

APPENDIX 5

S95 ASSESSEMENT

TO: Campbell Thomson , Senior Planner

FROM: Liz Hislop, Consultant Planner

DATE: 7 February 2023

SUBJECT: **LUC-2021-619– NOTIFICATION ASSESSMENT**

Background

This is an application for a residential unit which is proposed at 317 Chain Hills Road, Taieri located within the Hill Slopes Rural Zone. The application was lodged with the Council on 28 October 2021.

The application was placed on hold on 29 November 2021 under s92(1) of the RMA and it was simultaneously requested that written approval be provided from the owners and occupiers of a number of properties.

Further information was provided by the applicant throughout 2022 with the final information being received on 10 November 2022. Further information was received as follows on the specified dates:

- 10 November 2022 – Confirmation from Dunedin Airport that the airport operators have no objection under Designation 274¹ and that the residential unit and proposed shed are below the 1.2% flight fan and will pose no operational issues for flights;
- 21 October 2022 – Updated concept plans submitted in PDF format;
- 10 October 2022 – Updated biodiversity restoration plan submitted;
- 4 October 2022 – Landscape assessment from Mike Moore, Landscape Architect submitted;
- 26 September 2022 – Driveway design and access information;
- 28 August 2022 – Information with respect to Otago Regional Council regulations with regard to wastewater and stormwater, septic tank plan and driveway information; and
- 12 July 2022 - Guidance from FENZ re alternative water supply for fire fighting purposes Fire Sprinkler System Specs, Soil Contamination Report, Preliminary Design for access to utilities, confirmation email from Delta confirming access to utilities, Prelim drawings from architect, updated Biodiversity plan from Ahika Consultancy and Preliminary Geotech Report from Geosolve.

Written approvals were provided on 16 December 2022 from two owners/occupiers (329 and 307 Chain Hills Road) but the other owners/occupiers requested (297 Chain Hills Road and 34 Paterson Road) were not provided and the applicant has requested that the application continue to be processed on this basis that written approvals are not provided.

In addition, it is noted that the application as originally submitted proposed a residential unit to be set back at least 20m from internal boundaries. As part of the further information received plans were provided that show the residential unit was proposed to be located 10m from the southern boundary. The owners of 307 Chain Hills have signed off on this.

¹ Dunedin International Airport Limited

Purpose Take-off and Approach Fan, Transitional (side) Surface, Horizontal and Conical Surfaces - Airport Approach and Land Use Controls

The Proposal

It is proposed to construct a residential unit and carry out associated earthworks, landscaping, access and planting for biodiversity. The key aspects of the proposal are as follows:

- A 253m², 3-bedroom single storey residential unit with office/guest room and a single garage;
- The residential unit would be located 10m from the southern internal boundary;
- The residential unit would have a maximum height of 5m above existing ground level;
- Finished colours are not provided but it is advised they "will not significantly contrast with the surrounding landscape";
- Roof colour will have a light reflectance value of 15% or less and wall colour will colour will have a light reflectance of 30% or less;
- Access to the site is off Chain Hills Road and separate entry and exit points onto Chain Hills Road is proposed;
- Earthworks will be required to form the building platform and the driveway;
- Extensive landscaping and planting are proposed as follows:
 - Two sites for restoration: Area 1 (0.5ha) and Area 2 (2.2ha)
- The extent of proposed earthworks are as follows:
 - Building platform:
 - Cut volume: -14m³
 - Fill volume: +131m³
 - Maximum cut depth – 0.6m
 - Maximum fill depth – 1.4m
 - Driveway/access:
 - 324m³ and maximum depth will be 0.3m
- All exterior lighting will be low glare down lighting and the vehicle access ways with the site will not have lighting

The plans also include a proposed shed which will be 14m x 6m in area. The applicant has confirmed that the shed will be designed to comply with Rule 16.3.4 Development Activity 5 which permits new buildings in rural zones subject to performance standards.

Servicing

Wastewater and stormwater

The applicant has provided confirmation that they have contacted Otago Regional Council (ORC) with respect to servicing (wastewater and stormwater).

ORC has provided the applicant the applicable regulations with respect to wastewater and storm water overflow plans for 317 Chain Hills Road. The applicant has advised that they have discussed the planned method with ORC and once their proposal to build the residential dwelling is approved then they will apply for a certificate of compliance from the ORC.

The Consents Officer at ORC advised (email 25 July 2022) there are no environmental factors around the site of the wastewater disposal field that will restrict the proposal from meeting the permitted activity rule. Whilst the officer could not confirm whether the stormwater would meet

the permitted rule without a full assessment of the proposal, the applicant has been provided with the rules around this.

Potable water

The applicant has advised that residential unit will be serviced by 2 x 30,000 litre water tanks (rainwater) and these are identified on the plans.

Fire fighting

The applicant has provided guidance from FENZ:

- Firefighting Water Supplies in Dunedin City Council Area info sheet April 2019v1.1; and
- Blaze Stop Sprinkler System Information.

The applicant has confirmed they will be installing a sprinkler system in the dwelling to mitigate the risk of fire and will comply with Rule 9.3.3. of the 2GP.

Power and telecommunications

The applicant has provided an email from Delta (28 June 2022) with respect to power supply, which includes a confirmed plan for installation noting power will be bought in from lines on Chain Hills Road. The applicants intend to use cell phone coverage.

Site and surrounding environment

The site is within the Hill Slopes Rural Zone at 317 Chain Hills Road, Taieri and is 6.1721 hectares more or less and is shown below in Figure 1.

The subject site is legally described as Lot 2 DP 23164 (held in Record of Title OT15B/171). The site has a narrow access off Chain Hills Road, which fans off mid site to extend into wider irregular shape.

The site is located on the north/north-western facing slopes of Chain Hills, overlooking Wingatui and the northern Taieri Plain. The entrance to the property, off Chain Hills Road, is located within the plateau ridge part of the hill. A broad secondary ridge covers large parts of site near the western boundary. A gully occupies areas near the eastern boundary. The lower (northern) parts of the site fall steeply toward residential Wingatui.

Landcover within the site comprises a mix of pasture, exotic scrub and regenerating bush on steeper areas, including the gully. Exotic shelterbelts (macrocarpa and Eucalyptus) are also a feature of the site.

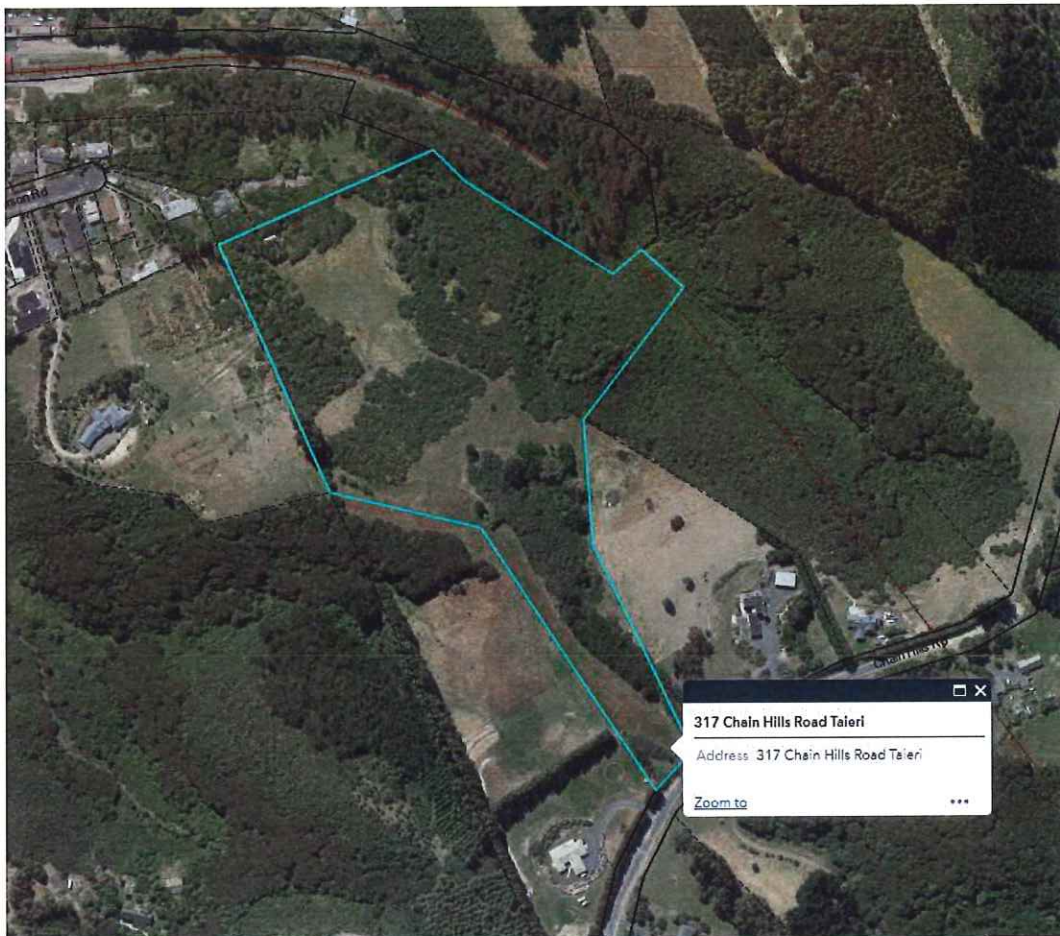


Figure 1. Site location

To the northwest of the site are properties zoned General Residential 1. To the west of the site part of the land is zoned Hill Slopes Rural. However, in respect of all the other boundaries, the properties from the North east to the southwest are zoned Rural Residential 1 as is illustrated in Figure 5 below.

A visit to the site and surrounds was carried out on 16 November 2021 and Figures 3 and 4 below show the area of the site where the driveway access is proposed and the approximate location of the proposed residential unit.



Figure 3. Looking north across the site in the area of the proposed driveway access (16/11/21)



Figure 4. Approximate location of proposed residential unit (16/11/21)

Dunedin Airport Flight Fan

The site is located within the Dunedin Airport Flight Fan overlay. As noted above, confirmation from Dunedin Airport has been provided which confirms the airport operators have no objection under Designation 274 and that the residential unit and proposed shed are below the 1.2% flight fan and will pose no operational issues for flights.

Highly productive land

A small area at the entrance to the site adjoining Chain Hills Road is classed as Land Use Class 3 as shown below in Figure 4.



Figure 4. Highly productive land classification

REASONS FOR APPLICATION

Dunedin currently has two district plans: the Operative Dunedin City District Plan 2006 (the "Operative District Plan", and the Proposed Second Generation Dunedin City District Plan (the "Proposed 2GP"). Until the Proposed 2GP is made fully operative, both district plans need to be considered in determining the activity status and deciding what aspects of the activity require resource consent.

The activity status of the application is fixed by the provisions in place when the application was first lodged, pursuant to section 88A of the Resource Management Act 1991. However, it is the provisions of both district plans in force at the time of the decision that must be had regard to when assessing the application.

Operative District Plan

The subject site is zoned **Rural** in the Operative District Plan but the rule provisions of that zoning have been superseded by the 2GP, and are deemed inoperative in accordance with Section 86F of the Resource Management Act 1991

Proposed 2GP

The subject site is zoned **Hill Slopes Rural Zone** in Section 16 Rural Zones of the 2GP as shown in Figure 5. The site is subject to the following Designations:

- D274: Dunedin International Airport Limited – Take-off and Approach Fan, Transitional (side) Surface, Horizontal and Conical Surfaces – Airport Approach and Land Use Controls.

The Dunedin Airport Flight Fan is an overlay that **applies to the entire site** and numerous other properties

- D419: Kiwirail Holdings Limited – Main South Railway – Railway Purposes. This designation relates solely to the route of railway tunnel for the main south line which crosses under the **east extremity of the site only** and has no bearing on the proposal.

The Proposed 2GP was notified on 26 September 2015, and some Proposed 2GP rules had immediate legal effect from this date. Some rules became fully operative following the close of submissions, where no submissions were received. Additional rules came into legal effect upon the release of decisions. Those additional rules become fully operative if no appeals are lodged or once any appeals have been resolved.

The proposal falls under the definitions of Residential unit² and Residential Activity³. Under the Proposed 2GP, activities have both a land use activity and a development activity component.

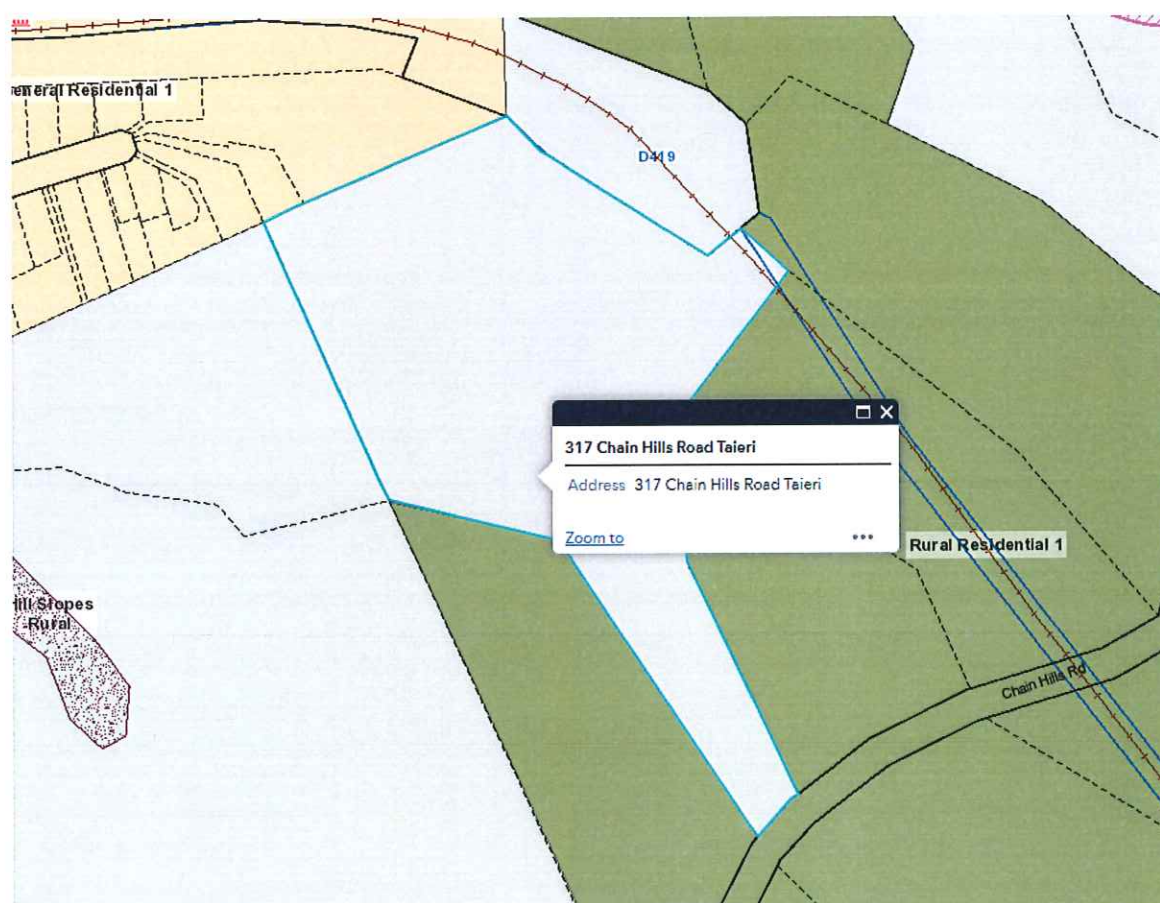


Figure 5. Extract from the 2GP zoning map

² For the purposes of determining density, a **residential unit** is any building, or part of a building, that is capable of being used as a self-contained residence with sleeping, cooking, bathing, and toilet facilities.

³ The category of land use activities that consists of: supported living facilities (including rest homes, retirement villages, and student hostels) **standard residential** (including papakāika); and working from home.

Land Use Activity

Land use performance standards -

Rule 16.5.2 Land Use Performance Standards. Rule 16.5.2 Density.

The maximum density of standard residential activity in the Hill Slopes Rural Zone is 15ha (minimum site size – first residential activity per site). The site is 6.1721ha so does not meet the minimum density requirements for residential activity. Rule 16.5.2 clause 3 states that standard residential activity that contravenes the performance standard for density is a **non-complying activity**.

Development Activity

Development Performance Standards –

Rule 16.6.10 Setbacks. Rule 16.6.10.1 (a)(i) Boundary setbacks states that the minimum setback from side and rear boundaries within sites held in separate ownership is the greater of either: i. 20m; or ii. a setback that provides a 40m separation from any residential building on any adjoining site.

The proposed residential will be set setback 10m from southern internal boundary at the closest point. Activities that contravene this performance standard are **restricted discretionary activities**.

City-wide activities

Section 8A Earthworks. The proposed earthworks that do not meet the earthworks – small scale thresholds performance standard as per Activity status table 8A.3.2 given a combined 469m³ of earthworks for the building platform and driveway is proposed which exceeds the small scale threshold and therefore the Earthworks is classified as large scale which is a **restricted discretionary activity**.

National Environmental Standards

The Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 came into effect on 1 January 2012. The National Environmental Standard 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 National Environmental Standard and/or might require resource consent.

The property is not identified in the Otago Regional Council's database of HAIL sites. A HAIL search report has been prepared by Dunedin City Council for the site (HAIL-2022-73), which did not identify any HAIL activities in relation to information held in the DCC records. No other information has been provided with the application that indicates a likelihood of any history of HAIL activities at the site.

It is considered, more likely than not, that no activities have been undertaken on the site that appear on the HAIL. As such, the National Environmental Standard is not applicable to the proposal.

Overall Status

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, there is more than one rule involved, and the effects are linked. As a result, having regard to the most restrictive activity classification, the proposal is considered to be a **non-complying activity**.

National Policy Statement for Highly Productive Land 2022

- [1] The National Policy Statement for Highly Productive Land (NPS-HPL) was released recently and came into effect on 17 October 2022, following the lodgement of this application. This NPS is about ensuring the availability of New Zealand's most favourable soils for food and fibre production, now and for future generations. The objectives, policies and implementation clauses have immediate legal effect, and thus Council must take relevant provisions into account when considering consent applications and plan changes. The NPS contains direction around urban and rural lifestyle rezoning and subdivision, use and development of highly productive land.
- [2] Highly Productive Land (HPL) is defined in cl 1.3 of the NPS-HL as:
- '.. land that has been mapped in accordance with clause 3.4 and is included in an operative regional policy statement as required by clause 3.5 (but see clause 3.5(7) for what is treated as highly productive land before the maps are included in an operative regional policy statement and clause 3.5(6) for when land is rezoned and therefore ceases to be highly productive land).'*
- [3] Clause 3.5(7) is currently relevant. In Dunedin, land currently treated as HPL as per cl 3.5(7) of the NPS is identified here: <https://www.dunedin.govt.nz/council/district-plan/monitoring-and-research/highly-productive-land-map>
- [4] As noted earlier in this report a small part of the subject site is within this HPL mapped area. Of the total 6.17ha within the subject site, the land in question would only be in the order of 1000m² (0.1ha). This land does not comprise the location of the proposed dwelling, and the proposed activity in relation to this part of the site is for the vehicle access and installation of some services.
- [5] Under the NPS-HPL, Councils must (among other matters):
- Avoid the subdivision of HPL unless certain criteria are met, such as an application demonstrating proposed lots will retain overall productive capacity of the subject land over the long term (Clause 3.8(1)(a)).
 - Avoid, if possible, or otherwise mitigate, any potential cumulative loss of the availability and productive capacity of highly productive land in their district (Clause 3.8(2)(a)).
 - Avoid, if possible, or otherwise mitigate, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities (Clause 3.8(2)(b)).
 - Avoid the inappropriate use or development of HPL that is not land-based primary production (Clause 3.9). A list of exceptions is given such as providing for activities supporting land based primary production (Clause 3.9(2)(a)); or it is a small-scale or

temporary land-use activity that has no impact on the productive capacity of the land (Clause 3.9(2)(g)).

[6] Land-based primary production is defined as:

'.. production, from agricultural, pastoral, horticultural, or forestry activities, that is reliant on the soil resource of the land.'

[7] While the NPS – HPL was not in effect at the time of the application's lodgement, it came into effect on 17 October 2022 and therefore must be considered during the assessment of this application. The area within the subject site classified as highly productive land is too small on its own for any productive potential for farming purposes. It is surrounded by land within rural residential zoned properties held in different ownership. The proposal does nothing to maintain what productive capacity the land may have. However, it is unlikely to result in cumulative loss of productive capacity or introduce reverse sensitivity issues.

Public Notification

Section 95A of the Resource Management Act 1991 sets out a step-by-step process for determining public notification.

Step 1: Mandatory public notification in certain circumstances

- If the answer to any of the below questions is yes, then public notification is required and consideration of the other steps in Section 95A is not needed.

Question	Yes	No	N/A	Assessment Notes
Has the applicant requested public notification? (s95A(3)(a))	–	✓	–	
Is public notification required under Section 95C (applicant has not provided or refuses to provide further information; or, applicant refuses to agree to commissioning of report or does not respond to report commissioning request)? (s95A(3)(b))	–	✓	–	Further information has been provided as requested.
Has the application been made jointly with an application to exchange recreation reserve land under Section 15AA of the Reserves Act 1977? (s95A(3)(c))	–	✓	–	

Step 2: If not required by Step 1, public notification precluded in certain circumstances

- If the answer is yes to any of the below questions, then Step 3 must be skipped and Step 4 considered.
- If the answer is no to all of these questions, then Step 3 must be considered.

Question	Yes	No	N/A	Assessment Notes
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Does a rule or national environmental standard preclude public notification of each activity in the application? (s95A(5)(a))	—	✓	—	
Is the application for one or more of the following, but no other, activities:				
• A controlled activity? (s95A(5)(b)(i))	—	✓	—	
• A restricted discretionary, discretionary or non-complying 'boundary activity'? (s95A(5)(b)(iii))	—	✓	—	

Step 3: If not precluded by Step 2, public notification required in certain circumstances

- If any of the answers to these questions is yes, then public notification is required and consideration of Step 4 is not needed. If the application is for multiple activities and is being processed as a 'bundled application', and any part of that application meets either of the below criteria, the application must be publicly notified in its entirety.
- If the answer to both of these questions is no, then Step 4 must be considered.

Question	Yes	No	N/A	Assessment Notes
Does a rule or national environmental standard require public notification of the activity or any of the activities? (s95A(8)(a))	—	✓	—	A HAIL assessment in 2022 (HAIL 2022-73) did not identify any evidence in the Council records of a history of HAIL activity on the property. Further, the site is not listed in the Otago Regional Council's contamination/HAIL database. On the basis of the available information, the NESCS is therefore not considered relevant to the processing of the application
Will the activity have, or be likely to have, adverse effects on the environment that are more than minor? (s95A(8)(b) and s95D)	—	✓	—	See the effects assessment below

Permitted Baseline Effects Assessment

There are a number of permitted activities which could be carried out on the site including the following:

- Domestic animal breeding and breeding (not including dogs);

- Farming;
- Forestry not in the RTZ;
- Grazing;
- Mineral prospecting/exploration;
- Rural ancillary retail;
- Rural tourism – small scale;
- Rural research – small scale;
- Conservation;
- Community and leisure – small scale;
- Rural contractor and transport depots – small scale;
- Emergency services;

It is not considered the effects of any permitted activities is comparable to the effects of residential activity on an undersized rural allotment.

The activity is **non-complying** and must therefore be broadly assessed, as all potential environmental effects of the proposal are relevant to consideration of the application. Key effects consideration in this case are as follows:

- Biodiversity values
- Productive soils
- Rural Character/landscape values (It is noted that effects on rural amenity are discussed below in relation to effects on persons).
- Natural hazards
- Transportation
- Earthworks
- Cumulative effects

The relevant objectives and policies provide guidance in terms of the assessment of effects and are referred to where relevant to provide context for the assessment of effects.

Biodiversity values

Biodiversity values are a key matter requiring assessment noting Policy 16.2.1.7 is directive and states:

Avoid residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless:

X. it is the result of a surplus dwelling subdivision; or

Y. the residential activity will be associated with long term land management and/or capital investment that will result in:

- significant positive effects for rural productivity; and/or*
- a significant contribution to the enhancement or protection of biodiversity values.*

The proposal is not the result of a surplus dwelling subdivision therefore clause X. is not applicable. As such, turning to clause Y when considering the use of rural land for residential activity, the contribution to the enhancement or protection of biodiversity values is relevant.

To establish how the proposal will contribute to biodiversity values, the applicant provided a restoration plan from Ahikā (ecological consultants) in October 2022 (updated third version) (**Appendix A**).

Ms Zoe Lunnis (Biodiversity Advisor for DCC) has reviewed the restoration plan and provided a memo dated 26 October 2022 (**Appendix B**), which is referred to in the following assessment.

Ms Lunnis notes that the restoration plan proposes the transition of gorse shrubland to native vegetation representative of the area through planting 25m² 'pockets' with indigenous species (around 416 plants per pocket).

The planting would be in two areas identified as Area 1 (0.5ha) and Area 2 (2.2ha), which are both fenced areas. Further, Ms Lunnis states that gorse acts as a nursery plant for native seedlings and can help protect them as they grow. Ideally, indigenous plantings will reproduce and eventually outcompete the gorse. Control of prolific and/or problematic weeds, creation of additional habitat to support local skink species, and the permanent protection of Area 1 and 2 through a covenant is also envisaged for the site. Ahikā suggests a 10-year commitment to this restoration plan.

Ms Lunnis considers that the restoration plan provided in October 2022 will result in a significant contribution to the enhancement biodiversity values in the local area provided the applicants are required to undertake all of the recommendations Ahikā has suggested in the restoration plan.

Ms Lunnis recommends the applicants 'report back' with photographic evidence to the Council with the progression of restoration at the site every 3-5 years to demonstrate contribution to the enhancement of biodiversity values at the site.

Given the 10-year commitment to this restoration plan suggested by Ahikā appropriate reporting back 1 year after completion of the residential unit and 5 and 10 years thereafter is recommended. The applicant has agreed to these requirements including a covenant being placed on the title of the property to retain Areas 1 and 2 in perpetuity.

Summary

Based on the recommendations from Ms Lunnis for the above reasons, it is considered that the proposal will provide a significant contribution to the enhancement of biodiversity values and therefore any effects on biodiversity will be less than minor.

Productive soils

Productive soils are a relevant matter for assessment noting a small section of the site identified in Figure 4 above is classified as highly productive land and the directive nature of Policy 16.2.4.2 which states:

Only allow activities other than farming on highly productive land where:

- a. the scale, size and nature of the activity means that any loss of current or potential future rural productivity would be:*
 - i. insignificant in any high class soils mapped area; and*
 - ii. no more than minor in other areas of highly productive land; unless*
- b. for mining, the activity must locate on highly productive land due to operational requirements and there are no practicable alternative locations.*

With reference to Figure 4 above it is noted the residential unit would not be sited on highly productive land with only the access to the building site passing through the small area of the site

adjoining Chain Hills Road, which is classified as highly productive land. For this reason, it is considered that any effect on highly productive land will be less than minor.

Rural Character/landscape values

Rural character/landscape values are a relevant matter for assessment. Policy 16.2.3.1 states:

Require residential activity to be at a density that maintains the rural character values and visual amenity of the rural zones.

Section 16.1 of the 2GP states:

“the minimum site size required for new residential activities (Rule 16.5.2 Density) is set based on the median rural property size in each rural zone, to better reflect the current pattern of subdivision (which includes sites that are not used for commercial farming). The use of median rather than average property size as a basis for this standard reduces the number of existing sites that fall below the density standard for new residential activity because the median rural property size is lower than the average rural property size in all rural zones.”

Appendix 7 Rural Character Values, A7.5 Hills Slopes Rural Zone describes and identifies the values associated with this zone with values identified as:

1. Backdrop/enclosure
2. Distinctive hill features
3. Recreation
4. A predominance of natural features over humanmade features
5. Pockets of important and varied biodiversity

The applicant has provided a Landscape Effects Assessment Report prepared by Mike Moore, Landscape Architect dated 30 September 2022 (**Appendix C**). Mr Luke McKinlay, Landscape Architect for the Council has provided a memo dated 19 October 2022 having reviewed Mr Moore’s assessment (**Appendix D**).

Mr Moore considers that the property at 317 Chain Hills Road currently contributes to the landscape values of Chain Hills through:

- Its open, unbuilt character;
- The broad vegetation pattern of pasture on the gentler spur and scrub / regenerating forest on the steeper slope / gully-side areas, which reflects the natural landform; and
- The presence of indigenous vegetation.

Mr Moore considers that the proposed house will not be visible from Chain Hills Road. Mr Moore notes a few dwellings accessed off Chain Hills Road at greater distance to the south-west (215 and 253) will have views of the house initially, but given its low profile from this angle, recommended dark colour scheme, and over 500m viewing distance, visual effects will be modest. Mr Moore states that the proposed plantings will quickly screen any views of the house completely.

Mr Moore considers that the key viewpoints impacted by the proposed development are on the Taieri Plain below, including parts of Mosgiel and Wingatui). Further, Mr Moore states from near the Wingatui Hall and other viewpoints in similar relationship to the house site on the hillside above, the dwelling will be seen on the skyline. More generally, Mr Moore considers the house will be seen with a backdrop of landforms and trees.

Mr Moore states that mitigating factors include:

- Its low profile and alignment along the contour;
- A visually recessive colour scheme; and
- The proposed plantings mature, these will screen or soften its visual impact and provide context and backdrop.

The applicant has agreed to the following mitigation as recommended by Mr Moore:

- (a) *With the exception of the corten steel components (which are to be allowed to weather naturally) and the concrete block screen wall to the south side of the house (which will not be visible from beyond the site), the roof, walls and foundation of the house are to be finished in colours with light reflectivity values (LRV) of 10% or less.*
- (b) *The plantings shown in Figure 7 and described in Appendix A are to be fully implemented as follows:*
- *Areas A and B - no later than 12 months following occupation of the house.*
 - *Area C – no later than 3 years following occupation of the house*
- Thereafter, all plantings are to be maintained and managed to ensure their ongoing health and vitality, and that their mitigating function is sustained.*
- (c) *The access driveway is to retain a rural character with gravel surface and soft edges (i.e. no kerbs). Monumental gates and driveway lighting is not permitted.*
- (d) *Fencing is to be confined to standard rural post and wire construction or stone walls using locally appropriate rock.*

In Mr Moore's opinion, the proposed development does not represent a departure from the existing character of Chain Hills, but rather a minor adjustment in the relationship and relative dominance of open pasture verses-built form and associated planting. Mr Moore notes domestication will be increased, but along with this will come increased indigenous vegetation and enhanced biodiversity. Mr Moore considers that the resulting pasture / forest vegetation pattern will integrate acceptably on the landform.

Mr Moore notes that this zone has values associated with rural / natural settings for urban areas within the city. In Mr Moore's assessment, these values are now significantly compromised on Chain Hills.

Further, Mr Moore states that the proposed house is located in a relatively prominent position but is low in profile and aligns well with the landform. Earthworks effects will not be significant and built impact can be mitigated by a recommended recessive colour scheme. Significant plantings to help set the house in, screen it and provide a more dominant natural setting are proposed. These will also have biodiversity benefits.

Overall, assuming adoption of the recommended mitigation measures, Mr Moore has assessed the effects of the proposed development on the recognised landscape values as adverse in nature but minor in degree initially, reducing to adverse / less than minor in the long term.

Mr McKinlay advises that he generally agrees with Mr Moore that key viewpoints potentially impacted by the proposed development are predominantly located on the Taieri Plains. Mr McKinlay states that the viewpoints provided in the graphic material attached to Mr Moore's report provide a reasonable range of representative view locations. It is agreed that the generally low form of the dwelling, use of recessive colours and proposed mitigation planting will help to lessen potential adverse effects associated with the domestication of this rural site. In Mr McKinlay's opinion, Mr Moore's assessment of the extent of effects appears reasonable, with

initial adverse/moderate-low effects reducing to adverse/very low as the proposed mitigation planting matures.

In general, Mr McKinlay agrees that the proposed development will not represent a strongly contrasting departure from the existing character of Chain Hills but will result in a “minor adjustment in the relationship and relative dominance of open pasture verses built form and associated planting”.

Mr McKinlay agrees that the proposed planting will help to visually integrate the proposed building in this location and that planting to the south of the proposed dwelling will, in time, be capable of proving a backdrop to the dwelling as viewed from locations on the Taieri Plain. Mr McKinlay agrees that in addition to providing visual integration, the proposed planting will also contribute positively to indigenous biodiversity in this area (an area of approximately 1400m² is proposed to be planted).

Mr McKinlay notes that given that the gorse in front of the dwelling has been removed, it is unclear why the proposed Planting Area C follows the boundary of this pre-existing patch of gorse. If there is no supporting reason for this shape, as shown in figure 7(a), it is recommended that this area is re-shaped to follow the contour lines of this hillside.

Overall, Mr McKinlay recommends that Mr Moore’s mitigation measures are adopted in full as conditions of consent, with a minor amendment to the shape of planting area C and he has provided a diagram showing this. The applicant has agreed to McKinlay’s recommendation.

Summary

On the basis of Mr McKinlay’s assessment and recommendations it is considered with the proposed mitigation agreed by the applicant that any effects of the proposed residential unit on an undersized allotment with respect to rural character and landscape values will be no more than minor.

Natural hazards

The site is not subject to any hazard overlays in the 2GP. However, the applicant was requested to provide a geotechnical assessment as to the suitability of the site for building on.

The applicant provided a Preliminary Geotechnical Assessment from Geosolve dated 22 November 2021 (**Appendix E**). This assessment has considered slope stability. The assessment notes that the site partly contains a large ancient landslide feature which also extends onto at least 3 neighbouring sites. As such the main geotechnical consideration at this site relates to mapped landslide.

The Geosolve report concludes that based on their desktop review and site inspection by an engineering geologist, they consider that the location of the proposed building platform on a subdued moderately-sloping ridge is likely to present a low risk of landslide activity. Given the site is likely to be underlain by schist rock and they note that the dwelling would be set back by 15 m from the lateral scarp and headscarp of the ancient landslide that shows no evidence of current activity.

Geosolve recommends:

- *that subsurface test pitting investigations are carried out to determine the full ground model and to support detailed design of the dwelling, when plans become available.*

- *best practice disposal of stormwater and wastewater, cut-off drains, sufficient connection of foundations to competent soils/rock, and engineering design or overview of any earthworks and retaining walls.*
- *the setback from the ancient landslide should be confirmed following these investigations, however the current proposal of 15m appears likely to be suitable.*

Overall, Geosolve considers that provided their recommendations are followed the proposed site is generally suitable for residential land use and that the development can be carried out without exacerbating instability on the site or any neighbouring site.

The Council's geotechnical consultants, Stantec have reviewed the Geosolve report and provided their own assessment of the proposal on 3 December 2021 (**Appendix F**).

Mr Edward Guerreiro (Geotechnical Engineer – Stantec) advised that the proposed activity includes the possibility for earthworks on moderately sloping ground and has made the following recommendations:

- *All walls retaining over 1.5m, or supporting a surcharge / slope, including terracing, require design, specification and supervision by appropriately qualified person/s*
- *Any earth fill over 0.6m thick supporting foundations must be specified and supervised by a suitably qualified person in accordance with NZS 4431-1989 Code of Practice for Earthfill for Residential Development*
- *Slopes may not be cut steeper than 1:1 (45°) or two metres high without specific engineering design and construction*
- *Slopes may not be filled steeper than 2h:1v (27°) or two metres high without specific engineering design and construction*
- *As-built records of the final extent and thickness of any un-engineered fill should be recorded*
- *Any modifications to stormwater flow or new culverts shall be designed by appropriately qualified person/s and ensure that overland stormwater flows are not interrupted and not increase any adverse effects from local ponding during storm rainfall events.*
- *Any earthworks on slopes greater than 20 degrees (if any) should be subject to specific geotechnical design, supervision and certification by a suitably qualified engineer, confirming the site is suitably stable and that the works will not introduce any further instability.*

Summary

Taking into account the above assessment and recommendations from Mr Guerreiro it is considered that any geotechnical effects with respect to slope stability will be less than minor.

Transportation

The Council's consultant Transport Planner, Mr Antoni Facey has provided a memo dated 27 September 2022 (**Appendix G**).

Mr Facey notes that the applicant proposes to create a new driveway within the site in order to access the proposed dwelling. Chain Hills Road is classified as a Local Road and comprises a metalled surface within the section that provides access to the property.

Access

Mr Facey states that the site is accessed via Chain Hills Road, which comprises a metalled surface in the vicinity of the site. Mr Facey notes that this section of road serves isolated residential homes that are associated with the Rural Residential zoning of the area.

The site enjoys approximately 37m of frontage to Chain Hills Road. The applicant proposes to construct a new driveway off Chain Hills Road that will follow the natural contour of the land. A plan showing two vehicle accesses has been provided by the applicant. Mr Facey notes that while it is unclear why two vehicle accesses are required to the single residential unit, the site is entitled to two accesses under Rule 6.6.3.1 of the 2GP.

Mr Facey has advised Sight Distances are consistent with Rule 6.6.3.2 of the 2GP.

Mr Facey notes that the vehicle crossing does not accord to any standards recognised by the DCC and would therefore need to be upgraded and access will need to be constructed to DCC standards. In accordance with Rule 6.6.3.9.a.iv. the vehicle accesses must be a minimum 3.5m formed width and be adequately drained for its full duration.

Due to the location of the site on sloping terrain, Mr Facey has recommended the vehicle access to be constructed in accordance with the 2GP's gradient standards, pursuant to Rule 6.6.3.7. Specifically, the maximum change in gradient without transition for the vehicular access must be no greater than 1 in 8 for summit grade changes or 1 in 6.7 for sag grade changes.

Mr Facey's recommendations are accepted, and, on this basis, it is considered any effects in relation to access will be less than minor.

Parking and manoeuvring

Due to the size of the site and its rural location, Mr Facey anticipates that adequate provisions will be provided as part of the development of the site.

Generated Traffic

The proposed development will result in one additional dwelling being served by this section of Chain Hills Road. Mr Facey notes that with reference to the Code of Subdivision, it is anticipated that the proposed dwelling will generate in the order of 8 additional daily trips.

Mr Facey states that it is evident from Council's RAMM database that the south-western section of Chain Hills Road carries an Average Daily Traffic amount of 313 vehicle movements (count from 2019). Mr Facey expects that the subject section of Chain Hills Road accommodates even lower traffic volumes. While Chain Hills Road is not sealed, Mr Facey considers that the available infrastructure is appropriate for the amount of traffic currently utilising it, and also traffic that will be generated by the proposed dwelling.

Mr Facey considers that the traffic volumes associated with the proposed residential activity on the site can safely and efficiently be accommodated into the existing transport environment.

Mr Facey notes in conclusion that Transport considers the effects of the proposed development on the transportation network to be less than minor, subject to the following conditions.

- (i) *The vehicle accesses must be a minimum 3.5m formed width and adequately drained for its duration.*

- (ii) *The maximum change in gradient without transition for the vehicular access must be no greater than 1 in 8 for summit grade changes or 1 in 6.7 for sag grade changes.*
- (iii) *Any damage to any part of the road formation as a result of the demolition or construction works must be reinstated at the applicant's cost.*

Summary

Taking into account the above assessment and recommendations from Mr Facey it is considered any effects with respect to transportation will be less than minor.

Earthworks

Earthworks will be required both to form the driveway/access and facilitate the building platform. Earthworks can cause nuisance and dust, adversely affect water quality, and affect land stability.

The proposed earthworks are not significant within the context of the overall site and will be carried out over a short period of time. The respective landscape architects have not raised concerns about the visual effects of the earthworks on the site.

As noted above, Mr Edward Guerreiro has made a number of recommendations to mitigate any effects in relation to instability from the earthworks and stormwater flow.

It is considered that any effects of the proposed earthworks can be mitigated through recommendations to manage effects such as an Environmental Management Plan requiring erosion and sediment controls. For these reasons it is considered any effects of the earthworks will be less than minor.

Cumulative effects

Policy 16.2.4.4 provides relevant guidance with respect to cumulative effects resulting from density in the rural zone. Policy 16.2.4.4 states:

Require residential activity in the rural zones to be at a density that will not, over time and/or cumulatively, reduce rural productivity by displacing rural activities.

It is considered that the proposal will not reduce productivity by replacing any rural activities, which could currently occur on this undersized allotment. The rural productivity of the site is already limited by its small size. The balance of the land not used for residential activity or to enhance biodiversity can still be used for rural activities such as stock grazing. The site is on the periphery of the Hill Slopes Rural Zone with sites surrounding (except to the west) zoned Rural Residential and serves as a 'book end' to the zone. The Kiwirail designation cuts through this area but is confined to a transport route which is mainly underground to the east of the site. It is considered that any cumulative effects will be no more than minor.

Effects Assessment Conclusion

Having considered the expert advice and recommendations it is considered that the overall adverse effects of this development will be minor.

Policy and precedent implications in relation to special circumstances are discussed below.

Step 4: Public notification in special circumstances

- If the answer is yes to this question, then the application must be publicly notified.
- If the answer is no, then the application needs to be considered for limited notification.

Question	Yes	No	N/A	Assessment Notes
Do special circumstances exist that warrant the public notification of the application? (s95A(9))	—	✓	—	See assessment below

I have considered whether the proposal which is a non-complying activity is a special circumstance that warrants notification. I have assessment the relevant rural objectives and policies and considered precedent.

Objectives 16.2.1, 16.2.2, 16.2.3 and 16.2.4 and there supporting policies are relevant considerations.

In particular Policy 16.2.17, which is outlined above, states avoid (added emphasis) *residential activity in the rural zones on a site that does not comply with the density standards for the zone, unless:*

X. it is the result of a surplus dwelling subdivision; or

Y. the residential activity will be associated with long term land management and/or capital investment that will result in:

- i. significant positive effects for rural productivity; and/or*
- ii a significant contribution to the enhancement or protection of biodiversity values.*

In addition, as outlined above Policy 16.2.4.2 states:

Only allow activities other than farming on highly productive land where:

- c. the scale, size and nature of the activity means that any loss of current or potential future rural productivity would be:*
 - iii. insignificant in any high class soils mapped area; and*
 - iv. no more than minor in other areas of highly productive land; unless*
- d. for mining, the activity must locate on highly productive land due to operational requirements and there are no practicable alternative locations.*

Taking into account the above assessment of effects, which specifically addresses the contribution of the proposal to enhancement of biodiversity and notes the small area of highly productive land at the entrance to the property, it considered that although the site is significantly below permitted density this in itself does not justify public notification as a special circumstance.

In addition, the relevant zone objectives seek minimisation of reverse sensitivity, reduce potential for conflict between activities in rural zones and adjoining residential zones, maintain or enhance the rural character values and amenity of rural zones and maintain the productivity of rural activities in the rural zones. It is considered that the proposal is not in conflict with any of these matters which would justify public notification as a special circumstance.

Precedent

As the proposal is non-complying, the issue of precedent (a consideration for this application under Section 104(1)(c) of the Resource Management Act 1991) has been considered. In this case it is considered there may be a potential undesirable precedent from approving this application. It is considered the granting of the application would not necessarily lead to a proliferation of such activities, but there could be other parties that seek to rely on the decision. Despite this, it is not considered that this potential undesirable precedent is a "special circumstance" that necessitates the public notification of the application.

There is nothing particularly unusual about the application. Having regard to the case law on special circumstances and legal advice the Council has received on when the application of special circumstances is appropriate, it is considered policy and precedent implications can be adequately assessed and considered through the consent process (in particular, the assessment under Section 104). The policy and precedent issues do not necessitate the public notification of the application in this case.

Limited Notification

Section 95B of the Resource Management Act 1991 sets out a step-by-step process for determining limited notification. The Council must decide whether there is any affected person, affected protected customary rights group, or affected customary marine title group in relation to the activity.

Step 1: Certain affected groups and affected persons must be notified

- If there is any affected protected customary rights group or affected customary marine title group, or any person to whom a statutory acknowledgement has been made that is affected in a minor or more than minor way, then the application must be limited notified to these parties unless their written approval has been obtained.
- Irrespective of the above, Step 2 must then be considered.

Question	Yes	No	N/A	Assessment Notes
Is the activity in a protected customary rights area?	—	✓	—	
Will the activity have adverse effects on the protected customary right?	—	—	—	n/a, the activity is not in a protected customary rights area.
Has the protected customary rights group given written approval for the activity and it has not been withdrawn?	—	—	✓	n/a, the activity is not in a protected customary rights area.
Is the activity an accommodated activity in a customary marine title area?	—	✓	—	
Does the activity have adverse effects on the exercise of the rights applying to a customary marine title group?	—	—	✓	n/a, the activity is not an accommodated activity in a customary marine title area.
Has the customary marine title group given written approval for the activity and it has not been withdrawn?	—	—	✓	n/a, the activity is not an accommodated activity in a customary marine title area.

Is the activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement? (s95B(3) and s95E(2)(c))	—	✓	—	
Is the person to whom the statutory acknowledgement made affected in a minor or more than minor way and has their written approval been obtained? (s95B(3) and s95E(2)(c))	—	—	✓	n/a, the activity is not on or adjacent to, or might affect, land that is subject of a statutory acknowledgement.

Step 2: If not required by Step 1, limited notification precluded in certain circumstances

- If the answer is yes to any of these questions, then Step 3 must be skipped and Step 4 considered.
- If the answer is no to all of these questions, then Step 3 must be considered.

Question	Yes	No	N/A	Assessment Notes
Does a rule or national environmental standard preclude limited notification of each activity in the application? (s95B(6)(a))	—	✓	—	
Is the application for a controlled activity (and no other activities) under the district plan(s) and is not a subdivision? (s95B(6)(b)(i))	—	✓	—	

Step 3: If not precluded by Step 2, certain other affected persons must be notified

- If there are any persons who might be adversely affected, then the application must be limited notified to these parties unless their written approval has been obtained.
- Irrespective of the above, Step 4 must then be considered.

Question	Yes	No	N/A	Assessment Notes
Is the application for a 'boundary activity', and have all owners of an allotment with an 'infringed boundary', where the activity's adverse effects on the owner are minor or more than minor (but are not less than minor), given written approval? (s95B(7)(a))	—	✓	—	
In all other cases, will the activity have adverse effects on any person that is minor or more than minor (but not less than minor), and have these persons given their written approval?	✓	—	—	See effects assessment above and the further assessment below

(s95B(8) and s95E)				
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The effects of the proposed activity are assessed as minor overall such that public notification of the application is not required.

Effects on any person(s)

Figure 6 below identifies surrounding neighbouring properties with the approximate location of the proposed residential unit indicated by the red 'circle'.

The applicant has provided written approval from the owners/occupiers of 307 Chain Hills Road and 329 Chain Hills Road (both in Rural Residential Zone) as such any effects on these persons must be disregarded.

Two parties (34 Paterson Road and 297 Chain Hills Road) that have been assessed as being exposed to minor effects have not signed affected party approval forms.



Figure 6. Surrounding neighbouring properties (site of proposed residential unit indicated by red 'circle')

297 Chain Hills Road

This site is zoned Hill Slopes Rural in the 2GP and is located to the southwest of the site. It is relevant to consider the effects on rural character and rural amenity which may occur as a result of residential activity in the rural zone at the density proposed.

It was requested that the applicant provide written approval from the owners/occupiers of this property when the further information letter was sent in 2021.

The applicant has attempted to gain written approval. However, the owner of this property, Sam Guest has raised concerns with the proposal in an email dated 7 December 2022.

Mr Guest's concern is that Mike Moore's Landscape Effects Assessment Report does not address the visual impact (or potential impact) on their house at 297 Chain Hills Road.

Mr Guest's concerns relate to visual impact (both lights at night and having a dwelling on the ridge) and potential noise. Furthermore, Mr Guest has raised an issue with the dwelling being right on the spur and within the 20m set back (breaching Rule 16.6.10 1A) which could make the building appear on the ridgeline.

Mr Guest notes that when he purchased his property, he did so in the knowledge that further development in his sightlines would be restricted, noting there was little that would impact his view and privacy in the future.

Mr Guest states that he cannot be sure what impact there is without further information (this may include some sort of 'mock up' of the dwelling levels) and he cannot accept Mike Moore's complete silence on the impact on his property. As such written approval has not been provided.

Assessment -

The use of the site for residential activity will result in additional activity on the site beyond that reasonably anticipated in a rural site of this size and this will include additional noise from vehicles and people, potential light spill and loss of privacy as well as the visual effects, which may occur as a result of the location of the built form. These effects will be noticeable because of the distance of this property to the neighbouring site and given this site is also within the Hill Slopes Rural zone.

It is considered that there would be at least a minor effect on the rural character and the amenity of the owners/occupiers of 297 Chain Hills Road as a result of the proposed residential activity and location of the built form.

34 Paterson Road

This site is zoned Hill Slopes Rural in the 2GP and immediately adjoins to the northwest of the site. It is relevant to consider the effects on rural character and rural amenity which may occur as a result of residential activity in the rural zone at the density proposed.

It was requested that the applicant provide written approval from the owners/occupiers of this property when the further information letter was sent in 2021. The applicant has attempted to gain written approval, however, this has not been provided.

Assessment -

The use of the site for residential activity will result in additional activity on the site beyond that reasonably anticipated in a rural site of this size and this will include additional noise from vehicles

and people, potential light spill and loss of privacy. These effects will be noticeable because of the distance of this property to the neighbouring site and given this site is also within the Hill Slopes Rural zone.

It is considered that there would be at least a minor effect on the rural character and the amenity of the owners/occupiers of 34 Paterson Road as a result of the proposed residential activity.

41 and 39 Patterson Road

These sites are zoned General Residential. Given the residential zoning of these properties, their position down slope as well as the distance of these sites from the building site it is considered that any effects of the activity on the amenity of these residential properties will be less than minor.

Kiwirail Holdings Limited

This site is zoned Hill Slopes Rural in the 2GP and partially contains Designation D419 - Main South Railway - Railway Purposes.

There is potential for reverse sensitivity effects being noise from trains occurring causing complaints from the occupiers about the trains. However, given the distance of the building site and the frequency of which trains would occur it is considered any effects on the Kiwirail Holdings site will be less than minor.

333 and 337 Chain Hills Road

These sites are zoned Rural Residential in the 2GP. Given the distance of these properties from the location of the proposed residential unit and the significant area of restoration (Area 2) adjoining these boundaries it is considered any effects on amenity of these properties will be less than minor.

Properties on opposite side of Chain Hills Road

The residential unit will not be visible to any properties on the opposite side of Chain Hills Road and will be located a significant distance from these properties. As per the traffic assessment the increased traffic volumes will be minimal. It is considered any effects on these properties will be less than minor.

Summary

Having visited the site and after reviewing the effects assessment I consider that there are minor effects on immediate neighbours at 34 Paterson Road and 297 Chain Hills Road.

Step 4: Further notification in special circumstances

- If the answer is yes to the below question, then the application must be limited notified to these other persons.

Question	Yes	No	N/A	Assessment Notes
Are there special circumstances that warrant the application being limited notified to any other persons not already determined to be eligible for limited notification	—	✓	—	

(excluding persons assessed under Section 95E as not being affected persons)? (s95B(10))				
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Conclusion

Having regard to the step-by-step process for considering public notification and limited notification, it is determined that:

- The application requires limited notification as there are minor effects on the rural character and amenity values of the owners and occupiers of 34 Paterson Road and 297 Chain Hills Road and no affected party approvals have been obtained from these parties.
- Based upon the above assessment, the application has to be limited notified to the following parties:
 - 34 Paterson Road
 - 297 Chain Hills Road

Notification Recommendation

That, for the reasons concluded above, this application be processed on a limited notification basis, pursuant to Sections 95A and 95B of the Resource Management Act 1991.



Liz Hislop
Consultant Planner

7/02/23

Date

Notification Decision

That the recommendation above be adopted under delegated authority.



Campbell Thomson
Senior Planner

7/02/2023

Date

Appendices -

Appendix A - restoration plan from Ahikā (ecological consultants) in October 2022 (updated third version)

Appendix B - memo dated 26 October 2022 from Ms Zoe Lunnis (Biodiversity Advisor for DCC)

Appendix C - Landscape Effects Assessment Report prepared by Mr Mike Moore, Landscape Architect dated 30 September 2022

Appendix D - memo dated 19 October 2022 from Mr Luke McKinlay, (Landscape Architect for the DCC)

Appendix E - Preliminary Geotechnical Assessment from Geosolve dated 22 November 2021

Appendix F - Stantec reviewed of the Geosolve report and assessment of the proposal

Appendix G - memo dated 27 September 2022 from Mr Antoni Facey (Consultant Transport Planner for the DCC)