/2025	Time: 12:30 pm	Inspection #: GI01
Inspected by: ☒ GeoSolve: ☐ Client: ☐ Contractor: ☐ Other:		
Weather: Fine		
Inspection Details: Rob Stuff (GeoSolve), Paul Napier (Landowner) and Cam Sim (Excavator operator) were present at the time of the inspection. The main (highest) slope had been partially re-formed to a gradient of approx. 1.5:1 (horizontal to vertical), clearly exposing the stratigraphic contact between the in-situ colluvium and the overlying uncontrolled fill. Rob and Cam discussed the location of this fill contact in the cut and Cam was to re-grade the fill to a maximum gradient of 2:1 (H:V), in accordance with GeoSolve's previous report (ref 240732, dated 12 November 2024). The remaining recent landslip debris and fill had been mostly removed from the outside shoulder of the new road during the inspection, though a thickness of approximately 0.1-0.2 m remained. Cam advised he would remove this minor thickness of fill that had been placed in the shoulder area. The northern portion of the slope from the new culvert to the site boundary had not yet been disturbed, but this was also to be re-battered later in the day, Paul, Rob and Cam discussed the care to be taken during earthworks to ensure the culvert remained functional. No fill appeared to be present in the existing slope face, so the colluvium slope was to be re-battered to a maximum of 1.5:1 (H:V). A safety concern was raised at the time of the inspection when a neighbour entered the site while apparently recording video footage on her phone. When she approached the rear of the excavator while it was operating, Rob advised the individual to please stay outside the work area. The individual refused to leave and became verbally abusive and belligerent. Paul politely asked her to leave his property but she continued recording and shouting obscenities. Rob and Cam discussed her presence and the need to keep a close watch on her and any other pedestrians in the work area to minimise the risk of injury. Placement of the cut soils was also discussed. A stockpile had been formed on a relatively low gradient area west of the accessway, and Paul advised the current plan was to spread the cut soils out over this general area. Rob advised best practice would be to ensure all topsoil and vegetation was first removed from any areas to receive fill, and ideally, the subgrade was to be benched. Cam planned to do so, including digging a 'key' into the toe of the slope to assist with stabilisation.		

Site Inspection Record

Page 2 of 6

Recommendations: Cam and Paul to continue earthworks as discussed on site and keep a close eye out for pedestrians during the works.

Update 29/01/2025: Paul advised that the earthworks have now been completed, with all slopes on the subject property re-battered as planned. Photos of the completed earthworks are appended below.

Attachments: Photos 1 through 6

Initials: RS

SITE PHOTOGRAPHS – Slope re-battering earthworks



Photograph 1: Earthworks on the main (highest) cut slope underway



Photograph 2: Main cut slope, with the fill contact clearly visible about 1/3 of the way up the slope



Photograph 3: Landslide debris and some fill removed from outside road shoulder, with minimal (recent) fill remaining to be removed



Photograph 4: Main slope at the completion of re-grading (photo supplied by P Napier)



Photograph 5: Re-grading on northern slope now complete (photo supplied by P Napier)



Photograph 6: Road shoulder following removal of all (recent) fill (photo supplied by P Napier)

APPENDIX 6:
Recommended conditions and advice notes

Conditions:

1. *The activity must be undertaken in general accordance with the approved plan attached to this certificate as Appendix Two, being a revision of the original site plan that was submitted with the application, and further information received on 28 November 2024, except where modified by the following conditions.*
2. *In order to mitigate visual amenity effects of the completed earthworks, newly laid topsoil on battered slopes must be sowed with grass before 30 September 2025.*
3. *The existing drains must be maintained and cleared of any debris once a month, in perpetuity.*
4. *To ensure effective management of erosion and sedimentation on the site, measures must be taken where necessary, to:*
 - a) *divert clean runoff away from disturbed ground,*
 - b) *control stormwater run-off, and*
 - c) *avoid sediment laden run-off from the site.*
5. *If the consent holder:*
 - a) *discovers koiwi tangata (human skeletal remains), waahi taoka (resources of importance), waahi tapu (places or features of special significance) or other Maori artefact material, the consent holder must without delay:*
 - i) *notify the Consent Authority, Tangata whenua and Heritage New Zealand and in the case of skeletal remains, the New Zealand Police.*
 - ii) *stop work within the immediate vicinity of the discovery to allow a site inspection by Heritage New Zealand and the appropriate runanga and their advisors, who must determine whether the discovery is likely to be extensive, if a thorough site investigation is required, and whether an Archaeological Authority is required.*

Site work may recommence following consultation with the Consent Authority, Heritage New Zealand, Tangata whenua, and in the case of skeletal remains, the New Zealand Police, provided that any relevant statutory permissions have been obtained.

- b) *discovers any feature or archaeological material that predates 1900, or heritage material, or disturbs a previously unidentified archaeological or heritage site, the consent holder must without delay:*
 - i) *stop work within the immediate vicinity of the discovery or disturbance; and*
 - ii) *advise the Consent Authority, Heritage New Zealand, and in the case of Maori features or materials, the Tangata whenua, and if required, must make an application for an Archaeological Authority pursuant to Heritage New Zealand Pouhere Taonga Act 2014; and*
 - iii) *arrange for a suitably qualified archaeologist to undertake a survey of the site.*

Site work may not recommence before consultation with the Consent Authority.

Advice Notes:Earthworks

1. Noise, dust and sediment effects are controlled by 2GP rules 4.5.4.1.a (construction noise), 8A.5.12 (dust control), and 8A.5.7 (sediment control). The completed remediation works are required to comply with those rules.

Transportation

2. The applicant should note that the Council regards the vehicle access that lies to the south-east of the existing sealed Council road formation to be a private access on a legal road, and will not assume any responsibility for its maintenance.
3. If a right of way easement is created over 12 Annie Street in the future, a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

Planting

4. It is recommended that any future planting at the top of the batter slope (at the original access way) consists of locally appropriate native species.

General

5. In addition to the conditions of a resource consent, the Resource Management Act 1991 establishes through sections 16 and 17 a duty for all persons to avoid unreasonable noise, and to avoid, remedy or mitigate any adverse effect created from an activity they undertake.
6. Resource consents are not personal property. The ability to exercise this consent is not restricted to the party who applied and/or paid for the consent application.
7. It is the responsibility of any party exercising this consent to comply with any conditions imposed on the resource consent prior to and during (as applicable) exercising the resource consent. Failure to comply with the conditions may result in prosecution, the penalties for which are outlined in section 339 of the Resource Management Act 1991.
8. The lapse period specified above may be extended on application to the Council pursuant to section 125 of the Resource Management Act 1991.
9. This is a resource consent. Please contact the Council's Building Services Department, about any building consent requirements for any future building work.

APPENDIX 7:

Council Officers Evidence

TO: Elisabeth Boyle, Planner

FROM: Reese Martin, Planner – Transport

DATE: 6 December 2024

SUBJECT: **LUC-2023-36**
12 ANNIE STREET, OSBOURNE

APPLICATION:

Land Use Consent is sought for retrospective earthworks at the site at 12 Annie Street. The site has legal frontage to both Annie Street and Bradley Road and is currently comprised of vacant farmland and vegetation.

Vehicle access was originally provided through the site via an existing privately maintained metalled accessway extending from the end of the formed and sealed Council maintained section of Bradley Road which appears to have been established between 1956 and 1967. This proposal seeks to authorise retrospective earthworks that have been carried out by the applicant for the creation of a second metalled accessway which has been formed parallel to the original accessway. It is acknowledged that the scope of this proposal originally included unconsented/unapproved earthworks within the unformed parts of the Bradley Road and Annie Street Road Reserve, however the scope has now been subsequently reduced to the works within private property only as well as further earthworks within the site to stabilise some of the original earthworks already carried out.

The site is zoned Township and Settlement. The Council maintained section of Bradley Road is classified as a Local Road under the 2GP Road Classification Hierarchy while Annie Street is considered to be an unformed Legal Road. The proposal is assessed as a restricted discretionary activity.

ACCESS:

As noted above, vehicle access to and through the site was originally provided via an existing metalled accessway partially located within the unformed Bradley Road Reserve which extended from the end of the Council maintained Bradley Road formation to within the site with a formed width that appears to have varied between 2.5-3.0m before taking a 90-degree turn along the site's south eastern property boundary into the unformed Annie Street Road Reserve. It is therefore considered to be a privately maintained accessway partially within Legal Road.

The applicant has carried out unconsented earthworks in order to create a second private accessway parallel to the original accessway which has been formed using a mixture of gravel/metal and crushed building material. It is understood that following the original earthworks a landslip has occurred within the site resulting in unstable material and debris falling onto the new accessway. Therefore further earthworks are required within the site to stabilise the new accessway including re-battering the existing slopes and the removal of

landslip material which will significantly reduce the width of the old accessway. The applicant has also confirmed that once this work has been carried out the new accessway will still provide a minimum formed width of at least 3.0m.

Once these works are completed the applicant has advised that the new accessway will be fenced/gated and will only be available for access by emergency vehicles (the proposed fencing/gating is understood to be a permitted activity). Whilst the old accessway has up until the recent earthworks provided vehicle access to 17 Bradley Road and 13 and 15 Annie Street it appears that there is no legal mechanism to provide physical access to these properties over the subject site. As noted, it is understood that the proposed fencing/gating works can be carried out as a permitted activity and in any case does not form part of this proposal. It is therefore considered that this is a civil matter between neighbouring landowners that should be resolved outside of the resource consenting process.

Rule 6.6.3.3 requires that the maximum width of a vehicle access for residential activities is 6.0m. It is noted that the width of the new accessway where it transitions to a private driveway within the Annie Street Road Reserve has a formed width of approximately 10.0m at the present time and therefore does not comply with this requirement. Although this is considered to be more of a technical non-compliance in this instance on the basis that the accessway does not front onto a formed road, enables practical use of the private accessway within the site and is unlikely to result in any noticeable concerns. Therefore the effects of this technical rule breach is considered to be less than minor.

Rule 6.6.3.6.a requires that driveways that adjoin a legal road that is hard surfaced, must be constructed with a hard surface for a minimum distance of 5.0m from the edge of the road. In addition, Rule 6.6.3.6.b requires that in all zones other than the rural and rural residential zones, the full length of any driveway that serves 2 or more residential properties must be hard surfaced. It is noted that while the old and new vehicle accessway through 12 Annie Street and within unformed Legal Road previously provided physical access to three additional properties addressed as 17 Bradley Road and 13 and 15 Annie Street, this appears to have been via an informal vehicle access arrangement. The new vehicle accessway within 12 Annie Street has been constructed with an unsealed surface comprising of metalled material and other crushed building material and therefore technically does not comply with this requirement.

Although it is noted that the original accessway through 12 Annie Street that extends off of the formed end of Bradley Road which is sealed for approximately 45.0m from the Bradley Road/Rowland Street intersection has also historically been formed using a similar alignment and metalled surface material. It is also not uncommon for unsealed vehicle accesses to extend off of the end of sealed Legal Roads in more rural environments that serve multiple properties.

Given that the old/new private accessways slopes down away from the end of the sealed portion of the Bradley Road formation the potential for mud, stone, gravel, and other materials being trafficked back up onto the Council maintained road carriageway is considered to be low and is likely no different compared to historic usage of the original accessway.

It is acknowledged that while the owners of 13 and 15 Annie Street have raised concerns about the new accessway being unsuitable for their intended usage, this is matter best considered between the applicant and those landowners in the event that an agreement is reached that enables them to formally gain access over 12 Annie Street and onto the formed section of

Bradley Road. The applicant is therefore advised that in the event of such an agreement being reached a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities.

Therefore based on the assessment above, the effects of the old/new vehicle accessway not being hard surfaced is considered to be less than minor.

Rule 6.6.3.7.a requires that the maximum change in gradient without transition for driveways is 1 in 8 for summit grade changes or 1 in 6.7 for sag grade changes. In addition, Rule 6.6.3.7.b requires that the gradient of the first 5.0m measured from the road boundary into the site must be no greater than 1 in 8. While the gradient of the first 5.0m of the new accessway has not been measured by Transport or the applicant, given the steep nature of the new accessway, conservatively it is considered unlikely that this requirement has been complied with.

However, it should be acknowledged that the original long existing private accessway both within Road Reserve and within the site is also a relatively steep formation that also likely does not comply with this requirement and is also consistent with the relatively steep topography of the surrounding area.

The purpose of this requirement is more generally to ensure that vehicles using the accessway are not bottoming out or scaping and damaging the road carriageway or vehicles as well as ensuring that mud, stone, gravel, and other material is unlikely to be carried onto the road. It also ensures that vehicles have a level platform to wait on before crossing any footpath/berm and onto the road from a site. However, this concern is less relevant in this instance given that the accessway within the site transitions onto a privately formed accessway within Road Reserve which then transitions onto the Council sealed and maintained road carriageway within Bradley Road.

As noted already above, on the basis that the driveway slopes down away from the formed section of Bradley Road the potential for loose material being trafficked out onto the formed road due to the proposed gradient of the accessway is considered to be low. It also appears that there are no sharp/steep changes in gradient within the new accessway and transitions appear to be provided and therefore it is considered that the new accessway likely complies with Rule 6.6.3.7.a within the site and therefore the potential for vehicles to bottom out while transitioning between the access and the formed road is also considered to be low. On that basis the effects of this rule breach is considered to be less than minor.

For the avoidance of any doubt, the applicant should note that the Council regards the old and new vehicle access to 12, 13, and 15 Annie Street, 17 Bradley Road, from the termination of the existing Council maintained sealed road formation to the property boundary, to be a private access on a legal road, and will not assume any responsibility for its maintenance.

PARKING AND MANOEUVRING:

No on-site car parking and manoeuvring is currently provided within the site and no on-site car parking and manoeuvring provision is proposed as part of this proposal.

GENERATED TRAFFIC:

Transport considers that the effects of the traffic generated as a result of this proposal on the transport network will be less than minor.

CONCLUSION

Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to the following advice notes:

ADVICE NOTE:

- (i) The applicant should note that the Council regards the old and new vehicle access to 12, 13, and 15 Annie Street, 17 Bradley Road, from the termination of the existing Council maintained road formation to the property boundary, to be a private access on a legal road, and will not assume any responsibility for its maintenance.
- (ii) The applicant is advised that a formal agreement should be drawn up between the owners/users of all private accesses in order to clarify their maintenance responsibilities in the event that legal access over 12 Annie Street by any neighbouring properties is achieved.

Memorandum

TO: Elisabeth Boyle, Planner

FROM: Luke McKinlay, Landscape Architect

DATE: 10 December 2024

SUBJECT: **LUC-2023-36:**
12 ANNIE STREET, OSBORNE
LA Comments

Kia ora Elisabeth,

The following is in response to your request for comment on the above land use consent for retrospective and proposed earthworks, at the above location.

As I understand it, this application includes remediation work to be undertaken at 12 Annie Street. It excludes any remediation work within the Bradley Road or Annie Street Road reserves. Additionally, the applicant has stated that the initially proposed retaining structures will now to be replaced by batter slopes.

The subject site is zoned **Township and Settlement**. The south-western part of the site is subject to the Pūrākaunui and Orokonui Landscape Overlay, however, the completed work and further proposed work is not situated within this overlay area.

Annie Street and Bradley Road are both classified as **Local Roads** in the 2GP road classification hierarchy.

The application will be assessed as a **restricted discretionary** activity pursuant to the 2GP rules listed below.

- **Rules 8A.5.1.3 and 8A.3.2.3-** change in finished ground level:
Pursuant to Rule 8A.5.1.3, the maximum change in finished ground level to be considered earthworks – small scale in residential zones is 1.5m. The change in ground level resulting from the earthworks already taken was measured to be 1.7-1.8m. The measurement was carried out by DCC Compliance Officer Peter Woods and Resource Consents Planner Elisabeth Boyle during a site visit on 29 August 2024. Since the change in ground level is over 1.5m in height, it is considered Earthworks Large Scale. Pursuant to Rule 8A.3.2.3, the activity status for Earthworks Large Scale is Restricted Discretionary. Council's discretion is restricted to:
 - Effects on visual amenity,
 - Effects on amenity of surrounding properties, and
 - Effects on the stability of land, buildings, and structures.
- **Rule 8A.5.3:** Earthworks must:
 1. have a maximum cut batter gradient of 1h:1v (i.e. rising 1m over a 1m distance); and
 2. have a maximum fill batter gradient of 2h:1v (i.e. rising 1m over a 2m distance)

The proposal breaches the cut batter rule as can be seen on the B-B long section. The work also breaches the fill batter gradient where side cast fill is sitting on the eastern side of the access way (confirmed by Stantec after a site visit last year – last year's comments are included in the attached file).

- **Rule 8A.5.4.1.a:** Earthworks over 600mm in height or depth not supported by retaining walls must be set back from property boundaries as shown below:

- i. a distance at least equal to the maximum height of the fill, as measured from the toe of the fill (see Figure 8A.5.4A);
- ii. a distance at least equal to 1.5 times the maximum depth of the cut, plus 300mm, as measured from the toe of the cut (see Figure 8A.5.4A); and
- iii. 300mm, as measured from the crest of any cut (see Figure 8A.5.4A).

The completed earthworks breaches this rule at the south-west boundary of the Bradley Rd road reserve, and at the north-west boundary of the Annie St road reserve.

- **Rule 6.3.3.a.i:** The maximum width for a vehicle access for residential purposes is 6.0m. The new vehicle access terminating at Annie Street appears to be 10m, breaching this rule.
- **Rule 6.6.3.6.b:** The full length of any driveway that serves more than 2 residential properties must be hard surfaced. Hard surfacing is not proposed, which is a breach of this rule since the accessway serves more than 2 residential properties.

Comments

The following comments address the potential effects of the proposed earthworks on the visual amenity of the surrounding area. I undertook a site visit on Friday, 6th December to inform these comments. Photographs taken at this time are attached as Appendix 1.

The site is near the south-eastern edge of the settlement of Osbourne. The surrounding topography is relatively steep, with an aspect to the south-east. Kanuka dominant forest and scrub encircles Osbourne to the south, west and north. Fragments of this vegetation type are also present within 12 Annie Street, scattered amongst pastoral areas, and within nearby properties and the paper road portions of Annie Street and Bradley Road (refer Figures 1-5, Appendix 1).

From a visual amenity perspective, the primary effects of the proposed works will be related to the re-battering of the cut face shown in figures 1 and 2, below. As I understand it, following the proposed earthworks, this batter will have a gradient of 1h:1v from its base to near the top of the slope, where it will flatten to a 2h:1v slope. The applicant intends to re-plant this flatter, upper part of the slope once the earthworks are complete (the existing flax will be removed).

It is noted that this cut batter will exceed the standard for small-scale earthworks (max change in finished ground level – 1.5m (Rule 8A.5.1.3)) by a relatively small amount (0.2-0.3m). In addition, it is noted that the existing batter face is an existing feature that does not have a notable adverse effect on the visual amenity of the surrounding area. As such, impacts of the proposed works on the visual amenity of the surrounding area will be relatively low.

Nearby dwellings are located well below the level of the proposed earthworks and are predominantly oriented to the northeast or southeast (away from the site of the proposed works). Further, there is considerable, well-established vegetation between these dwellings and the works, which provides visual screening. For these reasons, it is considered that the proposed earthworks will not be highly prominent from these dwellings and effects of the earthworks on existing visual amenity values will likely be low. From more distant locations, such as from Pūrākaunui, tall vegetation surrounding the site will screen views of the earthworks.

As an advice note, it is recommended that the proposed planting at the top of the batter slope consists of locally appropriate native species.

Regards,

Luke McKinlay
Landscape Architect.

Appendix 1: Site Photographs



Figure 1: Northern extent of cut slope to be re-battered.



Figure 2: Southern extent of cut slope to be re-battered.



Figure 3: Existing (upper) alignment to be closed.



Figure 4: View towards dwelling at 13 Annie St.



Figure 5: View towards dwelling at 15 Annie St.

From: [Paterson, Lee](#)
To: [Elisabeth Boyle](#)
Subject: RE: LUC-2023-36 - Official peer review for geotech report for 12 Annie Street, Osborne
Date: Friday, 20 December 2024 01:15:45 p.m.
Attachments: [image001.png](#)
[image002.png](#)

Hello Elisabeth

We are happy that professional advice has been engaged
Our advice is that the proposed works on his property will be acceptable provided the guidance of the Geotechnical Specialist is followed

The proposal does not address the previous issues raised regarding work done beyond the property boundary.

Ngā mihi

Lee Paterson

Principal Geotechnical Engineer
Chief Drone Pilot (CAA 102)

Email: lee.paterson@stantec.com
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From: Elisabeth Boyle <Elisabeth.Boyle@dcc.govt.nz>
Sent: Friday, November 29, 2024 5:07 PM
To: Paterson, Lee <Lee.Paterson@stantec.com>
Subject: RE: LUC-2023-36 - Redefined scope, updated site plan, and geotech report for 12 Annie Street, Osborne

Hi Lee,

The applicant has now confirmed that he will not be doing any retaining structure. He will only batter as shown on the site plan. He has not provided a cross section of the proposed batter.

Do you have enough to provide your comments? I will also ask our landscape architect to comment as well.

Whether the applicant puts a fence up at the boundary or not, it is clear from the geotech report that the battering will make the access road much narrower. The report does not state how wide the road will be at the conclusion of the works. In any case, it sounds like the work would have an impact on the people that are using the road.

Kind regards,

Elisabeth

Elisabeth Boyle

PLANNER

CITY PLANNING

Elisabeth.Boyle@dcc.govt.nz

Dunedin City Council, 50 The Octagon, Dunedin

PO Box 5045, Dunedin 9054

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From: Paterson, Lee <Lee.Paterson@stantec.com>

Sent: Wednesday, 27 November 2024 11:49 a.m.

To: Elisabeth Boyle <Elisabeth.Boyle@dcc.govt.nz>

Subject: RE: LUC-2023-36 - Redefined scope, updated site plan, and geotech report for 12 Annie Street, Osborne

Hello Elisabeth

Thoughts:

1. I don't necessarily need to see the actual design for the wall... only to be sure that appropriately qualified persons are underwriting the design.
2. The drawings seem to exclude work outside the property that was done on DCC road reserve. Not sure how this can be the case



Geosolve's Discussions and recommendations explicitly recommends re-grading the fill slopes to similar batters as I required previously.

3. Geosolve's report recognizes that re-battering the fill slopes may well reduce the trafficable width of the road access, and that if the existing road width is to be kept, then retaining works will also be required to support the road surcharge, instead of the existing over-steep fill.

All this said, the revised site plan is going to do little to allay the local residents concerns over the steepness of the access, given the friction resistance of the constructed surface, or the stability of the existing edges of fill that have been placed.
Not a fun situation

Ngā mihi

Lee Paterson

Principal Geotechnical Engineer
Chief Drone Pilot (CAA 102)

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Direct: [+64 3 4743973](tel:+6434743973)
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From: Elisabeth Boyle <Elisabeth.Boyle@dcc.govt.nz>

Sent: Wednesday, November 27, 2024 10:20 AM

To: Paterson, Lee <Lee.Paterson@stantec.com>

Subject: LUC-2023-36 - Redefined scope, updated site plan, and geotech report for 12 Annie Street, Osborne

Hi Lee,

LUC-2023-36 - Redefined scope, updated site plan, and geotech report for 12 Annie Street

You will remember this site in Osborne, where an RFI was issued for (amongst other things) geotech investigation.

After the RFI was issued last year, DCC Transport worked towards the prospect of purchasing the land that contains the access way and remediating the access way. However, after many months of work obtaining a land estimate and quotes from roading contractors, the negotiations ground to a halt: Transport's proposal is not going ahead.

This meant that the resource consent application, which was still on hold for RFI, had to be progressed. We did a new site visit in August this year, accompanied by Building Services. The applicant has also confirmed that he is redefining the scope of his application to 12 Annie Street only (i.e., NOT including the road reserve), and that he intends to erect a fence along the north-eastern road boundary (thereby preventing any of the residents of down-slope adjacent sites to use the road to access their sites). We are seeking legal advice in respect of this redefined scope.

I am still waiting for the retaining wall design, which I will send through to you once it has been received. In the meantime, I'm sending you the new site plan and the long-awaited geotech report (both received on Friday 22 November 2024). I will ask for the proposed fence and planting to be inserted into the site plan.

I presume you will need to see the retaining design before you can provide comments.
I've attached summaries of the recent site visit and phone conversation – you may not need this though. Let me know if you need further info. My DDI is 474-3469.

Kind regards,

Elisabeth

Elisabeth Boyle

PLANNER

CITY PLANNING

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Elisabeth Boyle

From: Lee Paterson
Sent: Thursday, 9 February 2023 04:28 p.m.
To: Peter Woods; Elisabeth Boyle
Subject: Bradley Road, Osbourne

Peter / Elisabeth

Further to today's site visit.

My spherical panorama photos are viewable here:

<https://photos.app.goo.gl/F7QVtDbuxhMoXfkL6>

in addition to my comments below, I have the following reinforced opinions

- The road is steep and loose in places, and clearly going to be a hazard to traverse on foot or on many vehicles, due to a combination of gradient and surfacing material.
- The entire outside shoulder of the road edge, between the concrete driveway to #17 Bradley, down to the Hairpin opposite #13 Bradley is failing.
 The local residents made it clear that there have been near-misses of this shoulder giving way under vehicle loading. This is a safety concern
 It is very likely that this material comprises fill immediately on soil, with no stripping, benching or subsoils involved in this construction.
 This needs to be ripped and remade in accordance with good practice, and where the edge fill slope is steeper than 2h:1v, this will require specific engineering design, including possibly retaining works.
- The steep cutting in old fill, between the recent cut track, and the new cut track, is showing signs of failure
 This is clearly a potential hazard for those accessing the upper track. Especially if road users are undertaking a point-turn on top of this bank.
 If access is to continue above this cutting, then a retaining wall will be required.
 This cutting is tall enough, and supporting sufficient slope and surcharge loading, that a retaining wall here must have engineering design and building consent.
- The stormwater has been concentrated into a single discharge location.
 This has eroded significantly in the time since the previous visit
 The local landowners have attempted to place stones and rubble in this channel to reduce the rate of erosion.
 The culvert and discharge arrangement needs to be completely revisited to mitigate the erosion risk that has been created and avoid discharge of sediment off site.

Much of this aligns with my previous comments in the email below.

If you need anything further from me, or have any questions, please ask

Regards / Ngā mihi

Lee Paterson

BSc (Civil Engineering w Geology)
 Senior Geotechnical Engineer
 Advance-Certified Drone Pilot

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From: Paterson, Lee

Sent: Wednesday, 8 June, 2022 10:31 AM

To: Peter Woods <Peter.Woods@dcc.govt.nz>

Cc: MWH Hazards Team <MWHHazardsTeam@stantec.com>

Subject: RE: Emailing: IMG_4184.jpg, IMG_4178.jpg, IMG_4179.jpg, IMG_4180.jpg, IMG_4181.jpg, IMG_4182.jpg, IMG_4183.jpg

Hello Peter

We visited the site yesterday afternoon and met the landowner, Paul Napier, on site. With his permission we flew the drone and I ran the topo model last night

Please feel free to pass on this link to transportation as well.. they may find it useful

<https://cloud.pix4d.com/site/164383/dataset/1177545/model?shareToken=8d011c6d-224b-4f5f-a13c-38645d750376>

The flat and 3D views can be accessed from the link

- **Open in Google Chrome (NOT MICROSOFT)**
- Select 2D Map or 3D Model at the bottom left
- Controls
 - Left mouse to drag
 - Right mouse to spin
 - Scroll to zoom
- In 3D mode
 - Select 3D textured mesh, or Point cloud from the left menu to see the 2 view modes
 - Cloud mode is “true” points from the modelling process
 - Mesh mode is an interpolated textured surface and is less accurate
- In 2D mode
 - The annotations tool is useful to place marks you want to keep track of on the plan.
 - If you click the text DSM – then you can drag the sliders or type in values for the limits of the coloured elevation data on the right hand area.

Some thoughts from site



- Although there are many small cut slopes adjacent to roads in Osbourne locally, that are standing up very well at 1:1 or steeper, there appears to be an old filled area that has been cut into by the new lower track.
 - My expectation is that this will not support itself, as it is already bulging.
 - This slope should be cut back to 1.5h:1V, or it should be retained.
 - If it is to be retained, then it is effectively a 1.5m+ wall supporting a sloped fill... and will need to be signed off by an appropriately qualified engineer
- Much of the fill is soft on the access track.
 - Mr Napier insists that this work is not finished and will be covered with crushed concrete and asphalt millings
 - I can appreciate that in the interim, access for vehicles on this track would be potentially difficult
- Some un-engineered side cast fill has been placed on a steep slope above the paper road to #13
 - This material has tumbled and come to rest against a mesh fence
 - Fill should not be placed on slopes steeper than 2h:1v without engineering
 - Mr Napier insists that he intends to complete a rock buttress at the bottom of this slope, and a placed stone facing on the slope to mitigate erosion
 - This should be assessed by a professional

- The residual track upslope now has an unsafe edge, with a potential drop of over a m high supported by a steep cut slope.
 - This should not be driven on, and should ideally be removed
 - It is not clear if this is to be retained for access to Mr Napier's property.
 - If this is the case, it should be assessed for stability and / or engineering retaining put in place.
- My measurements from the drone model estimate that approximately 100 m³ of material has been cut
 - This may actually be a permitted volume on his land – I would need to check
 - Notwithstanding this, approximately 30 m³ has been cut on paper road
- There are a number of roading construction issues.
 - The gradient on the initial descent is now significantly steeper than the previous track, at a local grade of 3.5H:1V.
 - A neighbour's concrete driveway to #17 has been cut, leaving a significant breakover angle to drive for access
 - The corner access to #13 is very steep and will be un-trafficable to every-day vehicles.
 - The fill is soft, and needs time and engineering to firm up.
 - Stormwater drainage has not been diverted

Advice

It is difficult to be overly concerned about the scale of the works from a natural hazards perspective.

Mr Napier feels that this is a community good, but appears to have undertaken no recorded consultation with his neighbours, and feels aggrieved at being reported for undertaking this work.

Notwithstanding this, the City is also a party in this, being the owner of the paper road on which much of the work has been undertaken.

I think that most of the concerns over the work will actually be drivability / gradient and interruption / disruption during construction, which is yet to be completed.

Much of the work could be underwritten relatively simply be a professional, and indeed that professional might provide detailing of further earthworks to avoid construction of retaining structures.

However, in it's current geometry, side cast fill would have to be pulled back, and some of the excavated faces supported, as they support driveway accesses above (if this is to be retained)

I hope this helps. Please let me know if you have any questions

Regards / Ngā mihi

Lee Paterson

BSc (Civil Engineering w Geology)

Senior Geotechnical Engineer

Advance-Certified Drone Pilot

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We have moved and you can now find us at:

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From: Peter Woods <Peter.Woods@dcc.govt.nz>

Sent: Tuesday, 7 June, 2022 9:59 AM

To: Paterson, Lee <Lee.Paterson@stantec.com>

Subject: RE: Emailing: IMG_4184.jpg, IMG_4178.jpg, IMG_4179.jpg, IMG_4180.jpg, IMG_4181.jpg, IMG_4182.jpg, IMG_4183.jpg

Yes COM-2022-66



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From: Lee Paterson <Lee.Paterson@stantec.com>

Sent: Tuesday, 7 June 2022 9:52 a.m.

To: Peter Woods <Peter.Woods@dcc.govt.nz>

Subject: RE: Emailing: IMG_4184.jpg, IMG_4178.jpg, IMG_4179.jpg, IMG_4180.jpg, IMG_4181.jpg, IMG_4182.jpg, IMG_4183.jpg

Got a COM number yet?

From: Peter Woods <Peter.Woods@dcc.govt.nz>

Sent: Thursday, 2 June, 2022 2:11 PM

To: Paterson, Lee <Lee.Paterson@stantec.com>

Subject: Emailing: IMG_4184.jpg, IMG_4178.jpg, IMG_4179.jpg, IMG_4180.jpg, IMG_4181.jpg, IMG_4182.jpg, IMG_4183.jpg

Hi Lee,

Can you look at these earthworks please. They are at the end of Bradley Road, Osborne. A local has taken it upon themselves to do some DIY road making. They will be applying for a consent.

If you could check it out with some recommendations, I would be grateful/ I'll get a COM number to you ASAP.

Regards

Peter Woods
HSNO/RMA Compliance
DCC



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