

# *Hastings District Council*

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## DECISION

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### COMMISSIONER HEARING MEETING

**(DECISION FROM NOR HOWARD STREET HEARING  
HELD ON 19 FEBRUARY 2019)**

Meeting Date: **Tuesday, 19 February 2019**

Time: **9.30am**

Venue: **Council Chamber  
Ground Floor  
Civic Administration Building  
Lyndon Road East  
Hastings**

<b>Hearing Commissioner</b>	<b>Chair:</b> Commissioner Paul Cooney
<b>Officer Responsible</b>	Group Manager: Planning & Regulatory Services
<b>Reporting Planner</b>	Senior Environmental Planner (Consents) M Hart
<b>Committee Secretary</b>	Christine Hilton (Extn 5633)

# HASTINGS DISTRICT COUNCIL

**A COMMISSIONER HEARING MEETING WILL BE HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON TUESDAY, 19 FEBRUARY 2019 AT 9.30AM.**

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**1. APOLOGIES**

At the close of the agenda no requests for leave of absence had been received.

**2. DECISION FROM NOR HOWARD STREET HEARING HELD ON 19 FEBRUARY 2019**

**DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS ONE DOCUMENT**

**Document 1**      The covering administrative report      **Pg 1**

**Attachments:**

1	Attachment 1 - Commissioner Decision for NOR Howard Street hearing held 19 February 2019	55505#0322	Pg 3
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**REPORT TO:** COMMISSIONER HEARING

**MEETING DATE:** TUESDAY 19 FEBRUARY 2019

**FROM:** COMMITTEE SECRETARY  
CHRISTINE HILTON

**SUBJECT:** DECISION FROM NOR HOWARD STREET HEARING HELD  
ON 19 FEBRUARY 2019

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## **1.0 INTRODUCTION**

- 1.1 The purpose of this report is to have a means to put the Commissioner Decision from the NOR Howard Street Hearing held on 19 February 2019 onto the website following the hearing.
- 1.2 This hearing had originally been scheduled on 22 January and 11 February 2019.

## **2.0 RECOMMENDATION**

That the Commissioner Decision from the NOR Howard Street hearing be put onto the website following the hearing on 19 February 2019 so it can be viewed by the Requiring Authority, submitters and members of the public.

### **Attachments:**

- 1 Commissioner Decision for NOR Howard Street hearing held 19 February 2019 55505#0322



IN THE MATTER

of the Resource Management Act 1991 ("RMA") AND

IN THE MATTER

of an application by Hastings District Council ("**Requiring Authority**") to designate a road corridor within the Howard Street Structure Plan Area, with associated infrastructure for water , wastewater and stormwater and an additional servicing corridor for stormwater ("**NOR**").

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DECISION OF HEARING COMMISSIONER  
DATED 28<sup>TH</sup> FEBRUARY 2019

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Item 2

Attachment 1

**DECISION OF HEARING COMMISSIONER:****Introduction:**

1. The Hastings District Council as a requiring authority (RA) has issued a notice of a requirement (NOR) to the Hastings District Council as a territorial authority to designate land for a road corridor with associated infrastructure.
2. The land over which the designation is sought is part of a 21.2ha block of residentially zoned land located off Howard Street Parkvale. The public work to be authorised by the designation will involve the construction, operation and maintenance of a road to service the development area as well as to provide a servicing corridor for water supply, waste disposal and storm water disposal and an additional servicing corridor for stormwater.
3. The objectives of the RA in applying for a NOR are;
  - Provide sufficient land for the infrastructure servicing of a new residential zone on the southern side of Howard Street.
  - Enable the efficient, effective and timely implementation of the physical infrastructure necessary to service the area.
  - Manage the overland flow of stormwater to the road and stormwater detention area via a Council owned and maintained service corridor.
4. The proposed designated area is shown in attached appendix 1 and can be generally described as;
  - A crescent shaped road corridor running internally through the development.
  - The road is to be 20m wide, apart from the area adjoining Parkvale School which is 22m wide.
  - The road corridor will also include servicing capabilities for water, wastewater and stormwater.
  - A stormwater corridor of 10m wide and approximately 52m long is proposed on 214 Havelock Road to service the property at 1239 Howard Street.
  - The proposed road will be used to convey piped and overflow stormwater to a stormwater detention area at the southern end of the development area as shown on the approved structure plan attached as appendix 2.
5. The NOR was publicly notified on the 22<sup>nd</sup> of September 2018 and 7 submissions were received including 1 late submission. All of the submissions generally supported the NOR but 4 submitters sought modification to its design for different reasons.
6. I have been appointed as an Independent Commissioner by Council as territorial authority to hear and determine the application. A hearing was held in Hastings on the 19 and 20<sup>th</sup> of February. At the hearing I accepted a late submission from the MOE on behalf of the Parkvale Primary School. Those persons who attended the

hearing and presented submissions and evidence are listed in the schedule attached to this decision. Prior to the hearing, I undertook a site visit on the 18<sup>th</sup> of February. I closed the hearing on the 25<sup>th</sup> of February 2019.

7. To assist me to decide this application I received and considered the following;
- The NOR and the accompanying documents.
  - The submissions received and the s42A Report.
  - The submissions and evidence presented at the hearing including the pre circulated evidence of the RA and the evidence of experts for the submitters.
  - The Variation 3 decision.

**General Background:**

8. The block of land known as the Howard Street Development Area to be serviced by the proposed roading corridor was identified for green field residential development in the Heretaunga Plains Urban Development Strategy (HPUDS) back in 2010 and was originally scheduled for development to commence in 2026 to 2031. However due to a number of factors including the demand for green field residential land, this area was brought forward for urban development culminating in the adoption of Variation 3 in 2017 which rezoned the lands from Plains Production Zone to General Residential Zone.
9. An important component of the Variation 3 decision was the approval of a structure plan for the area which shows an indicative roading corridor centrally located through the development area. At the hearing of submissions on Variation 3 alternative designs and locations for the internal roading corridor were considered, resulting in the centrally located alignment being recommended and accepted by Council as part of the approved structure plan.
10. There was one appeal against the Variation 3 decision relating to the size of the proposed stormwater detention area. That appeal was resolved through an Environment Court consent order and has resulted in a slight alteration of the road alignment away from the Riverslea Drain to allow for a wider stormwater detention area. The amended structure plan is that as shown in appendix 2. The road alignment in the NOR now directly reflects the alignment shown in the attached structure plan.
11. The stormwater corridor on 214 Havelock Road was not considered as part of Variation 3 but has since been included in the NOR as the preferred option to provide stormwater drainage to the internal road stormwater system for the property at 1239 Howard Street.
12. After Variation 3 was approved Council then considered how the structure plan infrastructure services could be provided. It considered 3 options. The first option was to leave it to individual land owners to construct the internal road as part of their development, commencing at the Riverslea Drain end of the rezoned area. This option would require an integrated development approach by individual land owners which is not always achievable.



13. The second option was for Council to purchase the land needed for the road corridor on a willing buyer/willing seller basis without a designation. According to Council, the problem with this option was there was no approved road alignment to follow, with the structure plan alignment an indicative alignment only. Negotiations with individuals could become protracted.
14. The third option considered by Council was to seek a designation for the road alignment which would provide certainty to individual land owners and provide for the timely implementation of the physical infrastructure. The third option was chosen by Council culminating in the issue of the NOR for the proposed works.

**Concerns raised by Submitters:**

15. By the time of the hearing of the NOR, there was almost full support from submitters for the application with the focus being on defining appropriate conditions to address individual concerns raised by submitters. However Mr and Mrs Barry and Lynne Keane the land owners of 214 Havelock Road maintained their opposition to the proposed stormwater corridor being located on their land but understood the reasons for its location.

Dr Karen Cooper, the owner of 1259 Howard Street, a property that is subject to the road alignment and the proposed stormwater detention area, sought at the hearing an assurance that the road alignment would not be further moved in a north west direction closer to her dwelling. Apart from the clarification of some other issues that were addressed during the hearing, Dr Cooper supported the granting of the NOR.

TW Property Holdings Ltd (TWP) the owner of 1239 Howard Street supported the NOR and in particular sought confirmation of the proposed stormwater corridor through the Keane property at 214 Havelock Street to enable their property to gain stormwater access to the road stormwater system. The company called a stormwater engineer Mr Johan Ehlers who explained why the stormwater corridor through the Keane property was the most appropriate option for disposal of stormwater from the TWP property rather than disposal to Howard Street. That would involve raising ground levels on the TWP property in the order of up to 1.4m.

TWP also sought through its planning expert Mr Cameron Drury that the road corridor be constructed in stages with the NOR being modified to comprise requirement 1 being the crescent shape portion of the road and requirement 2 being the cul-de-sac portion of the road through the Woolworths NZ Ltd land. The reason for the modification is to prevent delays in the construction of requirement 1 caused by potential stormwater issues affecting the Woolworths land.

Mr and Mrs Keane opposed the stormwater corridor being located over their land. They questioned whether the natural drainage of the TWP land is towards their property and they maintain there was no reason why the TWP stormwater could not be drained to Howard Street.

The Ministry of Education (MOE) on behalf of the Parkvale Primary School supported the NOR but sought conditions to mitigate the noise effects on the school's learning environment from traffic using the new road. The Ministry sought double glazing of the classrooms nearest the road and a security fence on the boundary. It also sought a greater buffer area between the school boundary and the roadway or alternatively that the school be consulted on the final design of the road to be included in the Outline Plan so that adverse effects on the school can be appropriately mitigated.



At the hearing, Woolworths expressed concern that the design of the road corridor that is intended to receive stormwater from their property and other properties in the development area had not been sufficiently tested or researched to establish that its site and other sites could connect to the road stormwater system without incurring significant connection costs. Woolworths considered its stormwater concerns could be addressed by including appropriately worded conditions in the NOR requiring the production of a detailed Outline Plan with design specifications that would ensure properties would have reasonable stormwater access to the road drainage system. Woolworths contended that there should be a requirement in the conditions for the RA to consult with property owners in formulating the final design details to be set out in the Outline Plan.

Of all the issues raised by submitters, the disposal of stormwater and the protection of the Parkvale School's learning environment were the main considerations.

#### Legal Considerations:

16. This NOR by Council as the RA is to be considered under s168A of the RMA and more relevantly in accordance with s168A(3) which reads as follows;
  - (3) *When considering a requirement and any submissions received, a territorial authority must, subject to Part 2, consider the effects on the environment of allowing the requirement, having particular regard to—*
    - (a) *any relevant provisions of—*
      - (i) *a national policy statement;*
      - (ii) *a New Zealand coastal policy statement;*
      - (Hi) *a regional policy statement or proposed regional policy statement;*
      - (iv) *a plan or proposed plan; and*
    - (b) *whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if—*
      - (i) *the requiring authority does not have an interest in the land sufficient for undertaking the work; or*
      - (ii) *it is likely that the work will have a significant adverse effect on the environment; and*
    - (c) *whether the work and designation are reasonably necessary for achieving the objectives of the requiring authority for which the designation is sought; and*
    - (d) *any other matter the territorial authority considers reasonably necessary in order to make a decision on the requirement.*
17. Under s168A(3) I must consider the effects of allowing the proposed road corridor on the environment having particular regard to what the planning documents say about this type of infrastructure proposal, whether adequate consideration has been given to alternative sites, routes or methods for undertaking the work, whether the work and designation are reasonably necessary for achieving the objectives of the NOR outlined earlier and any other matter I consider relevant in making my decision.
18. As all those considerations are subject to Part 2, the overall test to be applied is that the NOR if it is to be approved must achieve the purpose of the RMA as defined in s5 and informed by the matters in s6, s7 and s8 of the RMA.

19. In the consideration of alternatives, the RA is not obliged to choose the best option. It must give adequate consideration to alternatives rather than acting arbitrarily or giving only cursory consideration to alternatives.

**Assessment of Effects:**

20. The effects of the NOR if granted are to be judged against the local environment as it exists today and what is likely to take place in the future under permitted rights and unimplemented consents<sup>1</sup>.
21. The area that exists today is surrounded by mainly existing residential development. The land has recently be rezoned residential, predominately for housing in the near future. The purpose of the designation is to facilitate the area's development.

Stormwater corridor within 214 Havelock Road:

22. The purpose of having the stormwater corridor is to convey stormwater by buried pipes for up to 20% AEP events and secondary overland flows for up to 2% AEP from the TWP property to the new road where it is conveyed to the stormwater detention area shown on the structure plan. The corridor is to be 10m in width with drainage swales.
23. In terms of existing ground levels both Mr Matthew Kneebone, Stormwater Manager for the RA and Mr Ehlers for TWP explained that the natural stormwater flow path for the structure plan area is generally to the south towards the Riverslea drain. The TWP property drains in that direction except for an area fronting Howard Street which drains to that street. I am told a service corridor through the Keane land is the shortest distance between the TWP property and the new road and is located at the lowest point and most closely reflects the natural overland flow path.
24. Prior to choosing the Keane land for the corridor, the RA considered other connecting corridors. One option was to convey stormwater from the TWP property to Howard Street but there is not sufficient capacity in the Howard Street system, and this option would require raising ground levels on part of the TWP land of up to 1.4m.
25. Another option was to provide a service corridor along and within the southern boundary of the Fyfe and Cooper properties direct to the new road but there are building obstructions on the Fyfe land and there is a greater distance to connect to the internal road.
26. Other options were to connect to the road by a corridor along but inside the Keane boundary and then through the Burns land. However this would involve a bend in the service corridor at the Burns property which is considered inefficient and involves two land owners. Consideration was also given to putting the corridor through the next door Gee property but that property is at a higher level then the TWP land. In the end the RA chose locating the stormwater flow path on the Keane's property.
27. I have considered closely the reasons why the RA has chosen locating the stormwater corridor over the Keane's property and the Keane's reasons for opposing it. I find that the chosen option is the most practical option and reflects generally the natural drainage flow path of the surrounding land. Accordingly I uphold the proposal

<sup>1</sup> *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZLR.

in the NOR to designate a stormwater corridor through 214 Havelock Road as shown on the notified NOR plan in appendix 2.

Stormwater access to the road corridor:

28. Prior to the hearing, Woolworths sought from the RA further road design details in relation to the provision of stormwater servicing for the Woolworths site. Its concern was understandable as Mr Kneebone had said in his evidence that the site does have an issue with conveyance back to the proposed internal stormwater network as part of the Woolworths property falls back to the Norton Road corner. Also the RA had decided to carry out further modelling work on the issue which at that time still had not been completed.
29. In response to the Woolworths request for further information and on completion of the further modelling work the RA filed supplementary evidence to explain that the proposed design height of the internal road would be fixed at a level that would provide properties within the rezoned area with the ability to obtain reasonable access by gravity to the road stormwater drainage system. At the cul-de-sac on the Woolworths site the road will be lowered approximately 790mm and from there gradually have a 1.300 gradient to the stormwater attenuation area. The proposed road level will be approximately at the level of the Woolworths site where it slopes towards the Norton Road corner.
30. The RA acknowledges that some earthworks will be required on properties in order to connect but out of the options considered by the RA it says the chosen design level would maximise the ability of properties to dispose of stormwater to the road via gravity disposal. In support of its position, Mr Kneebone presented a set of drawings/plans showing an overall plan, cross sections and indicative cuts/fill scenario for the options considered in determining the final proposed design level for the road.
31. At the hearing, Woolworths still questioned whether sufficient modelling analysis had been undertaken to establish that the road will in fact be designed and constructed to ensure all the sites in the structure plan area can be adequately serviced. However Woolworths took a pragmatic approach to the issue by accepting that its concerns could be addressed by having suitable conditions included in the NOR requiring the road to be designed and constructed to prescribed levels to be included in an Outline Plan after consultation with affected land owners. Woolworth's concerns are addressed in the conditions attached to this decision which were agreed to between the RA and Woolworths at the completion of the hearing.

The Parkvale Primary School Concerns:

32. The school through the MOE took a similar position to Woolworths at the hearing. It submitted that its concerns over traffic noise from the new road and construction noise could be addressed by conditions on the NOR requiring double glazing of classroom windows facing the new road, a new security fence on the boundary and a buffer being established between the classrooms and the road carriage way to mitigate noise and amenity effects cause by the road.
33. It is to be noted that the width of the new road along the school boundary is to be 22m as compared to 20m for the remainder of the road. This is to provide a buffer



between a carriage way and the school and to allow for car parking along the school side of the road.

34. In response to the School's concerns over noise from road traffic, the RA had a desktop assessment undertaken by Malcolm Hunt Associates, acoustic experts. That assessment concluded that with the addition of the new road the cumulative noise level would be 54.5db at the Parkvale School compared to the existing background level of 54.3db, an increase of 0.2db which is not an appreciable change in noise effects. Although the report does not say where at the Parkvale School the noise measurements apply, it does give an indication that the background noise level from traffic on Howard Street will be higher than from traffic using the new road and that it is unlikely there will be any appreciable increase in noise levels at the school from the new road than what currently exists.
35. Having considered the noise assessment report and taking into account the width of the road to allow for parking along the school boundary which will act as a noise buffer, I am satisfied the traffic noise effects from the new road will have little impact on the school's learning environment and that the double glazing of classrooms is unnecessary.
36. However I do agree with the school that the final design of the parking area boarding the school should be set out in the Outline Plan after consultation with the MOE and that the RA should construct a replacement fence along the school boundary, with its design set out in the Outline Plan also after consultation with the MOE. The purpose of the fence is to replace the existing fence and prevent children freely accessing the new road from the school grounds.
37. Finally the MOE raised concerns about construction noise affecting the classrooms. I would expect the RA to consult with the school on construction noise mitigation measures such as the timing of works along side the school but I consider this issue should be left to the parties to discuss as the RA should have some flexibility as to how it should best undertake its work programme.

Dr Cooper's submission:

38. I see no reason why the alignment of the proposed road corridor should be changed from that shown on the NOR plan and I therefore consider Dr Cooper's main concern is satisfied.

TWP's Submission:

39. My finding that the connecting stormwater corridor as shown in the NOR plan should be located over the Keane property will satisfy the TWP submission. I see no reason to modify the NOR into two Requirements to head off any appeals. The relief sought is not a justiciable RMA issue and would only result in uncertainty.
40. Overall having considered the issues raised in submissions and the wider assessments of effects set out in the comprehensive s42A Report, I am satisfied the effects from the granting of this proposed designation can be managed through appropriate conditions to the extent that any adverse effects will be no more than minor.

**Relevant Planning Provisions:**

41. Both the NOR application and the s42A Report provide a detailed analysis of the relevant planning documents. Both assessments conclude that granting the designation would not be inconsistent with any of the objectives and policies in those documents. I agree with those assessments.

42. For this proposal the relevant documents are;

- The National Policy Statement of Urban Development Capacity 2016.

This national directive requires local authorities to provide sufficient development capacity to meet the needs of people and communities and future generations in urban environments. Obviously granting this proposal will help to meet that objective.

- The Hawke's Bay Regional Policy Statement and Regional Plan

The objectives and policies in the Policy Statement provide for the planned provision of urban development while retaining the versatile land of the Heretaunga Plains for primary production and that the location of development is integrated with the provision of services. The Howard Street development area was recently rezoned for residential development and this proposal will facilitate its development.

- The Proposed Hastings District Plan (PDP)

As there are no appeals outstanding in respect of Variation 3, its provisions are now an operative part of the PDP and are to be given full weight.

The objectives and policies in the PDP clearly support the provision of infrastructure to give effect to a new residential area. The designation will ensure that the Howard Street development area will be serviced for roading, water, wastewater and stormwater in accordance with the approved structure plan.

43. Overall, it is clear the planning documents referred to support the granting of this proposal to enable urban development to proceed in a timely manner with services in place.

**Consideration of alternatives:**

44. Before deciding to issue a NOR for the road corridor shown in the approved structure plan the RA looked at the options of allowing developers to construct the road or for Council to negotiate the purchase of the land needed for the corridor on a voluntary basis or for Council to designate the road corridor.

45. It chose the latter option after consultation with effected land owners as being the most efficient option to put in place the services necessary to enable the development of the area to proceed. In deciding to locate the stormwater corridor on the Keane property, the RA considered other locations but chose the proposed corridor as the most practical and cost effective option.

46. Having considered the various options assessed by the RA both in regard to seeking a designation for the road corridor and the location of the stormwater corridor, I am

satisfied the RA has given adequate consideration to other alternatives for providing services to the Howard Street development area.

**Necessity for the Work and Designation:**

47. I agree with Counsel for the RA Ms A Davidson that there is no real question that the NOR and the works proposed are reasonably necessary for achieving the objectives of the RA for which the designation is sought. Clearly the designation and works will enable the efficient, effective and timely implementation of the physical infrastructure necessary to allow for the development of the area including the management of stormwater all of which are the objectives of the RA.

**Other matters:**

48. There are no other matters that I should consider in making my decision.

**Conditions:**

49. The RA originally sought to waive the requirement for an Outline Plan under s176A(2)(c) of the RMA. However during the hearing it became clear that an Outline Plan was necessary in order to address concerns raised by Woolworths, TWP and the MOE. Accordingly the draft set of proposed conditions with the s42A Report have been revised to provide greater specificity in relation to the design details to be included in the Outline Plan, after consultation with identified affected property owners. This will provide the submitters with some certainty as to the outcomes they are seeking to achieve.

**Part 2 Considerations:**

50. As the objectives and policies in the PDP support this type of designation proposal where subject to appropriate conditions it will have only a minimal adverse impact on the physical environment, under the recent Court of Appeal in *RJ Davidson Family Trust v Marlborough District Council*<sup>2</sup> there is no need for me to resort to Part 2 of the RMA in order to confirm the NOR.
51. However for completeness, I consider that granting this designation will greatly assist with the development of the recently rezoned Howard Street greenfield residential area and meet a demand for housing choice in the district. The creation of the road corridor will have little effect on the physical environment and there is nothing in Part 2 which would conflict with the objectives of the designation. I consider that confirming the NOR subject to a slight modification in accordance with the attached conditions will meet the Act's purpose which is to provide for the sustainable management of natural and physical resources.

**DECISION:**

**A. That pursuant to Section 168A(4) and 184A of the Resource Management Act 1991:**

- (a) The Hastings District Council confirms the Notice of Requirement to designate land for Road Corridor and Associated Infrastructure Servicing Corridor and Stormwater Corridor to facilitate residential development within the Howard

<sup>2</sup> [2018] NZCA.

Street General Residential Zone with the inclusion of the severance land (Part Lot 42 DP 752) abutting Parkvale School and subject to conditions, and be included in the Proposed Hastings District Plan.

The Notice of Requirement more fully describes the Requirement as:

- A crescent shaped road corridor running internally through the development.
- The road is largely 20m wide, apart from the area adjoining Parkvale School which is 22m wide.
- The road corridor is approximately 840m in length.
- The road corridor will also include servicing capabilities for water, wastewater and stormwater.
- A stormwater corridor of 10m wide and approximately 52m long located on 214 Havelock Road being PT LOT 2 DP 8367 BLK IV TE MATA SD.

**B. That the necessary amendments be made to the Proposed District Plan incorporating:**

- Amendments to the Proposed District Plan maps to show the additional areas of land to be designated.
- Amendments to the Designation Schedule, including insertion of the final version of the conditions.

**C. That pursuant to Section 176A (1) of the Resource Management Act 1991:**

The request to waive the requirement for an Outline Plan be rejected.

**REASONS FOR DECISION:**

**The reasons for this decision are:**

1. The designation is reasonably necessary for achieving the objectives of the Requiring Authority.
2. Adequate consideration has been given to alternative sites, routes, or methods of achieving the project.
3. It is unreasonable to expect the Requiring Authority to use an alternative site, route or method.
4. The designation is generally consistent with the objectives of the Hawkes' Bay Regional Policy Statement and with the objectives, policies and other provisions of the operative and proposed Hastings District Plans.
5. The designation is generally in accordance with Part 2 of the Resource Management Act 1991.
6. The amendments that have been made to the proposal as a result of further investigations, or in response to submitters' concerns, are within the scope of changes that can be authorised.



7. Restrictions, by way of conditions, imposed on the designation have been included to avoid as far as practicable, remedy or mitigate adverse environmental effects of the designation.
8. The Outline Plan requirement for the road and infrastructure corridor design allows for consideration of final design details to address;
  - a. The effects on the traffic safety around the provision for car parking bordering Parkvale School and shall show how the final design will achieve a design that avoids remedies or mitigates against adverse effects;
  - b. The effects on properties within the structure plan area arising from the final design of the road and infrastructure corridor to meet reasonable access for conveyance and management of stormwater at residential levels from development via the designated corridor.
9. The notice of requirement is consistent with Section 5 of the Resource Management Act 1991 as the establishment of the road and services infrastructure will provide for a public work of District importance in providing a servicing solution to support the Howard Street residential area as confirmed in Variation 3 of the Proposed Hastings District Plan.

#### CONDITIONS

##### GENERAL

1. Except as modified by the conditions below, and subject to final design, the Project shall be undertaken in general accordance with the information provided by the Requiring Authority in the Notice of Requirement dated August 2018 and supporting documents: HDC References;
  - **55505 #0102** – Application and Notice of requirement for Roading and Stormwater Corridors by Requiring Authority (Hastings District Council), dated August 2018;
  - **55505 #0103** – Plan of Notice of Requirement – Road and Services Alignments – Hastings District Council – Stantec Alliance Howard Street Development, Land Requirement Overview, Reference Number 80510333-01-001-G001; Land Requirement Plans 80510333-01-001-L001, 80510333-01-001-L002, 80510333-01-001-L005, 80510333-01-001-L006, 80510333-01-001-L007, 80510333-01-001-L008, 80510333-01-001-L009, 80510333-01-001-L0010, 80510333-01-001-L0011 all Dated 13.08.18;

Note: Land Requirement Plans Reference Numbers 80510333-01-001-L003 (in relation to Lot 41 DP 742) and 80510333-01-001-L004 (in relation to Lot 42 DP 742); are amended by Condition 3 in the Recommended General Conditions;

  - **55505 #0143** – Detailed Site Investigation Report by EAM Environmental Consultants Dated June 2016;
  - **55505 #0107** – Howard Street Stormwater Capacity Report by MWH, Dated 29 February 2016;

- **55505 #0104** – Howard Street Development Wastewater Servicing Assessment Report by MWH, Dated May 2016;
  - **55505 #0105** – Howard Street Housing Development Transport Impact Assessment by MWH, Dated April 2016;
  - **55505 #0106** – Geotechnical Investigation Report by Tonkin and Taylor Ltd, Dated April 2016;
  - **55505#0227** – Howard Street Engineering Assessment of Stormwater Management Options Version 2.0, Dated 12 June 2018;
  - **55505#0237** –Supplementary Evidence of Matthew Kneebone of the Requiring Authority (Hastings District Council), Dated 7 February 2019;
  - **55505#0281** – Option 3 - Modelling Plans and Cross Sections, Hastings District Council – Stantec Alliance Howard Street Growth Project, Drawing References 80510333 C301, 80510333 C302, 80510333 C303; 80510333 C310 cross sections, all dated 29/01/2019;
  - **55505#0319** – Option 3 - Plans and Longitudinal Sections, Hastings District Council – Stantec Alliance Howard Street Growth Project, Drawing References 80510333 C320, 80510333 C321, 80510333 C322, 80510333 C323, all dated 15/02/2019.
2. If a conflict arises between any conditions of this designation and the Notice of Requirement, the conditions of this designation will prevail.
3. That the property subject to the designation and identified as Lot 42 DP 752 (CFR HB37/104), (HDC ref PID 55493) - George Andrew Brummer, Anthony Patrick Douglas Gee, Eileen Gee, and Steven Vue Lup Gee be altered in accordance with Figure (a) below;

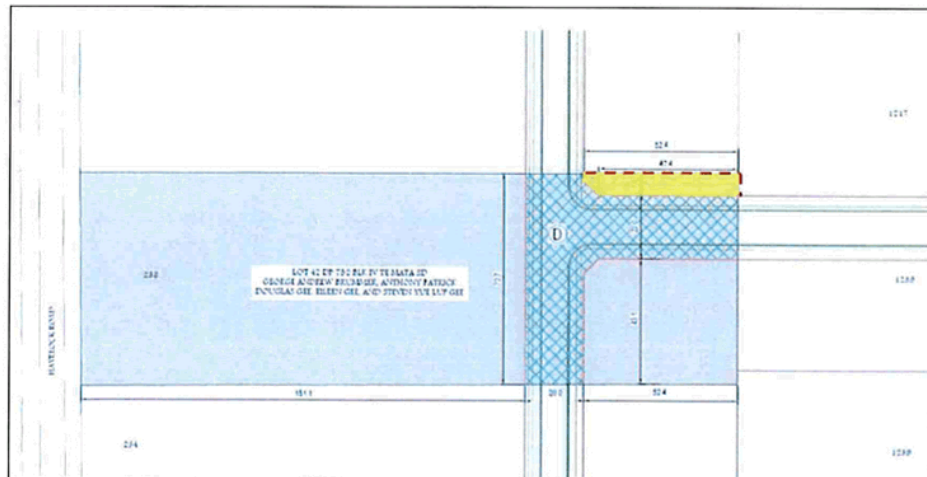


Figure (a)

**MANAGEMENT PLANS**

4. The following management plans listed below shall be submitted to the Environmental Consents Manager, Hastings District Council (or Nominee) prior to the commencement of any construction activities, for approval:
  1. Construction Management Plan (CMP);
  2. Dust and sediment Management Plan;
  3. Traffic Management Plan; and
  4. Construction Stormwater Management Plan
- 4A. In preparing the Construction Management Plan, the requiring authority will consult with the Minister of Education regarding reasonable steps that may be taken to address noise effects or disruption to the School.
5. The final plans listed in Condition 4 shall be submitted to the Environmental Consents Manager at least 20 working days prior to the commencement of any construction activities for certification that the plans are generally in accordance with the draft plans, including their objectives and environmental performance standards.
6. Construction activities shall not commence until the management plans have been certified by the Environmental Consents Manager (or Nominee) and written confirmation of this certification from the Environmental Consents Manager (or Nominee) has been received by the Requiring Authority. If a written response is not provided to the Environmental Consents Manager (or Nominee) within 20 working days of the Requiring Authority/consent holder submitting the management plans for certification, the certification shall be deemed to be confirmed.
7. The final road and infrastructure corridor design shall be submitted for Outline Plan approval under section 176A of the RMA. The assessment of effects accompanying the Outline Plan shall be limited to:
  - a. Effects on the traffic safety around the provision for car parking bordering Parkvale School and shall show how the final design will achieve a design that avoids remedies or mitigates against adverse effects. The final design will have car parking located on the same side of the road as the School so as to provide a buffer between the carriageway and classrooms and a replacement fence along the boundary of the school between the carparking and the school so as to prevent children freely accessing the new road from the school grounds. Any assessment of effects must include details of consultation with the Minister of Education prior to the Outline Plan being submitted including consultation on the cross section of the road alongside the School.
  - b. Effects on the properties listed below arising from the final design of the road and infrastructure corridor, the assessment of which will include provision of relative levels (RLs) for the road, long-sections, cross-sections, and confirmation of capacity, prepared by a suitably qualified stormwater expert confirming that the road and infrastructure corridor within the designation has been designed and will be constructed to provide reasonable access for the conveyance and management of



stormwater at residential levels from development of the following sites within the Howard Street structure plan area:

- 260 Havelock Road (Lot 2 DP850)
- 258 Havelock Road (Lot 1 DP 336086)
- 246 Havelock Road (Lot 41 DP 752 Blk IV Te Mata SD)
- 238 Havelock Road (Lot 42 DP 752 Blk IV Te Mata SD)
- 226 Havelock Road (Lots 43 and 44 DP 752 Blk IV Te Mata SD)
- 214 Havelock Road (Pt Lot 2 DP 8367 Blk IV Te Mata SD) (CT 135/238)
- 208 Havelock Road (Pt Lot 2 DP 8367 Blk IV Te Mata SD) (CT H1/584)
- 204 Havelock Road (Lot 47 DP 752 Blk IV Te Mata SD)
- 180 Havelock Road (Lot 1 DP 28632)
- 1239 Howard Street (Lots 3 – 6 DP 3146);
- 1259 Howard Street (Lot 2 DP 492632).

Prior to submitting the Outline Plan, the Requiring Authority shall undertake consultation with the property owners of the sites listed above, seeking feedback on the final road and infrastructure corridor design. A report shall be provided to the Environmental Consents Manager detailing the consultation undertaken, the responses received, including any expert analysis by third parties and explain any measures that have been adopted by the Requiring Authority to accommodate the feedback received in consultation, within the final road and infrastructure corridor design.

*Advice Note:*

*For clarification all other aspects of the designation are waived for Outline Plan purposes. The purpose of this condition is to provide the option for the Environmental Consents Manager to undertake independent review and / or request changes prior to final design being completed by the Requiring Authority.*

*In completing the Outline Plan the Requiring Authority are encouraged to liaise with the surrounding land owners affected by the road design adjacent to Parkvale School, and are required to consult with the landowners listed at Condition 7. The Requiring Authority shall also provide a copy of the Outline Plan to those landowners listed in condition 7 at the time it is submitted to the territorial authority.*

- 7AA The final road and infrastructure corridor shall be designed and constructed to provide reasonable access for the sites listed in condition 7 above to convey and manage residential levels of stormwater via that corridor.
- 7A The road and infrastructure corridor within Lot 1 DP336086 and Lot 41 DP 752 Blk IV Te Mata shall be designed and constructed with a maximum level of 9.137m RL, unless otherwise agreed in writing with the owners of both lots.
- 8. The Requiring Authority/consent holder may amend the management plans at any time. Any changes shall remain consistent with the overall intent of the relevant management plan and shall be submitted to the Environmental Consents Manager for certification, following the same process outlined in Conditions 4 to 6 above. Construction activities subject to the amendment shall not commence until the amendment has been certified by the Environmental Consents Manager.

9. All construction works shall be carried out in general accordance with the CMP and all supporting management plans required by these conditions.

#### **CERTIFIED MANAGEMENT PLANS TO BE HELD ON-SITE**

10. A copy of the certified versions of the management plans shall be kept on each construction site to which the plan relates at all times and the Requiring Authority/consent holder shall ensure that the contractors and all key personnel are aware of each plan's contents.

#### **CONSTRUCTION NOISE**

11. That all work shall be limited to between the hours of 7:30am to 5:00pm, Monday to Saturday. No work is to be undertaken on Sunday or during Public Holidays.
12. All works shall be so conducted as to comply with the provisions of New Zealand Standard NZS6803:1999 "Construction Noise".

#### **EARTHWORKS / DUST**

13. 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 borne dust is able to be deposited outside the property boundaries.
14. That all areas of earthworks associated with the Road Corridor and Associated Infrastructure Servicing Corridor and Stormwater Corridor shall be re-grassed, planted or developed to an erosion proof state within 1 month of the earthworks being completed, to the satisfaction of the Environmental Consents Manager, Hastings District Council.

#### **CULTURAL/ARCHAEOLOGICAL DISCOVERY PROTOCOL**

15. In the event of any archaeological site, waahi tapu, taonga or koiwi being discovered during the works authorised by this designation/consent, the Requiring Authority/consent holder shall immediately cease work at the affected site and secure the area. The Requiring Authority/consent holder shall contact the Council to obtain contact details of the relevant hapu and/or marae. The consent holder shall then consult with the appropriate tribal entities and Heritage New Zealand Pouhere Taonga, and shall not recommence works in the area of the discovery until the relevant Heritage New Zealand Pouhere Taonga and appropriate tribal entity approvals to damage, destroy or modify such sites have been obtained.

#### **MANAGEMENT OF POTENTIAL SOIL CONTAMINANTS**

16. That no construction works commence within the Designated Road and Servicing Corridors until the required resource consent(s) are obtained under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011.
17. At the completion of the works, a completion report and as-built plan shall be provided to the Environmental Consents Manager, Hastings District Council (or Nominee), to confirm the location of any contaminated soil (not meeting residential standards) after the construction of the access and servicing corridor.

**TRAFFIC MANAGEMENT**

18. That a Traffic Management Plan be submitted to the Hastings District Council for approval of the Environmental Consents Manager (or Nominee) prior to construction commencing on the road and service corridors.

**FENCING**

19. For the property at 1259 Howard Street, the Requiring Authority shall, on completion of construction of the road, install fencing along the new road boundary equivalent to that previously on the boundary with the Riverslea Drain, unless otherwise agreed in writing with the owner of the land

Dated 28<sup>TH</sup> February 2019

  
\_\_\_\_\_  
Paul Cooney  
Commissioner

**ATTENDANCE SCHEDULE**  
**(listing those who presented evidence):**

**HEARING - NOR for Designation, Howard Street, Hastings**

**Held on 19 February 2019**

**FOR THE REQUIRING AUTHORITY – Hastings District Council:**

- Senior Environmental Planner, Policy – Craig Scott
- Stormwater Manager – Matt Kneebone
- Legal Counsel – Asher Davidson

**FOR HASTINGS DC – AS CONSENT AUTHORITY:**

- Michelle Hart – Reporting Planner

**SUBMITTERS:**

- Marcus Hill, General Manager, Trace Group – appearing for T W Property Holdings Limited (representing owners of 1239 Howard Street)
- Johan Ehlers – appearing for T W Property Holdings Limited
- Andrew Hill, Consultant Planner, Beca - appearing for Ministry of Education
- Karen Cooper
- Allison Arthur-Young, Russell McVeagh - Legal Counsel, appearing for Woolworths NZ Ltd
- Kay Panther Knight, Consultant Planner, Forme Planning - appearing for Woolworths NZ Ltd
- Barry and Lynne Keane

**ADMINISTRATION:**

Christine Hilton - Committee Secretary



Schedule 1

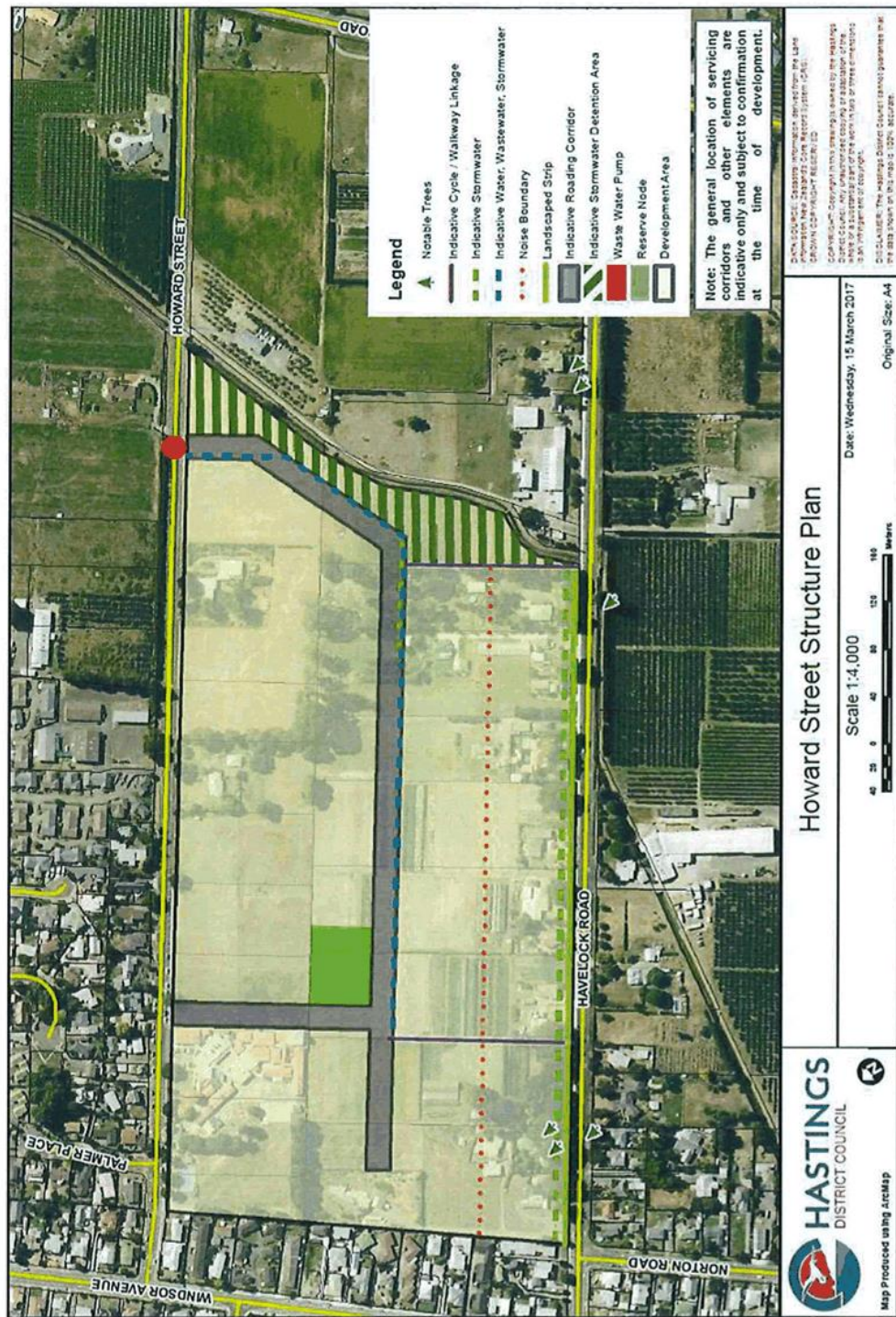


Item 2

Attachment 1



Schedule 2



Attachment 1

Item 2