



Hastings District Council

Civic Administration Building
Lyndon Road East, Hastings

Phone: (06) 871 5000

Fax: (06) 871 5100

OPEN DOCUMENT 3

COMMISSIONER HEARING MEETING

Meeting Date: **Thursday, 20 February 2020**
Time: **9.30am**
Venue: **Landmarks Room
Ground Floor
Civic Administration Building
Lyndon Road East
Hastings**

ITEM	SUBJECT	PAGE
2.	LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO ESTABLISH SEASONAL WORKERS ACCOMMODATION AT 97 YORK ROAD, AND FOR A SUBDIVISION TO CREATE TWO LOTS AT 97 YORK ROAD AND INVOLVING AMALGAMATION WITH 9 MAULTSAID PLACE, HASTINGS 4120 - JARA FAMILY TRUST	
	<u>Document 3</u> Containing these attachments	
	Attachment D Section 92 Request	Pg 1
	Attachment E Additional Information Received	Pg 9
	Attachment F Council's Development Engineering Comments	Pg 111
	Attachment G Extract of PHDP standards and criteria	Pg 115

Attachment H	RMA20190334 Decision seasonal workers accommodation for 96 persons in the General Industrial Zone (PHDP prior to V7)	Pg 123
Attachment I	RMA20190365 Decision SWA in the General Industrial zone (49 workers and staff) OP and PDHP (v7)	Pg 135
Attachment J	RMA20190168 - Earthworks and Seasonal Workers Accommodation Irongate General Industrial zone (PHDP prior to V7)	Pg 147
Attachment K	Copy of Environment Court Decisions	Pg 165
Attachment L	Regional Policy Statement Extract	Pg 241

Council's Request for Further Information

Item 2

Attachment D

If calling ask for Rebecca Jarman
TRIM/File Ref 54413#0060



Item 2

19 June 2019

Attention: Sarah Shanley / Matthew Holder
Development Nous Limited
212 Queen Street East
Hastings 4122

Dear Sir/Madam,

Application for Resource Consent: 97 York Road HASTINGS 4120, RMA20190203

An initial assessment of your application for resource consent has been completed.

Under Section 92 of the Resource Management Act (RMA) 1991, the Hastings District Council requires further information to fully assess your proposed activity, its effect on the environment and the ways in which any adverse effects on the environment might be mitigated.

NESCS

1. The historical use of 97 York Road has involved orcharding which is a HAIL activity. With a change of use proposed on that land and soil disturbance, please provide a Detailed Site Investigation prepared in accordance with the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011, for the proposal. What consents sought will need to be confirmed with the supply of this information.

Mining / Earthworks

2. Please provide further information to clarify the purpose, nature and management of the proposed mining / earthworks. Particularly, but not limited, to the following, and prepared by a suitably qualified and experienced person:
 - a) Please provide cut and fill plans for both affected parcels, including all areas associated for the proposed RSE accommodation and the access and servicing works and proposed finished levels, including the location and heights of stockpiles.
 - b) Clarify the volumes of mining and earthworks, and areas.
 - c) The application information refers to an Earthworks Management Plan, please provide a copy of this.
 - d) Address erosion and sediment controls to be utilised during the works including addressing particular methodology and controls in the context of the Irongate Stream and flooding parameters for the land. Including dust controls.

HASTINGS DISTRICT COUNCIL
207 Lyndon Road East
Hastings 4122
Private Bag 9002
Hastings 4156
Phone 06 871 5000
Fax 06 871 5100

Hastingsdc.govt.nz
customerservice@hdc.govt.nz

TE KAUNIHERA O HERETAUNGA

Attachment D

- e) Please clarify the purpose of undertaking the mining of soil and purpose of introducing gravel to 62 Irongate Road.

Flooding

The application land is affected by flooding, see extract below:



3. Please provide an assessment prepared by a suitably qualified and experienced person addressing the flooding of the site in the context of the proposed development and provide any measures to avoid or mitigate the flooding hazard.
4. Please also provide a hydrological and hydraulic assessment which covers the impact the bridge and other works would have on flood levels. This will need to be prepared by a suitably qualified and experienced person.

RSE Seasonal Workers Accommodation

5. Please provide further information regarding the nature and management of the proposed RSE workers accommodation. This will include the clarification as to how it will be managed to ensure that only relevant parties occupy the premises, the anticipated level of occupation, and general management of the site. This should expand on the nature of movements from the site and how traffic, pedestrian, any cycle movements, loading movements and rubbish management.
6. The application information states that only 100 persons are to be accommodated in the facility. Please clarify this number as the plans indicated 6 beds to a room and therefore more than 100 capacity.
7. Please clarify in terms of the Caretakers Accommodation who will occupy this dwelling and whether it is 'relocatable'.
8. Please provide further explanation as to how the proposed buildings will be established as 'relocatable'.
9. Please provide plans, floor plans and elevations of the proposed shower/ laundry blocks.
10. Please provide plans, floor plans and elevations of the proposed caretakers cottage.
11. What is the 'steg' shown on the plan and provide details of this structure.
12. Is the holding tank shown on the site plan to be above or below ground?
13. Please provide a plan showing the areas included to calculate building coverage for the purposes of standard 6.2.5J of the Proposed Hastings District Plan. This will need to

include hardstand and sealed areas in addition to any building coverage. The standard is 35% maximum of 1500m² whichever is lesser. Please confirm what 'site' you base your calculations on.

14. Will the volley ball courts be lit? If so please provide more information on lighting structures and illumination.
15. The Property Group Letter has missing a page/s, please provide for completeness.
16. Please provide comments on the colours and materials to be utilised for the proposed structures on the site to better understand the character and visual implications of the proposal.

Servicing

17. Council's Asset Management team have confirmed that additional water supply, wastewater discharge and any stormwater discharge from the Plains Production zoned land forming part of the application and the RSE Seasonal Workers Accommodation will not be accepted from public reticulation to service the proposed site. As such, please provide an infrastructure servicing report to address the servicing for the site confirming the proposed servicing for the site sought. Information will need to be included to demonstrate how and where the on-site stormwater disposal will be discharged and the suitability of the method (eg: sufficient infiltration available), and appropriateness of the design for the site given the location to the Irongate Stream, and wastewater disposal requirements. Clarification that the proposal will be able to achieve the HBRRMP requirements or that a consent is needed should be provided.
18. The Wastewater Management Limited report on wastewater provided with the application is based on 140 persons, and appears to be focusing on disposal in an area of the subject site that is to be earthworked / mined. Please provide an updated report address proposed soil conditions and the suitability of the design for the proposed activity. This updated report should clearly identify on a site layout plan the area referred to in the assessment and the area for which the disposal field is proposed to occupy and the reserve field area.
19. Please provide comments on how fire-fighting water supply and access will be provided for the RSE Seasonal Workers Accommodation, and where tanks are required please indicate their location and size and include in coverage calculations.

Yard Infringement/s

20. The application AEE on page 21 last paragraph refers to a yard infringement to a Council drain. It is unclear as to what is being referred to here. Please clarify. The application plans indicate that the caretakers cottage and shower/laundry buildings within the 15m set back to the boundary of 59 York Road and to the future boundary of the balance land of 79 York Road in the Plains Production zone. Please provide an assessment and identify any mitigation measures proposed in respect of this yard infringement. The PHDP assessment criteria should be specifically addressed, amongst other things, to satisfy this requirement.

Soil Report

21. The soil report uses the address 62 Irongate Road, whereas it appears the report is referring to 97 York Road. Also the report refers on page 3 to LUC7 soils being "very severe to extreme limitations or hazards that make it unsuitable for cropping, pasture or

forestry". Checking the HBRC LUC mapping it appears that this may be the reference to LUC8 class soils, rather than LUC7 soils. Please review the report and provide with updated references.

Note that Council reviews the right to commission a peer review report to review the soil information and versatile land comments in the application under section 92(2) of the RMA.

Subdivision / Amalgamation

22. The proposal presents two proposals for establishing access over 62 York Road. It is understood that the consented and current subdivision applications for 62 York Road may not go ahead and therefore the application is sought to cover these eventualities. Please therefore set out what is proposed in each eventuality with respect to the easements, s357 Right of Way applications needed, and confirming what will happen to the consented and current subdivision applications if this consent is granted (ie: what is the timing and will other consents be surrendered / withdrawn upon certain scenarios).
23. Please provide an updated plan of subdivision with easements to reflect any updated servicing arrangements proposed resulting from any plan changes.
24. The application information states that the proposal is for the separation of Sec 66 SO 438108 from Part Sec 24 Block XV Heretaunga SD, then that parcel is to be amalgamated at 62 Irongate Road. The proposed plans of subdivision provided indicate different amalgamation arrangements with 62 and 70 Irongate Road being amalgamated. Please clarify the proposed amalgamation arrangements and explain the purpose and intent of these amalgamations, and provide updated plans. This will need to specifically include comments with particular consideration of the intent and policy implications of amalgamation of land in different zones (Plains Production zone vs General Industrial zone).

Note that Council needs to confirm amalgamation requirements with LINZ and additional consent processing time may be required for LINZ feedback.

In the event that the proposal takes the form of that shown on H2019005-S001 Revision 1 plan, and Lot 4 of 62 Irongate Road is created, then the net site area of Lot 4 will be further reduced, and the overall minimum 1ha average net site area for the parent parcel at 62 Irongate Road will be infringed to a greater degree than already proposed for that subdivision. As such, please provide further assessment on this infringement of land in the General Industrial (Irongate area) zone, including further assessment on the objectives and policies of the PHDP particularly addressing this matter.

Landscaping

25. Please clarify what species and size at the time of planting and spacings of plantings are to be undertaken for the shelterbelt to better understand the impact of such a planting proposal.

Access

26. Please provide a traffic assessment of the proposed access addressing the various scenarios presented for the land, in order to establish whether the legal and physical access is sufficient. In this regard it appears that the access width of 10m for the right of way is under-standard. Movement lanes will need to be specified in width and comments

provided on the construction standard the right of way and bridge will be constructed to. Passing bays are required for a long length of driveway.

27. Plan H20190005-S001 Revision 1 shows easements A B C and D required for access to the RSE Seasonal Workers Accommodation.
 - Please confirm that Easement E is able to be utilised for another site.
 - The proposed easements do not provide for use of Easement B and A to access Sec 66 SO438108.
 - Easement D does not provide for access.
 Please clarify the legal access and servicing arrangements.
28. Please provide comments on any alternative access arrangements considered to serve the RSE Seasonal Workers Accommodation.
29. Comments in respect of Standard 6.2.5F (page 10 of the AEE) refers to access using the existing approved access to Havelock Road. The proposed access has not been approved for use by the RSE Seasonal Workers accommodation proposal. There is no access to Havelock Road from the application land. Please address this standard in respect of the proposal to clarify this reference.

Other consents

30. Please confirm if a resource consent has been made to the Hawkes Bay Regional Council for the proposed works in the stream, and if so please provide a copy of this, and any approval by the HBRC.

General

31. The application is made under the name of the JARA Family Trust, however the proposal involves three parcels of land, including 62 Irongate Road, 70 Irongate Road, and 75 York Road, Hastings, none of which are in the stated ownership of the JARA Family Trust.

Please confirm that all these parcels form part of the application proposal.

Please demonstrate that there is agreement with all the involved land owners for the proposal. This should be in the form of formal documentation from these parties.

In accordance with section 92A of the Act you must within 15 working days of the date of this request, take one of the following options:

1. Provide the information; or
2. Inform the Council in a written notice that you agree to provide the information; or specify a reasonable timeframe for providing the information for agreement of Council, or;
3. Inform the Council in a written notice that you refuse to provide the information.

Please note that Section 95C(2) of the Resource Management Act requires Council to publicly notify your application if:

- i) the information is not received within either 15 days, or;

- ii) the information is not received within any agreed timeframe, or;
- iii) if you decline to provide the information.

Council's deposit fee for public notification is **\$15,000.00**.

A decision on your application has been placed on hold awaiting your response to this request, in accordance with Section 88B of the Act. Where possible however, the application will continue to be processed as allowed by the information already supplied.

Other Matters:

- The application indicate Sarah Shanley has the contact person, however Matthew Holder's email address is used on the form. It would be helpful to know who the contact person is and the correct email address to email is.
- For your information the adjacent Crown stream bed to the north of 13 Maultsaid Place is part of the Irongate stream which is a tributary of the Te Karamu Stream, and covered by the Heretaunga Tamatea Claims Settlement Act 2018 (HTSA). As such notice has of the application is being given to the Heretaunga Tamatea Settlement Trust.
- Please note that Council reserves the right to undertake Peer Review(s) of the application information under section 92(2) of the RMA.

Please contact me if you have any questions regarding the above information request or the further processing of the application.

Yours sincerely



Rebecca Jarman
Environmental Planner (Consents)
rebeccaj@hdc.govt.nz

Additional Application Information Received

Item 2

Attachment E

Rebecca Jarman

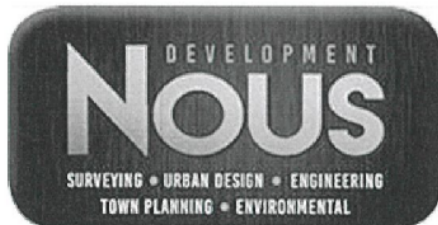
From: Matthew Holder <matthew.holder@developmentnous.nz>
Sent: Monday, 15 July 2019 4:25 PM
To: Rebecca Jarman
Subject: HPRM: RMA20190203- further information
Attachments:  Letter to Rebecca Jarman - response to RC.pdf; 20180928082317431.pdf; SC36804105 19071516210.pdf 

Good afternoon Rebecca

Further information letter response attached

Kind Regards

Matthew Holder
Principal Planner
Director



Phone: Mobile - 027 2888762 or Office - 06 8762159
Physical Address: 212 Queen Street East, Hastings 4122
Postal Address: PO Box 385, Hastings 4156
Email matthew.holder@developmentnous.nz
www.developmentnous.nz

Item 2

Attachment E

Contact: Matthew Holder

11 July 2019

Rebecca Jarman
Hastings District Council
Private Bag 9002
Hastings 4156

Attention: Rebecca Jarman

Dear Rebecca,

Re: Resource Consent – 97 York Road, Hastings. RMA20190203.

We refer to the Councils further information request 19 June 2019, and subsequent meetings held in respect of the above resource consent application. We trust you have also undertaken a site visit, if not our client is available to assist (John Roil- 0274491526)

NESCS

- 1 The parcel of land subject to the proposed RSE accommodation ("change of use") has not been subject to a HAIL activity. During a recent meeting at Council, Mr Arnold produced an aerial to suggest grapes had been planted (unsuccessfully) on the area of land. Whilst this may have been the case grapes/vineyards are not listed as a HAIL activity. The area of the site (separate title to 97 York) has never had orcharding activities on it. We accept that 97 York Road does have apples growing however the land in question was an amalgamation of land, with 97 York Road.

We believe that a DSI is not warranted in this instance.

Mining/Earthworks

- 2 Our client has advised that they no longer wish to pursue mining as part of the application. The application can be processed on this basis.

The only earthworks will be related to the formation of carparking, access and piling of buildings (though as part of a building consent would be exempt).

The applicant is accepting of a condition requiring a sediment control plan to be approved by Councils Development Engineer prior to commencement of the activities. This appears an appropriate way forward as part of the Detailed Engineering.

Flooding

15 July 2019 (A)
4:25pm

Received

15 July 2019

Development Nours Ltd

212 Queen Street East
Hastings 4122
New Zealand

PO Box 385
Hastings 4156
New Zealand

06 876 2159



- 3 As per page 3, all buildings and access bridge/crossing onsite are proposed to be established above the flood level for this area. A condition of consent is appropriate and acceptable to our client.

We have undertaken a flood assessment that demonstrates the RSE activity will in part occur within the 50 Year event. The flooding extents are provided in the attached plan.

- 4 With respect to the Bridge impact, it is not proposed to do work within the stream. The Bridge is intended to span the stream. This will be further assessed by the HBRC as part of their consenting process (which will also consider the marginal strip). Our client advises that in discussions with the HBRC to date that they remain happy with the bridge concept design. We are accepting of condition requiring H.B.R.C for the bridge to be obtained prior to the issue of 224 certification.

RSE Seasonal Workers Accommodation

- 5 The proposed accommodation complex will be managed by an onsite manager (cottage identified on site plan). The overall management will be governed by the Department of Labour rules which pertain to the activity. The operation, rules of management will be no different to other approved facilities within the District. We would accept a condition requiring a management plan to be submitted to occupation. Similarly, in terms of alternative uses, these can also be excluded by conditions of consent.
- 6 The application was amended and submitted to the Council on the 19 June 2019 to clarify person numbers.
- 7 A manager will occupy the caretaker's accommodation. It is re-locatable, as are all proposed buildings which are to be piled.
- 9 Plans have been provided previously.
- 10 Plans have been provided previously.
- 11 The identified 'steg' is part of the wastewater plant, it is not a large structure above the ground.
- 12 The holding tank is buried however we are unsure in a rural environment why an above ground tank could be of issue as there are no District Plan controls in place preventing this.
- 13 Building coverage has been provided on the plan and we have confirmed non-compliance with Rule Standard 6.2.5 J of the Proposed District Plan. Land use consent is required (page 10 of AEE identifies this).
- 14 It is not intended that the volleyball courts be lit.
- 15 The Property Group letter is reattached.
- 16 The colours of buildings have not been finalised but, will be neutral in colour. We note that there is no rule restricting colours in the District Plan, nor is the site within an Identified Landscape area.

Servicing

- 17 As stated in our application, should reticulated connection not be available to the accommodation use, then onsite servicing will be utilised. Wastewater consent will be obtained from H.B.R.C post the outcome of an approval of this application (if forthcoming). We have identified consent from H.B.R.C will likely be required. We also provided a wastewater assessment by HB Wastewater Management.

- 19 Firefighting supply and access has been discussed with the NZ Fire Service who has advised our client that they are satisfied all building will be accessible by fire appliances and 75m of hose. A condition of consent is appropriate and acceptable to reinforce.

Yard Infringements

- 20 It is not intended to infringe yards with respect to 59 Irongate Road. A condition requiring buildings to be no closer than 15 metres from this boundary is acceptable to reinforce this intention.

The reference on page 21 is an error.

- 21 The application references 62 Irongate Road as it is included as part of the application – 62 Irongate and 97 York Rd.

In terms of soil classification, the soils have been identified as class LUC 7 by a soil's expert using available soils mapping. Even if a LUC 8 applied to the land, class 8 soils are identified under the LUC classification as "*unsuitable even for grazing, production or forestry*".

Subdivision/Amalgamation

- 22 It is proposed that the RSE site achieve access via 62 Irongate Road. This access will be in place prior to the activity commencing (without it, the activity would not be able to commence). As provided for in RMA20190193 once approved RMA20180352 will be surrendered. Notwithstanding by "giving effect to" RMA20190193, RMA20190352 becomes obsolete.

- 23 The latest updated scheme plan is attached.

* Not provided with this letter.

- 24 Amalgamation of Sec 66 SO438108 with proposed 62 Irongate Road (as per page 5 of the A.E.E).

The scheme plan of subdivision clearly identifies the proposed amalgamation conditions, under either development scenario. We are not sure of your reference to 70 Irongate Rd is. To avoid any doubt, there is no intention to amalgamate with 70 Irongate Rd.

In reference to the average net site area, given Lot 4 will have been created and is a standalone lot (or will be) with no further subdivision, we are not sure of the issue you have presented.

Subdivision RMA20190193 is to be treated as a standalone application. An easement will be added to proposed Lot 4 once created post approval. This doesn't affect the intent behind minimum lot size. If for example RMA20190203 was not integrated or approved, then nothing has changed.

Landscaping

- 25 The District Plan does not require specific plantings or sizes in terms of shelterbelts, therefore other than ensuring setbacks are met in respect of boundaries then we do not believe there is a need to fully detail what is intended. The Council through its District Plan has not sought to control this activity.

Our client is accepting of a condition that a landscaping plan be submitted for approval prior to the commencement of the activities.

Access

- 26 The scheme plan has had truck turning paths placed over them to show compliance with the Engineering Code of Practice. See attached.
- 27 Access and servicing arrangements are confirmed on the attached scheme plan(s).

- 28 Access via 97 York Rd was considered, however the existing landowner did not want this arrangement. Given that land is intended to develop as part of Irongate's development, the applicant saw this as the most appropriate solution.
- 29 Reference to Havelock Road is an error. It should read Irongate Rd. The comments remain valid, notwithstanding the error in Road name.

Other Consents

- 30 As per the application (as per page 27 of A.E.E), no other consents have yet been made.

General

The applicant is Jara Family Trust. There is no requirement that an applicant and Landowner should be one and the same. We believe there is no authority under the RMA that allows your request for formal documentation. A land use consent is not personal property. It runs with the land and the ability to give effect to such a consent is governed by Property Law.

We trust the above answers questions raised. Should you wish to discuss matters further, please do not hesitate to contact me.

Yours faithfully
Development Nous Ltd

Matthew Holder
Director – Principal Planner

027 288 8762
Matthew.holder@developmentnous.nz



the
propertygroup

Corporate Property Advisors and Negotiators®

The Property Group Limited
Level 1, PwC Centre
36 Munroe Street
Napier South 4110
PO Box 49
Napier 4140, New Zealand
Phone: 64-6-834 1232
Facsimile: 64-6-834 4213
DX: MP70014

30 May 2012

Our Reference: CPC/2006/11593

Barry James Rosenberg & Mark Alexander Stoddard
C/ Barry Rosenberg
97 York Road
HASTINGS 4120

Dear Barry

**SURPLUS NZ TRANSPORT AGENCY LAND: SECTION 66 SO PLAN
438108, HASTINGS**

The Property Group Limited ("TPG") has been engaged by the NZ Transport Agency ("NZTA") to facilitate the disposal of surplus Crown land adjoining your property as a direct result of construction of the Hawkes Bay Expressway Project.

The parcel of land is described as Section 66 on Survey Office Plan 438108 being 3.4960 hectares contained in Computer Interest Register 552617 ("the Property").

As the adjoining owner, you are invited to purchase the Property by completing and returning duplicate copies of the attached Agreement for Sale and Purchase of Real Estate (Eighth Edition 2006) approved by the Real Estate Institute of New Zealand and the Auckland District Law Society ("the Agreement"). We have included for your information the Crown valuation completed by Ton Remmersewaal, Registered Valuer of Valuationplus.

The Property is landlocked and is being disposed of pursuant to Section 40 (4) of the Public Works Act 1981 conditional upon it being amalgamated with the adjoining title (HB131/66) owned by you.

We recommended legal advice be sought before signing the Agreement.

The Agreement must be enclosed in a sealed envelope marked and received by 4:30 pm on Friday 29 June 2012 or such later date as the Crown may specify.


The Agreement shall be posted or delivered to:


The Property Group Limited
PO Box 49
Napier 4141

Letter to B Rosenberg fwd sale & purchase agreement 30 05 12.docx

Item 2

Attachment E





the propertygroup
Corporate Property Advisors and Negotiators®

15 July 4:25pm (B)

30 May 2012

Our Reference: CPC/2006/11593

Barry James Rosenberg & Mark Alexander Stoddard
C/ Barry Rosenberg
97 York Road
HASTINGS 4120

Dear Barry

SURPLUS NZ TRANSPORT AGENCY LAND: SECTION 66 SO PLAN 438108, HASTINGS

The Property Group Limited ("TPG") has been engaged by the NZ Transport Agency ("NZTA") to facilitate the disposal of surplus Crown land adjoining your property as a direct result of construction of the Hawkes Bay Expressway Project.

The parcel of land is described as Section 66 on Survey Office Plan 438108 being 3.4960 hectares contained in Computer Interest Register 552617 ("the Property").

As the adjoining owner, you are invited to purchase the Property by completing and returning duplicate copies of the attached Agreement for Sale and Purchase of Real Estate (Eighth Edition 2006) approved by the Real Estate Institute of New Zealand and the Auckland District Law Society ("the Agreement"). We have included for your information the Crown valuation completed by Ton Remmersewaal, Registered Valuer of Valuationplus.

The Property is landlocked and is being disposed of pursuant to Section 40 (4) of the Public Works Act 1981 conditional upon it being amalgamated with the adjoining title (HB131/66) owned by you.

We recommended legal advice be sought before signing the Agreement.

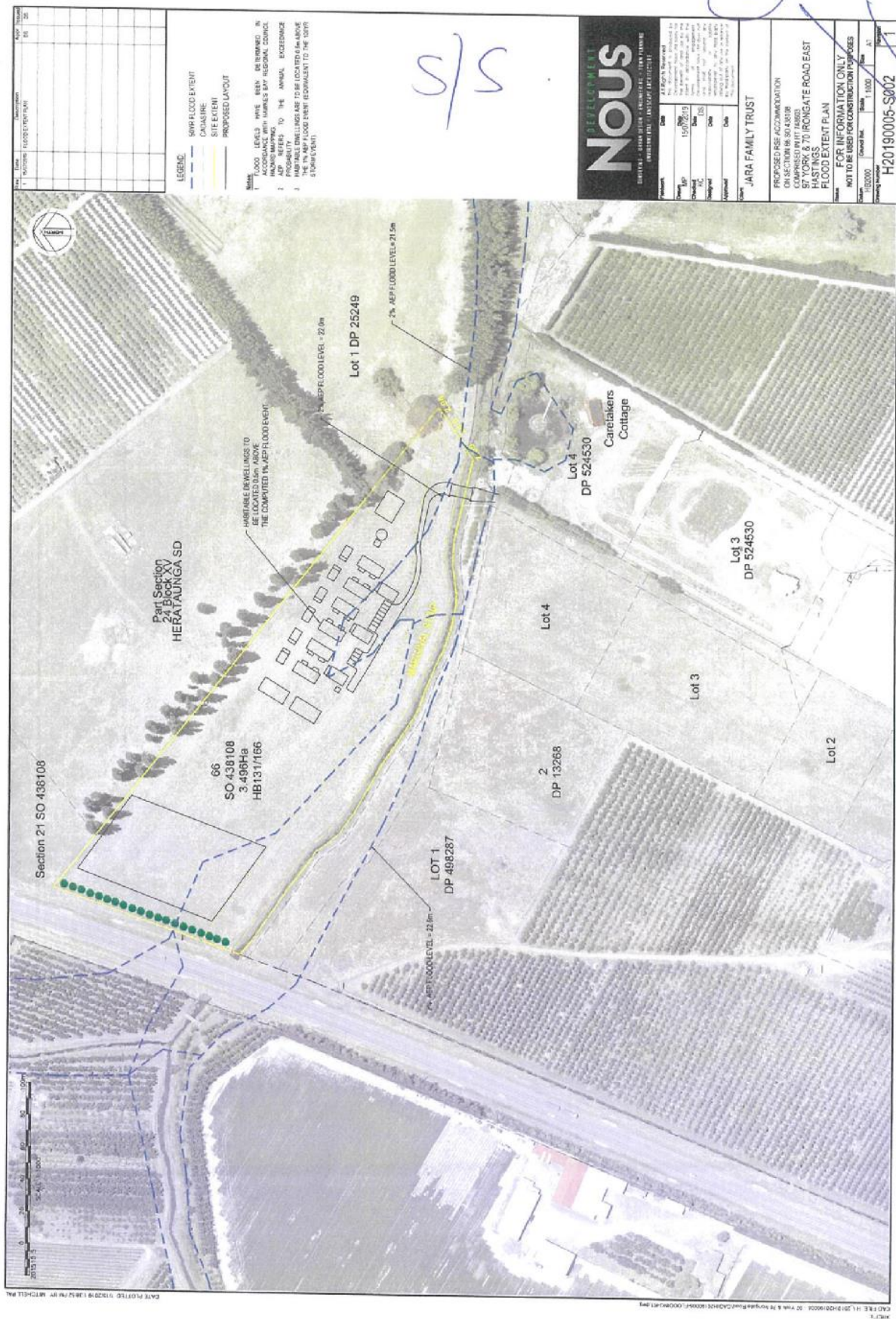
The Agreement must be enclosed in a sealed envelope marked and received by 4:30 pm on Friday 29 June 2012 or such later date as the Crown may specify.

The Agreement shall be posted or delivered to:

The Property Group Limited
PO Box 49
Napier 4141

Letter to B Rosenberg fwd sale & purchase agreement 30 05 12.docx

The Property Group Limited
Level 1, PwC Centre
36 Munroe Street
Napier South 4110
PO Box 49
Napier 4140, New Zealand
Phone: 64-6-834 1232
Facsimile: 64-6-834 4213
DX: MP70014



Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Wednesday, 31 July 2019 6:52 PM
To: Rebecca Jarman; 'Matthew Holder'
Cc: David Bishop
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback
Attachments: 6.91 x 3.6 Portacom Ablution Unit - B Rev.3.pdf; 6.91 x 3.6 Portacom Ablution Unit - A Rev.3 (003).pdf

Hi Rebecca,

I have made the following comments next your requests below and mindful of who is responsible for each of the issues.

At the very earliest time I met with the Duty planner to ensure I had a good handle of what would be initially required and also taking the time to meet with other regulatory bodies.

With this in mind it was my understanding that the HBRC is the authority with regards to bridge design and potentially flooding and height of bridge. As a result, I included the correspondence that took place with the HBRC. The submission covers this off by with previous consultation and an awareness that the formal application to the HBRC will take place once acceptance has been granted from the HDC. Hence the height of the bridge, the design and the formal application required to the HBRC.

A covering letter/ email provides sufficient evidence of the liaison between the various parties, i.e Lattey engineers, HBRC etc.

I met specifically at the start of this project with a duty planner and this is noted in the application as what would be acceptable for the Council to require. If required conditions could be established to ensure the work would be carried out to the satisfaction of Council.

See my comments below in red.

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Sent: Wednesday, July 31, 2019 5:15 PM
To: 'Matthew Holder' <matthew.holder@developmentnous.nz>
Cc: John Roil <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora Matthew,

Thank you for your emails with additional information responding to Council's Request for Further Information. Unfortunately a few matters still need to be addressed, as below.

- Further details on the flood assessment in order to support the flooding extents plan.
 - What is the level of the 1% AEP referred to on the flood assessment plan; and
 - Recommended/proposed floor levels (as a RL) and finished ground levels (as a RL); and **The RL levels for the buildings are and will be covered with the building consents. There is only a small area of land that shows up as affected by flood levels on the HBRC maps. The standard heights of prefabricated buildings is 600 above ground level. It has been estimated that this height will be well above the flood level, but will be confirmed during the building consent stage. HDC can if required set a condition on the RC if required. (As previously done on similar projects)**
 - The proposed finished levels (minimum RL) for access and bridge in relation to flood levels; and **We have been in consultation with Lattey civil and structural engineers and also the HBRC who are responsible for the stream and flooding. You will have received a copy of an email from the HBRC. It is my understanding that the HBRC are the Council responsible for this process. Please let me know if I have this wrong?**
- The assessment of the impact of the proposed bridge on flooding is still needed. **I discussed with a HDC planner at the time and it was deemed acceptable that a covering letter indicating that the bridge is feasible and once HDC has processed the RC, then this formal work will be submitted through the agency**

responsible; hence the email from the HBRC. Again it is my understanding that this falls under the HBRC and covered off during their consent process? HDC can if required set a condition of the RC.

- Provide comment from suitably qualified engineer that specifically addresses the potential impact of the construction of bridge embankments either side of stream on the flood characteristics of the stream and any consequent effects on the flood levels and extent of flooding shown on the accommodation site. Again this is the responsibility of the HBRC and is covered off by them. The construction design by Latteys has indicated screw piles are the preferred option as this will not cause any damage to the banks of the stream. The formal consent process will be undertaken between Latteys as the bridge designers and the HBRC as the consenting authority. A formal design will be made available to HDC once the Planning issues are resolved. Historically, we have used an exemption process to be provided as all design and construction work is by qualified engineers. HDC can if required set a condition on the RC
- More clarification on stormwater disposal on-site are still required. The whole of the 3.5ha of land is made up of the old Ngaruroro river and as a consequence is free draining. This will be provided with the Building consent application. The land is of the same consistency as the Irongate industrial zone. A site visit can confirm this. Please let me know when you are available.
 - Confirm the area on the site to be utilised for stormwater disposal area. As above.
- The floor plans and elevations for the shower/ laundry blocks and caretakers cottage are still needed. See attached for ablutions.. The caretakers building is from 58 Irongate Rd and Council has the records of the building that is to be shifted onsite. It is currently sitting on blocks at 62 Irongate Rd.
- With regards to the 15m yard set back compliance identified, please confirm that this compliance is also to be achieved to the edge of all boundaries, including the Marginal Strip boundary. This is confirmed and can be checked during the building consent stage.
- The scheme plan(s) referred to in the s92 reply unfortunately have not been attached. Please forward. Developmentnous to confirm and resend if necessary.
- More information on proposed access is still required to address the sufficiency of the access for the proposal. Please provide formation widths for proposed accessways, bridge and passing bay provision. The accessway is clearly shown as 10m wide. The bridge is single lane and is sufficient for the purpose. The formal design and formation widths and servicing will be provided during the next stage and will comply with the ECOP for a single lot. HDC can if required set a condition of the RC.

We are happy to meet and / or discuss to progress these matters. I can be contacted by return email or phone (06) 871 5110 extn 5368.

Developmentnous to confirm sending the scheme plan and if an error has occurred, they will send a copy. If not they will inform you of the date it was sent.

This should cover off all aspects listed above.

However if not, Please arrange a suitable time and ensure Mr Bishop is invited as I understand that he is responsible for RSE accommodation within HDC and the process to smooth the way between us as the client and HDC Planning Department.

I've copied Mr Bishop in, in case a meeting is required.

I've copied in Mr Roil for his information.

Regards

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
DISTRICT COUNCIL



HASTINGS
HEART OF HAWKE'S BAY

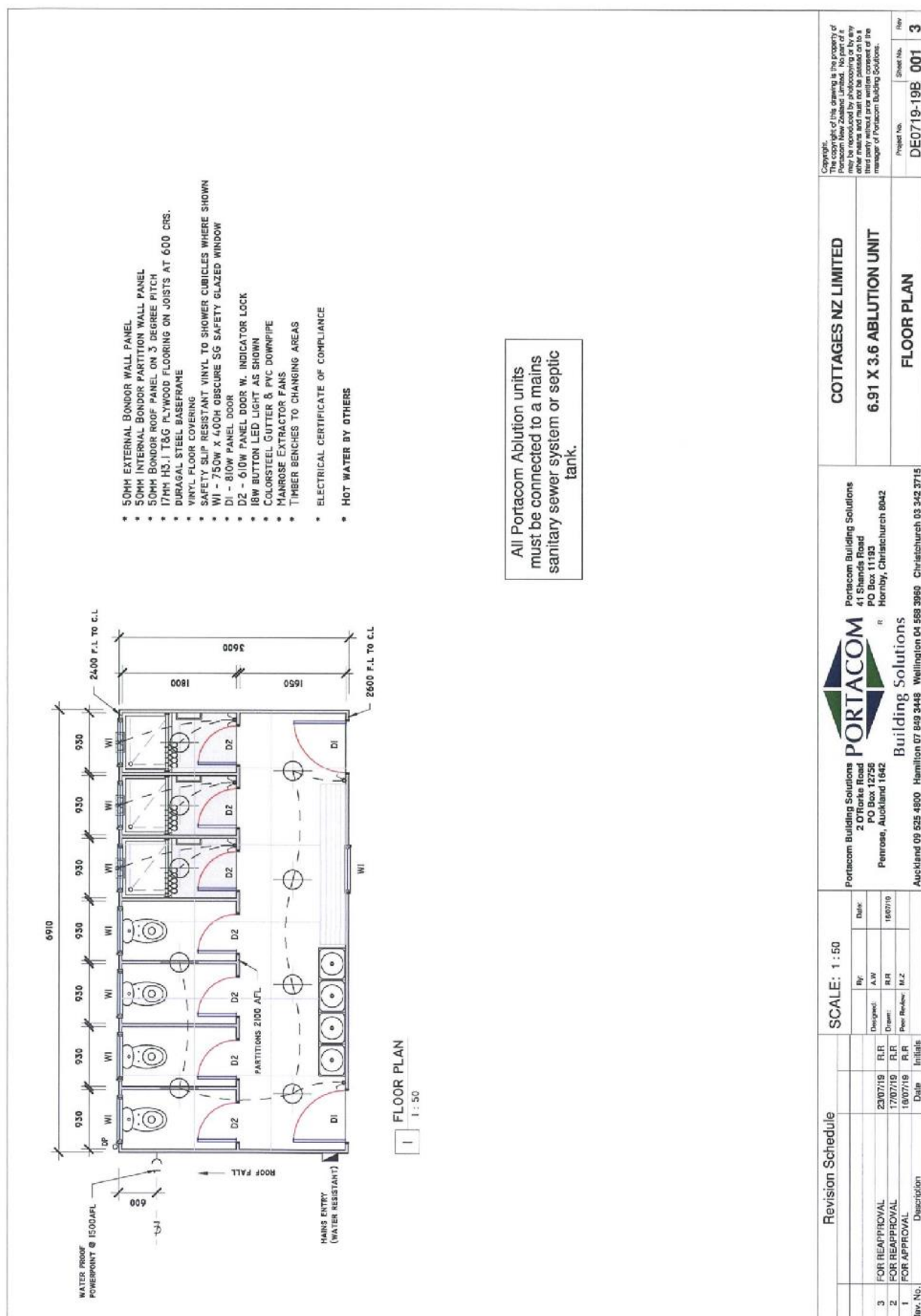
Phone (06) 871 5000 Email rebecca@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

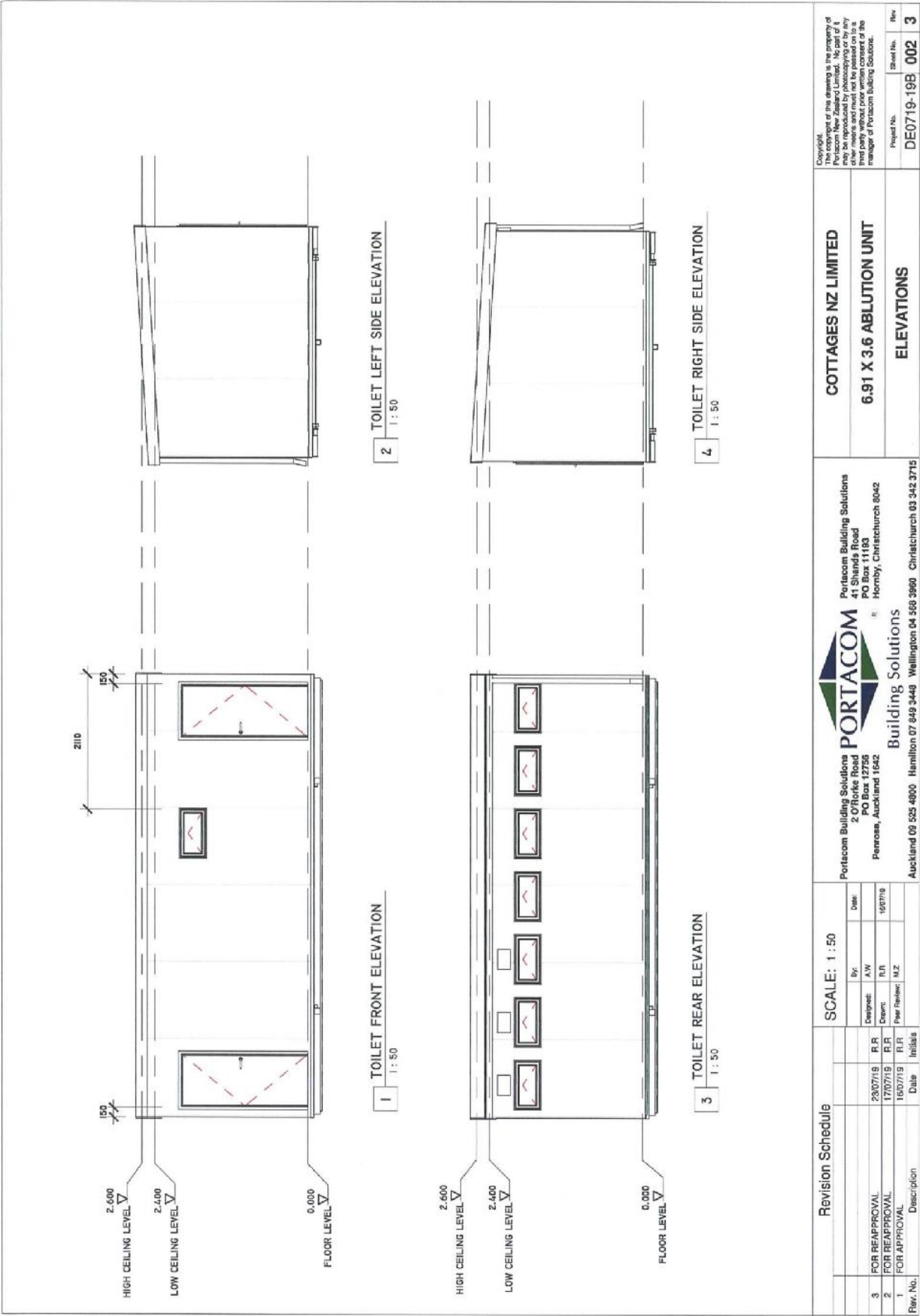
Please consider the environment before printing this e-mail

Item 2**Attachment E**



Item 2

Attachment E

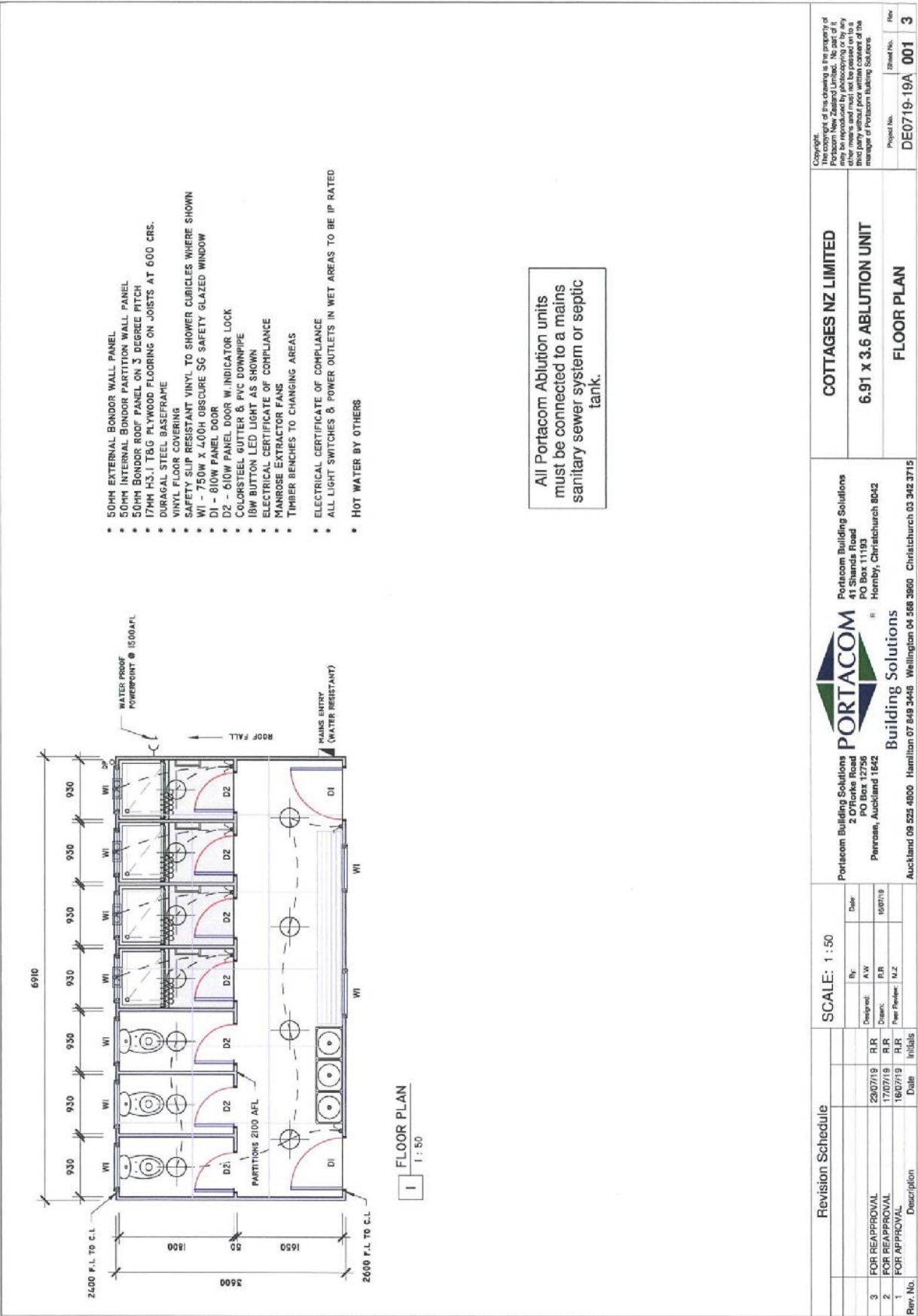


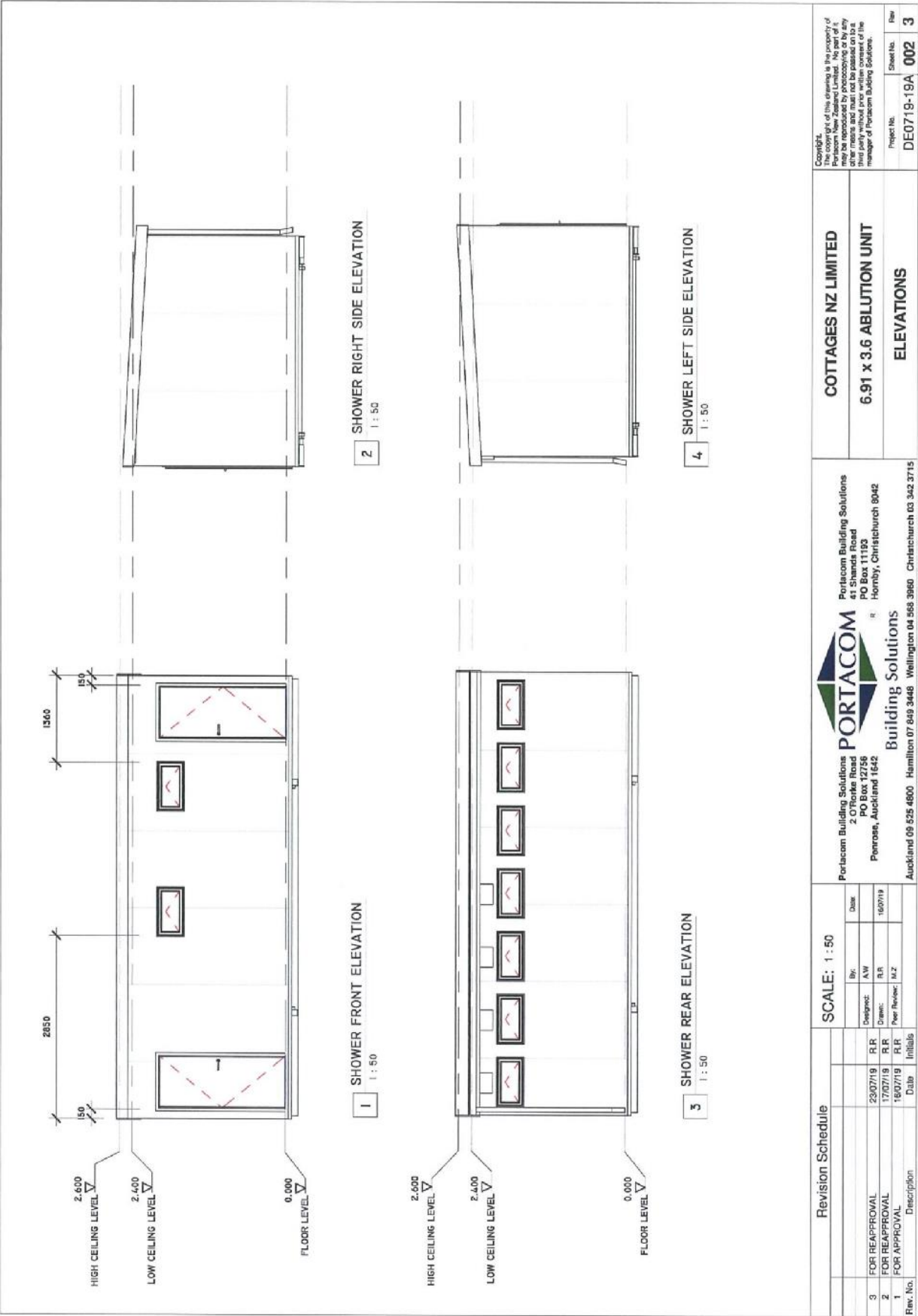
Item 2

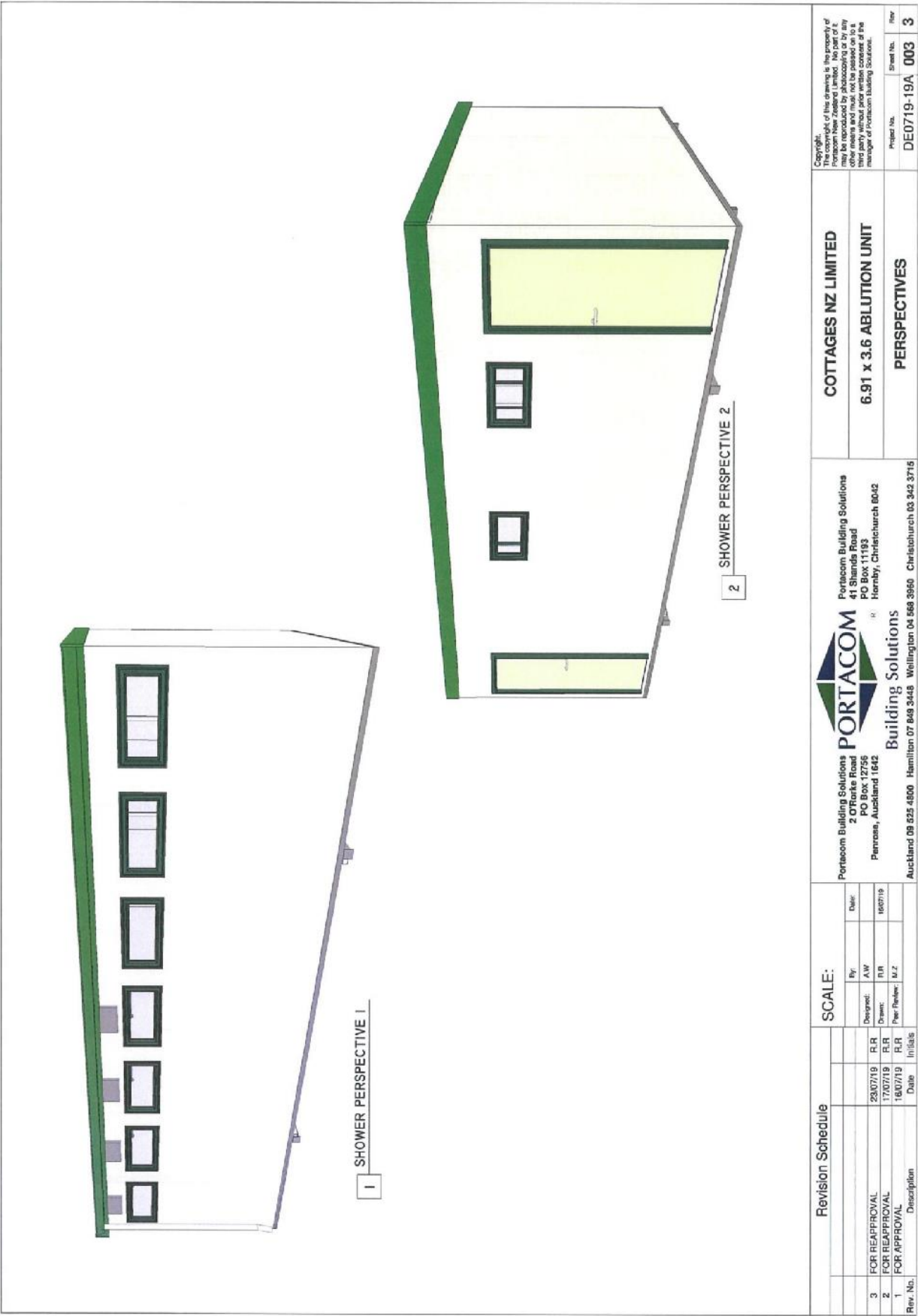
Attachment E











Item 2

Attachment E



Item 2

Attachment E

Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Tuesday, 20 August 2019 10:33 AM
To: Rebecca Jarman
Cc: Murray Arnold; Matthew Holder
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback
Attachments: 6.91 x 3.6 Portacom Ablution Unit - B Rev.3.pdf; 6.91 x 3.6 Portacom Ablution Unit - A Rev.3 (003).pdf; Letter from DOC.pdf

Good morning Rebecca,
 I responded to your Further Information request (s92) on the 31st July, 2019.
 However the response has not been acknowledged?
 Murray, you mentioned during a discussion that you would some feedback from DOC.
 I have attached a letter from DOC.
 The basis of the letter is that a formal request for an easement will occur once approval has been granted from HDC.
 Can you provide an update as to where you are at with the processing of this consent.
 Regards John

From: John Roil
Sent: Wednesday, July 31, 2019 6:52 PM
To: 'Rebecca Jarman' <rebeccaj@hdc.govt.nz>; 'Matthew Holder' <matthew.holder@developmentnous.nz>
Cc: David Bishop <davidb@hdc.govt.nz>
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Hi Rebecca,
 I have made the following comments next your requests below and mindful of who is responsible for each of the issues.
 At the very earliest time I met with the Duty planner to ensure I had a good handle of what would be initially required and also taking the time to meet with other regulatory bodies.
 With this in mind it was my understanding that the HBRC is the authority with regards to bridge design and potentially flooding and height of bridge. As a result, I included the correspondence that took place with the HBRC. The submission covers this off by with previous consultation and an awareness that the formal application to the HBRC will take place once acceptance has been granted from the HDC. Hence the height of the bridge, the design and the formal application required to the HBRC.
 A covering letter/ email provides sufficient evidence of the liaison between the various parties, i.e Lattey engineers, HBRC etc.
 I met specifically at the start of this project with a duty planner and this is noted in the application as what would be acceptable for the Council to require. If required conditions could be established to ensure the work would be carried out to the satisfaction of Council.
 See my comments below in red.

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Sent: Wednesday, July 31, 2019 5:15 PM
To: 'Matthew Holder' <matthew.holder@developmentnous.nz>
Cc: John Roil <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora Matthew,

Thank you for your emails with additional information responding to Council's Request for Further Information. Unfortunately a few matters still need to be addressed, as below.

- Further details on the flood assessment in order to support the flooding extents plan.
 - What is the level of the 1% AEP referred to on the flood assessment plan; and
 - Recommended/proposed floor levels (as a RL) and finished ground levels (as a RL); and The RL levels for the buildings are and will be covered with the building consents. There is only a small area of land that shows up as affected by flood levels on the HBRC maps. The standard heights of prefabricated buildings is 600 above ground level. It has been estimated that this height will be well above the flood level, but will be confirmed during the building consent stage. HDC can if required set a condition on the RC if required. (As previously done on similar projects)
 - The proposed finished levels (minimum RL) for access and bridge in relation to flood levels; and We have been in consultation with Lattey civil and structural engineers and also the HBRC who are responsible for the stream and flooding. You will have received a copy of an email from the HBRC. It is my understanding that the HBRC are the Council responsible for this process. Please let me know if I have this wrong?
- The assessment of the impact of the proposed bridge on flooding is still needed. I discussed with a HDC planner at the time and it was deemed acceptable that a covering letter indicating that the bridge is feasible and once HDC has processed the RC, then this formal work will be submitted through the agency responsible; hence the email from the HBRC. Again it is my understanding that this falls under the HBRC and covered off during their consent process? HDC can if required set a condition of the RC.
 - Provide comment from suitably qualified engineer that specifically addresses the potential impact of the construction of bridge embankments either side of stream on the flood characteristics of the stream and any consequent effects on the flood levels and extent of flooding shown on the accommodation site. Again this is the responsibility of the HBRC and is covered off by them. The construction design by Latteys has indicated screw piles are the preferred option as this will not cause any damage to the banks of the stream. The formal consent process will be undertaken between Latteys as the bridge designers and the HBRC as the consenting authority. A formal design will be made available to HDC once the Planning issues are resolved. Historically, we have used an exemption process to be provided as all design and construction work is by qualified engineers. HDC can if required set a condition on the RC
- More clarification on stormwater disposal on-site are still required. The whole of the 3.5ha of land is made up of the old Ngaruroro river and as a consequence is free draining. This will be provided with the Building consent application. The land is of the same consistency as the Irongate industrial zone. A site visit can confirm this. Please let me know when you are available.
 - Confirm the area on the site to be utilised for stormwater disposal area. As above.
- The floor plans and elevations for the shower/ laundry blocks and caretakers cottage are still needed. See attached for ablutions.. The caretakers building is from 58 Irongate Rd and Council has the records of the building that is to be shifted onsite. It is currently sitting on blocks at 62 Irongate Rd.
- With regards to the 15m yard set back compliance identified, please confirm that this compliance is also to be achieved to the edge of all boundaries, including the Marginal Strip boundary. This is confirmed and can be checked during the building consent stage.
- The scheme plan(s) referred to in the s92 reply unfortunately have not been attached. Please forward. Developmentnous to confirm and resend if necessary.
- More information on proposed access is still required to address the sufficiency of the access for the proposal. Please provide formation widths for proposed accessways, bridge and passing bay provision. The accessway is clearly shown as 10m wide. The bridge is single lane and is sufficient for the purpose. The formal design and formation widths and servicing will be provided during the next stage and will comply with the ECOP for a single lot. HDC can if required set a condition of the RC.

We are happy to meet and / or discuss to progress these matters. I can be contacted by return email or phone (06) 871 5110 extn 5368.

Developmentnous to confirm sending the scheme plan and if an error has occurred, they will send a copy. If not they will inform you of the date it was sent.

This should cover off all aspects listed above.

However if not, Please arrange a suitable time and ensure Mr Bishop is invited as I understand that he is responsible for RSE accommodation within HDC and the process to smooth the way between us as the client and HDC Planning Department.

I've copied Mr Bishop in, in case a meeting is required.
I've copied in Mr Roil for his information.

Regards

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 5000 Email rebecca.j@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

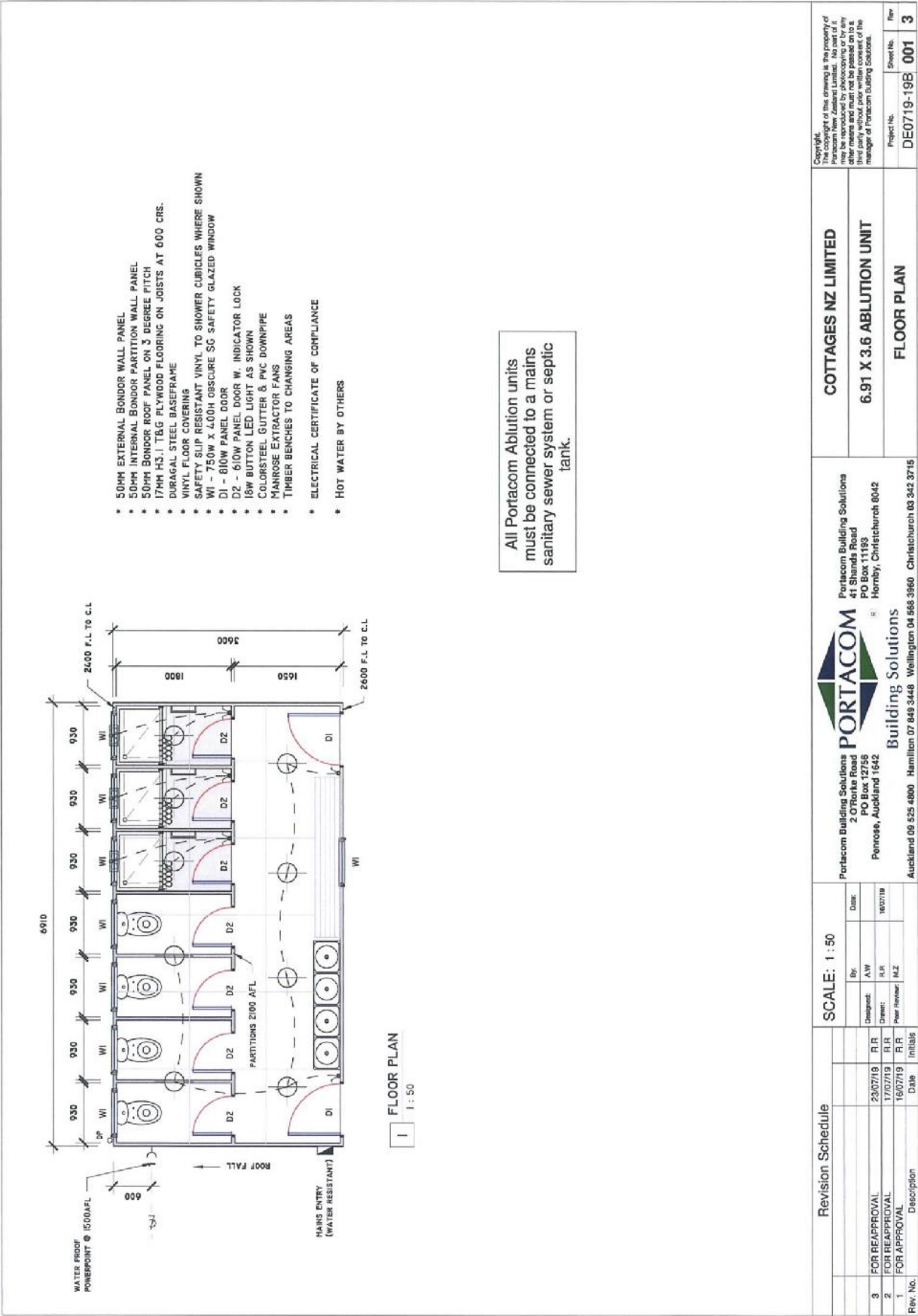
Attention:

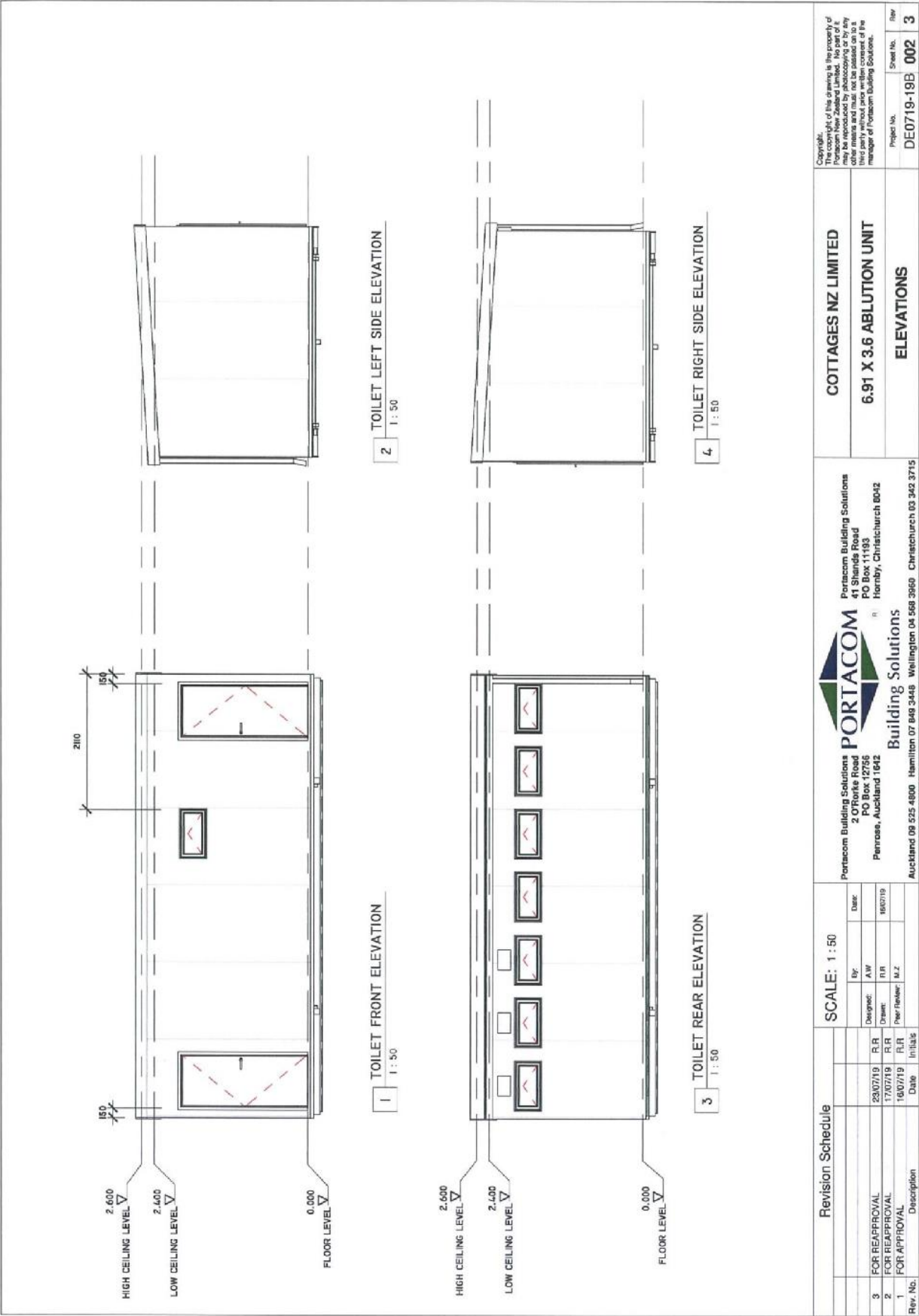
The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

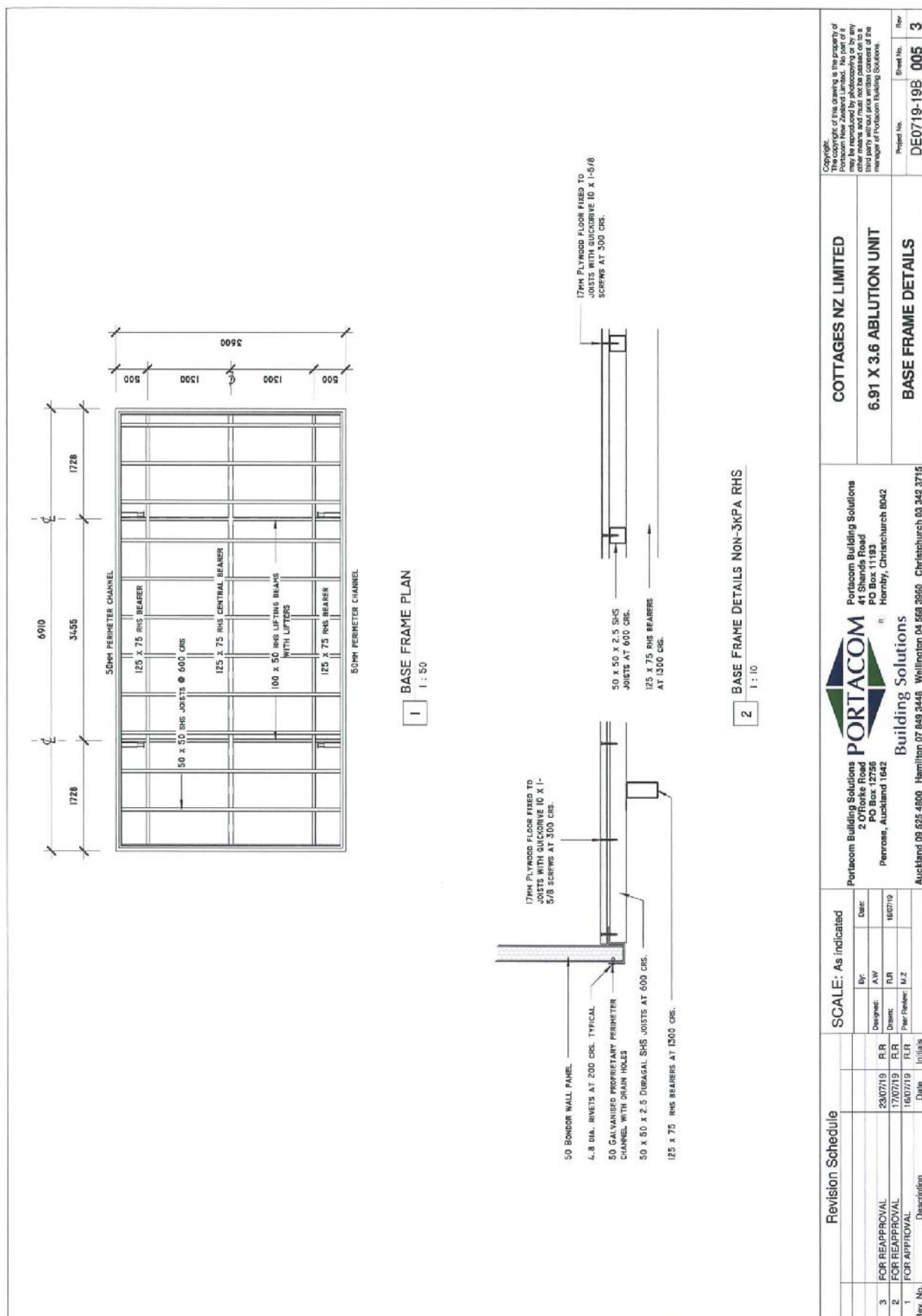
Item 2

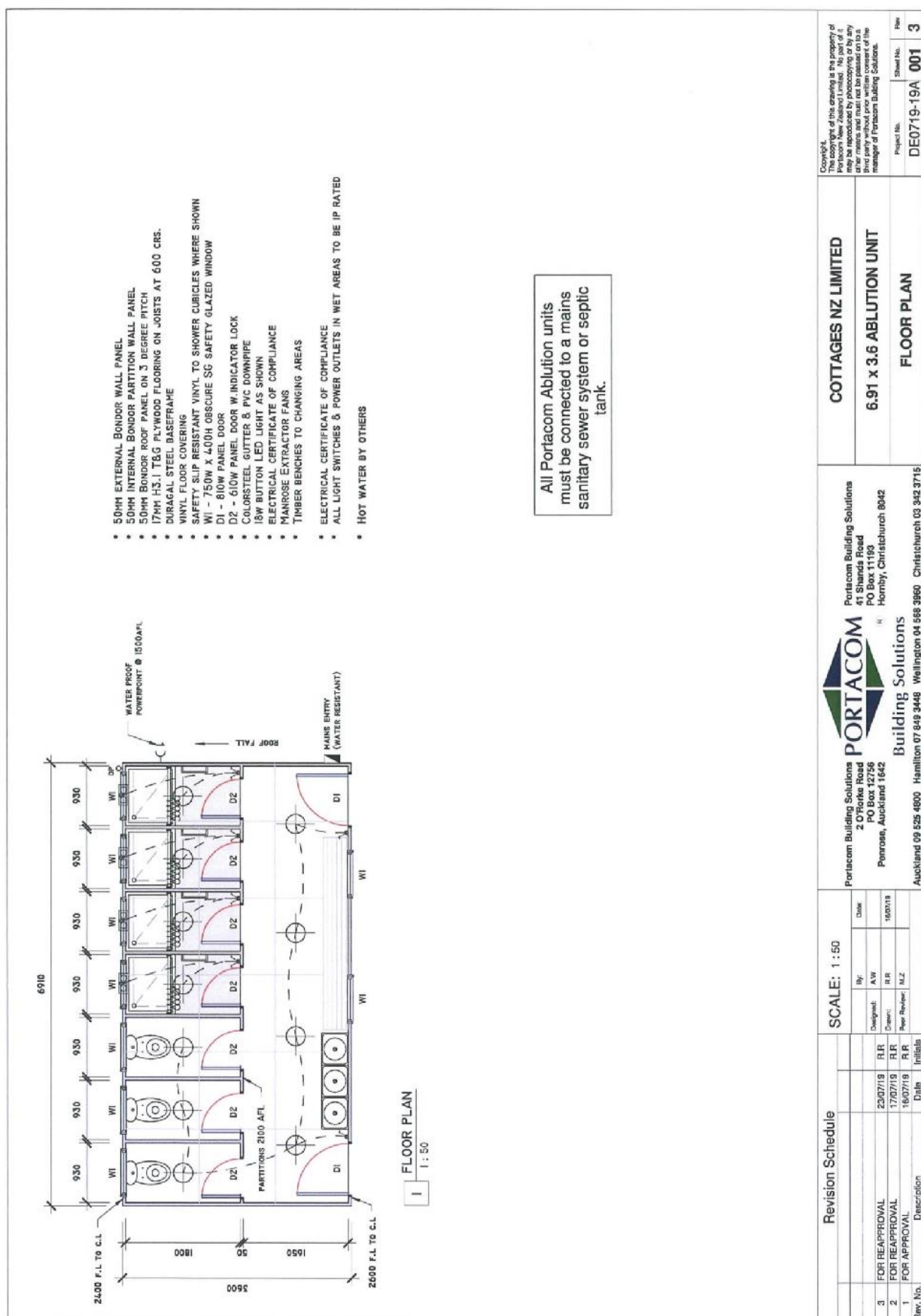
Attachment E

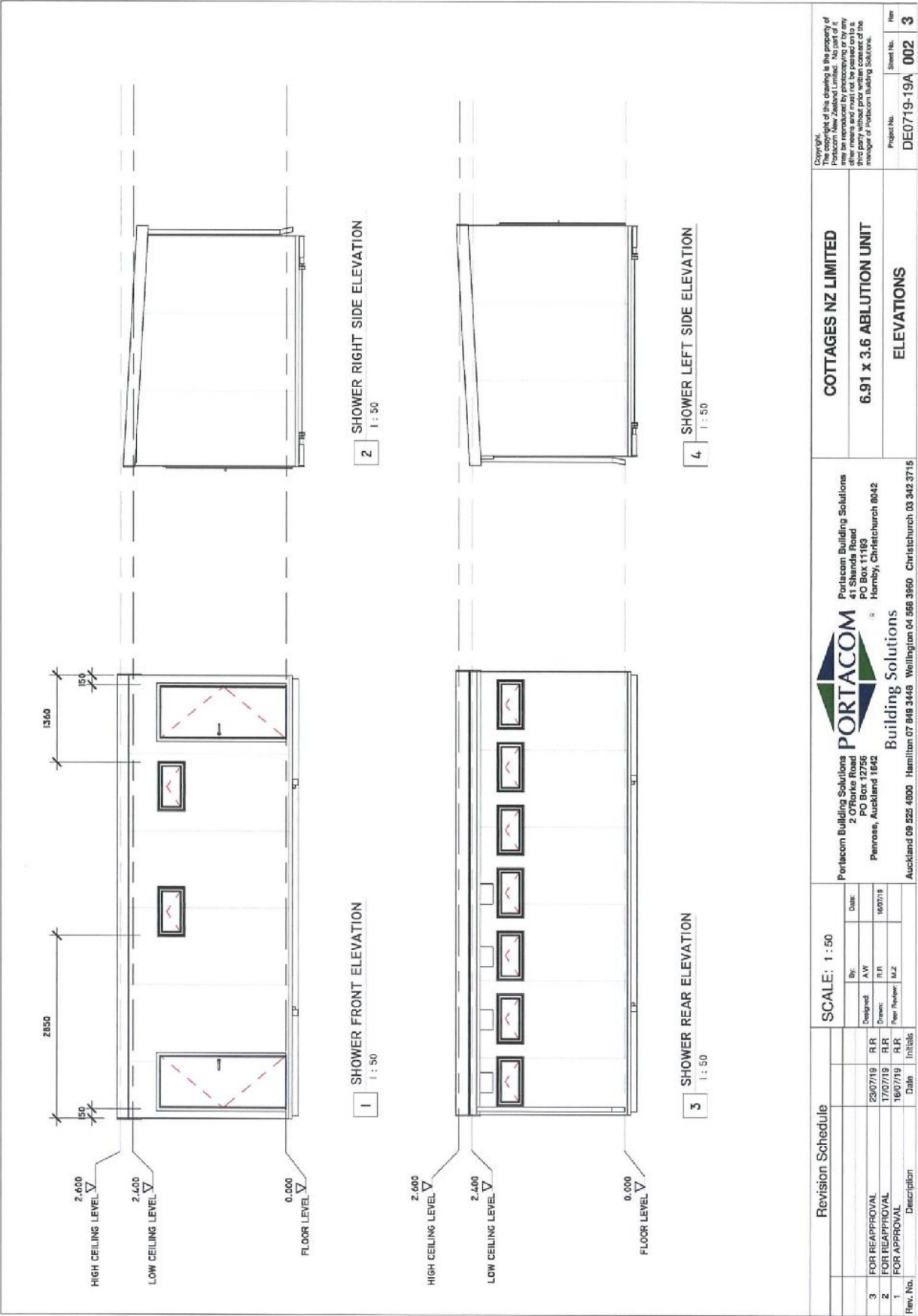


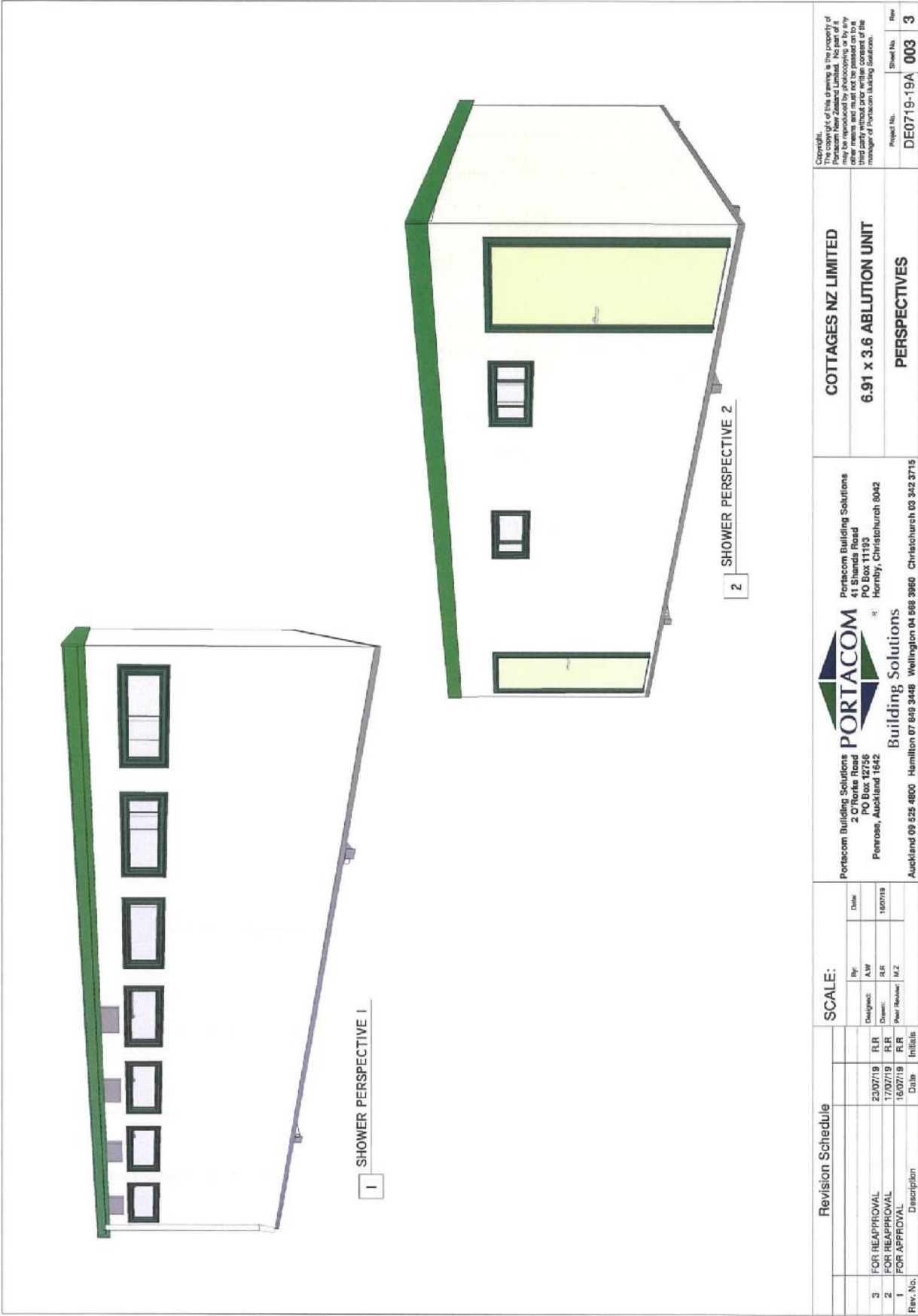






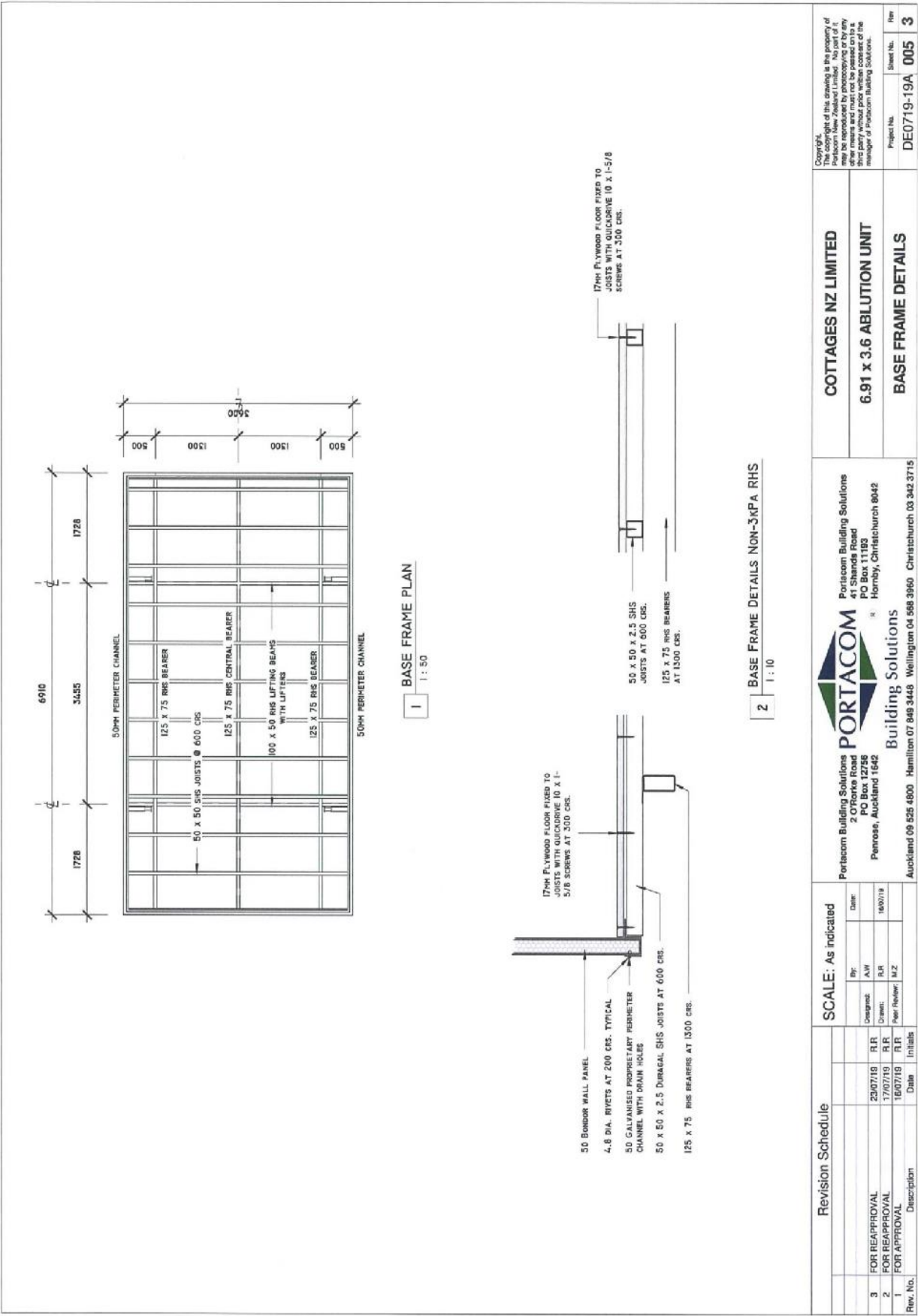






Item 2

Attachment E





20 August 2019

Mr John Roil
Jara Family Trust

Dear John,

I am aware that you have been discussing with Mr Rod Hansen from our office, your proposal at Iron Gate Road to develop land for accommodation purposes.

Rod has asked I send this letter to you to assist in your applications for consent from the local authorities.

I confirm that you have discussed with the Department of Conservation, your proposal at Iron Gate Road to develop land for accommodation purposes. This proposal includes a requirement to construct an access bridge over the Irongate Stream and marginal strips bordering the Stream. These marginal strips are administered by the Department of Conservation and as such you will need to apply for and be granted an access easement by the Department.

At this stage the Department does not see any reason for not granting such an easement, however you will need to complete the required application forms in due course, submit them to the Department, and be granted the easement to authorise this access.

Kind regards

Neil Grant
Ranger - Community---Kaitiaki, Āo Hāpori
Department of Conservation --- Te Papa Atawhai
DDI: +64 6 8344845
VPN: 6845

Department of Conservation Te Papa Atawhai
Hawke's Bay Area Office
PO Box 644, Napier 4140
www.doc.govt.nz

Rebecca Jarman

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Sent: Friday, 23 August 2019 2:45 PM
To: 'Matthew Holder'; sarah.shanley@developmentnours.nz
Subject: FW: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Hi Matthew and Sarah,
 Please find below correspondence sent to Mr Roil today.
 Regards

REBECCA JARMAN
 ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
 DISTRICT COUNCIL



HASTINGS
 HEART OF HAWKE'S BAY

Phone (06) 871 5000
 Email rebeccaj@hdc.govt.nz Web hastingsdc.govt.nz
 Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: Rebecca Jarman
Sent: Friday, 23 August 2019 2:44 PM
To: 'John Roil' <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Kia ora John,

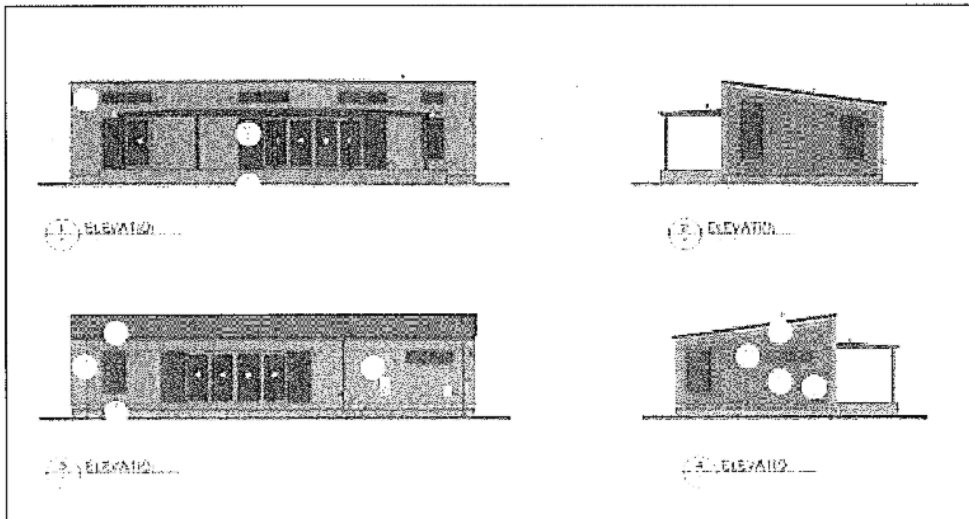
In respect of your emails below I've further discussed with my Manager and can provide you an update.

Firstly, thank you for the recent letter from DoC which will be taken into consideration.

In terms of flood levels and the design of the access bridge, Council does have scope to consider these matters, particularly in order that consideration needs to be given as to whether natural hazards are sufficiently addressed in the application and whether safe and efficient access to the activities on the site can be achieved. Nevertheless, having further reviewed the additional information provided, we now consider that we can move forward with the flooding and access considerations for the purposes of the s95A and s95B RMA determinations, based on the information received thus far.

Thank you for the information with additional details for the ablution facilities and in regards the caretakers building. Further clarification is required regarding the caretakers building. The information identifies that the caretakers building is from 58 Irongate Road and that Council has records of the building, but that the building is currently at 62 Irongate Road.

For clarification, are you referring to the Caretakers Cottage Building that was consented under resource consent RMa20160048 (extract below)?



Or the building at 62 Irongate Road shown in the site visit photo below? If the latter building, please advise of what records are being referred to for this building (a building consent or resource consent reference or Council HPRM document reference to provide this clarification would satisfy this clarification requirement).



The updated scheme plans referred to you in your email of 31st July 2019 were received from Development Nous on the 2nd August 201, thank you. Compliance with the 15m yard set back has been advised in the s92 reply, however the proposed updated scheme plans provided show yard set back infringements to boundaries to proposed subdivision boundary, neighbouring boundary and to the marginal strip boundary. As such, in line with usual practice, please provide the updated scheme plan showing the proposed off sets from boundaries proposed.

The information above for the caretakers cottage and updated scheme plan information are still outstanding and further processing is pending a response on these matters. In the meantime, however, we will progress the reporting for the Limited and Public Notification decision for the proposal as far as possible for you.

If you have any questions or queries regarding the above, please contact me on the details below.

Ngā mihi

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 5000
Email rebecca@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: Rebecca Jarman
Sent: Tuesday, 20 August 2019 4:18 PM
To: 'John Roil' <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora John,
 Just acknowledging the receipt of your email below.
 The updated scheme plan was provided on the 2nd August from Development Nous.

Unfortunately I'm on a course tomorrow, however will look into further Thursday and provide a further update.

Ngā mihi

REBECCA JARMAN
 ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 6000
 Email rebeccaj@hdc.govt.nz Web hastingsdc.govt.nz
 Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [<mailto:john@pmhb.nz>]
Sent: Tuesday, 20 August 2019 10:33 AM
To: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Cc: Murray Arnold <murraya@hdc.govt.nz>; Matthew Holder <matthew.holder@developmentnous.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Good morning Rebecca,
 I responded to your Further Information request (s92) on the 31st July, 2019.
 However the response has not been acknowledged?
 Murray, you mentioned during a discussion that you would some feedback from DOC.
 I have attached a letter from DOC.
 The basis of the letter is that a formal request for an easement will occur once approval has been granted from HDC.
 Can you provide an update as to where you are at with the processing of this consent.
 Regards John

From: John Roil
Sent: Wednesday, July 31, 2019 6:52 PM
To: 'Rebecca Jarman' <rebeccaj@hdc.govt.nz>; 'Matthew Holder' <matthew.holder@developmentnous.nz>
Cc: David Bishop <davidb@hdc.govt.nz>
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Hi Rebecca,
 I have made the following comments next your requests below and mindful of who is responsible for each of the issues.
 At the very earliest time I met with the Duty planner to ensure I had a good handle of what would be initially required and also taking the time to meet with other regulatory bodies.
 With this in mind it was my understanding that the HBRC is the authority with regards to bridge design and potentially flooding and height of bridge. As a result, I included the correspondence that took place with the HBRC.
 The submission covers this off by with previous consultation and an awareness that the formal application to the HBRC will take place once acceptance has been granted from the HDC. Hence the height of the bridge, the design and the formal application required to the HBRC.

A covering letter/ email provides sufficient evidence of the liaison between the various parties, i.e Lattey engineers, HBRC etc.

I met specifically at the start of this project with a duty planner and this is noted in the application as what would be acceptable for the Council to require. If required conditions could be established to ensure the work would be carried out to the satisfaction of Council.

See my comments below in red.

From: Rebecca Jarman <rebecca.j@hdc.govt.nz>
Sent: Wednesday, July 31, 2019 5:15 PM
To: 'Matthew Holder' <matthew.holder@developmentnous.nz>
Cc: John Roil <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora Matthew,

Thank you for your emails with additional information responding to Council's Request for Further Information. Unfortunately a few matters still need to be addressed, as below.

- Further details on the flood assessment in order to support the flooding extents plan.
 - What is the level of the 1% AEP referred to on the flood assessment plan; and
 - Recommended/proposed floor levels (as a RL) and finished ground levels (as a RL); and The RL levels for the buildings are and will be covered with the building consents. There is only a small area of land that shows up as affected by flood levels on the HBRC maps. The standard heights of prefabricated buildings is 600 above ground level. It has been estimated that this height will be well above the flood level, but will be confirmed during the building consent stage. HDC can if required set a condition on the RC if required. (As previously done on similar projects)
 - The proposed finished levels (minimum RL) for access and bridge in relation to flood levels; and We have been in consultation with Lattey civil and structural engineers and also the HBRC who are responsible for the stream and flooding. You will have received a copy of an email from the HBRC. It is my understanding that the HBRC are the Council responsible for this process. Please let me know if I have this wrong?
- The assessment of the impact of the proposed bridge on flooding is still needed. I discussed with a HDC planner at the time and it was deemed acceptable that a covering letter indicating that the bridge is feasible and once HDC has processed the RC, then this formal work will be submitted through the agency responsible; hence the email from the HBRC. Again it is my understanding that this falls under the HBRC and covered off during their consent process? HDC can if required set a condition of the RC.
 - Provide comment from suitably qualified engineer that specifically addresses the potential impact of the construction of bridge embankments either side of stream on the flood characteristics of the stream and any consequent effects on the flood levels and extent of flooding shown on the accommodation site. Again this is the responsibility of the HBRC and is covered off by them. The construction design by Latteys has indicated screw piles are the preferred option as this will not cause any damage to the banks of the stream. The formal consent process will be undertaken between Latteys as the bridge designers and the HBRC as the consenting authority. A formal design will be made available to HDC once the Planning issues are resolved. Historically, we have used an exemption process to be provided as all design and construction work is by qualified engineers. HDC can if required set a condition on the RC
- More clarification on stormwater disposal on-site are still required. The whole of the 3.5ha of land is made up of the old Ngaruroro river and as a consequence is free draining. This will be provided with the Building consent application. The land is of the same consistency as the Irongate industrial zone. A site visit can confirm this. Please let me know when you are available.
 - Confirm the area on the site to be utilised for stormwater disposal area. As above.
- The floor plans and elevations for the shower/ laundry blocks and caretakers cottage are still needed. See attached for ablutions.. The caretakers building is from 58 Irongate Rd and Council has the records of the building that is to be shifted onsite. It is currently sitting on blocks at 62 Irongate Rd.

- With regards to the 15m yard set back compliance identified, please confirm that this compliance is also to be achieved to the edge of all boundaries, including the Marginal Strip boundary. This is confirmed and can be checked during the building consent stage.
- The scheme plan(s) referred to in the s92 reply unfortunately have not been attached. Please forward. Developmentnous to confirm and resend if necessary.
- More information on proposed access is still required to address the sufficiency of the access for the proposal. Please provide formation widths for proposed accessways, bridge and passing bay provision. The accessway is clearly shown as 10m wide. The bridge is single lane and is sufficient for the purpose. The formal design and formation widths and servicing will be provided during the next stage and will comply with the ECOP for a single lot. HDC can if required set a condition of the RC.

We are happy to meet and / or discuss to progress these matters. I can be contacted by return email or phone (06) 871 5110 extn 5368.

Developmentnous to confirm sending the scheme plan and if an error has occurred, they will send a copy. If not they will inform you of the date it was sent.

This should cover off all aspects listed above.

However if not, Please arrange a suitable time and ensure Mr Bishop is invited as I understand that he is responsible for RSE accommodation within HDC and the process to smooth the way between us as the client and HDC Planning Department.

I've copied Mr Bishop in, in case a meeting is required.

I've copied in Mr Roil for his information.

Regards

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
DISTRICT COUNCIL



HASTINGS
HEART OF HAWKE'S BAY

Phone (06) 871 5000 Email rebecca.j@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Tuesday, 27 August 2019 10:37 AM
To: Rebecca Jarman
Cc: 'Matthew Holder'; sarah.shanley@developmentnous.nz
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback
Attachments: Revised layout.pdf

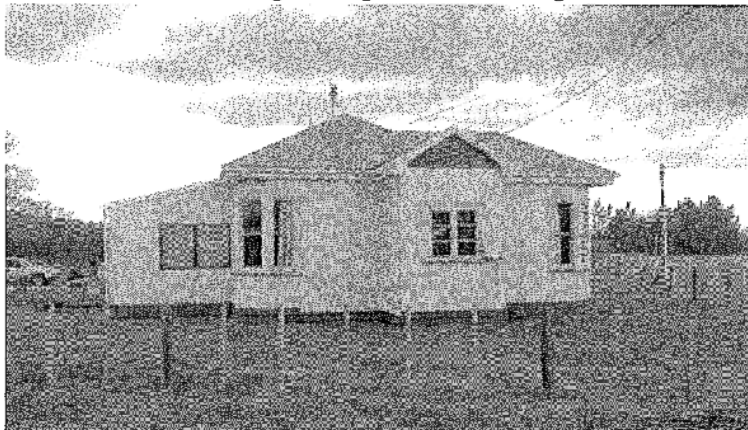
Good morning Rebecca,
 Please find attached a revised scheme plan with the distance to marginal strip been greater than 15m. (Currently shown as 33m to stream?)
 The size of the Manager house was showing the covered back deck areas included with the building size.
 However I have shown the building to be approximately 190m2.
 Regards John

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Sent: Tuesday, August 27, 2019 9:52 AM
To: John Roil <john@pmhb.nz>
Cc: 'Matthew Holder' <matthew.holder@developmentnous.nz>; 'sarah.shanley@developmentnous.nz' <sarah.shanley@developmentnous.nz>
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

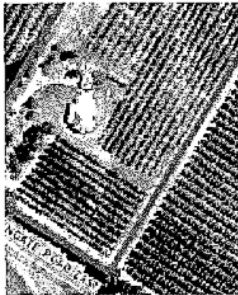
Kia ora John,

Thanks for the information. Sorry I didn't reply yesterday as I was out of the office.
 The distance to the Marginal Strip boundary is also needed to be shown please to confirm the yard set back compliance to that side. Please provide a further updated plan.

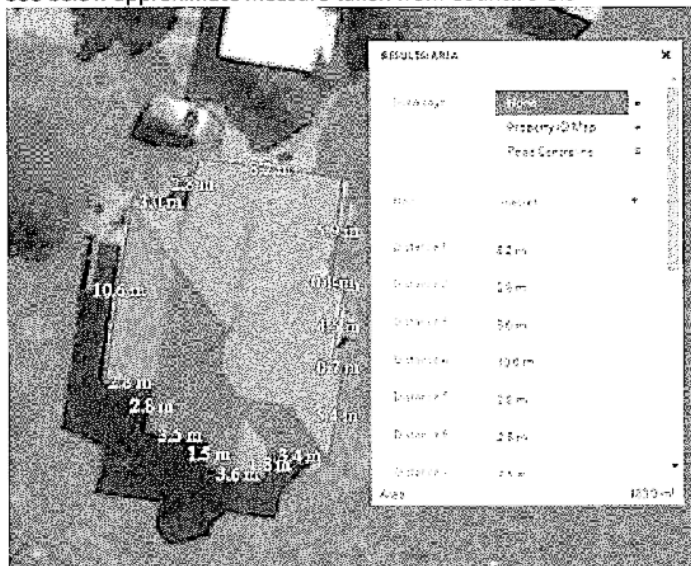
In terms of the caretakers / managers cottage, there is an image of a dwelling in HPRM 25015#0047 scanned page 86 which shows an 'existing dwelling' at former 58 Irongate Road -- see image below.



Old aerial images showing the building at the front of the site? See below.



However this building is not 240m2 as per your email.
See below approximate measure taken from Council's GIS -



Is this the building, but actually about 183m²?

Regards

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
HEART OF HAWKE'S BAY

Phone (06) 871 5000
Email rebecca@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [<mailto:john@pmhb.nz>]
Sent: Monday, 26 August 2019 9:51 AM
To: Rebecca Jarman <rebecca.j@hdc.govt.nz>
Cc: 'Matthew Holder' <matthew.holder@developmentnous.nz>; 'sarah.shanley@developmentnous.nz' <sarah.shanley@developmentnous.nz>
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Hi Rebecca,

I have shown a revised scheme plan with 15m set backs.

I have contacted HDC for a record number for the previous building located at 58 Irongate Rd, however Council do not have this number.

However the Council staff member was able to confirm that previous aerial photos show that the building was on that site. As mentioned the building was onsite for at least 60 years.

The proposed building as detailed is the Managers house of 240m² as shown on your photo below.

Regards John

From: Rebecca Jarman <rebecca.j@hdc.govt.nz>

Sent: Friday, August 23, 2019 5:09 PM

To: John Roil <john@pmhb.nz>

Cc: 'Matthew Holder' <matthew.holder@developmentnous.nz>; 'sarah.shanley@developmentnous.nz' <sarah.shanley@developmentnous.nz>

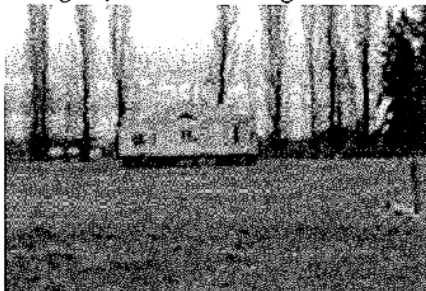
Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Kia ora John,

Thank you for further feedback.

I've attached the email from Matthew Holder with the scheme plans received on the 2nd August 2019.

The proposed building for the managers / caretakers cottage is unclear. Are you indicating that that that proposed managers / caretakers cottage is the building in the following photo and that this is 246m²?



What is the record number referred to for the building previously at 58 Irongate Road?

A plan showing the location of the buildings and their set backs is usual practice and therefore, an updated scheme plan / site layout plan showing the off-sets is still required.

Nga mihi

Rebecca Jarman

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
DISTRICT COUNCIL



HASTINGS
HEART OF HAWKE'S BAY

Phone (06) 871 6000

Email rebecca.j@hdc.govt.nz Web hastingsdc.govt.nz

Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [<mailto:john@pmhb.nz>]

Sent: Friday, 23 August 2019 4:40 PM

To: Rebecca Jarman <rebeccaj@hdc.govt.nz>
 Cc: 'Matthew Holder' <matthew.holder@developmentnous.nz>; 'sarah.shanley@developmentnous.nz' <sarah.shanley@developmentnous.nz>
 Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

There is some minor differences between the architectural designer and the planning consultant. The Planning consultant has provided the correct information.

My comments in black should clarify your concerns.
 Regards John

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
 Sent: Friday, August 23, 2019 4:09 PM
 To: John Roil <john@pmhb.nz>
 Cc: 'Matthew Holder' <matthew.holder@developmentnous.nz>; 'sarah.shanley@developmentnous.nz' <sarah.shanley@developmentnous.nz>
 Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Kia ora John,
 Thank you for the email.
 My comments are below (in blue) against your comments. The clarification on the managers / caretakers cottage building and proposed boundary off-sets are still needed please.
 Nga mihi



REBECCA JARMAN
 ENVIRONMENTAL PLANNER (CONSENTS)

Phone (06) 871 5000
 Email rebeccaj@hdc.govt.nz Web hastingsdc.govt.nz
 Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [mailto:john@pmhb.nz]
 Sent: Friday, 23 August 2019 3:51 PM
 To: Rebecca Jarman <rebeccaj@hdc.govt.nz>
 Cc: Matthew Holder <matthew.holder@developmentnous.nz>
 Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Good afternoon,
 I think the email you have sent clearly shows why a site visit with the respective stakeholder/ and consultant is very important to fully understand the landscape and the different buildings that are onsite. The email below clearly shows a lack of understanding of the project.

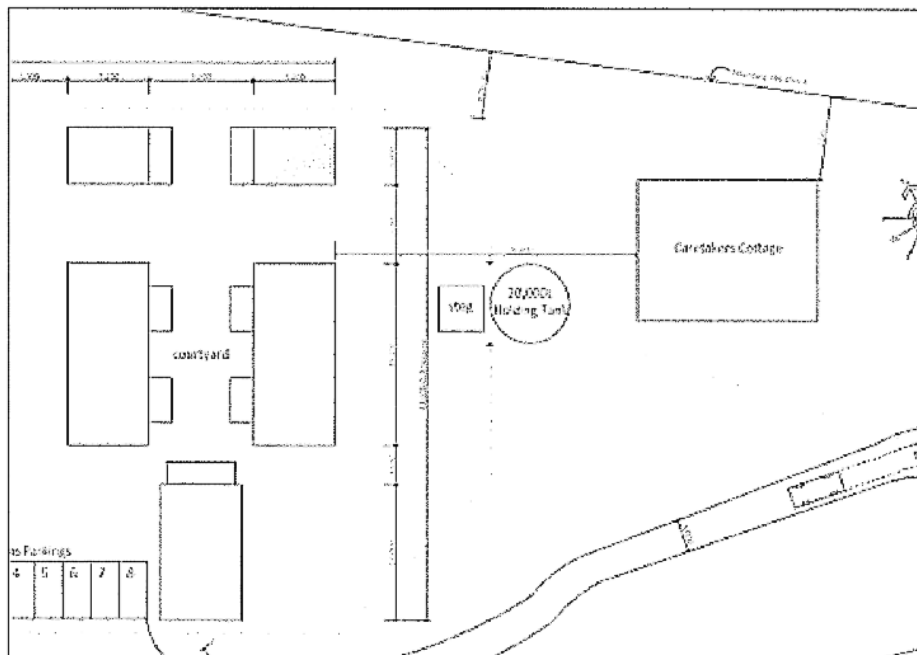
There are some errors in your correspondence below that needs clarifying.

1. The email sent by Developmentnous on the 2nd August was not update, but in effect what you already have. The plans were updated, albeit the Revision number on the plans were not. **Please confirm the update and what effect this has on the application.**
2. A caretakers cottage has never been mentioned. A managers cottage was mentioned and this was the building that was originally from 58 Irongate Rd. Again the data provided to HDC was that this will be on your records including aerial photos. While the application information on page 6 of the AEE from your Agent used the term 'managers cottage', yet the Createus Group plans refer to a 'caretakers cottage'. Refer to Createus Group plans 101 and 102 submitted with the application. The original Development Nous plans show a separate consented 'caretakers cottage' on plan H2019005-S001 Rev 1 on 13 Maultsaid

Place. Please confirm the proposed building – is the first image or the second photo in the below email, or a different building? This is minor in nature and our application clearly showed the original cottage/ building was sited in 58 Irongate Rd. The Council records show the original building at 58 Irongate Rd to be about 240m2. The caretakers cottage is only 100m2. For your clarity the old building of around 240m2 marries up with the application.

3. I advised yourself and Council that there is no set back infringements? Hence why we have not requested or shown any distances closer than 15m. I am unsure where you got this information from. The plans submitted show closer than 15m, see extract below from the application Createus Group plans. The main RSE complex (i.e living and bedrooms) is to be 15m and whilst the plan does not show the dimension for the ablutions, this will be 15m also. This is an error by our designer. The request as detailed by the planning consultant is that all buildings will be 15m from the boundary.

- a. If this changes a separate consent will be provided during the building consent process and in consultation with the affected neighbours.



4. I sent you information on the 31st July which you have not responded to until now. We have received your email on the 31st July 2019, thank you.
5. The information I supplied from DOC was outside the S 92 request and an informal request from Mr Arnold. Yes, this is our understanding, thank you.

Regards John

From: Rebecca Jarman <rebecca.j@hdc.govt.nz>

Sent: Friday, August 23, 2019 2:44 PM

To: John Roil <john@pmhb.nz>

Subject: RMA20190203 - 97 York Road and 62 Irongate Road - Subdivision and SWA proposal : s92 feedback

Kia ora John,

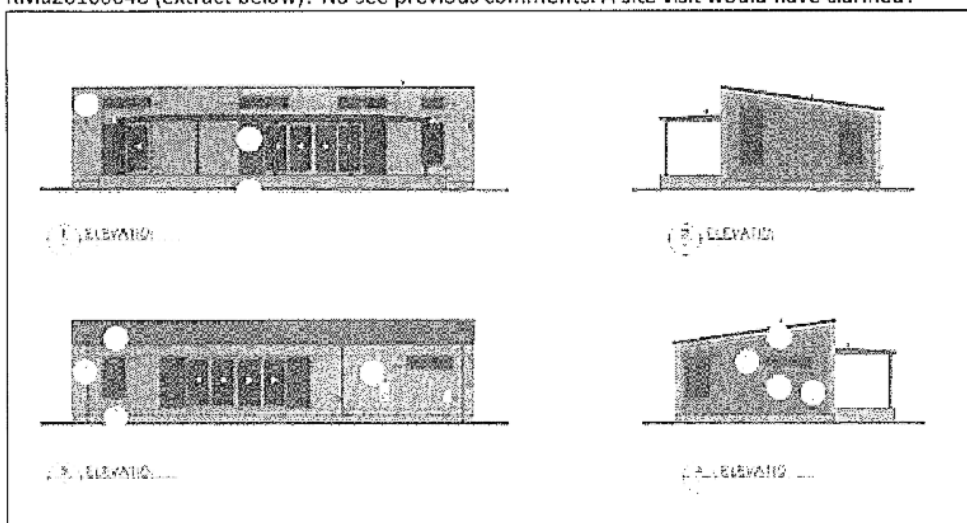
In respect of your emails below I've further discussed with my Manager and can provide you an update.

Firstly, thank you for the recent letter from DoC which will be taken into consideration. Good

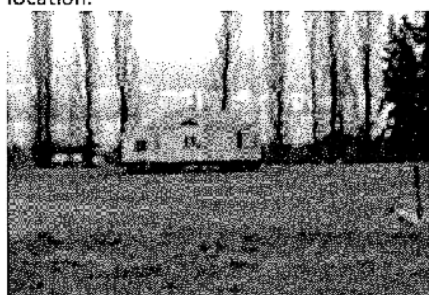
In terms of flood levels and the design of the access bridge, Council does have scope to consider these matters, particularly in order that consideration needs to be given as to whether natural hazards are sufficiently addressed in the application and whether safe and efficient access to the activities on the site can be achieved. Nevertheless, having further reviewed the additional information provided, we now consider that we can move forward with the flooding and access considerations for the purposes of the s95A and s95B RMA determinations, based on the information received thus far. Good

Thank you for the information with additional details for the ablution facilities and in regards the caretakers building. Further clarification is required regarding the caretakers building. The information identifies that the caretakers building is from 58 Irongate Road and that Council has records of the building, but that the building is currently at 62 Irongate Road. The caretakers cottage shown in your diagram below is consented for Lot 4, 58 Irongate Rd.

For clarification, are you referring to the Caretakers Cottage Building that was consented under resource consent RMa20160048 (extract below)? No see previous comments. A site visit would have clarified?



Or the building at 62 Irongate Road shown in the site visit photo below? If the latter building, please advise of what records are being referred to for this building (a building consent or resource consent reference or Council HPRM document reference to provide this clarification would satisfy this clarification requirement). The building that is shown is from the original 58 Irongate Rd. We have previously advised you that Council will have this building on your records. The building was onsite at 62 Irongate rd for some 60 years plus? Aerial photos will also show the location.



The updated scheme plans referred to you in your email of 31st July 2019 were received from Development Nous on the 2nd August 201, thank you. Compliance with the 15m yard set back has been advised in the s92 reply, however the proposed updated scheme plans provided show yard set back infringements to boundaries to proposed subdivision boundary, neighbouring boundary and to the marginal strip boundary. As such, in line with usual practice, please provide the updated scheme plan showing the proposed off sets from boundaries proposed. The scheme plan does not show infringements- there are no measurements shown? So not sure how conclusion could

be reached. Not sure why a condition requiring buildings to be 15m from boundary can't be attached to approval? Why wait this long since 2 August to now raise the issue?

The information above for the caretakers cottage and updated scheme plan information are still outstanding and further processing is pending a response on these matters. In the meantime, however, we will progress the reporting for the Limited and Public Notification decision for the proposal as far as possible for you.

If you have any questions or queries regarding the above, please contact me on the details below.

Ngā mihi

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 5000
Email rebecca.j@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: Rebecca Jarman
Sent: Tuesday, 20 August 2019 4:18 PM
To: 'John Roil' <john@pmhb.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora John,
Just acknowledging the receipt of your email below.
The updated scheme plan was provided on the 2nd August from Development Nous.

Unfortunately I'm on a course tomorrow, however will look into further Thursday and provide a further update.

Ngā mihi

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 5000
Email rebecca.j@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [<mailto:john@pmhb.nz>]
Sent: Tuesday, 20 August 2019 10:33 AM
To: Rebecca Jarman <rebecca.j@hdc.govt.nz>
Cc: Murray Arnold <murraya@hdc.govt.nz>; Matthew Holder <matthew.holder@developmentnous.nz>
Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Good morning Rebecca,
I responded to your Further Information request (s92) on the 31st July, 2019.
However the response has not been acknowledged?
Murray, you mentioned during a discussion that you would some feedback from DOC.

I have attached a letter from DOC.

The basis of the letter is that a formal request for an easement will occur once approval has been granted from HDC.

Can you provide an update as to where you are at with the processing of this consent.

Regards John

From: John Roil

Sent: Wednesday, July 31, 2019 6:52 PM

To: 'Rebecca Jarman' <rebeccaj@hdc.govt.nz>; 'Matthew Holder' <matthew.holder@developmentnous.nz>

Cc: David Bishop <davidb@hdc.govt.nz>

Subject: RE: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Hi Rebecca,

I have made the following comments next your requests below and mindful of who is responsible for each of the issues.

At the very earliest time I met with the Duty planner to ensure I had a good handle of what would be initially required and also taking the time to meet with other regulatory bodies.

With this in mind it was my understanding that the HBRC is the authority with regards to bridge design and potentially flooding and height of bridge. As a result, I included the correspondence that took place with the HBRC. The submission covers this off by with previous consultation and an awareness that the formal application to the HBRC will take place once acceptance has been granted from the HDC. Hence the height of the bridge, the design and the formal application required to the HBRC.

A covering letter/ email provides sufficient evidence of the liaison between the various parties, i.e Lattey engineers, HBRC etc.

I met specifically at the start of this project with a duty planner and this is noted in the application as what would be acceptable for the Council to require. If required conditions could be established to ensure the work would be carried out to the satisfaction of Council.

See my comments below in red.

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>

Sent: Wednesday, July 31, 2019 5:15 PM

To: 'Matthew Holder' <matthew.holder@developmentnous.nz>

Cc: John Roil <john@pmhb.nz>

Subject: RMA20190203 - 97 York Road and 62 Irongate Road - s92 feedback

Kia ora Matthew,

Thank you for your emails with additional information responding to Council's Request for Further Information.

Unfortunately a few matters still need to be addressed, as below.

- Further details on the flood assessment in order to support the flooding extents plan.
 - What is the level of the 1% AEP referred to on the flood assessment plan; and
 - Recommended/proposed floor levels (as a RL) and finished ground levels (as a RL); and The RL levels for the buildings are and will be covered with the building consents. There is only a small area of land that shows up as affected by flood levels on the HBRC maps. The standard heights of prefabricated buildings is 600 above ground level. It has been estimated that this height will be well above the flood level, but will be confirmed during the building consent stage. HDC can if required set a condition on the RC if required. (As previously done on similar projects)
 - The proposed finished levels (minimum RL) for access and bridge in relation to flood levels; and We have been in consultation with Lattey civil and structural engineers and also the HBRC who are responsible for the stream and flooding. You will have received a copy of an email from the HBRC. It is my understanding that the HBRC are the Council responsible for this process. Please let me know if I have this wrong?
- The assessment of the impact of the proposed bridge on flooding is still needed. I discussed with a HDC planner at the time and it was deemed acceptable that a covering letter indicating that the bridge is feasible and once HDC has processed the RC, then this formal work will be submitted through the agency

B

responsible; hence the email from the HBRC. Again it is my understanding that this falls under the HBRC and covered off during their consent process? HDC can if required set a condition of the RC.

- Provide comment from suitably qualified engineer that specifically addresses the potential impact of the construction of bridge embankments either side of stream on the flood characteristics of the stream and any consequent effects on the flood levels and extent of flooding shown on the accommodation site. Again this is the responsibility of the HBRC and is covered off by them. The construction design by Latteys has indicated screw piles are the preferred option as this will not cause any damage to the banks of the stream. The formal consent process will be undertaken between Latteys as the bridge designers and the HBRC as the consenting authority. A formal design will be made available to HDC once the Planning issues are resolved. Historically, we have used an exemption process to be provided as all design and construction work is by qualified engineers. HDC can if required set a condition on the RC
- More clarification on stormwater disposal on-site are still required. The whole of the 3.5ha of land is made up of the old Ngaruroro river and as a consequence is free draining. This will be provided with the Building consent application. The land is of the same consistency as the Irongate industrial zone. A site visit can confirm this. Please let me know when you are available.
 - Confirm the area on the site to be utilised for stormwater disposal area. As above.
- The floor plans and elevations for the shower/ laundry blocks and caretakers cottage are still needed. See attached for ablutions.. The caretakers building is from 58 Irongate Rd and Council has the records of the building that is to be shifted onsite. It is currently sitting on blocks at 62 Irongate Rd.
- With regards to the 15m yard set back compliance identified, please confirm that this compliance is also to be achieved to the edge of all boundaries, including the Marginal Strip boundary. This is confirmed and can be checked during the building consent stage.
- The scheme plan(s) referred to in the s92 reply unfortunately have not been attached. Please forward. Developmentnous to confirm and resend if necessary.
- More information on proposed access is still required to address the sufficiency of the access for the proposal. Please provide formation widths for proposed accessways, bridge and passing bay provision. The accessway is clearly shown as 10m wide. The bridge is single lane and is sufficient for the purpose. The formal design and formation widths and servicing will be provided during the next stage and will comply with the ECOP for a single lot. HDC can if required set a condition of the RC.

We are happy to meet and / or discuss to progress these matters. I can be contacted by return email or phone (06) 871 5110 extn 5368.

Developmentnous to confirm sending the scheme plan and if an error has occurred, they will send a copy. If not they will inform you of the date it was sent.

This should cover off all aspects listed above.

However if not, Please arrange a suitable time and ensure Mr Bishop is invited as I understand that he is responsible for RSE accommodation within HDC and the process to smooth the way between us as the client and HDC Planning Department.

I've copied Mr Bishop in, in case a meeting is required.

I've copied in Mr Roil for his information.

Regards

REBECCA JARMAN
ENVIRONMENTAL PLANNER - CONSENTS



HASTINGS
HEART OF HAWKE'S BAY

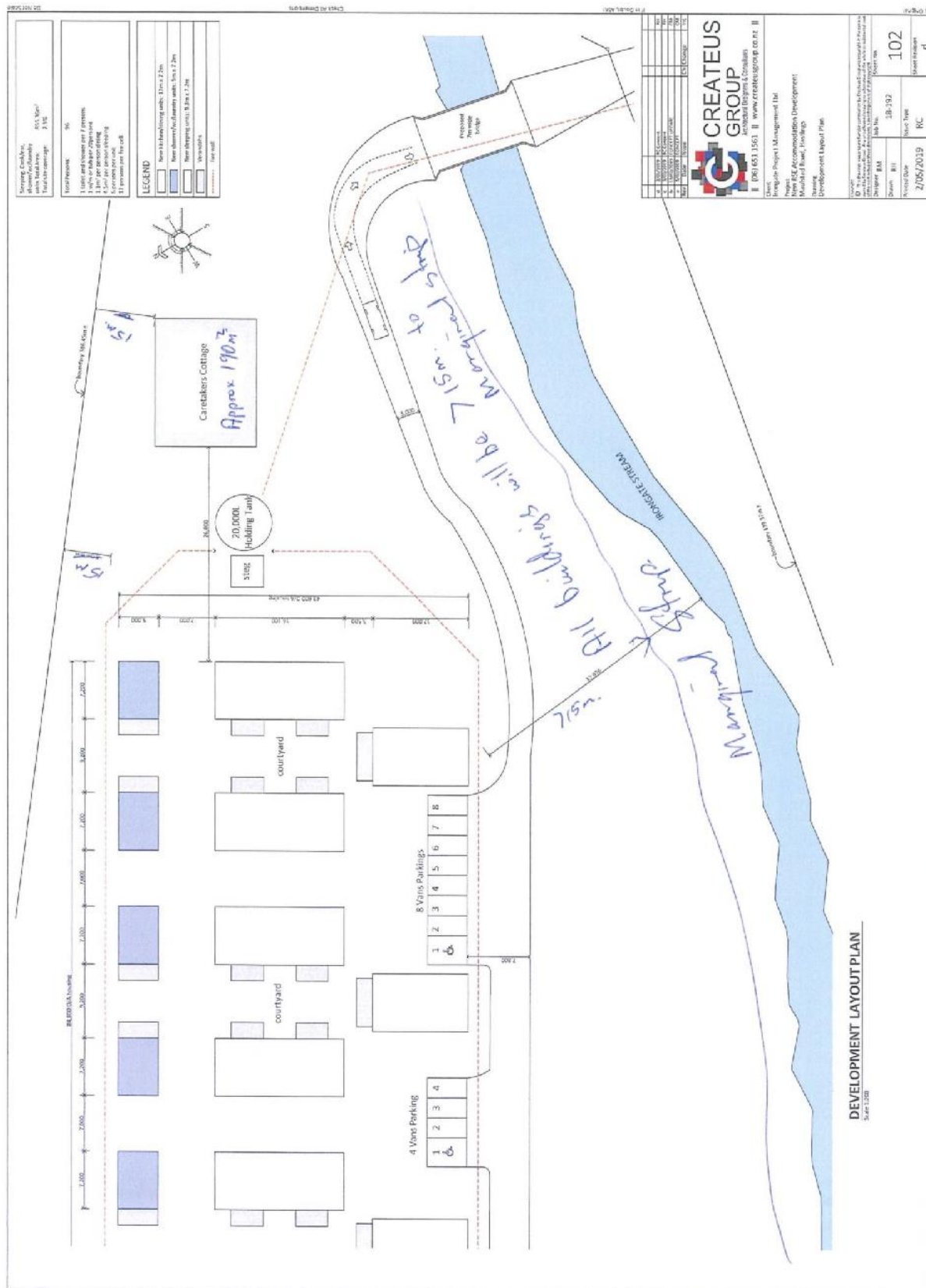
Phone (06) 871 5000 Email rebecca@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

Item 2**Attachment E**



Rebecca Jarman

From: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Sent: Thursday, 26 September 2019 5:03 PM
To: 'John Roil'; 'Matthew Holder'
Cc: David Bishop; Murray Arnold; Nick Bruin
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers accommodation
Attachments: RMA20190203 FILE NOTE of Meeting 20 September 2019.pdf

Kia ora John and Matthew,

For your information, I forward to you a copy of my notes of our recent meeting 20th September 2019.

I have sought clarification from Nick Bruin as to whether he had anticipated the flooding areas mapping to be shown for 1:100 or 1:50 yr flood event. Will come back to you with feedback as it comes to hand.

Ngā mihi

REBECCA JARMAN
 ENVIRONMENTAL PLANNER - CONSENTS



Phone (06) 871 5000
 Email rebeccaj@hdc.govt.nz Web hastingsdc.govt.nz
 Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

From: John Roil [mailto:john@pmhb.nz]
Sent: Thursday, 26 September 2019 4:16 PM
To: Murray Arnold <murraya@hdc.govt.nz>
Cc: David Bishop <davidb@hdc.govt.nz>; Rebecca Jarman <rebeccaj@hdc.govt.nz>; Matthew Holder <matthew.holder@developmentnous.nz>; 'Craig Goodier' <Craig@hbrc.govt.nz>
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers accommodation

Good afternoon Murray,

I am responding to the report based on the assumption that it was Draft and that you were seeking feedback as to the content; Please find attached my response and see our email below for clarification.

Please note; I have ccd Mr Craig Goodier into the correspondence as you may seek clarification on the Bridge and potential flooding raised by Ms Jarman.

Following on from our meeting earlier in the week and the potential agreements and information provided at the meeting and follow up meeting with Mr Brett Chapman, I would like Council in the first instance to reassess the Draft S95A and 95B and section 104 for the following reasons;

1. I have spoken to Craig Goodier at the HBRC regarding the earlier correspondence from Gary Clode on the location of the proposed bridge and the understanding that the formal design will follow through a separate RMA process with the HBRC on the bridge design. It was our understanding (and HBRC) that the proposed bridge will not cause any flooding issues. *(particularly when you are able to view the recent construction of the expressway and culverts installed upstream.)* Mr Chapman agreed with our summation of the effect of the bridge having no effect.
 - a. There will then be no adverse effects to neighbouring properties through potential flooding.

2. We are happy to include screening and landscaping to any neighbours that are affected by the buildings, taking into account that any housing is at least 300-400m away from the proposed buildings and site.
3. We are also happy to include a No Complaints Covenant.
4. A reasonable discussion took place on the fact that our industrial sites at 58 Irongate Rd and 1139 Maraekakaho Rd have credits on the amount of effluent disposal into the Council reticulated system. It was verbally agreed that this could be utilized for the proposed site, which in effect does not require any onsite effluent disposal. (also supported by the draft Variation 7 for RSE accommodation in the Irongate Industrial zone. Mr Chapman agreed with our proposal in principal.
5. I understand that Matt was working on some of your responses from the meeting earlier in the week from the section 95a and 95b incl the 104 assessment and he will send these through separately. (Boundary items?)

A substantial amount of the assessment was based on Rebecca's assumption of the flooding caused by the bridge and also the effects of the visual impact.

I still believe that the letter offered by DOC provides enough confidence that a formal application for an easement will be supported. (Knowing that this will take a while). Again happy to have a condition place on the consent.

Now that we have clarified and confirmed that the identified persons in your report are not affected, I would like the assessment reviewed based on the information provided.

Regards John Roil

From: Murray Arnold <murraya@hdc.govt.nz>

Sent: Thursday, September 26, 2019 2:57 PM

To: John Roil <john@pmhb.nz>

Cc: David Bishop <davidb@hdc.govt.nz>; Rebecca Jarman <rebecca.j@hdc.govt.nz>

Subject: RMA20190203 - Subdivision and Seasonal Workers accommodation

Hello John,

Dave Bishop has been in contact with me about your email this afternoon.

Can you please confirm for me whether

- a) You want time to obtain affected persons consents, or
- b) You wish for us to proceed with the limited notification.

Proceeding with limited notification will require payment of the balance of the deposit for notification being \$4,800 (i.e. \$6,000 for limited notification less the deposit already paid of \$1200).

Regards,

Murray

MURRAY ARNOLD
ENVIRONMENTAL CONSENTS MANAGER



Phone (06) 871 5000
Email murraya@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand



Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

Item 2**Attachment E**



FILENOTE

HASTINGS DISTRICT COUNCIL
207 Lyndon Road East
Paignton TQ3 4TQ
Exmouth EX9 5DD
Paignton TQ3 4TQ
Phone 01323 5020
Fax 01323 5100
www.hastingsdc.gov.uk
TE KAUHHERA O HERETAUNGA

File Note: Meeting

Date / Time: 20 September 2019 ; 9am – 10am

Location: Gullin Room, Ground Floor, Customer Centre, Hastings District Council

Subject: RMA20190203 : Proposed Subdivision and Seasonal Workers Accommodation 62
Irongate Road and 97 York Road, Hastings.

Attendees: For Applicant

- Mr John Roll (JR)
- Mr Matthew Holder – Planning Consultant for Applicant : Development Nous Ltd (MH)
- Mr Mitchell Pal – Civil Engineer : Development Nous Limited (MP)

For Hastings District Council

- Murray Arnold – Environmental Consents Manager (MA)
- Rebecca Jarman – Environmental Planner (Consents) (RJ)
- Nick Bruin – Development Engineer (NB)

Prepared by: Rebecca Jarman – Environmental Planner (Consents)

JR and MH in receipt of draft Officers s95A and s95B RMA report.

JR considers report very negative. RJ explained likely due to the purpose of the report being about adverse effects.

Flooding was discussed.

JR emphasised that the buildings would be built above flooding levels dealt with at the time of building consent. Also that consultation with HBRC and DoC has been undertaken. Discussion had about the potential change in flooding parameter resulting from bridge structure. It was agreed that the Applicant would present a specific statement regarding the change to flooding pattern and depths resulting from the proposal, and provide a new plan showing the changes to the flooding areas expected after completion of construction of the new bridge.

Wastewater Disposal On-site:

Discussion about location of effluent disposal fields. Map to be provided by MH showing proposed location of effluent system and disposal fields.

Correspondence from DoC discussed. MA advised that as previously discussed with Mr Roll, correspondence to date cannot be taken as being an affected persons consent. MA explained difference between a right of way agreement and consent as an adversely affected party. MA confirmed that specific correspondence from an appropriately authorised person at DoC is required by either:

- Providing a completed affected parties consent form with signed plans; or

- Providing a letter acknowledging that HDC has identified DoC as affected persons and stating that either DoC gives approval for the proposal, or states DoC has no objection to the proposal as set out in the application documents and the range of effects that may be generated.

JR was agreeable to Council Officers internally forwarding documents to Council's Parks Department with regards to obtaining the written consent from Council in respect of the HDC owned Esplanade Reserve.

JR to provide written consent to the proposal confirming his authorisation to sign for other owners / occupiers of 11 Maulisaid Place and 62 Irongate Road.

JR queried if the existing Sale and Purchase agreement is sufficient for the consent of 97 York Road owners / occupiers. RJ advised it is unlikely. MA offered to review agreement and obtain legal view on matter. JR to forward copy of Sale and Purchase agreement to Council to obtain this review.

MH queried the range of effects with 59 York Road. RJ referred to comments in draft report to provide direction. MH will review possible options for mitigation including reverse sensitivity covenant, fencing, landscaping.

Statutory Acknowledgment Areas:

Discussion had about Hereaunga Tamatea Settlement Trust (HTST) being an affected party. MH sought clarification on the applicability of s33 of the Hereaunga Tamatea Claims Settlement Act (HRCSA) 2018, regarding certain rights not affected. MA will review and advise.

RJ clarified that the draft Section 95A and s95B report has not been shared with any other parties than the applicant. MA confirmed the obligation the HTCSA places on Council to give notice to HTSA of resource consent applications received in terms of statutory areas.

MH noted that draft s95A and s95B report (Map of Statutory Areas, page 33 of report) had an incorrectly located direction arrow (Site vicinity). RJ to rectify. Site is within OTS-110-11 plan statutory acknowledgement and Deed of Recognition plan. MH also queried 'schedule 2' reference on page 33 of draft report. RJ to check and correct / clarify as required.

MH referred to Part 2 of 3rd Schedule of Hereaunga Tamatea Claims Settlement Act and implications of the statement made in the schedule. Uncertainty about applicability of this section to the requirement for affected persons. MA said HDC would check the section being referred to.

JR noted that if other SWAs on consented Lot 4, 62 Irongate Road and 1139 Maraekakaho Road go ahead then they will look at moving the relocated buildings from these sites to 97 York Road and utilise the wastewater capacity for consented Lot 4 and 1139 Maraekakaho Road for the other consent to serve 97 York Road. JR felt that SWA on the industrial land was not the best use of that area.

END.

Rebecca Jarman

From: Murray Arnold <murraya@hdc.govt.nz>
Sent: Monday, 30 September 2019 3:56 PM
To: John Roil
Cc: David Bishop; Rebecca Jarman; Matthew Holder; Brett Chapman; Nick Bruin
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers accommodation

Hello John,

It looks like we were not as clear as we could have been about the status of the copy of the draft s95 report we provided. Matt will be aware of the process and why this was done this way.

This report was only kept in draft format so that you could have the option of obtaining affected persons consents instead of moving on to limited notification. We gave you a copy as I understood you wanted to understand the basis of our decision on affected persons. Once the report is finalised the next step is normally limited notification.

I understand that Rebecca sent you her notes from our meeting – although she had been waiting for confirmation from Nick Bruin that she had correctly interpreted his comments on flood levels, because as explained when we met, the understanding on the impact of these comes from our engineers.

I also need to re-emphasise my comments about the interaction with the Department of Conservation. There is a difference between affected persons consent and DOC agreement to grant an easement. To save on time and cost you may decide to obtain both of these at the same time, however what is needed at this stage is the response from DOC as an affected person under s95B of the RMA. Rebecca's notes outlined what would be needed in a letter if they preferred a letter format to that of the affected persons form.

My email of the 23 August 2019 clearly sets out why the letter you provided cannot be accepted as affected persons consent.

My understanding of the information that was to be provided as a result of the meeting (ref Rebecca Jarmans notes) was:

- a) A specific statement regarding the change to flooding pattern and depths resulting from the proposal, and provide a new plan showing the changes to the flooding areas expected after completion of construction of the new bridge;
- b) Map to be provided by MH showing proposed location of effluent system and disposal field
- c) JR to provide written consent to the proposal confirming his authorisation to sign for other owners / occupiers of 11 Maultsaid Place and 62 Irongate Road;
- d) MH will review possible options for mitigation of effects with 59 York Road including reverse sensitivity covenant, fencing, landscaping
- e) MH to provide revised subdivision scheme showing minor adjustment in boundaries for subdivision.

We will need this information in writing if we are to include it in the notification assessment. At present we have not received these.

I note your comments in relation to Brett Chapmans agreement in principal to reticulated sewer, and the effect of the bridge and have asked him to confirm.

To keep this application moving I have asked Rebecca to review her section 95 assessment taking into account the information we have received to date including your responses at the meeting (as per the meeting notes) and your subsequent emails. We will then finalise the section 95 decision, at which point we will need confirmation that either you wish time to obtain any affected persons consents required or proceed to limited notification.

Please let me know if this is not clear.

Regards,
Murray

From: John Roil [mailto:john@pmhb.nz]
Sent: Thursday, 26 September 2019 4:16 PM
To: Murray Arnold <murraya@hdc.govt.nz>
Cc: David Bishop <davidb@hdc.govt.nz>; Rebecca Jarman <rebeccaj@hdc.govt.nz>; Matthew Holder <matthew.holder@developmentnous.nz>; 'Craig Goodier' <Craig@hbrc.govt.nz>
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers accommodation

Good afternoon Murray,

I am responding to the report based on the assumption that it was Draft and that you were seeking feedback as to the content; Please find attached my response and see our email below for clarification.

Please note; I have ccd Mr Craig Goodier into the correspondence as you may seek clarification on the Bridge and potential flooding raised by Ms Jarman.

Following on from our meeting earlier in the week and the potential agreements and information provided at the meeting and follow up meeting with Mr Brett Chapman, I would like Council in the first instance to reassess the Draft S95A and 95B and section 104 for the following reasons; I have spoken to Craig Goodier at the HBRC regarding the earlier correspondence from Gary Clode on the location of the proposed bridge and the understanding that the formal design will follow through a separate RMA process with the HBRC on the bridge design. It was our understanding (and HBRC) that the proposed bridge will not cause any flooding issues. (particularly when you are able to view the recent construction of the expressway and culverts installed upstream.) Mr Chapman agreed with our summation of the effect of the bridge having no effect.

- a. There will then be no adverse effects to neighbouring properties through potential flooding.
2. We are happy to include screening and landscaping to any neighbours that are affected by the buildings, taking into account that any housing is at least 300-400m away from the proposed buildings and site.
3. We are also happy to include a No Complaints Covenant.
4. A reasonable discussion took place on the fact that our industrial sites at 58 Irongate Rd and 1139 Maraekakaho Rd have credits on the amount of effluent disposal into the Council reticulated system. It was verbally agreed that this could be utilized for the proposed site, which in effect does not require any onsite effluent disposal. (also supported by the draft Variation 7 for RSE accommodation in the Irongate Industrial zone. Mr Chapman agreed with our proposal in principal.
5. I understand that Matt was working on some of your responses from the meeting earlier in the week from the section 95a and 95b incl the 104 assessment and he will send these through separately. (Boundary items?)

A substantial amount of the assessment was based on Rebecca's assumption of the flooding caused by the bridge and also the effects of the visual impact.

I still believe that the letter offered by DOC provides enough confidence that a formal application for an easement will be supported. (Knowing that this will take a while). Again happy to have a condition place on the consent.

Now that we have clarified and confirmed that the identified persons in your report are not affected, I would like the assessment reviewed based on the information provided.

Regards John Roil

From: Murray Arnold <murraya@hdc.govt.nz>
Sent: Thursday, September 26, 2019 2:57 PM
To: John Roil <john@pmhb.nz>
Cc: David Bishop <davidb@hdc.govt.nz>; Rebecca Jarman <rebeccaj@hdc.govt.nz>
Subject: RMA20190203 - Subdivision and Seasonal Workers accommodation

Hello John,

Dave Bishop has been in contact with me about your email this afternoon.

Can you please confirm for me whether

- a) You want time to obtain affected persons consents, or
- b) You wish for us to proceed with the limited notification.

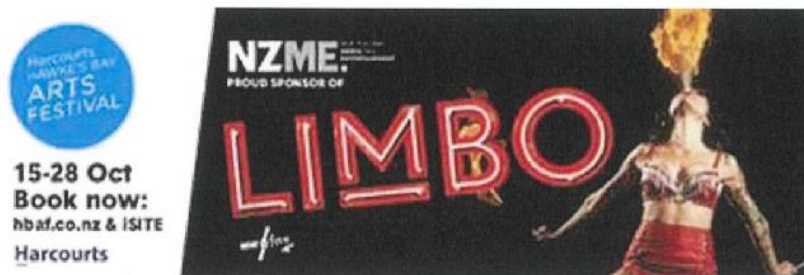
Proceeding with limited notification will require payment of the balance of the deposit for notification being \$4,800 (i.e. \$6,000 for limited notification less the deposit already paid of \$1200).

Regards,
Murray

MURRAY ARNOLD
ENVIRONMENTAL CONSENTS MANAGER



Phone (06) 871 5000
Email murray@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand



Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

Item 2

Attachment E

Rebecca Jarman

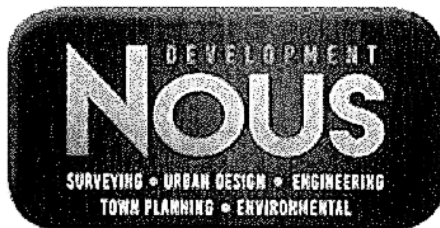
From: Matthew Holder <matthew.holder@developmentnous.nz>
Sent: Monday, 30 September 2019 4:45 PM
To: Murray Arnold
Cc: Rebecca Jarman; 'John Roil'
Subject: FW: York/Irongate Scheme
Attachments: H20190005-SCHEME-S002-R1.pdf

Good afternoon Murray

As discussed here's the surveyed boundary, to allow for the amalgamation of Sec 66 with proposed Lot 4 (62 Irongate Road)

Kind Regards

Matthew Holder
Principal Planner
Director



Phone: Mobile - 027 2888762 or Office - 06 8762159
Physical Address: 212 Queen Street East, Hastings 4122
Postal Address: PO Box 385, Hastings 4156
Email matthew.holder@developmentnous.nz
www.developmentnous.nz

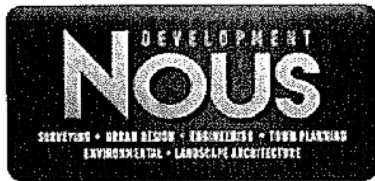
From: Reuben Vowden <reuben.vowden@developmentnous.nz>
Sent: Monday, 30 September 2019 4:31 p.m.
To: Matthew Holder <matthew.holder@developmentnous.nz>
Subject: York/Irongate Scheme

Regards

Reuben Vowden
Land Surveyor
Development Nous Limited

Item 2

Attachment E



Phone +64 6 875 2159
Mobile +64 27 848 8066
Physical 212 Queen Street East, Hastings 4122, New Zealand
Postal P.O. Box 385 Hastings 4156
Email reuben.vowden@developmentnours.nz

www.developmentnours.nz



This email and its attachments may contain confidential and/or privileged information for the sole use of the Intended recipient(s). All electronically supplied data must be checked against an applicable hardcopy version which shall be the only document which Development Nours warrants accuracy. If you are not the intended recipient, any use, distribution or copying of the information contained in this email and its attachments is strictly prohibited. If you have received this email in error, please email the sender by replying to this message and immediately delete and destroy any copies of this email and any attachments. The views or opinions expressed are the author's own and may not reflect the views or opinions of Development Nours.

Please consider the environment before printing this email.

Item 2

Attachment E



Rebecca Jarman

From: Yvonne Moorcock <yvonnem@hdc.govt.nz>
Sent: Wednesday, 16 October 2019 9:12 AM
To: 'john@pmhb.nz'
Cc: Murray Arnold; Rebecca Jarman; Brett Chapman; John R. Payne
Subject: Meeting Notes - Friday 11th October 2019
Attachments: File Note - RMA20190194 John Roil Meeting 11.10.19.pdf

Good morning John

Please find attached the notes of the meeting held Friday 11th October 2019.

Regards
Yvonne

YVONNE MOORCOCK
EXECUTIVE ASSISTANT & BUSINESS SUPPORT TEAM LEADER



HASTINGS
DISTRICT COUNCIL



HASTINGS
HEART OF HAWKE'S BAY

Phone (06) 871 5000
Email yvonnem@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand



15-28 Oct
Book now:
hbf.co.nz & ISITE
Harcourts



Item 2

Attachment E



FILENOTE

HASTINGS DISTRICT COUNCIL
207 Lyndon Road East
Hastings 4122
Private Bag 9002
Hastings 4156

Phone 06 871 5000
Fax 06 871 5100
www.hastingsdc.govt.nz

TE KAUNIHERA O HERETAUNGA

File Note: Meeting

Date / Time: Friday 11 October 2019; 3pm – 5.30pm

Location: Meeting Room 4, 2nd Floor HDC Administration Building

Subject: RMA20190203: Proposed Subdivision and Seasonal Workers Accommodation 62 Irongate Road and 97 York Road, Hastings

Attendees: For Applicant

- Mr John Roil (JR)

For Hastings District Council

- Murray Arnold – Environmental Consents Manager (MA)
- Rebecca Jarman – Environmental Planner (Consents) (RJ)
- Brett Chapman – 3 Waters Manager (BC)
- John Payne – Acting Group Manager P&R (JP)

Prepared by: Yvonne Moorcock – EA to Group Manager

Mr Roil tabled a letter dated 11 October 2019 and advised that he had a desire to discuss the matters as set out in his letter (copy attached).

Main issues raised:

Bridge Design

JR has consulted and met with HBRC officers (Gary Clode and Craig Goodier ?) on the bridge and construction methodology and discussion has taken place on the bridge height. Gary Clode has responded with an email (dated 14 September 2019) which has been provided to HDC. Based on this JR considers that HBRC do not have any issues to what is proposed but that is subject to final confirmation.

Discussion took place about:

The length, width and height of the bridge across the stream. The plan shows the width of the bridge being 7m across the stream.

From the engineering perspective the basic principles for the bridge are width and height, and the critical matter is the waterway area.

From the RMA perspective the critical aspects are whether the bridge has an impact on water flow of stream and flood extents. The potential impact on the extent of flooding and the proposed housing area needs to be clarified, and whether anyone is affected by the proposed changes.

It sits with the HBRC to demonstrate a 1:100 year flood level, what was the design of the expressway, HBRC would have the data

Clarified that the original application was sent to the Heretaunga Tamatea Trust (Treaty Settlement Group) shortly after receipt of the application. Provision of the application is a different process to the consideration of the HTT as affected persons under s95 RMA. The only person who received a copy of the draft s95 notification decision was JR.

Although the building code only considers a 1:50 year flood level, consideration under s106 of the RMA introduces consideration of other events in relation to inundation and need to consider the flood extents and potential impact on the seasonal workers buildings.

Bridge design approval is a HBRC function. So long as the applicant submits a bridge design to the HBRC and they are satisfied and it complies with HBRC rules then that should satisfy HDC.

Follow-up

Mr Roil agreed to obtain from HBRC confirmation of extent of 1:100 ARI flood level extent and depth of water around proposed seasonal workers accommodation buildings

Affected Persons Consent

JR – consultation and approach to DOC on the marginal strip. DOC confirmed an easement would be required at a later stage. DOC provided details of the application form on the website and this would be submitted once HDC approved subdivision consent. DOC had provided a letter indicating they did not see any reason for not granting an easement, and DOC consider they are not an affected party.

HDC consider DOC are an affected party and affected persons consent on an affected persons consent form or a letter addressing the matters set out in the notes from the meeting on the 20 September would be needed.

Affected persons consent has to be signed in relation to the entire application.

The adverse effects to DOC are set out in full in the s95 report and include bridge design, alteration to the stream network, sediment, vegetation, flora and fauna, and access

We can only progress to a hearing after a decision has been made on the notification process.

A partially completed Affected Parties form was provided to Mr Roil for signing. Mr Roil advises he has authority from all owners of 11 Maultsaid Place and 62 Irongate Road to sign the form.

Screening to neighbouring property boundaries

JR – happy to provide screening to affected parties and will provide a detailed landscaping plan for his to HDC.

Follow-up:

Mr Roil to provide a detailed landscaping plan to show how adjoining site (59 York Road) will be screened

HDC Services

JR – has provided evidence that the existing General Industrial sites owned by Jara Family Trust have enough capacity to provide for the onsite servicing requirements to the proposed site

It was confirmed that JR proposed to use the full waste water allocation for 1139 Maraekakaho Road and Lot 4 at 62 Irongate Road, to service the seasonal workers accommodation on the Plains zone land.

B Chapman expressed his opinion that this was an extension beyond zone and would require a decision of Council and potentially agreement from the other landowners within the Irongate Industrial zone.

JR to provide an updates service proposal and show where wastewater allocations will now be allocated across all 3 sites.

Follow-up:

Mr Roil requested to get back to HDC on Monday with a decision on whether to extend timeframes to give time to get together the information or to proceed with limited notification. Clarified that this was not a request to provide all the information on Monday.

Attachments

- A. Agenda presented by Council Officers
- B. Copy of Meeting Notes 20 September 2019
- C. Copy of Irongate Stream Cross-section provided by HBRC to Council Officers at the location of the proposed bridge crossing and sourced from LIDAR information
- D. Copy of Flooding Parameters from Council's GIS (information based on HBRC information) – Showing 2%AEP (1:50 year flood event – not showing 1% AEP and not taking account of climate change
- E. Copy of Affected Parties form – blank copy provided for use by affected parties
- F. Current Plan of Subdivision (received by Council 30 September 2019)
- G. Letter tabled by Mr Roil dated 11 October 2019
- H. Current Proposed Site Layout Plan showing proposed bridge location and at 7m wide
- I. Plan showing 2% AEP Flood Level, and stating that habitable buildings to be 0.5m above 1% AEP Flood Extent

Meeting Agenda

Date: Friday 11 October 2019
Time: 3pm – 4pm
Venue: Meeting Room 4, 2nd Floor HDC Administration Building
Subject: RMA20190194 - Meeting with J Roil

1. Background summary of consent progress
2. Action Items from meeting of 20 September (copy of notes attached)
3. Servicing for waste water and water
4. Section 95 Assessment and Decision



FILENOTE

HASTINGS DISTRICT COUNCIL
 207 Lyndon Road East
 Hastings 4122
 Private Bag 9002
 Hastings 4156
 Phone 06 871 5000
 Fax 06 871 5100
 www.hastingsdc.govt.nz
 TE KAUNIHERA O HERETAUNGA

File Note: Meeting

Date / Time: 20 September 2019 ; 9am – 10am

Location: Guilin Room, Ground Floor, Customer Centre, Hastings District Council

Subject: RMA20190203 : Proposed Subdivision and Seasonal Workers Accommodation 62 Irongate Road and 97 York Road, Hastings.

Attendees: For Applicant

- Mr John Roil (JR)
- Mr Matthew Holder – Planning Consultant for Applicant : Development Nous Ltd (MH)
- Mr Mitchell Pal – Civil Engineer : Development Nous Limited (MP)

For Hastings District Council

- Murray Arnold – Environmental Consents Manager (MA)
- Rebecca Jarman – Environmental Planner (Consents) (RJ)
- Nick Bruin – Development Engineer (NB)

Prepared by: Rebecca Jarman – Environmental Planner (Consents)

JR and MH in receipt of draft Officers s95A and s95B RMA report.

JR considers report very negative. RJ explained likely due to the purpose of the report being about adverse effects.

Flooding was discussed.

JR emphasised that the buildings would be built above flooding levels dealt with at the time of building consent. Also that consultation with HBRC and DoC has been undertaken. Discussion had about the potential change in flooding parameter resulting from bridge structure. It was agreed that the Applicant would present a specific statement regarding the change to flooding pattern and depths resulting from the proposal, and provide a new plan showing the changes to the flooding areas expected after completion of construction of the new bridge.

Wastewater Disposal On-site:

Discussion about location of effluent disposal fields. Map to be provided by MH showing proposed location of effluent system and disposal fields.

Correspondence from DoC discussed. MA advised that as previously discussed with Mr Roil, correspondence to date cannot be taken as being an affected persons consent. MA explained difference between a right of way agreement and consent as an adversely affected party. MA confirmed that specific correspondence from an appropriately authorised person at DoC is required by either:

- Providing a completed affected parties consent form with signed plans; or

- Providing a letter acknowledging that HDC has identified DoC as affected persons and stating that either DOC gives approval for the proposal, or states DOC has no objection to the proposal as set out in the application documents and the range of effects that may be generated.

JR was agreeable to Council Officers internally forwarding documents to Council's Parks Department with regards to obtaining the written consent from Council in respect of the HDC owned Esplanade Reserve.

JR to provide written consent to the proposal confirming his authorisation to sign for other owners / occupiers of 11 Maullsaid Place and 62 Irongate Road.

JR queried if the existing Sale and Purchase agreement is sufficient for the consent of 97 York Road owners / occupiers. RJ advised it is unlikely. MA offered to review agreement and obtain legal view on matter. JR to forward copy of Sale and Purchase agreement to Council to obtain this review.

MH queried the range of effects with 59 York Road. RJ referred to comments in draft report to provide direction. MH will review possible options for mitigation including reverse sensitivity covenant, fencing, landscaping.

Statutory Acknowledgment Areas:

Discussion had about Heretaunga Tamatea Settlement Trust (HTST) being an affected party. MH sought clarification on the applicability of s33 of the Heretaunga Tamatea Claims Settlement Act (HRCSA) 2018, regarding certain rights not affected. MA will review and advise.

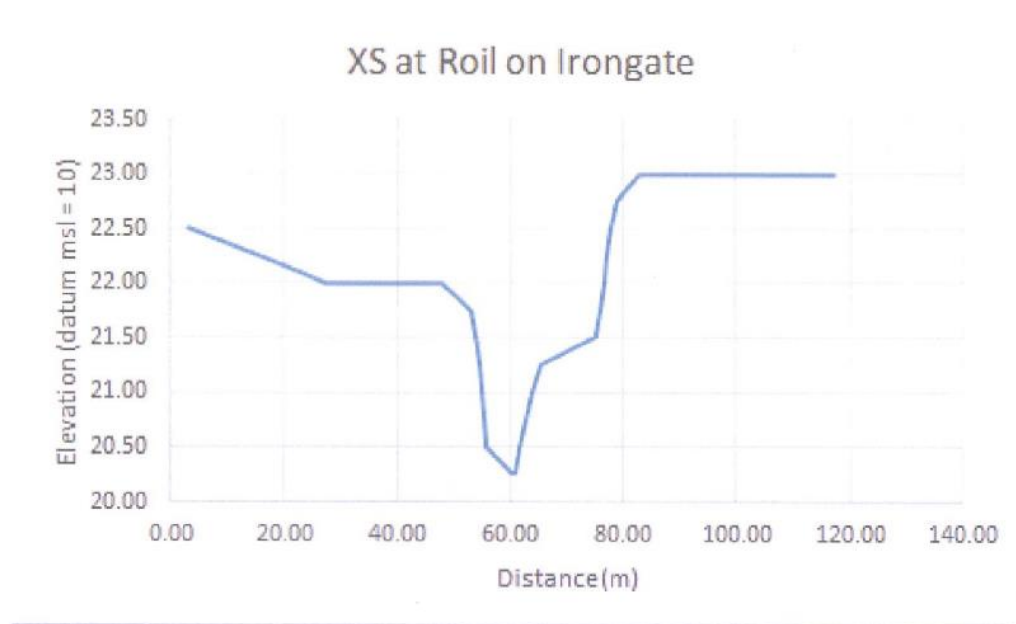
RJ clarified that the draft Section 95A and s95B report has not been shared with any other parties than the applicant. MA confirmed the obligation the HTCSA places on Council to give notice to HTSA of resource consent applications received in terms of statutory areas.

MH noted that draft s95A and s95B report (Map of Statutory Areas, page 33 of report) had an incorrectly located direction arrow (Site vicinity). RJ to rectify. Site is within OTS-110-11 plan statutory acknowledgement and Deed of Recognition plan. MH also queried 'schedule 2' reference on page 33 of draft report. RJ to check and correct / clarify as required.

MH referred to Part 2 of 3rd Schedule of Heretaunga Tamatea Claims Settlement Act and implications of the statement made in the schedule. Uncertainty about applicability of this section to the requirement for affected persons. MA said HDC would check the section being referred to.

JR noted that if other SWAs on consented Lot 4, 62 Irongate Road and 1139 Maraekakaho Road go ahead then they will look at moving the relocated buildings from these sites to 97 York Road and utilise the wastewater capacity for consented Lot 4 and 1139 Maraekakaho Road for the other consent to serve 97 York Road. JR felt that SWA on the Industrial land was not the best use of that area.

END.



Plan of Flood Parameter sourced from Council's GIS – 2% AEP





HASTINGS DISTRICT COUNCIL
 207 Lynden Road East
 Hastings 4122
 Private Bag 9002
 Phone 06 871 5000
 www.hastingsdc.govt.nz

TE KALINIHĒRA O HERETAUNGA

RESOURCE MANAGEMENT ACT 1991: AFFECTED PERSONS CONSENT FORM

RESOURCE CONSENT APPLICANT/ DEVELOPER TO COMPLETE:

Full name of applicant

Site address of proposal

Brief description of proposal

AFFECTED PERSONS (OWNERS AND OCCUPIERS) TO COMPLETE:

Full Name of Person/s Signing: (please print)

_____ And

_____ (Second Name if more than one owner)

_____ (Third Name if more than one owner)

_____ (Fourth Name if more than one owner)

Name of Trust or Company where applicable:

Physical and Legal Address of Affected Property:

Please tick all relevant boxes below:

- ☐ I am/ we are, the OWNER(s) of the property. (Note – Every owner and occupier has to sign, or supply power of attorney for signatory to sign on behalf)
- ☐ I am/ we are, the OCCUPIERS(s) of the property. (Note – Every owner and occupier has to sign, or supply power of attorney for signatory to sign on behalf)
- ☐ I/we have authorisation to sign on behalf of the Trust and/or Company on behalf of all Trustees/Shareholders
- ☐ I/we have signed a copy of the full and final proposal including, a copy of the proposal, assessment of environmental effects, elevations and site plans to which I/we are giving approval. (Note - Every owner and occupier has to tick this box)

Page 1 of 2

Issue No 1

Last update 21 February 2012

TRIM Ref REG-10-B-12-567

Item 2

Attachment E

Please note that

- by giving my/our written consent, the Council cannot take into account any actual or potential effects of the proposal on my/our property when considering the application. I/we understand that our written consent is unconditional and cannot be subject to conditions
- any time before the decision is made on the application, I/We may give notice in writing to the Council that this consent is withdrawn, under Section 104(4) of the Resource Management Act 1991.

Signature:

Date:

Second Signature If more than one owner:

Date:

Postal Address:

PRIVACY INFORMATION: The information on this form is required so that this application can be processed under the Resource Management Act 1991. The information will be stored on a public register, and held by the Hastings District Council.

NOTES FOR AFFECTED PERSONS

1. Why have you been asked for your consent?

You have been consulted and/or asked to give written consent to a proposal because you are the owner or occupier of land or a building, and may be affected in some way by a development proposal in your neighbourhood.

2. Who decides who is affected by a proposal?

A Council Planner makes the decision as to who might be affected and whose consent is required. Please note that it is common for applicants to seek written approval before lodging a resource consent with Council. Therefore even if the applicant has sought your permission, the Council may still decide you are not affected

3. What happens if you give your consent?

If you give your consent, Council is not able to take into account any adverse effects on you. If you and all the other people deemed by Council likely to be affected have given your consent, an application is considered by Council officer's under powers delegated by the Council and no hearing is held.

It is very important that you understand a proposal fully before you give your consent. If you do not understand the proposal or this form, please seek advice before signing. Do not hesitate to contact a member of the Planning staff to discuss a proposal or its possible effects.

4. How much information should you be given?

You should be given enough information to allow you to understand the proposal and how it will affect you. This should include a full description of the proposal, plans and an assessment of effects on the environment.

5. Can you ask for changes to an application?

You can ask an applicant to change his proposal so that the possible side effects on you are minimised or avoided; (for example, by reducing the hours or by providing screening).

6. Can you put conditions in your consent?

Council cannot accept a written consent with conditions. However you may ask the applicant to amend their application to reflect any changes or conditions you would like. If these changes are included within the application and are within the scope of Council's powers,

they could be enforced as a condition of Council's consent.

7. Can you refuse to give consent?

Yes. You do not have to explain your reasons but it is helpful to the applicant if you do. You can let the Council know so that your refusal can be recorded on the file.

8. What happens if you refuse to give consent?

If the Council decide that a party is affected, and that party will not provide their written approval then the application must be notified. The applicant may decide not to continue with their application. If they do however, you will be directly notified by Council and can make a submission or against the proposal, whether you originally gave your consent or not. A separate pamphlet on Notified Applications is available from the Council.

9. Can you change your mind?

You can withdraw your consent at any time before the Council makes a decision on the application. You must advise Council in writing that your consent has been withdrawn. You should also let the applicant know.



HAWKE'S BAY PROJECT management

11th October, 2019

Meeting request to clarify the RC under RMA 20190203; Land use and boundary adjustment;

Concurrent RC under

- A. RMA 20190334; 62 Irongate Rd, 96 workers. (Temporary)
- B. RMA 20190365 1139 Maraekakaho Rd, 48 workers. (Temporary)

Background;

1. HBRC and Lattey engineers;
 - a. Consultation and meeting with HBRC on bridge and construction methodology.
 - b. Discussion on bridge height. Gary Clode responded with email which was then provided to HDC.
2. HBRC flood map and flooding report states that in some flood risk area, houses and other structures may be elevated above the ground and would be considered not floodable. See report.

Action; JR provided name and contact details of HBRC engineer to confirm details.

HDC were provided these details, however decided they did not agree and then drafted a list of Affected persons and sent Draft Report out to Heretaunga Tamatea Settlement Trust

3. DOC;
 - a. Consultation and approach to DOC on the Marginal strip. DOC confirmed an easement would be required at a later stage. DOC provided details of the application form on Website. This would be submitted once HDC approved subdivision consent;
 - b. DOC provided a letter indicating they did not see any reason for not granting an easement.
 - c. DOC also stated they were not an affected party to the RSE application.

Action; JR happy to have condition placed on consent whilst easement submitted to DOC.

HDC were provided these details.

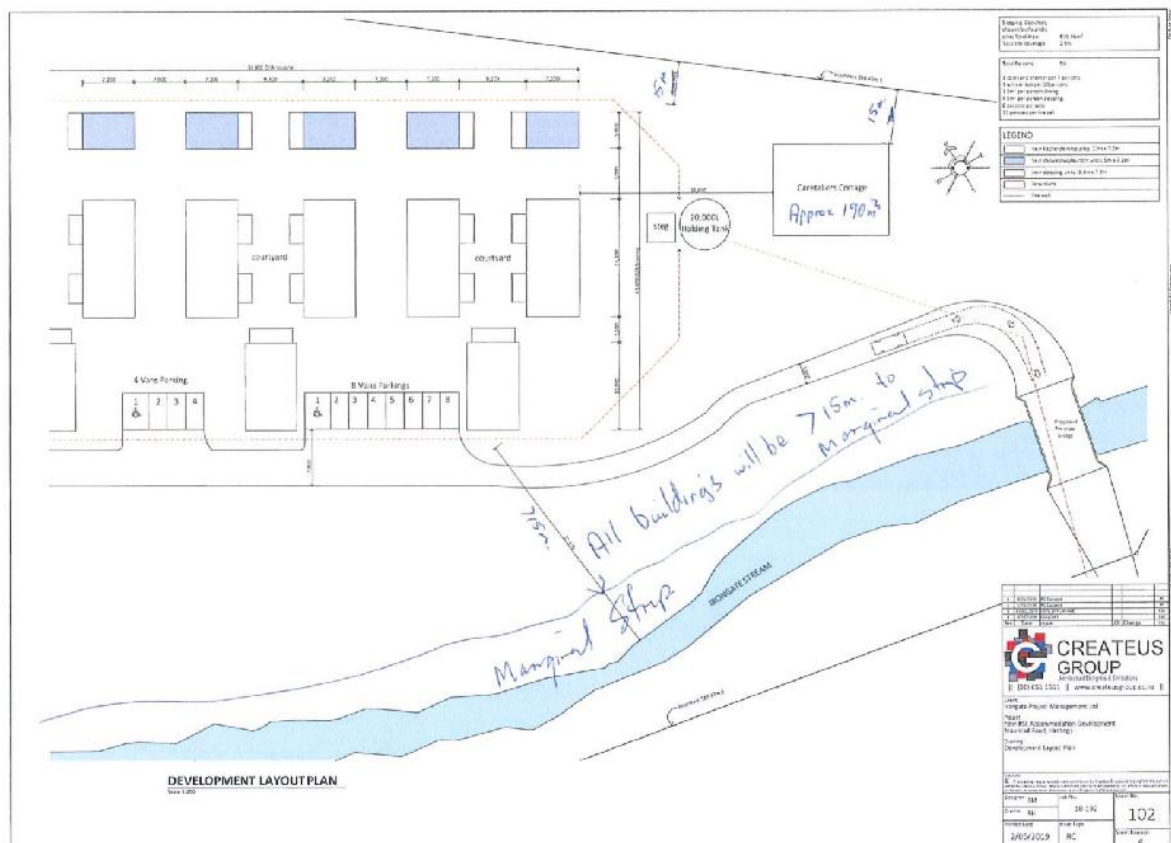
4. HDC;
 - a. Draft S95A and 95B report indicating Affected Parties were affected by the submission; The effects identified by HDC were;
 - i. Flooding due to bridge.
 - ii. Screening due to neighbouring property boundaries etc.
 - iii. Reverse sensitivity.

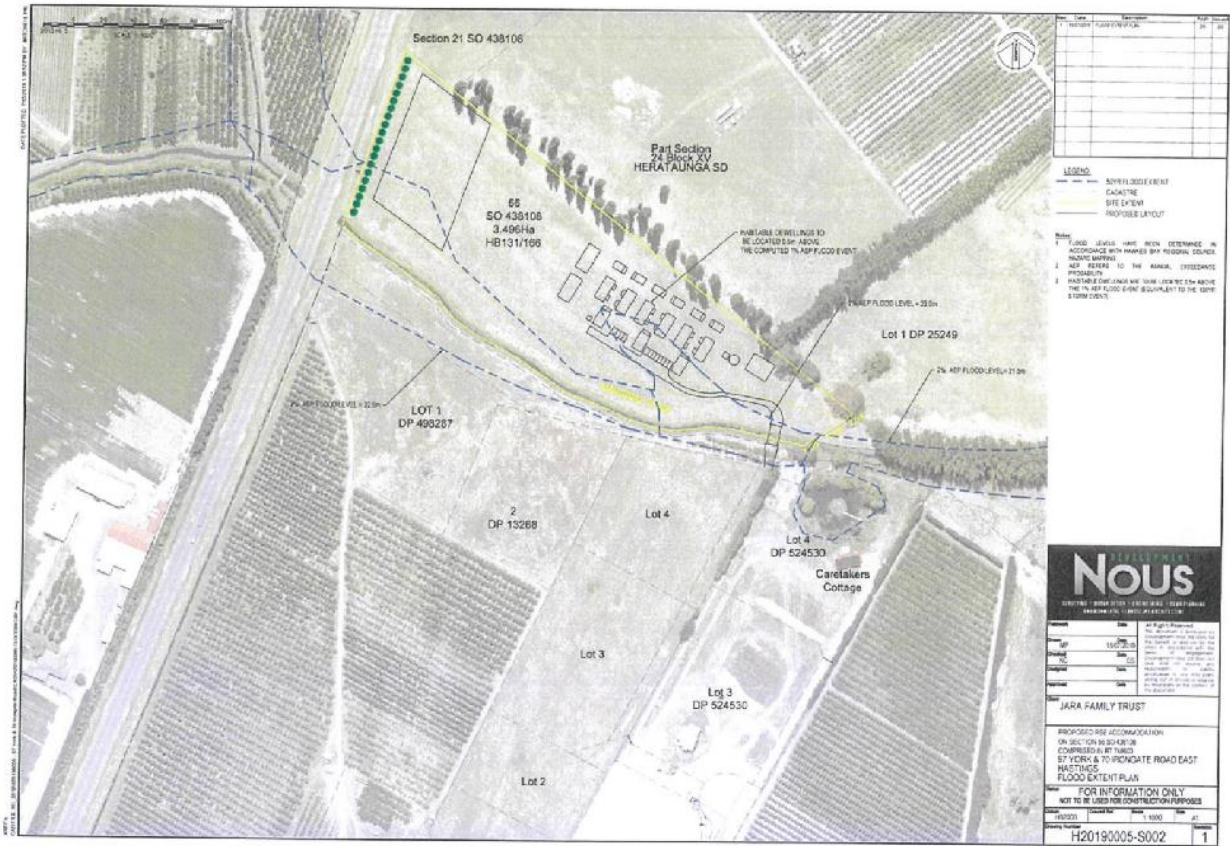
- iv. Onsite servicing.
- v. Establishment works
- vi. General noise and disturbance?
- vii. Potential character and amenity adverse effects.
- b. This is despite HDC been provided evidence; as noted above, they have provided a Draft report that shows the neighbouring properties to be.

5. HDC services;

- a. Jara has provided evidence that the existing General Industrial sites owned by Jara F/T have enough capacity to provide for the onsite servicing requirements to the proposed site.
- b. A legal mechanism is to be established by HDC on the covenants required to allow the title holders of the land to be aware of the proposal. (HDC engineers and legal parties to provide)
- c. In essence the RSE proposal can be serviced and accessed with Lot 4 at 62 Irongate Rd as previously discussed.

HAWKES BAY PROJECT MANAGEMENT LTD
1139 Maraekakaho Rd
P O Box 2543
Stortford Lodge
HASTINGS 4153
Ph 06 650 4591
0274 491 526
john@pmhb.nz





Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Thursday, 17 October 2019 8:28 AM
To: Yvonne Moorcock
Subject: RE: Meeting Notes - Friday 11th October 2019

Hi Yvonne,
 A couple of points;

1. Mr Brett Chapman, provided engineering advice that the 1:50 year flood modelling was all that was required for the Building Consent.
2. John Payne was able to view the sale and purchase agreement noting the Consent conditions, also noting that Workers accommodation is provided in the consent conditions.

Regards John

From: Yvonne Moorcock <yvonnem@hdc.govt.nz>
Sent: Wednesday, October 16, 2019 9:12 AM
To: John Roil <john@pmhb.nz>
Cc: Murray Arnold <murraya@hdc.govt.nz>; Rebecca Jarman <rebeccaj@hdc.govt.nz>; Brett Chapman <brettc@hdc.govt.nz>; John R. Payne <johnrp@hdc.govt.nz>
Subject: Meeting Notes - Friday 11th October 2019

Good morning John

Please find attached the notes of the meeting held Friday 11th October 2019.

Regards
 Yvonne

YVONNE MOORCOCK
 EXECUTIVE ASSISTANT & BUSINESS SUPPORT TEAM LEADER



Phone (06) 871 5000
 Email yvonnem@hdc.govt.nz Web hastingsdc.govt.nz
 Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand

**Attention:**

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Rebecca Jarman

From: Murray Arnold <murraya@hdc.govt.nz>
Sent: Thursday, 17 October 2019 5:56 PM
To: John Roil
Cc: Rebecca Jarman; Yvonne Moorcock; John R. Payne
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers Accommodation

Hello John,

Just to confirm my understanding from your email that you are asking for the resource consent application to remain on hold and for the notification decision not to be issued, until you have met with HDC management. Yvonne has talked with you about the arrangements for a meeting.

Thankyou for the information provided in and attached to your letter of the 15 October:
 I confirm that we have received

- the revised site plan showing the location of the proposed effluent dispersal fields (one of the two options proposed), and note that although the plan shows a hatched area to be excavated (5,000m²) we have previously received notice that this has been removed from the application.
- the Lidar map (ex HBRC) for the site and surrounds,
- the table from the HBRC for bridge and culvert standards for various road types,

The section 95 assessment will be re-assessed in the light of the additional information you have provided.

Regards,
 Murray

From: John Roil [mailto:john@pmhb.nz]
Sent: Thursday, 17 October 2019 4:07 PM
To: Murray Arnold <murraya@hdc.govt.nz>
Cc: John R. Payne <johnrp@hdc.govt.nz>; Rebecca Jarman <rebecca.j@hdc.govt.nz>; Yvonne Moorcock <yvonnem@hdc.govt.nz>; Matthew Holder <matthew.holder@developmentnous.nz>
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers Accommodation

Good afternoon Murray,

Just to summarize where I consider we are at.

1. We have confirmed with the HBRC that a 1;50 year flood level is all that is required for the consent and that 1;100 event is not required. Also confirmed by Mr Chapman at the meeting.
2. HBRC have confirmed that there are no adverse effects downstream of the bridge caused by any potential flooding.
3. The HBRC is responsible through a separate RC application for the design and construction of the bridge including the control and mitigation required to satisfy the consenting of the application.
 - a. (HDC are the Council authority of the structural design and conditions of the construction)
4. The effects of screening to neighbouring properties has been addressed in the update site plan. (Taking note of existing screening and landscaping.)
5. The RSE application has less than minor effects on the neighbouring sites, when you consider the rezoned Irongate General Industrial zone is next to the properties identified as Potentially affected by the RSE application.
6. DOC have a separate process for the easement, however they have provided early indication of support of easement. The full easement letter requires the submitter to identify any potential adverse effects to the application. The application also covers off Environmental Impact Assessment.

The Draft s95 to be reassessed based on the Further information provided.

HDC have confirmed the application is on hold, pending a meeting.
We are just waiting on a meeting to be organized by HDC.
Regards John

From: John Roil
Sent: Tuesday, October 15, 2019 5:26 PM
To: 'Murray Arnold' <murraya@hdc.govt.nz>
Cc: John R. Payne <johnrp@hdc.govt.nz>; Rebecca Jarman <rebecca.j@hdc.govt.nz>; Yvonne Moorcock <yvonnem@hdc.govt.nz>; 'Matthew Holder' <matthew.holder@developmentnous.nz>
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers Accommodation

Good afternoon Murray,
I spoke with Mr John Payne, late yesterday. (Before 5pm)
My understanding from that discussion he was to reschedule a meeting where Mr Neil Taylor who has significant experience in Planning would help work through the current problems.
Any extension of time was to be assessed after that meeting.
I am awaiting his response, however in order to keep the process on track, I have responded to your Further Information Request.
It was my understanding that the information we have provided would be reassessed against the Draft issues raised in the S95 and in particular, the perceived adverse effects on some neighbouring properties.
See my notes next to your points below.
Regards John

From: Murray Arnold <murraya@hdc.govt.nz>
Sent: Tuesday, October 15, 2019 4:55 PM
To: John Roil <john@pmhb.nz>
Cc: John R. Payne <johnrp@hdc.govt.nz>; Rebecca Jarman <rebecca.j@hdc.govt.nz>; Yvonne Moorcock <yvonnem@hdc.govt.nz>
Subject: RMA20190203 - Subdivision and Seasonal Workers Accommodation

Hello John,

Thankyou for the information that has just been received from M Holder and yourself.

The following was prepared earlier this afternoon and may be of help.
There have been several emails over the last couple of days and I think it would be helpful to clarify some matters.

1. Yvonne Moorcock is completing her draft minutes for the meeting on Friday and these will be emailed to you tomorrow morning .
2. At present there is an outstanding request (dated 10 September 2019) with you for confirmation about whether you wish to try to obtain affected persons consents or proceed to limited notification. It was our understanding that the S95 would be reassessed given that it was a Draft and that information in it was incorrect.
3. It is clear that you disagree with the assessment of affected persons in relation to the properties in York Road and Irongate Road East.
In relation to the points you do not agree on, you have offered/agreed to provide some more information being:
 - o A detailed landscaping plan for screening of the activity in relation to 59 York Road. This is addressed in our response today.

- Information from the Regional Council that shows the 1:50 year flood extents on the site, and the 1:00 year flood extents and the depth of water likely in those scenarios around the seasonal workers accommodation units – taking into account the inclusion of the bridge. The HBRC provided advice today which we have provided to HDC, i.e A 1;100 was not required, No downstream flooding would occur below the bridge as a result of the bridge etc. HBRC advised that the advice that the HDC required with regards to flood levels would be addressed with the RC. What has been requested is that a condition be established on the consent in order for the detailed work to be completed during the RC process with the HBRC.

Noted that you have requested that the consent to remain on hold while you obtain and provide this information. Correct

- My request at Fridays meeting for a response on Monday was asking for a decision from you about whether you wanted to extend timeframes to give you time to get together the information or proceed direct to limited notification to reduce any further delays. So that there is no doubt please note that this was not a request for all the information to be provided on Monday. As mentioned previously, it was my understanding that Mr Payne was seeking a meeting to discuss outstanding issues within a couple of days.

We have recently received from Matt Holder a revised scheme plan which addresses the matters raised around the Land Information requirements for the proposal related to the definition of a subdivision and cancellation of the existing amalgamation condition.

Regards,
Murray

MURRAY ARNOLD
ENVIRONMENTAL CONSENTS MANAGER



HASTINGS
HEART OF HAWKE'S BAY

Phone (06) 871 5000
Email murraya@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand


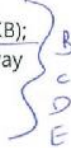


Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Tuesday, 15 October 2019 4:48 PM
To: Rebecca Jarman
Cc: John R. Payne; Murray Arnold; Matthew Holder; Neil Taylor
Subject: FW: RSE info.
Attachments:  191015 Response to request from meeting.docx; RE: From Office Scanner (377 KB); RE: From Office Scanner (1.57 MB); Express culvert over Irongate 2.jpg; Expressway culvert over Irongate 1.jpg; Revised site plan 19.10.15 - 18-192 - HBPML - RSE Accommodation - RC - e.pdf 

Good afternoon Rebecca,
 I have forwarded the correspondence to Mr Craig Goodier at the HBRC as courtesy and also Mr John Payne (acting Head Planning Department HDC).
 Craig, if I have any of this wrong please, let me know. See attached the documents sent to HDC.
 Regards John

From: Matthew Holder <matthew.holder@developmentnous.nz>
Sent: Tuesday, October 15, 2019 4:34 PM
To: Rebecca Jarman <rebeccaj@hdc.govt.nz>
Cc: John Roil <john@pmhb.nz>
Subject: FW: RSE info.

Good afternoon Rebecca

We are instructed to send the following information to you with respect to Jara Family Trusts RSE accommodation application 97 York Road.
 Mr roil has had specific dealings with HBRC on the flooding issue and we are advised that the regional Council see no flooding issue in terms of a 1:50 year event (no withstanding the mapped extents). Obviously resource consent for the bridge will be required but as we understand it Craig Goodier at HBRC did not believe that this will exacerbate flooding – but this will be addressed and confirmed as part of their consenting process. Obviously these buildings are piled and will have floor levels above the 50 yr flood extent (a consent condition is acceptable to our client)

The attached revised site plan addresses landscaping/bunding in relation to 59 york rd. we would as previously suggested be accepting of a condition requiring a landscaping plan to be submitted to Council (manager consents) prior to commencement of the activity- to ensure that the activities onsite remain totally screened along this boundary.

Our client has undertaken discussions with HBRC and his responses/comments are attached to confirm matters and his position (as client representative).

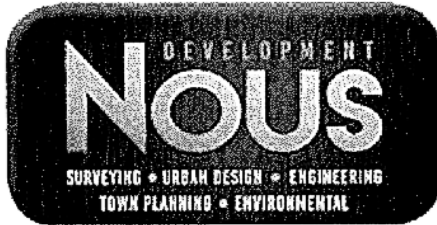
We believe that DOC will be addressed via there consenting process as is the case with HBRC. A failure to obtain consent for example means that effectively the activity will not go ahead.

In terms of the TTH we are not sure what concerns they might have, noting your last reference to “there was significant kōrero regarding the proposal”- notwithstanding these discussions what effects were indicated- clearly there will be no direct impact on the stream -as the bridging (which will assessed as part of the HBRC process) has no direct demonstrated effect on the stream- for example there is noting being placed or discharged into the channel. Waste water is treated well away from the stream.

We hope the above and attached satisfies the information sought.

Kind Regards

Matthew Holder
Principal Planner
Director



Phone: Mobile - 027 2888762 or Office - 06 8762159
Physical Address: 212 Queen Street East, Hastings 4122
Postal Address: PO Box 385, Hastings 4156
Email matthew.holder@developmentnours.nz
www.developmentnours.nz

Item 2

Attachment E

15 October 2019
4:48 pm (A)

HAWKE'S BAY PROJECT management

15th October, 2019.

References;

- A. Meeting at HDC on Friday 11th October, between John Roil and members of the Planning Department and Wastewater Manager to discuss issues with the RMA 20190203.
- B. Phone conversation with Craig Goodier (HBRC on Tuesday 15th October.)

John Roil met with members of the Planning team to discuss the ongoing issues of the Resource Consent for RSE workers accommodation at 62 Irongate Rd and 3.5ha of the property at 97 York Rd. (Ref A.)

The Planning team required Further Information on several items and these are now attached for Councils consideration.

Revised site Plan including screening.

A revised site plan showing the flood areas with proposed landscaping and bunds is produced for clarity. It should also be clarified that each of the existing Plains zone properties to the North East already have trees and shelter belts in place. Our plan provides extra landscaping due to Council identification of adverse effects.

Also see the location of the effluent disposal system onsite and the option of connecting to the reticulated wastewater system, which will be confirmed during the building consent stage.

Flood Risk;

1. One of the key areas that has been clarified with the HBRC is that the 1:50 year flood event is all that is required with regards to Planning. Therefor any reference to the 1:100 year flood offering is not to be considered as it exceeds what is required.
2. Mr Goodier also provided a data sheet on bridge standards and passage of minimum clearance.
 - a. The road access and bridge clearance will be confirmed during the design and Resource consent application between Lattey civil engineers and the HBRC.
3. A photo was sent to Mr Goodier on the culverts at the expressway over the Irongate Stream and the height of the current expressway. *(Indicating the reduced risk of flooding by the size of culvert and height of expressway)*
4. It was acknowledged that a formal Resource Consent would be lodged for the design and construction of the bridge.
5. It was also confirmed that there is no downstream risk of flooding with the bridge and entry and exit points of the Bridge.

Item 2

Attachment E

Closing Comments: It was requested by HDC that the HBRC provide modelling of the flood risk including the depth of flooding. However given the revised site plan showing that the access track including the ramp down and out of the bridge will not be effected by flooding. The depth of any potential flooding will be less than 100mm but will be confirmed during the RC application to the HBRC on the Bridge design. Latteys have confirmed they will engage with the HBRC on the final design and parameters for clearance at that stage.

Jara F/T are happy to have a condition on the RC to cover the bridge design and construction in order to cover any of the concerns by HDC.

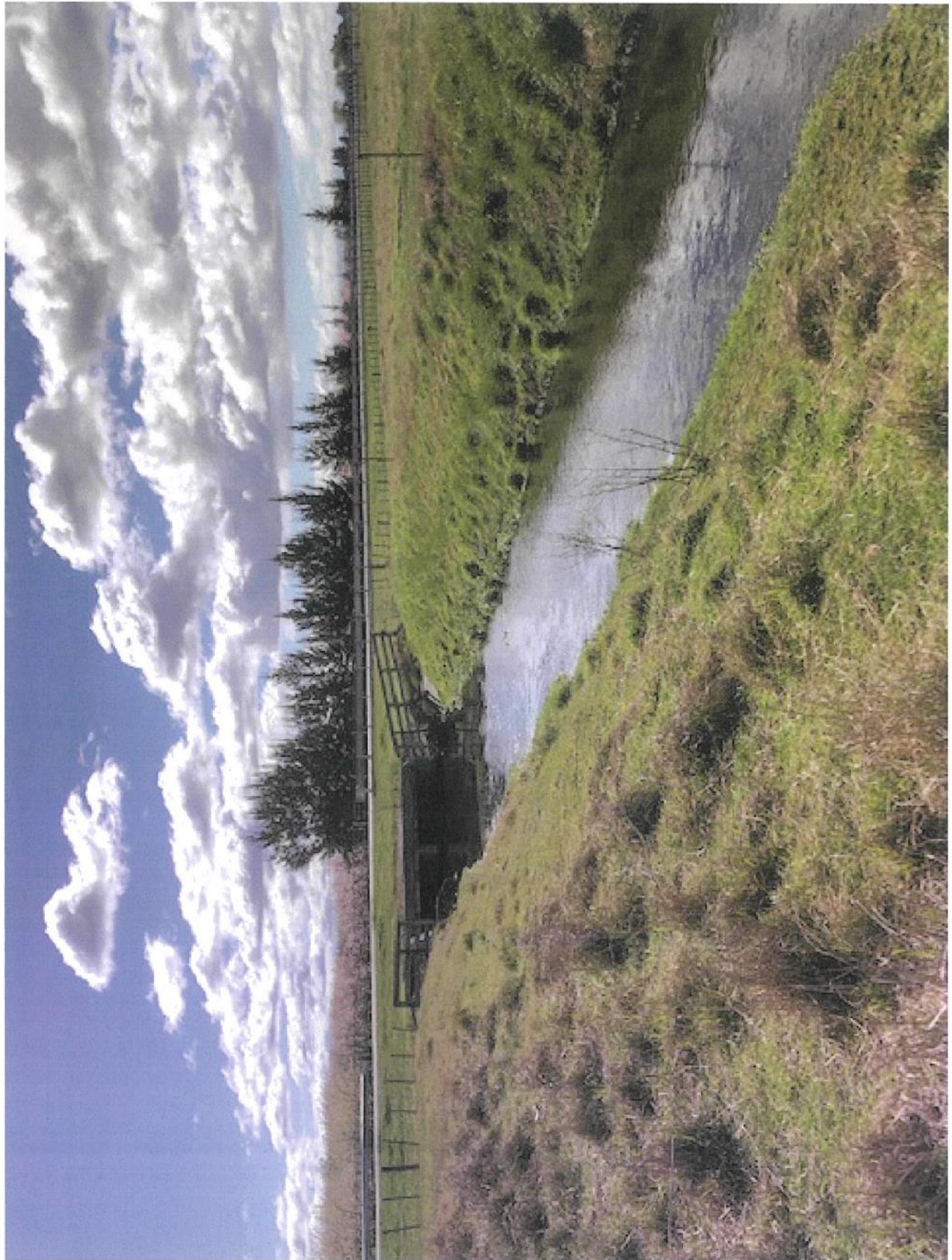
A building consent will be lodged for the bridge construction at a later date where the Planning department will be able to view and consider the application.

Please find attached;

- A. Revised site plan showing screening and adjustment of buildings to site based on scale.
- B. Information from Craig Goodier showing contours points and a separate document on bridge clearances based on flood periods.
- C. Photos (2) of existing transit culvert over the Irongate stream, 500m upstream to the proposed bridge.

Regards John Roil

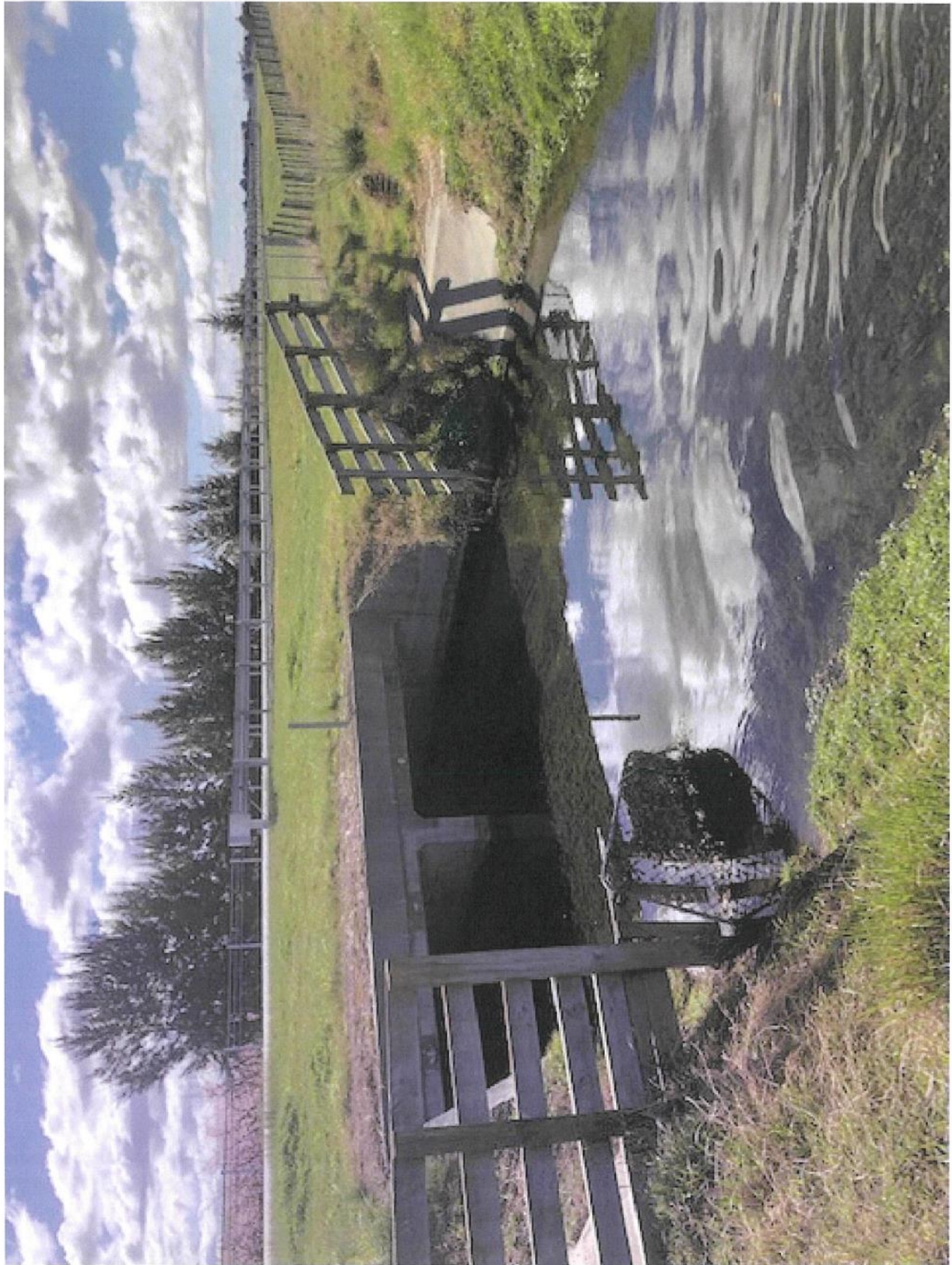
HAWKES BAY PROJECT MANAGEMENT LTD
1139 Maraekakaho Rd
P O Box 2543
Stortford Lodge
HASTINGS 4153
Ph 06 650 4591
0274 491 526
john@pmhb.nz



B

Item 2

Attachment E



C

Item 2

Attachment E

D

Rebecca Jarman

Subject: FW: From Office Scanner

From: Craig Goodier [mailto:Craig@hbrc.govt.nz]

Sent: Tuesday, 15 October 2019 12:04 PM

To: John Roil <john@pmhb.nz>

Subject: RE: From Office Scanner

Road type	Bridge standard	Culvert standard
Major road	Passage of the 100-year return period flood* with minimum clearance of 0.6 m normally but with up to 1.2 m where large trees can be transported in the river.	<ul style="list-style-type: none"> • Passage of the 100-year return period flood by heading up to a maximum 0.5m below road and adjacent house floor levels, and • Passage of the 10-year flood without heading up.
Rural road	Passage of the 50-year return period flood with a minimum clearance of 0.6 m.	<ul style="list-style-type: none"> • Passage of the 50-year return period flood by overtopping the embankment to a maximum depth of 0.2 m, and • Passage of the two year return period flood with no heading up.
Remote road	Passage of the 20-year return period flood with a minimum clearance of 0.3 m.	<ul style="list-style-type: none"> • Passage of the 20-year return flood with 0.3 m freeboard, and • Passage of the two year return period flood with no heading up.
Access tracks	Passage of the 10-year return period flood with a minimum clearance of 0.3 m.	<ul style="list-style-type: none"> • Passage of the 10-year return period flood by heading up to a maximum 0.3 m below road level.
*Note design standards for major roads and culverts are based generally on NZ Transport Authority's (NZTA) Bridge Manual Guidelines (2005).		

-----Original Message-----

From: John Roil

Sent: Tuesday, 15 October 2019 11:52 AM

To: Craig Goodier

Subject: FW: From Office Scanner

-----Original Message-----

From: ricoh@pmhb.nz <ricoh@pmhb.nz>

Sent: Tuesday, October 15, 2019 11:51 AM

To: John Roil <john@pmhb.nz>

Subject: From Office Scanner

This E-mail was sent from "RNP002673E562EE" (MP C2504ex).

Scan Date: 10.15.2019 11:50:37 (+1300)

Queries to: ricoh@pmhb.nz

E

Rebecca Jarman**Subject:** FW: From Office Scanner

From: Craig Goodier [mailto:Craig@hbrc.govt.nz]
Sent: Tuesday, 15 October 2019 12:14 PM
To: John Roil <john@pmhb.nz>
Subject: RE: From Office Scanner



-----Original Message-----

From: John Roil
Sent: Tuesday, 15 October 2019 11:52 AM
To: Craig Goodier
Subject: FW: From Office Scanner

-----Original Message-----

From: ricoh@pmhb.nz <ricoh@pmhb.nz>
Sent: Tuesday, October 15, 2019 11:51 AM
To: John Roil <john@pmhb.nz>
Subject: From Office Scanner

This E-mail was sent from "RNP002673E562EE" (MP C2504ex).

Scan Date: 10.15.2019 11:50:37 (+1300)
Queries to: ricoh@pmhb.nz

(F)

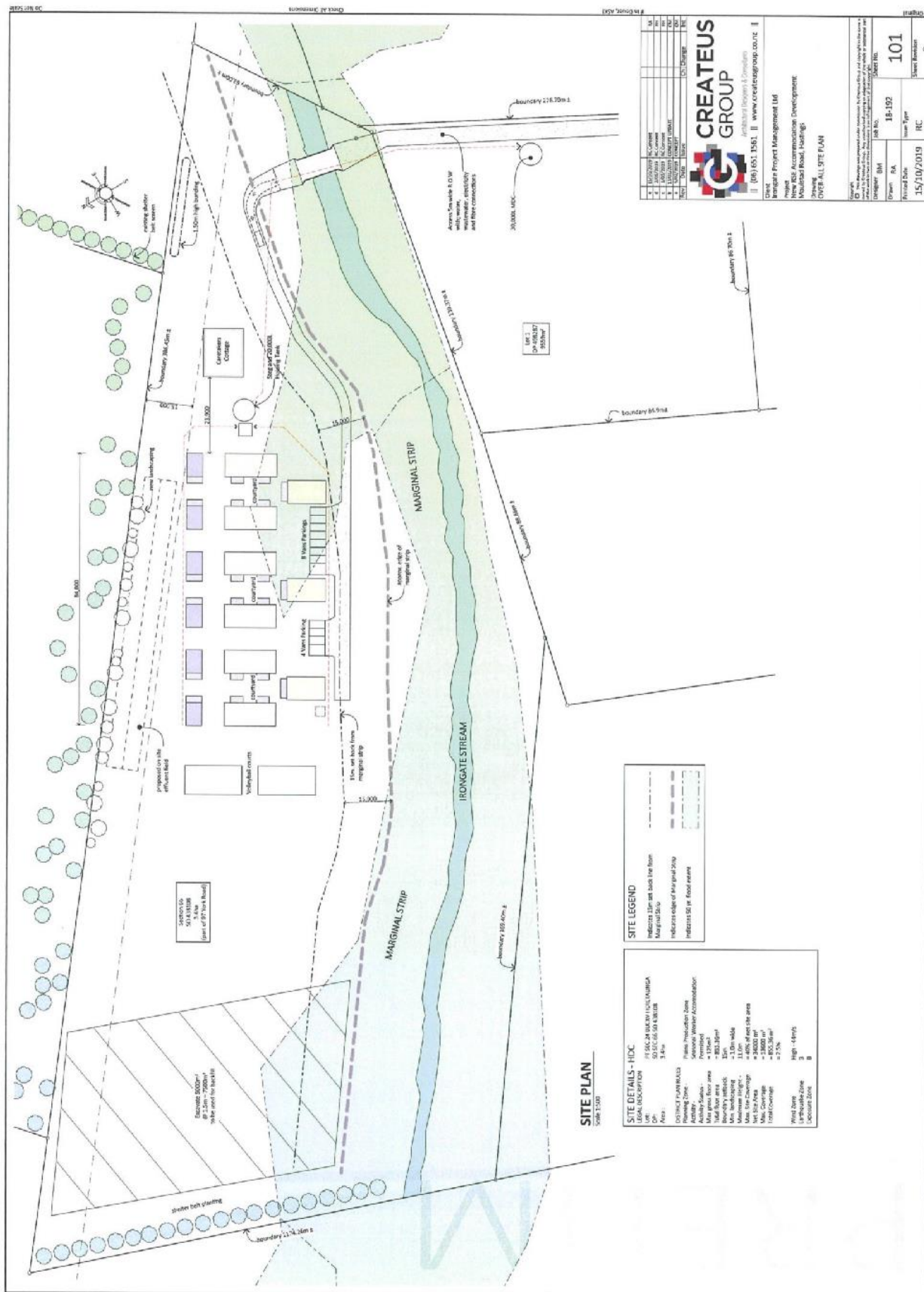
Item 2

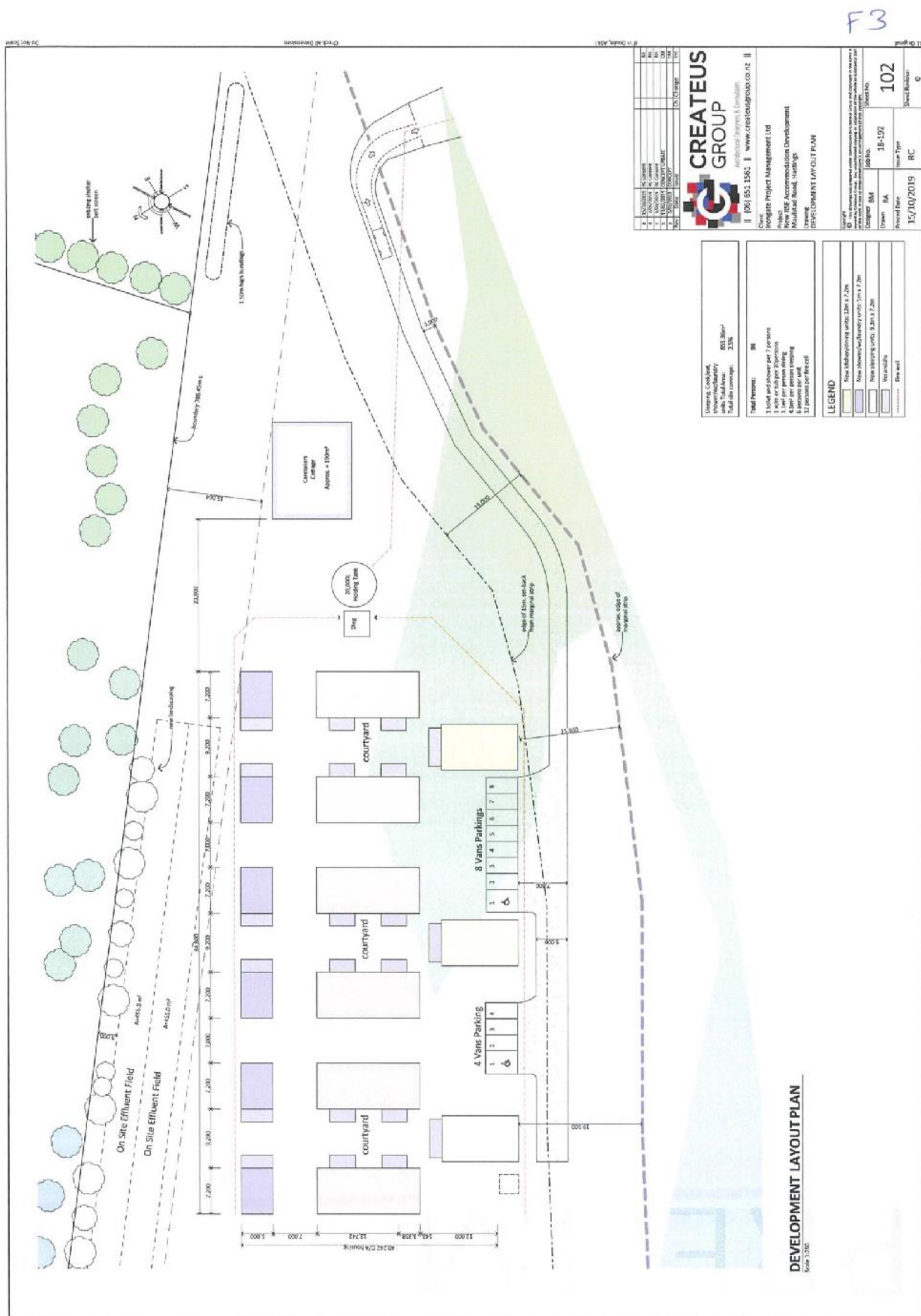
Attachment E

Sheet Index		Issue: Resource Consent
Sheet No.	Sheet Name	Current Issue
101	OVER-ALL SITE PLAN	e
102	DEVELOPMENT LAY-OUT PLAN	e
104	FLOOR PLANS & ELEVATIONS	d
105	FLOOR PLANS & ELEVATIONS	d



New RSE Accommodation Development
Irongate Project Management Ltd
Maulstad Road, Hastings





Rebecca Jarman

From: John Roil <john@pmhb.nz>
Sent: Thursday, 26 September 2019 4:16 PM
To: Murray Arnold
Cc: David Bishop; Rebecca Jarman; Matthew Holder; 'Craig Goodier'
Subject: RE: RMA20190203 - Subdivision and Seasonal Workers accommodation
Attachments: 190923 response to section 95a and section 104 Draft.docx; RE: Proposed bridge at 62 Irongate Rd (24.7 KB); Letter from DOC.pdf

A
B
C

Good afternoon Murray,

I am responding to the report based on the assumption that it was Draft and that you were seeking feedback as to the content; Please find attached my response and see our email below for clarification.

Please note; I have ccd Mr Craig Goodier into the correspondence as you may seek clarification on the Bridge and potential flooding raised by Ms Jarman.

Following on from our meeting earlier in the week and the potential agreements and information provided at the meeting and follow up meeting with Mr Brett Chapman, I would like Council in the first instance to reassess the Draft S95A and 95B and section 104 for the following reasons;

1. I have spoken to Craig Goodier at the HBRC regarding the earlier correspondence from Gary Clode on the location of the proposed bridge and the understanding that the formal design will follow through a separate RMA process with the HBRC on the bridge design. It was our understanding (and HBRC) that the proposed bridge will not cause any flooding issues. (particularly when you are able to view the recent construction of the expressway and culverts installed upstream.) Mr Chapman agreed with our summation of the effect of the bridge having no effect.
 - a. There will then be no adverse effects to neighbouring properties through potential flooding.
2. We are happy to include screening and landscaping to any neighbours that are affected by the buildings, taking into account that any housing is at least 300-400m away from the proposed buildings and site.
3. We are also happy to include a No Complaints Covenant.
4. A reasonable discussion took place on the fact that our industrial sites at 58 Irongate Rd and 1139 Maraekakaho Rd have credits on the amount of effluent disposal into the Council reticulated system. It was verbally agreed that this could be utilized for the proposed site, which in effect does not require any onsite effluent disposal. (also supported by the draft Variation 7 for RSE accommodation in the Irongate Industrial zone. Mr Chapman agreed with our proposal in principal.
5. I understand that Matt was working on some of your responses from the meeting earlier in the week from the section 95a and 95b incl the 104 assessment and he will send these through separately. (Boundary items?)

A substantial amount of the assessment was based on Rebecca's assumption of the flooding caused by the bridge and also the effects of the visual impact.

I still believe that the letter offered by DOC provides enough confidence that a formal application for an easement will be supported. (Knowing that this will take a while). Again happy to have a condition place on the consent.

Now that we have clarified and confirmed that the identified persons in your report are not affected, I would like the assessment reviewed based on the information provided.

Regards John Roil

From: Murray Arnold <murraya@hdc.govt.nz>
Sent: Thursday, September 26, 2019 2:57 PM
To: John Roil <john@pmhb.nz>
Cc: David Bishop <davidb@hdc.govt.nz>; Rebecca Jarman <rebeccaj@hdc.govt.nz>
Subject: RMA20190203 - Subdivision and Seasonal Workers accommodation

Hello John,
 Dave Bishop has been in contact with me about your email this afternoon.

Can you please confirm for me whether

- a) You want time to obtain affected persons consents, or
- b) You wish for us to proceed with the limited notification.

Proceeding with limited notification will require payment of the balance of the deposit for notification being \$4,800 (i.e. \$6,000 for limited notification less the deposit already paid of \$1200).

Regards,
Murray

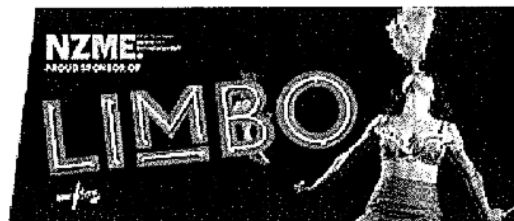
MURRAY ARNOLD
ENVIRONMENTAL CONSENTS MANAGER



Phone (06) 871 5000
Email murray@hdc.govt.nz Web hastingsdc.govt.nz
Hastings District Council, Private Bag 9002, Hastings 4156, New Zealand



15-28 Oct
Book now:
hbf.co.nz & ISITE
Harcourts



Attention:

The information contained in this message and or attachments is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any system and destroy any copies.

Please consider the environment before printing this e-mail

26.9.19 (A)
4.16pm



24th September, 2019.

References;

- A. RMA 20190203 Application for RSE and boundary adjustment between 97 York Rd and Lot 4 at 62 Irongate Rd.
- B. RMA 20190334 and RMA20190365 Application for RSE accommodation totaling 150 seasonal workers.
- C. Draft Section 95A and 95B notification and assessment reports.

Jara Family trust has applied to HDC to establish RSE accommodation on land that is available from the property owner at 97 York Rd and an industrial land from Irongate situated as Lot 4, 62 Irongate Rd. The piece of land at the end of the property was originally acquired by Transit NZ and sold off as an orphan site once the Expressway was formed. (Ref A). Note; The RC was lodged on the 30th May and Council has responded with the S95A and S95B documents on the 13th September. A total of 52 processing days;

Jara family trust own several industrial sites at Irongate and in order to provide some certainty for our client to provide suitable accommodation for the increased volume of RSE workers from overseas, 2 subsequent Resource consents were lodged over 2 industrial sites at Irongate Industrial zone to provide for some temporary accommodation, whilst the original consent is processed by HDC. (Ref B).

HDC have provided the 95A and 95B assessment of the RMA 20190203 and the following details are provided to the Draft document, that has incorrectly assessed the information provided. (Ref C)

General

Prior to the lodgement of the RC 20190203, a significant amount of consultation took place between the HBRC, DOC, and the structural engineers involved with providing an initial concept design of the bridge and conducting onsite meetings between a variety of professionals. In addition to this.

Council has now made an assessment the there are some neighbouring properties that are adversely affected.

There are several factors showing that the Adverse affects to neighbours are incorrect;

These are for several reasons;

1. Potential Risk to flooding;

- When the HBRC installed culverts under the expressway, they reduced the potential for flooding downstream with the following construction;
 - Lifting the height of the road to form a barrier between the source of the Irongate Stream, and the area below the expressway culvert.

Item 2

Attachment E

- Installing 2 culverts with a size that would allow a calculated flow of water in the Irongate stream. The HBRC and HDC will have the calculations of this water flow during the construction of the expressway. (Approx 6 years ago)

Bridge Structure (Formal application by Latteys to HBRC at a later stage)

NOTE;

- The Height of the underside of the bridge structure, is above the banks of the stream. The area under the bridge and between the 2 banks is a great area than the culverts upstream and in the location of the expressway crossing.
 - The style of construction is with screw piles and away from the bed of the stream and will have less than minor effects to the stream.
2. Visual effects.
 - Jara F/T are happy to have a condition on the consent to provide for plantings to screen the affected neighbours.
 3. No Complaint covenant
 - Similarly a no complaints covenant to be provided for any neighbouring properties.

People on Adjacent Properties

58 and 62 Irongate Rd Jara Family Trust

- As the applicant and also the owner of a number of properties, I have the authority to sign off on the consent application.

97 York Rd

- Please find attached a Sale and Purchase agreement with the conditions of the land purchase, i.e One of the conditions is an application to provide for RSE accommodation. The RSE accommodation is well away from the current dwellings, with a landscaping condition and No Complaints covenant to be provided.

11 Maultsaid Place

- As the applicant and also the owner of the properties, I have the authority to sign off on the consent application.

59 York Rd

- A landscaping condition and also a No Complaints covenant is able to be provided.

The make up of the soil structure on the proposed site is made up of alluvial and free draining soil as described in the consent where mining of the gravel of the site was applied for. *The area of land is described as Omaha Stoney gravel ; Good natural drainage. (p31).*

Adverse Effects

Council has identified likely adverse effects, however upon further analysis all of these effects are mitigated with the following statements;

1. Effects on availability of versatile land;

- a. Response; The site is originally an orphan site from Transit NZ. A report from Ag First identified the land of poor quality and unsuitable for cropping, pasture or forestry. In fact the proposed use as RSE accommodation is a **Positive effect.**
2. Effects on Industrial land uses and availability;
 - a. Response; The land zone will remain as Plains zone and will have no effect on the Industrial land use within the Irongate industrial zone. **A Positive effect.**
3. Effects on visual amenity;
 - a. Response; Landscape screening will be provided on all neighbouring properties, both industrial and Plains zone. **A Positive effect to the current desolate landscape.**
4. Effects of onsite servicing;
 - a. Response; Since the report was written negotiations have taken place with Council staff on connecting to the Irongate Industrial services. **A Positive effect with no discharge to land with effluent disposal.**
5. Traffic effects;
 - a. Response; Access to the site is via the Irongate Industrial zone. **The Positive effect is that planning has provided industrial roads for large amounts of traffic and future growth.**
6. Reverse sensitivity Effects;
 - a. Response; There are no residential homes within 300m of the proposed facility. **The Positive effects are that the site is close to the area of employment and is constructed in a purpose built facility with suitable grounds for recreation. No complaints covenants are in provided for and suitable landscaping is provided for.**
7. Earthworks Effects.
 - a. Response; The buildings are all prefabricated offsite and as a result there is little to no earthwork requirements. **The positive effect is through prefabrication offsite there is no onsite noise.**
8. Noise Effects;
 - a. Response; The rural nature of the site plus the distance to any neighbouring habitable buildings reduces any effect on noise. **The positive effect is the distance to habitable buildings.**
9. Temporary Construction Effects;
 - a. Response; **The positive effect is through the use of prefabricated buildings constructed offsite there is no construction noise associated with this type of delivery. Any noise onsite would be commensurate with rural activities.**

Closing Comments: There are no adverse effects, but in fact the opposite is provided with the delivery and use of RSE workers to the current production requirement to the horticultural Industry. The purpose built facility will help relieve the current shortfall of social housing in Hastings whilst locating workers in an appropriate area.

Rebecca Jarman

26.9.19 4:16pm (B)

From: Gary Clode <Garyc@hbrc.govt.nz>
Sent: Friday, 14 September 2018 7:21 AM
To: John Roil; Mark@latteygroup.co.nz
Subject: RE: Proposed bridge at 62 Irongate Rd

Hi John

No issues. The expressway culvert upstream is an indication of the bridge waterway opening plus some allowance for a bit more catchment.

A crossing along the lines we discussed should be fine.

Regards

Gary

Ir Gary Clode
 Regional Assets Manager
garyc@hbrc.govt.nz
 Cell: 027 233 3492
 DDI: 06 833 8029

From: John Roil <john@pmhb.nz>
Sent: Thursday, 13 September 2018 10:34 AM
To: Mark@latteygroup.co.nz
Cc: Gary Clode <Garyc@hbrc.govt.nz>
Subject: RE: Proposed bridge at 62 Irongate Rd

Hi Mark,

Can you provide me a cost to design and construct the bridge as discussed on site. (Incl any liaison required with the HBRC.

Gary, did you have any issues with what was proposed at the site visit, i.e location?

Regards John

From: John Roil
Sent: Tuesday, August 21, 2018 1:58 PM
To: 'Mark@latteygroup.co.nz' <Mark@latteygroup.co.nz>
Cc: 'Gary Clode' <Garyc@hbrc.govt.nz>
Subject: Proposed bridge at 62 Irongate Rd

Hi Mark, as discussed please find a photo of proposed location of bridge at Irongate Rd.

Gary was going to follow up flood plain on this side of stream.

See you tomorrow.

Regards John

HAWKES BAY PROJECT MANAGEMENT LTD
 1139 Maraekakaho Rd
 P O Box 2543
 Stortford Lodge
 HASTINGS 4153

Ph 06 650 4591
0274 491 526
john@pmhb.nz

HAWKE'S BAY PROJECT management



_____ ESET NOD32 Antivirus _____

This email was scanned, no threats were found.

Detection engine version: 18356 (20181109)

<http://www.eset.com>

Item 2

Attachment E



26.9.19
4:16pm

(C)

Item 2

20 August 2019

Mr John Roil
Jara Family Trust

Dear John,

I am aware that you have been discussing with Mr Rod Hansen from our office, your proposal at Iron Gate Road to develop land for accommodation purposes.

Rod has asked I send this letter to you to assist in your applications for consent from the local authorities.

I confirm that you have discussed with the Department of Conservation, your proposal at Iron Gate Road to develop land for accommodation purposes. This proposal includes a requirement to construct an access bridge over the Irongate Stream and marginal strips bordering the Stream. These marginal strips are administered by the Department of Conservation and as such you will need to apply for and be granted an access easement by the Department.

At this stage the Department does not see any reason for not granting such an easement, however you will need to complete the required application forms in due course, submit them to the Department, and be granted the easement to authorise this access.

Kind regards

A handwritten signature in blue ink, appearing to read "Neil Grant", is located below the "Kind regards" text.

Neil Grant
Ranger - Community---Kaitiaki, Ao Hāpori
Department of Conservation --- Te Papa Atawhai
DDI: +64 6 8344845
VPN: 6845

Department of Conservation Te Papa Atawhai
Hawke's Bay Area Office
PO Box 644, Napier 4140
www.doc.govt.nz

Attachment E

Received by email

24 October 2019

Jara Family Trust

PO Box 2543
Stortford Lodge
HASTINGS 4153

16th October, 2019

To HDC
Planning Department
C/O Murray Arnold and Rebecca Jarman

Reference

- A. Jara Family Trust.
- B. RMA 20190203 submission to HDC in May 2019.
- C. Jara Family Trust other land holdings at 11 Maultsaid Place and 62 Irongate Rd.

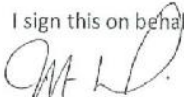
I, John Alan Roil, have the authority to sign on behalf of the Jara Family Trust. The Trust consists of John Alan Roil, Rosemary Anne Roil and Graham Hunter Throp. (Ref A)

The Jara Family Trust has submitted a Resource Consent under RMA 20190203 to undertake a land use consent for RSE accommodation, a bridge crossing over the Irongate stream, plus a boundary adjustment to Lot 4, 62 Irongate RD and 3.5ha of 97 York Rd, as described in detail under the consent. (Ref B)

Jara Family Trust also owns several properties in Irongate including the properties at 11 Maultsaid Place and 62 Irongate Rd, which is near the proposed land use and boundary adjustment. (Ref C)

As the submitter to the original Resource Consent under RMA 20190203, I am fully aware of the proposal, and as such do not believe that we are affected in any adverse way.

I sign this on behalf of the Jara Family Trust.



John Alan Roil

1139 Maraekakaho Rd
P O Box 2543
Stortford Lodge
HASTINGS 4153
Ph 06 650 4591
0274 491 526
john@pmhb.nz

Item 2

Attachment E

**MEMORANDUM**

File Ref 54413#0073

HASTINGS DISTRICT COUNCIL
207 Lyndon Road East
Hastings 4122
Private Bag 9002
Hastings 4156

Phone 06 871 5000
Fax 06 871 5100
www.hastingsdc.govt.nz

TE KAUNIHERA O HERETAUNGA

To: Rebecca Jarman
From: Nick Bruin
Copy to:
Date: 11 December 2019
Subject: RMA 20190203 Engineering Comments - updated

Comments

The proposal is to establish a new 150 person Seasonal Workers Accommodation plus an on-site manager's unit, with access to Maultsaid Place, off Irongate Road East, Hastings. The new Seasonal Workers Accommodation development will involve earthworks for the foundations of the buildings, pavements/footpaths linking the buildings and car-parking area in the Seasonal Workers Accommodation, the construction of an access way and a bridge over the Irongate Stream. It is envisaged that these earthworks will take into account that the Seasonal Workers Accommodation area is located on land that is prone to flooding.

There are no reticulated Council services available in the vicinity of the 150 person Seasonal Workers Accommodation buildings. Council's Asset Managers have confirmed that they won't be accepting any connections from the Seasonal Workers Accommodation to the reticulated services in the Irongate Industrial Area.

Servicing for the supply of potable water and the disposal to ground of waste water and excess storm water shall need to be achieved by "on-site" methods in accordance with the requirements of the Hawkes Bay Regional Council.

The proposed bridge, to cross the Irongate Stream, may also require consent from other Consenting Authorities eg Hawkes Bay Regional Council and Department of Conservation, prior to any work commencing on site.

No mention has been made for the provision of water for fire-fighting purposes, however this is required for the development and will need to be provided in accordance with SNZ PAS 4509:2008.

Suggested Conditions

- 1) That all works shall be completed in accordance with the Engineering Code of Practice 2011.
- 2) That a fire fighting water supply for the 150 Seasonal Workers Accommodation plus manager's unit shall be provided in accordance with the requirements of SNZ PAS 4509:2008

- 3) That the applicant shall submit to Council detailed engineering plans, detailing the construction of the accessway, bridge and earthworks to be carried out for approval by the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee), prior to construction. The accessway, bridge and earthworks carried out shall be generally in accordance with the approved engineering plans.
- 4) That as part of the earthworks no filling shall take place that will obstruct overland flow from higher ground/upstream.
- 5) That the applicant shall submit a sediment control plan by an appropriately qualified person to Council, for approval by the Development Engineer, Planning and Regulatory Services Hastings District Council (or nominee), prior to the commencement of any work on the site. The plan shall detail how sediment and erosion controls will be carried out at the site in accordance with current engineering best practice. A statement shall be included with the plan stating the author's qualifications and experience in this area.
- 6) That all earthworks operations shall be so conducted as to comply with the provisions of New Zealand Standard NZS 6803: 1999 Acoustics – Construction Noise
- 7) Noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.
- 8) That earthworks shall be limited to the hours of 7.00 am - 5.00 pm Monday – Friday, and 8.00 am – 5.00 pm Saturday.
- 9) That all areas of exposed earthworks shall be either re-grassed with a minimum cover of 90% or metalled, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee).

Please ensure that those managing works have due consideration of this condition and manage works so that there is sufficient time to allow grass to grow. This will include having regard to any seasonal limitations and water requirements.
- 10) That there shall be no off-site deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus into any watercourse or storm water drain.
- 11) That while the earthworks are being undertaken and prior to re-vegetation, areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is deposited outside the property boundaries.
- 12) That the applicant shall install sediment and erosion controls in accordance with the approved plan prior to the commencement of the earthworks and that these controls shall be maintained throughout the period of the works, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee).
- 13) That a registered and professionally qualified engineer shall certify that the sedimentation works have been designed and constructed in accordance with the approved design.
- 14) That the applicant's contractor shall confirm in writing that only 'clean fill' shall be imported onsite (i.e. no rubbish, no stumps, no other substance containing combustible, putrescible, degradable or leachable components, hazardous substances, products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste

disposal practices, medical and veterinary waste, asbestos or radioactive substances or liquid waste).

Please note that imported 'clean fill' will also need to comply with the relevant standards in the NES for Assessing and Managing Contaminants in Soils to Protect Human Health.

- 15) That all unsuitable soils and fill materials uncovered during the earthworks shall be removed off site to an appropriate land fill facility.

Nick Bruin
Development Engineer – Projects
nickb@hdc.govt.nz

Extract of PHDP standards**6.2.5D SCREENING**

- a. Outdoor storage areas of commercial, industrial, and winery activities shall be fully screened by fencing and/or planting from adjacent or opposite commercial and residential activities and motorists using public roads.
- b. Outdoor display areas and parking areas of commercial, industrial, and winery activities shall have landscaping which consists of a mixture of ground cover and specimen trees with a minimum width of 2.5 metres.
- c. Outdoor storage and parking areas of seasonal workers accommodation shall be fully screened from adjacent residential activities in different ownership by fencing and/or planting.

Outcomes

The screening of outdoor storage areas will ensure that the rural amenity of the Zone is protected.

The landscaping of outdoor display and parking areas will ensure that the rural amenity of the Zone is protected.

The screening of these areas will ensure that the rural amenity of the Zone is protected.

6.2.5H SHADING OF LAND, BUILDINGS AND ROADS**1. Trees on Boundaries**

Trees forming a shelterbelt for a distance of more than 20 metres on a side or rear boundary of a property under separate ownership:

- i. shall be planted a minimum distance of 5m from an adjoining property boundary and be maintained so that the branches do not extend over that boundary; and
- ii. where planted between 5m and 10m from an adjoining property boundary shall be maintained at a height of no more than their distance from the boundary +4m (e.g. at a distance of 5m from the boundary, the height limit is 9m; at a distance of 9m from the boundary, the height limit is 13).

Outcome

Adjoining land will not be significantly adversely affected by shading or root invasion from trees. The safety of roads will be maintained by preventing ice forming in shaded areas.

6.2.6K SEASONAL WORKER ACCOMMODATION

1. The maximum gross floor area of the seasonal workers accommodation is 125m².
2. All new buildings which are part of the seasonal workers accommodation shall be relocatable.
3. Any building associated with seasonal workers accommodation shall be sited a minimum of 15 metres from any road or adjoining property boundary

Outcome

The provision of accommodation for workers who undertake seasonal work associated with horticultural production. The life-supporting capacity of the versatile soil resource will be safeguarded by relating the size of buildings to a scale that has a potential for only minor adverse effects and is compatible with the character of the Zone.

Assessment Criteria for Earthworks

Item 2

21.1.7A LAND DISTURBANCE AND VEGETATION CLEARANCE

(a) The effects of land disturbance and vegetation clearance will be assessed in terms of their effects on:

- (i) The life-supporting capacity of soils.
- (ii) Soil erosion and stability.
- (iii) Soil Runoff and Sedimentation.
- (iv) Natural landforms and contours.
- (v) Flora and fauna.
- (vi) Significant cultural, ecological and historic heritage sites (including archaeological sites).
- (vii) Composition and characteristics of any fill used.

(b) In making an assessment, regard will be had to the following:

- (i) The extent of removal of vegetation, topsoil and subsoils at any one time.
- (ii) Methods to separate soil horizons during stripping.
- (iii) Measures to safeguard the life supporting capacity of stockpiled soils.
- (iv) The potential or increased risk of hazards from the activity, including potential risk to people or the community.
- (v) Sediment control measures, including measures to prevent sediment run-off into Council's reticulated network.
- (vi) Rehabilitation of site (including backfilling, re-spreading of subsoil and topsoil, contouring, repasturing and revegetation).
- (vii) Land capability and potential end uses of the site.
- (viii) Information on any relocation of fill on or offsite.
- (ix) Siting, construction and maintenance of internal access roads.
- (x) Effect on flow paths and floodways.
- (xi) Measures to avoid the disturbance of archaeological sites (noting that any disturbance of an archaeological site will require separate approval under the Heritage New Zealand Pouhere Taonga Act 2014).

Attachment G

27.1.7B VISUAL IMPACT

- (a) The visual effects of the activity will be assessed in terms of its potential effect on:
 - (i) The residential or recreational (including tourism) use of land in the vicinity of the activity.
 - (ii) The existing character of the locality and amenity values.
 - (iii) Whether the land is covered by Outstanding or Significant Landscape Areas will be assessed under the Assessment Criteria 27.1.7F.
- (b) In making that assessment regard shall be had to:
 - (i) Planting, screening and other amenity treatment to minimise visual impact.
 - (ii) Site location including locality, topography, geographical features, adjoining land uses.
 - (iii) Height of soil stockpiles and cuttings.
 - (iv) Rehabilitation of the site, including contouring, landscaping and re-vegetation.
 - (v) Duration, rate and extent of extraction.
 - (vi) Lighting - intensity, direction and positioning of lighting in relation to the effects of glare on the surrounding environment and adjacent land uses.

27.1.7C EFFECTS ON OTHER LAND USES AND ADJOINING PROPERTIES

The extent to which the activity will interfere with, or adversely affect, the current use of the land on which the activity is sited, or adjoining land uses. Consideration will be given to any potential effects of the proposed activity on adjoining properties and land uses, such as effects on surface drainage patterns, dust nuisance, or adverse effects on adjoining buildings. Permanent effects will be given more weight than temporary effects. Consideration will also be given to methods to avoid adverse effects on land use activities which are allowed in the Zone where the activity is located, such as the distance of activities from boundaries, and methods to avoid disturbance to adjoining properties, including livestock, particularly during birthing, and dust on fruit, particularly during harvesting season.

27.1.7D NOISE

In assessing the impact of noise, regard shall be had to the noise sensitivity of the receiving environment, including adjacent land uses, where it is proposed to undertake the activity. Consideration will also be given to hours of operation of the activity.

27.1.7E EFFECTS ON SPECIFIC DISTRICT WIDE ACTIVITIES AND LOCATIONS

The extent to which the activity will interfere with, or adversely affect:

- (a) Access to and along watercourses and waterbodies.
- (b) Recreation, Conservation or Natural Areas (see District Plan Section 13.1 Open Space Environments).

Assessment Criteria for Subdivision

30.1.8 ASSESSMENT CRITERIA - CONTROLLED, RESTRICTED DISCRETIONARY AND DISCRETIONARY ACTIVITIES

The following identify those matters which Council may exercise its control over, or matters in respect of which Council may impose conditions.

30.1.8.1 GENERAL ASSESSMENT CRITERIA**1. Structure Plans**

Council will have regard to any approved Structure Plan for an Urban Development Area (as identified in Appendices 11, 12, 13, 13A, 14 and 15 and 15A), the Irongate Industrial Area (as identified in Appendix 16), or the Omaha North Industrial Area (as identified in Appendix 17) and any other approved Structure Plan (including Appendices 18, 19, 21, 22, 23 and Appendix 80) in regard to the placement of roads, infrastructural elements, reserves and other identified amenity elements. Subdividers and/or developers will be expected to address how the outcomes proposed in any Structure Plan will be achieved by their proposals. If a road, infrastructural elements, reserves and other identified elements have already been provided by another approved subdivision or development and vested in Council, then the need to provide these will not be necessary.

2. Subdivision Design

There are six key elements to the design of subdivisions that the Council focuses its assessment around. These are described below. Guidance on the application of these design elements can be found in the document *Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide (Best Practice Design Guide)*.

<http://www.hastingsdc.govt.nz/files/all/documents/infrastructure/engineering-cop/best-practice-design-guide.pdf>

Council will have regard to whether subdivision applications can successfully implement each of the six key elements, listed (a) to (f) as follows (and improve upon the minimum structure plan requirements for urban development areas where practical):

(a) Connectivity

The creation of direct connections between roads and pathways increases the number of routes and transport mode choices available. This is an important component of creating a walkable neighbourhood. By creating a dense network of interconnecting roads, travel distance and times to shops, bus stops, schools, employment and other amenities can be reduced. Poor connections (i.e. the predominance of dead end cul-de-sacs) result in greater travel costs and higher vehicle emissions. See Section D1 (Connectivity) of the above mentioned Best Practice Design Guide.

(b) Street, Block and Site Orientation

The layout and design of streets, the size of blocks and orientation of sites within a subdivision will influence the quality and attractiveness of the development and its surrounding area (and thus the value and demand of the development). Primarily the layout of subdivisions should integrate and retain the existing topography and landscape features of a site. Residential streets should follow a north-south axis as much as natural features allow so that sites can be orientated east-west to maximise the amount of sunlight a dwelling will receive. Typically, a 80-100m grid block spacing creates an easily walkable neighbourhood, providing a choice of routes for pedestrians, cyclists and vehicles. Refer Section D2 (Street and Block Orientation) of the Best Practice Design Guide.

(c) Site or Lot Design

Variation in lot size and shape allows for a greater range of house types which meets the needs of a wider proportion of the community and provides interesting and attractive urban landscapes. It also means development appeal to a wider range of potential purchasers. The number of right of ways, access lots and vehicle crossings can have an impact on the character of the streetscape and safety of pedestrians and cyclists. Rear sites with no street frontage can create issues in terms of privacy as the public front entrance to a site abuts the rear private area of neighbouring sites and therefore reduces privacy. Sites that front or overlook the street improve visibility of the pedestrian environment and the overall safety and amenity of the streetscape. Refer Section D3 (Lot Design) of the Best Practice Design Guide.

(d) Public Open Space Design

The placement and integration of public open spaces within a subdivision are one of the most important elements to the long term success of a development. Public open spaces in prominent locations can provide a high level of amenity and character that add significant value to the development and a focal point for the neighbourhood in general. Refer Section D4 (Open Space Design) of the Best Practice Design Guide.

(e) Stormwater Management

Low impact design solutions for stormwater management can reduce construction costs, long term maintenance costs and future development pressure on existing stormwater infrastructure. Low impact design promotes at source treatment of stormwater run off and involves infiltration of stormwater via swales, rain gardens and tree pits, the use of porous or pervious surfaces and in some cases the provision of rain tanks.

Low impact stormwater design can add value and a point of difference to developments and enhance local amenity and ecology. When combined with appropriate street design and landscaping and/or the development of public open space areas, it can achieve multiple outcomes for the benefit of the subdivider, the community and the environment. Refer Section D5 (Stormwater Management) of the Best Practice Design Guide.

At building stage most development will have to calculate the amount of run off resulting from the activity, which may require on-site attenuation. Implementing low impact stormwater design through subdivision can assist in more easily meeting stormwater requirements at building stage.

(f) Road/Street Design

Street design is about much more than just providing good roads for vehicles - it is also about creating quality places, liveable neighbourhoods and sustainable communities. Considering the range of functions a street provides, the time spent on planning and design maximises the potential to create great streets that function well and contribute to quality of life. Great street design can also add significant value to developments and plays an important role in establishing and maintaining a subdivision's identity and character. Refer Section E (Road Design) of the Best Practice Design Guide.

3. Property Access

Council will have regard to the following:

- (i) The design and construction of roads, with reference to the Council's District Transport Hierarchy (see Section 2.5 of the District Plan on Transportation and the Road Hierarchy Maps in the District Planning Maps and the guidelines contained in the Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide).
- (ii) The provision, location and design of access for vehicles, pedestrians and cyclists.
- (iii) The design of the subdivision to accommodate the provision of roads identified as being required in the Council's District Transport network strategies.
- (iv) The vesting of roads in the Hastings District Council.
- (v) The requirements of New Zealand Transport Agency (NZTA) and Part IV of the Government Roadways Act 1989 with regard to vehicle entrances onto State Highways.
- (vi) How the proposed subdivision may be related to the resubdivision or development of adjoining land and the ability for optimum development for all the land concerned to be realised.
- (vii) The ability to achieve the access separation requirements on the subject site and adjoining sites in the General Industrial Irongate Area and the Omaha North Area.
- (viii) In the case of subdivision not complying with Performance Standard 30.1.7Q(f):
 - Whether approval has been provided for any additional access under the Local Government Act 1974;
 - Whether the number of vehicle accesses will have an adverse effect on the safe and/or efficient operation of the road network, pedestrian safety and convenience and/or capacity for on-street parking.

4. Water Supply, Wastewater Disposal, Stormwater Disposal

Council will have regard to the following:

- (i) The location of reticulation facilities to allow suitable servicing of the sites and reasonable access for the maintenance of the facilities.
- (ii) The need for a local purpose reserve to be set aside and vested in Council as a site for any public water supply, sanitary sewage disposal or stormwater disposal facility required to be provided.
- (iii) When the site is not proposed to be connected to a public water supply, the ability for the site to effectively and efficiently meet fire fighting requirements and the ability to show how the site will be serviced by a water supply for which consent has been obtained (as a Permitted or Controlled Activity) from the Hawke's Bay Regional Council.
- (iv) When the site is not proposed to be connected to a public wastewater system or public stormwater solution, how the site will be serviced by an on-site wastewater treatment system or stormwater treatment and disposal system that will cause no environmental contamination on or beyond the site.
- (v) The use of low impact design solutions to collect and dispose of stormwater on site.

- (vi) In the Tomoana Food Industry Zone and Te Awanga Downs Urban Development Area, where wastewater, water supply and stormwater disposal infrastructure servicing more than one site that will be privately owned and operated, the mechanisms in place for the management and maintenance of the infrastructure to ensure appropriate level of service is maintained.

5. Natural Hazards

The Council will have regard to the following assessment matters:

- (i) Whether the land, or any potential structure on that land, will be subject to material damage by erosion, falling debris, subsidence, slippage or inundation from any source.
- (ii) Whether there are any methods/measures available to overcome or reduce the risk of any hazard(s), and whether these methods/measures may have any significant adverse effects on the environment.

In assessing the above matters, the Council will have regard to the following:

- a. Any information held on the Council's Natural Hazard Database and the Natural Hazards Historical Database
- b. The Objectives, Policies and Methods of the Natural Hazards Section of the District Plan (See Section 15.1)
- c. Information by suitably qualified professionals whose investigations are supplied with the subdivision consent applications.

6. Building Platforms

Council will have regard to the following:

- (i) The local ground conditions and suitability of the site for a building, and whether development on the site should be restricted to parts of the site.
- (ii) Where a parcel of land may be subject to inundation, whether there is a need to establish minimum floor heights for buildings in order to mitigate potential damage to them.
- (iii) The protection of any listed Wāhi taonga or heritage item.
- (iv) The potential for reverse sensitivity issues where building platforms are proposed to be located within close proximity to existing or Consented Network Utility or Renewable Electricity Generation Activities.

7. Esplanade Areas (Reserves and Strips)

Council will have regard to the following:

- (i) The creation of the esplanade area (esplanade reserve or esplanade strip) would contribute to the achievement of conservation, recreation, and access, values of the waterbody.
- (ii) The creation of the esplanade area would contribute to the effective management of risk from Natural Hazards in the District.
- (iii) Feedback from Hawke's Bay Regional Council on the strategic value of the esplanade area, and contribution toward providing compensation of the acquisition of the esplanade area.
- (iv) The most appropriate mechanism for securing the esplanade area (esplanade reserve or esplanade strip). Or an alternative means of protection and provision of access offered that is satisfactory to achieve the above assessment criteria (for example conservation covenant)

8. Access Strips

The need for the creation of an Access Strip to achieve any of the following:

- (i) To provide enhanced public access to existing esplanade reserves which are currently landlocked and which have significant natural, cultural or recreational value.
- (ii) To provide public access to areas identified in Appendices 54, and 55, Riparian Land Management and Public Access as having significant natural, cultural or recreational value and which have been set aside for esplanade purposes.

9. General

Council will have regard to the following:

- (i) The necessity for control over other aspects of works associated with the subdivision, including commencement, completion, bonding, damage liability, insurance, maintenance requirements and certification of compliance.

- (ii) Requirements for the provision of fencing adjoining public land, including pedestrian access-ways, service lanes and roads.
 - (iii) The creation of easements in favour of the Council for public services.
 - (iv) The design standards and guidelines in the *Hastings District Council's Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide*.
 - (v) The landscaping of property access on the site, road reserves and drainage reserves (e.g. tree planting).
 - (vi) The design, location, extent and construction of any earthworks associated with the subdivision and development of the land. Where earthworks are proposed, assessment of the application with the relevant Earthworks, Mineral, Aggregate and Hydrocarbon Extraction assessment criteria in Section 27.1 will be required.
 - (vii) Any potential cumulative effects that may occur as a result of the subdivision.
 - (viii) Potential constraints to the development of the site such as the National Grid Corridor or stormwater drains, and the ability for any resulting adverse effects to be avoided, remedied or mitigated.
 - (ix) The potential effects from a proposed subdivision or development of land on the safe and efficient operation of network utilities.
 - (x) The provision of electricity to the site boundary for any Urban Zone (Residential, Industrial or Commercial Zones), to be confirmed by the Electricity Network Utility/ Unison Networks Limited as a condition of consent.
 - (xi) Consideration to the potential effects on the principles of the Treaty of Waitangi or any sites or taonga of significance to Maori
 - (xii) The ability for continued access to National Grid Transmission Lines for maintenance, inspection and upgrading.
 - (xiii) The nature and location of any proposed vegetation to be planted in the vicinity of the National Grid Transmission Lines.
 - (xiv) Any technical advice provided by the National Grid Transmission Line operator relating to safe electrical clearance distances in NZECP34:2001.
- 14. General Industrial Zone**
- Irongate Area**
- Council will have regard to the following:
- i. The feasibility of a conceptual on-site stormwater disposal system for each site;
 - ii. The results of infiltration tests to confirm that sufficient soakage is present for a conceptual development on each proposed lot.



RMA20190334

Decision:

Pursuant to Rule G116 of the Proposed Hastings District Plan (As Amended by Decisions 12 September 2015) and Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, consent as a Non-Complying Activity is **GRANTED** to J Roil to establish seasonal workers accommodation on Lot 4 (LT plan 542005) of subdivision RMA20190193 to be created from Lot 1 DP 13268 (RT F1/19), at 62 Irongate Road East, Hastings.

Subject to the Following Conditions:

1. That the development/facility is restricted to seasonal workers accommodation only,
2. The development shall be in general accordance with the plans and information submitted in the application and further information provided (HDC Ref: PID 105384#0003, #0005, #0014 - #0021), Resource Consent: RMA20190334, application received 21/8/2019, unless otherwise altered by the consent conditions. This includes that all buildings shall be a minimum of 15m from any site boundary.
3. That the proposed access from Maultsaid Place and internal access shall be constructed in accordance with the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the HDC Development Engineer (or nominee), and this shall be completed prior to occupation of the facility.

This includes that a 1.5m wide, all weather, compacted metal pathway, separated from the vehicle formation, to provide for safe foot/cycle access, shall be constructed within the right of way access easement E (RMA20190193), over Lot 3 DP 524530 for its entire length. This shall be to the satisfaction of the HDC Development Engineer (or nominee), and shall be completed prior to occupation of the facility.

4. That the car parking area within the development site shall be permanently surfaced and marked out in accordance with the District Plan and the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the HDC Development Engineer (or nominee) prior to occupation of the facility.

Note: Compacted hardfill will be acceptable as a permanent surface for the car park in this case as the SWA activity is a temporary/relocatable activity.

Building design

5. Any application for building consent for the proposed sleeping units, kitchen/dining units, and managers accommodation must include a design report prepared by an acoustics specialist demonstrating compliance with Proposed District Plan standard 25.1.7C, to the satisfaction of the Environmental Consents Manager (or nominee) prior to construction or alteration of any building intended for seasonal workers accommodation activities.

NOTE: The information provided with the application included Acoustic Design Certificates prepared by Malcolm Hunt Associates (References 112/223_A, 112/223_B, and 112/223_C), with a conclusion specific to those designs that *"The acoustic performance in this report is not generic and compliance with the acoustic insulation standard in this acoustic design certificate applies only to the proposed modular building described within the drawings attached in Appendix B"*. If there are any alterations to the details of those buildings, this would need an updated certificate.

TRIM Ref: 105384#0012

Page 1 of 12

Item 2

Attachment H



RMA20190334

6. That the accommodation and amenity (Kitchen/Dining) units used for the Seasonal Workers Accommodation shall be constructed so that they are relocatable and that upon cessation of the seasonal workers accommodation activity on site, these accommodation and amenity units shall be removed off site.

Site Management Plan

7. That prior to the commencement of the seasonal workers accommodation activity the applicant shall submit a Site Management Plan (SMP), and associated Code of Conduct, for certification by Hastings District Council, detailing the ways in which the proposed use will occur under specified requirements in accordance with the following objectives:
- A. Confirm the purpose of the Site Management Plan and Code of Conduct to ensure that all residents are accommodated in a comfortable, safe and healthy environment during their stay, and that they comply with the code of conduct for the premises; and
 - B. Avoid or minimise any effects generated during the use of the site for seasonal workers accommodation activities authorised by this resource consent; and
 - C. Provide clarity as to how the proposal is to be operated
 - D. The SMP shall contain, but shall not be limited to, the following sections:
 - i) Purpose and Scope
 - ii) Site management methodology that is to be employed;
 - iii) Contact Details and Responsibilities. This will include the 24-hour contact details for the on site manager; on site signage displaying contact details, and any other contact information;
 - iv) Training and Induction of Staff;
 - v) Active monitoring and site/accommodation inspections/checks; and
 - vi) Frequency and purpose of meetings; and
 - vii) Code of Conduct for all residents; and
 - viii) The SMP plan and code of conduct shall include reference to the reverse sensitivity covenant required by condition 7 of this consent.

The seasonal workers accommodation activity authorised by this consent shall not occur until the SMP and associated Code of Conduct has been certified by the Environmental Consents Manager (or nominee) at the Hastings District Council as meeting condition 7 of this consent.



RMA20190334

Reverse Sensitivity Covenant

8. That pursuant to section 108(2)(d) of the Resource Management Act 1991 the following land covenant shall be registered on the Record of Title for Lot 4, being a subdivision of Lot 1 DP 13268 (LT 542005), **and** also included in the Site Management Plan and Code of Conduct for the SWA, prior to occupation of the facility:

This site is located in the Industrial Zone and may experience a lower level of amenity and higher noise levels than what could be experienced in residential or other zones.

Where land use activities in the surrounding area are carried out in accordance with the relevant District Plan requirements, the property owner, or their successor in title shall not:

Bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the use of that land: or Make nor lodge: nor be party to: nor finance nor contribute to the cost of:

Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of the operations of any industrial activity on surrounding land, including without limitation any action to require the surrounding landowners/occupiers to modify the industrial operations carried out on their land.

This covenant shall be prepared by the applicant's lawyer at the cost of the applicant. This covenant shall be approved by the Hastings District Council and registered against the relevant certificates of title, prior to this resource consent being exercised.

Landscaping

9. That prior to the seasonal workers accommodation activity commencing on site, the applicant shall submit a final Landscape Plan (based in part on the plans and information provided) prepared by a suitably qualified and experienced person for approval by the HDC Environmental Consents Manager (or nominee). The Landscape Plan shall include (but not be limited to):
- a) Planting specifications detailing the specific planting species to achieve a mix of ground cover and specimen trees, suitable to the site, and
 - b) The number of plants and their locations, heights and PB sizes, and
 - c) Confirmation that the location (distance from the boundary) of the species at planting is appropriate for the species type and leaves sufficient space for ongoing maintenance and trimming from within the site, at the height specified, and
 - d) Provision for irrigation of landscaping, and
 - e) Details of proposed boundary fencing providing 1.8m height and screening of the surrounding Industrial Zone, and
 - f) Details of the outdoor living space, based on the site plan provided, that shows two volleyball courts, and an outdoor space on the northern side of the car park, and
 - g) Details of the shelterbelt to be established along the full length of the boundary with the adjoining Plains Production Zone site to the north (as set out in the application and in accordance with Proposed District Plan Standard 14.1.6B.5 a) to g).
10. Within six months after the completion of construction, the landscaping shall be planted and irrigation installed in accordance with the certified landscape plan required by Condition 9.



RMA20190334

11. That in regard to Conditions 9 and 10 the required landscaping shall be maintained for the duration of this consent to the satisfaction of the HDC Environmental Consents Manager (or nominee).

Note: Maintained means the ongoing replacement of any dangerous, dead or dying matter, the replacement of any plants that are lost or are otherwise defective and the general preservation of the landscaping to a healthy standard.

Servicing

Waste Water

12. This seasonal workers accommodation facility proposed on Lot 4 DP 542005 is based on a specific increased waste water maximum discharge equivalent, secured by a restrictive covenant to be placed on Lot 2 DP 12192 (RT M4/643) at 1139 Maraekakaho Road, that reduces that other sites capacity. This is based upon the information provided with the application that the 97 people (96 workers and 1 manager) are to be restricted to 90 litres per day per person (which equates to a total wastewater discharge from the site of 8,730 litres per day).

The maximum total wastewater discharge from Lot 4 DP 542005 to the reticulated network is therefore restricted to 8,730 litres per day.

There shall be one "domestic" sewer connection to the Hastings District Council's pressure sewer network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.

Water

13. That the site shall be connected to the HDC reticulated network with two separate water connections, both with specific backflow requirements comprising:
- i) Either one metered "domestic" connection, or; a connection to an approved 'alternative flow capacity' to be confirmed by the Water Services Manager, and installed to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
- And;
- ii) One metered water connection dedicated solely for firefighting - to the Hastings District Council's reticulated water network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
14. That any on site building and reticulation works required shall be applied and approved at Building Consent.
15. That the "domestic" connection for the Development's waste water, and the connections for the Development's water services, with existing services on Maultsaid Place shall be made at the applicant's expense and constructed by a contractor approved by Hastings District Council for constructing connections to its networks.



RMA20190334

Item 2

Waste Water Covenants

16. That pursuant to section 108(2)(d) of the Resource Management Act 1991 the following land covenant in gross shall be registered on the Records of Title for **Lot 4 DP 542005** (RT 911874), and **Lot 2 DP 12192** (RT M4/643), at the applicants expense, prior to occupation of the SWA facility on Lot 4 DP 542005:

The waste water network serving the Irongate Industrial Zone is limited in capacity with a maximum discharge rate of 0.04 litres per second per hectare applicable to sites within the zone.

The seasonal workers accommodation facility (RMA20190334) on Lot 4 DP 542005 (Multaids Place), will have a discharge volume that exceeds this design capacity for that site. While the seasonal workers accommodation facility approved under RMA20190334 remains on Lot 4 DP 542005 additional discharge volume is to be transferred from that allocated to Lot 2 DP 12192, as follows,:

- a) The total sanitary (domestic) discharge to the Council wastewater network from the land contained within Lot 2 DP 12192 (RT HBM4/643), shall be reduced from 14,012 litres per day to a restricted maximum wastewater volume not exceeding 8,382 litres per day, and*
- b) The total sanitary (domestic) discharge to the Council wastewater network from the land contained within Lot 4 DP 542005 shall be increased from 3,100 litres per day to a maximum of 8,730 litres per day*
- c) The discharge from the seasonal workers accommodation facility (RMA20190334) on Lot 4 DP 542005 shall not exceed the maximum of 8,730 litres per day.*

Light and Glare

17. That a lighting plan demonstrating that at no time between the hours of 2200 and 0700 any outdoor lighting shall be used or directed in a manner that causes an added illuminance in excess of 125 lux at any point within the site, affecting the seasonal workers residing on site, shall be submitted for the approval of the Environmental Consents Manager, Hastings District Council (or Nominee) with the application for building consent.

Construction Noise

18. That during construction on site, noise levels shall comply with and measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.

Construction related earthworks (only for the SWA buildings and access areas, no other earthworks have been proposed as part of this consent)

19. That there shall be no off-site deposit of sediment or detritus from the site and no deposit of sediment or detritus into any watercourse, river, stormwater drain or public road.

Attachment H



RMA20190334

20. That while construction earthworks are being undertaken and prior to re-vegetation, any areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is able to be deposited outside the property boundaries.
21. That all areas of construction earthworks shall be either permanently surfaced or re-grassed with a minimum cover of 90%, where not covered by buildings or hardstand, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee) within 3 months of the completion of the construction earthworks.

Monitoring

22. That a monitoring deposit of \$195 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above condition in accordance with Council's schedule of charges.

In the event of noncompliance being detected by monitoring or justified complaint and /or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.

Review condition

23. The Hastings District Council may serve notice on the Consent Holder of its intention to review the conditions of this resource consent six months after the commencement of this consent and within one month after the first anniversary of the commencement of this consent and within one month after each subsequent anniversary, for the following purposes:
 - a) To review the effectiveness of the conditions of this resource consent in avoiding, remedying and mitigating any adverse effects on the environment from the consent holder's activity and, if considered appropriate by the Consent Authority, to deal with such effects by way of further or amended conditions.
 - b) To review the appropriateness of conditions in the light of changes to relevant national standards, regulations and guidelines, and the relevant district plan.
 - c) To impose additional, or modify existing conditions of consent relating, but not necessarily limited, to the matters specified hereunder if the Environmental Consents Manager (or nominee) considers it necessary to deal with any adverse effect on the environment which may arise from the exercise of this consent and which is appropriate to deal with at a later date.

Actual and reasonable costs associated with the undertaking of any review of conditions shall be borne by the consent holder. Also the reasonable costs incurred by the Consent Authority in monitoring, supervision and enforcement of any or all of the conditions of this consent shall be fully met by the consent holder pursuant to Section 36 of the Resource Management Act 1991.



RMA20190334

With the Reasons for this Decision Being:

1. There are no affected persons in terms of Section 95E of the Resource Management Act 1991.
2. The adverse effects of this proposal are minor, in that:
 - The site is located in the General Industrial Zone at Irongate. While the proposal involves an activity not otherwise provided for in the zone, it is considered that in this case, the site is suited to this activity and that in allowing this activity on this site could help prevent encroachment on the versatile land of the Plains Production Zone of the Heretaunga Plains.
 - The SWA occupies Lot 4 (1ha gross site area) of a 4 hectare being subdivided. The balance land available for industrial activities is not compromised by Lot 4 not being available for industrial activities in the short to medium term and accordingly the effects on the wider industrial land will be no more than minor.
 - Imposition of conditions and s.108(2)(d) RMA covenants will ensure that the site can be appropriately serviced for waste water to ensure that no adverse servicing effects will occur on the surrounding environment. This includes that the reallocation of capacity :
 - i. Is all within the confines of the Industrial Zone at Irongate;
 - ii. It will only apply to Lot 4 DP 542005 as part of and through RMA20190334
 - iii. It is the same landowner
 - iv. They have offered and will restrict 1139 Maraekakaho Road from using the capacity that they are foregoing, via a restrictive covenant.
 - v. The applicant will be subject to conditions controlling the amount of daily discharge to Council infrastructure.
 - vi. The applicant will be subject to subsequent development contributions under the LGA for the wastewater infrastructure.
 - vii. This arrangement will not impact or utilise any other sites wastewater capacity
 - Appropriate screening through a landscape plan condition along the boundaries of the SWA will ensure there are no adverse visual or privacy effects on the surrounding properties.
 - The proposal is not likely to have an adverse effect on any known waāhi tapu, archaeological sites or any other areas of historic or cultural significance. The Karamu Stream and its tributaries (for which the Irongate Stream is), is a statutory acknowledgement area identified in the Heretaunga Tamatea Claims Settlement Act 2018 (HTCS Act), identified as OTS-110-11.
 - Notice was sent to the Trustees of the Heretaunga Tamatea Settlement Trust in accordance with the Deed of Settlement requirements (Ref: 25106#0146). No reply or feedback has been received by the time of writing this report/recommendation.
 - There is also a specific consent notice that will apply to Lot 4 for on-site stormwater servicing that will manage all buildings and impervious surfaces. This will ensure that stormwater is suitably managed on site with a specific design at building consent stage that also manages impervious surfaces, and that there shall be no direct discharge to the Irongate stream.



RMA20190334

- The applicant has addressed reverse sensitivity effects through the offering of conditions of consent which have been imposed.
 - Safe and efficient existing access to the site can be achieved through appropriate conditions of consent.
 - It is unlikely that there would be any significant traffic movements from the site that are not compatible with the surrounding environment being primarily industrial in nature;
 - All parking associated with the activity will be provided onsite;
 - Adherence to a Site Management Plan and Code of Conduct will insure that the SWA facility will be managed such that potential effects on other properties in the vicinity are mitigated.
3. The proposal is consistent with the Objectives, Policies and other provisions of the Proposed Hastings District Plan, in that:
- The seasonal workers accommodation will only occupy Lot 4 of subdivision RMA20190193 and will not be of a scale that would significantly diminish the predominant future industrial use of the site;
 - The proposal is consistent with policies that are seeking to provide for the operation, intensification and expansion of major primary processing and construction industries that make a significant contribution to the District and Regional economies. Seasonal workers accommodation are considered vital to the ongoing success of local primary produce markets;
 - Reverse sensitive effects have been addressed through conditions of consent;
 - Safe and efficient access and on site manoeuvring can be provided.
4. The application meets the requirements of the Resource Management Act 1991.

Advice Notes:

1. The Consent Notice Condition 24 of RMA20190193 that will apply to the creation of Lot 4, will require variation prior to the activity commencing. This would otherwise limit the maximum wastewater volume to not exceeding 3,100 litres per day.
2. To avoid doubt, except as otherwise allowed by this resource consent, all landuses must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Engineering Code of Practice and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.
2. Under Section 125 of the Resource Management Act 1991 a resource consent will lapse if not given effect to within 5 years of the date the consent was granted, unless an extension is authorised under Section 125(1A)(b).



RMA20190334

Recommended by:

Shane Lambert
SENIOR ENVIRONMENTAL PLANNER (CONSENTS)

Decision issued under Delegated
Authority by:

A handwritten signature in black ink, appearing to read "M. Arnold".

Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES

Date:

1 November 2019

Item 2

Attachment H



RMA20190334

Approved Plans RMA20190334:



Site plan. Note that the northern site including the Irongate Stream is not part of this application.

Item 2

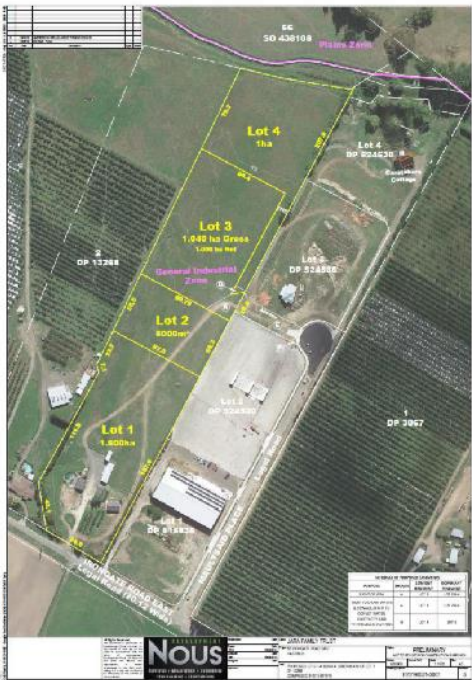
Attachment H

RMA20190334

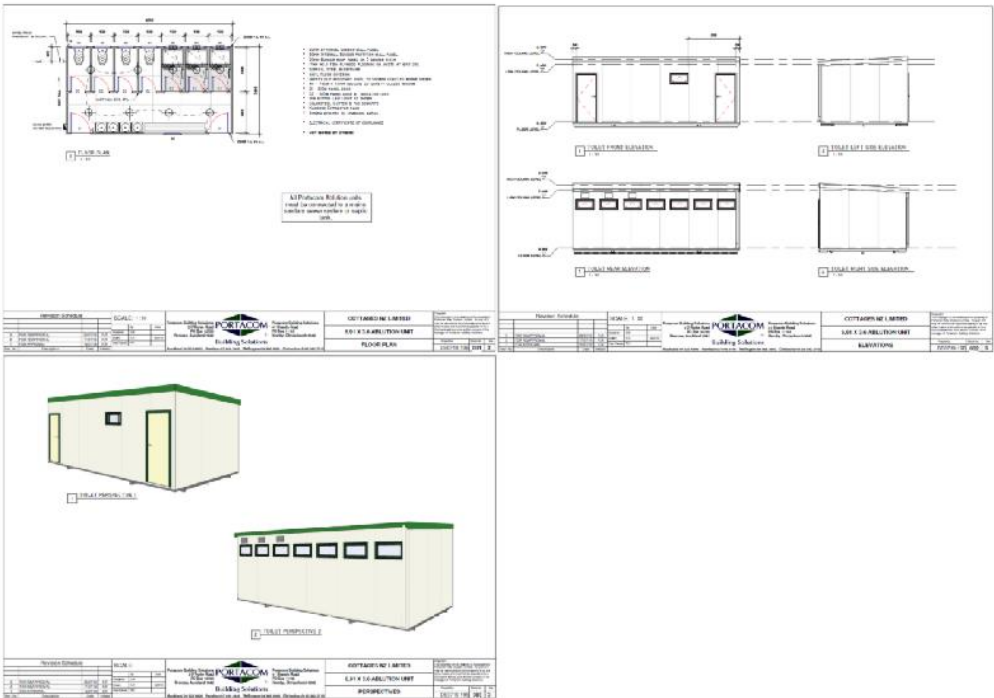


Item 2

Attachment H



Site is Lot 4 (to become DP 542005), dependant on subdivision consent RMA20190193 above



Ablution blocks.

HDC Ref: 105384#0012

Page 11 of 12



RMA20190334

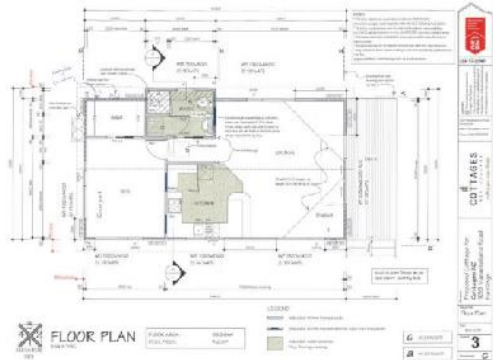
Item 2



Kitchen and Dining blocks.



Living units.



On-site Managers residence

Attachment H



RMA20190365

Decision:

Pursuant to Rules 6.7.5 of the Operative Hastings District Plan (Operative June 2003) and GI19A of the Proposed Hastings District Plan (Variation 7) and Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, consent as a Non-Complying Activity is **GRANTED** to J Roil to establish seasonal workers accommodation on Lot 2 DP 12192 (RT M4/643), at 1139 Maraekakaho Road, Hastings

Subject to the Following Conditions:

1. That the development/facility is restricted to seasonal workers accommodation only.
2. That the development shall be in general accordance with the plans and information submitted in the application and further information provided (HDC Ref: PID 54421#2038 - #2041, #2064 and #2070), Resource Consent: RMA20190365, application received 4/9/2019, unless otherwise altered by the consent conditions. This includes that all buildings shall be a minimum of 15m from any site boundary.
3. That the proposed internal access shall be constructed in accordance with the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the HDC Development Engineer (or nominee), and this shall be completed prior to occupation of the facility.
4. That the car parking area shown within the development site shall be permanently surfaced and marked out in accordance with the District Plan and the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the HDC Development Engineer (or nominee) prior to occupation of the facility, this includes 8 car parks as specified in the application.

Note: Compacted hardfill will be acceptable as a permanent surface for the car park in this case as the SWA activity is a temporary/relocatable activity.

Building design

5. Any application for building consent for the proposed sleeping units, kitchen/dining units, and managers accommodation must include a design report prepared by an acoustics specialist demonstrating compliance with Proposed District Plan standard 25.1.7C, to the satisfaction of the Environmental Consents Manager (or nominee) prior to construction or alteration of any building intended for seasonal workers accommodation activities.

NOTE: The information provided with the application included Acoustic Design Certificates prepared by Malcolm Hunt Associates (References 112/223_A, 112/223_B, and 112/223_C), with a conclusion specific to those designs that *"The acoustic performance in this report is not generic and compliance with the acoustic insulation standard in this acoustic design certificate applies only to the proposed modular building described within the drawings attached in Appendix B"*. If there are any alterations to the details of those buildings, this would need an updated certificate.

6. That the accommodation and amenity units (Kitchen/Dining/Ablution) used for the Seasonal Workers Accommodation shall be constructed so that they are relocatable and that upon cessation of the seasonal workers accommodation activity on site, these accommodation and amenity units shall be removed off site.

TRIM Ref: 54421#2066

Page 1 of 11

Item 2

Attachment I



RMA20190365

Site Management Plan

7. That prior to the commencement of the seasonal workers accommodation activity the applicant shall submit a Site Management Plan (SMP), and associated Code of Conduct, for certification by Hastings District Council, detailing the ways in which the proposed use will occur under specified requirements in accordance with the following objectives:
- A. Confirm the purpose of the Site Management Plan and Code of Conduct to ensure that all residents are accommodated in a comfortable, safe and healthy environment during their stay, and that they comply with the code of conduct for the premises; and
 - B. Avoid or minimise any effects generated during the use of the site for seasonal workers accommodation activities authorised by this resource consent; and
 - C. Provide clarity as to how the proposal is to be operated
 - D. The SMP shall contain, but shall not be limited to, the following sections:
 - i) Purpose and Scope
 - ii) Site management methodology that is to be employed;
 - iii) Contact Details and Responsibilities. This will include the 24-hour contact details for the on site manager; on site signage displaying contact details, and any other contact information;
 - iv) Training and Induction of Staff;
 - v) Active monitoring and site/accommodation inspections/checks; and
 - vi) Frequency and purpose of meetings; and
 - vii) Code of Conduct for all residents; and
 - viii) The SMP plan and code of conduct shall include reference to the reverse sensitivity covenant required by condition 7 of this consent.

The seasonal workers accommodation activity authorised by this consent shall not occur until the SMP and associated Code of Conduct has been certified by the Environmental Consents Manager (or nominee) at the Hastings District Council as meeting condition 7 of this consent.

Reverse Sensitivity Covenant

8. That pursuant to section 108(2)(d) of the Resource Management Act 1991 the following land covenant shall be registered on the Record of Title for Lot 2 DP 12192 (RT M4/643), and also included in the Site Management Plan and Code of Conduct for the SWA, prior to occupation of the facility:

This site is located in the Industrial Zone and may experience a lower level of amenity and higher noise levels than what could be experienced in residential or other zones.



RMA20190365

Item 2

This site is also opposite the Royal NZ Society for Prevention of Cruelty to Animals facility at 8 Heathcote Road, which is a recognised Intensive Rural Production activity which includes temporary housing of a range of animals.

Where land use activities in the surrounding area are carried out in accordance with the relevant District Plan requirements, the property owner, or their successor in title shall not:

Bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the use of that land: or Make nor lodge: nor be party to: nor finance nor contribute to the cost of:

Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of the operations of any industrial activity on surrounding land, including without limitation any action to require the surrounding landowners/occupiers to modify the industrial operations carried out on their land.

This covenant shall be prepared by the applicant's lawyer at the cost of the applicant. This covenant shall be approved by the Hastings District Council and registered against the relevant certificates of title, prior to this resource consent being exercised.

Servicing

Waste Water

9. This seasonal workers accommodation facility proposed on Lot 2 DP 12192 (RT M4/643) at 1139 Maraekakaho Road is based on a specific reduced waste water maximum discharge equivalent, secured by a restrictive covenant to be placed on this site and on Lot 4 DP 542005, that reduces this sites capacity. This is based upon the information provided with the application that the 49 people (48 workers and 1 manager) are to be restricted to 90 litres per day per person (which equates to a total wastewater discharge from the site of 4,410 litres per day).

The maximum total wastewater discharge from the seasonal workers facility to the reticulated network is therefore restricted to 4,410 litres per day.

Note – The remaining 3972 litres per day capacity out of the total site allocation of 8,382 litres per day (14,012 litres per day minus 5,630 litres per day allocated at the landowners request to Lot 4 DP542005 as part of RMA20190334), is for industrial activities on the site.

There shall be one “domestic” sewer connection to the Hastings District Council's pressure sewer network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.

NOTE: See RMA20190334 regarding covenants on Lot 2 DP 12192 (RT M4/643) and Lot 4 DP 542005..

Attachment I



RMA20190365

Water

10. That the site shall be connected to the HDC reticulated network with two separate water connections, both with specific backflow requirements comprising:
 - i) Either one metered "domestic" connection, or; a connection to an approved 'alternative flow capacity' to be confirmed by the Water Services Manager, and installed to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
 - And;
 - ii) One metered water connection dedicated solely for firefighting - to the Hastings District Council's reticulated water network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
11. That any on site building and reticulation works required shall be applied and approved under a Building Consent.
12. That the "domestic" connection for the Development's waste water, and the connections for the Development's water services, with existing services on Maraekakaho Road shall be made at the applicant's expense and constructed by a contractor approved by Hastings District Council for constructing connections to its networks.

Light and Glare

13. That a lighting plan demonstrating that at no time between the hours of 2200 and 0700 any outdoor lighting shall be used or directed in a manner that causes an added illuminance in excess of 125 lux at any point within 2m of the seasonal workers accommodation, affecting the seasonal workers residing on site, shall be submitted for the approval of the Environmental Consents Manager, Hastings District Council (or Nominee) with the application for building consent.

Construction Noise

14. That during construction on site, noise levels shall comply with and measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.

Construction related earthworks (only for the SWA buildings and access areas, no other earthworks have been proposed as part of this consent)

15. That there shall be no off-site deposit of sediment or detritus from the site and no deposit of sediment or detritus into any watercourse, river, stormwater drain or public road.
16. That while construction earthworks are being undertaken and prior to re-vegetation, any areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is able to be deposited outside the property boundaries.



RMA20190365

17. That all areas of construction earthworks shall be either permanently surfaced or re-grassed with a minimum cover of 90%, where not covered by buildings or hardstand, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee) within 3 months of the completion of the construction earthworks.

Monitoring

18. That a monitoring deposit of \$195 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above condition in accordance with Council's schedule of charges.

In the event of noncompliance being detected by monitoring or justified complaint and /or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.

Review condition

19. Within six months of the date of this decision; and/or within 10 working days of the anniversary of the approval date of this consent or upon receipt of information identifying non-compliance with the conditions of this consent, the Council may, in accordance with sections 128 and 129 of the *RM Act 1991*, serve notice on the consent holder of its intention to review the conditions of this resource consent for any of the following purposes:
- A. There is or likely to be an adverse environmental effect as a result of the exercise of this consent, which was unforeseen when the consent was granted.
 - B. Monitoring of the exercise of the consent has revealed that there is or likely to be an adverse effect on the environment.
 - C. There has been a change in circumstances such that the conditions of consent are no longer appropriate in terms of the purpose of the [Resource Management Act 1991](#).

With the Reasons for this Decision Being:

1. There are no affected persons in terms of Section 95E of the Resource Management Act 1991.

Operative District Plan

2. The adverse effects of this proposal are less than minor, and the proposal is consistent with the Objectives, Policies and other provisions of the Hastings District Plan, in that:
- No existing crops will be removed as a result of this proposal;
 - The proposal utilises an area of the site not used for industrial activities (which are predominant on most of the balance of the site), and utilises the existing vehicle access and clusters the buildings around existing buildings and infrastructure;



RMA20190365

- The amenity of the area will be maintained in that the site has been established for industrial purposes already, and existing landscaping helps screen the seasonal accommodation from Maraekakaho Road;
- The relocatable buildings are relatively small and one story and will not be visually dominating;
- There are no restrictions on traffic movements in this zone or along Maraekakaho Road and the facility will use the existing vehicle crossing which is up to Code standard;
- Noise and amenity effects will be less than minor given the accommodation will be within buildings, a 15m setback exists and the buildings are screened by landscaping;
- The Seasonal Workers accommodation has a strong relationship with the goods produced within the wider Plains Zone;
- The site can be serviced by Council infrastructure (Sewer and Water);

Proposed District Plan (Variation 7)

2. The adverse effects of this proposal are less than minor, and the proposal is consistent with the Objectives, Policies and other provisions of the Proposed Hastings District Plan (Variation 7) in that:
 - The site is located in the Proposed General Industrial Zone at Irongate. The proposal involves an activity expected to be provided for in the zone through Variation 7. It is considered that in this case, the site is suited to this activity and that in allowing this activity on this site could also help prevent encroachment on the versatile land of the Plains Production Zone of the Heretaunga Plains.
 - The SWA occupies approximately 1500m² of a 4 hectare site. The balance land available for industrial activities is not compromised by the SWA area not being available for industrial activities in the short to medium term and accordingly the effects on the wider industrial land will be no more than minor;
 - The seasonal workers accommodation will only occupy a limited area of the site and will not be of a scale that would significantly diminish the predominant industrial use of the site;
 - Imposition of conditions and s.108(2)(d) RMA covenants will ensure that the site can be appropriately serviced for waste water to ensure that no adverse servicing effects will occur on the surrounding environment. This includes that the reallocation of capacity to another site:
 - i. Is all within the confines of the Industrial Zone at Irongate;
 - ii. It will only apply to Lot 4 DP 542005 as part of and through RMA20190365 and RMA20190334
 - iii. It is the same landowner
 - iv. They have offered and will restrict 1139 Maraekakaho Road from using the capacity that they are foregoing, via a restrictive covenant.



RMA20190365

- v. The applicant will be subject to conditions controlling the amount of daily discharge to Council infrastructure (for both sites).
 - vi. The applicant will be subject to subsequent development contributions under the LGA for the wastewater infrastructure.
 - vii. This arrangement will not impact or utilise any other sites wastewater capacity
- Appropriate screening through existing landscaping along the boundaries of the SWA will ensure there are no adverse visual or privacy effects on the surrounding properties.
 - The proposal is not likely to have an adverse effect on any known waāhi tapu, archaeological sites or any other areas of historic or cultural significance. The Karamu Stream and its tributaries (for which the Irongate Stream is), is a statutory acknowledgement area identified in the Heretaunga Tamatea Claims Settlement Act 2018 (HTCS Act), identified as OTS-110-11. As there is no crown land involved the bed of the stream is privately owned.
 - The applicant has addressed reverse sensitivity effects through the offering of conditions of consent which have been imposed.
 - Safe and efficient existing access to the site can be achieved through appropriate conditions of consent.
 - It is unlikely that there would be any significant traffic movements from the site that are not compatible with the surrounding environment being primarily industrial in nature;
 - All parking associated with the activity will be provided onsite;
 - Adherence to a Site Management Plan and Code of Conduct will insure that the SWA facility will be managed such that potential effects on other properties in the vicinity are mitigated.
 - The proposal is consistent with policies that are seeking to provide for the operation, intensification and expansion of major primary processing and construction industries that make a significant contribution to the District and Regional economies. Seasonal workers accommodation are considered vital to the ongoing success of local primary produce markets;
 - The proposal does not trigger the NES for Assessing and Managing Contaminants in Soil to Protect Human Health.
4. The application meets the requirements of the Resource Management Act 1991.

Advice Notes:

1. To avoid doubt, except as otherwise allowed by this resource consent, all landuses must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Engineering Code of Practice and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.

HDC Ref: 54421#2066

Page 7 of 11

Item 2

Attachment I



RMA20190365

2. Under Section 125 of the Resource Management Act 1991 a resource consent will lapse if not given effect to within 5 years of the date the consent was granted, unless an extension is authorised under Section 125(1A)(b).

Recommended by:

**Shane Lambert
SENIOR ENVIRONMENTAL PLANNER (CONSENTS)**

**Decision issued under Delegated
Authority by:**

A handwritten signature in black ink, appearing to read "M. Arnold".

**Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES**

Date:

3 December 2019

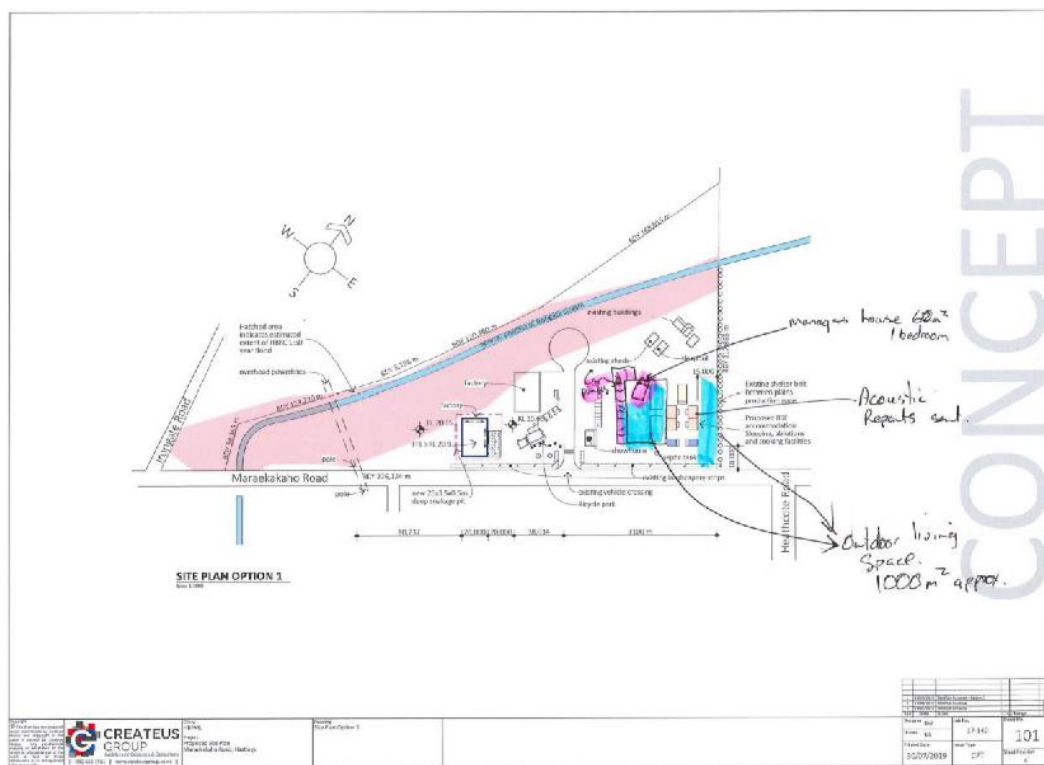
Item 2

Attachment I

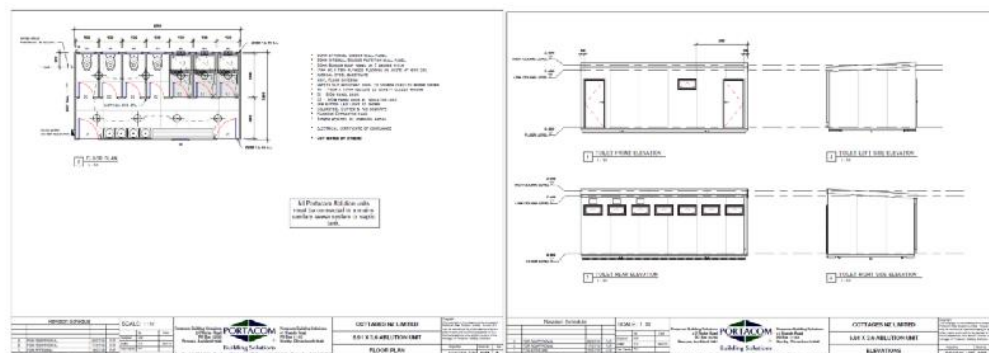


RMA20190365

Approved Plans RMA20190365:



SITE PLAN



RMA20190365



Item 2



Ablution blocks.



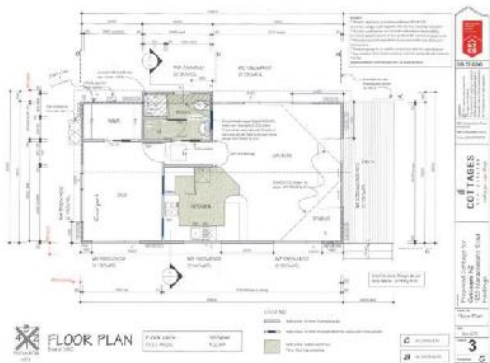
Kitchen and Dining blocks.



Living units.

Attachment I

RMA20190365



On-site Managers residence

Item 2

Attachment I



RMA20190168

Item 2

Decision

Pursuant to Rule EM6 and GI16 of the Proposed Hastings District Plan (As Amended by Decisions 12 September 2015) and Sections 104, 104B, 104D and 108 of the Resource Management Act 1991, consent as a Non Complying Activity is **GRANTED** to **Bostock NZ Irongate Limited** to;

- A. Undertake bulk earthworks to facilitate Stage 1 of a proposed industrial activity; and**
- B. Establish Seasonal Workers Accommodation;**

on LOT 3 DP 506761 (RT 768299), at 22 Irongate Road East, HASTINGS 4120.

Subject to the Following Conditions:

General

1. That the development proceeds in accordance with the following plans and information submitted in the application (HDC Ref: PID 104183#0036 and PID 104183#0035), Resource Consent: RMA20190168, application received **13 May 2019** unless otherwise altered by the consent conditions;
 - a) Geotechnical report of RDCL dated 24 May 2019 Ref R108920601_01;
 - b) Erosion Sediment Plan - Strata Group Project J4208, Sheet C008, Revision A;
 - c) Earthworks Plan - Strata Group Project J4208, Sheet C009 and C010, Revision A;
 - d) Concept Designs – Strata Group Project J4208, Sheet 102 Revision 10; Sheet 110 Revision 8; Sheet A201 Revision 3; Sheet A202 Revision 3;
 - e) Bostock NZ Ltd Irongate Road RSE Accommodation Site Management Plan and Code of Conduct;

and in particular that the facility is **restricted to seasonal workers accommodation only**.

A. EARTHWORKS

2. That the applicant shall submit to Council a final design, detailing the earthworks to be carried out, overland flow paths, internal roading, proposed finished ground levels, water and sewer services required to service the Development, for approval by the Environmental Consents Manager (or nominee), Planning and Regulatory Services Hastings District Council (or nominee), prior to construction. This final design plan shall not include any changes in the existing ground level of the external boundaries of the site. It should be noted that no overland flow shall discharge into the roadside drain.
3. That Construction Work shall not commence until approval of the final design drawings from Council has been given. (See Condition No. 2)

Attachment J



RMA20190168

Sediment Control

4. That the applicant shall submit a sediment control plan by an appropriately qualified person to Council, for approval by the Development Engineer, Planning and Regulatory Services Hastings District Council (or nominee), prior to the commencement of any work on the site. The plan shall detail how sediment and erosion controls will be carried out at the site in accordance with current engineering best practice. A statement shall be included with the plan stating the author's qualifications and experience in this area.
5. That the applicant shall install sediment and erosion controls in accordance with the approved plan prior to the commencement of the earthworks and that these controls shall be maintained throughout the period of the works, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee).
6. That a registered and professionally qualified engineer shall certify that the sedimentation works have been designed and constructed in accordance with the approved design.
7. That there shall be no off-site deposit of sediment or detritus from the site and no deposit of sediment or detritus into any watercourse, river, stormwater drain or public road.

Noise

8. That all earthworks operations shall be so conducted as to comply with the provisions of New Zealand Standard NZS 6803: 1999 Acoustics – Construction Noise.
9. That noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.

Hours of Operation

10. That earthworks shall be limited to the hours of 7.00 am - 5.00 pm Monday – Friday, and 8.00 am – 5.00 pm Saturday.

Land Remediation

11. That all areas of earthworks shall be either permanently surfaced or re-grassed with a minimum cover of 90%, to the satisfaction of the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee) within 3 months of the completion of the bulk earthworks.

Note: Please ensure that those managing works have due consideration of this condition and manage works so that there is sufficient time to allow grass to grow. This will include having regard to any seasonal limitations and water requirements.

Dust Mitigation

12. That while the earthworks are being undertaken and prior to re-vegetation, areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is able to be deposited outside the property boundaries.



RMA20190168

Fill Material

13. That prior to commencement of work the applicant's contractor shall confirm in writing that only 'clean fill' shall be imported onsite (i.e. no rubbish, no stumps, no concrete, bricks any no other substance containing; combustible, putrescible, degradable or leachable components, hazardous substances, products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices, medical and veterinary waste, asbestos or radioactive substances or liquid waste).

Note: Imported 'clean fill' will also need to comply with the relevant standards in the NES for Assessing and Managing Contaminants in Soils to Protect Human Health.

14. That as part of the earthworks' no filling shall take place that will obstruct overland flow from higher ground.

Traffic Safety and Cartage of Material

15. That a traffic safety management plan be submitted to the Hastings District Council for the approval of the Development Engineer (or Nominee) prior to transporting of any fill to the site and commencing earthworks.
16. That the cartage of fill material to and from the sites does not result in fill or other soil material being spilled on to any road carriageway.

Access

17. The site shall be accessed via the approved access point as shown on the plans submitted with the application (HDC Ref: 104183#0036).

B. SEASONAL WORKERS ACCOMMODATION

Access

18. That the proposed accesses from Irongate Road and internal roading network shall be constructed in accordance with the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the Environmental Consents Manager, Planning & Regulatory Services (or nominee), and this shall be completed prior to occupation of the facility.
19. That car parking area within the development site shall be permanently surfaced and marked out in accordance with the District Plan and the Hastings District Council Engineering Code of Practice 2011, to the satisfaction of the Environmental Consents Manager, Planning & Regulatory Services (or nominee) prior to occupation of the facility.
20. That all works within the boundaries of the public road shall be undertaken by a contractor who is pre-approved to do so by Hastings District Council.

Building Design

21. Any building on the site intended for residential activities must be designed, constructed and maintained to achieve a design noise level of 40 dB LAeq(24h) inside all habitable spaces.



RMA20190168

22. If windows must be closed to achieve the design noise level in condition 21, the building must be designed, constructed and maintained with a forced air ventilation and cooling system. For habitable spaces the system must achieve the following:
- a. Ventilation must be provided to meet Clause G4 of the New Zealand Building Code. At the same time the sound of the system must not exceed 30 dB LAeq(30s) when measured 1 m away from any grille or diffuser.
 - b. The occupant must be able to control the ventilation rate in increments up to a high air flow setting that provides at least 6 air changes per hour. At the same time the sound of the system must not exceed 35 dB LAeq(30s) when measured 1 m away from any grille or diffuser.
 - c. The system must provide cooling that is controllable by the occupant and can maintain the temperature at no greater than 25°C (degrees Celsius). At the same time, the sound of the system must not exceed 35 dB LAeq(30s) when measured 1m away from any grille or diffuser.
23. Any application for building consent must include a design report prepared by an acoustics specialist demonstrating compliance with conditions 21 and 22, and the report must be approved by the Environmental Consents Manager (or nominee) prior to construction or alteration of any building intended for residential activities.
- The design must take into account future permitted use of the surrounding industrial land and adjacent public roads.
24. That the accommodation and amenity units used for the Seasonal Workers Accommodation shall be constructed so that they are relocatable and that upon cessation of the seasonal workers accommodation, these accommodation and amenity units shall be removed off site.

Note: Condition 24 above does not include the proposed two large portal structures housing the laundry, kitchen BBQ area and communal area which can be repurposed as accessory buildings associated with a permitted industrial activity.

Reverse Sensitivity

25. That pursuant to section 108(2)(d) of the Resource Management Act 1991 the following land covenant shall be registered on the Record of Title for Lot 3 DP 506761, **and** also included in the Site Management Plan and Code of Conduct for the SWA, prior to occupation of the facility:

This site is located in the Industrial Zone and may experience a lower level of amenity and higher noise levels than what could be experienced in other zones.

Where land use activities in the surrounding area are carried out in accordance with the relevant District Plan requirements, the property owner, or their successor in title shall not:

Bring any proceedings for damages, negligence, nuisance, trespass or interference arising from the use of that land; or Make nor lodge: nor be party to: nor finance nor contribute to the cost of:



RMA20190168

Item 2

Any application, proceeding or appeal (either pursuant to the Resource Management Act 1991 or otherwise) designed or intended to limit, prohibit or restrict the continuation of the operations of any industrial activity on surrounding land, including without limitation any action to require the surrounding landowners/occupiers to modify the industrial operations carried out on their land.

This covenant shall be prepared by the applicant's lawyer at the cost of the applicant. This covenant shall be approved by the Hastings District Council and registered against all the relevant certificates of title, prior to this resource consent being exercised.

Site Management Plan

- 26 The draft Site Management Plan and Code of Conduct (HDC ref 104183#0036) shall include reference to the reverse sensitivity covenant, be finalised, and a finalised copy of the Plan shall be provided to the Environmental Consents Manager (or nominee) prior to occupation of the facility.

Use of the seasonal workers facility shall be in accordance with the approved Site Management Plan and Code of Conduct.

Landscaping

27. That landscaping of the site frontage shall be established prior to occupation of the buildings, and maintained in accordance with the plans and descriptions submitted with the application and in accordance with Rule 14.1.6A 4(b) of the Proposed District Plan as stated below. This scheme of planting shall be identified on a landscaping plan which shall be submitted for the approval of the Environmental Consents Manager, Hastings District Council; and shall also include details of the varieties and heights of the landscaping around the other three perimeter edges of the SWA facility;

Landscaping within the Irongate Area shall consist of an even mixture of ground cover, shrubs and specimen trees complying with 14.1.6.4A(b)(i) to (iv) below.

- i. A minimum of 25% of the length of the frontage of all sites shall be landscaped.***
- ii. Any landscaping strip shall have a minimum width of 3.0m.***
- iii. Trees planted shall be from the list below:***
 - Erect Oak (Quercus Robur Fastigiata) (12m x 2.5m***
 - Oriental Plane (Platanus Orientalis 'Autumn Glory') (10m x 5m)***
 - London Plane Tree (Platanus Acerifolia) (15m x 6m)***
- iv. The ground cover and shrub plantings shall contain a mix of no less than four and no more than six species. These shall not exceed 1.8m in height.***

Note: Maintained means the ongoing replacement of any dangerous, dead or dying matter, the replacement of any plants that are lost or otherwise defective and the general preservation of landscaping to a healthy standard.

Attachment J



RMA20190168

Light and Glare

28. That an exterior lighting plan demonstrating compliance with Rule 14.1.6A.9 of the Proposed District Plan shall be submitted for the approval of the Environmental Consents Manager, Hastings District Council (or Nominee) with the application for building consent.

Construction Noise

29. That noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.

Servicing

30. That the Lot is entitled to one “domestic” sewer connection to the Hastings District Council's pressure sewer network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council. The maximum flow allocated to the Lot is limited to a maximum wastewater discharge rate calculated at 0.04 litres per second per hectare (for sanitary waste disposal only), and a maximum total wastewater discharge from the site of 29,376 litres per day .
31. That the Lot shall be connected with two separate water connections, both with specific backflow requirements comprising:
- i) Either one metered “domestic” connection, **or**; a connection to an approved ‘alternative flow capacity’ to be confirmed by the Water Services Manager, and installed to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
- and;
- ii) one metered water connection dedicated solely for firefighting - to the Hastings District Council's reticulated water network to the satisfaction of the Development Engineer, Planning and Regulatory Services, Hastings District Council.
32. That any on site building and reticulation works required shall be applied and approved at Building Consent.
33. That the “domestic” connection for the Development's waste water, and the connections for the Development's water services, with existing services on Irongate Road shall be made at the applicant's expense and constructed by a contractor approved by Hastings District Council for constructing connections to its networks.



RMA20190168

Covenant

34. That pursuant to section 108(2)(d) of the Resource Management Act 1991 the following land covenant be registered on the Record of Title for Lot 3 DP 506761 at the applicants expense prior to occupation of the facility:

The waste water pressure sewer system in Irongate Road is limited in capacity to a maximum discharge equivalent to 0.04 litres per second per hectare. Development proposals for the site shall ensure that the total wastewater volume (existing and proposed) does not exceed the specified design. This is a critical factor in planning future activities on this site.

The total sanitary (domestic) discharge to the Council wastewater network in Irongate Road East from the land contained within Lot 3 DP 506761 with a total area of 9.12 hectares shall be restricted to a maximum wastewater volume not exceeding 29,376 litres per day.

Traffic Management

35. That the transportation of seasonal workers to and from the site shall be as stated in the application submitted by Strategy Planning Limited, RMA20190168 (HDC Ref: 104183#0035).

Monitoring

36. That a monitoring deposit of \$180 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above condition in accordance with Council's schedule of charges.

In the event of noncompliance being detected by monitoring or justified complaint and /or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.

Review Condition

37. The Hastings District Council may serve notice on the Consent Holder of its intention to review the conditions of this resource consent six months after the commencement of this consent and within one month after the first anniversary of the commencement of this consent and within one month after each subsequent anniversary, for the following purposes:
- a) To review the effectiveness of the conditions of this resource consent in avoiding, remedying and mitigating any adverse effects on the environment from the consent holder's activity and, if considered appropriate by the Consent Authority, to deal with such effects by way of further or amended conditions.
 - b) To review the appropriateness of conditions in the light of changes to relevant national standards, regulations and guidelines, and the relevant district plan.
 - c) To impose additional, or modify existing conditions of consent relating, but not necessarily limited, to the matters specified hereunder if the Environmental



RMA20190168

Consents Manager (or nominee) considers it necessary to deal with any adverse effect on the environment which may arise from the exercise of this consent and which is appropriate to deal with at a later date.

Actual and reasonable costs associated with the undertaking of any review of conditions shall be borne by the consent holder. Also the reasonable costs incurred by the Consent Authority in monitoring, supervision and enforcement of any or all of the conditions of this consent shall be fully met by the consent holder pursuant to Section 36 of the Resource Management Act 1991.

With the Reasons for this Decision Being:

1. There are no adversely affected persons in terms of Section 95A and 95B of the Resource Management Act 1991 and there are no special circumstances that exist in relation to the application that would warrant notification to any other persons which have not been considered.
2. The adverse effects of this proposal are minor, in that:

EARTHWORKS

- The proposed earthworks (cut and imported granular fill) are limited to within the site;
- Offloading of cleanfill (granular fill) only will occur within the site;
- No changes to drainage patterns are proposed by the earthworks thereby not adversely affecting any other sites potential for flooding;
- The site is not part of a notable or significant landscape and the earthworks will only be in relation to forming the building foundations and swale drains which will not be out of character in the local environment;
- Appropriate sediment control measures are being put in place to ensure that sediment runoff during and following completion of works will be avoided whereby mitigating effects on the wider environment;
- Conditions of consent will ensure that management of the earthworks will be in accordance with and approved design as referred to in Condition 2 of this consent.
- The earthworks development (noise and associated traffic movement) will be of a temporary nature and is envisaged in the provisions of the Proposed District Plan. Similarly, noise associated with developing this site will be commensurate with developing various sites nearby for industrial activities.

SEASONAL WORKERS ACCOMMODATION

- The site is located in the General Industrial Zone at Irongate. While the proposal involves an activity not otherwise provided for in the zone, I consider that the site is suited to this activity and that in allowing this activity on this site will prevent encroachment on the versatile land of the Plains Production Zone of the Heretaunga Plains.



RMA20190168

- The SWA occupies 7000m² of a 9 hectare lot. The balance land available for industrial activities is therefore not compromised by this 7000m² not being available for industrial activities and accordingly the effects on the wider industrial land will be no more than minor.
 - Imposition of relevant conditions 30 - 34 and s.108(2)(d) RMA covenant will ensure that the site can be appropriately serviced to ensure that no adverse servicing effects will occur on the surrounding environment.
 - Appropriate screening along the boundaries of the SWA will ensure there are no adverse visual or privacy effects on the surrounding properties.
 - The proposal does not affect any known waāhi tapu, archaeological sites or any other areas of historic or cultural significance.
 - The applicant has addressed reverse sensitivity effects through the offering of conditions of consent which have been imposed in condition 25.
 - Safe and efficient existing access off Irongate to the site can be achieved through appropriate conditions of consent that access be constructed in accordance with the Engineering Code of Practice.
 - It is unlikely that there would be any significant traffic movements from the site that are not compatible with the surrounding environment being primarily industrial in nature;
 - There are unlikely to be any adverse traffic effects as a result of the activity given the management practices employed by the applicant to restrict vehicle movements to buses transporting the workers to and from work sites;
 - All parking associated with the activity will be provided onsite;
 - Adherence to the Site Management Plan and Code of Conduct will insure that the SWA facility will be managed such that effects on other properties in the vicinity are mitigated.
3. The proposal is not contrary to the Objectives, Policies and other provisions of the Proposed Hastings District Plan, in that:

EARTHWORKS

- The scale of the proposed bulk earthworks (Stage 1) will be required to support any industrial use of the site and can therefore, in general, be expected.
- The site contains no known cultural features or identified landscape values that could be compromised by the works.
- The site has no productive land value as it has been zoned for industrial purposes.
- Conditions have been imposed to mitigate effects of land clearance.



RMA20190168

- Effects from undertaking earthworks and the transportation of fill material will be of a temporary nature envisaged by the Plan provisions.

SEASONAL WORKERS ACCOMMODATION

- The seasonal workers accommodation will occupy 8% of the site and will not be of a scale that would significantly diminish the predominant future industrial use of the site;
 - The proposal is consistent with policies that are seeking to provide for the operation, intensification and expansion of major primary processing and construction industries that make a significant contribution to the District and Regional economies. Seasonal workers accommodation are considered vital to the ongoing success of local primary produce markets;
 - Reverse sensitive effects have been addressed through conditions of consent;
 - Safe and efficient access and on site manoeuvring can be provided.
4. The application meets the requirements of the Resource Management Act 1991.

Advice Notes:

1. To avoid doubt, except as otherwise allowed by this resource consent, all landuses must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Engineering Code of Practice and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.
2. Under Section 125 of the Resource Management Act 1991 a resource consent will lapse if not given effect to within 5 years of the date the consent was granted, unless an extension is authorised under Section 125(1A)(b).
3. It is noted that within the Stage 2 area. Council's historical photos record an area of the site having contained stock yards. The soils over this area may therefore be subject of the NES when this area is developed (see photos below).



2000



2004



Enlargement of 2004 photo

Recommended by:

Michelle Hart
SENIOR ENVIRONMENTAL PLANNER (CONSENTS)



RMA20190168

Decision issued under Delegated
Authority by:

A handwritten signature in black ink, appearing to read "M. Arnold", written over a horizontal line.

**Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES**

Date:

4 July 2019

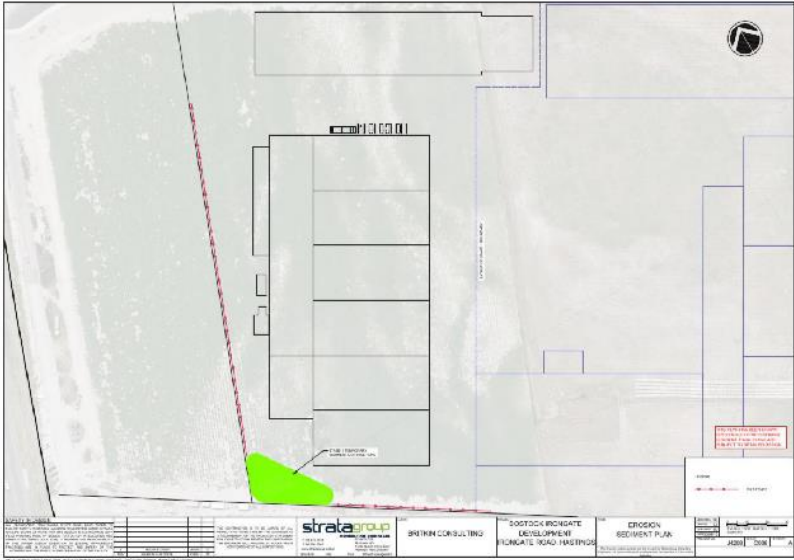
Item 2

Attachment J

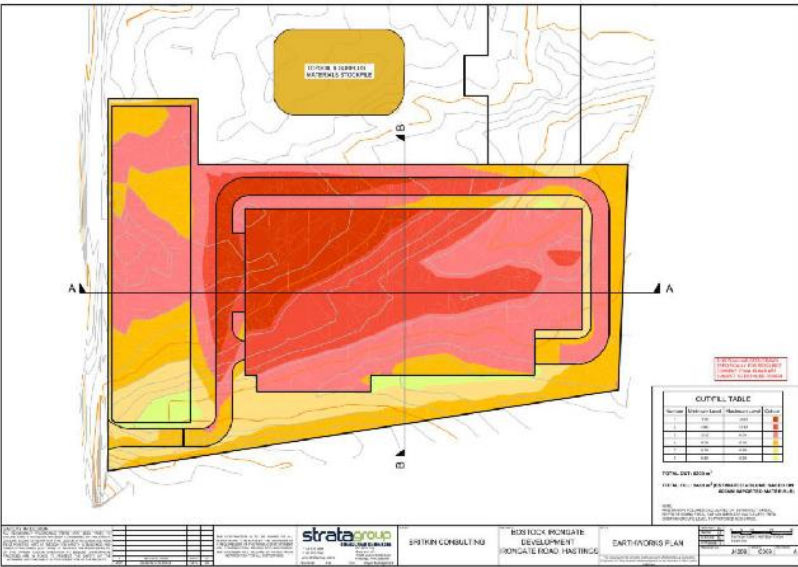


RMA20190168

Approved Plans (Earthworks) – RMA20190168 – HDC Ref: 104183#0036



Erosion Sediment Plan

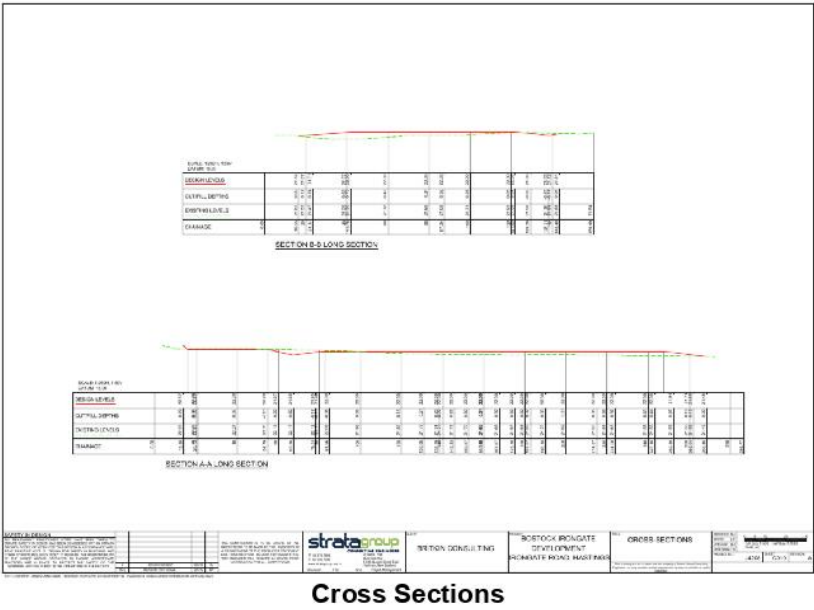


Earthworks Plan

RMA20190168



Item 2



Attachment J

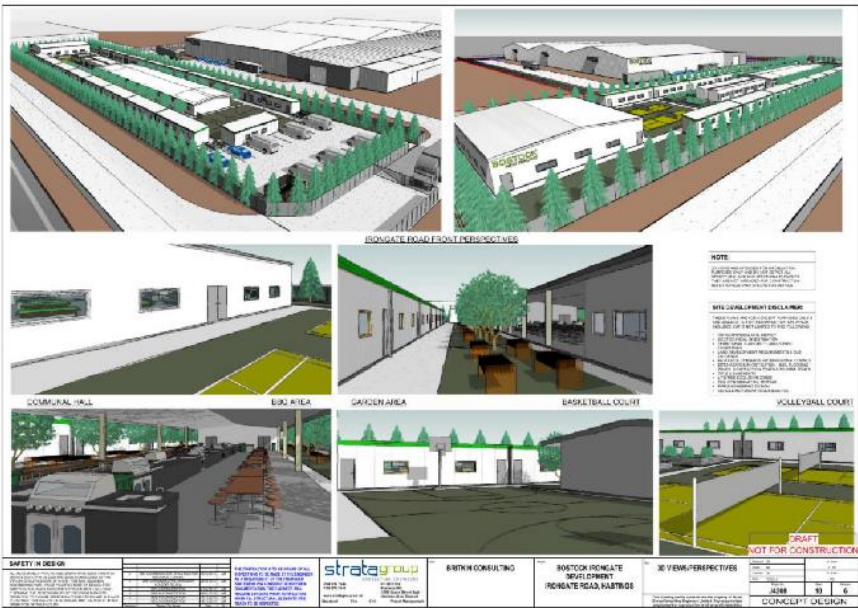
RMA20190168



Item 2

Approved Plans – (Seasonal Workers Accommodation)

RMA20190168 – HDC Ref: 104183#0036



Concept Plans



Stages Plan – Showing Proposed Future Stages

HDC Ref: 104183#0039

Page 14 of 17

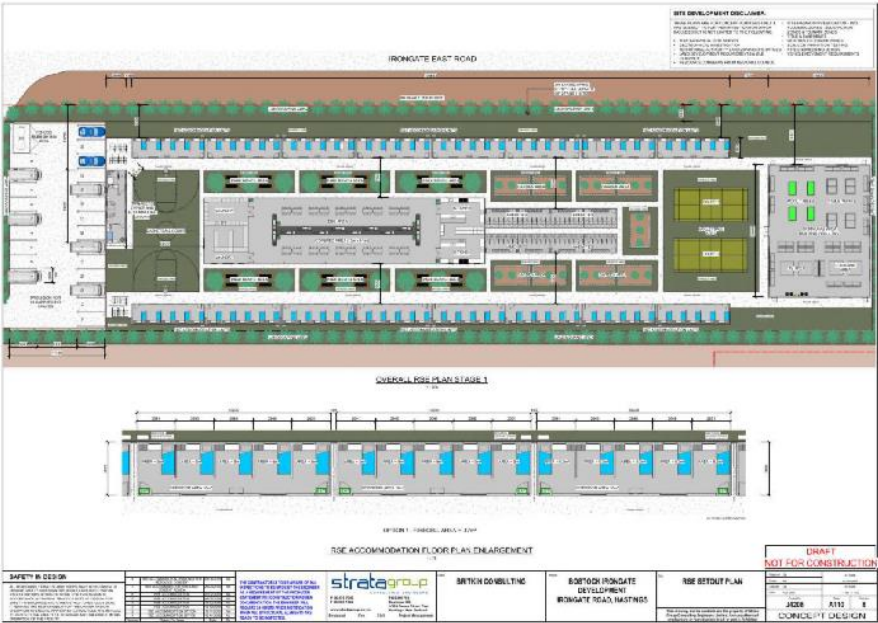
Attachment J

RMA20190168

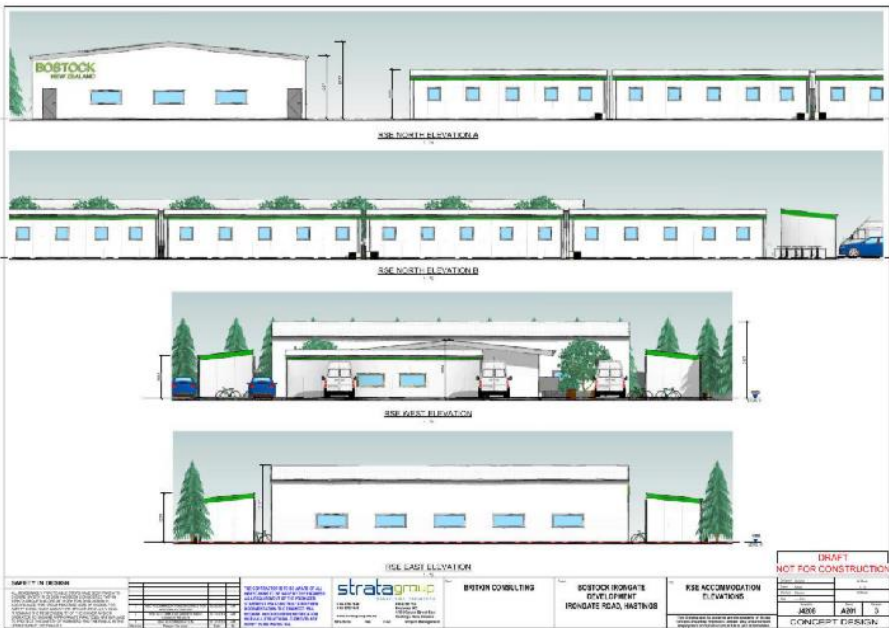


Item 2

Attachment J



Layout Plan

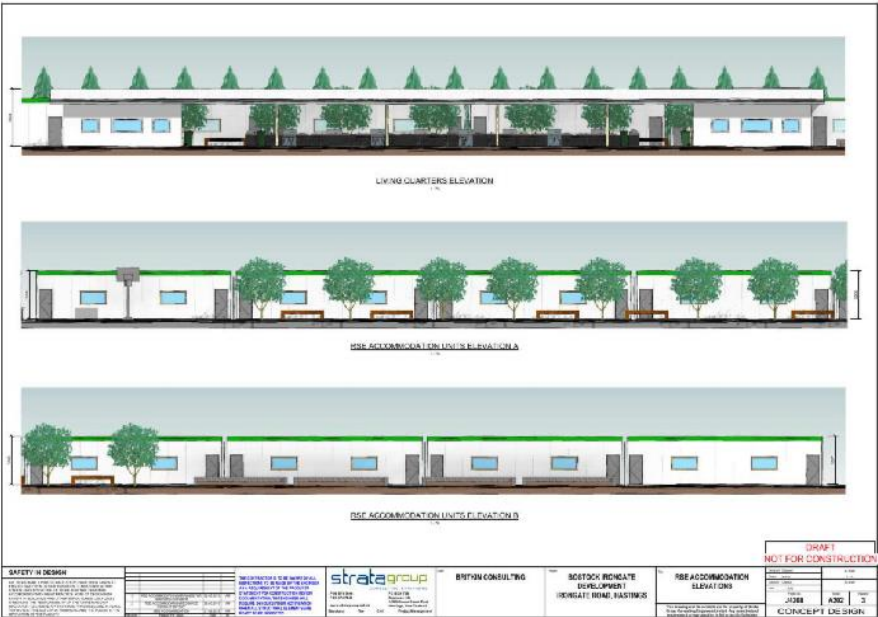


Building Designs

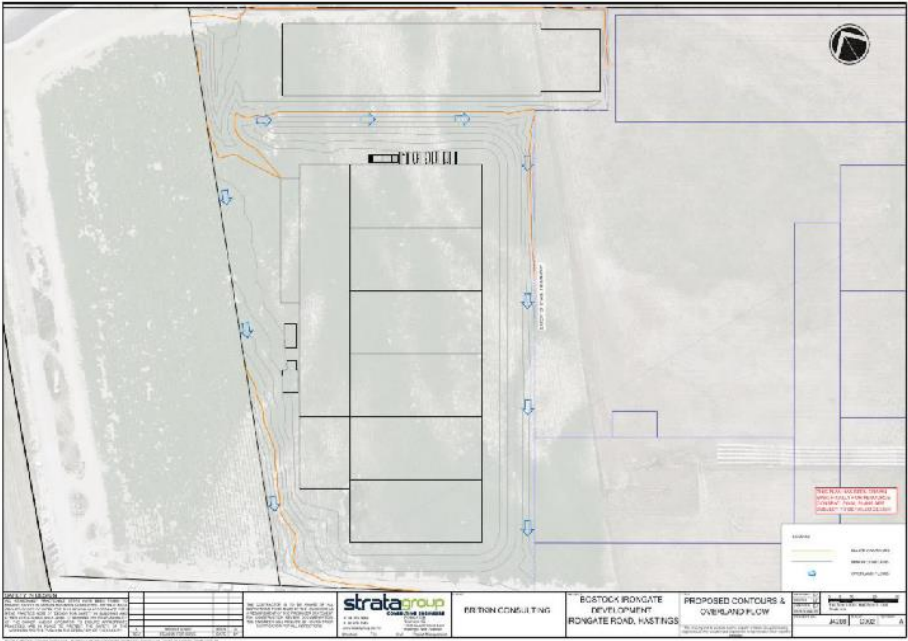


RMA20190168

Item 2



Building Designs



Overland Flow

Attachment J

RMA20190168

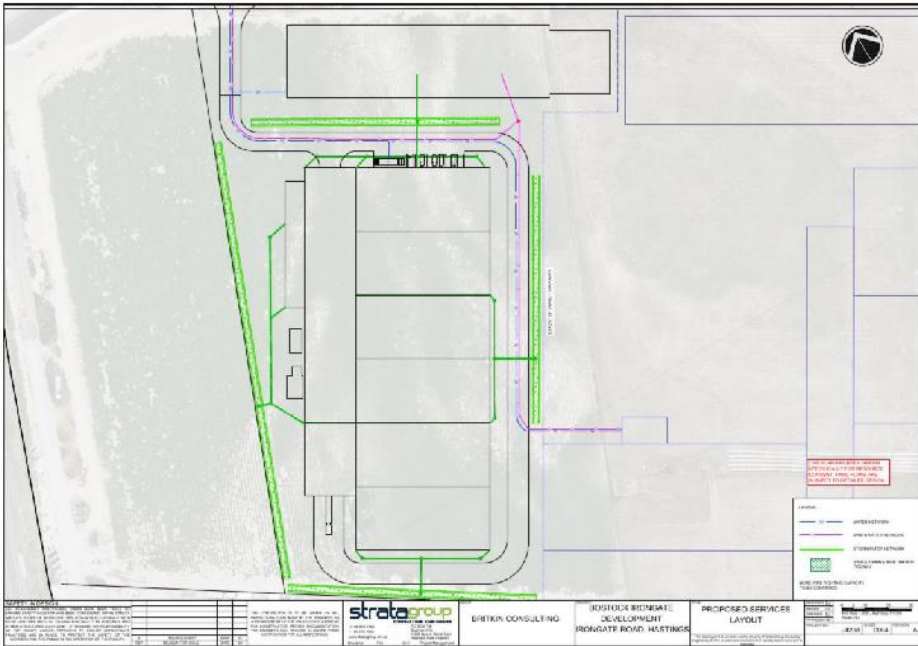


Item 2

Attachment J



Stormwater



Water and Sewer

Attachment K – Copy of Environment Court Decisions

Item 2

- Te Awanga Lifestyle Ltd v HDC
- Beacham v HDC
- JARA Family Trust v HDC
- McHardy v HDC
- McKenna v HDC

Attachment K

Item 2

Attachment K

BEFORE THE ENVIRONMENT COURT

Decision No: W - 77 /2009
ENV-2008-WLG-000135

ORIGINAL

IN THE MATTER of an appeal under s120 of the Resource
Management Act 1991

BETWEEN TE AWANGA LIFESTYLE LIMITED
Appellant

AND THE HASTINGS DISTRICT COUNCIL
Respondent

Court: Principal Environment Judge C J Thompson
Environment Commissioner M P Oliver
Environment Commissioner S J Watson

Heard at: Hastings on 7 and 8 September 2009. Site visit 9 September 2009

Counsel: M B Lawson for Te Awanga Lifestyle Limited

L Heaps and B M Cabanilla – s274 parties

M E Casey QC and B W Gilmour for the Hastings District Council

DECISION OF THE COURT

Decision issued: 14 October 2009

A. The appeal is declined

B. Costs are reserved



Introduction

[1] In a decision dated 3 July 2008 the Hastings District Council declined an application by Te Awanga Lifestyle Ltd to subdivide the land at 380 Clifton Road, Te Awanga, for residential purposes. This is an appeal against that decision.

[2] The subject land is 3.9108 ha in area and the proposal is to subdivide it into 18 residential sites of between 1,782m² and 4,473m² with an average size of 2,172m². Some 3058m² will be occupied by access rights-of-way. One lot close to the centre of the site will be reserved for recreational purposes (a tennis court and pavilion is suggested) and the remaining 17 lots will be available for one residential building each. The development is planned to be completed in four discrete stages, with separate fee simple titles for each lot.

General Site Description

[3] The site is located on the southern side of the Te Awanga settlement and is bounded by Clifton Road and Charlton Road generally on its northern and eastern sides. Lifestyle residential properties adjoin the other two boundaries. Presently there is a small house and cottage on the site, together with a range of ancillary buildings. The land has been grazed in the past, and has been quite extensively planted with exotic and native trees and shrubs.

[4] It is a relatively long and narrow rectangular block running parallel to Clifton Road with a length of some 390m and a width of 108m. Next to the southeast boundary and running beside Charlton Road is the Maraetotara River. The land is said to be higher than the majority of the existing Te Awanga settlement with elevations ranging between 3.25m and 5.5m above mean sea level (MSL). There is a Regional Council stop bank (up to 7.50m above MSL) along the boundary with Charlton Road and the Maraetotara River.

The Parties' Positions

[5] The appellant lays much emphasis on what it describes as the integrated environmental design of the project. Mr Mark Mahoney is a director and shareholder of the company, and has been responsible for the design of the proposal. He describes the key environmental design features of the project under ten headings:

The sites are designed for housing to face north.



3

- b) The lots reuse, recycle and attenuate storm water.
- c) Lots can maximise the local solar resource.
- d) The Lots are spacious and sized for families.
- e) The land is organic and free of chemicals.
- f) Landscaping will provide for privacy, amenity and food.
- g) Urban agriculture will produce edible food gardens.
- h) There will be onsite amenity and recreation.
- i) Energy efficient housing will be enabled.
- j) There will be local power generation and exporting of power to the national grid.

[6] From the Council's perspective the key issues are the strategic implications of approving the subdivision and consequential residential development of the 18 lots. The primary concern is that the proposal is contrary to the relevant objectives and policies of the District Plan. In his opening submissions Mr Casey summarized¹ the strategic issues as:

- a) The proposal runs counter to key objectives and policies in the District Plan which support a strategic, planned approach to urban expansion into the rural areas of the District.
- b) While the Hastings Urban Growth Strategy Report 2005 contemplates future urban expansion at Te Awanga, this particular subdivision would be a *finger development* in the rural zone pre-empting the intention to provide a co-ordinated strategic response to future urban growth in this area.
- c) A successful appeal would effectively rezone the site for residential uses in an ad hoc way, without any exceptional or distinguishing characteristics.
- d) The domino (or precedent) effect that would result if the appeal was successful, with its consequential impacts on the rural environment both here and elsewhere in the District, as well as on plan integrity.

[7] Ms Bree Cabanilla lives on a lifestyle property very close to the site, on the northern side of Clifton Road. She has concerns about flood risk, traffic generation, the loss of the productive capacity of the land, and expresses the view that the development is not necessary in terms of providing residential opportunities in the area. Ms Cabanilla's concerns about



Casey Opening Submissions, paragraph 2.1.

flood risk and traffic are not supported by the evidence, but her point about the productive capacity of the land is very much a part of issues about compliance with the Plan provisions.

[8] Mrs Lee Heaps has a small vineyard on the opposite side of the Te Awanga settlement. She has concerns about the concept of *reverse sensitivity* – ie that residents of the development will be annoyed by, and complain about, noise from agricultural and horticultural activities being carried on in the surrounding area. Again, there is little support for those views in the general evidence.

Zoning and Planning Status

[9] The subject site is currently zoned *Rural* in the Hastings District Plan, operative since 2003, and is close to land zoned *Coastal Residential* and *Plains* in the Plan. Part of the southern section of the site is within a Significant Landscape Character Area (SLC8). It is common ground that the subdivision application is, overall, *non-complying* in terms of Rule 15.1.7.4 because it does not comply with minimum lot size requirements in the *Rural* zone and therefore must be able to pass one or other of the two thresholds in s104D before being considered for consent under s104.

[10] Part of the northern section of the site is within the Coastal Environment as defined in the Proposed Regional Coastal Environment Plan (RCEP). The same area is within the Coastal Hazard 3 Zone (CHZ3) defined in that Plan.

[11] There is a hierarchy of coastal hazard areas. Between them, Flood and Coastal Hazards Zones affect approximately 174 (68%) of the total of 287 houses in the settlement of Te Awanga. CHZ1, closest to the sea covers the areas at most risk currently; CHZ2 covers areas identified as being at future risk; and CHZ3 covers areas of land *...assessed as being potentially at risk of sea water inundation in a 1 in 50 year combined tide and surge event, and includes allowance for sea level rise* We shall return to the issue of Coastal Hazard Zones shortly.

Section 104D threshold tests

[12] We turn first to the disputed matters relating to the adverse effects of the proposal on the environment. Although Mr Peter Reaburn, the Council's consultant planner, raised some



concerns relating to adverse effects on character and amenity, and the life-supporting capacity of soil, he concluded that although his views were very finely balanced he was prepared to accept that these adverse effects were not more than minor. He reached a similar conclusion about any cumulative adverse effect. Mr Reaburn maintained that the adverse effects relating to character and amenity, and soils were relevant when having regard to the objectives and policies.²

[13] In terms of the *non-complying* activity threshold tests under s104D, the agreement between the planning experts (mentioned in more detail in para [19]) led the Council to the position that the adverse effects were not likely to be more than minor and that on their own they were not a reason for consent to be refused. The parties agreed that the proposal satisfied s104D(1)(a) and therefore qualified to be assessed against the relevant considerations set out in s104. We see no reason to disagree with that view, so we pass directly to considering the issues under s104.

Section 104(1)(a) - effects on the environment

[14] The parties agree that there are no issues arising from the geotechnical stability of the land, roading access, storm water and wastewater management, and the supply of electricity. There is also now an arrangement in place with the Council for the supply of water to the project, subject to the developer contributing to the capital cost of upgrading the local water infrastructure which, we understand, has been struggling to meet demand. The planning witnesses agree that the concept of *reverse sensitivity* is not an issue, although, as mentioned, it was raised by Mrs Lee Heaps who is a s274 party.

Permitted Baseline

[15] The Applicant holds a Certificate of Compliance, issued in November 2008, which confirms that a permitted development of the land would include a winery and associated retail and entertainment facilities, primary and secondary residential dwellings, and visitor accommodation comprising six rentable bedrooms. Associated earthworks of approximately 2000m³ and the establishment of a vineyard as a land-based primary production activity are also included. Rule 5.7 is the *permitted* activities rule.



Reaburn, EIC, paragraphs 6.15, 6.17 and 6.17 (sic).

[16] Mr Reaburn and Mr Matthew Holder, the appellant's consultant planner, agree that *...there is no relevant permitted baseline...* but, with due respect to the views of two very experienced practitioners, we are not sure we agree. Certainly, subdivision is not a *permitted* activity under the District Plan, so some caution is required in considering whether to apply the concept of the *permitted baseline* in assessing the effects of the proposal. Mr Reaburn points out that, for the moment at least, there must be a question as to whether it is likely that the proposal covered by the Certificate of Compliance would be established. That may be so, but given that the activities covered by the Certificate are *permitted* by the Plan, we can hardly regard it as fanciful. It must inform the question of what is a permitted baseline, at least in terms of non-productive use and coverage of the site, even if only questionably part of the existing environment as an unexercised (deemed) resource consent.

Other effects

[17] We have already recorded that the planners agreed that there were no adverse effects of this proposal on the environment that were of more than minor significance. In terms of positive effects, Mr Holder considered that there were *...positive effects arising from the provision of alternative sites for the relocation of a community that is currently being ravaged by the effects of Coastal erosion*³. We do not entirely agree with that view. The evidence hardly supports the term *...ravaged*. While there certainly is a significant coastal erosion problem for the settlements on the southern shore of Hawke Bay, there is not a requirement to relocate a number of houses immediately. At para [29] we record the areas identified and available for future residential growth in Te Awanga, and they would satisfy the short-to-medium term need. We return to the limited significance of that point later.

Section 104(1)(b) - planning issues

[18] Expert planning evidence was presented by four planners: Ms Anna Summerfield, the Strategic Planner at the Council; Mr Ian Macdonald, the Council's Environmental Manager; Mr Peter Reaburn, and Mr Matthew Holder.



Holder, EIC, paragraph 34.

[19] Mr Reaburn and Mr Holder presented a joint planning witness statement dated 4 September 2009. In essence this reflected their written statements of evidence. The primary matters about which they agreed were that :

- a) The proposal was a *non-complying* activity in the *Rural Zone*.
- b) The effects not of concern were: land stability; reticulated water supply; on-site land-based wastewater disposal; stormwater disposal; vehicle access – safety and efficiency of the road; (these all being subject to *standard* conditions of subdivision consent being imposed) reverse sensitivity; and matters of significance to iwi.
- c) The major issue to be addressed was plan integrity.
- d) As subdivision is not a *permitted* activity in the District Plan, there is no relevant permitted baseline.
- e) The site may have potential for future rezoning for urban development.

[20] To varying degrees, Mr Reaburn and Mr Holder did not agree on the matters listed below and we address them in various parts of this decision:

- a) The planning provisions relevant to the appeal
- b) Effects issues relating to character and amenity, and soils
- c) Whether the Certificate of Compliance issued in respect of the site is a relevant consideration on this appeal
- d) Whether the subject site and area are characteristic of the rural environment or a peri-urban/compromised rural environment
- e) Whether the proposal is consistent with/not contrary to objectives and policies in the District Plan
- f) Whether decisions on a possible future rezoning will be compromised by approval to the current proposal.

National and Regional Planning Documents

[21] It was agreed that the site is within the District Plan's definition of *coastal environment*:
- ie within 500m of MHWS or the dominant ridge behind the coast, which ever is the lesser.

Therefore the New Zealand Coastal Policy Statement and the Hawkes Bay RCEP (Proposed)



apply. The relevant matters relate primarily to the natural character of the coastal environment and coastal hazards. Mr Reaburn noted that the site is some distance from the coastline and is not, in his view, in an area with any particularly significant natural character.

[22] The northern part of the site, in common with considerable areas of the existing housing at Te Awanga, is identified in the Regional Council's CHZ3. As previously mentioned (para [11]), there is an hierarchy of coastal hazard areas. There are no regional rules preventing development in the CHZ3 areas.

[23] The relevant themes from the National and Regional documents are fully considered in the following assessment of provisions in the District Plan. By themes, we mean issues such as avoiding sprawling development and the cumulative effects of subdivision and development in the coastal environment.

District Plan Provisions

[24] The Hastings District Plan was made operative in June 2003. Between the witnesses, an extensive list of Plan provisions were identified as being at issue in this appeal, including provisions in:

- Section 2.3 *General Resource Management Issues* – outlining high level issues and strategies which recognise the need for urban development to continue and make particular reference to the significance of the District's soil and water resources.
- Section 2.4 *Urban Development and Strategic Urban Directions* – enabling the recommendations of the Hastings Urban Development Strategy (HUDS) to be implemented.
- Section 2.6 *Low Density Residential Strategy* – referring to a range of low density residential living types, including those provided for in the Rural Zone.
- Section 2.7 *Coastal Environment Strategy* – noting particularly issues about accretion and erosion and the sustainable development of coastal settlements, including Te Awanga. In that regard it notes *...the necessity to integrate their future development with the wider residential strategies of the Hastings District.*
- Section 2.8 *Rural Resource Strategy* – based, amongst other matters, on the issue of pressure on the rural resource close to urban centres.
- Section 5 *Rural Zone*



Section 12.2 *Landscape Areas Resource Management Unit*

Section 15.1 *Subdivision and Land Development* – containing provisions relating to subdivision.

[25] Mr Reaburn acknowledged⁴ that there were District Plan provisions with which the proposal was consistent, and these related primarily to the list of effects which were agreed by the planners to be no more than minor.

[26] In relation to the Plan provisions at issue in this appeal, Mr Reaburn concluded that the proposal was contrary to those objectives and policies⁵ and Mr Holder maintained the opposite opinion⁶. We now turn to consider the principal provisions held to be at issue.

[27] For the Hastings District there is a list of some eleven relevant strategic studies and documents published since 1993⁷ and this includes the current joint local authorities' study in progress – the Heretaunga Plains Urban Development Study. Mr Macdonald explained that as part of its long term planning processes the Council had commissioned, and in many cases formally adopted, these strategic planning documents⁸. Some of these documents, or parts of them, are included and/or referred to in the District Plan.

[28] As the proposal is a subdivision and development for residential purposes on *Rural* zoned land, any consideration brings into focus the Plan provisions relating to the management of urban and residential growth in the District. The Urban Development and Strategic Urban Directions section (Section 2.4) has an objective relating to the sustainable supply of residential land to meet the current and future demands (UDO1). There are policies to implement an urban development strategy to ensure there is adequate residential land to meet demand and avoid pressure to rezone land on an ad hoc basis for residential development (UDP1); to ensure a diverse range of residential opportunities (UDP2); and to manage the extent and effect of expansion of the rural-urban interface (UDP4). Higher density developments are encouraged (UDP5).

⁴ Reaburn, EIC, paragraph 7.2.

⁵ Reaburn, EIC, paragraph 12.1.

⁶ Holder, EIC, paragraph 73

⁷ Casey, Opening Submissions, attachment.

⁸ Macdonald, EIC, paragraph 6.



[29] The strategy referred to in policy UDP1 is the 1993 HUDS prepared in advance of the current District Plan. HUDS identified 50 possible residential sites at Te Awanga: - 20 within the existing zoned settlement area and 30 within 5-6 hectares of additional land in two *future* urban areas adjacent to the north and south of the existing zoned area. These two additional areas are shown on a plan at Appendix 2.4-1 of the Plan, titled *Proposed New Urban Development Area – Te Awanga*. The southern *future* growth area separates the existing Coastal Settlement zoned area from the site the subject of this subdivision proposal.

[30] The Low Density Residential Strategy section of the Plan (Section 2.6) accepts that the provision of rural residential land is a part of the Council's adopted residential strategy. The section has an objective to enable a range of low density residential development options in response to market demand, in a comprehensive, flexible and integrated manner, while avoiding, remedying or mitigating any adverse effects on the environment (LD01). There are policies recognising the need to meet the pressure for low-density residential living in the rural areas throughout the District and to monitor the appropriateness of the subdivision rules. The Plan provides for zoned areas and also for subdivision of *lifestyle* lots in the *Rural* and *Plains* zones.

[31] Section 2.7 contains the Coastal Environment Strategy. This section identifies as an issue (section 2.7.2) providing for sustainable development of coastal settlements, including Te Awanga. It notes that the continued expansion of these communities is constrained by a lack of suitable land, infrastructural limitations and (importantly for this appeal) the need to integrate their future development with wider residential strategies in the District. The objectives and policies centre on carefully managing development and any further expansion of coastal settlements in accordance with the Hastings Coastal Environment Strategy (HCES) (CEO1, CEP1, CEP2). The explanation to policy CEP2 states that Structure Plans for all the recommended coastal areas will investigate and resolve existing issues and constraints and that until the development of the structure plans, the development or expansion of existing coastal settlements should be consistent with the HCES. The HCES was adopted by the Council in 2000. The District Plan (section 2.7.5) lists the HCES as one of the methods by which the objectives and policies of the Plan are to be implemented, along with HUDS (section 2.4.5). Mr Macdonald confirmed that HUDS and HCES are the two main strategic



documents that relate to the management of the Te Awanga area⁹. It is not at all clear to us that the proposal is consistent with the HCES, or that it is, as 2.7.2 requires, integrated with the wider residential strategies of the District.

[32] Section 2.8 outlines the Rural Resource Strategy and Section 5 contains provisions for the *Rural* zone. These sections identify the importance of maintaining the life-supporting capacity of the rural resources (RO1, RUO1). Policy RP1 and associated explanation seek to reflect the various characteristics and distribution of the rural resources and tailor a range of zones including the *Plains*, *Rural* and *Rural Residential* zones. This proposal does not maintain the life-supporting capacity of this land, and does not fit with those provisions.

[33] The Rural Resource Strategy identifies as an issue: *Pressure on the Rural Resource Close to Urban Centres*. Whilst referring primarily to the main urban centres of Hastings and Havelock North, the Plan seeks to manage conflicting demands through a wider integrated strategy for urban development, rather than allowing it to occur in an ad-hoc manner. This theme is carried through to Policy RP5 which seeks to manage rural land close to urban areas to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base. The explanation describes significant pressure from urban activities to expand onto rural land close to the present urban areas, and reasons why the Plan does not provide for the uncontrolled conversion of rural land to a range of residential activities. Policy RUP3 seeks to limit residential activity in the *Rural* zone to provide for people to live and work where this will facilitate the continued sustainable use of the land resource. Policy RUP14 similarly limits the subdivision of lifestyle sites in the *Rural* zone. This proposal sits most uneasily with those provisions.

[34] Section 15.1 *Subdivision and Land Development* provides that site standards be used as a mechanism to support the overall objectives and policies of the Plan. The current proposal does not comply with the *Rural Zone* standards. The minimum lot size in the *Rural* zone is 20ha or, for lifestyle sites, a Residential Farm Park possibility with 2500m² minimum lots so



McDonald, BIC, paragraph 7.

long as at least 92% of the *parent* area (to be not less than 60ha) remains. The proposal's degree of non-compliance is therefore very large.

[35] The Council's position is that planning for Te Awanga is complex and with new information on matters such as coastal hazards and infrastructure only recently becoming available, it would be premature to approve this proposal until the planning, including community consultation, has been completed. Part of the Council's case was the submission that this proposal was unsuitable at this time and in this location because it pre-empts the currently active process for identifying and opening up the most appropriate land for the future residential expansion of Te Awanga. Further, it was suggested that if the appellant's land is indeed the most suitable for that expansion (which has not been determined so far) then the proposed subdivision into 18 sites might not be an efficient use of the resource. Mr Reaburn expressed his concern that the development pattern and role desired for the subject site through the wider planning process may be quite different than is currently being proposed¹⁰.

[36] Certainly, the District Plan provisions consistently endorse a strategic and integrated approach to managing the resources of the District and in particular to managing the extent and effect of expansion of residential development at the urban/rural interface rather than through sporadic and ad hoc conversions. We do need to emphasise though that we understand the proposition that the application needs to be dealt with according to its assessed effects and its compliance, or not, with the terms of the planning documents as they stand now. That some better thought through planning provisions might arise, given more time, is not a proper reason for effectively deferring a proposal. For that reason we place little weight on the argument that we should await the completion of studies, presently underway, which may influence the outcome. Rather, we focus on the proposal's consistency (or lack of it) with the thrust of the current Plan provisions.

[37] We do not agree with Mr Holder's view that this is a *peri-urban* site. On the contrary, it is undoubtedly rural and outside the quite clearly delineated boundary of the existing Te Awanga settlement. In terms of character and amenity, we entirely agree with Mr Reaburn's



Reaburn, EIC, paragraph 12.4.

view that this is a proposed residential development which will remove the current rural character of the site and extend the Te Awanga urban boundary.

Conclusion about the District Plan provisions

[38] We find, in general agreement with Mr Reaburn's assessment, that the proposal is contrary to not only many of the objectives and policies taken individually but, importantly, contrary to the overall thrust of the objectives, policies and other provisions of the District Plan as they relate to managing the development and further expansion of the Te Awanga coastal settlement.

Section 104(1)(c) - consistent administration and integrity of the District Plan

[39] For the appellant, Mr Lawson submitted that arguments of *precedent* and District Plan integrity are being put forward as a rationale for not even considering this application on its merits. We turn to consider matters raised as differentiating this proposal from others that may arise.

[40] In the District Plan the future of the coastal settlement of Te Awanga is provided for by additional residential sites within the coastal settlement zone, and two future urban areas signalled on the periphery. The District Plan identifies unresolved issues and constraints including infrastructure, particularly wastewater, flooding and coastal erosion and proposes structure plans to investigate and resolve such matters.

[41] The appellant's position was that the areas identified in the Plan for future residential development at Te Awanga have subsequently been identified as being subject to hazards and that this proposal is a logical extension of the settlement that overcomes all of these issues and does not compromise the resolution of the concerns affecting the rest of the settlement.

[42] A comparison of cadastral base maps for Te Awanga dated 2003 and 2009 indicated that no new sites had been created during this period within the existing coastal settlement zone, or in the peripheral future growth areas.¹¹ Mr Macdonald confirmed that no plan changes had



transcript page 206.

been initiated for the future growth areas but that the Council had started the process.¹² Ms Summerfield outlined the steps taken since 2003 as part of the structure planning process for Te Awanga and adjacent coastal areas, including community consultation, technical reports and internal Council planning. After a period *on hold*, the receipt of a recent report¹³ (April 2009) on dealing with coastal erosion has prompted the Council to recommence the structure planning process to identify future residential options along this part of the coastline. Other key issues include effects on water quality as a result of problems with on-site septic tanks, the need for alternative roading access to Te Awanga and Clifton, and flooding.

[43] Mr Derek Devane, a registered valuer called by the appellant, presented evidence relating to sales of residential properties over the last four or five years in Te Awanga and nearby Haumoana. These included 12 sales of residential sections and 240 sales of residential dwellings. Mr Devane considered that there is a normal good level of demand for a popular coastal settlement and there was no evidence of any scarcity premium being paid because houses are hard to get in the area.¹⁴

[44] We do not suggest that it is necessary for a proposal to be literally unique to be the legitimate subject of a *non-complying* consent. Cases such as *Dye v Auckland RC* [2001] NZRMA 513 emphasise that there is no true concept of precedent in this area of the law, and *Rodney DC v Gould* [2006] NZRMA 217 makes it clear that it is not necessary for a site being considered for a *non-complying* activity to be truly unique before Plan integrity ceases to be a potentially important factor. Nevertheless, as that Judgment goes on to say, a decision maker considering such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases.

[45] The likelihood of other, materially similar, proposals coming forward and thus making it difficult, if not impossible, for a Council to rely on its Plan, is the material factor. In this instance, this factor may not be quite as stark as the situation discussed in *McKenna v*

¹² Transcript page 176.

¹³ "Te Awanga - Haumoana Coastal Erosion, Review and Recommendations", April 2009, prepared for the Hawke's Bay Regional Council and Hastings District Council, prepared by Environmental Management Services Limited.

¹⁴ Transcript page 33



Hastings DC (W16/2008) or, to a lesser extent, *Ngatarawa Development Trust Ltd v Hastings DC* (W17/2008). But it is of note that, after enquiries made at Mr Reaburn's request, six sites (four at Te Awanga, one at Haumoana and one at Whirinaki) that are up to 6ha in size and within 500m of a Coastal Residential Zone have been identified. Those are all sites that could be proposed for residential development of the same kind, and supported by the same reasoning, as this proposal. In his view, and we are inclined to agree, planning for those areas could, as here, be pre-empted and compromised by this kind of *non-complying* application.

[46] As the Court said in *McKenna*, while we have dealt with Plan integrity separately, we emphasise that we do not see it as a discrete topic. It exists only because the proposal, as we have discussed, irreconcilably conflicts with the provisions of the Plan. If it did not do so, the integrity of the Plan would not be in question.

Part 2

[47] There are no Treaty of Waitangi issues under s8, nor matters of national importance to be recognised and provided for under s6. Mr Reaburn identified the following matters under s7, to which we are to have *particular regard*:

- (aa) The ethic of stewardship
- (b) The efficient use and development of natural and physical resources
- (f) Maintenance and enhancement of the quality of the environment
- (g) Any finite characteristics of natural and physical resources.

Mr Holder would add to those s7(c) – *The maintenance and enhancement of amenity values*. He sees the proposal as being an efficient use of the land resource, in that expanding residential requirements have to be accommodated somewhere, and putting it on land that is not currently being used for production, and not likely to be so used in the foreseeable future is preferable to putting it on other *Rural* or *Plains* zoned land in the district. We are not sure we see things as being that simple. We accept that if Te Awanga is to expand then some useful soils will be lost as the settlement is surrounded on three sides by land zoned either *Plains* or *Rural*. But it is not a given that Te Awanga should expand to that extent – that is a strategic question still to be answered.



[48] For the moment we are inclined to agree with the view expressed by Mr Reaburn; viz that the concept of stewardship and in particular the recognition of the finite nature of the soils

resource would be better achieved by resisting the fragmentation of this piece of land into 18 separate titles.

[49] In considering s5, we accept that the subdivision will enhance the economic wellbeing of the applicant, and would enable prospective buyers to gain a building site of their choice. But the proposal stumbles against s5(2)(a) and (b) particularly, failing as it does to sustain the life supporting capacity of the resource for future needs.

The Council's decision

[50] Section 290A requires us to have regard to the Council's decision. In this instance we agree with it, both as to outcome and the reasoning for that outcome, so no more need be said about it.

Result - Overall Consideration

[51] Taken overall the District Plan contains comprehensive and consistent provisions which emphasise the need to safeguard the life-supporting capacity of the rural resource, particularly the soils, and to provide for urban and residential development through an integrated strategic approach, rather than in an ad-hoc manner.

[52] While recognising that no additional residential land has been made available at Te Awanga since the 1993 HUDS report was adopted and the District Plan made operative in 2003, the evidence was that market sales are at a ...normal good level... This suggests to us that there is no urgent requirement for additional residential land now. There is no justification to set aside the existing structure planning process, addressing the issues and constraints and the most appropriate future for the settlement, leading to a well-integrated development. The subject site may well have a role to play in the future expansion of the settlement. But that should be considered as a part of a wider strategy rather than as a one-off proposal in isolation from the existing settlement. We do not suggest that further study might produce a better site for future Te Awanga residential expansion. But nor is there an urgency of need, for instance, for the relocation of threatened dwellings along the shorefront, such as might justify the compromising of the Plan's provisions and its effectiveness and integrity as a planning instrument.



[53] For all the reasons set out in this decision we find in this case that the purpose of the Act - to promote the sustainable management of natural and physical resources - is best achieved by declining the appeal. The decision of the Council to decline the consent is confirmed.

Costs

[54] Costs are reserved. Any application should be lodged by 6 November 2009, and any response lodged by 20 November 2009.

Dated at Wellington this 14th day of October 2009

For the Court


C J Thompson
Principal Environment Judge



BEFORE THE ENVIRONMENT COURT

ORIGINAL

Decision No: W 075 /2009

ENV-2009-WLG-000013

IN THE MATTER of an appeal under s120 of the Resource
Management Act 1991

BETWEEN G M BEACHAM
Appellant

AND THE HASTINGS DISTRICT COUNCIL
Respondent

Court: Principal Environment Judge C J Thompson

Environment Commissioner M P Oliver

Environment Commissioner S J Watson

Heard at: Hastings on 9 September 2009. Site visit 9 September 2009

Counsel/Appealances:

M B Lawson for G M Beacham

G W Richardson – s274 party

B W Gilmour for the Hastings District Council

DECISION OF THE COURT

Decision issued: 05 OCT 2009

A. The appeal is allowed

B. Costs are reserved



Introduction

[1] In a decision dated 19 December 2008 the Hastings District Council declined an application made by Dr Gregory Beacham for resource consent to operate a car restoration activity on his property at 1424 Maraekakaho Road, Hastings. This is an appeal against that decision. Dr Beacham's business has an international reputation for the expert restoration and refitting of classic motor cars, particularly Jaguars. The proposal is to operate the business within three recently constructed buildings, with an attached amenities block. Together the buildings occupy about 1096m² and form three sides of a rectangle, semi-enclosing a sealed courtyard onto which they open. The proposal would consolidate the car restoration business onto the one site at Maraekakaho Road.

[2] The property is 9.3457ha in area and the majority of it is operated as an orchard on which Dr Beacham and his family also live. Dr Beacham has recently leased out the orchard, to be operated in conjunction with others, so he no longer requires to store as much orchard-related material and machinery on site for his own use. The site is set among other similar activities and is immediately adjacent to the Mangaroa Prison, on the outskirts of Hastings City.

The present arrangements

[3] In 1988 Dr Beacham obtained a *specified departure* under the then planning legislation from the Hawkes Bay County Council for the operation of the (then much smaller) car restoration business from the generous but still residential scale garaging existing on the site. However, as the business grew, relocation of part of it was required and part of the property at 96 Algernon Road, also in orchard country south of Hastings, was taken on lease. The building on that site was originally a packhouse for the orchard on that property. Presently, the restoration business itself is conducted at Algernon Road and some vehicles awaiting restoration, and parts, are stored in the buildings at Maraekakaho Road.

[4] A *non-complying* resource consent for use of the Algernon Road property was granted in 2004 and enables the consent holder to operate the restoration business employing 15 staff within a 905m² building between the hours of 7.30 am and 6 pm Monday to Thursday. The consent is within the *Plains* zone of the Hastings District. This consent would be surrendered if the appeal succeeds.



Zoning and Planning Status

[5] The Maraekakaho Road property is situated within the *Plains* zone of the Hastings District Plan, operative since 2003. There are no identified sites of significance or designations affecting the property.

[6] It is common ground that the application falls within the definition of *industrial activities* contained in Chapter 18 of the Plan as: *The use of land and buildings for the manufacturing, fabricating, processing, packing or storage of substances, into new products and the servicing and repair of goods and vehicles, whether by machinery or hand and includes transport depots and the production of energy but excludes helicopter depots.* It is also common ground that Rule 6.9.5(1) contains the specific performance standards applicable to industrial activities. Industrial activities other than the processing storage and packaging of crops are confined to a maximum gross floor area per site of 100m² and require that no more than three non-resident employees may be employed on site. Plainly the proposal would fail to comply with those performance standards and under Rule 6.7.5 the proposed activity becomes a *non-complying* activity.

[7] Plan Change 46, relating to the *Plains* zone, was notified on 26 June 2008, almost exactly one month before Dr Beacham's application was lodged. The Council notified its decisions on submissions on 23 May 2009. There is only one appeal, and it is not relevant to this proposal. The Plan Change, although not altering the wording of the objectives and policies, sought to limit all *permitted* industrial activities to buildings of not more than 100m² GFA and to clarify that only rural crop/produce-related industrial buildings larger than 100m² GFA are provided for (as a *restricted discretionary* activity). The Plan Change did not relevantly affect the performance standards, nor the status of the activity relevant to this proposal, which therefore remains *non-complying*.

[8] That being so, the application must pass one or other of the two thresholds contained in s104D before it can be considered for a resource consent under s104. That is, its adverse effects on the environment must be no more than minor, or it must be shown to be not contrary to the relevant objectives and policies of the District Plan, when read as a whole. In this case the expert planning witnesses agree that the adverse effects of the proposal are not



more than minor - so we may pass directly to a consideration of the application under s104 and leave a consideration of the Plans objectives and policies until a later point.

Section 104(1)(a)- effects on the environment

[9] We have mentioned that the expert planning witnesses agree that any adverse effects on the environment would not be more than minor. This is not surprising given that the buildings already exist – they are part of the existing environment. That is not to say that the issue of effects on the environment can be ignored. Mr Richardson, a s274 party who lives opposite the Mataekakaho Road property, raised issues about traffic generation and the use of chemicals on the site as possible adverse effects in his original submission to the Council. There was no evidence about those issues, and in the apparent absence of any issues arising from them in the 20 plus year history of this enterprise, we cannot sensibly give such vaguely expressed concerns any real weight now.

[10] Nor, of course, is it to be overlooked that this activity has positive effects. In terms of the purpose of the Act, as expressed in s5, it contributes towards enabling people and communities to provide for at least their social and economic wellbeing and, depending on one's degree of enthusiasm for classic cars, perhaps their cultural wellbeing as well. It does so by providing employment for highly skilled staff, and business for suppliers. According to Dr Beacham's unchallenged evidence, the business has over its lifetime contributed of the order of \$50M to the general economy in export earnings.

Permitted baseline

[11] It may seem a little pointless to discuss the concept of the *permitted baseline* in a situation where it is agreed that the adverse effects will not be more than minor, but the concept has a resonance when it comes to considering issues such as Plan integrity. Section 104(2) gives a consent authority the discretion to disregard an adverse effect created by the proposal...*if the plan permits an activity with that effect*. The adverse effect of the proposal which is argued to be so inimical to the thrust of the *Plains* zone provisions as to threaten the integrity of the Plan is the loss of the productive capacity of the zone's soils by erecting buildings over them.



5

[12] The operative provisions of the *Plains* zone do permit the erection of buildings, quite apart from houses and ancillary buildings. Mr Macdonald confirmed that there are no size or building coverage limits on accessory buildings associated with residential activities permitted on a site of this size. Industrial buildings for the ...*Processing, storage and packaging of crops, produce and agricultural materials...* with a GFA of up to 2500m² per site are permitted on any site (no matter what size) in the zone under Rule 6.9.5. The justification for that is that such a rural industry activity is directly related to the production of primary produce on the land, and that is valid and understandable. But the *permitted* activities underline the point that *Plains* zone land is not absolutely inviolable. These were the very provisions which enabled Dr Beacham to construct the existing buildings as *permitted* activities. That seems to us to be a relevant point to consider. We hasten to add that we have not overlooked the subsequent *tightening* of the provisions under proposed Plan Change 46.

Affected person approvals

[13] Section 104(3)(b) provides that a consent authority (in this case, the Court) shall not have regard to any effect on a person who has given written approval to the application. There are four such persons; Mr Brian Clearkin, the owner and occupier of an orchard property on the corner of Maraekakaho and Stock Roads, Mr Grant Taylor (on behalf of the Luton Trust) the owner and occupier of a property to the east of the subject site, Mr T and Mrs M M Hyland, the owners and occupiers of a property immediately opposite the site on Maraekakaho Road, and the Department of Corrections in respect of the Mangaroa Prison, which surrounds the site on three of its boundaries. We have mentioned that Mr Richardson, also a neighbouring owner, opposes the application so the local support is certainly not unanimous. Nevertheless, the fact that its closest neighbours give it their consent is a reasonable indication that its effects, albeit at a reduced scale, have not proved problematic in the past.

Section 104(1)(b) – planning documents

[14] There are no relevant national statements, nor is the Coastal Policy Statement relevant. Brief mentions were made of the Hawkes Bay Regional Resource Management Plan by Mr Alan Matheson, the Council's Consultant Planner, who referred to Objective 38 – *The sustainable management of the land resource so as to avoid compromising future use and water quality...* and to its accompanying Policies 67 and 68; and by Mr Matthew Holder, the Council's consultant planner. He referred to Objective 16 – *for future activities, the*



avoidance or mitigation of nuisance effects arising from the location of conflicting land use activities. We agree with Mr Holder's view that Objective 16 is not a live issue here. Mr Matheson says that the Regional Plan supports the District Plan provisions about the *Plains* zone soil resource. We agree with that view also.

[15] The District Plan was the focus of attention. Many of its provisions were mentioned, but particularly relevant objectives include:

- RO1 To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.
- RO2 To enable the efficient, and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied or mitigated.
- RO4 To ensure that the natural, physical and cultural resources of the rural area that are of significance to the Hastings District are protected and maintained.
- PL01 To maintain the life-supporting capacity of the unique resource balance of the Heretaunga Plains.
- PL02 To avoid, remedy or mitigate potential adverse effects of land use activities on the rural community, adjoining activities, marae, and the economy.
- PL03 To provide for the establishment of landholdings on the Plains which can accommodate a wider range of activities that can retain the life-supporting capacity of the Plains resources.

The principal supporting policies are:

- RP3 Provide for a wide range of activities to establish which complement the resources of the rural area, provided that the sustainability of the natural and physical resources of the area is safeguarded.
- PLP1 Enable the establishment of a wide range of activities provided they maintain the life-supporting capacity of the soil resource of the Heretaunga Plains for future use.
- PLP4 Control the adverse effects of activities on the community, adjoining activities, and the environment.
- PLP5 Activities locating in the Plains Zone will need to accept existing amenity levels associated with well established land use management practices involved with the sustainable use of the soil resource.
- PLP6 Limit the scale and intensity of the effects of Commercial Activities in the Plains Zone in order to ensure the sustainable management of the soil resource and to mitigate adverse effects.



PLP7 Provide for the establishment and development of Industrial Activities on the Plains Zone, in a manner that complements the sustainable management of the soil resource, adjacent activities and protects the amenity of the zone.

[16] In summary, we accept that those provisions aim to promote the sustainable management of the Heretaunga Plains land resource, finite in nature and with a productive and life-supporting capacity, not just for the present but also for future generations. Also, as Mr Matheson put it *...commercial and industrial activities are limited in relation to the type and size of those activities, particularly those that do not support the sustainable use of the versatile soils resource.*

[17] This is an issue thoroughly traversed in a number of relatively recent decisions of the Court. For instance, in *McKenna v Hastings DC* (W16/2008) and *Ngatarawa Development Trust Ltd v Hastings DC* (W17/2008), the Court found that the proposals then before it were so contrary to the thrust of the Plan provisions that they should not be given resource consents. The scenario in *H B Land Protection Society Inc v Hastings DC* (W57/2009) was different, in that what was before the Court was a Council-initiated Plan Change to enable the establishment of a regional sports park. Nevertheless, what was at stake was some 30ha of Plains zone land, the productive capacity of much of which would, for all real purposes, be lost if the park was built. In that instance, the Court found that while the productive capacity of the soil was undoubtedly important, countervailing values prevailed. The point to be made here is that the protection of the capacity of the Plains soils is not an absolute, and other activities are not *prohibited*.

[18] In each case, it is a question of assessing effects and of considering the Plan provisions. If the adverse effects significantly outweigh the positives, and/or the proposal is in irreconcilable conflict with the Plan provisions, then a negative answer is plainly indicated. If things are not that bleak, then it may be that a proposal can still be regarded as promoting the purpose of the Act – the sustainable management of resources.

Section 104(1)(c) – plan integrity



[19] The real issue in this appeal is whether allowing this application would be so contrary to the relevant objectives, policies and other provisions of the District Plan that it would harm its

integrity and effectiveness as an instrument enabling the Council to avoid, rather than to remedy or mitigate, the adverse effects the Plan formation process has identified.

[20] This was at the core of the dispute between the parties, and the fundamental reason why the Council declined the application. The decision of 19 December 2008 records:

... the application would have the potential to create an adverse precedent effect. It was felt that the qualities of the proposal could be readily replicated on other sites in the Plains Zone and were not sufficiently unique to this site. Therefore the Council, being consistent in its approach, would find it difficult to refuse consent to similar applications.

[21] We need to begin a consideration of this issue by recalling that the original Maraekakaho Road operation was sanctioned by a *specified departure* granted by the then County Council in 1988. A *specified departure* was, loosely, the equivalent of a *non-complying* consent under the current legislation. We have mentioned also that the Algernon Road operation received a *non-complying* consent from this Council in 2004.

[22] Mr Ian Macdonald, the Council's Environmental Manager, expressed the view that the earlier consents were materially different from the present application because they both utilised existing buildings on the two properties, and thus did not involve taking more land out of production. We see the same circumstances here. Dr Beacham made no secret of his real intent in constructing these buildings, but they were built as storage sheds, and thus were *permitted* in the zone. Now, as has happened twice before, an application has been made to convert them to some other use.

[23] We accept of course the administrative law principle that like applications should be treated alike, but that principle applies both ways. Given that this operation has twice before been regarded as sufficiently outside the run of foreseeable non-complying proposals that it could be examined, and approved, on its merits we must ask why it should be differently regarded now. We heard no suggestion at all that the grant of either of those consents had led to any, let alone a deluge of, applications for similar consents in respect of other properties.

The enterprise's own history has discounted the *floodgates* hypothesis, and makes it difficult, if not impossible, for the Council to mount a credible argument that the integrity of the Plan will be imperilled if this consent is granted.



[24] We have said before, and must say again, that the *floodgates* argument does tend to be somewhat overused, and needs to be treated with some reserve. The short and inescapable point is that each proposal has to be considered on its own merits. If a proposal can pass one or other of the s104D thresholds, then its proponent should be able to have it considered against the s104 range of factors. If it does not match up, it will not be granted. If it does, then the legislation specifically provides for it as a true exception to what the District Plan generally provides for. Decision-makers need to be conscious of the views expressed in cases such as *Dye v Auckland RC* [2001] NZRMA 513, that there is no true concept of precedent in this area of the law. Cases such as *Rodney DC v Gould* [2006] NZRMA 217 also make it clear that it is not necessary for a site being considered for a *non-complying* activity to be truly *unique* before Plan integrity ceases to be a potentially important factor. Nevertheless, as the Judgment goes on to say, a decision maker in such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases.

[25] Only in the clearest of cases, involving an irreconcilable clash with the important provisions, when read overall, of the District Plan and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow, will it be that Plan integrity will be imperilled to the point of dictating that the instant application should be declined.

[26] That was the position the Court found to exist in its decision in *McKenna v Hastings DC* (W16/2008). There too the adverse effects of the application itself were found to be not more than minor, but there was a direct clash with the provisions relating to the *Plains* zone and the avoidance of the fragmentation of its landholdings and the productive capacity of its soils. A somewhat similar, if less crisply defined, position was found to exist in *Ngatarawa Development Trust Ltd v Hastings DC* (W17/2008).

[27] It is not just the history of this operation that leads us to discount the Plan integrity argument in this instance. This proposal has current features that, individually and collectively, make it unlikely that a materially indistinguishable proposal would come over the horizon. We have in mind factors such as: that it can be conducted in existing buildings; that the soils in this front part of the Beacham orchard are, according to Mr William Wilton, a horticultural consultant engaged by Dr Beacham, poor and of inferior productive capacity; that



the proposal will not fragment the ownership of the land, as a residential subdivision would; that it is a reorganisation and continuance of a longstanding local business; that the two existing resource consents will be surrendered, thus bringing about a close to neutral net *non-complying* position for the operation, and that Dr Beacham is prepared to offer a restrictive condition that there be no further development on the property, even though that could be permitted by the Plan.

Section 104(1) – Part 2

[28] There are no issues relevant to Māori under s8 or s6(e), nor are there matters of national importance under the other paragraphs of s6. Of the matters to be given particular regard under s7 we can list as relevant:

- (b) The efficient use and development of natural and physical resources:
- (c) The maintenance and enhancement of amenity values:
- (f) Maintenance and enhancement of the quality of the environment:
- (g) Any finite characteristics of natural and physical resources:

[29]. Arguably, it is more efficient to use the area of poorer soils on the property for a purpose other than for a second rate productive purpose. That has been tried and produced an inferior product. We do not though put any particular weight on that issue. The issues of amenity values and the quality of the environment do not arise on the evidence we heard. The *Plains* zone soils are a finite resource and that, as will be apparent, has been the focus of the hearing and our considerations.

Section 290A – the Council's decision

[30] Section 290A requires the Court to have regard to the Council's decision. That does not create a presumption that it is correct but it does, implicitly at least, call for an explanation if we should come to disagree with it. We have already quoted the central reason from the Council's decision declining the application – see para [20]. It is apparent that the issue of Plan integrity was critical in its thinking and, for the reasons we have outlined – see paras [19] to [27] – we do not regard that issue in the same light.



Result

[31] The effective, and likely permanent, loss of the life-supporting capacity of *Plains* zone soils, even of such a small area as this, to a non-rural industry is not to be accepted lightly – we must have accumulative effects in mind. For many proposals that factor alone would likely be decisive. But for the reasons we have outlined, we do not see this proposal as being in such conflict with the Plan provisions as to create a Plan integrity issue if it is granted. Further, the factors we have listed in para [27] put it in a category which, while not unique, is sufficiently outside the likely mainstream of proposals that it can fairly be considered as a *non-complying* proposition. We conclude that, in the overall weighing process under s5 of the Act, the positive factors of the proposal outweigh its negatives and that the resource consent can be granted.

[32] For those reasons, the decision of the Council is not upheld and the resource consent should be granted. The conditions of the consent require thought – for instance to give effect to Dr Beacham's offer of a restriction on further development, as mentioned in para [27]. We ask that Counsel confer and present a set of conditions for approval by 23 October 2009.

Costs

[33] In the circumstances we do not encourage an application for costs, but as a matter of formality they are reserved. Any application should be lodged by 23 October 2009, and any response lodged by 6 November 2009.

Dated at Wellington this ^{5th} day of October 2009

For the Court



C J Thompson

Principal Environment Judge

BEFORE THE ENVIRONMENT COURT

Decision [2015] NZEnvC 208
ENV-2015-WLG-00017

IN THE MATTER of an appeal under section 358 of
the Resource Management Act
1991

BETWEEN JARA FAMILY TRUST
Appellant

AND THE HASTINGS DISTRICT
COUNCIL
Respondent

Court: Environment Judge C J Thompson
Environment Commissioner K A Edmonds
Environment Commissioner D J Bunting
Hearing: at Hastings 11 - 12 -- November 2015
Counsel: M B Lawson for the JARA Family Trust
A J Davidson for the Hastings District Council

DECISION ON APPEAL

Decision Issued: - 7 DEC 2015

The appeal is allowed

Costs are reserved



Introduction

[1] In a decision made under s357A(1)(g) of the Resource Management Act, following a decision made by the Hastings District Council to decline the applications by the JARA Family Trust for resource consents, a Commissioner also declined the applications. This is an appeal against that decision.

[2] The applications are for resource consents to construct an industrial workshop of 2,400m² and a canopy of 1,200m² for the construction, storage and sale of pre-fabricated residential and commercial buildings, and to utilise existing office and sales buildings of 110.4m² on the property for the same business. A total of 14 staff would be employed on site. The land in question is a parcel of 4.0544ha at 1139 Maraekakaho Road, to the west of Hastings City.

Zoning and activity status

[3] As just noted, the land is zoned *Plains* zone in the operative District Plan. Under the Proposed District Plan it is zoned *Plains Production* zone. In both cases the activities in question have *non-complying* status, meaning that before resource consents can be considered, one or other of the threshold tests of s104D must be met.

The terms of those tests are:

(1) ... a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either —

(a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or

(b) the application is for an activity that will not be contrary to the objectives and policies of — ...

(iii) both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.

(2) To avoid doubt, section 104(2) applies to the determination of an application for a non-complying activity.

It is agreed by the planning witnesses for the parties, and we accept their views, that the adverse effects on the environment of the planned activities will be not more than minor, so that threshold can be passed. The proposal must therefore be considered under s104 and Part 2 of the RMA, and we shall come to those provisions in due



course. We shall also return to discuss the issue raised in s104(2) – the so-called *permitted baseline*.

[4] We should add that, in respect of the zoning under the Proposed Plan, the position may not be final. There is at least one appeal that may affect the *Plains Production* zoning, and there is a suggestion that, in light of comments reportedly made by Commissioners in another hearing, a Plan variation in respect of this land might be forthcoming. That is speculative at present, but rather aligns with views we shall discuss shortly.

The parties' positions

[5] The JARA Family Trust (JARA) owns the land. Mr John Roil is a trustee, and he is also a director and shareholder, together with Mrs Rose Roil, of Cottages (NZ) Limited. The company has developed prefabricated construction methodologies for houses and similar sized buildings which can be used in a factory setting, rather than outdoors. This enables, Mr Roil told us, benefits such as better quality control, consistency, reduction in waste, and guaranteed completion times.

[6] The business was previously operated from a site on the opposite side of Maraekakaho Road from the application site which had the same zoning. It had the necessary resource consents. We were told that the business needed to move simply because the old site became too small for the expanding operation, particularly for the storage of buildings. (That site is now occupied by the Waipak plastics manufacturing business, operating from a new 3500m² building). The proposed site will also allow for expansion in the future, and it has the advantage of a good public profile, having a long road frontage.

[7] In general terms, JARA regards the proposed use as not significantly different from what has been occurring on and around the site for many years, and sees the *Plains* or *Plains Production* zoning as unrealistic for the site if that is taken to mean only the growing, or processing of the produce of viticulture, horticulture or some other agrarian use. For those purposes, the Trust believes that the land would be



regarded as of poor quality for growing, but for primary processing purposes it would be perfectly acceptable.

[8] The Council accepts that the proposed activities will produce no more than minor adverse effects on the environment. Its concern is that it believes the activities to be conducted are strongly contrary to the objectives and policies of both the operative and proposed District Plans, and that the integrity of both documents would be seriously compromised if the consents were approved.

Existing environment

[9] The site is predominantly flat, with a split in levels created by a terrace running parallel to the Irongate Stream, which runs along the north-western boundary. The split in levels also defines a change in soil type. The higher portion is closest to the Maraekakaho Road boundary, and the lower portion of the land and the stream occupy about 80% of the site. The soil types on both are described in a report from Mr John Wilton, a horticultural consultant with AgFirst Consultants HB Ltd, as ... *of poor quality for cropping purposes*. Additionally, he considers that both levels are of a size and shape that makes them unattractive for possible development for cropping, orchards, or vines.

[10] The site already contains a house, a sales office, facilities to complete the construction of prefabricated buildings, and storage – these are authorised by existing resource consents but are of a lesser scale than what is proposed. Also, on two nearby sites also zoned *Plains* zone, the applicant has, with the authority of resource consents, already established the same (although much smaller) activities as are proposed for the site in question. In summary, the existing development on the site, as authorised by resource consents already granted are: a dwelling (relocated); an accessory shed (relocated); a shed and 46m² visitor accommodation (utilised as a secondary dwelling); all for what is described as an oversize mixed use industrial/commercial activity, being an office and outdoor industrial area for the storage, fit-out and finishing of transportable buildings.



[11] The site has been in use as a firewood yard for some 40 years and, when the Trust bought it, it also acquired an *existing use* certificate for that activity. We understand however that the Council regards that *existing use* as having now lapsed, presumably because it has not been active for more than 12 months.

[12] In the words of Mr Jason Tickner, the consultant planner engaged by the applicant, the site and its surrounding environment are not typical of the underlying *Plains* or *Plains Production* zoning, both because of the existing uses, its soils, and its versatility. He describes it as ... *an almost orphaned historical, industrial hub* This area is known as *Irongate*.

[13] It has *Deferred Industrial 2* zone (Irongate) land in the operative Plan and *General Industrial* in the proposed Plan immediately to its west and southwest. There are industrial uses on *Plains* zone land to its north and south, and a mixture of *Plains* zone primary production uses to the east, with the buildings of the SPCA facility on the opposite side of Maraekakaho Road.

[14] Expressed as something of an aside in his written brief of evidence, Mr Tickner also notes that an application for resource consent has been made to the Council to establish a ... *2400m² coolstore facility in the same locality as this application* This, he notes, is to be considered as a *restricted discretionary* and non-notified activity and if both that application, and the consent under appeal, are granted the appellant will decide which may be given effect. Mr Roil expanded on this at the hearing. There is no intention to establish any coolstore operation – the application for consent was made simply to demonstrate that a large industrial building on this site, with environmental effects materially indistinguishable from what is proposed in the application under appeal, could quite readily be given consent. To that extent it confirms what we already knew: - viz that a large industrial building can be consented on this property, and that it is what is produced in the building that means it may, or may not, be a comfortable fit with the Plans' provisions.



Section 104(1)(a) – positive effects

[15] There is no issue but that the proposal will have some positive effects. It will, for instance, cater for the expansion of what is apparently a successful enterprise, with the employment opportunities that will inherently have.

Section 104(1)(a) – adverse effects

[16] As noted, it is agreed that there will be no adverse effects on the physical environment that will be more than minor. The *effect* that is raised in opposition to the proposal is the damage it may cause to the integrity of the plans' provisions, and we shall return to that shortly.

Section 104(1)(b) – national and regional planning documents

[17] There were no national policy statements or similar documents brought to our attention as being relevant.

[18] In terms of regional documents, some provisions of the Regional Policy Statement were brought to our attention. In particular, there are two issues:

- | | |
|---------|---|
| ISS UD1 | The adverse effects of sporadic and unplanned urban development (particularly in the Heretaunga Plains sub-region), on: |
| | a) The natural environment (land and water) ... |
| ISS UD2 | The adverse effects from urban development encroaching on versatile land (particularly in the Heretaunga Plains sub-region where the land supports regionally and nationally significant intensive economic activity) ... |

And these policies:

- | | |
|-----------|---|
| POL UD4.1 | Within the Heretaunga Plains sub-region, district plans shall identify urban limits for those urban areas and settlements within which urban activities can occur, sufficient to cater for anticipated population and household growth to 2045. |
| POL UD4.5 | Within the Heretaunga Plains sub-region, areas where future industrial greenfield growth for the 2015-2045 period have been identified as appropriate, subject to further assessment referred to in POL UD10.1, POL UD10.3, POL UD10.4 and POL UD12, are: |
| | a) Irongate industrial area. |



The first point to be made is to repeat that the land in question is not *versatile land*, nor is it supporting *significant intensive economic activity*.

[19] Mr Lawson made much of the *Irongate Industrial Area* shown on Appendix C in the RPS. He submitted that this warranted special weighting on the basis that the RPS process provided the first real statutory opportunity for the community to influence the future Industrial land use pattern. He compared this with the non-statutory documents that preceded it – the Hastings Industrial Expansion Strategy 2003 and the Heretaunga Plains Urban Development Strategy 2010. We accept the point that the Proposed District Plan process which is underway is to give effect to the RPS. However, we also accept the evidence of Mr McKay for the Council that, in terms of the RPS, the detail of the future *Industrial* zoning and its timing, including infrastructure provisions, is one for the District Council. There are infrastructure cost issues that the Council needs to resolve outside the RMA framework, and they may well have the practical effect of delaying the effect of the zoning.

Section 104(1)(b) – district planning documents

[20] The site is bounded by the *Plains* zone (in the Operative Plan) and the *Plains Production* zone (in the Proposed Plan) to its northeast, east and south. Under the Operative Plan immediately to the west and southwest of the site there is *Deferred Industrial 2 (Irongate)* under the Operative Plan and *Deferred General Industrial* under the Proposed Plan.

[21] Under the Operative Plan, Rule 6.7.1 makes commercial and industrial activities *permitted* activities in the *Plains* zone where they comply with the general performance standards and terms in s6.8 and the specific performance standards and terms in s6.9. The proposal would not comply with those performance standards and terms. Overall the Operative Plan would require resource consent under these rules:

- (a) Rule 6.7.3 the front yard encroachment – *restricted discretionary*;
- (b) Rule 6.7.5 non-compliance with commercial and industrial activity size limits – *non-complying*;
- (c) Rule 13.4.7.2 earthworks volume limit – *restricted discretionary*.



[22] Under the Proposed Plan, Rules PP5 and PP6 specify that commercial industrial activities are *permitted* in the Plan's *Production* zone, within limits. The proposal would not comply with the general performance standard in relation to yards, nor with the performance standard in relation to total building coverage. Specific performance standard and term 6.2.6D(1) sets threshold limits for commercial activities at approximately the same levels as the Operative Plan, and the proposal would not comply. Nor would it comply with Rule EM6 – an earthworks volume limit.

[23] We have considered the significant objectives and policies under the Operative Plan. From them, the relevant spirit and intent of the Plan can readily enough be discerned. Without needing to recite and examine them all, some examples will demonstrate the point about Rural resources and the Plains area. R01 speaks of promoting the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels; R04 speaks of the maintenance and protection of natural physical resources that are of significance to the district; RP5 speaks of rural land close to urban fringes, and avoiding sporadic and uncontrolled conversion of it in a way that adversely affects the rural resource base; PLP1 speaks of maintaining the life-supporting capacity of the soil resource; PLP6 and PLP7 speak of limiting commercial activities to ensure sustainable management of the soil resource; IZP2 and IZP3 are about optimising the use of existing industrial areas rather than spreading into green field developments.

[24] We had submissions and evidence on the stronger policy direction of the Proposed District Plan. That included providing specified areas for urban activity so as to keep the Plains area focussed on production. We were told that the Plan's approach is well encapsulated in two policies from the Plains Strategic Management Area:

PSMP2: Require that activities and buildings in the Plains environment be linked to land based production and are of a scale that is compatible with that environment. ...

PSMP4: Limit commercial and industrial activities to those that have a direct relationship to crops grown and/or stock farmed within the Plains environment.



Those strategic objectives then appear in the *Plains Production Zone* through policies such as PPP3:

Limit the number and scale of buildings impacting on the versatile soils of the District
And PPP7:

Provide for industrial and commercial activities ... with limits on scale and intensity to protect soil values, water values and rural character.

[25] We accept all of that, and we have also noted the content of Plan Change 50, but as we are about to discuss further, we are drawn back to the reality that the theme of the provisions seems not to have been accepted by decision-makers in the past, and the decisions that have been made have led to the current existing environment. Further, given the reality that the land in question is not rated as being of even moderate value as a growing resource, and its relative isolation, it is difficult to be critical of that line of decisions.

Section 104(1)(c) – other relevant matters - Plan Integrity

[26] In a situation where it is accepted that the adverse effects on the environment of a proposal will not be more than minor, there is little point in discussing the concept of the *permitted baseline* in assessing effects on the physical environment in terms of s104(2), but the concept does have resonance in discussing issues such as plan integrity.

[27] The adverse outcome of the proposal which is argued to be so inimical to the thrust of the *Plains zone*, or *Plains Production zone*, provisions as to threaten the integrity of either Plan, is the loss of the productive capacity of the zone's soils by erecting buildings over them, or using them other than for a purpose of growing, or processing, food.

[28] The operative provisions of the *Plains zone* do permit the erection and use of buildings, quite apart from houses and ancillary buildings. There are no size or building coverage limits on accessory buildings associated with residential activities permitted on a site of this size. Industrial buildings for the ... *processing, storage and/or packaging of agricultural, horticultural and/or viticultural crops and/or*



produce ... with a GFA of up to 2500m² per site are permitted on any site (no matter what size) in the Plains zone under Rule 6.9.5. The justification for that is that such a rural industry is directly related to the production of primary produce on the land, and that is valid and understandable. While the permitted activities underline the point that Plains zone land is not forbidden territory for construction purposes, the question at hand is whether the construction of buildings for a purpose that has no agricultural, horticultural or viticultural connection at all would, or might, be taken as setting a precedent for such uses and thus significantly harm the integrity of the Plan.

[29] Ms Janeen Kydd-Smith, the consultant planner called by the Council, expresses the point this way:

... the repetition of this type of activity being able to establish on the Plains Zone/Plains Production Zone land would undermine both the Operative and the Proposed Plans' strategy for protecting and maintaining the soils/land resource. It would also undermine the Plans' preference for industrial activities to be located in industrial zones, rather than as green field developments.

[30] As an issue of fact, leading to a clear view about the issues of plan integrity, our visit to the area at the conclusion of the hearing on 12 November sharply crystalized an impression already forming from the verbal descriptions, and the photographs and plans produced, in the evidence. That is, that the area surrounding the site has, with the exception of the orchard on its eastern boundary, long since ceased to be dominated by truly *rural* characteristics. We think that any reasonable person, whether having an educated planning eye or not, would call it an *industrial/commercial* area. There is the SPCA complex opposite; the large (3500m²) Waipak plastics manufacturing building diagonally opposite, and behind that a Ballance Fertiliser Storage and Sales and truck depot, including a truck wash and office; the large Farmers Transport operation a little to the west of that; the even larger Tumu/ITM complex on the northern side of Maraekakaho Road to the west; and the industrial operations hard on the site's western and northern boundaries, described in Mr Tickner's evidence as:

- Outdoor storage of demolition material associated with contracting and demolition business:



- Manufacturing of Engineered Wood Products, consisting of a 4,640m² Workshop and Offices:
- Coal storage and sale:
- The Display and sale of 'Total Span' buildings:
- Oversize Visitor Accommodation Complex:
- The manufacture of transportable cottages within a 700m² building.

Of all of those, only the Ballance fertiliser, and perhaps the Farmers Transport, operations have a recognisably rural connection, and even they do not process food or produce, of whatever kind, grown on the land.

[31] All of these, with the exceptions of the Farmers Transport and Tumu/ITM operations, are on sites zoned *Plains*. They create a large area that is dominated by substantial commercial/industrial enterprises. That may have been brought about by a series of decisions which a purist may regret; but it is what it is, and it is not going to change in the foreseeable future. This area has been allowed to become a *de facto* industrial/commercial node, and there is no point in pretending otherwise.

[32] Further, the proposed development is not going to expand the lateral dimensions of that node – it is close to the centre of it. Certainly it will intensify the existing situation, but it could equally be regarded as making the best of a sub-optimal situation, and as saving another, and perhaps more ideal, *Plains Production* area from a similar fate.

[33] While we quite understand the desire to preserve the integrity of the Planning documents, a series of decisions which appear to have not had that objective as a predominant factor has resulted in a situation where, quite simply, *the horse has bolted*, and the best that can be done is to stop the *de facto* node spreading outwards.

[34] That this is a question of judgement to be applied to the facts of each proposal is clear from a reading of decisions such as *McKenna v Hastings DC* (W016/2008), where a non-complying application was declined, and *Beacham v Hastings DC* (W075/2009), where one was allowed. There is no precedent in any true sense in these decisions – each depends on its own facts.



Conclusions on s104 issues

[35] The issue of effects can be put aside. The real question is whether the allowing of this proposal is going to make the apparent lack of regard to the apparent intent of the operative plan, over a good number of years, materially worse. We consider that the reality is that this node around the intersection of Maraekakaho and Irongate Roads has, de facto, ceased to be *Plains* zone land in a true sense. This piece of land, and those to its north, west and south, have, by their inherent nature in terms of productivity, and by the consent decisions that have affected them, become something of an anomaly in the *Plains* or *Plains Production* zones, and a simple recognition of that will not, we consider, do harm to the integrity of the Plans.

Part 2 RMA

[36] In terms of s8 and s6(e), no issues arising under the Treaty, or other matters of particular importance to Maori, were drawn to our attention, nor are there issues with any other matters which are to be *recognised and provided for* as being of *national importance* under s6.

[37] Section 7 contains the matters to which decision-makers are to have *particular regard*. Relevant to this appeal, those are:

In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to—

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:
- (b) the efficient use and development of natural and physical resources:
- (c) the maintenance and enhancement of amenity values:
- (d) intrinsic values of ecosystems: ...
- (f) maintenance and enhancement of the quality of the environment:
- (g) any finite characteristics of natural and physical resources: ...

[38] For present purposes, the provisions about kaitiakitanga, the ethic of stewardship, and the quality of the environment, might be regarded as more or less synonymous – expressing the need for resources to be treated and used with care, and



with consciousness of the needs of future generations to have access to them. Efficiency of use and development would indicate a need to use resources, in this case land, to their best advantage. Thus, it would not be efficient to use highly productive and fertile land for a purpose that land with little or no productive capacity could equally readily be used for. No ecosystem that might be affected by the proposal was brought to our attention.

[39] The planning witnesses for the parties agree that there are no issues with s7(c) and s7(g): - for 7(c) in that amenity values will be maintained (although perhaps, we would add, they may not be enhanced). Insofar as s7(g) is concerned, we confess to having a somewhat conditional agreement with their view. If it was the case that this site had better productive capacity and potential than it apparently has, paying particular regard to the finite amount of productive land resource would obviously be a significant issue. If it is accepted that, as a productive growing unit, this site is of poor quality, then one might be much more relaxed about seeing it used for other purposes. The mid-point to be considered is its potential for use as a production-related industrial or commercial activity – packhouse, vegetable processing etc, which is specifically recognised in the relevant zones.

[40] On an overall view, against the background of the uses and activities which now exist in the immediate area, we are content that the proposal can be accommodated because it is not taking up finite resources which should, because of their inherent qualities, be reserved for another use.

Section 290A – the decision under appeal

[41] Section 290A requires the Court to have regard to the decision under appeal. That does not create a presumption that it is correct but it does, implicitly at least, call for an explanation if we should come to disagree with it. It is apparent that the issue of Plan integrity was the major factor in the earlier decision, just as it is here. We entirely understand that decision, and the reasons for it, but on the evidence and submissions we heard, for the reasons we have attempted to set out, we do not regard that issue in the same light, and have come to the opposite conclusion.



Result

[42] We are of course well aware that this is not an appeal about the terms of a proposed plan, but it has been necessary to comment about the viability of both the the operative and proposed Plans insofar as they affect this piece of land and the area immediately surrounding it. In doing so we have been as circumspect as we have been able – what might happen with the proposed Plan provisions must be left to the proper process. But for this application, we consider that approval for a *non-complying* activity is sound, and we allow the appeal.

Conditions

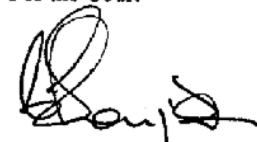
[43] We invite the parties to confer, and to present us with a set of draft resource consent conditions for consideration, by 31 January 2016.

Costs

[44] In the circumstances we would not encourage an application for costs, but as a matter of formality we reserve them. If there is to be an application it should be lodged and served within 15 working days from the Court's formal approval of conditions, and any response lodged and served within a further 10 working days.

Dated at Wellington this 7th day of December 2015

For the Court



C J Thompson
Environment Judge



BEFORE THE ENVIRONMENT COURT

Decision [2011] NZEnvC 339
 ENV-2010-WLG-000103

IN THE MATTER of an appeal under s120 of the
 Resource Management Act 1991

BETWEEN G W McHARDY as Trustee of the
 G W McHardy Family Trust
 Appellant

AND THE HASTINGS DISTRICT
 COUNCIL
 Respondent

Court: Environment Judge C J Thompson
 Environment Commissioner H M Beaumont
 Environment Commissioner D J Bunting
 Heard at: Hastings on 13 September 2011: site visit 13 September 2011
 Counsel: M B Lawson and A Orme for the G W McHardy Family Trust
 M J E Williams for the Hastings District Council

 DECISION OF THE COURT

Decision issued: **21 OCT 2011**

A. The appeal is dismissed

B. Costs are reserved



Introduction

[1] In a decision dated 25 August 2010 a Commissioner appointed by the Hastings District Council declined an application made by the G W McHardy Family Trust for a resource consent to enable the subdivision of a lot of 8.2456ha at 4 Flanders Road, Hastings, and a subsidiary land use consent to dispense with a 5m yard setback required by a Plan Rule. This is an appeal against that decision.

[2] The property presently has two houses on it – one a permanent residence and the other visitor accommodation. Mr McHardy explained that when the Trust bought the land in 2005 an existing dwelling, on the corner of Napier Road and Flanders Road, was run-down but comfortable enough to house seasonal workers who would be there during the summer months. The Trust made an application for consent to use the dwelling as an office and visitor (ie seasonal workers) accommodation. The grant of that consent in turn enabled the Trust to obtain consent to build a new family home on the property. While that was being constructed the existing house was extensively damaged by fire. The Trust's insurers elected to repair it and, to comply with current requirements, insulation was installed and updated materials were used. That meant that the house is now, as he puts it, ... *too good* ... to be used only as seasonal workers' accommodation, and so a further consent was sought, and granted, to enable it to be used solely as visitor accommodation.

[3] Mr McHardy says that while the house has had limited use for short-term stays, it has not been successful as better quality visitor accommodation – its location close to the road and the absence of attractive views etc have counted against it. It is now his position that if it could be sold as an owner-occupier home, the capital released by the sale would be better used in developing the balance of the land as a stonefruit orchard.

The proposal

[4] The proposal is to create two lots. Lot 1 will comprise 2300m² and will contain the older but now renovated house with its associated sheds and existing curtilage.



Lot 2 will comprise 8.0156ha and will have the modern dwelling on it, with its curtilage and outbuildings, and the balance will remain horticultural or cropping land.

Zoning and planning status

[5] It is common ground that the site is within the *Plains* zone as defined in the operative Hastings District Plan, and that the proposed subdivision of it would be a *non-complying* activity. Complying subdivision is a *controlled activity* subject to a minimum site area of 12 hectares. The Plan provides for *Lifestyle site* subdivision within the *Plains* zone as a *discretionary activity* if four provisions are met:

- The lifestyle site contains an existing dwelling
- The lifestyle site is between 2,500m² and 5,000m²
- The parent site is undersized (less than 12ha)
- The balance of the parent site is amalgamated with an adjoining property to create a complying 12ha site

[6] This subdivision does not create an amalgamated compliant balance lot; Lot 1 will be smaller than 2500m²; and the house on proposed Lot 1 is not an existing dwelling, it is approved for use as visitor accommodation. As a *non-complying activity* the proposed subdivision would have to pass one of the two thresholds in s104D – that its adverse effects on the environment would be minor, or that it will not be contrary to the objectives and policies of the District Plan – before it could be considered under s104 and Part 2 of the Act. The sideyard dispensation is a *restricted discretionary activity*, but that does not feature among the issues in dispute and need not be considered further.

[7] For completeness, we should mention that part of the site, but not that on which buildings already exist, is within the Flooding RMU Karamu. Rule 12.3.8.1 requires that minimum floor levels within the RMU shall be RL 11.5m or 0.5m above ground level, whichever is the greater. It also requires that onsite wastewater systems be designed to operate in all seasonal ground conditions and so as to ensure that in a 1 in 50 year flood event, the contents of the system will not be able to mix with the flood waters. That Rule would apply only to any future building development on the site.



Issues in dispute

[8] The parties agree that there are no traffic or site-servicing issues which would count against granting consent; nor are there adverse visual or amenity effects. It is also agreed that the only environmental effect which might have to be considered is the possible effect on the soil resource.

[9] The matters really in issue are conflict with the objectives and policies of the District Plan, including the extent to which any balance site could or should be amalgamated with neighbouring land, and the integrity of the District Plan.

Section 104D – adverse effects on the soil resource

[10] Lot 1 consists of the older existing house, its associated sheds, and its defined, well-planted curtilage. The applicant deliberately did not seek to bring the proposal within the area requirements of a *Lifestyle Site* (2500 to 5000m²), taking the view that there was no purpose in adding a further 200m² of otherwise productive land to the proposed Lot 1. Its area would be about 2.8% of the present lot size and it will contain no land that is currently in productive use. It follows that the severance of it from Lot 2 will not at all diminish the current availability of land for productive use. Arguably, what is to be Lot 1 could be cleared of buildings and plantings and incorporated into the productive portion of Lot 2, but whether that would be an efficient use of the physical resource of the house is very dubious.

[11] The Trust is prepared to enter into a covenant which would prevent any further development of either lot in such a way (ie by the construction of further buildings other than an accessory building as defined in the Plan) that the productive area would be further diminished. We note that the sheds on proposed Lot 1 would no longer be available to support the productive use of that horticultural/cropping land.

Permitted baseline – existing environment

[12] The District Plan does not allow subdivision in the *Plains* zone as a *permitted* activity, so there is no subdivision *permitted baseline*. But s104(2) allows us to disregard an adverse effect of the proposal ...if the plan permits an activity with that



effect. There are some activities permitted by the plan which might have the adverse effect of removing part of the proposed balance lot from productive (in the sense of growing things) use. There might, for instance, be a building or buildings of up to 2500m² for the processing, storage and packaging of crops and produce. With access ways, manoeuvring areas, yards and so on, even a smaller building could occupy an area comparable to or greater than the 2300m² of the proposed Lot 1. But given the view we believe we must come to about effects – ie that they are not the decisive factor in this appeal, then adopting the approach discussed in *Lyttelton Harbour LPA v Christchurch CC* [2006] NZRMA 559, the *permitted baseline* really is of little relevance.

Conclusion on effects

[13] We agree with the parties' position that the adverse effects on the environment are not more than minor, and we include possible effects on the soil resource within that view. That being so, the proposal passes the s104D threshold and can be considered under s104 and Part 2.

Section 104(1)(a) – effects on the environment

[14] There is nothing to add to what has already been said about effects on the environment in considering s104(1) save, first, to acknowledge that, as Mr Lawson submits, there can be said to be positive effects coming from the proposal, in two respects. The existing house will be efficiently used, in being occupied as a dwelling on a full-time basis. That in turn will relieve, albeit to a very small extent, the feared pressure to use more of the productive resource of the *Plains* zone land for residential purposes.

[15] The second issue to be mentioned here is that, in answer to questions about *reverse sensitivity*, the Trust is prepared to bind itself and future owners by way of a *no complaints* covenant about rural issues such as noise.



Section 104(1)(b) – Planning documents

[16] There are no relevant national or regional planning documents. The real issue is whether allowing this application would be so contrary to the relevant objectives, policies and other provisions of the District Plan that it would harm its integrity and its effectiveness as an instrument enabling the Council to avoid the deficiencies the Plan has identified. We will return to the specific topic of Plan integrity in discussing s104(1)(c).

[17] The District Plan was the focus of attention. Many of its provisions were mentioned, but particularly relevant objectives from the Plan are:

Rural Resource Strategy section

- RO1 To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.
- RO2 To enable the efficient, and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied or mitigated.
- RO4 To ensure that the natural, physical and cultural resources of the rural area that are of significance to the Hastings District are protected and maintained.

The principal supporting policies are:

- RP1 Reflect the various characteristics and distribution of the rural resources, to enable the sustainable management of these characteristics.
- RP3 Provide for a wide range of activities to establish which complement the resources of the rural area, provided that the sustainability of the natural and physical resources of the area is safeguarded.
- RP5 Rural land close to urban areas or on arterial or national traffic corridors will be managed to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base and the efficiency of the road network.

Plains section

- PLO1 To maintain the life-supporting capacity of the unique resource balance of the Heretaunga Plains.
- PLO2 To avoid, remedy or mitigate potential adverse effects of land use activities on the rural community, adjoining activities, marae, and the economy.



- PL03 To provide for the establishment of landholdings on the Plains which can accommodate a wider range of activities that can retain the life-supporting capacity of the Plains resources.
- PL04 To ensure that existing levels of amenity associated with existing land based primary production on the Plains are maintained.

The supporting policies are

- PLP1 Enable the establishment of a wide range of activities provided they maintain the life- supporting capacity of the soil resource of the Heretaunga Plains for future use.
- PLP2 Ensure that subdivision results in properties on the Heretaunga Plains capable of supporting a diverse range of activities that utilise the soil resource in a sustainable manner.
- PLP3 Provide for the creation of Lifestyle Sites from existing, non-complying site(s), where the balance of the site(s) are amalgamated with one or more adjoining lots, to create new complying sites, that can support a diverse range of activities that utilise the soil resource in a sustainable manner.
- PLP4 Control the adverse effects of activities on the community, adjoining activities, and the environment.
- PLP5 Activities locating in the Plains Zone will need to accept existing amenity levels associated with well established land use management practices involved with the sustainable use of the soil resource.
- PLP6 Limit the scale and intensity of the effects of Commercial Activities in the Plains Zone in order to ensure the sustainable management of the soil resource and to mitigate adverse effects.
- PLP7 Provide for the establishment and development of Industrial Activities on the Plains Zone, in a manner that complements the sustainable management of the soil resource, adjacent activities and protects the amenity of the zone.
- PLP12 Activities which support tourism development on the Plains and are based on the sustainable management of resources will be encouraged.

Urban Development and Strategic Urban Directions objectives of the Plan are these:

- UDO1 To establish an effective, and sustainable supply of residential land to meet the current and future demands of the Hastings District Community.
- UDO2 To minimise the expansion of urban activity onto the versatile soils of the Heretaunga Plains.



UDO3 To continue to promote infill development and the redevelopment of existing residential areas.

Subdivision and Land development objectives are:

SDO1 To provide for the subdivision of land which supports the overall Objectives and Policies for the various Zones, Resource Management Units, or District Wide Activities in the District Plan, and promotes the sustainable management of natural and physical resources, while avoiding, remedying or mitigating any significant adverse effects on the environment.

SDO2 To ensure that sites created by subdivision are physically suitable for a range of land use activities allowed by the rules of the District Plan.

Consideration of Plan provisions

[18] The comment that *non-complying* activities will rarely, if ever, find direct support among the provisions of a District Plan has been repeated many times, and it remains true. That presumably is why s104D was drafted using the words ... *contrary to* ... in the sense of ... *being in direct conflict with*. Reading through that collection of Plan provisions one by one, we do not think that this proposal can be said to be *contrary to* all of them in that absolute sense. The life-supporting capacity of this property, in the sense of its ability to produce food or crops of some kind, will at least be maintained. It is possible that it could be improved, if the stonefruit orchard is established and is successful. The proposal will not diminish the existing levels of amenity associated with the existing primary production of the land. But the property will be less capable of supporting a range of productive activities than it is now, in the sense that it will not have a supplementary income-producing asset of the visitor accommodation, nor will it contribute to the wider economy by hosting visitors and tourists coming into Hawkes Bay. In that sense, a stand-alone residential use of the proposed Lot 1 is not an efficient or innovative use of rural resources. Thus the proposal is consistent with RO1 and RO4, but inconsistent with RO2.

[19] Considering the specific objectives for the *Plains* Zone the proposal is consistent with PLO1, PLO2 and PLO4. PLO3 seeks landholdings within the *Plains* that accommodate a wider range of activities that retain the life supporting capacity of the zone's land. Converting visitor accommodation to a residential use and losing



the physical resource of the sheds within the curtilage of the house as part of the productive activities on the balance lot are inconsistent with this objective. Through the subdivision this portion of the *Plains* would be severed from any productive use of the land and contribute to the fragmentation of landholdings.

[20] There are three relevant policies relating to rural resources generally. RP1 provides for zoning and RP3 encourages a wide range of activities to establish which *complement* the resources of the rural area. The proposal is not complementary to rural resources and therefore inconsistent with RP3. No traffic or infrastructure effects have been identified so the proposal is consistent with RP5.

[21] A further seven policies relate specifically to the *Plains* zone. In terms of PLP1 and PLP2, the result of the subdivision would be to substitute the visitor accommodation with a permanent residence. This is inconsistent with the policies of diversification that enabled the visitor accommodation to be established in the first instance.

[22] The desired outcome of PLP3, of a subdivision resulting in the amalgamation of existing non-complying lots to form a complying one, will not be achieved. The applicant submitted that there seemed no present prospect of amalgamation with other land holdings in the area. Realistically, that is probably correct. The Explanation of PLP3 makes it clear that the subdivision of Lifestyle Sites on small parcels of land on the Heretaunga Plains is only enabled where there is compensation by way of amalgamation. It reads:

There are presently a large number of smaller sites in the zone which are not suitable for sustained, independent production. Consequently these blocks are often developed as rural residential properties, for which there is considerable demand. This however reduces the potential and ability of the soil resource to be used in an economically sustainable manner. The District Plan will enable the subdivision of existing non-complying sites to create a Lifestyle Site, provided that the balance of the land is amalgamated with an adjoining site(s) to create a new title equivalent to or greater than the minimum site size (see Section 15.1 of the District Plan on Subdivision and Land Development).



The ability to subdivide Lifestyle Sites from substandard titles will in part address the demand for residential accommodation within the Plains Zone, by providing a housing resource for people working in the area, as well as for people who prefer to reside in the rural environment. It will also create balance sites that can support a diverse range of activities that enable the soil resource to be utilised in a sustainable manner.

[23] Mr Matthew Holder the planning witness for the appellant, did not see amalgamation with any of the neighbouring sites as achieving a *different or better result*. He considered amalgamation to be either impractical or to result in landholdings for which further *Lifestyle Sites* could be created. While we agree with Mr Holder's analysis that further lifestyle subdivision may be possible following amalgamation with neighbouring sites that does not negate the benefits of such amalgamation. The Plan provisions are clear that larger sites are to be preferred in terms of enabling an economically sustainable use of the soil resource while fragmentation of the Heretaunga Plains through subdivision is flagged as a resource management issue.

[24] Mr Simon Hill is an Environmental Planner (Consents) for the Council. He considered amalgamations across streams or formed and unformed roads to be supported by the assessment criteria in the Plan and *relatively common* on the Plains. He noted that amalgamations using the *Lifestyle Site* rules had proved to be very popular (he counted 53 since 2005) and included amalgamation of sites that did not directly adjoin (some reflecting lease arrangements). He pointed out that owners of nearby sites may wish to increase the size of their cropping land in the future. We agree with Mr Hill's observation that the *Lifestyle Site* rules provide an option to be explored with neighbours and not a right to subdivide regardless of whether the current neighbours want to acquire land.

[25] The proposal is consistent with Policies PLP4 and PLP5 with respect to avoiding adverse effects and maintaining amenity and there is no issue with PLP6 and PLP7 with respect to commercial and industrial activities.



[26] During cross-examination Mr Holder accepted that the provisions of the Plains Zone that directly tackle the issue of subdivision are the most relevant and agreed that Objective PLO3 and Policies PLP2 and PLP3 would be *front and centre* in this case. Mr Holder maintained that the proposal would not be contrary to these objectives and policies as there were volunteered restrictions on future uses on each of the proposed lots. He did not consider the subdivision to further fragment the land as the existing house had already taken the land out of production.

[27] While Mr Holder accepted that the existing house on proposed Lot 1 was currently visitor accommodation, he believed that, if the present consent were surrendered, ... *it would revert back to its main intent and purpose, which is a dwelling house*. We note the evidence of Mr McHardy that the house is unsuccessful as visitor accommodation and *too good* for seasonal workers. He described the house as ... *a fully functional and comfortable home* that has been tenanted on a *non-permanent basis* since 2007. If the consent for visitor accommodation was surrendered and permission gained to use the house as a residence there seems little doubt that tenants could be found. However, residential use is not consistent with the planning provisions seeking a diversity of activities that are complementary to the soil resource and contribute to the social and economic well-being of the District – including both PLP2 and PLP12.

[28] Mr Lawson submitted that had the two houses existed in September 2000, the proposal would have fallen within the transitional provision of Rule 15.1.7.3(d):

The following shall be a Discretionary Activity, and will be assessed against, but not restricted to, the General Assessment Criteria in Section 15.1.10.1, the Specific Assessment Criteria in Section 15.1.10.2(13), and the Objectives and Policies of the Plains Zone.

Subdivision to separate a surplus residential building from a plains zone site, provided the building was existing prior to 2nd September 2000, and provided that at least one residential building existed prior to this date remains on the balance of the site.

However, we note that these two houses are not both residential buildings as envisaged in this rule. A residential building is defined in the Plan:



Means a building, a room, or a group of rooms, used or intended to be used exclusively by one or more persons as a single, independent and separate household unit.

While the original house is capable of being used in this manner its intended use is as visitor accommodation - not an independent household unit. This is no different to a house being converted for use as a crèche, cafe or art gallery – following the change in use the house is no longer a residential building.

[29] This property is of course of sufficient size, and is otherwise suitable for, sustained agricultural or horticultural production – that is what it does now, and has been doing for a considerable time. While the separation of the older house from the balance will not reduce the area of the soil resource it does remove a potential income stream, that from visitor accommodation (whether for seasonal workers or holiday makers). This part of property, with its house and sheds, is complementary to and has the potential to support the productive use of the remaining land, and to contribute to the wider economy through the tourism sector as envisaged by PLP12.

[30] The proposed subdivision is contrary to UDO2 as it allows urban activity to encroach onto the versatile soils of the Heretaunga Plains. The other urban development objectives encourage residential development in areas already zoned for housing. Rural lifestyle living is provided for in a number of rural residential and special character zones, as well as through farm park provisions in the Rural Zone, rather than on the high quality soils of the Plains Zone. Mr Hill noted that there is currently a good supply of residential land and rural lifestyle sites within the District. The subdivision objectives are more general – SDO1 links to the objectives and policies for the various zones and promotes sustainable management while avoiding, remedying or mitigating effects. While it avoids adverse effects this subdivision contributes to the fragmentation of rural land and is inconsistent with SDO1 and SDO2.



[31] Section 6 of the District Plan introduces the Plains Zone and notes:

Orcharding and cropping are the most predominant activities on the Heretaunga Plains but in recent times a number of new activities such as viticulture, wineries,

craft shops, home industries, and farm stays have developed. This diverse range of activities is important for the Hastings District's economy and the District Plan will need to manage any adverse effects generated by them.

The Council has identified that the main focus for the Plains Zone is to sustain the life supporting capacity of the soil resource. Council considers the soil to be a finite resource which needs to be sustainably managed in order to achieve the purpose of the Resource Management Act. They are also a key component in the economic well being of the Hastings District. The continued sustainable economic utilisation of the finite resource by current and future generations is a key component of Council's strategy for the zone.

[32] Three of the issues identified in Section 6 are particularly relevant:

- *Sustaining the life-supporting capacity of the soil resource on the Heretaunga Plains.*

The Heretaunga Plains include some of the most fertile soils in New Zealand and are recognised as a valuable, finite resource. These fertile soils are further enhanced by the availability of an underground water resource, physical resources, infrastructure, climatic conditions, sustainable Lot sizes and their strategic location to markets. The Heretaunga Plains soil resource may be lost through being unavailable because of activities such as buildings or sealed areas, damage to the soil resource and the fragmentation of the land into unsustainable sized sites through subdivision. This would as a consequence result in the loss of this unique combination of conditions. This would not only have a significant environmental effect, but also affect the economic, social and cultural well being of the community that is so heavily reliant on this unique combination of resources. It is important therefore, to ensure the continued availability of the Heretaunga Plains soil resource to sustain its life-supporting capacity and to provide for the social, economic and cultural well being of the community.

- *Protection of the soil resource from adverse effects resulting from diversification of land use.*

Diversification of activities in the Plains Zone contributes to the social and economic well being of the community, and the Plan endeavours to enable that, rather than hinder. This may, for example, occur through adding value to a viticultural operation



by establishing a winery, or processing or selling fruit and vegetables grown on the site. Such activities may help to promote the long term sustainability of the plains land resource by enabling the community to make more rational long term decisions. The District Plan will however need to ensure that the diversification of activity does not undermine the life supporting capacity of the Plains Zone soil resource and its ability to meet the needs of future generations to make similar decisions, or increase amenity conflicts.

- *The Heretaunga Plains has significant tourist potential, based on the development of activities which utilise the natural and physical features and resources of the zone.*

Eco-tourism and the diversification of commercial and entertainment activities which utilise the resources of the Plains are integral to the wider diversification and development of the Hastings District. The rural area can be a suitable place for certain activities, such as camping grounds and tourist facilities to take place because they benefit from being in a rural location and can have minor adverse effects.

[33] Our conclusion is that the overarching intent of the relevant plan provisions is to at least maintain, and if possible increase, the availability of land with suitable soils for productive use and to seek the sustainable utilisation of the soil resources of the Plains. Loss or damage to soils, as well as fragmentation of Plains land, are seen a threats to that resource. Diversification of landuse is enabled so long as the activity does not undermine the resource and its ability to meet the needs of future generations. This proposal is contrary to that overarching purpose.

[34] This situation is, in our view, similar to those which lay behind decisions such as *McKenna v Hastings DC* (W016/2008). There, the proposal involved the subdivision of Plains zone land presently available for productive use (even if not currently so used) and using it for housing with the result that it would, effectively permanently, be no longer available as productive land. At para [27] of that decision, the Court said;

We find that the proposal is not only contrary to Policy PLP3 but also the overall thrust of the objectives, policies and other provisions of the District Plan. Those provisions aim to promote the sustainable management of the Heretaunga Plains land



resource, finite in nature and with a productive and life-supporting capacity not just for present, but also for future generations. The type of ad hoc subdivision and associated residential development of the land resource that is proposed would run directly counter to those provisions. As already concluded the residential use proposed would remove soil resource from the possibility of productive use. The subdivision proposal would not result in a landholding that could accommodate a wider range of activities that can retain the life-supporting capacity of the Plains resources. In addition, the cutting off of the existing villa would result in an urban land use and is therefore contrary to the intention to retain the land in rural rather than urban use.

[35] Here the subdivision would remove a parcel of land containing a complementary commercial activity, that of visitor accommodation, and dedicate it to a purely residential use. While, as mentioned, the area of land involved here is small, and not presently used for production, it is presently available for, and consented for, uses complementary to production activities. There is an issue about accumulated effects which the Plan seeks to avoid -- as mentioned in the Court's decision in *H B Land Protection Soc v Hastings DC* (W57/2009) at para [31]:

The Plains Zone is generally reckoned to occupy about 26,000ha of the District, so 30ha represents about 0.115 % of it -- a very small amount. Probably its lost production would hardly be noticed in the overall scheme of things, and could be made up by more intensive or efficient production elsewhere. We do accept Dr Palmer's point though that looking at the issue that way can be misleading. He points out that even if no more than 0.5 % of soils of this quality is lost per year, our descendants will find, 100 years from now, that half of it no longer exists as a productive resource. In other words we need to think in terms of accumulative, as well as immediate, effects.

While the figures here are obviously different, the principle remains good, and reinforces the concept behind the clear thrust of the *Plains* zone Plan provisions -- the protection and preservation of a finite and valuable resource.

Section 104(1)(c) -- other relevant matters -- Plan integrity

[36] We accept of course the proposition that like cases should be treated alike, and that if a proposal materially indistinguishable from this one came before the Council,



the allowing of this proposal would be cited as a favourable precedent. That said, each proposal has to be considered on its own merits. If a proposal can pass one or other of the s104D thresholds, then it should be considered against the s104 range of factors. If it does not match up, it will not be granted, but if it does, then the Act specifically provides for true exceptions to what the District Plan generally provides for. While cases such as *Dye v Auckland RC* [2001] NZRMA 513 hold that there is no true concept of precedent in this area of the law, cases such as *Rodney DC v Gould* [2006] NZRMA 217 equally make clear the countervailing proposition that it is not necessary for a site being considered for a *non-complying* activity to be truly *unique* before Plan integrity ceases to be a potentially important factor. Nevertheless as that judgement goes on to say, a decision maker in such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases. The Court has followed that course in *Plains* zone cases such as *Beacham v Hastings DC* (W75/2009) and *H B Land Protection Society Inc v Hastings DC* (W057/2009). We are not at all sure that such distinguishing factors can be found here. This is a 8ha block of productive land, distinguishable from many others in the rural outskirts of Hastings, and in the *Plains* zone, only in that it now contains two buildings that could be used as dwellings. We think that this is a case which fits within what the Court said in *Beacham*, at para [25]:

Only in the clearest of cases, involving an irreconcilable clash with the important provisions, when read overall, of the District Plan and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow, will it be that Plan integrity will be imperilled to the point of dictating that the instant application should be declined.

[37] While preferring to avoid the over-used and inaccurate term *precedent effect*, we have the view that allowing this subdivision to proceed would undermine the effectiveness of the *Plains* zone provisions of the Plan.

[38] So we turn to the question of whether or not there would be further such applications. Mr Hill was concerned that both visitor accommodation and residential buildings could be built as a *permitted* activity on other *Plains* zone sites simply to set up a similar subdivision, arguing that there would be no new environmental



effects. He noted that some 86% of *Plains* zone sites are undersized and permissive landuse rules allowed for a range of uses in order to improve the utilisation of these sites. For example, visitor accommodation, up to 125m², is permitted in addition to a dwelling. Mr Holder agreed that it was possible for the scenario of a primary dwelling and an approved visitor accommodation building to be replicated on all *Plains* zone sites. However, he did not accept that such a scenario was likely and if approval of this proposal did result in a plethora of applications that could be dealt with by a plan change to remove some of the *permitted* activities.

[39] It is clear to us that there are many other properties where the owners may seek to subdivide around visitor accommodation and sell the resulting lot as a *Lifestyle Site*. Building (or converting an existing dwelling to) visitor accommodation in addition to the primary residence on a site may well be seen as a mechanism to circumvent the Plan provisions seeking to restrict further ad hoc residential development and urbanisation of the Plains. We do not agree with Mr Holder's analysis that such a scenario should be dealt with by restricting the permitted activities. Those provisions are specifically included in the plan to enable a diversity of sustainable economic use of sites within the rural area. The safeguards are provided by the hierarchy of rules for subdivision and the framework of objectives and policies for the Plains Zone.

Part 2 matters

[40] There are no Treaty of Waitangi issues arising under s8, nor matters of national importance to be recognised and provided for under s6. Relevant s7 matters would seem to be:

- (b) *The efficient use and development of natural and physical resources,*
- (g) *Any finite characteristics of natural and physical resources*

In this appeal, we think that these factors are relevant only to the discussion of the Plan provisions already mentioned. There does not seem to be anything to be usefully added to what has already been said. To utilise the existing house as a fully occupied home may be an efficient use of it although not necessarily more efficient



than its use as a complementary commercial activity. The finite resource of the productive land should not be subject to fragmentation by subdivision.

The Council's decision

[41] Section 290A requires the Court to *have regard to* the Council's decision. That does not create a presumption that the decision is correct but it does, implicitly at least, call for an explanation if we should come to disagree with it. The Council's Commissioner concluded that the proposal was contrary to policies and objectives SD01, SD02, RO2, PLP2 and PLP3, and contrary to the strategic intent of the Plan of encouraging and facilitating the aggregation of smaller lots to encourage the protection of the productive capacity of the plains. He took the view that the proposal had no distinguishing characteristics to separate it from the generality of subdivision applications in the *Plains* zone. We have come to largely the same view, and no further comment is required.

New evidence

[42] Towards the end of the hearing an issue arose about the possible amalgamation of non-complying lots (with particular reference to Policy PLP3) and Mr Williams expressed concern, in a memorandum lodged later, that we might have considered that the issue was significant in the decision-making process. He sought leave to submit a s32 report prepared for the Council on Plan variation 10 to the proposed Plan. Mr Lawson opposed that course. We can assure the parties that the topic has not assumed any significance for us, and the matter need not be pursued.

Result

[43] For the reasons we have set out, on an overall view of the proposal, the Plan provisions, and Part 2 of the Act, we have come to the view that the purpose of the Act, the sustainable management of natural and physical resources, would not be promoted by allowing this proposal to proceed. The proposed subdivision would not sustain the potential of the Heretaunga Plains lands to meet the needs of future generations. The appeal is dismissed and the decision of the Council is upheld.



Costs

[44] Costs are reserved. If there is to be an application it should be lodged within 15 working days of the issuing of this decision, and any response should be lodged within a further 10 working days.

Dated at Wellington this 21st day of October 2011

For the Court



C J Thompson
Environment Judge

BEFORE THE ENVIRONMENT COURT

ORIGINAL

Decision No. W 016 /2008

ENV-2007-WLG-000105

IN THE MATTER of an appeal under s120 of the Resource
Management Act 1991

BETWEEN A J and J D McKENNA
Appellants

AND THE HASTINGS DISTRICT COUNCIL
Respondent

Court: Environment Judge C J Thompson, Environment Commissioner K A Edmonds,
Environment Commissioner W R Howie

Heard at: Napier on 10, 14 and 20 March 2008. Site visit: 18 March 2008

Counsel: M B Lawson for A J and J D McKenna

J M von Dadelszen & M G Wakefield for the Hastings District Council

DECISION OF THE COURT

Decision issued:

A. The appeal is declined

B. Costs are reserved



Item 2

Attachment K

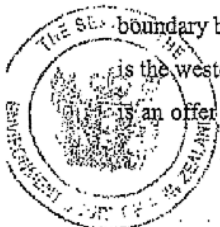
Introduction

[1] In a decision dated 13 July 2007 the Hastings District Council declined a subdivision consent application by Mr and Mrs McKenna to enable them to subdivide their property at 84 Middle Road, Havelock North, into two lots. This is an appeal against that decision. The parties have agreed that there is but one set of issues to be resolved: - those relating to the productive soil resource of the property, and the District Plan's provisions relating to that resource. On that understanding, we shall not delve into other issues either in discussing effects, or the provisions of the Plan.

The proposal

[2] The part of the McKennas' property immediately involved is a former orchard of 2.9365ha, presently having one principal dwelling and a smaller residential unit used as a homestay. There are also ancillary buildings. The proposal is to subdivide that lot so that the existing house, set back about 45m from Middle Road, will be on one site of 4018m² with a balance site of a little more than 2.5ha. The balance site will have a designated 30m x 30m building platform protected by a registered consent notice. There will of course be a curtilage surrounding the house site which, given the rural ambience of the property, we agree is likely to be at the generous end of the spectrum. Mr Peter Reaburn, the Council's consultant planner, suggested that, including a driveway, it would be reasonable to allow 5000m² for the house and grounds. We adopt that as an estimate of what should be deducted from the balance site, leaving 2ha or so available for some potentially productive use. It should be added that a drainage easement in favour of the Regional Council traverses the northwestern corner of the balance site. This requires a 6m margin within which activities impeding access to the watercourse are not permitted. Depending on the desired use for the balance land, the triangular piece of land isolated by the drain and the 6m margin could effectively remove a further 2200m² from productive use.

[3] In a separate title, the McKennas also own a further adjoining 2,428m² in a slightly irregularly shaped lot alongside the Herehere Stream, which runs along the eastern boundary of the site. The stream is in an artificially incised and straightened channel against the boundary between the McKennas' land and the rear of the houses along Upham Street, which is the westernmost edge of suburban Havelock North on the north side of Middle Road. There is an offer on the table to gift that land to the Council as a riparian area. It may be useful for



stream maintenance access in the shorter term, and possibly as part of a stream-side walkway, if one is ever established in the future. The Council is lukewarm about this, but the offer remains nonetheless.

Area description

[4] As mentioned, the site is on the western boundary of suburban Havelock North. Middle Road leads out of the town centre and into the rural land towards the west. Once clear of the Upham Street houses, the McKenna property and the land surrounding it on the northern side of the road, extending away towards Te Aute Road, is flat with some occasional trees and shelterbelts. It appears to be in pasture of middling quality and there are no intensive uses such as orchards or vineyards. On the south side of Middle Road however the suburban area of the town continues well past the McKenna property towards the west. There are substantial side streets such as Grant Street and Breadalbane Road leading south up to Iona Road. All of that is settled in medium density residential development.

Activity status

[5] It is common ground that in terms of the District Plan, operative since 2003, the proposal is a *non-complying* activity because it does not create an amalgamated, compliant, balance lot. The planners also agree that the effects of the proposal on the productive soil resource, including its cumulative effects, are not more than minor. So it can be taken that the proposal is able to pass the s104D threshold, and we can discuss the objectives, policies and other Plan provisions in the course of considering the s104 factors.

The parties' positions

[6] The McKennas moved to the property some years ago and, on receiving advice that the state of the existing orchard was beyond salvage and a replacement unlikely to be economic, removed the existing orchard trees. There have been attempts to use the land for cropping, but these have not been successful, which Mr McKenna attributes to the size and shape of the property. They have been unable to interest neighbouring farmers in leasing it for similar purposes. Presently there is some limited grazing of sheep on it, which at least keeps down the grass. They have though spent much time and effort (and, we imagine, expense) in restoring the elderly character villa on the property, and in developing and beautifying the house garden. The McKennas wish to remain on the property, to which they have become attached, but to live in a newer house on it. This would be more convenient particularly for



Mrs McKenna who now struggles with the layout and fixtures of the villa, such as its double-hung windows, because of a back injury she has suffered.

[7] Their position is that the land is not particularly productive, but even allowing that its soils may have some productive capacity, removing the minuscule percentage represented by the 5000m² allowance for the new house from the productive soils resource of the Heretaunga Plains will have an insignificant adverse effect. But the proposal would allow them to stay on the property they enjoy, in a house that is manageable for Mrs McKenna. The alternative is that they sell the property as it is, or demolish or remove the villa and rebuild on its site.

[8] The Council's position is that if the house no longer suits the present owners, they have the options of doing what anyone in a suburban residential property could do – replace or modify the house; or sell the property and buy something better suited. The Council acknowledges that the loss of 5000m² of presently lightly used, even if potentially productive, soils will not be noticed in the overall scheme of things. But it is concerned that if this application is allowed it will set a precedent for the subdivision of properties in the Plains Zone, of which there are many of comparable size and character. The Council's concern is encapsulated in a number of aphorisms – *the thin end of the wedge*, – *opening the floodgates*, – *precedent effect*, and so on, but these are not particularly accurate or helpful in identifying and considering the point.

[9] The real issue is whether allowing this application would be so contrary to the relevant objectives, policies and other provisions of the District Plan that it would harm its integrity and effectiveness as an instrument enabling the Council to avoid, rather than to remedy or mitigate, the adverse effects the Plan formation process has identified. We will return to this specific topic of Plan integrity in discussing s104(1)(c) issues.

Permitted baseline – existing environment

[10] The District Plan does not allow subdivision in the Plains Zone as a permitted activity, so there is no subdivision permitted baseline. But s104(2) allows us to disregard an adverse effect of the proposal *...if the plan permits an activity with that effect*. There are some activities permitted by the plan which might have the adverse effect of removing part of the proposed balance lot from productive (in the sense of growing things) use. There might, for instance, be a building or buildings of up to 2500m² for the processing, storage and processing



of crops and produce. With access ways, manoeuvring areas, yards and so on, such a use could occupy an area comparable with the 5000m² allowance for a new house and curtilage. But given the view we believe we must come to about effects – ie that they are not the decisive factor in this appeal, then adopting the factors discussed in *Lyttelton Harbour LPA v Christchurch CC* [2006] NZRMA 559, the permitted baseline really is of little relevance.

Section 104 – positive effects

[11] The positive effect that would arise out of the proposal has already been mentioned – the ability for Mr and Mrs McKenna to better provide for their wellbeing.

Section 104 – adverse effects

[12] In terms of an adverse effect on productivity arising from the loss of the 5000m² of potentially productive soil, the conclusion has also been mentioned already. The planners agree that the effects are not significant.

Section 104(1)(b)

[13] There are no relevant national policy statements, nor was any provision of the Regional Policy Statement or Regional Plan drawn to our attention.

The provisions of the District Plan

[14] The Plan contains relevant provisions on urban development and strategic urban directions, low density residential strategy, rural resource strategy and subdivision and land development. We had evidence from Mr Peter Reaburn, a consultant planner for the Council, Mr Ian Macdonald, the Council's Environmental Manager, who gave evidence primarily about the history of the development of the Council's position on the Heretaunga Plains resource, and Mr Roger Wiffin, consultant planner for Mr and Mrs McKenna. As background to the consideration of the Plan, we note that we had evidence from Mr Sharn Hainsworth, a pedologist, and Mr William Wilton, a horticultural consultant, for the McKennas, and Dr Jeffrey Reid, a soil scientist and agronomist for the Council. At first glance, there appeared to be an irreconcilable difference of view between Mr Hainsworth and Dr Reid about the quality of the soils on the property, but on exploration that proved not to be so. Mr Hainsworth acknowledged that in contrast to the Reid view that the soils were ...high class..., his view was that they were ...close to high class... with the difference being accounted for by a difference about the extent of irrigation required. Mr Hainsworth agreed that in either case,



these soils are suitable for production. Mr Wilton too agreed that at the least, a *niche crop* would be possible, although he remained of the view that its small size makes the property a dubious proposition for conventional orcharding or horticulture. In passing, we note that there had been a view expressed that the irrigation water supply to the land was inadequate. The evidence established that not to be so – the supply is perfectly adequate for irrigation, but perhaps not so for frost-fighting.

[15] The Urban Development and Strategic Urban Directions section of the Plan has an objective related to the sustainable supply of residential land to meet current and future demands (UDO1), and policies on an urban development strategy to avoid pressure on ad hoc land zoning (UDP1) and a diverse range of residential development opportunities (UDP2). Mr Raeburn considered that the proposal is not consistent with objective UDO2, to minimise the expansion of urban activity onto the versatile soils of the Heretaunga Plains, and Policy UDP4. That policy is to manage the extent and effect of expansion of the rural-urban interface, with an explanation of the potential for conflict between rural and residential activities. He said that it is clearly the current intention of the Plan that this land remains rural, as it has not been identified as a *proposed new urban development area* in Section 2.4 of the Plan. He considered the urban-rural interface is well defined by the Herehere Stream and, to a lesser extent, by Middle Road.

[16] The Low Density Residential Strategy section of the Plan has as an objective to enable a range of low density residential development options in response to market demand, in a comprehensive, flexible and integrated manner, while avoiding, remedying or mitigating any adverse effects on the environment (LDO1). This section of the Plan recognises the pressure for low density residential living in rural zones, with policies relating to a need to reasonably provide appropriately managed outlets for that pressure, and to monitor the ongoing relevance of those provisions (LDP1, LDP6 and LDP7). Mr Raeburn considered that the Plan provisions do meet that demand in a suitable way. There is a *Rural Residential Zone* that has been considerably expanded in the hills to the south of Havelock North, the restricted provision for lifestyle lots in the *Plains Zone*, and the various other possibilities elsewhere in the district (as outlined in Rule 15.1.8.3).



[17] The Rural Resource Strategy has as an objective the promotion of the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels

7

(RO1). Another objective is to enable the efficient, and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied or mitigated (RO2). A further objective is to ensure that the natural and physical resources of the rural area that are of significance to the Hastings District are protected and maintained (RO4). An associated policy is to reflect the various characteristics and distribution of the rural resources, to enable the sustainable management of these characteristics (RP1). An explanation of this policy describes the tailoring of zones, including a *Plains Zone* and a *Rural Residential Zone* to manage the sustainable use of activities in the rural area. A further policy is to manage rural land close to urban areas to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base (RP5). An explanation for the policy describes significant pressure from urban activities to expand onto rural land close to the present urban areas, and reasons why the District Plan does not provide for the uncontrolled conversion of rural land to a range of residential activities. It states that such activities can adversely affect the sustainable use of rural resources by amenity conflict, by reducing the life supporting capacity of the soil resource and foreclosing its availability to future generations through impervious ground coverage.

[18] The site is in the *Plains* zone and there are specific objectives and policies for that zone. Particularly relevant objectives and policies include:

PLO1 To maintain the life-supporting capacity of the unique resource balance of the Heretaunga Plains.

PLO3 To provide for the establishment of landholdings on the Plains which can accommodate a wider range of activities that can retain the life-supporting capacity of the Plains resources.

A supporting policy is to ensure that subdivision results in properties on the Heretaunga Plains capable of supporting a diverse range of activities that utilise the soil resource in a sustainable manner (PLP2).

[19] Mr Raeburn considered that the proposal was contrary to Policy PLP3 for the *Plains* Zone, with its accompanying Explanation:

PLP3

Provide for the creation of Lifestyle Sites from existing, non-complying site(s), where the balance of the site(s) are amalgamated with one or more adjoining lots, to create new



complying sites that can support a diverse range of activities that utilise the soil resource in a sustainable manner.

Explanation

There are presently a large number of smaller sites in the zone which are not suitable for sustained, independent production. Consequently these blocks are often developed as rural residential properties, for which there is considerable demand. This however reduces the potential and ability of the soil resource to be used in an economically sustainable manner. The District Plan will enable the subdivision of existing noncomplying sites to create a Lifestyle Site, provided that the balance of the land is amalgamated with an adjoining site(s) to create a new title equivalent to or greater than the minimum site size (see Section 15.1 of the District Plan on Subdivision and Land Development). The ability to subdivide Lifestyle Sites from substandard titles will in part address the demand for residential accommodation within the Plains Zone, by providing a housing resource for people working in the area, as well as for people who prefer to reside in the rural environment. It will also create balance sites that can support a diverse range of activities that enable the soil resource to be utilised in a sustainable manner.

[20] There is a rule giving effect to this policy – Rule 15.1.8.3. That rule provides for subdivision of a lifestyle block in the Plains Zone as a controlled activity where:

- the existing site is under 12 ha in area,
- the lifestyle block created contains an existing dwelling,
- the lifestyle block created has an area of between 2,500m² and 5,000m², and
- the balance land is amalgamated with an adjoining site to create a site with a minimum area of 12ha.

Lifestyle sites utilising the above provision that are greater than 5,000m² or which do not result in the creation of a balance area of greater than 12ha, are *discretionary* activities.

[21] Mr Macdonald gave evidence that these rules arose from Variation 10 to the District Plan, with the rule and the policy on which it is based an important part of the strategy for managing subdivision in the *Plains* Zone. He said that an analysis of *Plains* zone subdivision applications granted since 2001 shows that 121 subdivisions have been approved utilising the new provisions, thereby creating a number of larger landholdings. He considered the method successful in terms of achieving the outcomes sought for the *Plains* Zone.



[22] Mr Raeburn considered that of particular relevance to the proposal is the potential to achieve compliance with the policy and the rule. The existing site is less than 12ha in area, the proposed site to be created is between 2,500m² and 5,000m², with the potential to amalgamate the balance land with the adjoining site (10ha in area) to create a site exceeding 12ha in area. He considered that would, as the District Plan intends, provide for a lifestyle site and aid in the more efficient use of the land resource overall, given that the soils have high potential productivity.

[23] Mr Raeburn acknowledged that, read literally, Policy PLP3 could be seen as being satisfied by reference to Rule 15.1.8.3. However, he also interpreted it as providing that subdivision should not occur where the balance areas of proposed lifestyle lots are not amalgamated with adjoining sites to create a complying balance site. In his view that is particularly relevant where, as in this case, that possibility exists.

[24] Mr Wiffin put considerable store on the *discretionary* activity status for subdivision of *Plains* lifestyle site subdivisions that do not meet the maximum area requirement and requirement for amalgamated balance area to exceed 12ha (Rule 15.1.7.3(c)). He said that this demonstrates that it is not contrary to the policy to have a lifestyle block in the *Plains* zone.

[25] We accept Mr Raeburn's point. We do not consider that the limited circumstances in which a *discretionary* activity application for a lifestyle subdivision is contemplated cuts across the policy intent to encourage amalgamation in the *Plains* zone. This proposal would not encourage an amalgamation that would allow a range of activities involving the sustainable use of the soil resource. The additional house, with its curtilage and driveway, would result in the removal of approximately 0.5ha from potential productive use of the soil resource, with no compensatory amalgamation to bolster the productive potential of neighbouring land.

[26] Under the Subdivision and Land Development section of the Plan there is an objective to provide for the subdivision of land which supports the overall Objectives and Policies for the various Zones, and promotes the sustainable management of natural and physical resources, while avoiding, remedying, or mitigating any adverse effects on the environment



[27] We take a broader view than both Mr Raeburn and Mr Wiffin. We find that the proposal is not only contrary to Policy PLP3 but also the overall thrust of the objectives, policies and other provisions of the District Plan. Those provisions aim to promote the sustainable management of the Heretaunga Plains land resource, finite in nature and with a productive and life-supporting capacity not just for present, but also for future generations. The type of ad hoc subdivision and associated residential development of the land resource that is proposed would run directly counter to those provisions. As already concluded the residential use proposed would remove soil resource from the possibility of productive use. The subdivision proposal would not result in a landholding that could accommodate a wider range of activities that can retain the life-supporting capacity of the Plains resources. In addition, the cutting off of the existing villa would result in an urban land use and is therefore contrary to the intention to retain the land in rural rather than urban use. That urban land use would be close to the urban area of Havelock North, involving a conversion to activities that would adversely affect the sustainability of the rural resource base.

Section 104(1)(c) – other relevant matters

Plan integrity

[28] We began discussing this point in para [9], and we resume it by saying that we find no assistance in the decision in *Lightning Ridge Partnership Ltd v Hastings DC* (W049/2007). While certainly a Hastings District subdivision case, it involved land zoned *Rural Residential* which was, as described in the decision, an *island*... surrounded on three sides by *Rural* land and on the other by *Coastal Residential*. Its future as potentially productive land had already been compromised, in a planning sense, by the zoning given it in the Plan formation process. Moreover, two other areas of nearby *Rural Residential* land had been given non-complying consents, allowing subdivision into smaller lots sizes than were being proposed by Lightning Ridge. All in all, it was a proposition readily distinguishable from this one.

[29] Similarly, the piece of *Plains Zone* land considered in the decision in *Pencarrow Hills Ltd v Hastings DC* (W010/2005) was, although about 5000m² in total area, of such a shape (it having been apparently originally laid out as a road, being 272m long and 20m wide) that its practical productive use was, to say the least, problematic. It was described in the decision as an *orphan*. In effect, the decision involved something more akin to a boundary adjustment than a conventional subdivision. There is no useful guidance in that decision either.



[30] In fact, those two cases rather reinforce the view that each proposition has to be considered on its own merits, and that we need to be conscious of the views expressed in cases such as *Dye v Auckland RC* [2001] NZRMA 513 that there is no true concept of precedent in this area of the law. Cases such as *Rodney DC v Gould* [2006] NZRMA 217 also make it clear that it is not necessary for a site being considered for a non-complying activity to be truly *unique* before Plan integrity ceases to be a potentially important factor. Nevertheless, as the Judgment goes on to say, a decision maker in such an application would look to see whether there might be factors which take the particular proposal outside the generality of cases.

[31] For Mr and Mrs McKenna, Mr Lawson submits that what differentiates this proposal from many is the consensus that its adverse effects are not significant. We accept the logic of his ensuing submission that if a *non-complying* proposal has insignificant adverse effects on the environment it should, in the absence of a strong countervailing factor, have sound prospects of being favourably considered.

[32] That said, the reason why its adverse effects are not significant is because the area of land thus removed from the pool of *Plains* productive soils is, percentage-wise, rather insignificant. The same argument could be mounted in support of an application to subdivide off a 4000-5000m² house site from any *Plains* zone horticultural lot, of which there are any number. The feature which really differentiates the McKennas' property from those many of comparable size and character is that it is hard against the border of the Havelock North residential area. That is not something we see as favourable to the proposal. All it really means is that if there was to be an insidious movement towards the non-complying subdivision of such lots, that is where it would logically start, and that would be directly contrary to the intent of policy RP5.

[33] Other reasons mentioned as possible points of difference with the generality of otherwise comparable land were: the presence of the stream in a separate title; the adjoining residential activities in the township being a limiting factor on rural land use (a matter not really pursued in evidence); the consent of the owner of the neighbouring 10ha block, and others in the vicinity (relevant if issues of amenity had arisen, but they did not); and the potential for a walkway on the stream-side land. We have noted the Council's lukewarm



response to this, and it would in any event require connections to other land to provide appreciable value. Mr Macdonald was clear in his view that these elements were, to greater or lesser extents, common through the *Plains* zone and did not distinguish this proposal.

[34] Although we have dealt with Plan integrity separately, we emphasise that we do not see it as a discrete topic. It exists only because the proposal, as we have discussed, irreconcilably conflicts with the provisions of the Plan relating to the soil resource of the *Plains* zone. If it did not do so, the integrity of the Plan would not be in question.

Part 2 matters

[35] There are no Treaty of Waitangi issues arising under s8, nor matters of national importance to be recognised and provided for under s6. Relevant s7 matters would seem to be:

- (b) *The efficient use and development of natural and physical resources,*
- (g) *Any finite characteristics of natural and physical resources*

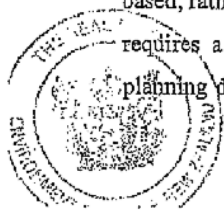
In this appeal, we think that these factors are relevant only to the discussion of the Plan provisions already mentioned. There does not seem to be anything to be usefully added to what has already been said.

The Council's decision – s290A

[36] Section 290A requires us to *...have regard to...* the Council's decision. The Council declined the application on the basis of conflict with the provisions of the Plan, and also on the basis of its *...adverse effects on the life supporting capacity of the soil resource...* leading to an overall view that *...the effects on the environment would be more than minor*. In the hearing before us the clear planning consensus was that overall the adverse effect on the soils resource of the Plains would be not significant, a view with which we agree. To that extent the Council's decision incorporates a finding which we do not share, but we agree with the end result nevertheless.

Result- s5 overall consideration

[37] We are mindful of Mr Lawson's comment that the Council's position smacks of policy-based, rather than effects-based, resource management. But we are conscious too that s104(1) requires a decision-maker to have regard not just to effects, but to national and regional planning documents, the District Plan, and other relevant matters. Things do not begin and



end with effects, and it must be the case that on occasion, the terms of a planning document may prevail, even if adverse effects are not decisive. We are sympathetic to Mr and Mrs McKenna's position but have the clear view nevertheless that this is a situation where the plain terms of the Plan should prevail, and that to hold otherwise would not promote the sustainable management of the resource in question. For those reasons, the appeal is declined.

Costs

[38] Costs are reserved. Any application should be made within 15 working days of the issuing of this Decision, and any response lodged within a further 10 working days.

Dated at Wellington this 4th day of April 2008

For the Court



C J Thompson

Environment Judge



Attachment L – Regional Policy Statement extract

Item 2

Attachment L

3 REGIONALLY SIGNIFICANT ISSUES, OBJECTIVES AND POLICIES

3.1 Introduction

- 3.1.1 Under s 62 (1) of the RMA, a regional policy statement must state the "significant resource management issues of the region". This section is written pursuant to this requirement and sets out the regionally significant issues in Hawke's Bay. These issues are a fundamental element of this Plan and, together with the provisions of the RMA, provide the framework for the objectives and policies set out in response. These objectives and policies are specific to certain activities as set out in the Regional Policy Statement, unlike Chapter 5 where the objectives and policies apply to the use of resources within the Regional Plan framework.
- 3.1.2 The list of regionally significant issues set out in this chapter was distilled from a much larger list of potential resource management issues. This larger list, together with the approach used to derive the list of regionally significant issues, is contained in a background report to this Plan – "Background Report 1: Issues" (HBRC, 1999).
- 3.1.3 What makes an issue regionally significant? For the purposes of the Hawke's Bay Regional Resource Management Plan, a regionally significant issue is considered to be one that satisfies one or more of the following criteria:
- (a) **Widespread problem** – A problem which is relevant throughout the region, possibly crossing local authority boundaries.
 - (b) **Scarce resource** – The existence of a natural or physical resource that is scarce, rare or unique, and/or under threat. Scarce resources encompass internationally and nationally recognised resources (including resources that are nationally significant in accordance with section 6 of the RMA). They also include physical resources that have particular locational requirements or that form interlinked networks and natural resources that become scarce through unsustainable use.
 - (c) **Resource use conflict** – The presence of, or potential for, significant conflicts in resource use.
 - (d) **Cumulative impact** – The presence of, or potential for, significant cumulative impacts arising from resource use.
- 3.1.4 In essence, a regionally significant issue is one that requires a substantial, region-specific, response under the RMA. Regionally significant issues do not include matters that are regulated or protected under other legislation. Nor do they include matters relating to a national or international problem, where such matters are more appropriately dealt with at a national or international level. However, in these cases the HBRC would comply with any other legislation (if required) and any national direction given in relation to the problem.
- 3.1.5 It is important to recognise that an issue does not need to be identified as regionally significant, in order for the HBRC to address resource use activities under the RMA. This has been established in Chapter 5 where the HBRC has exercised its functions and powers under the RMA in a manner consistent with Part II of the Act. This requirement alone is adequate to address many resource use activities, such as controls on bore drilling, damming, structures in rivers and lakes, etc. What distinguishes these matters from those issues that are regionally significant is that they are not substantial problems in the region, and they do not require a response that is unique to Hawke's Bay.
- 3.1.6 Using the criteria noted above, 12 regionally significant issues have been identified. These are described in sections 3.2 to 3.13.
- 3.1.7 This chapter also sets out objectives and policies in response to the identified regionally significant issues. In order to provide a consistent approach, the policies for each regionally significant issue have been categorised under the following headings:
- (a) **Role of non-regulatory methods** - This type of policy identifies the role of non-regulatory methods in

addressing the issue. These policies are linked to Chapter 4, where detailed provisions regarding non-regulatory methods are set out.

- (b) **Regulation** - This type of policy establishes how specific activities will be regulated by regional rules.
- (c) **Resource allocation** - This type of policy establishes how resources will be allocated.
- (d) **Decision-making criteria** - This type of policy sets up criteria to be used in making decisions on resource consent applications. These policies are intended to supplement the environmental guidelines established in Chapter 5.
- (e) **Problem-solving approaches** - This type of policy establishes an approach to solving a particular problem.
- (f) **Technical procedure** - This type of policy sets out a technical or scientific procedure or requirement to be used for specific elements of resource management.

- 3.1.8 The following table (Table 2 overleaf) provides a summary of the objectives, policies and methods set out in Chapter 3, including the relevant rules in Chapter 6.

Table 2. Summary of Objectives, Policies and Methods in Chapters 3 and 5

Objective	Policies	Rule Number	Non Regulatory Methods
Objectives UD1 – UD6	UD1 – UD14.2		<ul style="list-style-type: none"> ▪ Education & Coordination ▪ Encouragement for Self-regulation ▪ Liaison with territorial authorities ▪ Advocacy ▪ Research and Investigation ▪ Provision of Information
Objectives 4 – 10	Refer to Regional Coastal Plan		
Objective 11	1, 3	7, 8	<ul style="list-style-type: none"> ▪ Economic Instruments ▪ Education & Coordination ▪ Encouragement for Self-regulation
Objective 12	1, 2		
Objective 13	1		
Objective 14	1		
Objective 15	4		<ul style="list-style-type: none"> ▪ Economic Instruments ▪ Works and Services
Objective 16	5, 6, 8	10, 14, 15, 18, 28, 30	<ul style="list-style-type: none"> ▪ Liaison with territorial authorities
Objective 17	5, 7, 8		
Objective 18	5, 7, 8		
Objective 19	9, 10	9, 10	<ul style="list-style-type: none"> ▪ Education and Coordination
Objective 20	11, 12, 13, 14	12, 13, 14, 30, 52	<ul style="list-style-type: none"> ▪ Advocacy ▪ Promotion of composting ▪ Encouragement for self-regulation
Objective 21	15, 16, 17, 18	1, 2, 6, 10, 14, 15, 16, 30, 35 - 43, 49, 52	<ul style="list-style-type: none"> ▪ Liaison with territorial authorities ▪ Education and Coordination ▪ Encouragement for self-regulation
Objective 22	15, 17, 18, 19, 20, 21, 22	1, 2, 3, 6, 10, 14, 15, 36, 38, 39, 40, 41, 52	

Objective	Policies	Rule Number	Non Regulatory Methods
Objective 23	23, 24, 25, 26, 27, 29, 30, 31, 32, 33	1, 2, 53, 55	<ul style="list-style-type: none"> Education and Coordination Advocacy with territorial authorities Research and Investigation
Objective 24	23, 25, 26, 27, 28, 30	2, 53, 60	
Objective 25	34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44	54, 55, 60, 61	<ul style="list-style-type: none"> Liaison with territorial authorities Education and Coordination Encouragement for self-regulation
Objective 26	34, 36, 38	55, 60, 61	
Objective 27	45, 46, 47, 48, 49	6, 10, 14, 15, 39, 40, 42, 43, 52	<ul style="list-style-type: none"> Research and Investigation Economic Instruments Education and Coordination
Objective 28	50, 51, 52		<ul style="list-style-type: none"> Works and Services
Objective 29	54	74	
Objective 30	53		
Objective 31	55		<ul style="list-style-type: none"> Liaison with territorial authorities Works and Services Natural hazard priorities
Objective 32	56		<ul style="list-style-type: none"> Provision of Information Liaison with territorial authorities
Objective 33	56		
Objective 34	57, 58		<ul style="list-style-type: none"> Provision of Information
Objective 35	59, 60, 61, 62, 63		
Objectives 36 & 37	64, 65, 66		

Objective	Policies	Rule Number	Non Regulatory Methods
Objective 38	67, 68	7, 8, 48	
Objective 39	69, 70	11, 12, 13, 17 - 30	
Objective 40	71, 72	5, 6, 7, 8, 12, 13, 30, 31, 32, 33, 34, 35, 36, 37, 42, 43, 47, 49, 50, 51, 52	
Objective 41	73, 74	54, 55	
Objectives 42 & 43	75, 75	1, 2, 4, 12, 13, 30, 35, 36, 37, 42, 43	
Objective 44	77, 78	53, 55, 62	
Objective 45	79, 80	31, 32, 33, 47, 49, 52, 54, 55, 56, 57, 59, 63- 76	

3.1B Managing the Built Environment

Urban Development and Strategic Integration of Infrastructure

ISSUES

- ISS UD1** The adverse effects of sporadic and unplanned urban development (particularly in the Heretaunga Plains sub-region), on:
- the natural environment (land and water);
 - the efficient provision, operation, maintenance and upgrading of physical infrastructure or services (particularly strategic infrastructure); and
 - the economic, cultural and social wellbeing of the Region's people and communities.

Explanation

Unplanned urban form and ad hoc management of urban growth can have adverse effects on people and communities, and on the natural environment (land and water). Effective management of growth in the region is necessary to ensure development occurs in a planned, sustainable manner and in a way that also does not compromise the planned provision, operation, maintenance and upgrading of strategic and regionally significant infrastructure. This aligns with the statutory functions of the Regional Council in giving effect to the Act as contained in section 30 of the Resource Management Act 1991 – in particular:

- (1)(a) *the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region;*
- (b) *the preparation of objectives and policies in relation to any actual or potential effects of the use, development or protection of land which are of regional significance; ...*
- (gb) *the strategic integration of infrastructure with land use through objectives, policies, and methods;"*

Managing urban growth and development is a regionally significant issue because what occurs in one area will invariably have an effect on other places. This is particularly so for the urban centres of Napier and Hastings, and surrounding coastal and rural settlements in and around the Heretaunga Plains. As at 2010, 8,000 households are projected to be required between 2015 and 2045 in the Heretaunga Plains area. Growth in the other parts of the Region is not projected to be significant over that period.

Managed growth intervention recognises the actual or potential effects urban growth can have on people and communities, and on the natural environment. Unplanned urban development can have adverse effects on sensitive natural environments (streams, wetlands, lakes and rivers), and result in high travel costs, reverse sensitivity and social isolation. Planning urban development in advance will ensure development is directed away from potential and known hazard areas.

Managed growth intervention also recognises the important role that efficient infrastructure (e.g. road, rail, ports, airports, electricity networks, telecommunications, drainage, dams, water and wastewater networks) plays in supporting settlement growth and prosperity. The protection of the region's strategic infrastructure is essential for growth. A lack of integration between land use and infrastructure can result in poor infrastructure investment decisions, public funding pressures, reverse sensitivity effects and inefficient land use patterns.

In the past, Hastings and Napier have planned for growth independently. However, in recognising the interrelationship of these key urban centres, and the pressures on shared resources and infrastructure, Hawke's Bay Regional Council, Hastings District Council and Napier City Council embarked on a collaborative approach to urban growth and development out to 2045, culminating in the development of the Heretaunga Plains Urban Development Strategy (HPUDS2010).^{1a}

The purpose of the Heretaunga Plains Urban Development Strategy is to assist, in a collaborative manner, the local authorities to plan and manage growth on the Heretaunga Plains and some additional coastal communities beyond the immediate Heretaunga Plains. The Strategy takes a long-term approach to addressing the key issues facing the Heretaunga Plains in a more integrated way, and focuses on a preferred settlement pattern that will lead to more compact development through gradual restriction on urban boundaries to allow for proper planning and design work.

The Regional Policy Statement seeks to give effect to the general tenets of HPUDS2010 at the regional level, where the outcomes of the HPUDS2010 process align with the statutory functions of the Regional Council.

Much of the urban growth policy in the Regional Policy Statement is therefore directed at a sub-regional level to the Heretaunga Plains and surrounding coastal and rural settlements. The Wairoa and Central Hawke's Bay Districts, and Hastings District hinterland, have different pressures, which warrant less regional policy direction in terms of urban growth management at this time. This may change over time, requiring further regional policy intervention at a later date.

For the purposes of the Regional Policy Statement, the Heretaunga Plains sub-region is geographically defined in Schedule XIV, matching the geographical extent adopted for HPUDS2010 and the Heretaunga Plains Transportation Strategy.

^{1a} Heretaunga Plains Urban Development Strategy, Adopted August 2010

ISS UD2 The adverse effects from urban development encroaching on versatile land (particularly in the Heretaunga Plains sub-region where the land supports regionally and nationally significant intensive economic activity), and ultimately the adverse effects of this on the economic wellbeing of the Region's people and communities both now and for future generations.

Explanation

The Heretaunga Plains sub-region contains areas with a high proportion of very high value versatile land. There are competing demands for this valuable finite resource. The diversity and intensity of horticultural and viticultural production on the Heretaunga Plains, for instance, creates a high demand for land which is in short supply, whilst the same land is highly desirable for urban and rural lifestyle development.

The versatile land of the region, particularly in the Heretaunga Plains sub-region is a regionally, if not nationally, significant resource for primary production and ultimately underpins the economy of the Region. Therefore, pressure from urban development encroaching on this resource is a regionally significant issue.

Pressure for urban expansion on to agricultural land continues unless controlled, because the financial incentives are strong. The increased market value of land developed for urban use is considerable and beyond agricultural returns to sustain. Once developed, the economic value of urban and industrial infrastructure typically means this land is permanently removed from primary production. In short, within agriculture, land use conflicts occur between short-term economic incentives and the future sustainability of the soils. Subdivision for urban development removes land from agricultural production but also impacts on the productivity of other land, in particular through reverse sensitivity.

The concentration of highly versatile soils in conjunction with significant concentration of the Region's population on the Heretaunga Plains, reinforces the focus of urban growth policy in the Regional Policy Statement on the Heretaunga Plains sub-region at this time.

OBJECTIVES

URBAN FORM (REGION)

OBJ UD1 Establish compact, and strongly connected urban form throughout the Region, that:

- a) achieves quality built environments that:
 - i. provide for a range of housing choices and affordability,
 - ii. have a sense of character and identity,
 - iii. retain heritage values and values important to tangata whenua,
 - iv. are healthy, environmentally sustainable, functionally efficient, and economically and socially resilient, and
 - v. demonstrates consideration of the principles of urban design;
- b) avoids, remedies or mitigates reverse sensitivity effects in accordance with objectives and policies in Chapter 3.5 of this plan;
- c) avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with objectives and policies in Chapter 3.5 and 3.13 of this plan;
- d) avoids unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains; and
- e) avoids or mitigates increasing the frequency or severity of risk to people and property from natural hazards.

Principal reasons and explanation

A sprawling uncontrolled pattern of development does not promote sustainable forms of development and promotes less efficient use of existing infrastructure. High levels of amenity, quality living environments, and retention of significant features and values are harder to achieve when development is not well designed and connected. Sprawling development also leads to unsustainable encroachment onto versatile land which underpins much of the Region's economy. Transitioning to a more compact, well-designed and strongly connected urban form better supports the economic, social and cultural wellbeing of the Region's people and communities.

[Refer also:

- OBJ7 and OBJ8 (Chapter 3.2 – Coastal Resources) re: coastal values important to tangata whenua, and development in coastal hazard areas
- OBJ16 and OBJ18 (Chapter 3.5 – Conflicting Land Uses) re: nuisance effects from location of conflicting land uses
- OBJ31 (Chapter 3.12 – Natural Hazards) re: natural hazards
- OBJ32 and OBJ33 (Chapter 3.13 – Maintenance and Enhancement of Physical Infrastructure) re: recognising and providing for operation, maintenance and development of physical infrastructure, and specific locational requirements
- OBJ36 and OBJ37 (Chapter 3.14 – Matters of Significance to tūwhāpau) re: values important to tangata whenua]

- INTENSIFICATION OF RESIDENTIAL AREAS (HERETAUNGA PLAINS SUB-REGION)**
- OBJ UD2** Provide for residential growth in the Heretaunga Plains sub-region through higher density development in suitable locations.
- Principal reasons and explanation**
New development accommodates growth and provides the opportunity to enhance the quality of the environment. In the right location, more intensive forms of development will, amongst other things, promote efficient use of existing infrastructure or any planned infrastructure already committed to by Local Authorities (e.g. by funding) but not yet constructed, minimise energy use (as development spreads, the demand for transport and energy use increases), and reduce the need to encroach onto the versatile land of the Heretaunga Plains.
- PROVISION FOR BUSINESS LAND (HERETAUNGA PLAINS SUB-REGION)**
- OBJ UD3** Identify and provide for the land requirements for the growth of business activities in the Heretaunga Plains sub-region in a manner that supports the settlement pattern promoted in OBJ UD1.
- Principal reasons and explanation**
The provision of adequate land for future business activities is important for long term economic growth and the provision of both employment and services to the sub-region's existing and future communities. HPUDS2010 identified that there is already an adequate supply of commercial land within the Heretaunga Plains sub-region to accommodate projected demand and growth. In relation to industrial land, HPUDS2010 identified a limited number of areas appropriate for additional industrial land expansion and growth. These additional areas (identified in Policy UD4.5) are expected to accommodate projected growth and demand for industrially-zoned land out to 2045, and any additional growth in the event that the projections change from what was anticipated in HPUDS2010.
- PLANNED PROVISION FOR URBAN DEVELOPMENT (HERETAUNGA PLAINS SUB-REGION)**
- OBJ UD4** Enable urban development in the Heretaunga Plains sub-region, in an integrated, planned and staged manner which:
- a) allows for the adequate and timely supply of land and associated infrastructure; and
 - b) avoids inappropriate lifestyle development, ad hoc residential development and other inappropriate urban activities in rural parts of the Heretaunga Plains sub-region.
- Principal reasons and explanation**
Successful long term growth management is dependent on integrating long term land use, the infrastructure necessary to support this growth and the ability to fund and supply the infrastructure in a timely and equitable manner. In order to protect the productivity of rural land in the Heretaunga Plains, all inappropriate urban development should be avoided.
- INTEGRATION OF LAND USE WITH SIGNIFICANT INFRASTRUCTURE (REGION)**
- OBJ UD5** Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.
- Principal reasons and explanation**
Strategic infrastructure in the wider region is essential to the well-being and health and safety of people and communities. Consideration needs to be given to sequencing and costs of infrastructure development in decision making. These can have significant effects on efficiency and the economic well-being of communities. Recognition of the importance of strategic infrastructure will lead to greater weight being given to its requirements and the desirability to reduce incompatibility and conflicts.
- [Refer also OBJ32 and OBJ33 (Chapter 3.13 – Maintenance and Enhancement of Physical Infrastructure) re: recognising and providing for operation, maintenance and development of physical infrastructure, and specific locational requirements]*
- INTEGRATION OF TRANSPORT INFRASTRUCTURE WITH DEVELOPMENT (REGION)**
- OBJ UD6** Ensure that the planning and provision of transport infrastructure is integrated with development and settlement patterns and facilitates the movement of goods and people and provision of services throughout the Region, while:
- a) limiting network congestion;
 - b) reducing dependency on private motor vehicles;
 - c) reducing emission of contaminants to air and energy use; and
 - d) promoting the use of active transport modes.

Principal reasons and explanation

Development that is not well integrated with transport infrastructure can result in increased car dependency, higher energy use, greater traffic volumes, and inefficient freight movement. Land use patterns that are integrated with transport infrastructure minimise energy use through network optimisation, and enables greater recognition of the importance of strategic transport networks in supporting the economic and social wellbeing, and health and safety, of people and communities.

[Refer also OBJ32 and OBJ33 (Chapter 3.13 – Maintenance and Enhancement of Physical Infrastructure) re: recognising and providing for operation, maintenance and development of physical infrastructure, and specific locational requirements]

POLICIES**PROVIDING FOR DEVELOPMENT****PROVISION FOR URBAN ACTIVITIES (HERETAUNGA PLAINS SUB-REGION)**

POL UD1 In providing for urban activities in the Heretaunga Plains sub-region, territorial authorities must place priority on:

- a) the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production, and
- b) ensuring efficient utilisation of existing infrastructure, or
- c) ensuring efficient utilisation of planned infrastructure already committed to by a local authority, but not yet constructed.

Principal reasons and explanation

Efficient utilisation of existing infrastructure investment (or planned infrastructure already committed to (e.g. by funding) by not yet constructed) and the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production must underpin all decisions surrounding provision for urban activity in the Heretaunga Plains sub-region in order to achieve the desired settlement pattern outlined in HPUDS2010. For clarification, the supply of land for residential and industrial activities where they support effective and efficient use and management of versatile land would not conflict with Policy UD1, and would assist in achieving Policy UD1(a).

PROVISION FOR BUSINESS ACTIVITIES (HERETAUNGA PLAINS SUB-REGION)

POL UD2 In the Heretaunga Plains sub-region, district plans shall provide for business activities to 2045, in a manner which:

- a) Reinforces the role of Napier and Hastings cities as the commercial and business core of the Heretaunga Plains, whilst supporting adequate capacity in defined rural towns and settlements for a range of day-to-day services and activities;
- b) Promotes the utilisation, redevelopment and intensification of existing commercial land;
- c) Promotes the utilisation, redevelopment and intensification of existing industrial land, and provides sufficient additional greenfields industrial land to ensure demand for new land can be met by supply;
- d) Promotes the utilisation of existing infrastructure availability, capacity and quality as far as reasonably practicable;
- e) Avoids unnecessary encroachment onto the versatile land of the Heretaunga Plains;
- f) Avoids, remedies or mitigates reverse sensitivity effects in accordance with Objectives and Policies in Chapters 3.5 and 3.13 of the plan;
- g) Ensures close proximity to, major transport hubs and multi-modal transport networks.
- h) promotes close proximity to labour supply.
- i) Avoids or mitigates the following locational constraints:
 - i. projected sea level rise as a result of climatic changes
 - ii. active coastal erosion and inundation
 - iii. stormwater infrastructure that is unable to mitigate identified flooding risk
 - iv. flood control and drainage schemes that are at or over capacity
 - v. active earthquake faults
 - vi. high liquefaction potential
 - vii. nearby sensitive waterbodies that are susceptible to potential contamination from runoff, stormwater discharges, or wastewater treatment and disposal.
 - viii. no current wastewater reticulation and the land is poor draining
 - ix. water short areas affecting the provision of adequate water supply.

Principal reasons and explanation

In achieving a more compact urban settlement pattern, the emphasis should be on utilising and redeveloping existing commercial and industrial land to accommodate business growth, in the first instance. This will ensure efficient utilisation of existing and planned infrastructure, minimisation of reverse sensitivity issues, and efficiencies in utilising the presence of existing labour supply. Across

the Heretaunga Plains sub-region there is potential to provide for most anticipated new commercial activity within existing zoned commercial land through redevelopment and uptake of existing commercially-zoned land to 2045. However, there is some expectation that additional industrial land may be required at some point during that period, depending on uptake.

Any provision for new business land should be focussed around existing infrastructure to minimise public costs and in particular to achieve integration with transport networks. Any new infrastructure should be planned in a manner which recognises the importance of the links to and from the Heretaunga Plains sub region and the role these links serve for the efficient distribution of goods throughout the region. Phasing or sequencing of business land for development is not necessary provided that a ready supply is available, as it is expected that the market will dictate its rate of development.

- POL UD3 RURAL RESIDENTIAL AND LIFESTYLE DEVELOPMENT (HERETAUNGA PLAINS SUB-REGION)**
In the Heretaunga Plains sub-region, district plans shall include policies and methods discouraging or avoiding ad hoc residential development and further rezoning for rural residential purposes or lifestyle development outside existing rural residential zones.

Principal reasons and explanation

Similar to urban development, rural residential or lifestyle development can also act to remove valuable land from agricultural production and can also impact on the productivity of other land (i.e. rural or industrial), in particular through reverse sensitivity. These forms of development should not be confused with residential development (eg: farm houses) that is ancillary to primary production activities or to boundary adjustments that may effectively create a lifestyle site by reducing the land area surrounding a dwelling to create a larger more productive balance title. Provision for rural residential and lifestyle development should be carefully managed to minimise fragmentation of the versatile land of the Heretaunga Plains. There is currently an excess supply of rural residential zoned areas within the Heretaunga Plains sub-region, considered sufficient to cater for projected demand for rural residential lots in the sub-region through to 2045, and further rezoning for this purpose is considered unnecessary for the foreseeable future.

ACHIEVING CONTAINMENT OF URBAN ACTIVITIES

- POL UD4.1 ESTABLISHING URBAN LIMITS (HERETAUNGA PLAINS SUB-REGION)**
Within the Heretaunga Plains sub-region, district plans shall identify urban limits for those urban areas and settlements within which urban activities can occur, sufficient to cater for anticipated population and household growth to 2045.

- POL UD4.2 NEW RESIDENTIAL GREENFIELD GROWTH AREA CRITERIA (HERETAUNGA PLAINS SUB-REGION)**
In determining future Residential Greenfield Growth Areas, not already identified within Policy UD4.3, for inclusion within urban limits in the Heretaunga Plains sub-region, the following general criteria shall apply:
- Must form an extension contiguous with existing urban areas and settlements.
 - Land is identified as having low versatility, and/or productive capacity has been compromised by:
 - Size and shape of land parcels that mitigates against productive use;
 - Surrounding land uses and reverse sensitivity;
 - Lack of water and/or poor drainage.
 - Clear natural boundaries exist, or logical greenbelts could be created to establish a defined urban edge.
 - Supports compact urban form.
 - Can be serviced at reasonable cost.
 - Can be integrated with existing development.
 - Can be integrated with the provision of strategic and other infrastructure (particularly strategic transport networks in order to limit network congestion, reduce dependency on private motor vehicles and promote the use of active transport modes).
 - An appropriate separation distance from electricity transmission infrastructure should be maintained in order to ensure the continued safe and efficient operation and development of the electricity transmission network.
 - Promotes, and does not compromise, social infrastructure including community, education, sport and recreation facilities and public open space.
 - Avoids or mitigates the following locational constraints:
 - projected sea level rise as a result of climatic changes
 - active coastal erosion and inundation
 - stormwater infrastructure that is unable to mitigate identified flooding risk
 - flood control and drainage schemes that are at or over capacity
 - active earthquake faults

- vi. high liquefaction potential
- vii. nearby sensitive waterbodies that are susceptible to potential contamination from on-site wastewater systems or stormwater discharges
- viii. no current wastewater reticulation and the land is poor draining
- ix. identified water short areas with the potential to affect the provision of an adequate water supply.

POL UD4.3 **APPROPRIATE RESIDENTIAL GREENFIELD GROWTH AREAS (HERETAUNGA PLAINS SUB-REGION)**
 Within the Heretaunga Plains sub-region, areas where future residential greenfield growth for the 2015-2045 period has been identified as appropriate and providing choice in location, subject to further assessment referred to in POL UD10.1, POL UD10.3, POL UD10.4 and POL UD12, are:

- a) Bay View
- b) Park Island / Parklands
- c) Taradale Hills
- d) Te Awa / The Loop
- e) Arataki Extension
- f) Haumoana (south of East Road) / Te Awanga
- g) Havelock North Hills (lower extension)
- h) Howard Street
- i) Irongate Road / York
- j) Kaiapo Road
- k) Lyndhurst
- l) Lyndhurst Road extension
- m) Maraekakaho rural settlement
- n) Middle Road / Iona / Hills
- o) Murdoch Road / Copeland
- p) Omaha / Bridge Pa (marae-based)
- q) Waimarama

All indicative areas are shown in Schedule XIVA.^{1b}

POL UD4.4 **INAPPROPRIATE RESIDENTIAL GREENFIELD GROWTH AREAS (HERETAUNGA PLAINS SUB-REGION)**
 Within the Heretaunga Plains sub-region, areas where future^{1c} residential greenfield growth has been determined as inappropriate, beyond existing settlements are:

- a) Waipatiki Beach
- b) Tangoio
- c) Whirinaki
- d) Puketapu
- e) Jervois town and Meeanee
- f) Clive
- g) East Clive
- h) Clifton
- i) Ocean Beach – apart from the potential for appropriate growth of the existing Waipuka beach settlement^{1d} on Maori land inland of areas at risk of coastal hazards
- j) Natural detention areas (50 year flood ponding areas).
- k) Haumoana (north of East Road)

^{1b} All spatial areas are indicative only until formalised via a plan change; and reference should be made to the Heretaunga Plains Urban Development Strategy for more information on these future greenfield growth areas.

^{1c} 'Future' greenfield growth refers to areas not already zoned for some form of residential development in existing district plans.

^{1d} This area is defined as being Areas A to D in the Ocean Beach Structure Plan (2007).

POL UD4.5 **APPROPRIATE INDUSTRIAL GREENFIELD GROWTH AREAS (HERETAUNGA PLAINS SUB-REGION)** Within the Heretaunga Plains sub-region, areas where future industrial greenfield growth for the 2015-2045 period have been identified as appropriate, subject to further assessment referred to in POL UD10.1, POL UD10.3, POL UD10.4 and POL UD12, are :

- a) Irongate industrial area
- b) Omaha industrial area
- c) Whakatu industrial area
- d) Tomoana industrial area
- e) Awatoto industrial area

The indicative locations of the above areas are shown in Schedule XIVb.^{1*}

Principal reasons and explanation

Demographic changes to the population within the Heretaunga Plains sub-region will ultimately influence demand for land. Setting urban limits allows long term land use and infrastructure to be adequately managed and planned for, and provides certainty around where future development is planned to occur. Urban limits will ensure development consolidates within and around existing settlements which is critical to transitioning to a more compact urban settlement pattern in the Heretaunga Plains sub-region. In 2010, projected demographic changes for the sub-region over the 35 year period to 2045 (sourced from Statistics New Zealand) anticipate moderate population growth, an older population, and declining household occupancy rates leading to an increase in household numbers of 8,014 to 58,925 (a 15.7% increase).

In transitioning to a more compact settlement pattern, the 2010 Heretaunga Plains Urban Development Strategy adopted a gradual move towards a greater proportion of new households being supplied through higher density development over time (refer Table 1, POL UD7 explanation). However, these changes were still assessed as resulting in 'on the ground' requirements for urban development beyond current supply for this purpose. Of the total 8,014 new households projected over the period, some 3,358 are proposed to be supplied through greenfield development. Urban limits therefore need to encompass sufficient additional land area to accommodate this level of greenfield development.

The greenfield growth areas referred to in Policy UD4.3 are areas which provide choice in location around existing settlements in the Napier City and Hastings District, but not already zoned for some form of residential development in plans existing at 2010. These areas are not subject to Policy UD4.2 and are appropriate for inclusion within the urban limits subject to further assessment pursuant to Policies UD10.1, UD10.3, UD10.4 and UD12. Development in these areas ahead of rezoning has the potential to reduce the efficiency of infrastructure provision, limit the options available in developing the area, and impact on the uptake of lots in another area. Therefore inappropriate ad hoc residential development should be avoided in accordance with Policy UD10.2 until rezoning of the areas identified in Policy UD4.3 has taken place.

Policy UD4.2 allows for the creation of new greenfield growth areas in the Heretaunga Plains sub-region. Any new greenfield growth areas within the urban limits must promote the overall transition to the compact settlement philosophy adopted in the Regional Policy Statement; be economically, socially and environmentally sustainable; and provide for locational choice.

All new greenfield areas proposed under Policy UD4.2 will be subject to the HPUDS review process, whereby greenfield growth areas, other than those identified in Policy UD4.3, will be decided in collaboration with Hawke's Bay Regional Council, Napier City Council and Hastings District Council as per the HPUDS 2010 review process, prior to re-zoning taking place. This process applies to both private and council led plan changes, and ensures the consequences and actions of re-zoning new greenfield areas are adequately considered in the context of the whole of the Heretaunga Plains sub-region.

The HPUDS review process, means the creation of new greenfield areas under Policy UD4.2 is only likely to occur in the following circumstances. Firstly, if one of the greenfield growth areas specified in Policy UD4.3 is deemed unviable for development, a new area will need to be proposed to compensate for the 'lost lots' in that area. Secondly, if reporting in Policy UD14.1 suggests the future development trends for the Heretaunga Plains sub-region have changed, and more growth areas are required than initially anticipated.

The areas determined as inappropriate for further residential greenfield development at this time (for various reasons), have been identified in Policy UD4.4 (established during development of the 2010 Heretaunga Plains Urban Development Strategy).

POL UD5 **CONTAINING URBAN ACTIVITIES WITHIN URBAN LIMITS (HERETAUNGA PLAINS SUB-REGION)** Except as provided for in POL UD6.1 (provision for papakainga and marae-based development), district plans shall include policies and methods to avoid inappropriate urban activities beyond urban limits established in accordance with POL UD4.1 within the Heretaunga Plains sub-region.

Principal reasons and explanation

In containing urban development, it is essential that urban activities are avoided beyond the urban limits established in response to POL UD4.1.

^{1*} Reference should be made to the Heretaunga Plains Urban Development Strategy for more information on these future greenfield growth areas.

PROVISION FOR PAKAINGA AND MARAE-BASED DEVELOPMENT (REGION)

- POL UD6.1** District plans shall, where appropriate enable pakainga and marae-based development in accordance with tikanga Maori values, outside existing urban areas and any urban limits, provided development:
- a) Avoids or mitigates the following locational constraints:
 - i. projected sea level rise as a result of climatic changes
 - ii. active coastal erosion and inundation
 - iii. stormwater infrastructure that is unable to mitigate identified flooding risk
 - iv. flood control and drainage schemes that are at or over capacity
 - v. active earthquake faults
 - vi. high liquefaction potential
 - vii. nearby sensitive waterbodies that are susceptible to potential contamination from on-site wastewater systems or stormwater discharges
 - viii. no current wastewater reticulation and the land is poor draining
 - ix. identified water short areas with the potential to affect the provision of an adequate water supply.

PAKAINGA AND MARAE-BASED DEVELOPMENT (REGION)

- POL UD6.2** Pakainga and marae-based development shall be encouraged, where possible; to:
- a) integrate with existing development
 - b) integrate with the provision of strategic and other infrastructure (particularly strategic transport networks in order to limit network congestion, reduce dependency on private motor vehicles and promote the use of active transport modes).
 - c) Promote, and not compromise, social infrastructure including community, education, sport and recreation facilities and public open space.

Principal reasons and explanation

Housing and associated activities around rural marae have been in existence for many years. Provision is made for accommodating growth through pakainga and marae-based development on ancestral land, which may fall outside urban limits. The continuation and expansion of pakainga and other marae based activities, subject to relevant statutory processes, gives effect to the requirements of sections 6(e), 7(a) and 8 of the Act and also recognises the statutory provisions in the Te Ture Whenua Maori Act 1993. This policy provides tangata whenua with the potential to meet their housing and economic development needs.

ENCOURAGING INTENSIFICATION OF RESIDENTIAL ACTIVITY**INTENSIFICATION IN EXISTING RESIDENTIAL AREAS (HERETAUNGA PLAINS SUB-REGION)**

- POL UD7** In the Heretaunga Plains sub-region, district plans shall include objectives, policies and methods promoting intensification by redevelopment of suitable locations within existing residential areas.

Principal reasons and explanation

An increasing proportion of the residential growth of the Heretaunga Plains sub-region is expected to take place through intensification, by redevelopment within existing residential and rural residential areas, in the move towards more compact urban form for the Heretaunga Plains sub-region. The existing urban areas most suited to intensification will be determined by the relevant territorial authority and included in the district plan. Between 2015 and 2045, the proportion of growth accommodated through intensification is intended to increase from approximately 45% to 60% (refer Table 1 below).

Table 1: Proportion of Additional Households by Type of Development for the Heretaunga Plains Sub-Region 2015-2045
(based on 2010 projections)

Type of Development	Proportion of Additional Households [No.]			
	2015-2025	2025-2035	2035-2045	2015-2045
Intensification	45% [1,872]	55% [1,502]	60% [674]	51% [4,048]
Greenfields	45% [1,872]	40% [1,092]	35% [394]	42% [3,358]
Rural Residential	10% [416]	5% [136]	5% [56]	7% [608]
TOTAL	100% [4,160]	100% [2,730]	100% [1,124]	100% [8,014]

- POL UD8 DENSITY OF RESIDENTIAL DEVELOPMENT AREAS (HERETAUNGA PLAINS SUB-REGION)**
In the Heretaunga Plains sub-region, residential subdivision and development shall seek to achieve the following minimum net densities, where appropriate, within greenfield growth or intensification development areas, to be achieved in a staged manner by 2045:
- an average yield of 15 lots or dwellings per hectare in each greenfield growth area developed post 31 December 2015;
 - an average yield of 20 lots or dwellings per hectare within each intensification development area.
- Principal reasons and explanation**
The setting of net density targets reflects the promotion of more intensive developments, in transitioning to more compact urban form for the Heretaunga Plains sub-region over time. The policy expresses desired minimum net densities averaged over each greenfield growth area or intensification development area in a staged manner. It is accepted that achievement of these densities may be constrained by various limiting factors, such as orientation, topography and geology, which may lead to areas achieving lower or higher density yields. However, it is expected that overall greenfield growth areas and intensification development areas will set out to achieve these minimum net densities, and that they will be achieved across the sub-region by 2045.
- The mechanism of how to achieve the density targets through subdivision and land use development will be provided in the relevant district plan. This will enable territorial authorities to determine the speed in which intensification occurs, and develop appropriate design guidelines for influencing intensive development for inclusion in their district plans. Further, before rezoning land for urban purposes, territorial authorities are required to ensure that structure plans are put in place (see Policy UD10.1).
- ACHIEVING STRATEGIC INTEGRATION OF INFRASTRUCTURE WITH LAND USE**
- POL UD9.1 SEQUENCING (HERETAUNGA PLAINS SUB-REGION)**
In the Heretaunga Plains sub-region, district plans shall provide for the strategic integration of infrastructure and development through the staged release of new greenfield growth areas.
- POL UD9.2 SEQUENCING DECISION-MAKING CRITERIA (HERETAUNGA PLAINS SUB-REGION)**
In the Heretaunga Plains sub-region, the sequencing of development for greenfield growth areas shall be based on the following criteria:
- Availability and costs of infrastructure services (water, wastewater, stormwater, transport and electricity distribution);
 - The operational capacity of strategic infrastructure (particularly strategic transport networks); and
 - Balanced supply and locational choice across the sub-region.
- Other factors that may be taken into account include (but are not limited to):
- The accessibility and capacity of social infrastructure (particularly community, education, sport and recreation facilities and public open space);
 - The sustainable management of natural and physical resources;
 - The availability of employment opportunities in and near the greenfield growth areas;
 - The willingness and timeframe of landowners to participate in greenfield growth plans;
 - The opinion of developers regarding land for greenfield growth to ensure the sequencing is feasible and will result in positive growth and investment.
- Principal reasons and explanation**
The market has not always delivered infrastructure or a development pattern in a way that is efficient and cost-effective for the community. Addressing the timing and sequencing of development is designed to ensure, within broad limits, that development proceeds in a way that gives infrastructure service providers time to match demand, and the ability to fund that service delivery, and also to ensure sufficient locational choice. Sequencing will provide more certainty to the community, developers and infrastructure providers about when and where development is likely to occur. The overall purpose is to provide a broad framework that signals to the market the importance of integrating public and private development decisions.
- POL UD10.1 STRUCTURE PLANS (HERETAUNGA PLAINS SUB-REGION)**
In the Heretaunga Plains sub-region, development of urban activities within greenfield growth areas shall occur in accordance with a comprehensive structure plan. Structure plans shall be prepared when it is proposed to amend the district plan, and shall be included in the district plan to provide for urban activities.

AD HOC URBAN DEVELOPMENT (HERETAUNGA PLAINS SUB-REGION)

POL UD10.2 In the Heretaunga Plains sub-region, avoid inappropriate ad hoc urban development within the residential greenfield growth areas identified in Policy UD4.3 or created under Policy UD4.2 prior to rezoning taking place.

STRUCTURE PLANS (REGION)

POL UD10.3 Notwithstanding Policy UD10.1, structure plans for any area in the Region shall:

- a) Be prepared as a single plan for the whole of a greenfield growth area;
- b) Be prepared in accordance with the matters set out in POL UD12;
- c) Show indicative land uses, including:
 - i. principal roads and connections with the surrounding road network and relevant infrastructure and services;
 - ii. land required for stormwater treatment, retention and drainage paths;
 - iii. any land to be set aside for business activities, recreation, social infrastructure, environmental or landscape protection or enhancement, or set aside from development for any other reason; and
 - iv. pedestrian walkways, cycleways, and potential public passenger transport routes both within and adjoining the area to be developed;
- d) Identify significant natural, cultural and historic or heritage features;
- e) Identify existing strategic infrastructure; and
- f) Identify the National Grid (including an appropriate buffer corridor).

STRUCTURE PLANS (REGION)

POL UD10.4 Notwithstanding Policy UD10.1, in developing structure plans for any area in the Region, supporting documentation should address:

- a) The infrastructure required, and when it will be required to service the development area;
- b) How development may present opportunities for improvements to existing infrastructure provision;
- c) How effective provision is made for a range of transport options and integration between transport modes;
- d) How provision is made for the continued use, maintenance and development of strategic infrastructure;
- e) How effective management of stormwater and wastewater discharges is to be achieved;
- f) How significant natural, cultural and historic or heritage features and values are to be protected and/or enhanced;
- g) How any natural hazards will be avoided or mitigated; and
- h) Any other aspects relevant to an understanding of the development and its proposed zoning.

Principal reasons and explanation

Structure plans provide a mechanism for integrating urban development with infrastructure, making the best use of existing infrastructure, and identifying and providing for the additional infrastructure required to meet the needs of incoming residents and businesses. Development occurring ahead of rezoning has the potential to reduce the efficiency of infrastructure and limit the options available when developing a structure plan for the area.

Structure plans provide the mechanism for integrating new development with existing urban areas, ensuring urban growth is accommodated in a sustainable way, and that all constraints are investigated and addressed or protected at the time of initial zoning for urban purposes. Infrastructure providers should be consulted early on in the structure planning process to ensure appropriate decisions are made as to how servicing is to be achieved, whether the proposed development is appropriate, and what limitations may exist. Policy UD10.3(e) and (f) ensure strategic infrastructure is taken into account when developing an area for urban activities, in particular sub-clause (f) specifically gives effect to Policy 11 of the National Policy Statement on Electricity Transmission, which refers to identification of an appropriate buffer corridor around National Grid lines.

REZONING FOR URBAN DEVELOPMENT (REGION)

- POL UD11** Notwithstanding Policy UD10.1, within the Region, any rezoning for the development of urban activities should be accompanied by a structure plan for inclusion in the district plan, in accordance with the matters in POL UD10.3 and POL UD10.4, and POL UD12.

MATTERS FOR DECISION-MAKING (REGION)

- POL UD12** In preparing or assessing any rezoning, structure plans, or other provisions for the urban development of land within the Region, territorial authorities^{1f} shall have regard to:
- a) The principles of the New Zealand Urban Design Protocol (Ministry for the Environment, 2005);
 - b) New Zealand Standard NZS4404:2010 Land Development and Subdivision Infrastructure, and subsequent revisions;
 - c) Good, safe connectivity within the area, and to surrounding areas, by a variety of transport modes, including motor vehicles, cycling, pedestrian and public transport, and provision for easy and safe transfer between modes of transport;
 - d) Location within walkable distance to community, social and commercial facilities;
 - e) Provision for a range of residential densities and lot sizes, with higher residential densities located within walking distance of commercial centres;
 - f) Provision for the maintenance and enhancement of water in waterbodies, including appropriate stormwater management facilities to avoid downstream flooding and to maintain or enhance water quality;
 - g) Provision for sufficient and integrated open spaces and parks to enable people to meet their recreation needs, with higher levels of public open space for areas of higher residential density;
 - h) Protection and enhancement of significant natural, ecological, landscape, cultural and historic heritage features;
 - i) Provision for a high standard of visual interest and amenity;
 - j) Provision for people's health and well-being through good building design, including energy efficiency and the provision of natural light;
 - k) Provision for low impact stormwater treatment and disposal;
 - l) Avoidance, remediation or mitigation of reverse sensitivity effects arising from the location of conflicting land use activities;
 - m) Avoidance of reverse sensitivity effects on existing strategic and other physical infrastructure, to the extent reasonably possible;
 - n) Effective and efficient use of existing and new infrastructure networks, including opportunities to leverage improvements to existing infrastructure off the back of proposed development;
 - o) Location and operational constraints of existing and planned strategic infrastructure;
 - p) Appropriate relationships in terms of scale and style with the surrounding neighbourhood; and
 - q) Provision of social infrastructure.

Principal reasons and explanation

These matters provide general guidance to territorial authorities and developers involved in the preparation and assessment of urban developments, recognising that good urban design will increase the efficiency and effectiveness of urban areas – both in terms of quality of life, and the efficient and effective provision of infrastructure and community services. These matters are considered especially important in achieving quality urban environments given the policy direction towards higher density development.

^{1f} The matters set out in POL UD12 are in addition to local authorities' legal obligations stated in the Resource Management Act to give effect to, or have regard to, national policy statements, national environmental standards, iwi management plans, etc.

SERVICING OF DEVELOPMENTS (REGION)

POL UD13 Within the region, territorial authorities shall ensure development is appropriately and efficiently serviced for the collection, treatment, disposal or re-use of sewage and stormwater, and the provision of potable water by:

- a) Avoiding development which will not be serviced in a timely manner to avoid or mitigate adverse effects on the environment and human health; and
- b) Requiring these services to be designed, built, managed or upgraded to maximise their ongoing effectiveness.

Principal reasons and explanation

Appropriate provision for sewerage, stormwater and potable water infrastructure is essential to people's wellbeing, health and safety and to environmental health, as well as ensuring adverse effects on the receiving environment are avoided or mitigated. Developments must manage the disposal and treatment of sewage and stormwater recognising the receiving environment (its receiving capacity, and limitations in terms of environmental quality). Servicing should be considered early in the development process. This will ensure that appropriate decisions are made as to how servicing is to be achieved, whether the proposed development is appropriate, and what site limitations may exist. This also enables consideration of water conservation and water efficiency methods.

[Refer also POL18(d) (Chapter 3.8 – Groundwater Quality) re: connections to reticulated systems]

MONITORING AND REVIEW OF DEVELOPMENT IN HERETAUNGA PLAINS SUB-REGION**MONITORING (HERETAUNGA PLAINS SUB-REGION)**

POL UD14.1 Information will be collected on development and infrastructure trends and pressures in the Heretaunga Plains sub-region, so that these trends and pressures can be responded to appropriately and in a timely manner, to support further regular reviews of the Heretaunga Plains Urban Development Strategy and so this information can be used to assess the need for changes to the settlement pattern in Policies UD2, UD3, UD4.1, UD4.2, UD4.3, UD4.4, UD4.5, UD7 and UD8.

REVIEWS (HERETAUNGA PLAINS SUB-REGION)

POL UD14.2 Hawke's Bay Regional Council will review Policies UD2, UD3, UD4.1, UD4.2, UD4.3, UD4.5, UD4.4, UD7 and UD8, including the extent, location and sequencing of land for development in the Heretaunga Plains sub-region, in collaboration with Napier City Council, Hastings District Council, the New Zealand Transport Agency and any other relevant parties, if any of the following situations occur:

- a) reporting in POL UD14.1 recommends that a review is needed; or
- b) household and/or population growth varies by more than 10% over 5 consecutive years from the household and population predictions in HPUDS; or
- c) HPUDS partners agree that insufficient land exists within the identified greenfield growth areas to cater for household and business growth anticipated within 10 years of the analysis; or
- d) HPUDS partners agree that exceptional circumstances have arisen such that a review is necessary to achieve Objectives UD2, UD3 and UD4 in particular.

Principal reasons and explanation

The preferred settlement pattern for future growth in the Heretaunga Plains sub-region is based on certain assumptions about likely future development trends and requirements in the Heretaunga Plains sub-region. Policy UD14.1 establishes the need to collect and report information on development trends and pressures that is needed to help inform future revisions of HPUDS and to provide information to support Policy UD14.2. The information referred to in Policy UD14.1 can be collected in a variety of ways including those set out in HPUDS and Method UD2. Policy UD14.2 recognises that conditions could change such that the preferred settlement pattern and greenfield growth areas need to be reviewed to ensure ongoing management of development in the Heretaunga Plains sub-region remains appropriate. Examples of exceptional circumstances include a natural event causing widespread damage to land and property; a large local or sub-regional company relocating operating facilities into, or out of, the area.

METHODS

Many of the policies in this chapter will be given effect to by territorial authorities through inclusion of appropriate provisions in district plans and in decisions on resource consents and designations. The policies in this chapter will also be given effect to through methods in the Regional Resource Management Plan and Regional Coastal Environment Plan.

The following are additional methods being used or to be used by the Regional Council to implement policies in this Chapter. Territorial authorities may also use or intend using any of these methods or similar methods:-

Advocacy

MET UD1 Hawke's Bay Regional Council will:

- a) Promote alignment of relevant regional and district plan provisions applying to land use management throughout the region and in particular, on the versatile land of the Heretaunga Plains.
- b) Encourage the replacement of onsite wastewater disposal systems where there are multiple systems in close proximity, with reticulated wastewater systems.
- c) Promote awareness of the effects of stormwater discharges on water quality.
- d) Promote low impact urban design and development (LIUDD).
- e) Encourage the adoption of land based mitigation of stormwater, including the use of wetlands.
- f) Advocate a whole-of-catchment approach to the management of water.
- g) Promote development setbacks and buffer zones to protect natural physical processes, ensure natural hazard mitigation and manage reverse sensitivity effects.
- h) Promote awareness of natural hazard risk, particularly risks associated with coastal erosion and inundation.
- i) Promote awareness of limits on availability of potable water supplies and potential reverse sensitivity impacts on lawful efficient water use.
- j) Promote setbacks and buffer zones to protect the ongoing operation, maintenance and development of strategic infrastructure.

Monitoring and Review

MET UD2 Hawke's Bay Regional Council, in conjunction with the territorial authorities in the Heretaunga Plains sub-region, will update the Heretaunga Plains Urban Development Strategy on a regular basis through regular review of the information used, particularly in the forecasting of growth, funding of infrastructure and assumptions. As a minimum, monitoring of the demographic projections upon which HPUDS is based and projected actual uptake rates will be undertaken following each census. These reviews will feed back into monitoring the effectiveness of the Regional Policy Statement.

Cross Boundary Liaison/Collaboration

MET UD3 Hawke's Bay Regional Council will:

- a) Liaise and collaborate on cross boundary infrastructure issues.
- b) Promote a collaborative approach to the sustainable management of versatile land.
- c) Promote a collaborative approach to the management of the coastal environment.

Transportation Strategies

MET UD4 Hawke's Bay Regional Council will ensure urban growth management feeds into and informs transportation strategies and funding – such as the Heretaunga Plains Transportation Study, regional transport strategies, and corridor studies.

Provision of Information and Services

MET UD5 Hawke's Bay Regional Council will continue to monitor, research and map natural hazards, and review hazard and risk information, and provide information and guidance to territorial authorities on natural hazards and natural hazard risk.

- MET UD6** **Preparation and Review of Objectives, Policies and Methods in Regional Plans**
Hawke's Bay Regional Council will set out objectives, policies and methods in regional plans which:
- Avoid cumulative effects of discharges from on-site wastewater treatment and disposal systems;
 - Discourage discharges from new community wastewater collection, treatment and disposal systems in circumstances where a suitable existing community system is available;
 - Ensure discharges of stormwater are managed so that the impact on water quantity of development is similar to that which existed prior to the development and avoids or mitigates any increase in downstream flood risk;
 - Ensure appropriate treatment of stormwater discharges occurs to avoid or mitigate inappropriate adverse effects on water quality and the receiving water body;
 - Encourage and where appropriate require the progressive upgrading and development of discharges from wastewater and stormwater systems where these currently result in inappropriate adverse effects on the environment;
 - Control the adverse effects of development on water bodies, including their value as sources of drinking water;
 - Enable the development and use of strategic infrastructure while controlling adverse effects of that development and use.

[Refer also:

- POL5 and POL6 Non-Regulatory Methods (Chapter 3.5) re: land use conflicts
- POL55 Non-Regulatory Methods (Chapter 3.12) re: natural hazards
- Methods in Chapter 4 – sections 4.3 (Liaison with Territorial Authorities), 4.5 (Works and Services), 4.6 (Research and Investigation) and 4.7 (Monitoring)
- POL56 Non-Regulatory Methods (Chapter 3.13) re: Territorial Authority liaison and provision of information in relation to regional infrastructure]

ANTICIPATED ENVIRONMENTAL RESULTS

- AER UD1** Availability of sufficient land to accommodate population and household growth, as and where required, while retaining versatile land for existing and foreseeable future primary production.
- AER UD2** Balanced supply of affordable residential housing and locational choice in the Heretaunga Plains sub-region.
- AER UD3** More compact, well-designed and strongly connected urban areas.
- AER UD4** Napier and Hastings retained as the primary urban centres for the Heretaunga Plains sub-region.
- AER UD5** Encroachment of urban activities (residential, commercial, industrial) onto the versatile land of the Heretaunga Plains is confined to defined greenfield growth areas within specified urban limits.
- AER UD6** The retention, as far as is reasonably practicable, of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production.
- AER UD7** Efficient utilisation of existing infrastructure.
- AER UD8** Efficient utilisation of infrastructure which has already been planned and committed to by a Local Authority (e.g. by funding) but not yet constructed.
- AER UD9** Increased use of public transport and active transport modes (cycling, walking), reduced dependency on the private motor vehicle and reduced energy use.
- AER UD10** Planned provision for, and protection of, infrastructure to support existing development and anticipated urban growth in defined growth areas.
- AER UD11** Urban activities and urban development maintains groundwater and surface water quality and habitat health.
- AER UD12** Urban development is avoided in areas identified as being at unacceptable risk from natural hazard (flooding, coastal inundation, coastal erosion, liquefaction, land instability).
- AER UD13** New development is appropriately serviced by wastewater, stormwater, potable water and multi-modal transport infrastructure.
- AER UD14** The efficient provision of freight links for distribution to and from the region.

3.2 The Sustainable Management of Coastal Resources

ISSUE

- 3.2.1 *Integrated management of the region's coastal resources across a wide range of natural and physical conditions, administrative responsibilities cultural considerations, and matters of social and economic well being.*

OBJECTIVES

- OBJ 4** Promotion of the preservation of the natural character of the coastal environment and its protection from inappropriate subdivision, use and development.
- OBJ 5** The maintenance and where practicable and in the public interest, the enhancement of public access to and along the coast.
- OBJ 6** The management of coastal water quality to achieve appropriate standards, taking into account spatial variations in existing water quality, actual and potential public uses, and the sensitivity of the receiving environment.
- OBJ 7** The promotion of the protection of coastal characteristics of special significance to iwi, including waahi tapu, tauranga waka, taonga raranga, mahinga kai and mahinga mataitai.
- OBJ 8** The avoidance of further permanent development in areas prone to coastal erosion or inundation, taking into account the risk associated with global sea level rise and any protection afforded by natural coastal features.
- OBJ 9** Appropriate provision for economic development within the coastal environment, including the maintenance and enhancement of infrastructure, network utilities, industry and commerce, and aquaculture.
- OBJ 10** Enabling safe and efficient navigation.

Explanation and Reasons

- 3.2.2 The coastal environment includes the coastal marine area (the area from mean high water springs to the outer limits of the territorial sea) and the adjacent land that is affected by maritime influences, the air above it, and coastal water.
- 3.2.3 People and communities in the region are aware of, and have concerns about, the sustainable management of the coastline.
- 3.2.4 The environment of the coastline contributes to the characteristics which give Hawke's Bay its unique identity. This environment provides a social, recreational, cultural and economic resource for the regional community and for visitors. Public use and enjoyment of the coastline are, in turn, dependent on the protection and maintenance of its physical and biological diversity, health and well-being. Areas of wildlife habitat, marine and land-based vegetation, and geomorphological features also have value. These contribute to the distinctive natural identity of New Zealand in general, and the region in particular.
- 3.2.5 Among the significant features of the region's coastline are the spiritual and cultural significance of the sea to tangata whenua, the recreational amenities of coastal areas, and the importance of the coastal waters as a way of transporting goods.
- 3.2.6 Integrated management of the coast requires special effort as the regional council and the territorial authorities in the region jointly manage the coastal environment area landward of the "Coastal Marine Area". This is achieved through district and (as appropriate) regional plans. However, the "Coastal Marine Area" is primarily the responsibility of the Hawke's Bay Regional Council, which must prepare a Regional Coastal Plan. HBRC has combined its regional coastal plan with other regional planning provisions applicable to the coastal environment into the Regional Coastal Environment Plan. The coastal environment includes the coastal marine area and an area of land immediately adjacent to the coast. The Minister of Conservation also retains some specific responsibilities over the coastal marine area.
- 3.2.7 The New Zealand Coastal Policy Statement (NZCPS) provides principles for, and guidance to, regional and territorial authorities in managing coastal resources. The NZCPS links matters of national importance, as set out in the Act, with the objectives, policies, rules and other provisions of regional and district plans, including the Regional Coastal Environment Plan. The Regional Coastal Environment Plan thus contains a greater level of detail for areas and activities within the coastal environment than the broad regional policy framework for coastal resources included in the Regional Policy Statement.
- 3.2.8 The preservation of the natural character of the coastal environment is specified as a matter of national importance in the Act. The natural character of the coast embraces ecological, physical, spiritual, cultural, intrinsic and aesthetic values. While it is a matter of national importance to preserve those values, the Act does not preclude appropriate use and development, particularly where natural character has already been compromised.

- 3.2.9 Public access to and along the coast is an important issue for the residents of Hawke's Bay. It is also a matter of national importance in the RMA. In planning for the use, development and protection of the natural and physical resources in the coast, public access as far as possible should be maintained. In certain circumstances it may be desirable to enhance public access to and along the coast.
- 3.2.10 Good water quality is important for the sustainable management of natural and physical resources in the coastal environment and is an issue of prime concern to the residents of Hawke's Bay. However, water quality may vary over time and in different areas. An appropriate management framework includes achieving standards through management of discharge including point and non-point source discharges from land and to sea.
- 3.2.11 Tangata whenua of Hawke's Bay have strong traditional and cultural relationships with the sea. The identification and protection of coastal characteristics of special significance to iwi recognises the special relationships that iwi have with coastal resources.
- 3.2.12 Avoiding permanent development in areas prone to coastal erosion or inundation and taking into account the risk associated with global sea level rise is necessary to achieve the purpose of the Act. This approach enables people to provide for their safety and recognises the reasonably foreseeable needs of future generations. It also gives a clear indication to resource users that development in these areas is inappropriate and indicates that local authorities are accountable for any development that does occur in these areas.
- 3.2.13 The provisions of the Act do not relate solely to the control of environmental effects. Providing for economic development in the coastal environment within the region is necessary to achieve the purpose of the Act because the Act requires the Council to promote the sustainable management of both natural and physical resources. Physical resources include land and structures and includes the structures in the region which add to the present and future economic well-being of the region. The responsibility for providing for the social, economic, cultural, health and safety needs of the community lies in part with the Regional Council. The economic well-being of the people and communities of the region requires the continuation of an economic infrastructure.
- 3.2.14 There are a number of existing surface water activities in Hawke's Bay ranging from passive recreation to recreational use of boats, yachts and pleasure craft, to commercial fishing and port related shipping. New activities may occupy coastal marine space and may have the potential to enhance or conflict with navigational needs. Promoting safe and efficient navigation is necessary to promote the purpose of the Act because it enables people and communities to provide for their social, cultural and economic well-being and for their health and safety.

POLICIES

- 3.2.15 There are no specific policies relating to the coastal environment part of this Plan, although provisions within the Regional Policy Statement parts of this Plan do apply within the coastal environment. Specific regional plan provisions (including policies) for the coastal environment are contained within the Regional Coastal Environment Plan.
- 3.2.16 The Hawke's Bay Regional Coastal Environment Plan is a combined Plan, incorporating the regional coastal plan that HBRC is required to prepare. It sets out in some detail objectives, policies and methods including rules which are the basis for management of the coastal environment. Thus the Regional Policy Statement of this Plan does not repeat or elaborate on the above objectives, and the Regional Coastal Environment Plan should be referred to for further detail.
- 3.2.17 Under the Act, HBRC has shared responsibility with the territorial authorities for management of activities and effects of activities within the coastal environment.
- 3.2.18 Some aspects of those activities are the sole responsibility of district councils – particularly managing the effects of land uses, development and subdivision in terms of the Act and in ways which are not inconsistent with this Regional Policy Statement or regional plans. District Plans should also be referred to as these may set out specific objectives, policies, methods and rules for the landward side of the coastal environment.

3.3 Loss and Degradation of Soil

ISSUE

3.3.1 Loss and degradation of soil, in particular:

- (a) Accelerated hill country erosion caused by the clearance of vegetation, inappropriate pastoral farming, and earthworks.
- (b) Wind erosion caused by inappropriate cultivation practices.
- (c) Degradation of soil health due to inappropriate management practices.
- (d) The adverse effect of soil loss on water quality.

OBJECTIVES

- OBJ 11 An ongoing reduction in the extent and severity of hill country erosion.
- OBJ 12 The avoidance of loss in the productive capability of land, as a result of inappropriate land use practices hastening wind erosion.
- OBJ 13 The avoidance of nuisance effects or economic losses on adjoining properties as a result of wind erosion.
- OBJ 14 The avoidance of loss in the productive capability of land, as a result of reduced soil health.

Explanation and Reasons

- 3.3.2 Hill country erosion refers to large and obvious examples of mass movement. These include earth flows, gully erosion, slips, slump erosion, and rock slides. Hill country erosion is very prominent in Hawke's Bay, particularly in northern and coastal areas. A degree of natural erosion can be expected, and this is evident even in naturally forested areas after severe storm events. However, erosion rates have been accelerated where:
 - (a) Land has been managed for maximum production (through increased pasture areas and high stocking rates) rather than in a manner which more closely aligns with the capability of the land.
 - (b) Vegetation has been cleared, resulting in insufficient deep-rooting vegetative species that bind erodible soils.
 - (c) Tracking and other earth works lays the land bare, exposing it to rain, frost and wind.
- 3.3.3 There are three issues regarding erosion: a natural rate of erosion (under natural vegetation); accelerated erosion due to the removal of natural forest, and pasture establishment; and aggravated accelerated erosion, due to inappropriate land management practices, such as over grazing of pasture.
- 3.3.4 Intensive pastoral farming undertaken on land that is not physically capable of sustaining high stocking rates, such as some hill country in Hawke's Bay, will accelerate erosion. The degradation of pasture by grazing stock, and the pugging and compaction of soils may further increase the susceptibility of hill slopes to mass movement.
- 3.3.5 Although pasture cover can return within a few years after a period of erosion, it is likely that the new growth will be less productive than previous pasture, as the underlying sub-soil is thinner and holds fewer nutrients. Generally, it takes about 20 years for pasture to return to 70-80% of its pre-erosion cover, and if erosion is repeated, areas may become barren (Ministry for the Environment, 1997). However, the impact on productivity can be worse. Trustrum et al. (1984) reported that pastoral land in Hawke's Bay which has been subject to slips can take up to 60 years to return to 80% of its pre-slip productivity level. If erosion is repeated, areas may become barren.
- 3.3.6 As well as reducing productivity, erosion can have other effects. There can be disruption to infrastructure such as roads and fences. Mass movement of soil can also add large volumes of sediment to water bodies - affecting water quality and ecosystems, and exacerbating flood risks.
- 3.3.7 Forest vegetation can reduce the amount and degree of erosion by intercepting rainfall, increasing evapotranspiration rates and reinforcing soils through the root network. Good forestry practice can reduce the risk of soil erosion that may follow harvesting.

particularly when followed by storm events. The level and extent of erosion that results from the removal of trees is dependent on a number of factors including the tree species, the area felled, the method of felling, the implementation of other forestry management techniques used to minimise runoff and erosion and the underlying geology.

- 3.3.8 The northern part of the Hawke's Bay region has a predominance of siltstone hill country. This area is the most erosion-prone landform in the region, and is subject to high intensity rainstorms with a recurrence interval averaging 3 to 5 years. These cyclonic rainstorms can cause erosion on large areas. Extreme events during the last two decades have included Cyclone Bola in 1988 which caused widespread impacts, and the series of cyclones in 1997 which severely affected land in the Wairoa District. It was estimated (Trustum and Page, 1991) that Cyclone Bola moved 1.35 million m³ of soil in the Tutira catchment, and that 90% of the sediment was derived from just 44% of the area. This equates to a surface lowering of about 42 mm across the entire catchment, or about 85 mm in the highly erodible area.
- 3.3.9 The (mostly coastal) hill country of southern Hawke's Bay largely consists of jointed mudstone. This is subject to earthflow erosion, particularly where it is dissected by gullies or undercut by streams. However, the extent of erosion is not as severe as that in the northern siltstone hill country.
- 3.3.10 The Hawke's Bay region's lowland areas are characterised by stable soils with a relatively high fertility. However, some of these areas are susceptible to wind erosion. Wind erosion is most likely to occur where the land has been laid bare by cropping, erosion or earth works. Wind erosion exacerbated by cultivation has been identified in areas of Hawke's Bay, where soils are dry and light. Such erosion has resulted in the loss of the soil resource, and dust nuisance to properties downwind. In extreme cases, dust resulting from wind erosion has caused immediate economic losses by smothering crops on properties downwind. Wind erosion can also occur in coastal dune areas, and hill country areas during summer droughts.
- 3.3.11 The degradation of soil health, including its physical and biological properties, reduces a soil's productivity, often leading to increased inputs of fertiliser, irrigation and cultivation as short term compensators. This increases the risk of leaching and increases use of water and is not sustainable in the long term.¹

POLICIES

POL 1 ROLE OF NON-REGULATORY METHODS

- 3.3.12 To use non-regulatory methods, as set out in Chapter 4, as the primary means for achieving the objectives above and the environmental guidelines set out in Chapter 5, including:
- (a) **Economic Instruments** - The provision of financial incentives to facilitate the retirement or sustainable use of erosion-prone areas.
 - (b) **Education and co-ordination** – Actively promoting self-regulation by land owners, assisting with the formation of Landcare Groups, preparing soil conservation farm plans, providing information about sustainable land management practices, and responding to requests for advice.
 - (c) **Encouragement for self-regulation** – Promote and support self-regulation, including the adoption by resource user groups, of guidelines and codes of practice by resource user groups.

Explanation and Reasons

- 3.3.13 Policy 1 sets out the role of the HBRC in providing financial incentives and promoting self-regulation, better land management practices and education, as the primary response to addressing the loss and degradation of soil in the region. By providing financial incentives, and encouraging greater responsibility, accountability, and awareness of the effects of land use, the loss and degradation of soil should be reduced.

¹ For the purposes of this plan "soil health" refers to physical parameters including soil structure and porosity, biological parameters including soil organic matter and earthworms, and chemical parameters including soil contaminants but excluding soil chemical properties generally accepted as measurements of soil fertility.

POL 2 PROBLEM SOLVING APPROACH - WIND EROSION

- 3.3.14 To use both non-regulatory methods as set out in Chapter 4, and enforcement procedures available under section 17 of the Act, to ensure cropping activities are undertaken in a manner which uses the best practicable option to minimise the risk of both erosion and the discharge of offensive or objectionable dust beyond the boundary of the subject property.

Explanation and Reasons

- 3.3.15 Policy 2 sets out Council's two-pronged approach to wind erosion – the encouragement of best practices to minimise the risk of both topsoil loss and of nuisance effects beyond a property boundary; in conjunction with the discouragement of any on-going breach of section 17 by the use of enforcement action.

POL 3 PROBLEM SOLVING APPROACH – VEGETATION REMOVAL

- 3.3.16 (a) To use both non-regulatory methods, as set out in Chapter 4, to discourage the removal of vegetation on highly erodible land, particularly Class VIIe and VIII land, except where:
- (i) The removal of vegetation is for the purpose of providing environmental benefits, including land stabilisation, enhancement of water quality, and/or the establishment of indigenous plant species.
 - (ii) The removal of vegetation is for the purpose of establishing or maintaining a network utility firebreak² or fence line.
 - (iii) The removal of vegetation is for the purpose of harvesting vegetation that was planted for commercial purposes.
 - (iv) The removal of vegetation involves a plant pest and is consistent with the requirements of the Regional Plant Pest Management Strategy.
- (b) To use regulatory methods, as set out in Chapter 6, to discourage the removal of vegetation except where the conditions/standards/terms of Rules 7 and 8 are met.

Explanation and Reasons

- 3.3.17 Policy 3 provides guidance to resource users when considering activities proposed in areas of highly erodible land, particularly on land with a land use capability class of VIIe or VIII. This policy seeks to discourage, through enforcement action and non-regulatory methods, the removal of vegetation in areas of highly erodible land.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Reduction in area of land prone to wind erosion	% land prone to wind erosion	% soils at risk from erosion mapped
No long-term degradation in soil health	Change in area susceptible to decline in soil health	Results of "500 soils" project
An increase in the area of the region being sustainably managed	% region being sustainably managed against land use capability	Land cover mapping (5 yearly)
Reduction of sediment deposited in the region's water bodies	Number of incidents reported/complaints received	Council records

² 'Firebreak' means an adequate cleared area that is not vegetated to prevent the spread of fire between vegetated areas.

3.4 Scarcity of Indigenous Vegetation and Wetlands

ISSUE

- 3.4.1 The scarcity of indigenous vegetation, wetlands, and habitats of indigenous fauna as a result of vegetation modification or clearance and land drainage.

OBJECTIVE

- OBJ 15 The preservation and enhancement of remaining areas of significant indigenous vegetation, significant habitats of indigenous fauna and ecologically significant wetlands.

Explanation and Reasons

- 3.4.2 Before settlement, Hawke's Bay was covered in dense native forest, wetlands and high country tussock. The vast majority of native forest and tussock has been removed, and wetlands have been drained, as a result of successive settlement by Maori and European. This pattern is typical of what happened throughout New Zealand and, indeed, elsewhere in the world wherever land has been developed for human settlement. It is unreasonable to expect revegetation of the landscape back to its pre-settlement state, as this would essentially require a reversing of the pattern of settlement. However, it is important to value the areas of indigenous vegetation and habitat that remain, and encourage the establishment of other areas.
- 3.4.3 Wetlands provide important areas of indigenous habitat, adding to the biodiversity of Hawke's Bay and the stability and quality of the region's waterways. These areas provide habitat for many of our birds, plants and amphibians. They also filter sediment and nutrients, regulate water flows, decrease the frequency and size of floods, and curb erosion.
- 3.4.4 The majority of wetland areas that once covered the Hawke's Bay region have been drained and developed. Less than 10% of the original wetland area of Hawke's Bay remains, and many of the remaining areas are in poor condition or under threat from land use activities.
- 3.4.5 The remaining areas of indigenous vegetation and wetlands are vulnerable to various threats, in particular:
- (a) modification or clearance of indigenous vegetation
 - (b) drainage, diversion of water, or water abstraction affecting the quantity of water in wetlands
 - (c) the presence of animal or plant pests
 - (d) pollutants entering wetlands from aerial spraying, topdressing or land runoff, and
 - (e) land use activities around the margins, particularly wandering and grazing stock and heavy machinery.
- 3.4.6 Because the extent of indigenous vegetation and wetlands is already limited in Hawke's Bay, it is important that those areas remaining are preserved, rather than reduced even further.

POLICIES

POL 4 ROLE OF NON-REGULATORY METHODS

- 3.4.7 To use non-regulatory methods, as set out in Chapter 4, as the primary means for achieving the preservation and enhancement of remaining areas of significant indigenous vegetation and ecologically significant wetlands³, in particular:

³ For the purposes of this Plan 'wetland' is not:

- wet pasture land
- artificial wetlands used for wastewater or stormwater treatment
- farm dams and detention dams
- land drainage canals and drains
- reservoirs for fire fighting, domestic or municipal water supply
- temporary ponded rainfall or artificial wetlands

- (a) **Economic instruments** – Providing financial support for the preservation of remaining areas of significant indigenous vegetation or wetlands, including support for the covenanting of indigenous vegetation, at a level of funding as established in the HBRC's Annual Plan.

For the purposes of this policy, significant indigenous vegetation includes any of the following:

- (i) Vegetation that has been especially set aside by statute or covenant, or is otherwise legally managed for protection or preservation.
 - (ii) Areas of indigenous vegetation over 40 hectares in size.
 - (iii) Any area of naturally occurring indigenous vegetation, with the following characteristics:
 - being over one hectare, where the average canopy height is greater than 6 m
 - being five hectares or greater, with an actual or emerging predominance of indigenous tree species of any height (where 'tree species' is any species which may attain a diameter at breast height of 30 centimetres or greater in Hawke's Bay).
 - (iv) Vegetation recommended for protection under the Protected Natural Areas programme or another programme of the Department of Conservation, or recommended for protection in a report by the Forest Heritage Fund or Nga Whenua Rahui Committees.
- (b) **Works and services** – Providing works and services, or financial support, for the preservation of remaining ecologically significant indigenous wetlands at a level of funding as established in the HBRC's Annual Plan, subject to a management plan or statutory covenant being established for each wetland receiving assistance. Priority will be given to the following wetlands⁴ (see Figure 4):
- Whakaki Lake
 - Lake Poukawa/Pekapeka Swamp
 - Opoutama Lagoon
 - Whakamahi Lagoon
 - Ngamotu Lagoon
 - Lake Hatuma
 - Waitangi Estuary
 - Maungawhio Lagoon
 - Lake Runanga
 - Lake Oingo.
- (c) **Liaison with territorial authorities** - Advocating to territorial authorities that they establish mechanisms in their district plans which preserve and enhance areas of significant indigenous vegetation and wetlands.
- (d) **Education** – Encouraging landowners not to undertake drainage and diversion activities where these adversely affect the indigenous ecosystems of wetland areas. Protection and support is available through the covenanting of significant areas.

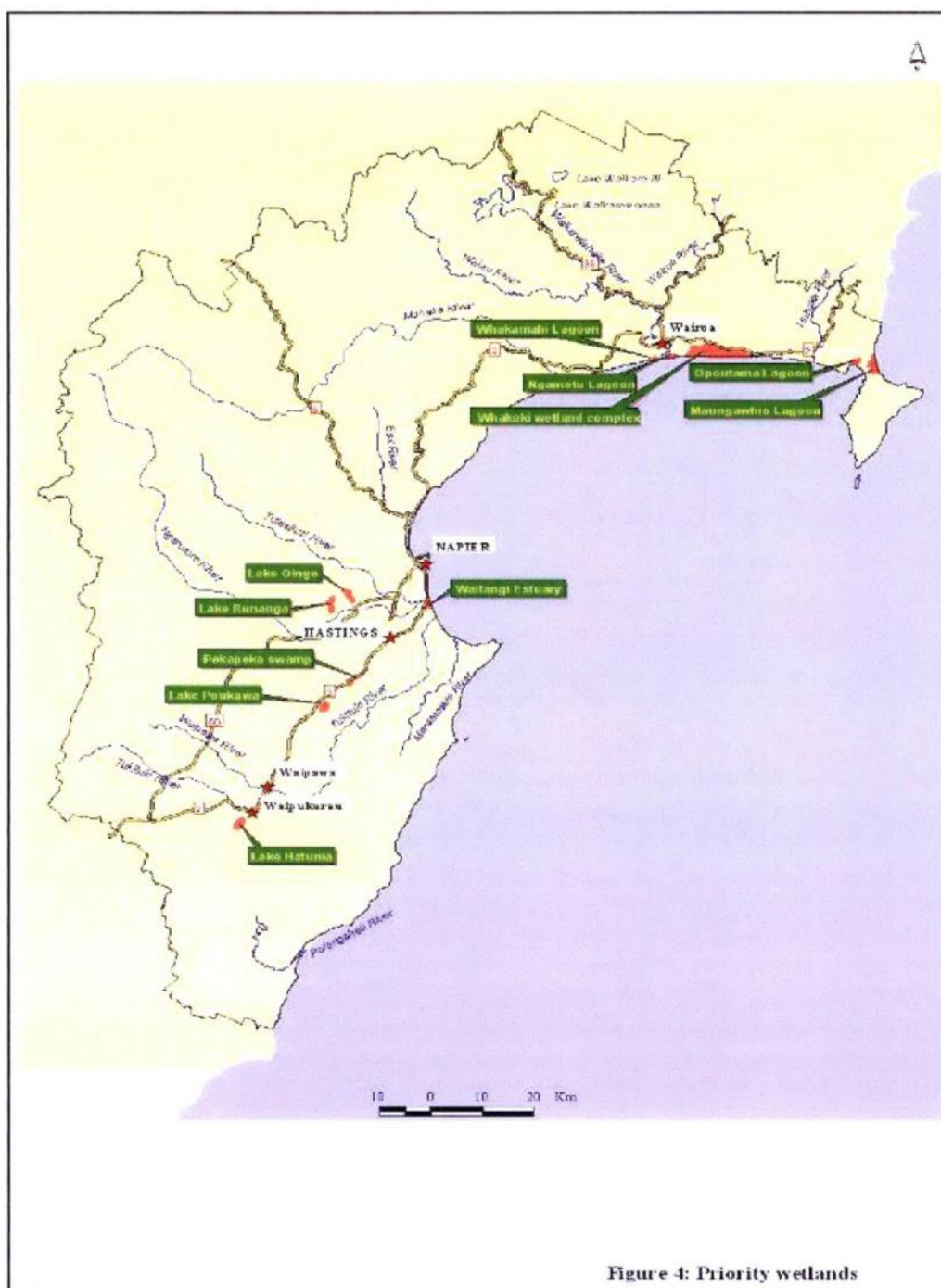
Explanation and Reasons

- 3.4.8 Policy 4 sets out the role of the HBRC in providing financial support, undertaking works and services and liaising with territorial authorities to achieve the preservation and enhancement of the remaining areas of significant indigenous vegetation and wetlands. The HBRC recognises the importance of these remaining significant areas and as a result funding has been established within the Annual Plan for the non-regulatory methods.

⁴ **Priority wetlands** - Note that some of these wetland areas are located within the coastal marine area (and therefore fall under the provisions of the Regional Coastal Plan rather than this Plan). However, the full list of priority wetlands has been included for the sake of completeness.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
An increase in the area of significant indigenous vegetation under covenant	Area of land under protective covenant	Council records
No further loss of ecologically significant wetlands	Extent of wetlands in the region	Council GIS data
Improvements in environmental conditions of priority wetlands	Condition of priority wetlands in the region	Site monitoring



3.5 Effects of Conflicting Land Use Activities

ISSUE

- 3.5.1 The occurrence of off site impacts or nuisance effects, especially odour, smoke, dust, noise, vibrations, agrichemical spray drift and increased traffic, caused by the location of conflicting land use activities.

OBJECTIVES

- OBJ 16** For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.
- OBJ 17** For existing activities (including their expansion), the remedy or mitigation of the extent of off site impacts or nuisance effects arising from the present location of conflicting land use activities.
- OBJ 18** For the expansion of existing activities which are tied operationally to a specific location, the mitigation of off site impacts or nuisance effects arising from the location of conflicting land activities adjacent to, or in the vicinity of, areas required for current or future operational needs.

Explanation and Reasons

- 3.5.2 Where different land uses are located adjacent to each other there is always the potential for conflict. This is particularly the case where, for example, there is residential development adjacent to industrial or rural activities, or the use or disposal of organic material associated with rural activities. The proximity of these land uses to one another can cause conflict, predominantly in relation to odour, smoke, dust, noise and agrichemical spray drift (note that the issue of agrichemical use is discussed more fully in section 3.6).
- 3.5.3 The RMA, through the specification of functions of regional councils and territorial local authorities, has created an overlap in functions which complicates the issue. Section 30 of the RMA sets out regional council functions, including the control of the discharge of contaminants into or onto land, air, or water. Intimately related to this are the section 31 land use functions of territorial local authorities. Section 31 accords these organisations the responsibility of controlling the actual and potential effects of the use, development, or subdivision of land. Given that the effects of the land use activity are controlled by the territorial local authority, and any discharge associated with that activity by the regional council, there is often the situation where responsibility shifts from territorial local authority to regional council in terms of function. The control of the emission of noise and the mitigation of the effects of noise are a function of territorial authorities (except in the Coastal Marine Area). In the Coastal Marine Area this has been transferred to the territorial authorities from the regional council.
- 3.5.4 Coupled with this is the need to recognise that the effects of an activity vary according to its location and the surrounding land use activities, e.g. an orchard may not cause any adverse effects to neighbouring orchards and farms, but may cause adverse effects to neighbouring residential areas. Regional Council staff respond to a large number of complaints related to discharges from activities sited in incompatible locations.
- 3.5.5 It is important that local authorities work together to resolve present issues and to ensure that predicaments surrounding conflicting land use activities do not arise from inappropriate planning decisions. This can be most efficiently and effectively achieved through the District Plan development process through techniques involving regulation such as zoning and buffering or the use of separation distances; or the use of non-regulatory methods such as information provision about the potential nuisances likely to arise.
- 3.5.6 Of particular concern to industries and rural businesses are complaints about existing activities made by new neighbours. The viability of existing business activities may be threatened as a result of effects which were not perceived as a problem when the activities were first established. Commonly this occurs when rural lifestyle subdivisions are allowed in traditional farming areas. Odours, noise, agrichemical and fertiliser applications, and dust may be considered to be incompatible with the new adjacent activity. Similar situations arise when residential areas encroach onto industrial areas.
- 3.5.6A Similar concerns are held by the regions infrastructure providers, given that some types of infrastructure can, by their very nature, produce adverse effects which are considered unacceptable by existing activities and the community. For example, infrastructure can cause emissions or vibrations which go beyond the boundaries of the site; or activities associated with the land use may create adverse effects on nearby land, such increased traffic or noise.
- 3.5.6B Such effects need to be planned and managed in an effective manner to ensure established infrastructure is not compromised by the location of sensitive activities nearby, and that existing land uses are not adversely affected by the use and development of new infrastructure.
- 3.5.7 These issues form the justification for management on the basis of "reverse sensitivity". The Environment Court has defined the term "reverse sensitivity" as the effects of the existence of sensitive activities on other activities in their vicinity, particularly by leading to restraints in the carrying on of those activities. The crux of this principle is that where an existing activity produces a situation that a

new activity would likely regard as noxious, dangerous, offensive or objectionable, then the new activity should not be sited next to the existing one. Alternatively, safeguards should be put in place to ensure that the new activity does not curtail the existing one.

- 3.5.8 The principle of reverse sensitivity is receiving increasing recognition in RMA case law, e.g. *McQueen v Waikato District Council* (A045/94), *Auckland Regional Council v Auckland City Council* (A10/97), *RDM Consultants Limited v Manawatu Wanganui Regional Council* (W91/98), and *Coeur Gold NZ and Others v Waikato Regional Council* (A97/98).

POLICIES

POL 5 ROLE OF NON-REGULATORY METHODS

- 3.5.9 To use non-regulatory methods as set out in Chapter 4, in particular **liaison with territorial authorities**, as the primary means of preventing or resolving problems arising from incompatible land use activities and implementing the problem-solving approaches set out below.

Explanation and Reasons

- 3.5.10 Policy 5 recognises that while the issues that arise (e.g. dust, smoke and odour nuisance) are controlled by the HBRC, the conflict between incompatible land uses has generally arisen as a result of past land use planning decisions, and a legal inability to consider the likely effects of conflicting land uses. This policy recognises the need for a collaborative approach as the primary means of preventing and resolving problems that arise from incompatible land uses.

POL 6 PROBLEM-SOLVING APPROACH – FUTURE LAND USE CONFLICTS

- 3.5.11 To recognise that the future establishment of potentially conflicting land use activities adjacent to, or within the vicinity of each other is appropriate provided no existing land use activity (which adopts the best practicable option or is otherwise environmentally sound⁵) is restricted or compromised. This will be primarily achieved through liaison with territorial authorities and the use of mechanisms available to territorial authorities, which recognise and protect the ongoing functioning and operation of those existing activities.

Explanation and Reasons

- 3.5.12 Policy 6 sets out an approach to avoid the existing level of problems arising from incompatible land uses becoming worse as a result of future decisions. In particular, this policy seeks to encompass the notion of "reverse sensitivity", recognising the rights of existing lawfully established activities.

POL 7 PROBLEM-SOLVING APPROACH – EXISTING LAND USE CONFLICTS

- 3.5.13 To adopt the following approach for addressing existing problems arising from conflicting land use activities that are adjacent to, or within the vicinity of each other:
- (a) Recognise existing lawfully established resource use activities that are operated in a manner that adopts the best practicable option, or which is otherwise environmentally sound.
 - (b) The HBRC will place emphasis on holding discussions and providing information as the primary means of conflict resolution.
 - (c) In the event that further action is necessary, the HBRC may adopt a range of methods to seek to address the problem, including one or more of the following:
 - (i) Working with organisations representing resource users, if such organisations exist
 - (ii) Promoting the use of community working groups which bring affected people together in order to discuss the problem
 - (iii) Using an independent facilitator to mediate between disputing parties
 - (iv) Using the services of independent experts to carry out investigations and for Council to use that information to guide resource user/parties in dispute.

⁵ "Environmentally sound activities" are considered to be those which comply with the Environmental Guidelines set out in Chapter 5; any relevant rules of this Plan; any effects-based environmental guidelines, standards or rules of the relevant territorial authority; and any resource consents required for the activity.

Explanation and Reasons

- 3.5.14 Policy 7 sets out the approach to be taken to address existing problems that arise because of incompatible land uses. Again, this policy expressly recognises the rights of existing lawfully established activities that adopt the "best practicable option" or which are otherwise environmentally sound. Notwithstanding the recognition of existing lawfully established activities, the HBRC will endeavour to resolve any issues by facilitating discussions between affected parties.

POL 8 DECISION-MAKING CRITERIA – ODOUR EFFECTS

- 3.5.15 To have regard to the following factors when considering conditions on resource consents where a discharge of odour to air occurs:

- (a) the likely frequency and duration of odour events
- (b) the nature of the odour
- (c) the nature of the local environment where odour may be experienced and the reasonable expectation of amenity within that environment given its zoning
- (d) any antecedent or contributing factors, including climatic or topographical features
- (e) the extent to which lawfully established resource use activities operate in a manner that adopts the best practical option, or which is otherwise environmentally sound.

Explanation and Reasons

- 3.5.16 The issue of odour is one of the more frequent complaints which arises as a result of land use effects conflicts. The HBRC assesses each resource consent application on its circumstances and likewise deals with each complaint on a case by case basis. Policy 8 is intended to give some guidance to HBRC when determining resource consent conditions to take into account such factors as the frequency, intensity, duration, offensiveness and location of the odour event. These factors will also be taken into account in assessing any complaint, and the policy acknowledges the unique set of circumstances of each situation.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Minimisation of conflict of effects between existing activities	Compliance with rules and consent conditions	Compliance monitoring Incident response monitoring
Reduction in adverse effects of incompatible activities on one another	Consideration given to effects in district plans	District Plans HBRC statutory advocacy records
Avoidance or mitigation of effects between future incompatible activities	Compliance with rules and consent conditions Compliance registers	District Plans Regional Plans

3.6 Agrichemical Use

ISSUE

- 3.6.1 The potential adverse effects on human health, property and the environment from agrichemical use.

OBJECTIVE

- OBJ 19 The avoidance of any significant adverse effects on human health, property or the environment from agrichemical use.

Explanation and Reasons

- 3.6.2 Agrichemical use is an issue of considerable concern in the Hawke's Bay region. At present, most primary producers and other organisations such as road and rail authorities, councils and contractors in Hawke's Bay use agrichemicals for plant and animal pest and disease control. Indeed, many primary producers are required to use agrichemicals in accordance with schedules set for export markets. However, problems occur because of conflict between this reliance on chemicals and the concerns of others that may be adversely affected by them. Horticulture is an intensive land use over the Heretaunga Plains, and a major concern to the Council is agrichemical use associated with this activity. Over the year 1998-1999 agrichemical complaints represented 15% of air related incidents in the region.
- 3.6.3 Agrichemicals may adversely affect human health if mismanaged. Effects often take time to manifest themselves and difficulties in undertaking studies to assess health effects mean that the extent of the problem is often unclear. However, this potential for health problems means that particular care is required when agrichemicals are used within close proximity of residential buildings, schools, other areas where people congregate, and public roads. It also indicates the importance of taking a precautionary approach, and notifying people of when agrichemicals are to be used and the levels of risk involved.
- 3.6.4 Agrichemicals may also have other effects if mismanaged. For example, they may affect water quality, sensitive ecosystems and beneficial organisms such as bees and predatory insects. They may also affect the viability of adjacent land uses, particularly organic farming. Organic farming is increasing in the Hawke's Bay region, as the demand for organic produce rises. There is also the potential to create offensive odours when spraying some agrichemicals.
- 3.6.5 People have the right to use agrichemicals safely and responsibly, within legal constraints. Equally, others who may be affected have a right to know what agrichemicals are to be used, or have been used. As there is likely to be a reliance on agrichemicals for some time yet, there is a need to:
- (a) ensure that they are not causing adverse effects on people's health or the environment
 - (b) ensure that they are not being used irresponsibly
 - (c) improve the methods of application, including avoiding excessive or non-target application
 - (d) look for ways of reducing the use of agrichemicals over time where alternatives exist or can be developed, and
 - (e) adequately inform people about agrichemical use.
- 3.6.6 Industry is taking steps towards addressing concerns with agrichemical use. For example, a number of GROWSAFE® training programmes are offered by the New Zealand Agrichemical Education Trust (NZAET) through the Agriculture Industry Training Organisation, and are linked with the National Qualifications framework. These are based on the requirements of the Code of Practice for the Management of Agrichemicals (NZS 8409:2004, NZAET 1999). In addition, Heinz-Wattie Ltd and ENZA operate successful programmes for produce growers, aimed at reducing their reliance on, and use of, agrichemicals.
- 3.6.7 The issue of agrichemical use was thoroughly discussed and addressed during development of the Regional Air Plan (HBRC, 1996). Owing to the relatively recent development of that Plan, and the level of agreement reached on how to manage agrichemical use, this Plan adopts an approach very similar to that contained in the Regional Air Plan.

POLICIES**POL 9 ROLE OF NON-REGULATORY METHODS**

3.6.8 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding adverse effects on human health and the environment from agrichemical use, in particular **education and co-ordination** as follows:

- (a) Advocating to relevant industry and other organisations that, in liaison with the HBRC, they:
 - Provide information and advice to agrichemical users about the safe and responsible use of agrichemicals.
 - Provide general information to the public about agrichemical use in Hawke's Bay, including the types of agrichemicals used, and when, how and why they are used.
- (b) Promoting the safe and responsible use of agrichemicals, including through adherence to the Code of Practice for the Management of Agrichemicals (NZS 8409:2004, NZAET 1999) or other recognised codes of practice.
- (c) Encouraging the use of a decision-making process that takes into account all other practicable alternatives before an agrichemical is used in response to an identified need.
- (d) Promoting the use of suitable mitigation methods to minimise spray drift, such as the planting of shelter belts.

Explanation and Reasons

3.6.9 Policy 9 reflects the importance of ongoing liaison between the HBRC and agrichemical users and the public, so that all parties are working together in managing agrichemical spray drift. It is important for the HBRC to be aware of industry initiatives for the management of agrichemical use, and to discuss its requirements and any public concerns about agrichemical use with the key stakeholders. This policy reflects the Regional Council's belief that the responsibility for educating users and informing the public about agrichemical use also rests with the industries and organisations that represent the users. It also acknowledges the status of the "Code of Practice for the Management of Agrichemicals" as providing valuable information on the use of agrichemicals and the avoidance of spray drift. Policy 9 recognises the importance of educating agrichemical users in other methods that will assist in the reduction of spray drift, such as the planting of shelterbelts.

POL 10 REGULATION – DISCHARGES OF AGRICHEMICALS

3.6.10 To provide for discharges of agrichemicals into air, onto land or into water, in circumstances where the following requirements are met:

- (a) The agrichemicals to be discharged are approved for their intended use.
- (b) The proposed method of application, including the type of spray equipment to be used, the spray volume and droplet size, the direction of spraying and the height of release above the ground, is appropriate for the types of agrichemicals to be used and for the minimisation of spray drift.
- (c) The agrichemical user has appropriate training in respect of agrichemical use.
- (d) The discharge does not cause any adverse effect on human health.
- (e) The discharge does not cause any adverse effects on dwellinghouses, public land, or other areas where people reside or congregate.
- (f) The discharge does not cause any adverse effects on sensitive neighbouring land uses.
- (g) The discharge does not cause any adverse effects on non-target flora and fauna.

- (h) The discharge does not adversely affect the water quality of any water body.
- (i) The discharge does not result in any spray drift being deposited on any roof or other structure used as a catchment for water supply.

Explanation and Reasons

- 3.6.11 Policy 10 sets out the circumstances when the HBRC will provide for the discharge of agrichemicals into the environment. These circumstances are consistent with the matters prescribed in the New Zealand Standard for the Management of Agrichemicals (NZS 8409:2004) and the safe and responsible use of agrichemicals referred to in Policy 9. Policy 10 is a regulation policy and, as such, its purpose is to set out the parameters whereby the discharge of agrichemicals will be permitted (and, consequentially, when it will be regulated).

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Reduction in receipt of legitimate complaints about agrichemical spray drift	Number of complaints received	Council records Incident Monitoring
Minimisation of adverse effects of agrichemical sprays on water bodies, and non-target flora and fauna	Number of complaints received	Council records Incident Monitoring

3.7 Management of Organic Material⁶

ISSUE

- 3.7.1 The actual and potential nuisance and adverse effects on humans, property and the environment due to the poor management and utilisation of organic material derived from primary processing industries.

OBJECTIVE

- OBJ 20 The management and use of organic material derived from industries processing primary products in a manner that does not result in any adverse effects on humans or the environment.

Explanation and Reasons

- 3.6.12 The Hawke's Bay regional economy is based on primary production activities such as pastoral farming, dairying, forestry, horticulture, orcharding, viticulture and fishing. Most of the produce from these activities is then processed in the region, generating organic by-products such as:

- (a) by-products from the fruit and vegetable processing industries
- (b) apex meal, paunch grass, and stock yard waste from the animal processing plants
- (c) grape marc from wineries
- (d) fish waste from fish processors
- (e) bark and sawdust from timber processing plants
- (f) wool scour waste from wool scourers.

(Note that liquid animal effluent that is collected and managed, such as that from dairy, piggery or poultry sheds, is not included in this issue.)

- 3.7.2 The materials listed above can be used for a variety of purposes such as stock feed, soil conditioners, and composting. The alternative to such beneficial use is disposal as waste, onto or into land. To categorise the use of organic material for beneficial purposes it must be clearly shown that the organic material:

- (a) can and will safely be eaten by stock before it becomes indigestible (where material is used as stock feed)
- (b) will not enter waterways
- (c) will result in a nutrient loading onto land that does not exceed the natural uptake by grass or crops, and
- (d) is not contaminated with non-organic material.

- 3.7.3 The HBRC supports the re-use of organic material, rather than the disposal of it into landfills (or any unauthorised site). However, when organic material decomposes it can produce odours, leachate and other contaminants that may affect neighbouring properties and the environment. Therefore the use of this organic material has to be managed in such a way that these effects are minimised. This can involve a number of management practices such as:

- (a) storing material that might generate leachate on an impervious surface to avoid groundwater contamination
- (b) using fresh material for stock feed to prevent decomposition odours being generated
- (c) only feeding out what the stock will eat, to avoid surplus residual material lying in paddocks
- (d) keeping material covered to avoid flies or other pests, and
- (e) storing and using organic material in locations away from adjoining incompatible activities.

⁶ Section 3.7 of the Regional Resource Management Plan applies only to organic material derived from primary processing industries.

POLICIES**POL 11 ROLE OF NON-REGULATORY METHODS**

3.7.4 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding nuisance and adverse effects on humans and the environment from the use of organic matter, in particular:

- (a) **Advocating** that the industrial and trade premises, which generate organic material, promote the use of this material in such a manner that it will avoid adverse effects.
- (b) **Promoting the composting of suitable organic material**, rather than disposal to landfill.
- (c) **Encouragement for self-regulation** – Promote and support self-regulation by resource users, including the preparation and adoption of guidelines and codes of practice by resource user groups.

Explanation and Reasons

3.7.5 Policy 11 aims to encourage industrial and trade premises, which generate organic material, to take an interest in the use and ultimate disposal of their material once it has left their premises. This policy also notes that the HBRC promotes composting of suitable organic material rather than disposal as waste, and advocates education of appropriate uses and management practices.

POL 12 REGULATION – DISCHARGES FROM THE USE OF ORGANIC MATERIAL

3.7.6 To provide for the discharge of contaminants into air, into land or onto land, from the use of organic material, in such a manner that any adverse effects on the environment are avoided or minimised.

3.7.7 The HBRC may request that a management plan is prepared where the circumstances are such that:

- (a) organic material is sourced from industrial or trade premises
- (b) there are residential properties in close proximity to the activity
- (c) large volumes of organic material are being stored and/or used
- (d) the organic material is likely to be malodorous in nature
- (e) nutrient loadings may exceed the natural uptake rate by grass or crops
- (f) the groundwater resource is particularly susceptible to contamination e.g. on the Heretaunga Plains unconfined aquifer, or on highly permeable soils
- (g) when organic material is stored in a position where it can potentially enter a surface water body.

Explanation and Reasons

3.7.8 Policy 12 provides for the regulation of the discharge of contaminants into the air, and into and onto land, as a result of using organic material. This policy recognises that the use of organic material may produce adverse effects on the environment, particularly where the activity is undertaken in close proximity to residential properties, is malodorous or where it has the potential to contaminate water bodies.

POL 13 REGULATION - COMPOSTING

3.7.9 To require a resource consent to be obtained for the discharge of contaminants into air arising from the composting of more than 100 m³ of compost and raw material per industrial or trade premise.

Explanation and Reasons

3.7.10 Policy 13 provides for the regulation of the composting of over 100 m³ of organic material per industrial or trade premise at any one time (see Rule 28), owing to the potentially malodorous nature of this activity. The composting of up to 100 m³ is permitted in accordance with Rule 29 provided the conditions of this rule are met.

POL 14 DECISION-MAKING CRITERIA – SEPARATION DISTANCES

3.7.11 To require the establishment and maintenance of separation distances in relation to the storage, use or disposal of organic material to ensure that:

- (a) there is no direct runoff of leachate into surface water
- (b) there is adequate vertical separation from groundwater, such that the activity is consistent with Objectives 21 and 22, and
- (c) there are no offensive or objectionable odours imposed on neighbouring properties.

Explanation and Reasons

3.7.12 Policy 14 provides guidance to resource consent applicants and decision-makers when assessing activities that store, use or dispose of organic materials. This policy recognises the importance of buffer zones. A buffer zone is a physical separation of the activity from neighbouring properties or resources and may be either a vertical separation or a horizontal separation.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Reduction in adverse effects arising from the use of organic material	Number of complaints received	Council records Incident Monitoring
An increase in composting of organic material	Amount of organic material disposed to landfills	Landfill records

3.8 Groundwater Quality

ISSUE

- 3.8.1 The risk of contamination of groundwater arising from
- (a) horticultural, agricultural and industrial land use practices
 - (b) discharges of contaminants, including the cumulative effects of domestic sewage discharges from unsewered communities
 - (c) spills
- particularly in the Heretaunga Plains and Ruataniwha Plains aquifer systems, and coastal aquifers.

OBJECTIVES

- OBJ 21 No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.
- OBJ 22 The maintenance or enhancement of groundwater quality in unconfined or semi-confined productive aquifers⁷ in order that it is suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of the natural water quality.

Explanation and Reasons

- 3.8.2 Heretaunga Plains
The most significant groundwater resource in Hawke's Bay is the Heretaunga Plains aquifer system. During the past 20 years there has been an intensification of rural land use activities, and expansion of urban areas, on the Heretaunga Plains. In the area of the unconfined aquifer there is the potential for adverse effects on groundwater by infiltration of contaminants such as bacteria, nutrients and chemicals through the highly permeable gravels. The risk of contamination arises from a number of activities, including:
- (a) on-site sewage disposal (particularly septic tanks)
 - (b) the use, transport and storage of hazardous substances, including hydrocarbon fuels and agrichemicals
 - (c) industrial discharges
 - (d) intensive horticultural and agricultural land uses
 - (e) stormwater discharges
 - (f) landfills and offal holes, and
 - (g) mining and quarrying.
- 3.8.3 The groundwater quality in the Heretaunga Plains aquifer system has been investigated and documented in Dravid and Brown (1997). Investigations are continuing. Overall, present groundwater quality is high. Indeed, the quality is such that groundwater is used for domestic supply in Napier and Hastings without treatment. However, as early as 1974 it was recommended that urban development and the storage of hazardous substances be prohibited from the unconfined aquifer area, and that a precautionary approach be taken with respect to future development.
- 3.8.4 The HBRC has been systematically monitoring groundwater quality on an ongoing basis since 1994. The results show:
- (a) Groundwater quality is high, with only minor contamination evident as a result of identifiable sources, notably the Roys Hill landfill and septic tanks, and diffuse nitrate pollution from intensive land use activities.
 - (b) There is a high risk of groundwater contamination from infiltration of contaminants into the unconfined aquifer.

⁷ **Productive aquifers** – For the purposes of this Regional Plan, a "productive aquifer" means an aquifer that has a sufficient quality, quantity and flow of water that it can be used for water supply purposes.

- (c) A number of areas in the shallow unconfined aquifer area have high nitrate contamination (for example, during 2000 groundwater samples collected from a well near Bridge Pa exceeded the drinking water standard for nitrate levels. Council's State of the Environment annual updates may be referenced to identify other affected areas over the life of the Plan).
- (d) The high rate of groundwater flow (up to 1.5 km/y) means that any contamination is rapidly transported through the groundwater system, and therefore dispersed.
- (e) The most likely threat to groundwater quality in shallow confined aquifers is the entry of contaminated water from the unconfined aquifer area.
- (f) Contamination of groundwater in deeper confined aquifers, which have limited hydraulic connection with the unconfined aquifer, is unlikely.

Ruataniwha Plains

- 3.8.5 The Ruataniwha Plains comprise a productive agricultural basin in central Hawke's Bay where more than 60% of all water utilised is derived from groundwater.
- 3.8.6 Most groundwater is extracted at a relatively shallow depth (less than about 70 metres) with the greatest density of bores located near Ongaonga, the Waipawa River, and between Takapau and Maharaakeke. Nearly all groundwater originates from a number of highly mixed (heterogeneous) alluvial aquifers. Underlying these aquifers is a layer of mudstone, sandstone and limestone at a depth of about 150 metres.
- 3.8.7 A number of unconfined and confined aquifers have been identified within the Ruataniwha Plains. About 25% of all groundwater extracted from within the Ruataniwha Plains is derived from the unconfined Central Plains Aquifer. This aquifer lies within the east central portion of the plains and consists of clean sands and gravels with minor silt-bound layers. The aquifer is up to about 25 metres thick.
- 3.8.8 In general, the quality of groundwater within the Ruataniwha Plains alluvial aquifers is high. This quality is predominately in response to clean surface water recharging the alluvial aquifer system.
- 3.8.9 The issues relating to the quality of the Ruataniwha Plains groundwater resource can be summarised as follows:
- (a) Recharge to the deeper confined aquifer is believed to occur from within the Ruahine Ranges, whereas the Recent Terrace and Old Terrace Aquifers are recharged from rivers and streams of the Plains.
 - (b) Unconfined aquifers are vulnerable to contamination.
 - (c) Chief sources of contamination are attributed to agriculture and meat processing industries. Specific sources of contamination include land disposal of wastes, sewage disposal via septic tanks, irrigation, pesticide application, fertiliser application and animal feeding operations.
 - (d) Groundwater contamination of deeper confined aquifers appears unlikely.
- 3.8.10 Unsewered communities
Over recent years the cumulative effects of septic tank discharges from unsewered settlements have created potential health risks. Contamination of groundwater from septic tank discharges occurs not only in the main aquifer systems, but also in coastal settlements. Discussions between the HBRC, territorial authorities, and the community health authority have signalled the need to specifically target problems arising from domestic sewage discharges in these areas.

POLICIES

POL 15 ROLE OF NON-REGULATORY METHODS

- 3.8.11 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding adverse effects on groundwater quality, including:
- (a) **Liaison with territorial authorities - future development** - Advocating that any future urban residential or urban industrial development in areas of high groundwater contamination vulnerability (particularly within the Heretaunga Plains unconfined aquifer system as shown in Schedule Va) should include reticulated water, sewerage and stormwater systems.
 - (b) **Liaison with territorial authorities – existing on-site sewage problems** – Where existing on-site sewage treatment systems are found to cause degradation of groundwater quality, advocating the introduction of community reticulation and treatment systems as the preferred means of addressing the problem.

- (c) **Liaison with territorial authorities – provision of services** – Advocating that when considering water supply reticulation in small communities, the ability of existing wastewater disposal systems to cope with the increased loadings that will result be taken into account and the need for a reticulated sewerage system to be introduced to be considered.
- (d) **Liaison with territorial authorities – connection to services** – Advocating that where a reticulated sewerage system is readily available, to require future development to connect to it.
- (e) **Liaison with territorial authorities – contaminated sites** - Providing information to territorial authorities regarding sites within their respective area that have been confirmed as being contaminated and advocating that land use activities on such sites be managed appropriately for environmental and health reasons.
- (f) **Education and co-ordination** - Providing education and information regarding sound land use and waste management practices.
- (g) **Encouragement for self-regulation** – Promote and support self-regulation by resource users, including the preparation and adoption of guidelines and codes of practice by resource user groups.

Explanation and Reasons

- 3.8.12 Policy 15 recognises the effects of urban and industrial development, and on-site sewage disposal, on the quality of groundwater in those areas of high contamination vulnerability. This policy seeks to ensure that, where appropriate, future developments are provided with reticulated water, sewerage and stormwater systems, and existing problems are remedied. Policy 15 also recognises the importance of informing landowners and occupiers that some land use activities can adversely affect groundwater quality.

POL 16 REGULATION – DISCHARGES OVER HERETAUNGA PLAINS AND RUATANIWHA PLAINS AQUIFER SYSTEMS

- 3.8.13 To regulate the following activities involving the discharges of contaminants onto or into land over the Heretaunga Plains unconfined aquifer area (as shown in Schedule Va) or Ruataniwha Plains unconfined aquifer area (as shown in Schedule IV) at a rate that may cause contamination of the aquifer systems:
- the storage of stock feed
 - the use of compost, biosolids, and other soil conditioners
 - animal effluent discharge
 - management of solid waste
 - existing domestic sewage disposal systems
 - new domestic sewage disposal systems
 - stormwater discharges
 - discharges to land that may enter water.

Explanation and Reasons

- 3.8.14 Policy 16 provides for the regulation of activities over the Heretaunga Plains and Ruataniwha Plains unconfined aquifers, owing to the very high value of this groundwater and the risk of groundwater contamination. Discharges to land in areas other than the Heretaunga Plains and Ruataniwha Plains unconfined aquifers are permitted in the Plan, subject to compliance with relevant standards/conditions/terms.

POL 17 DECISION-MAKING CRITERIA – ACTIVITIES AFFECTING GROUNDWATER QUALITY

- 3.8.15 To manage the effects of activities that may affect the quality of groundwater in accordance with the following approach:
- (a) To ensure that all activities, particularly discharges of contaminants onto or into land, comply with the environmental guidelines for groundwater quality, and the associated implementation approach, set out in Policies 75 and 76.
 - (b) To encourage discharges of contaminants onto or into land where these are likely to have less adverse effect than discharges into water.

- (c) To consider the effects of the taking of groundwater on the quality of groundwater, including the potential for salt water intrusion.
- (d) To prevent or minimise spills or other breaches of resource consent conditions causing contamination of groundwater, particularly in those areas of high contamination vulnerability for the Heretaunga Plains aquifer system as shown in the DRASTIC map in Schedule V, by requiring the preparation and implementation of site management plans and spill contingency measures for relevant activities.
- (e) To disallow any discharge activity which presents a significant risk of groundwater contamination in those areas of high contamination vulnerability for the Heretaunga Plains aquifer system as shown in the DRASTIC map in Schedule V.

Explanation and Reasons

- 3.8.16 Policy 17 sets out the overall approach for the management of all activities which may adversely affect groundwater quality.

POL 18 DECISION-MAKING CRITERIA – ON-SITE SEWAGE DISCHARGES

(a) Discharges over the Heretaunga Plains Unconfined Aquifer

- 3.8.17 For consent applications for on-site sewage discharges over the Heretaunga Plains unconfined aquifer area, to require a treatment and disposal system that meets the following criteria:

- (i) A filtration system which reduces the level of suspended solids to a maximum of 10 g/m³.
- (ii) A land application method which achieves even distribution over the entire field.
- (iii) For discharges of greater than 2 m³/d and/or irregular use, a land application method which has been demonstrated to function with the required discharge volume and/or irregular loading.

- 3.8.18 For any systems existing at the date of public notification of this Plan which are unable to meet the conditions set out in the rules, compliance with the conditions must be achieved within five years of this Plan provision becoming operative, or this particular provision being beyond legal challenge.

(b) Discharges in areas with a high water table

- 3.8.19 For consent applications for on-site sewage discharges where the water table is likely to be within 600 mm of the point of discharge at any time, to require a level of treatment and disposal at the point of discharge such that the effluent meets the following criteria:

- (i) A treatment system which reduces the level of faecal coliform bacteria to a maximum of 1000 cfu/100 mls.
- (ii) Where the groundwater is used as a potable water supply, a treatment system which reduces the level of nitrate-nitrogen to a maximum of 30 g/m³.
- (iii) A land application method which achieves both an even distribution and provides at least 450 mm of soil adsorption and absorption processes over the entire field.

- 3.8.20 For any systems existing at the date of public notification of this Plan which are unable to meet the conditions set out in the rules, compliance with the conditions must be achieved within five years of this Plan provision becoming operative, or this particular provision being beyond legal challenge.

(c) Use of low maintenance systems

- 3.8.21 To generally encourage the use of low maintenance on-site sewage disposal systems using physical methods of treatment in combination with shallow land application fields achieving even distribution.

(d) Connections to reticulated systems

- (i) To require any existing on-site sewage discharge which fails to meet the conditions specified in any rule for existing effluent disposal systems to discharge into a reticulation system in the following situations:
 - where the building from which the discharge occurs is connected to a public water supply, or
 - where the property on which the discharge is occurring is zoned for residential activity in an operative District Plan, and
 - a community reticulated sewerage scheme is available.
- (ii) To require any new sewage discharge from a property which is zoned for residential activity to be serviced by a community reticulated sewerage scheme, provided a community scheme is available or can economically be made available, unless it can be demonstrated that individual on-site disposal is the best practicable option.

(e) Sewage disposal by long-drop method

- 3.8.22 For on-site sewage discharges using the long-drop method of disposal, to allow these only where the soil infiltration rate is low, groundwater quality will not be affected, and the discharge is of a short-term or temporary nature.

(f) Assessment of treatment and land application methods

- 3.8.23 To use the flow chart set out as Figure 6 (in Section 6.6.4) of this Plan as a general guide for assessing the types of treatment and land application methods that may be acceptable for minor discharges that may be permitted under Rules 35 and 37.

Explanation and Reasons

- 3.8.24 Policy 18 sets out additional decision-making criteria specifically in relation to on-site sewage disposal, which establish performance standards that must be met. While the use of on-site systems is preferable to discharging such contaminants directly to surface water, such use may nevertheless result in adverse effects on ground and surface water quality if the treatment systems are not designed or operated properly.
- 3.8.25 In areas where public sewerage systems are available the HBRC advocates connection of properties to those systems to avoid the cumulative adverse effects of wastewater discharges. The policy recognises that land zoned for residential use should not be developed until it is serviced by a community sewerage scheme as opposed to individual on-site systems on small sized properties. Community sewerage schemes may include those provided by the territorial local authority or a communal system set up to cater for a residential subdivision. However, there may be circumstances where a residential property is of sufficient size that deferring development until a connection to a community reticulation scheme becomes available is not warranted. In addition, there may also be circumstances in the region where residential growth is limited so that on-site systems may be able to provide the necessary environmental protection.

POL 19 DECISION-MAKING CRITERIA – EFFECTS OF FRESHWATER PASTURE IRRIGATION ON AGRICULTURAL EFFLUENT DISPOSAL AREAS

- 3.8.26 To minimise the leaching of nutrients to groundwater by ensuring that the combined hydraulic loading rates from agricultural effluent disposal and freshwater pasture irrigation do not exceed the capacity of the soil.

Explanation and Reasons

- 3.8.27 The effect of pasture irrigation can be managed through the resource consent process. Policy 19 indicates HBRC's preferred approach to managing this effect as part of the integrated management of the agricultural effluent disposal process. For the purposes of this policy the capacity of the soil encompasses the soil moisture holding capacity, the infiltration rate and the nutrient absorbing capacity of the pasture.

POL 20 DECISION-MAKING CRITERIA – AGRICULTURAL EFFLUENT DISCHARGES IN SENSITIVE CATCHMENTS

3.8.28 To manage the effects of discharges of agricultural effluent, particularly dairy shed effluent, onto land in sensitive catchments as shown in Schedule VIb in a manner that is in accordance with the objectives and policies of this Plan, and which:

- (a) Takes into account the cumulative effects of the discharges, from all agricultural activity carried out on the same land, by requiring the provision with any resource consent application of a total farm balance of the nutrient inputs, transfers and outputs which demonstrates that the nitrogen leaching potential is minimised.
- (b) Integrates the management of other activities which may have an impact on the effects of the agricultural effluent discharge.

Explanation and Reasons

3.8.29 Policy 20 sets out additional decision-making criteria for discharges of agricultural effluent onto land. This policy recognises the need for integrated management of agricultural effluent in a manner that takes into account not only the effects of the discharge, but also the effects of other activities such as pasture irrigation, stock feeding, and stocking densities.

3.8.30 The policy recognises also that while leaching of nitrogen through the soil to shallow groundwater is not a significant issue in many areas, there are a number of highly sensitive catchments within the region, for which even minor changes in nitrate levels may impact significantly on the state of the resource.

POL 21 DECISION-MAKING CRITERIA - BORE CONSTRUCTION

3.8.31 To ensure that bores are drilled, constructed and maintained in a manner which avoids any contamination or cross-contamination of groundwater aquifers, and which does not allow any seepage or backflow of contaminants into groundwater.

Explanation and Reasons

3.8.32 Policy 21 sets out additional decision-making criteria for bore construction, addressing the need to avoid aquifer cross-contamination, and the ingress of contaminants down the bore.

POL 22 DECISION-MAKING CRITERIA – RISK ASSESSMENT OF CONTAMINATED SITES

- (a) When assessing the risks to environmental and public health through the effects of contaminated sites on groundwater quality the following factors shall be taken into account:
 - (i) the level of contamination in soil and water at the site and the characteristics of the contaminants, such as their mobility
 - (ii) any numerical standards provided by relevant national guidelines
 - (iii) in the absence of relevant national guidelines, numerical standards determined in other internationally recognised guidelines
 - (iv) the current or proposed land use and any restrictions on future land uses of the site
 - (v) the proximity of the site to sensitive ecosystems and the sensitivity of those ecosystems to the contaminants
 - (vi) the possible exposure pathways
 - (vii) the degree and nature of the discharges from the site

(viii) the geological nature and history of the site.

- (b) Remediation and/or containment of any existing contaminated site will be required to ensure that the final level of contamination is appropriate for the current, proposed or any permitted use of that land.

Explanation and Reasons

- 3.8.33 Policy 22 sets out additional decision-making criteria for assessing the risk of existing contaminated sites. Any discharges occurring from existing contaminated sites will be controlled through the resource consent process by the HBRC. Where there are no discharges from the site, the territorial authority will address the actual and potential adverse effects of soil contamination through its environmental and public health responsibilities, with assistance from HBRC in terms of information provision.

ANTICIPATED ENVIRONMENTAL RESULT

Anticipated Environmental Result	Indicator	Data Source
No degradation of existing groundwater quality in confined productive aquifers	Nitrate levels Pesticides and herbicides	Ministry of Health Council monitoring

3.9 Groundwater Quantity

ISSUE

- 3.9.1 The significant adverse effects of groundwater takes on the overall groundwater and surface water resource and existing groundwater users.

OBJECTIVES

- OBJ 23** The avoidance of any significant adverse effects of water takes on the long-term quantity of groundwater in aquifers and on surface water resources.
- OBJ 24** The avoidance or remedy of any significant adverse effects of water takes on the operation of existing lawful efficient groundwater takes⁸.

Explanation and Reasons

- 3.9.2 Groundwater is a critical resource in Hawke's Bay. Groundwater is the main source of water for Napier, Hastings and the Heretaunga Plains, as well as areas of the Ruataniwha Plains in Central Hawke's Bay. Plentiful supplies of good quality groundwater are therefore essential to sustain irrigation, industrial and domestic water supplies in the region.
- 3.9.3 The Heretaunga Plains aquifer system is the most important groundwater resource in Hawke's Bay. Studies to date have concluded that the overall rate of groundwater abstraction does not exceed the rate of recharge (Dravid and Brown, 1997). Recharge to the main aquifer system is from the Ngaruroro and Tutaekuri Rivers, and direct infiltration of rainfall on the unconfined aquifer. At the time of writing this Plan, the annual volume of water abstracted from the main aquifer system was estimated to be between 60 and 70 million cubic metres, with much more water used during summer than winter (as a result of irrigation). On the basis of existing information the present abstraction rate appears sustainable. Overall piezometric pressures in the confined aquifer have not shown any decline in recent decades, although levels in the unconfined aquifer may have declined slightly over the past 20 years in accordance with climatic trends.
- 3.9.4 However, groundwater use is likely to rise in future, particularly during summer. The main effects of this are likely to be:
- (a) An increase in the amplitude of seasonal fluctuations in aquifer levels, in particular lowering groundwater levels during summer and autumn periods.
 - (b) Greater conflict between groundwater users, where the pumping from one bore lowers groundwater levels in adjacent bores, and
 - (c) A possible reduction in spring flows (i.e. less groundwater would emerge as springs) and consequential potential reduction in water quantities within wetlands, rivers and lakes.
- 3.9.5 The aquifer system largely adjusts through a re-equilibration, rather than a significant, permanent lowering of groundwater levels. Indeed, the groundwater system has adjusted in this way to accommodate past increases in groundwater use. Groundwater level data suggest that the range of seasonal fluctuations in the unconfined aquifer has increased from about 1 m in 1975 to about 2-2.5 m in 1995. Groundwater use is estimated to have increased by 150% in that time. However, the range of seasonal fluctuations in the confined aquifer has not changed as markedly over this time (Dravid and Brown, 1997).
- 3.9.6 While the availability of groundwater is sufficient at present in the main aquifer system, problems are apparent in fringe areas. In the southern and eastern margins of the main aquifer system the availability of groundwater is restricted by a combination of factors: the thinness of aquifers, the variable permeability of aquifers, and the limited hydraulic connection to main recharge channels. As a consequence, seasonal fluctuations in groundwater levels in these areas are in the order of 3 to 5 m (Dravid and Brown, 1997). In recent years, a large number of wells have been drilled along the southern margin of the Heretaunga Plains due to land subdivision and increased need for irrigation water supply. Many old domestic and stock water supply wells along this margin are relatively shallow, and can dry up during summer.
- 3.9.7 Demand for groundwater from the Ruataniwha Plains aquifer system is increasing, particularly as a result of increasing dairying and process cropping in this area. Less is known about the available groundwater resources in this area.

⁸ For the purposes of this Plan "efficient taking" of groundwater means abstraction by a bore which penetrates the aquifer from which water is being drawn at a depth sufficient to enable water to be drawn all year (i.e. the bore depth is below the range of seasonal fluctuations in groundwater level), with the bore being adequately maintained, of sufficient diameter and is screened to minimise drawdown, with a pump capable of drawing water from the base of the bore to the land surface.

POLICIES**POL 23 ROLE OF NON-REGULATORY METHODS**

- 3.9.8 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding significant adverse effects arising from groundwater takes, in particular:
- (a) **Education and co-ordination** for encouraging efficient use of water, and avoiding wastage of water. Efficient use of water for irrigation purposes will be encouraged by promoting best irrigation management practices that:
 - prevent excessive application or drainage
 - prevent conveyance losses
 - accurately schedule irrigation, and
 - minimise evaporation loss.
 - (b) **Advocacy with territorial authorities** – Advocating to territorial authorities that, prior to allowing land use activities or subdivisions by way of district plan provisions or the granting of resource consents, they require the assessment of water supply availability from groundwater particularly where the land is located near the fringes of groundwater aquifers, or where aquifers are small in size.
 - (c) **Research and investigation** – Subject to funding and technical practicalities the HBRC will undertake investigations into individual water management zones, and any other areas identified as potential water management zones; and to supplement the information gained from water measuring devices in order to recommend the preferred management approach. Any such investigations will include the collation of existing data obtained through resource consent applications and the identification of additional data requirements.

Explanation and Reasons

- 3.9.9 Policy 23 sets out the role of the HBRC in educating resource users about efficient use of groundwater. It also establishes the importance of territorial authorities considering water availability before allowing land use activities, in particular subdivisions, to establish. The HBRC, with primary responsibility for managing the use of groundwater will provide on-going investigations into the water management zones. In addition it is envisaged that a series of research meters will be used by Council to supplement the information derived from the analysis of data from water measuring devices.

POL 24 REGULATION – WATER ALLOCATION

- 3.9.10 To manage the taking of groundwater where the adverse effects of that take may be more than minor, and to manage the cumulative adverse effects of small takes where there is concern that demand may put pressure on the groundwater resource.

Explanation and Reasons

- 3.9.11 Policy 24 does not restrict the abstraction of any water taken for an individual's reasonable domestic needs, nor for stock watering provided such taking does not have adverse effects on the environment, in which case a resource consent will be required. The policy does not restrict the taking and use of water for fire fighting purposes.

POL 25 REGULATION - TRANSFER OF WATER PERMITS

3.9.12 To allow the transferring of water permits between sites within the same aquifer, where the environmental effects of the transfer are minor and where the transfer:

- (a) Will not cause any significant interference with existing lawful takes that make efficient use of the resource.
- (b) Is to a location at which the aquifer has the same or greater aquifer transmissivity and storage characteristics, and
- (c) Will not cause any adverse effects on springs or other surface water resources.

Explanation and Reasons

3.9.13 The transfer of water permits enables greater flexibility and efficiency in managing and allocating water resources, and can be an effective way of ensuring water is used where it is most needed. The principal advantage of transferable water permits is that the allocations are not wasted by a permit holder keeping an allocation but not using it, while another user is forced to apply for a new permit.

POL 26 DECISION-MAKING CRITERIA – LOCATION OF NEW BORES

3.9.14 To ensure that new bores are located in a position that minimises any interference effects on existing lawful efficient users and HBRC monitoring bores, taking into account:

- (a) The proposed aquifer the new bore is to be completed in.
- (b) The characteristics of the aquifer (such as transmissivity and storativity) which influence the amount and extent of drawdown that may occur as a result of pumping from the proposed bore.
- (c) The depth and purpose of the new bore in relation to existing bores.

Explanation and Reasons

3.9.15 Policy 26 aims to minimise, if not prevent, interference with existing lawful efficient uses. The amount and extent of the lowering of the groundwater levels is determined by how fast the water is able to move through the aquifer (the transmissivity), how much water is held within the aquifer (storativity) and how fast the water is to be pumped out of the bore. Consideration needs to be given to these effects at the time the bore is to be drilled. HBRC is also seeking to protect the integrity of its monitoring bores so that groundwater level records are not unnecessarily compromised by interference effects.

POL 27 DECISION-MAKING CRITERIA – WELL AND BORE CONSTRUCTION

3.9.16 To encourage the maximisation of well efficiency of water supply wells by managing the following features of well construction:

- depth of well
- well diameter
- screen slot size
- screen length, depth and diameter
- well efficiency.

Explanation and Reasons

3.9.17 Well construction and subsequent well maintenance affects water yield. The management of well construction will assist in the sustainable management of the groundwater resource. Through HBRC knowledge of the hydrogeology of a particular geographic area optimal well depth and construction characteristics may be imparted as either technical advice or as a condition on a consent.

POL 28 DECISION-MAKING CRITERIA – EFFECTS ON EXISTING USERS

- 3.9.18 To require applicants to avoid, remedy or mitigate any significant interference of new takes of groundwater on existing lawfully established efficient groundwater takes, including existing efficient takes and uses of groundwater for an individual's reasonable domestic needs⁹ or the reasonable needs of an individual's animals for drinking water or takes for firefighting.

Explanation and Reasons

- 3.9.19 Policy 28 establishes an approach for recognising the rights of existing groundwater users. This policy will only be implemented at the time a resource consent application to take groundwater is made and does not apply retrospectively to any existing consent.

POL 29 DECISION-MAKING CRITERIA – AQUIFER DEWATERING & SALT WATER INTRUSION

- 3.9.20 To avoid any significant long-term reduction in the groundwater level or piezometric pressure in aquifers, and any landward movement of the seawater/groundwater interface, as a result of groundwater takes.

Explanation and Reasons

- 3.9.21 Policy 29 recognises the importance of avoiding a long-term lowering of groundwater levels, and saltwater intrusion in aquifers near the coastal margin.

POL 30 DECISION-MAKING CRITERIA – MEASUREMENT OF GROUNDWATER ABSTRACTION

- 3.9.22 As a means of assessing compliance with the allocated amount of water, to require the measurement of the amount of water abstracted as a condition of resource consent for the abstraction of groundwater in the following situations:

- (a) All consents for new takes will be required to measure the actual amount of water where the allocation exceeds 2,500 m³/week.
- (b) Upon renewal of a consent for an existing water take, the consent holder will be required to measure the actual amount of water abstracted where the allocation exceeds 5000 m³/week, but in any event will be granted a minimum lead-in time of three years from the date this Plan becomes operative, or this particular provision is beyond legal challenge.
- (c) Where the potential effects of the abstraction include significant interference on other groundwater users within the vicinity, which were identified before that consent was granted, or where there is insufficient information on the source of abstraction to ensure that cumulative effects are addressed.
- (d) Where the water is taken for industrial purposes and provides an indication of the rate of wastewater discharge a water meter is required.

- 3.9.23 The following criteria shall apply to the measurement of abstracted groundwater:

- (a) The method of measurement shall measure the water taken to an accuracy of within plus or minus five per cent; and shall be capable of displaying the amount of water abstracted in units no greater than one cubic metre to enable appropriate records to be kept.
- (b) The method of measurement shall be capable of providing an instantaneous rate of abstraction when abstraction is occurring (this would be met by being able to time a known quantity of water passing through the measuring device).

⁹ "Reasonable domestic needs" refers to needs associated with occupation of a dwellinghouse. With respect to the taking and use of water for an individual's reasonable domestic needs, as a guideline this should involve the taking and use of up to 15 m³ over any 7 day period per dwellinghouse.

- (c) Any measurement of the water being abstracted must be capable of having the accuracy assessed, or method certified, by the supplier at the time of installation or commencement of use and evidence of this shall be submitted to the Council prior to the first abstraction.

3.9.24 The consent holder or applicant must satisfy the Council that the above criteria can be met through the proposed method of measurement. If this cannot be demonstrated the Council will require the installation of a water meter in order to meet the requirements of this policy.

Any costs of determination of criteria will be borne by the consent holder.

3.9.25 Conditions imposed on resource consents will specify the information to be recorded, the frequency of recording and of submitting that information to the Council, and the frequency of accuracy checks. These frequencies will be no more than can be justified for groundwater management purposes.

Explanation and Reasons

3.9.26 Policy 30 establishes the circumstances under which consent holders will be required to measure the amount of groundwater taken in the exercising of a consent. While the preferred means of compliance is by way of a water meter the policy is designed to allow for flexibility of means of measurement in accordance with the set criteria. However the policy also clearly sets out the criteria for the measurement of water abstraction.

3.9.27 In addition to ensuring compliance with resource consents the measurement of groundwater abstraction provides information to assist in the overall management of the groundwater resource. It will increase HBRC's ability to manage the groundwater resource by identifying to both HBRC and the consent holder the level of compliance with the consented take amount. In turn, this will give HBRC a clearer picture of the actual level of abstraction and the impact of abstractions on long-term resource trends. The measurement of water abstraction will not be used as a basis for the charging of water and the HBRC does not have the legal ability to charge for water.

3.9.28 As a general guide only 2,500 m³/week will meet the water requirements of 8 ha of pasture, 11 ha of grapes or stone fruit, 9 ha of apples and 6.5 ha of processed crops. Actual water requirements also depend on location and soil type.

POL 31 DECISION-MAKING CRITERIA - WELL HEAD CONSTRUCTION

3.9.29 To ensure that well head construction on new bores (other than for domestic or stock water supply) provides for the installation of a water measuring device, and/or a backflow prevention device, where necessary.

Explanation and Reasons

3.9.30 Policy 31 aims to minimise the costs of installing a water measuring device by encouraging installation at the time of well head construction.

POL 32 TECHNICAL PROCEDURE - IRRIGATION TAKES

3.9.31 To allocate groundwater for irrigation purposes on the basis of actual crop water requirements up to a maximum equal to that required during a one in ten year drought. The allocation assessment will take into account information on crop type, rainfall, potential evapotranspiration rates, and best irrigation management practices. The allocation assessment may also have regard to soil type and soil moisture capacity.

Explanation and Reasons

3.9.32 Policy 32 sets out the technical procedure that the HBRC will use for the allocation of groundwater for irrigation purposes. In essence, the HBRC will allocate groundwater based on crop water requirements during a specific probability of rainfall, adjusted according to local data for rainfall and evapotranspiration rates. For planning purposes it is necessary to establish a level of risk. A 10% risk that actual water needs will exceed the authorised volume in any year (i.e. 1:10 year return period) is reasonable. The one in ten year level of risk means that the groundwater allocated will meet crop water requirements for a one in ten year drought and will exceed the crop requirements in the other nine years on average. The policy notes that the water will also be allocated on the basis of best irrigation management practices, rather than, for example, the amount of water required for an inefficient irrigation system.

POL 33 TECHNICAL PROCEDURES - GROUNDWATER TAKES WITHIN THE VICINITY OF SURFACE WATER BODIES

3.9.33 To manage the effects of groundwater takes from unconfined or semi-confined aquifers on nearby surface water bodies in the following manner:

- (a) Any taking of shallow groundwater within 400 m of a river, lake or wetland as measured from the edge of the bed will be treated as if it were a direct take unless the extent to which the groundwater will deplete water in the surface water body has been assessed using an appropriate scientific procedure in which case the effects on surface water will be assessed on that basis.
- (b) Any taking of shallow groundwater beyond 400 m may require an assessment of effects in the river, lake or wetland if the scale of the take, the groundwater flow direction, and the transmissivity and storativity characteristics of the aquifer indicate interaction is likely to occur; in which case it may be treated as if it were a direct take.

Explanation and Reasons

3.9.34 Policy 33 sets out the technical procedure for managing groundwater takes within the vicinity of surface water bodies, recognising that these takes can adversely affect the amount of water in the surface water body. The selected procedure must involve consideration of factors such as the proposed rate, location and depth of the groundwater take, the connection between the aquifer with the surface water body, the groundwater flow direction relative to the surface water body, and the transmission and storage characteristics of the aquifer. The consequence of identification as a direct surface water take is that the groundwater take may also be subject to cut-off when the surface water body meets its recognised minimum flow.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Availability of groundwater for domestic, industrial and primary uses without it being taken at a rate that depletes the resource beyond a sustainable level	Aquifer levels	Council monitoring of groundwater sites
Avoidance of localised interference with other users and of salt water intrusion into groundwater	Number of complaints	Complaints register
Avoidance of adverse effects on surface water bodies	Flow levels in surface water bodies	Minimum flow monitoring

3.10 Surface Water Resources

ISSUE

3.10.1 The potential degradation of the values and uses of rivers, lakes and wetlands in Hawke's Bay as a result of:

- (a) The taking, use, damming and diversion of water, which may adversely affect aquatic ecosystems and existing lawfully established resource users, especially during droughts.
- (b) Non-point source discharges and stock access, which cause contamination of rivers, lakes and wetlands, and degrade their margins.
- (c) Point source discharges which cause contamination of rivers, lakes and wetlands.

OBJECTIVES - SURFACE WATER QUANTITY

OBJ 25 The maintenance of the water quantity of the rivers and lakes in order that it is suitable for sustaining aquatic ecosystems in catchments as a whole and ensuring resource availability for a variety of purposes across the region, while recognising the impact caused by climatic fluctuations in Hawke's Bay.

OBJ 26 The avoidance of any significant adverse effects of water takes, uses, damming or diversion on lawfully established activities in surface water bodies.

OBJECTIVE - SURFACE WATER QUALITY

OBJ 27 The maintenance or enhancement of the water quality of rivers, lakes and wetlands in order that it is suitable for sustaining or improving aquatic ecosystems in catchments as a whole, and for contact recreation purposes where appropriate.

Explanation and Reasons

- 3.10.2 River flows vary continuously, and aquatic biota and human demands on water can cope with this variability most of the time. However, droughts are common in Hawke's Bay owing to the climate of the area (see also Issue 3.12), and can have immense impacts. At the time of writing this Plan, there were approximately 390 resource consents to take and use surface water from rivers and streams in the Hawke's Bay region. In almost all cases the consent holder is subject to a minimum flow restriction. This means that the consent holder must cease taking water from the river or stream once a pre-established minimum flow is reached. The prescribed minimum flow is the flow at which adequate habitat is available for existing aquatic ecosystems under natural conditions. Controlling takes so that flow is not reduced artificially below minimum flow ensures habitat availability is maintained while acknowledging that habitat availability will reduce as a river naturally falls below the minimum flow.
- 3.10.3 The demand for water is rising, particularly as a result of increasing crop and pasture irrigation. If water is taken and used inefficiently, problems during summer droughts are exacerbated. The demand for surface water needs to be managed in a manner which ensures that water availability is maintained and water is allocated fairly, the impact of droughts is minimised, and economic development is not unnecessarily curtailed.
- 3.10.4 With respect to water quality, non-point source discharges are thought to cause a greater impact on water quality than point source discharges. However, isolated problems from point source discharges can arise from activities such as wastewater discharges, sewage outflows and stormwater discharges in urban areas and coastal communities.
- 3.10.5 Non-point source discharges are those discharges that are derived from a non-discrete source, including diffuse run-off from agricultural land use activities and sedimentation from erosion. However, surface water quality in Hawke's Bay is generally good, and the impacts of agricultural land use on water quality are not as pronounced as in many other regions of New Zealand. One exception to this is in relation to bacterial contamination, which is evident in the middle and lower reaches of intensively farmed catchments, and has probably resulted from the runoff of stock faecal matter.
- 3.10.6 The management of riparian margins is one way of addressing non-point source discharges. Riparian management provides shade for waterways, thereby reducing algal growth and maintaining cool water temperatures, which are generally more favourable for aquatic fauna. Riparian vegetation also intercepts sediment and other contaminants, before they enter a waterway. These benefits are most marked for narrow streams, becoming much less significant for wide braided rivers where the path of river flow changes frequently. In addition, fenced riparian margins prevent stock access, thereby limiting bank erosion and direct contamination of

waterways from stock. Riparian margins can also provide important areas of indigenous habitat, although if not carefully managed they are at risk from animal pests and weeds. Fencing, planting, and pest and weed control for riparian management require time, money, and an ongoing commitment from landowners.

POLICIES – SURFACE WATER QUANTITY

POL 34 ROLE OF NON-REGULATORY METHODS

3.10.7 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding adverse effects arising from surface water takes, in particular:

- (a) **Education and co-ordination** for encouraging efficient use of water, for example water harvesting, use of storage and consideration of alternative water supply, and avoiding wastage of water (see also Policy 23 with respect to efficient use of water for irrigation purposes). This will include encouraging the establishment of water user groups to facilitate voluntary scheduling or rationing of water takes, particularly during low flow periods.
- (b) **Advocacy with territorial authorities** – Advocating to territorial authorities that, prior to allowing land use activities or subdivisions by way of district plan provisions or the granting of resource consents, they require an assessment of water supply availability for surface water particularly where the land is located within a small catchment with low annual rainfall and where the geology has a low storage capacity.
- (c) **Encouragement for self-regulation** – Promote and support self-regulation by resource users, including the preparation and adoption of guidelines and codes of practice by resource user groups.

Explanation and Reasons

3.10.8 Policy 34 sets out the role of the HBRC in the education and co-ordination of resource users in respect of encouraging the efficient use of surface water and ways to avoid water wastage. In particular, Policy 34 refers to the potential value of facilitating "water user groups" to enable a degree of self-regulation of their water takes. In keeping with Policy 23, this Policy also establishes the importance of territorial authorities requiring an assessment of water availability before allowing land use activities, in particular subdivisions, especially in water management zones.

POL 35 REGULATION - WATER ALLOCATION

- (a) To manage the taking of water where the effects of that take may be more than minor.
- (b) To manage the cumulative adverse effects of small takes, particularly in catchments:
 - (i) that are located in an area of low annual rainfall
 - (ii) where the geology has a low storage capacity
 - (iii) for which the location is such that there is a high potential for increased use.

Explanation and Reasons

3.10.9 This Policy indicates that water takes in these circumstances will be managed and controlled through the resource consent process. Takes which have less than minor adverse effects will be permitted. The catchments described in Policy 35 (b) have been given the term "surface management zones" and are shown in Schedule VIa. Takes for an individual's reasonable domestic needs and the reasonable needs of an individual's animals for drinking water are not restricted by the RMA and are therefore not controlled by this policy or the associated rules. However "reasonable domestic needs" is quantified in the Glossary.

POL 36 REGULATION - TRANSFER OF WATER PERMITS FOR RIVERS AND LAKES

- 3.10.10 To encourage the transferring of water permits between sites where the environmental effects of the transfer are minor, particularly in fully allocated stream management zones.

Explanation and Reasons

- 3.10.11 Policy 36 recognises the benefits of transferring water permits and that in many cases there are no adverse effects of the transfer. As noted in relation to Policy 25, the transfer of water permits enables greater flexibility and efficiency in managing and allocating water resources, and can be an effective way of ensuring water is used where it is most needed. The principal advantage of transferable water permits is that the allocations are not wasted by a permit holder keeping an allocation but not using it, while another user is forced to apply for a new permit (or precluded from gaining access to water because the catchment is already fully allocated). Enabling the transfer of permits to take surface water is considered particularly important for catchments that are fully allocated.

POL 37 RESOURCE ALLOCATION - MINIMUM FLOWS & ALLOCATABLE VOLUMES

- (a) To manage takes from those rivers listed in Table 9 of this Plan in accordance with the minimum flows and associated allocatable volumes set out in that table.
- (b) To establish minimum flows and allocatable volumes for additional rivers in accordance with the approach set out in Table 9 or as a result of research demonstrating that lower minimum flows or higher allocatable volumes are sustainable. Council will use the Plan Change procedure of the First Schedule of the RMA to introduce or change these.
- (c) To ensure the protection of aquifer recharge from the effects of minimum flows.

Explanation and Reasons

- 3.10.12 Policy 37 establishes that takes from rivers will be managed in accordance with prescribed minimum flows and upper minimum flows and allocatable volumes. At the time of writing this Plan, the HBRC was in the process of reviewing the minimum flows set out in the former Proposed Regional Water Resources Plan, and establishing new minimum flows and allocatable volumes. Table 9 sets out the established minimum flows and allocatable volumes, and explains the methodology used to establish these. Any new minimum flows, and allocatable volumes established after this Plan has become operative will be added to Table 9 by way of notified changes to this Plan.

POL 38 DECISION-MAKING CRITERIA – EFFECTS OF NEW TAKES

- 3.10.13 To avoid any significant adverse effects of new takes, uses, damming or diversion of water on lawfully established activities in surface water bodies, including any significant adverse effects on takes and uses of water for an individual's reasonable domestic needs¹⁰ or the reasonable needs of an individual's animals for drinking water or takes for firefighting.

Explanation and Reasons

- 3.10.14 Policy 38 recognises that lawfully established resource users have a reasonable expectation that their activity will not be adversely affected by new activities

¹⁰ "Reasonable domestic needs" refers to needs associated with occupation of a dwellinghouse. With respect to the taking and use of water for an individual's reasonable domestic needs, as a guideline this should involve the taking and use of up to 15 m³ over any 7 day period per dwellinghouse.

POL 39 DECISION-MAKING CRITERIA – WATER ALLOCATION

3.10.15 To allocate water from rivers in accordance with the following approach:

- (a) The water requirement for each resource consent applicant will be determined on the basis of reasonable needs and the efficiency of end use, requiring an applicant to determine how much water is required for their activity (for irrigation takes, see also Policy 42).
- (b) Where the demand for water within a stream management zone¹¹ is greater than the allocatable volume as a result of a consent application for a new activity, a consent will not be issued except where it can be considered under (d).
- (c) Where the demand for water within a stream management zone is greater than the allocatable volume as a result of a change to the minimum flow for that stream management zone the HBRC will adopt any or all of the following approaches:
 - (i) Review all consented takes from that water body at the same time.
 - (ii) Give preference to the renewal of existing resource consents, over the granting of new consents where it can be demonstrated that the allocation is still required.
 - (iii) To encourage the establishment of user groups or the seasonal or long-term transfer of water permits in accordance with Policy 34.
 - (iv) Where over-allocation still exists, to reduce the allocation on a pro-rata basis except that where the consent holder has been advised (e.g. in the consent document) that the water allocated may no longer be available for allocation at the time of consent renewal, in which case the consent may not be renewed.
 - (v) To encourage the use of alternative water sources.
- (d) Water may be allocated over and above the allocatable volume, subject to a substantially higher cut-off level than that specified in Table 9 provided that any such additional allocations will not have any adverse effect on other lawfully established activities, nor any other significant adverse environmental effect and assuming allocation is subject to the implementation and/or consideration of (a), (b) and (c).

3.10.16 Applicants seeking water over and above the allocatable volumes will be required to provide a comprehensive assessment of environmental effects to demonstrate that no such effects will occur, including the justification for any other minimum flow that may be proposed as a mitigation measure.

Explanation and Reasons

3.10.17 Policy 39 establishes the overall approach for the allocation of surface water. This policy recognises that the type of water management required for the region's surface water bodies is variable. As such, Policy 39 sets out how the HBRC will manage the allocation of water from rivers under the following scenarios:

- (a) Where the demand for water within the catchment is less than or equal to the allocatable volumes available.
- (b) Where the demand for the water within the catchment is greater than the allocatable volumes available.
- (c) Those periods when water can be allocated over the allocatable volumes (e.g. for water harvesting purposes). The ecological protection of the river, including the maintenance of a natural "flushing" effect is the baseline consideration for any allocations which are made under this scenario.

¹¹ "Stream management zone" refers to the reaches of a river and/or its tributaries governed by a single minimum flow site.

POL 40 TECHNICAL PROCEDURE - MINIMUM FLOWS

3.10.18 For catchments with prescribed minimum flows, to adopt the following strategy:

- (a) Prior to 1 November each year the HBRC will provide public information on the state of surface water resources for the subsequent irrigation season.
- (b) At times when a river is dropping towards its minimum flow, the HBRC will provide information regularly about this fact.
- (c) Thereafter, the HBRC will regularly provide information about the state of the river until it returns to a level at which a breach of the minimum flow is unlikely to occur.
- (d) The HBRC will encourage resource users to voluntarily schedule or ration water takes, where this is feasible to try and prevent the minimum flow being breached.
- (e) The HBRC may apportion, restrict or suspend the taking, use, damming or diversion of water to the extent and in the manner required to ensure that these activities do not cause a breach of the minimum flow.

Explanation and Reasons

3.10.19 Policy 40 sets out the strategy to be used by the HBRC during periods when a river is dropping toward its minimum flow level. The HBRC will provide regular information to resource users on the state of surface water resources, thereby enabling water users to make their own decisions, either individually or collectively, taking responsibility for water use and the management of the surface water body. The HBRC will also encourage resource users to take voluntary measures to reduce, schedule or ration the rate of take. If the water level of the river drops towards its minimum flow, the HBRC may apportion, suspend or restrict takes to ensure that they do not cause a breach in the minimum flow.

POL 41 DECISION-MAKING CRITERIA – MEASUREMENT OF SURFACE WATER ABSTRACTION

3.10.20 As a means of assessing compliance with the allocated amount of water, and of measuring the total volume of water being taken from a river, to require water measuring devices for all resource consents to take water where:

- (a) the river has a defined allocatable volume (as set out in Table 9)
- (b) there is evidence of increasing demand for water from a surface water body for which there is insufficient information to set a minimum flow or allocatable volume, or
- (c) the water is taken for industrial purposes and provides an indication of the rate of wastewater discharge.

3.10.21 The following criteria shall apply to the measurement of abstracted surface water:

- (a) The method of measurement shall measure the water abstracted to an accuracy of within plus or minus five percent; and shall be capable of displaying the amount of water abstracted in units no greater than one cubic metre to enable appropriate records to be kept.
- (b) The method of measurement shall be capable of providing an instantaneous rate of abstraction when abstraction is occurring (this would be met by being able to time a known quantity of water passing through the measuring device).
- (c) Any measurement of the water being abstracted must be capable of having the accuracy assessed, or the method certified, by the supplier at the time of installation or commencement of use and evidence of this shall be submitted to the Council prior to the first abstraction.
- (d) Where the take is from a river listed in Table 9, and the river is approaching minimum flow, Council will require more frequent measurement and provision of information than specified in 3.10.21 (potentially as often as daily).

The consent holder or applicant must satisfy the Council that the above criteria can be met through the proposed method of measurement. If this cannot be demonstrated the Council will require the installation of a water meter in order to meet the requirements of this policy.

Any costs of determination of criteria will be borne by the consent holder.

- 3.10.22 Conditions imposed on resource consents will specify the information to be recorded, the frequency of recording and of submitting that information to the Council, and the frequency of accuracy checks. These frequencies will be no more than can be justified for surface water management purposes, although the frequency can be altered when the river is approaching its minimum flow as specified in 3.10.21 (d).
- 3.10.23 For existing surface water takes this policy will be implemented upon renewal of the consent or within three years of the Plan becoming operative, whichever occurs sooner.

Explanation and Reasons

- 3.10.24 Policy 41 establishes the circumstances under which the measuring of the total volume of water being abstracted is required in relation to surface water takes. It will increase the Council's ability to manage the surface water resources by identifying to both Council and the consent holder the level of compliance with the consented take amount. In turn this will give Council a clearer picture of the actual level of abstraction and the impact of abstractions on long-term resource trends. Telemetry is one option for the submission of information to Council.

POL 42 TECHNICAL PROCEDURE - IRRIGATION TAKES

- 3.10.25 To allocate surface water for irrigation purposes on the basis of actual crop water requirements up to a maximum equal to that required during a one in five year drought. The allocation assessment will take into account information on crop type, rainfall, potential evapotranspiration rates, and best irrigation management practices. The allocation assessment may also have regard to soil type and moisture holding capacity.

Explanation and Reasons

- 3.10.26 Policy 42 sets out the technical procedure that the HBRC will use for the allocation of surface water for irrigation purposes. In essence, the HBRC will allocate water based on crop water requirements during a one in five year drought, adjusted according to local data for rainfall and evapotranspiration rates. For planning purposes it is necessary to establish a level of risk. A 20% risk that actual water needs will exceed the authorised volume in any one year (i.e. 1:5 year return period) recognises the need to balance crop water needs against the ability of the surface water body to maintain a flow above the minimum flow and its ability to recover from a low flow situation. The policy notes that the water will also be allocated on the basis of best irrigation management practices, rather than, for example, the amount of water required for an inefficient irrigation system.

POL 43 TECHNICAL PROCEDURES - GROUNDWATER TAKES WITHIN THE VICINITY OF SURFACE WATER BODIES

- 3.10.27 To manage the effects of groundwater takes from unconfined or semi-confined aquifers on nearby surface water bodies in the following manner:

- (a) Any taking of shallow groundwater within 400 m of a river, lake or wetland as measured from the edge of the bed will be treated as if it were a direct take unless the extent to which the groundwater will deplete water in the surface water body has been assessed using an appropriate scientific procedure in which case the effects on surface water will be assessed on that basis.
- (b) Any taking of shallow groundwater beyond 400 m may require an assessment of effects in the river, lake or wetland if the scale of the take, the groundwater flow direction, and the transmissivity and storativity characteristics of the aquifer indicate interaction is likely to occur; in which case it may be treated as if it were a direct take.

Explanation and Reasons

- 3.10.28 Policy 43 sets out the technical procedure for managing groundwater takes within the vicinity of surface water bodies, recognising that these takes can adversely affect the amount of water in the surface water body. The selected procedure must involve consideration of factors such as the proposed rate, location and depth of the groundwater take, the connection between the aquifer with the surface

water body, the groundwater flow direction relative to the surface water body, and the transmission and storage characteristics of the aquifer. The consequence of identification as a direct surface water take is that the groundwater take may also be subject to cut-off when the surface water body meets its recognised minimum flow.

POL 44 DECISION-MAKING CRITERIA – AQUIFER RECHARGE

- 3.10.29 To protect the Heretaunga Plains Aquifer recharge in order to maintain the long-term viability of the aquifers.

Explanation and Reasons

- 3.10.30 Policy 44 recognises the importance of aquifer recharge to the sustainable management of the Heretaunga Plains aquifer. The establishment of minimum flows on contributing rivers must take into account the need to adequately provide for the recharge of groundwater.

POLICIES – SURFACE WATER QUALITY

DIFFUSE SOURCE DISCHARGES & STOCK ACCESS

POL 45 ROLE OF NON-REGULATORY METHODS

- 3.10.31 To use non-regulatory methods, as set out in Chapter 4, as well as rules, for addressing the adverse effects of non-point source discharges and stock access to waterways, including:

- (a) **Research and investigation** – In consultation with landowners undertake the identification of priority areas along the margins of rivers, lakes and wetlands, which should be retired in order to provide a buffer against the effects of runoff from land use activities. Priority areas established at the time that this Plan was prepared are set out in Schedule VIII.
- (b) **Economic instruments** - The provision of financial incentives to facilitate the retirement of these riparian areas.
- (c) **Education and co-ordination** - The preparation and distribution of educational material regarding the benefits of retaining, establishing and enhancing appropriate riparian vegetation.

Explanation and Reasons

- 3.10.32 Policy 45 sets out the role of the HBRC in undertaking research, providing financial incentives and educating resource users as the principal means for addressing the adverse effects of non-point source discharges and stock access to waterways. Policy 45 includes recognition of the importance of providing a buffer along the margins of water bodies against the effects of runoff from land use activities.

POINT SOURCE DISCHARGES

POL 46 ROLE OF NON-REGULATORY METHODS

- 3.10.33 To use non-regulatory methods, as set out in Chapter 4, in support of regulatory methods for avoiding adverse effects of point source discharges, in particular, providing **education and co-ordination** regarding sound waste management practices.

Explanation and Reasons

- 3.10.34 Policy 46 recognises the importance of educating resource users as to the effects of point source discharges on the water quality of the region's waterways and encouraging sound waste management practices. This non-regulatory method will be used in conjunction with regulating point source discharges of contaminants in the region.

POL 47 DECISION-MAKING CRITERIA - DISCHARGES

- 3.10.35 To manage activities affecting the quality of water in rivers and lakes in accordance with the environmental guidelines and implementation approaches set out in Chapter 5 of this Plan.

Explanation and Reasons

- 3.10.36 Policy 47 notes that point source discharges will be managed in accordance with the environmental guidelines for surface water quality previously established in Chapter 5 of this Plan.

POL 48 DECISION-MAKING CRITERIA – BUFFER ZONES: ANIMAL EFFLUENT DISPOSAL

- 3.10.37 To have regard to the following factors when considering conditions on resource consents for appropriate buffer zone distances between animal effluent disposal areas and surface water bodies or property boundaries:
- (a) The availability of vegetation adjacent to the surface water body to trap any nutrients or other contaminants.
 - (b) Values of the receiving water body and downstream water bodies, including wetlands.
 - (c) The land use of the adjoining property and the location of any dwellings.
 - (d) The slope of the land adjoining the surface water bodies.
 - (e) The permeability of the soil in the effluent disposal area.
 - (f) The cumulative effects of the discharges, from all agricultural activity carried out on the same land.

Explanation and Reasons

- 3.10.38 Policy 48 sets out the factors which the Council will have regard to when determining conditions on appropriate buffer zone distances between animal effluent disposal areas and surface water bodies or property boundaries. It acknowledges that there are a range of variable factors which may influence the extent of environmental effects from effluent disposal areas and that minimum buffer zone distances set out as standards and terms may not be the most appropriate means of dealing with such effects.

POL 49 DIVERSION AND DISCHARGE OF STORMWATER

- (a) To permit the diversion and discharge of stormwater from constructed open drainage systems or piped stormwater drainage systems into surface water without the need for a resource consent, subject to conditions in this Plan which are intended to adequately avoid, remedy or mitigate any significant adverse effects.
- (b) To promote mitigation of the cumulative effects of stormwater discharges on water quality where appropriate.

Explanation and Reasons

- 3.10.39 Policy 49 (a) recognises that the majority of stormwater discharges will only have minor adverse effects and can therefore be allowed as a permitted activity. Policy 49 (b) recognises that practical mitigation measures need to be considered to avoid, remedy or mitigate any cumulative adverse effects of contaminants in stormwater discharges.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Maintenance and enhancement of surface water quality at a level which sustains or improves the aquatic ecosystems in the relevant surface water bodies, including wetlands	Physical and biological parameters	Council SER monitoring
Allocation of water at a rate which avoids degradation of the resource, while providing for the needs of the regional community	Flow monitoring	Minimum flow monitoring

3.11 River Bed Gravel Extraction

ISSUE

- 3.11.1 River gravels provide a supply of a valuable resource utilised in a multiplicity of ways by the community. In extracting from rivers the risk of an imbalance between the natural supply of and the rate at which gravel is extracted, and of adverse effects as a consequence of extraction in the river bed needs to be managed.

OBJECTIVES

- OBJ 28** The avoidance of any gravel extraction at a rate which exceeds the rate of natural supply, except in areas where there are stored reserves which may be removed in a controlled manner such that flood protection and river control assets are not compromised.
- OBJ 29** The facilitation of gravel extraction from areas where it is desirable to extract excess gravel for river management purposes and the minimisation of flood risk, or to maintain or protect the functional integrity of existing structures, whilst ensuring that any adverse effects of gravel extraction activities are avoided, remedied or mitigated.
- OBJ 30** The maintenance of the use and values of the beds of rivers and the avoidance of any significant adverse effects on the river bed resulting from the extraction of gravel.

Explanation and Reasons

- 3.11.2 Lowland areas in the Hawke's Bay region have been built up from fluvial deposits and material eroded from the surrounding hill country. This geomorphological process is ongoing and is the principal reason why there is a presence of gravel material within the river beds and banks of Hawke's Bay river systems. The gravel resource is seen as a valuable commodity in the region, particularly for uses such as road construction and maintenance.
- 3.11.3 The gravel resource utilised for extraction exists both within water courses and on adjacent river banks. The volume of the available resource varies considerably over time, and along river systems, as a consequence of flood-induced river bed movements.
- 3.11.4 A review of the current extraction and natural replenishment rates indicates that there is a long-term deficiency of gravel available for use in the Heretaunga Plains area. Gravel from this area is in demand because of its proximity to Napier and Hastings. In areas of lower demand (including sections of the Waipawa and upper Tukituki Rivers, and their tributaries), there is a surplus of gravel. This surplus can contribute to problems in terms of river flood management by elevating river bed levels, thereby reducing the capacity of stopbanks to accommodate flood flows.
- 3.11.5 Gravel availability in the northern part of the Hawke's Bay region is limited by three factors: the remoteness of the source from the areas of high demand, the difficulties of access for extraction, and for the area north of the Mohaka River, the quality of the gravel.
- 3.11.6 The extraction of gravel from a river bed may cause adverse effects on the natural character, river ecology and recreational values of a river. Riffle, pool, and run sequences in rivers may be altered by gravel extraction activities, thereby changing the habitat composition and the relative quality and quantity of different habitat types in a river system. Conversely, natural river processes can return a river bed environment to equilibrium following extraction. In addition dust can be a problem. It can be generated from both the extraction activity, and the movement of vehicles to and from the extraction site. Significant problems can arise where dust blows onto adjacent properties, causing both a nuisance and a potential for economic loss.

POLICIES

POL 50 RESOURCE ALLOCATION - GRAVEL ALLOCATION ASSESSMENT

- 3.11.7 To assess the availability of river bed gravel by:
- (a) Defining both annual and long-term extraction rates for the regional gravel resource for each river bed within the region where major extraction takes place. These rates will be based on regular monitoring of the rate of extraction, and an assessment of the river design profile, supply of gravel to the coast, and supply of gravel from upstream sources (including land use activities).

- (b) Ensuring that as far as practicable, long-term gravel extraction is undertaken at a level consistent with maintaining the rivers close to their design profiles, while maintaining compatibility with other resource management and environmental values.

Explanation and Reasons

- 3.11.8 Policy 50 establishes the approach to be taken by the HBRC when assessing the availability of river bed gravel for extraction and determining both annual and longer term levels of gravel allocation. This policy recognises that the quantity of gravel available for extraction from within the region's rivers may fluctuate depending on the rates of supply and the qualities of the individual river. This policy also seeks to ensure that, as far as practicable, long term gravel extraction is undertaken at a level that enables the natural flow and path of the river to be maintained.

POL 51 RESOURCE ALLOCATION - GRAVEL ALLOCATION PROCESS

- 3.11.9 To allocate gravel from river beds in Hawke's Bay generally on an annual basis, in accordance with the following approach:
- (a) Determining by 15 April each year the likely demand for river bed gravel. Gravel extractors will be contacted at the beginning of March each year, and required to provide notice of their requirements for gravel by 15 April. Requests for gravel allocation will be required to specify the proposed end use of the gravel.
 - (b) Carrying out an assessment and allocation process between 15 April and 30 June each year, in accordance with Policy 50.
 - (c) Notifying gravel extractors of their annual allocation by 1 July each year.

Explanation and Reasons

- 3.11.10 Policy 51 establishes the approach to be taken by the HBRC when allocating the gravel reserves of the region's rivers. The HBRC will allocate gravel to resource users on an annual basis, based on the gravel extractors' requirements, the gravel resource determined to be available in accordance with Policy 50, the proposed end use of the gravel, and an assessment of the effects of extraction. Council will determine the appropriate location for sourcing the gravel especially where demand for gravel in a particular location exceeds supply and alternative locations are required.

POL 52 RIVER BED GRAVEL EXTRACTION – MOHAKA RIVER

- 3.11.11 In relation to the Mohaka River, the:
- (a) annual total volume of extraction for the Mohaka River below the Te Hoe junction
 - (b) the location of any extraction sites, and
 - (c) the periods and rates of extraction at each site
- are to be negotiated and agreed to prior to 30 June each year between the Hawke's Bay Regional Council and nominated representatives of Ngati Pahauwera.

Explanation and Reasons

- 3.11.12 Policy 52 implements a recommendation of the Waitangi Tribunal.

POL 53 DECISION-MAKING CRITERIA - RIVER BED GRAVEL EXTRACTION

- 3.11.13 In considering consent applications for the extraction of river bed gravel, to have regard to the following criteria:
- (a) The capability to restore the extraction site upon completion of the extraction operation, and to repair any damage caused to any banks, access roads, fences, gates, or other structures.
 - (b) The avoidance of any contaminants from machinery use entering water bodies.

- (c) The avoidance of any increases in sediment discharge or water turbidity, particularly during the fish spawning period of May to October.
- (d) The continuation of existing fish passage.
- (e) The avoidance of any adverse effects on flood control assets or river protection works.
- (f) The avoidance of any activity that would cause flood control measures or river protection works to be required.
- (g) The avoidance of any offensive or objectionable discharge of dust.
- (h) The end uses of the gravel, in order that high quality gravel is allocated to uses which require such gravel.
- (i) The location of, and potential effect on, any downstream water takes/users.
- (j) The effect on the ecology of the river.
- (k) The extent to and the time over which natural processes will be capable of returning the river bed to a state of equilibrium following extractive activity.

Explanation and Reasons

- 3.11.14 Policy 53 provides guidance to resource consent applicants and decision makers in respect of applications to undertake gravel extraction within the region's rivers. This policy establishes criteria which the resource consent application will be assessed against. In addition any resource consent application to extract river bed gravel should have regard to Objective 45 and Policy 79 when assessing the adverse effects of any proposed extraction activity.

POL 54 PROBLEM SOLVING APPROACH - INTEGRATION WITH RIVER CONTROL WORKS

- 3.11.15 To integrate the management of gravel extraction with river control works by:
- (a) Encouraging gravel extraction where there is the potential to minimise flooding or the risk of damage to protection works or essential structures.
 - (b) Undertaking specific works to control erosion and encourage gravel movement where appropriate.

Explanation and Reasons

- 3.11.16 Policy 54 sets out the approach to be taken to integrate the management of gravel extraction with river control works in order to minimise flooding, erosion and the risk of damage to works and essential structures (e.g. bridges). This policy recognises the positive influence that the managed extraction of gravel can have on minimising flood risk and assisting with the overall management of the river.

ANTICIPATED ENVIRONMENTAL RESULT

Anticipated Environmental Result	Indicator	Data Source
Extraction of river bed gravel at a rate that does not exceed its natural replenishment (unless there is an environmental benefit in doing so)	River cross sections	Council data on river profiles

3.12 Natural Hazards

ISSUE

- 3.12.1 The susceptibility of the region to flooding, droughts, earthquakes, volcanic ash falls, and tsunami, and the potential impact of these on people's safety, property, and economic livelihood.

OBJECTIVE

- OBJ 31** The avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood.

Explanation and Reasons

- 3.12.2 Flooding and droughts are the most recurrent natural hazards in Hawke's Bay, but the region also has a history of earthquakes, volcanic ash falls and tsunami. Each of these is briefly discussed below.

Flooding

- 3.12.3 Within Hawke's Bay, there is widespread potential for flooding. Individual rainfall events causing flooding that can range from localised downpours affecting particular catchments, to cyclonic storms causing general flooding over large parts of the region. Considerable flood protection works have been carried out in the region, particularly on the Heretaunga and Ruataniwha Plains. These works have significantly reduced the risk from most flood events. However, very large events exceeding flood protection design standards can be devastating to normally protected areas. Indeed, measures taken to reduce the flood risk, such as river control works and post-disaster relief, can actually increase the catastrophic potential of large floods because they enable an increased occupancy and level of development within flood plains. To be truly effective flood protection works must be undertaken in conjunction with better land use planning, and adequate and timely flood forecasting.

Droughts

- 3.12.4 Droughts are a common occurrence in Hawke's Bay, particularly during El Nino weather patterns, which bring predominantly westerly winds. The orographic effect of the mountain ranges west of Hawke's Bay means that the region receives little rainfall during these times. Hawke's Bay experienced three major droughts during the 1980's - in 1982/83, 1984-86 and 1988/89. These have been followed by two major droughts during the 1990's - in 1994/95 and 1997/98. The regularity of droughts, and the severity of their effects on agriculture, water supplies and aquatic ecosystems, mean that they are a natural phenomenon which must be recognised in the management of land use activities and the environment.

Earthquakes

- 3.12.5 Earthquakes are a significant risk to the Hawke's Bay region, given the regular occurrence of tectonic movement in the area. Although large earthquakes such as the 1931 event occur infrequently, they have a high potential to impact on people and their livelihood. Development in Hawke's Bay has continued with little or no regard to the effects that earthquakes have on different ground conditions. The HBRC has commissioned studies into the risk posed by earthquakes, and the effect of earthquakes on different areas, particularly in relation to liquefaction, ground shaking, subsidence and uplift. This information has been provided to territorial local authorities, in order that they use it in the production of district plans and the establishment of building design standards.

Volcanic Ash

- 3.12.6 There are no volcanoes in Hawke's Bay, but the region is at risk of being blanketed with ash from volcanoes in the Okataina and Taupo volcanic centres. While volcanic eruptions are a relatively infrequent phenomenon, their effects can be devastating, on waterways (affecting quality and channel processes), land use activities, and health.

Tsunami

- 3.12.7 Tsunami (tidal waves) are also a potential natural hazard. A recent tsunami hazard study of the Hawke's Bay region identified three potential types of tsunami that pose a threat to Hawke's Bay:

- (a) Immediate waves generated locally by horizontal ground movements.
- (b) Seismic seiches generated locally by vertical ground movements.
- (c) Classical tsunami generated as a local response to a distant major seabed disturbance (sources of seabed disturbances can be submarine slumps, volcanic eruptions and earthquakes).

- 3.12.8 The main threat in Hawke's Bay is from classical tsunami for which an existing international warning agency is likely to give ample warning. Such warning is valuable, however it does little to quantify the scale of impending waves in this region.

- 3.12.9 The information delivered in this study has been used by HBRC to assist with its emergency management planning, and has also been provided to territorial local authorities in the region to assist them with their own civil defence and natural hazard planning initiatives.

POLICIES**POL 55 ROLE OF NON-REGULATORY METHODS**

- 3.12.10 To use non-regulatory methods set out in Chapter 4, as the principal means of addressing hazard avoidance and mitigation, in particular:
- (a) **Liaison with territorial authorities¹²** - To provide information on natural hazard risk to territorial authorities, and advocate that future development is managed in such a way that the risk of exposure to natural hazards is avoided, remedied or mitigated.
 - (b) **Works and services** - To provide hazard mitigation measures, in particular flood mitigation measures, where the benefits can be shown to outweigh the costs and the identified beneficiaries can meet the costs.
 - (c) **Natural hazard priorities** - To focus both hazard avoidance and mitigation on areas of high human population density as a first priority.

Explanation and Reasons

- 3.12.11 Policy 55 sets out the role of the HBRC in providing information to territorial authorities, providing works and services where these are cost-effective, and prioritising natural hazard responses as the principal means of addressing natural hazard avoidance and mitigation. This policy recognises the need for an integrated approach by territorial authorities and the HBRC to address land use planning and service provision with the view of minimising the risk and impact of natural hazards. The HBRC will provide hazard mitigation measures (e.g. stopbanks for flooding) where the benefits outweigh the costs, and the costs can be recovered from those who will benefit from the works. Furthermore, the HBRC will, as a first priority, focus hazard avoidance and mitigation on the areas of high human population density (e.g. cities and towns) as these areas are likely to experience significant effects on people's safety and economic livelihood as a result of a natural hazard event.

ANTICIPATED ENVIRONMENTAL RESULTS

Anticipated Environmental Result	Indicator	Data Source
Natural hazard mitigation measures in place to minimise the risk to human safety and the environment from natural hazards	Loss of life and property in a natural hazard event	Emergency services records

¹² Refer to Chapter 8 in this Regional Plan for a description of the respective roles of the HBRC and territorial authorities for the avoidance or mitigation of natural hazards.

3.13 Maintenance and Enhancement of Physical Infrastructure

ISSUE

- 3.13.1 The sustainable management, including further development, of the physical infrastructure of the region that underpins the economic, cultural, and social wellbeing of the region's people and communities, and provides for their health and safety.

OBJECTIVES

- OBJ 32** The ongoing operation, maintenance and development of physical infrastructure that supports the economic, social and/or cultural wellbeing of the region's people and communities and provides for their health and safety.
- OBJ 33** Recognition that some infrastructure which is regionally significant has specific locational requirements.
- OBJ 33A** Adverse effects on existing physical infrastructure arising from the location and proximity of sensitive land use activities are avoided or mitigated.
- OBJ 33B** Adverse effects on existing landuse activities arising from the development of physical infrastructure are avoided or mitigated in a manner consistent with Objectives 16, 17, 18, 32 and 33.

Explanation and Reasons

- 3.13.2 Hawke's Bay region had a population of 146,109 people on Census night 2001. The economic, and to some extent social and cultural well being, health and safety of these people, relies on the region being interlinked with the rest of New Zealand and the world. This is achieved through transport and communications systems and through supply of services such as energy which transcends regional boundaries.
- 3.13.3 Land transport integrates different parts of the region, and provides for the movement of goods and people. The region is linked into national road and rail systems. Other important transport infrastructure, the airport and port, are both in the coastal environment and have specific locational requirements. The region does not have any natural harbours, so the port's physical resources, developed over more than a century, are regionally significant. An efficient and convenient location in relation to the region's population and commercial and industrial activity is also essential for the port and airport.
- 3.13.4 Most of this infrastructure relies on the use of the land resource, although the air and sea are also involved. Thus the management of its environmental effect is not directly the responsibility of the Regional Council but is generally a district council matter. However, the regional importance of the physical infrastructure and that its networks frequently cross district boundaries; or, in the case of the region's port that it is located on, the land sea interface; means that there is a regional role in ensuring that it is able to be maintained and enhanced.
- 3.13.5 Energy infrastructure, at regional level, primarily involves the generation and distribution of electricity, but increasingly may involve gas. The ability to maintain and develop the region's energy resources, and to distribute energy to areas within and outside the region, is essential in supporting the region's economic well being.
- 3.13.6 Communication facilities are of growing importance in the 21st century. Communication and the transfer of information is essential in allowing all communities within the region to provide for their individual and collective well being. These facilities can rely less on land-based infrastructure as technology develops, but where land-based infrastructure is required, it may have very specific locational requirements. As a result, it must be recognised that it will not be possible in every situation to avoid or mitigate all adverse effects without affecting the efficiency and effectiveness of the infrastructure.
- 3.13.7 Other infrastructure, such as sewerage systems, water supply and landfills, may involve a regional perspective and joint funding and management by several territorial authorities or other agencies.
- 3.13.8 The region's major industries are largely dependent on production from the region's natural and physical resources, and are integrated economically and physically with transport, energy and communications systems. They represent large investments in physical resources, and can be regarded as part of the region's physical infrastructure.
- 3.13.9 A range of environmental effects may be associated with physical infrastructure. This may include direct use of land and coastal areas and the consequent exclusion of people and other activities from such areas. As much of the infrastructure involves physically connected networks, structures may need to cross rivers and sometimes lakes, wetlands and the sea.

- 3.13.9A Physical infrastructure can often give rise to off-site impacts or nuisance elements which affects surrounding land. It can cause emissions or vibrations which go beyond the boundaries of the site; or activities associated with the land use may create adverse effects on nearby land, such as increased noise or traffic.
- 3.13.9B Reverse sensitivity effects can arise when sensitive activities are introduced near major infrastructure, or new infrastructure is placed near a certain existing land use. For example, a new residential development in close proximity to an airport, or the location of a new highway route through an existing urban area can both cause adverse effects that require careful management to reduce conflict between the activities. This conflict needs to be carefully managed in accordance with Section 3.5 of the Plan.
- 3.13.9C In relation to specific types of strategic infrastructure, National Policy Statements may exist which direct local authorities to deal with reverse sensitivity effects in a certain way when making decisions on regional plans, district plans, and resource consent applications. For example, the NPS on Electricity Transmission requires local authorities to manage activities to avoid reverse sensitivity effects on the National Grid, to the extent reasonably possible. RPS provisions need to be applied in conjunction with any relevant National Policy Statement when considering new activities.

POLICIES

POL 56 ROLE OF NON-REGULATORY METHODS

- 3.13.10 To use non-regulatory methods, as set out in Chapter 4, as the primary means of enabling the development of regionally significant physical infrastructure, in particular through the following:
- (a) **Provision of Information** – Recognising the regional importance of significant infrastructure, and assisting territorial authorities and the regional population, in understanding the importance of this infrastructure and its environmental effects. The Council will hold and, as provided for in the annual Plan, investigate aspects of regional infrastructure, including beneficial and adverse effects, so that common information is available to enable decision-makers under the RMA to make decisions in accordance with the promotion of sustainable management.
 - (b) **Liaison with Territorial Authorities** - Facilitating liaison between territorial authorities, the community and infrastructure agencies, to address and resolve issues that arise in the maintenance and development of infrastructure.

Explanation and Reasons

- 3.10.11 The HBRC is at times the consent authority for activities associated with regional infrastructure, but the primary responsibility is generally with the territorial authority. Thus the role of the Council in achieving objectives is primarily as a source of information and a facilitator of liaison. In some situations HBRC may wish to take an advocacy role to promote regional development on the basis of regional infrastructure. When this is likely, decisions for advocacy will be made on a one off basis and any potential conflicts of interest will be identified and avoided.
- 3.10.11A Also refer to Policies in Chapter 3.5 of the Plan.

3.14 Recognition of Matters of Significance to Iwi/Hapu

- 3.14.1 These objectives and policies are developed from the issues of significance to iwi/hapu identified in sections 1.5 and 1.6 of this Plan.

OBJECTIVE

- OBJ 34** To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions.

POLICIES

- POL 57** Where policy is being developed for the management of natural and physical resources the following matters shall be had regard to:

- (a) Where the effects of an activity have minimal or no measurable impact on the state of mauri, the life sustaining capacity of a resource – no or minimal regulation (noa).
- (b) Where the actual or potential effects of an activity on the state of mauri are significant – the activity shall be dealt with on a case-by-case basis according to those effects (rahui).
- (c) Where the impacts of an activity have a severe and irreversible impact upon the state of mauri that activity shall be prohibited (tapu).

- POL 58** To share information on matters of resource management significance to Maori and on processes to address them.

Explanation and Reasons

- 3.14.2 To carry out its obligations under the Act HBRC needs to understand and respect the concept of kaitiakitanga. To achieve this it may be necessary for tangata whenua to share their understanding, knowledge and beliefs as they relate to natural and physical resources. In turn HBRC will undertake to assist Maori in enhancing their knowledge of the resource management process.

OBJECTIVE

- OBJ 35** To consult with Maori in a manner that creates effective resource management outcomes.

POLICIES

- POL 59** Consultation with tangata whenua should be undertaken in a manner that acknowledges Maori values, with the fundamental approach in consultation being "kanohi ki te kanohi" (face to face) or personal contact. Other matters necessary to be exercised are:

- (a) consideration of a consent application not yet finally decided upon
- (b) listening to what others have to say
- (c) considering their responses
- (d) deciding what will be done
- (e) appropriate timing.

POL 60 To encourage hapu to develop resource management plans, and to use the plan, when recognised by an iwi authority, to assess the incorporation of Maori values in the planning process.

POL 61 Resource management decisions made subsequent to consultation shall show regard for that consultation.

POL 62 The following is the recommended approach for consultation with tangata whenua:

- (a) Where the issue is at a macro, region-wide level consultation be with iwi.
- (b) Where the issue is localised, yet non site-specific, consultation be with hapu.
- (c) Where the issue is site-specific consultation be with whanau.

POL 63 Consultation involving iwi or hapu is expected generally to be undertaken on a marae. The place of consultation should be determined as a result of agreement between both parties.

Explanation and Reasons

3.14.3 Effective consultation is the best way to determine the relationship between Maori and their taonga and how kaitiakitanga is to be exercised. The policies set out the interpretation by Ngati Kahungunu of what effective consultation means to them. These policies provide applicants with a guide on some of the practical aspects of consultation.

OBJECTIVE

OBJ 36 To protect and where necessary aid the preservation of waahi tapu (sacred places), and tauranga waka (landings for waka).

OBJ 37 To protect and where necessary aid the preservation of mahinga kai (food cultivation areas), mahinga mataitai (sea-food gathering places), taonga raranga (plants used for weaving and resources used for traditional crafts) and taonga rongoa (medicinal plants, herbs and resource).

POLICIES

POL 64 Activities should not have any significant adverse effects on waahi tapu, or tauranga waka.

POL 65 Activities should not have any significant adverse effects on taonga raranga, mahinga kai or mahinga mataitai.

POL 66 The importance of coastal, lake, wetlands and river environments and their associated resources to Maori should be recognised in the management of those resources.

Explanation and Reasons

3.14.4 These policies require the active consideration of the impacts of proposed activities on the taonga of tangata whenua.