



# *Hastings District Council*

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## OPEN A G E N D A

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### HEARINGS COMMITTEE MEETING

**(A LAND USE APPLICATION FOR A NON-COMPLYING ACTIVITY  
RESOURCE CONSENT FROM WAITOMO GROUP LIMITED TO  
ESTABLISH A VEHICLE REFUELLING STATION AT 11 ALLEN  
ROAD, PAKOWHAI, HASTINGS LEGALLY DESCRIBED AS SEC 1  
SO 9886 (RT HBM2/1280))**

Meeting Date: **Friday, 31 May 2019**

Time: **10.00am**

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

<b>Committee Members</b>	<b>Panel Members Rostered on for this hearing:</b> Chair: Councillor Lyons Councillors Barber and Schollum  <b>Other Hearings Committee Members (not rostered on for this hearing):</b> Councillors Heaps, Kerr (Deputy Chair), Redstone and Mr P Kay
<b>Officer Responsible</b>	Environmental Consents Manager – Murray Arnold
<b>Reporting Planner</b>	Environmental Planner (Consents) Rebecca Jarman
<b>Committee Secretary</b>	Christine Hilton (Ext 5633)

## Hearings Committee – Terms of Reference

### Fields of Activity

The Hearings Committee is established to assist the Council by hearing and determining matters where a formal hearing is required under the provisions of the:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Dog Control Act 1996
- Litter Act 1979
- Hastings District Council Bylaws
- Local Government Act 1974
- Local Government Act 2002
- Gambling Act 2003

### Membership (7 including 6 Councillors)

Chairman appointed by the Council from the membership of 6 Councillors

Deputy Chairman appointed by the Council from the membership of 6 Councillors

4 other Councillors

1 externally appointed member with relevant qualifications and experience

### Quorum\* –

- a) All members including the Chair (or Deputy Chair, in the Chair's absence) sitting on a hearing must be accredited (as of 12 September 2014).
- b) A maximum of three members including the Chairperson (or Deputy Chair, in the Chair's absence) to meet for any one hearing, except for Council Initiated Plan Change hearings where all members may attend and take part in the decision making process.
- c) For Hearings other than Council Initiated Plan Change hearings the quorum shall be two members.
- d) For Council Initiated Plan Change Hearings the quorum shall be three members.
- e) Members to sit on any hearing other than a Council Initiated Plan Change Hearing shall be selected by agreement between the Chair (or Deputy Chair, in the Chair's absence) and the Group Manager: Planning and Regulatory Services.
- f) For the purpose of hearing any objection in respect of the matters detailed under the Dog Control Act 1996 the Hearings Committee will consist of any three members selected by the Chair.

\*In the case of hearings under the provisions of the Resource Management Act 1991 the quorum is to meet the obligations contained in section 39B of the Act.

### Delegated Powers

#### HEARINGS COMMITTEE

##### 1. RESOURCE MANAGEMENT ACT 1991

Pursuant to Section 34(1) of the Resource Management Act 1991 the Hearings Committee of Council is delegated power to:

- |  |  |
|--|--|
| 1) Hear, consider and decide upon any Resource Consent application or any other application made to Council under the Act (including private plan change requests). For the avoidance of doubt, this includes the use or exercise of any powers vested in the Council under the Act to process, hear and decide upon any such application. | Decide on Applications and Private Plan Change requests. |
| 2) Hear, consider and recommend to the Strategy, Planning and Partnerships Committee or Council as it considers appropriate, on submissions made on any proposed plan or any Council initiated change to the District Plan or variations to the Proposed Plan.   | Submission on Council Plan Changes.                      |
| 3) Appoint a Commissioner or Commissioners to hear, consider and decide on any Resource Consent application or any other application made to Council under the Act. This   | Appoint Commissioner for Resource Consents.              |

delegation is subject to the requirement that any Hearings Commissioner(s) appointed shall hold a valid certificate of accreditation under section 39A of the Act.	
4) Appoint a Commissioner or Commissioners to hear, consider and recommend to the Strategy, Planning and Partnerships Committee or Council as it considers appropriate, on any submissions made on any proposed plan or any Council or privately initiated change to the District Plan. This delegation is subject to the requirement that any Hearings Commissioner(s) appointed shall hold a valid certificate of accreditation under section 39A of the Act.	Appoint Commissioner for Proposed District Plan and Council or Private Plan Changes.
5) Extend any time limits or waive compliance with any requirement specified in the Act or Regulations in respect of any matter before it under the Act and pursuant to the above delegations pursuant to Section 37 of the Act.	Extend Time Limits and Waive Compliance.
6) Hear and determine any objection made pursuant to Section 357, 357A, 357B, 357C and 357D of the Act	Review of Decisions made under Delegation.
7) Make an order, pursuant to Section 42 of the Act, relating to the protection of sensitive information in respect of any matter before it.	Protection of Sensitive Information.
8) Waive, pursuant to Section 42A(4) of the Act, compliance with Section 42A(3) of the Act relating to the receiving of officers' reports in respect of any matter before it.	Waive Time for Receipt of Officers' Reports.
9) Determine, pursuant to Section 91 of the Act, not to proceed with a hearing of an application for Resource Consent where it considers additional consents under the Act are required in respect of any application before it.	Defer Application Where Other Consents Required.
10) Require, pursuant to Section 92 of the Act, further information relating to any application before it and postpone notification, hearing or determination of the application.	Require Further Information.
11) The above delegations shall apply with all necessary modifications to:	
i) Any notice of review of Consent conditions issued by Council pursuant to Section 128 of the Act or by any committee or officer or the Council having delegated authority to do so.	Review of Consent Conditions.
ii) Any submissions on any requirement for a designation or alteration to a designation made pursuant to Sections 168, 168A or 181 of the Act.	Hear Submissions on Designations.
iii) Any submissions on any requirement for a Heritage Order made pursuant to Section 189 and 189A of the Act.	Hear Submissions on Heritage Orders.
12) Consider and make recommendations on any requirement for a designation or alteration to a designation pursuant to Section 171 of the Act.	Recommendations and Designations.
13) Consider and decide on any amendments to Council's District Plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors pursuant to Clause 16(2) or 20A of Part 1 of the First Schedule to the Act.	Amend District Plan.

## 2. HEALTH ACT 1956

Pursuant to Clause 32 of Part 1 of the Seventh Schedule to the Local Government Act 2002 and Section 23 of the Health Act 1956 the Hearings Committee is delegated authority to:

i) Hear explanations against a notice to revoke registration issued pursuant to Clause 9 of the Health (Registration of Premises) Regulations 1966.	Explanations Registration Should Not be Revoked.	Why
ii) Hear and determine any appeal against a direction or decision of any officer acting under delegated authority and any application or objection made pursuant to Clause 22 of the Housing Improvement Regulations 1974.	Determine Applications or Objections to Requirements Under Housing Improvement Regulations.	Appeals,

### 3. DOG CONTROL ACT 1996

Pursuant to Clause 32 of Part 1 of the Seventh Schedule to the Local Government Act 2002, the Hearings Committee is delegated authority to hear and determine any objections lodged against any decision of an officer acting under delegated authority or any notice issued by a Dog Control Officer pursuant to the following Sections.

Decide on objections under the Dog Control Act 1996

Section 22	Objection to the classification as a probationary owner.
Section 26	Objection to disqualification from being an owner of a dog
Section 31	Objection to the classification of a dog as a dangerous dog
Section 33B	Objection to the classification of a dog as a menacing dog under section 33A.
Section 33D	Objection to the classification of a dog as a menacing dog under section 33C as it is believed to belong to 1 or more classified breeds.
Section 55	Objection to the issue of an abatement notice for a barking dog.
Section 70	An application for the return of a barking dog seized under section 56 for causing distress.
Section 71	An application for the release of a dog that is being held in custody under section 71(1) and (2) for threatening public safety.
Section 71(1)(a)	To be satisfied that a dog seized under section 15(1)(c) because the dog was without access to proper and sufficient food, water or shelter, will be given access to proper and sufficient food, water, or shelter if returned to the land or premises from which it was removed.
Section 71A(2)(a)(i)	To be satisfied that the owner of a dog seized under section 33EC (because the owner failed to comply with his obligations in respect of a dog classified as menacing), or of a dog classified as a menacing dog seized under section 33EB (because the owner failed to have the dog neutered), has demonstrated a willingness to comply with the relevant requirements".

### 4. LITTER ACT 1979

Pursuant to Clause 32 of Part 1 of the Seventh Schedule to the Local Government Act 2002, the Hearings Committee is delegated authority to hear and decide on any objection lodged pursuant to Section 10 of the Litter Act 1979 against a notice issued under that section.

Decide on Objections to Notices Issued by a Litter Control Officer.

### 5. Building Act 2004

Pursuant to Section 67A of the Building Act 2004 the Hearings Committee is delegated authority to grant a waiver or modification to section 162C(1) or (2) (which requires residential pools to have means of restricting access by unsupervised children) the requirements of the Act (with or without conditions) in the case of any particular pool.

Grant Exemptions to Pool Fencing Requirements.

### 6. HASTINGS DISTRICT COUNCIL BYLAWS

Pursuant to Clause 32(1) of Part 1 of the Seventh Schedule to the Local Government Act 2002, the Hearings Committee is delegated



authority to:

- |     |  |   |
|-----|--|---|
| i)  | Hear and determine any application for a review of any decision of a duly authorised officer pursuant to any part or provision of the Hastings District Council Bylaws.                            | Review of Delegated Decisions.          |
| ii) | Consider and determine any application under Clause 1.5 of Chapter 1 of the Hastings District Council Consolidated Bylaw for a dispensation from full compliance with any provision of the Bylaws. | Dispensations from Bylaws Requirements. |

## **7. LOCAL GOVERNMENT ACT 1974**

Pursuant to Clause 32(1) of Part 1 of the Seventh Schedule to the Local Government Act 2002 the Hearings Committee is authority to hear and recommend to Council on any objections to any proposal to stop any road pursuant to Section 342 and the Tenth Schedule to the Local Government Act 1974.	Hearing Objections to Road Stopping.
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## **8. GAMBLING ACT 2003**

Pursuant to Clause 32(1) of Part 1 of the Seventh Schedule to the Local Government Act 2002, the Hearings Committee is delegated authority to:

- |    |   |  |
|----|---|--|
| i) | Hear, consider and determine in accordance with section 100 of the Gambling Act 2003, applications for territorial authority consent required under section 98 of that Act, as required by the Hastings District Council Class 4 Gambling Venue Policy. | Hear and Decide on Applications for Territorial Authority Consent. |
|----|---|--|

# HASTINGS DISTRICT COUNCIL

**A HEARINGS COMMITTEE MEETING WILL BE HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON FRIDAY, 31 MAY 2019 AT 10.00AM.**

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## **1. APOLOGIES**

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

## **2. A LAND USE APPLICATION FOR A NON-COMPLYING ACTIVITY RESOURCE CONSENT FROM WAITOMO GROUP LIMITED TO ESTABLISH A VEHICLE REFUELLING STATION AT 11 ALLEN ROAD, PAKOWHAI, HASTINGS LEGALLY DESCRIBED AS SEC 1 SO 9886 (RT HBM2/1280)**

**DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS THREE SEPARATE DOCUMENTS**

<b><u>Document 1</u></b>	The covering administrative report	<b>Pg 1</b>
<b>Attachment A</b>	Planning Report	<b>Pg 5</b>
<b>Attachment E</b>	Attachment E Copy of Submissions	<b>Pg 87</b>

### **Document 2** - Containing these attachments

Attachment C Application Including Additional Information and TIA Peer Review

Attachment D Council's Development Engineers Comments

Attachment H Copy RMA20190051 1003 Links Road Pakowhai

Attachment I Copy of RMA20150318 Decision Farndon Road

Attachment K Copy of RMA20180159 167 Gimblett Road

Attachment L Regional Policy Statement Extract

### **Document 3** - Containing these attachments

Attachment B Section 95A and 95B Notification Assessment Report

Attachment F Council's Request for Further Information Post Submissions

Attachment G Copy of Information Received After Close of Submissions

Attachment J Copy of Environment Court Decisions

**The Application and Submissions can be viewed on the Council website and a reference hardcopy is held at the Council Civic Administration Building.**

**REPORT TO:** HEARINGS COMMITTEE

**MEETING DATE:** FRIDAY 31 MAY 2019

**FROM:** COMMITTEE SECRETARY  
CHRISTINE HILTON

**SUBJECT:** A LAND USE APPLICATION FOR A NON-COMPLYING  
ACTIVITY RESOURCE CONSENT FROM WAITOMO  
GROUP LIMITED TO ESTABLISH A VEHICLE  
REFUELLING STATION AT 11 ALLEN ROAD, PAKOWHAI,  
HASTINGS LEGALLY DESCRIBED AS SEC 1 SO 9886 (RT  
HBM2/1280)

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## **1.0 INTRODUCTION**

- 1.1 This is a covering report relating to a land use application for a Non-Complying resource consent to establish a vehicle refuelling station at 11 Allen Road, Hastings (Waitomo Group Limited) (RMA20180217).
- 1.2 This agenda can be viewed on the Council website and a reference hardcopy is held at the Ground Floor Reception, Council's Civic Administration Building, Lyndon Road East, Hastings.
- 1.3 For ease of reference the recommendations from the attached Planner's Report are also set out below.

## **RECOMMENDATIONS**

That pursuant to Rules PP39, EM10, HS3, PP24, ADS5 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 104B, and 104D of the Resource Management Act 1991, consent is DECLINED to Waitomo Developments Limited to establish a refuelling station at 11 Allen Road, Pakowhai 4183, legally described as Sec 1 SO 9886.

## **WITH THE REASONS FOR THIS RECOMMENDATION BEING:**

1. The adverse effects on the wider environment will be no more than minor, with mitigation including road upgrading works, landscaping and control of lighting, and stormwater control hazardous facility and emergency management controls in place.

2. The owners and occupiers of 4, 16/16A and 13 Allen Road are considered to be adversely affected by the proposal for the reasons stated below:

- The rural amenity and character of the location will be compromised as a direct result of the proposal, given the nature, scale and intensity of the activity proposed.
- The amenity and character for the area will not be reasonably maintained for residents.
- Trees will be close and overhang the boundary of 13 Allen Road.
- The activity will create a large area to the east of the pumps that would have potential for uncontrolled use by the public creating rubbish, toileting, and general disturbance and unreasonable security concerns for residents.

3. The proposed development and activity is overall contrary to the relevant Objectives, Policies and other provisions of the Proposed Hastings District Plan in particular to the following objectives and policies:

- **RRSP2** and therefore **RRS01** as the proposal involves the introduction of an activity that does not complement the resources of the rural area, as it has no direct relationship to the land for which it is proposed.
- **RRSO2**, the proposal is not considered an efficient or innovative use or development of the rural resource
- **RRSO3 and RPSP4** as the proposal presents a sporadic form of development and the grant of this consent would not amount to the anticipated management of activities in the urban area in a controlled manner
- **PSMP2** as the activity is not linked to land based production and is not of a scale that is compatible with that environment
- **PSMP3** as the activity and associated structures are considered to compromise the amenity of the environment because of the nature, scale and intensity of the activity.
- **PSMP4** as the proposal does not have a direct relationship to crops grown and / or stock farmed within the Plains environment.
- **PSMP6** as the proposal does not rely on the life supporting capacity of the soil but is not of a scale and for the environment and amenity expectations for the Plains environment.
- **PSM01**, as it is the overarching direction for Policies PSMP2, PSMP3 and PSRM4 and PSMP6 that the proposal is contrary to.
- **Objective PP01** as it does not have a direct relationship to the productive nature of the area and its scale, nature and intensity has incompatible rural amenity and character effects on the immediate area.
- **PPP4** as it has no direct relationship with the land based primary production, being a refueling activity.

- **PP02** as the proposal does not demonstrate flexible options for use of the wider versatile land resource.
- **PPP8** as the activity has not direct link to the use of the land and it's scale and intensity do not protect sufficiently the rural character of the area.
- **PPP13** in that the new activity and development is not consistent with the low scale nature that comprises the rural character and amenity of the zone.
- **PPP15** with noise generated to be inconsistent with the character and amenity of the area and Plains Production zone.
- **PP03** as the proposal will not retain an open and low scale nature that comprises the rural character and amenity in the Plains zone.
- **ADS01, ADSP1 and ADSP2** as signage forms part of the wider proposal which would detract from the visual amenity and character of the environment.
- **NS01, NS02, NSP1** as the proposal does not control sufficiently the emission of noise, may impact on resident's health and the rural acoustic environment for the area is not maintained or enhanced.

The application may also be contrary to the following objectives and policies depending on clarifications on well provided at the hearing.

- **NH01 and NH02** as the proposal may not sufficiently mitigate to an acceptable level the risk of a discharge event impacting on the underground water.
4. The proposal is a significant departure from the clear and understood policy direction for Plains Production Zone subdivision. As such it is considered that the application will undermine public confidence in and adversely affect the integrity of the District Plan. In addition, it will create an adverse precedent effect.
  5. The application is inconsistent with Part II of the Resource Management Act 1991. This is because, in the opinion of the reporting planner, the proposal;
    - will not result in the efficient use and development of the natural and physical land resource; and
    - will not sufficiently avoid, remedy or mitigate adverse effects on the environment, in particular with respect of the rural character and amenity.

As such, it is considered that the purpose of the Act, being the sustainable management of natural and physical resources, will be better achieved if the application is declined.

**Attachments:**

A	Planning Report	53568#0188	
B	Attachment B Section 95A and 95B Notification Assessment Report	53568#0173	Document 3
C	Attachment C Application Including Additional Information and TIA Peer Review	53568#0174	Document 2
D	Attachment D Council's Development Engineers Comments	53568#0175	Document 2
E	Attachment E Copy of Submissions	53568#0182	
F	Attachment F Council's Request for Further Information Post Submissions	53568#0181	Document 3
G	Attachment G Copy of Information Received After Close of Submissions	53568#0180	Document 3
H	Attachment H Copy RMA20190051 1003 Links Road Pakowhai	53568#0179	Document 2
I	Attachment I Copy of RMA20150318 Decision Farndon Road	53568#0183	Document 2
J	Attachment J Copy of Environment Court Decisions	53568#0178	Document 3
K	Attachment K Copy of RMA20180159 167 Gimblett Road	53568#0176	Document 2
L	Attachment L Regional Policy Statement Extract	53568#0177	Document 2

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**REPORT TO: HEARINGS COMMITTEE****MEETING DATE: 31st MAY 2019****FROM: REBECCA JARMAN  
ENVIRONMENTAL PLANNER (CONSENTS)****SUBJECT: LIMITED NOTIFIED APPLICATION FOR A VEHICLE  
REFUELLING STATION AT 11 ALLEN ROAD,  
PAKOWHAI**


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**NOTE:** This report sets out the advice of the reporting planner. This report has yet to be considered by the Hearings Committee delegated by the Council to determine this application. The recommendation is not the decision on this application. A decision will only be made after the Commissioners have considered the application and heard the applicant and any submitters.

**EXECUTIVE SUMMARY**

<b>Applicant:</b>	Waitomo Group Limited
<b>Applicant's Agent:</b>	Roger Wiffin of Stradegy Planning Limited* C/- Helen Jones of Earth Group for Expressway Developments Limited  <i>*Note that the Agent has changed from Damon Gibson of Development Nous Limited who was the Agent on the original application.</i>
<b>Site Address:</b>	11 Allen Road, Pakowhai
<b>Legal Description:</b>	Sec 1 SO 9886
<b>Site Areas:</b>	1.2938ha
<b>Zoning:</b>	Plains Production Zone – Proposed Hastings District Plan
<b>PID:</b>	53568

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Attachment A

<b>Proposal:</b>	Establishment and operation of a vehicle refuelling station involving removal of all existing buildings on the site, establishment earthworks, establishment of underground tanks and services, signage, fencing and landscaping, and road works.
<b>Proposed Hastings District Plan (PHDP) Provisions:</b>	<ul style="list-style-type: none"> <li>• Non-complying Activity under Rule Table 6.2.4 (PP39) for an activity not complying with standard 6.2.6D(1).</li> <li>• Discretionary Activity for earthworks under Rule Table 27.1.5 (EM10) for earthworks across the site above the threshold limits of 27.1.6A .</li> <li>• Discretionary Activity for the establishment of a Major Hazardous Facility under Rule Table 29.1.5 (HS3), involving more than 50,000 litres of diesel storage.</li> <li>• Restricted Discretionary Activity under Rule Table 6.2.4(PP24): <ul style="list-style-type: none"> <li>▪ for signage within the 15m yard set back (6.2.5B);</li> <li>▪ for an exceedance in the maximum 1500m<sup>2</sup> total building coverage of standard 6.2.5J; and</li> <li>▪ for an activity not conforming with 6.2.6D(2) (retailing hours of operation);</li> <li>▪ Establish trees being a shelterbelt to the eastern side boundary infringing standard 6.2.5H.</li> </ul> </li> <li>• Restricted Discretionary Activity for advertising signage under Rule Table 28.1.5 (ADS5), not meeting the maximum 2.5m<sup>2</sup> area standard of rule Table 28.1.6A, due to the number and size of signage.</li> </ul>



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<b>Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCO)</b>	Controlled Activity under Regulation 9(1) as a Detailed Site Investigation has been provided and soil contamination levels do not exceed the applicable standard in Regulation 7.
<b>Assessment of Status:</b>	<b>As a bundled Non-Complying activity</b>
<b>Date consent application received:</b>	31 May 2018

1. The applicant seeks land use consent to establish and operate a self-service vehicle refuelling stop at 11 Allen Road, Pakowhai. The application shows no retention of existing buildings on the site and no retention of existing activity on the application site. The proposal does include retaining several large palm trees within the site. The proposal includes establishment earthworks, establishment of hard surfacing, underground tanks and services, signage, fencing, lighting and landscaping. The proposal will involve hardsurfacing a large portion of the site, establishment of two dispensing islands as a four lane car stop with a total of eight service positions for 91, 95 and diesel dispensing, and two dispensing islands as a four lane truck stop with four stations for diesel dispensing. The proposal includes two vehicle crossings and includes road works in Allen Road. The proposal is for a 24 hour 7 day a week operation.
2. The proposal is described in the application documentation and summarised in the application 'Assessment of Environmental Effects' (AEE) document received **[Attachment B]**. The AEE includes a description of the activity, the site and surroundings, and site history including existing consents for the site. The AEE addresses the Proposed Hastings District Plan status, rules and performance standards and terms and outlines their identified reasons for consent. The AEE provides an effects assessment, stating that the "actual and potential effects on the environment of the proposed activity are considered to be no more than minor and limited to those related to: Plains Production soil resource; amenity and visual impacts, advertising, signage and lighting; infrastructure; noise; earthworks, contaminated material; hazardous substances; temporary effects; and other matters including, precedent/District Plan integrity; ecosystems, cultural and spiritual effects, natural hazards, odour and monitoring." (pg 21) The AEE does not include an assessment of

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Attachment A

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alternative locations or methods. The AEE identifies objectives and policies of the Proposed Hastings District Plan and comments that “the proposal will not be contrary to the Objectives and Policies of the District Plan...” (pg 35).

Application information attached to the AEE includes:

- Copy of the Record of Title;
- Site Photos;
- A copy of resource consent referenced RMA20110203 for the Intensive Rural Production Activity and a commercial activity exceeding the 15% ratio standard for goods displayed that are no produced on the site in the Plains zone.
- Plans of the proposal, including site plans, signage plans and landscaping plan.
- Traffic Impact Assessment prepared by Traffic Solutions Limited;
- Engineering infrastructure Assessment prepared by Development Nous;
- Geotechnical Report prepared by WSP/OPUS;
- Environmental Response Plan prepared by Waitomo Group;

In response to Councils Request for Further information on the 29<sup>th</sup> June 2018 Additional information provided includes:

- Earthworks Plan prepared by Development Nous;
- Existing coverage plan;
- Proposed coverage plan;
- Amended Page 4 to the AEE with updated coverage figures;
- Letter from Development Nous dated 3 July 2018;
- Acoustic Report prepared by Malcolm Hunt Associates, and further information from Malcolm Hunt Associates dated 6 September 2018.
- Traffic Solutions Letter dated 19<sup>th</sup> July 2018;
- A Risk Assessment prepared by Pattle Delamore Partners Limited.

3. Council commissioned an independent peer review of the traffic assessment information. This review was undertaken by Mr Glen Randell of Stantec who provided an initial memo dated 23 August 2018.
4. In response, a letter from Traffic Solutions Limited dated 21 August 2018 was provided with traffic modelling information for the intersection of Allen Road and Pakowhai Road, and a further letter from Traffic Solutions Limited dated 29 August 2018 was provided.

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5. Stantec provided a further memo on the 31 August 2018 to further review the additional information.
6. The AEE does include an attached Detailed Site Investigation prepared by Development Nous and Geosciences Limited with respect to the site contamination and the AEE identifies a resource consent is also required under the NESCS regulations.
7. The applicant has provided written approval from NZTA to the proposal.
8. The following table identifies the various attachments to this report.

<b>Attachment B</b>	Section 95A and 95B Notification Assessment Report
<b>Attachment C</b>	Application including, additional information and TIA peer review (received prior to limited notification of the application)
<b>Attachment D</b>	Council's Development Engineers Comments
<b>Attachment E</b>	Copy of Submissions received
<b>Attachment F</b>	Copy of Council's S92 request (received after close of submissions)
<b>Attachment G</b>	Copy of Information provided after close of submissions.
<b>Attachment H</b>	RMA20190051 – Recent resource consent decision for Melita honey a honey production and packaging and storage facility at 1003 Links Road, Pakowhai.
<b>Attachment I</b>	RMA20150318 – Resource Consent for 317 Farndon Road for oversize Industrial truck stop activity.
<b>Attachment J</b>	Copy of Environment Court case law
<b>Attachment K</b>	Copy of RMA20180159 for 167 Gimblett Road relocated greenhouses for Oderings propagation activity.
<b>Attachment L</b>	Extract from Hawkes Bay Regional Resource Management Plan (Regional Policy Statement)

9. A notification report pursuant to section 95A and 95B of the Resource Management Act was undertaken which identified parties potentially affected by the proposal. Council determined under section 95B of the Resource Management Act that the owners and occupiers of 4 Allen Road, 13 Allen Road and 16 and 16A Allen Road\* were

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potentially adversely affected by the proposal. (*\*16 and 16A Allen Road are also otherwise known as 8 Allen Road and the Supplementary Residential Building at 8 Allen Road*)

10. The notification report is in **Attachment B** and covers the following matters;

- (a) Description of the proposal;
- (b) Section 92 request and response;
- (c) Background to the proposal;
- (d) Site description including photographs of the site and surrounding environment;
- (e) Assessment in accordance with National Environmental Standards for Assessing and Managing Soil Contaminants in Soil to Protect Human Health Regulations 2011;
- (f) Assessment of the proposal against the provisions of the Proposed Hastings District Plan;
- (g) Resource Management Act 1991 notification provisions which included an Assessment of Effects on the Environment and Assessment of Affected Persons.

Council's Development Engineer input at the notification determination stage of the application has changed, and Mr Bruin now provides Development Engineering input on this application for Council, his comments are attached in **Attachment D** to this report. I accept the input and recommend adopting his recommended conditions in the event that consent is granted. No new or additional matters have been raised as a result from a Development Engineering viewpoint.

The application was limited notified on 22<sup>nd</sup> February 2019 to persons considered to be affected by the proposed development, these persons were:

Street Number	Legal Description	Registered Owners
13 Allen Road, Pakowhai RD3 Napier 4183	SEC 24 BLK XII Heretaunga SD	David Glen Ewart Penelope Jane Ewart
16 Allen Road, Pakowhai RD3 Napier 4183 (also known as 8 Allen Road)	PT LOT 2 DP 474 BLK XII Heretaunga SD	Susan Fay Averill Timothy Rochford Averill Simon John Scannell



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Occupiers of the Supplementary Residential Building at 16 Allen Road	PT LOT 2 DP 474 BLK XII Heretaunga SD	-
4 Allen Road, Pakowhai, RD3, Napier 4183.	LOT 1 DP 24674 BLK XII Heretaunga SD	NZ Police

11. A total of three submissions were received all within the submission time period and all being in opposition to the proposal. Copies of these submissions are in **Attachment E**. The submissions were received from the owners and/or occupiers of the properties as shown in **Figure 1** below.

**Figure 1: Location of Submitters**  
(marked with a 'X')



12. A summary of submissions is as follows:

No	Submitter	Comments
1	David and Penelope Ewart of 13 Allen Road	<ul style="list-style-type: none"> <li>Totally Opposes the Application.</li> <li>Noise levels are calculated at the pumps.</li> <li>24/7 operation is well outside of existing retail hours for site providing no let up for noise.</li> </ul>

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Attachment A

		<ul style="list-style-type: none"> <li>• Trucks and cars turning within 25m of their bedroom window 24/7.</li> <li>• Safety of Allen Road with trucks crossing the centre line at access.</li> <li>• Truck parking area and open grassed area concerns, including trucks idling, sleeping, toileting, security issues, rubbish and privacy issues.</li> <li>• Water runoff onto 13 Allen Road after site is built up from earthworks.</li> <li>• Drain in Allen Road has flooded, and if piped where will water back up if drain is full to capacity.</li> <li>• Safety of well at 13 Allen Road in the event of a diesel tank rupture.</li> <li>• Provides initial set up jobs, otherwise is unmanned and produces nothing but noise and no jobs for the area and the money goes out of the area.</li> <li>• Wrong spot has been chosen next to 3 dwellings.</li> <li>• Creates a precedent and would undermine the integrity of the District Plan.</li> <li>• Opposes all resource consent applications that fall outside of existing Orderings consent.</li> </ul> <p>The submitter seeks that consent be <b>declined</b>.</p>
2	Claire A Bancks and Michael LN Bancks of 16A Allen Road.	<ul style="list-style-type: none"> <li>• Oppose application.</li> <li>• Concerns include noise, security, safety in traffic, amenity values.</li> <li>• Larger, noisier and more frequent traffic leading into an already challenging traffic flow towards the Links Road roundabout.</li> <li>• Roundabout has been increasingly difficult to enter especially after opening of the Whakatu Arterial route, with proposed large trucks exacerbate</li> </ul>

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		<p>this issue, particularly flow and congestion.</p> <ul style="list-style-type: none"> <li>• Night time noise will disturb sleep.</li> <li>• Truck idling on site will have an adverse effect on quality of sleep and life.</li> <li>• Open site increases opportunity for vulnerability to unwanted attention and intrusion.</li> <li>• Safety of residents due to trucks entering and existing the site due to size of trucks.</li> </ul> <p>The submitter seeks that consent be <b>declined</b>.</p> <p><i>Note: Mr Tim Averill, owner of 16 Allen Road, has advised the Council that these submitters no longer occupy 16A Allen Road, having recently moved home.</i></p>
3	Susan F Averill and Timothy R Averill and Simon John Scannell for the STA Trust of 16 Allen Road	<p>The submitter raises the following concerns:</p> <ul style="list-style-type: none"> <li>• Consider the proposal a commercial activity over 100m<sup>2</sup>.</li> <li>• Concern about use of truck parking site (eastern portion of land), and toileting, noise, lights and security of this area and rubbish and overnight use.</li> <li>• The proposal negates the benefits of the Oderings consent for use of the land.</li> <li>• Security concerns</li> <li>• Noise concerns – hours of operation would impact heavily on noise intrusion. Noise limits are based on ‘expert’ recommendations rather than the level and effects on residential amenity.</li> </ul>

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		<ul style="list-style-type: none"> <li>• There is no acoustic assessment for noise of trucks leaving the site while still on-site with the assessment point at the pumps. Noise levels based on assumptions.</li> <li>• Traffic concerns. Larger trucks visiting that the Oderings activity.</li> <li>• Seek clarification on the traffic comparisons used against existing Oderings facility.</li> <li>• Various traffic and transportation related concerns including congestion, flow impacts, consideration of existing Whakatu Arterial Route.</li> <li>• Concern about safety at the Allen/Pakowhai junction including safe sight lines.</li> <li>• Need clarification on the volumes of earthworks.</li> <li>• Questions what other access could be utilised for the site.</li> <li>• Diesel spill could have a detrimental impact on waterways, in the horticultural area, and eels and watercress in the waterway which passers-by pick.</li> <li>• Impact on their well (bore water supply).</li> <li>• Signage could cause driver distraction.</li> <li>• Discrepancy in plans over location of sign.</li> <li>• Whether flooding from to the Allen Road drain has been addressed.</li> <li>• Whether stormwater flows to the drain account for the change in the drainage flow from recent roading changes.</li> <li>• 24/7 operation not compliant with HDC Plains and rural character and amenity.</li> </ul>
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		<ul style="list-style-type: none"> <li>• Granting consent would establish a precedent and undermine the integrity of the District Plan.</li> <li>• Lighting from the proposal outside daylight hours would be inconsistent with Plains Production.</li> <li>• Supports a proposal on the site that maintains status quo.</li> <li>• The combined impacts may have significant impact for the submitter and community.</li> </ul> <p>The submitter seeks that consent be <b>declined</b>.</p>
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*Note: The issues raised in the submissions are addressed and reflected in the body of the section 104 assessment that follows.*

13. All submissions were received within the submission period.
14. This hearings report focuses on the section 104 of the Resource Management Act 1991 matters as the assessment of effects on the wider environment have been addressed in the Section 95A and 95B notification assessment in **Attachment B**.
15. Clarifications have been identified regarding the proposal, including the matters raised by submitters as follows:
  - The location of wells at 13 and 16 Allen Road;
  - Confirmation volumes of earthworks;
  - Confirmation on the location of the free-standing signs proposed;
  - The size of each proposed underground tank so as to determine whether they are 'buildings' to be included in the calculation for 'gross floor area' of buildings on the site.
  - How any flooding from Allen Road drain will be addressed.
16. From assessments it is my view that an overall conclusion can be come to with regards to adverse effects of the development and activity, whereby I conclude that the adverse effects on amenity and character to be more than minor for the residents at 13 and 16/16A Allen Road, Pakowhai.

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17. The applicant has not identified in their reporting any actual or potential beneficial effects from the proposal that off-set or compensate the adverse effects generated. I consider that the beneficial provision of a re-fuelling station to serve the community does not balance the effects in the favour of the proposal.
18. Further, assessment of the proposal taken as a whole is that it is considered to be contrary to the objectives and policies of the Proposed Hastings District Plan, (including, but not limited to), because the proposal has no direct relationship to be production use of the land in the Plains Production zone and is of a nature and scale incompatible with the area, and provision is made in other zones for such uses. The proposal presents ad-hoc unplanned development of the rural area. It is further considered that the grant of consent would create an adverse precedent and potentially undermine the integrity of the Proposed Hastings District Plan.
19. Under Section 104D of the RMA the Council may not grant consent as the proposal does not meet the threshold tests of section 104D.
20. Subject to any additional or further information submitted at the hearing, it is my recommendation to decline the application with the adverse effects arising in the circumstances to be more than minor and with the proposal being contrary with the objectives and policies of the Proposed Hastings District Plan, and by association the direction of the HB Regional Policy Statement and principles and purposes of the Resource Management Act.

**REPORTING PLANNER**

21. My full name is Rebecca Eva Jarman. I am currently employed as an Environmental Planner (Consents) with the Hastings District Council. I hold a Bachelor's Degree in Resource and Environmental Planning from Massey University and have practiced planning for over 20 years both in Local Government and in private practice, in New Zealand and overseas at various levels.
22. I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court's Consolidated Practice Note (2014), and I agree to comply with it as if this hearing were before the Environment Court. I confirm that the issues addressed in this hearing report are within my area of expertise. I have not omitted to consider material

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facts known to me that might alter or detract from the opinions expressed.

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**ASSESSMENT PURSUANT TO SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991****1.0 STATUTORY CONSIDERATIONS**

1.1 With regard to resource consent applications for non-complying activities Section 104D of the Act states:

(1) *Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, 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—*

(i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*

(ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*

(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.*

1.2 It is noted that the proposal, if granted, would also be subject to Regional consents from the Hawkes Bay Regional Council which would be considered under the relevant plans for those matters. The applicant has identified that a stormwater discharge consent would be required. A consent would also be needed to place any structures in or within 6m of Allen Road drain which is part of the HBRC drainage network, such as new outfall structures or culverts for crossings. While there are two wells on the site identified in application information there are no existing water permits for take for the site, so if the applicant's wish to use groundwater they will need to comply with permitted activity Rule 53 of the HBRRMP otherwise will need to obtain a resource consent for the water take. Dewatering associated with works for existing tanks may need a

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consent to discharge this water to the drain if this is proposed. Any contaminated soils on the site may need consent to move / stockpile these on site also (discharge to land). As this consenting is integral to the site works and activity proposed, it is recommended that if consent is granted a copy of the Regional Consents required be provided prior to the commencement of site works.

- 1.3 The notification assessment (Attachment B) concluded that the adverse effects of the activity on the wider environment are less than or no more than minor. The assessment also concluded that the adverse effects would not be less than minor in respect to persons at 4, 16/16A and 13 Allen Road, and for this reason the application was limited notified.
- 1.4 Subject to Part II of the Resource Management Act 1991, Section 104(1) sets out those matters that Council must have regard to. Such matters include:
  - (a) *Any actual and potential effects on the environment of allowing the activity; and*
  - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
  - (b) *Any relevant provisions of:*
    - (i) *a national environmental standard:*
    - (ii) *other regulations:*
    - (iii) *a national policy statement:*
    - (iv) *a New Zealand coastal policy statement:*
    - (v) *a regional policy statement or proposed regional policy statement:*
    - (vi) *a plan or proposed plan; and]*
  - (c) *Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

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**2.0 SECTION 104(1)(a) - ASSESSMENT OF ENVIRONMENTAL EFFECTS – ACTUAL AND POTENTIAL EFFECTS**

- 2.1 The following assessment of the application has been carried out in accordance with these sections of the Act.
- 2.2 A full assessment of effects on the environment has been considered in 4.0 of the Section 95 Assessment (**Attachment B**). In addition to that assessment, the following assessment and comments are made.

Permitted Baseline

- 2.3 Section 104(2) states that in the assessment of effects under section 104(1) council may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. This 'permitted baseline' is discussed in 4.1.3 of the notification assessment in **Attachment B**. In respect of the permitted level of hazardous product stated in the section 95 assessment, for clarification on-site storage of diesel is not a major hazardous facility where the diesel volume is less than 50,000 litres. I consider that permitted baseline is not very useful in the assessment of the proposal in this case, given the existing consented environment is in excess of this permitted baseline.
- 2.4 Firstly, I note that the existing development on the application site has changed recently with the glasshouses on the site and other associated structures having been removed. The Oderings retail building to the eastern side of the site along with parking spaces and access remains. A resource consent has been granted for proposed relocated greenhouses and establishment of a production nursey (Intensive Rural Production - IRP) activity at 167 Gimblett Road, Hastings being a Plains Production zoned site. This consent (RMA20180159 – **Attachment K**) was granted on 14<sup>th</sup> June 2018 under the Proposed Hastings District Plan provisions. The application was to consolidate the existing production nursey activities from the existing Oderings sites at Pakowhai Road (11 Allen Road - the subject site) and Brookvale Road, Havelock North onto one site. This consent has been commenced, resulting in the removal of buildings on the Allen Road site. The consent did not address the existing consented



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activity at Allen Road, and did not require the existing consent to be fully or partially surrendered. While there is a potential change in operations from the site identified by the RMA20180159, the consented environment at 11 Allen Road remains with the ability for an IRP and associated retailing activity to occur at the consented level and coverage. Therefore, the consented parameters remain applicable, as the existing environment, in the considerations of this refuelling station application. The consent was for the nature, scale and intensity of an IRP with associated garden centre.

**Affected Persons Consent**

- 2.5 Section 104(3) goes on to state the consent authority must not have regard to: (a)(i) trade competition; and (a)(ii) any effect on a person who has given their written approval to the application. NZTA has given their written approval to the proposal and thus any effects on them must be disregarded. No other persons have given their consent to the proposal. The NZTA designation (D49) extends past the site as shown on the attached map extract below:

**Matters Raised in Submissions**

- 2.6 The Averill / STA submission raises concern about contamination from a diesel / fuel spill. Pattle Delamore Partners Limited (PDP) has addressed the risk of the hazardous facility for the whole proposal and the application includes an Environmental Management Plan which is considered in the PDP report. The PDP report concludes that *“based on the risk assessment it is considered that any potential risk to human health or environmental*

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*receptors can be appropriately managed and will be minimised by the structural and procedural controls outlined in the AEE and this letter.*" I consider that this conclusion can be relied on and as such consider that there would be sufficient measures in place to reasonably manage contamination risk. Stormwater would discharge in a controlled manner and therefore any contamination into the drain along Allen Road would be unlikely. The Hawkes Bay Regional Council controls the roadside drain and through them any impacts to the function and use of the drain will be separately addressed. Other consents from the Hawkes Bay Regional Council will also be required and at that time they will further consider the stormwater discharge methods and controls. While people may informally obtain watercress from the public roadside drain, this is not an identified public food supply.

- 2.7 The Averill / STA submission (16 Allen Road) states that the PDP report has not acknowledged the GPS noted residential well at 16 Allen Road and 13 Allen Road. Further information was sought of the applicant in respect of this matter by Council. PDP has provided a Technical Memorandum dated 10th April 2019 in reply to this matter. The reply responds using only the publicly available bore logs and associated resource consent for registered bores in vicinity of the fuel stop. The report states that if there are potentially unregistered bores that are abstracting shallower groundwater and which are located in close proximity to the site (for example within 100m) from the proposed fuel tanks, then a further assessment into these specific bores may be warranted. The data source for wells from the HBRC on-line only records wells on the HBRC database. The HBRC database may not be complete particularly for pre-1991 wells and domestic supply rather than water takes. Therefore specific identification of wells is appropriate rather than just utilising the on-line information. It would be helpful if the submitters confirm the well information (location and depth). **Where these wells have not been identified in the PDP assessment, it is considered appropriate that further specialist assessment from PDP be provided to address this matter at the hearing.**
- 2.8 The Ewart submission (13 Allen Road) raised a concern about the safety of their well in the event of a rupture of the fuel tanks. Depending on confirmation as to the location of their well referenced, it is likely that the PDP report and associated Technical Memorandum have satisfactorily addressed this matter. Further



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confirmation on well locations and depths of those wells, from submitters at the hearing, as above, will assist in clarifying this matter.

- 2.9 The Averill / STA (16 Allen Road) submission questions whether account has been made for increased stormwater flows into the roadside drain as a result of the increased hard surfaces and given the newly completed roundabout and associated roading and lanes. The application acknowledges that a stormwater discharge consent will be required from the Hawkes Bay Regional Council. Given the necessary nature of such a regional consent, I recommend that a copy of the regional consents be provided to Council prior to the commencement of the works associated with this consent as a condition of consent, in the event that consent is granted. Further, the application site already has stormwater discharge from the site to the open drain in Allen Road and the proposal, with detention on site, is to achieve stormwater neutrality. The proposed road works including new crossing, will likely generate changes to the Allen Road drain, in which case regional consent will be also required for the outfall / discharge structures in vicinity to the drain, and stormwater and flooding will need to be addressed through that process. Given the HBRC resource consent required for stormwater discharge and stormwater detention measures proposed on site, I consider that stormwater discharge is sufficiently addressed as a part of this land use application.
- 2.10 The Averill / STA (16 Allen Road) submission seeks clarification on the suitability of the comparison between the existing Oderings activity and the proposed refuelling activity in relation to traffic effects. I consider that the traffic assessment and additional information provided, and given the Council's peer review of this information, is sufficient to understand the proposed traffic movements from the activity and the sufficiently effects on the roading network, traffic environment and in relation to surrounding activities and users. Traffic Solutions Limited for the applicant could further expand on their assumptions to provide clarity at the Hearing on this matter. It is acknowledged that the proposed refuelling station will have greater traffic movements and there will be a substantial change in nature and type, including mix of cars and trucks, compared with the existing Oderings activity.

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- 2.11 The Averill/ STA submission (16 Allen Road) raises concern that the proposed signage could cause driver distraction impacting on the strategic function along a State Highway. The signage would be on the corner of a road in control of the District Council, with a current designation over for NZTA. The signage forms part of the application, and the signage is static but back illuminated. NZTA has reviewed the application and has provided their written consent to the proposal. Given NZTA role and responsibilities and with their consent, it is considered highly unlikely that the proposed sign would cause any driver distraction that would be dangerous or a risk as suggested by the submitter.
- 2.12 The Averill / STA submission (16 Allen Road) noted a discrepancy between the location of signage on the Detailed Site Plan provided with the application and the Planting Plan, sign location. It is assumed for this application that the Detailed Site Plan is the overriding plan with the Planting Plan for purposes of showing indicative planting. In either case, I consider that if the Council is minded to grant the refuelling activity consent, then commensurate signage should be anticipated with one per frontage to clearly identify the activity. Unless otherwise advised by the applicant at the hearing, the signage location for the purposes of this application is being considered in the location as shown in the Detailed Site Plan. In particular consideration of signage, it is considered that this forms part of the elements that contribute to the appearance of the site, and its nature, scale, amenity and character. The only signage provided for under historical consents for 11 Allen Road have been signage provided for under RMA20110203 at 2.5m<sup>2</sup> in area. The consented signage being substantially smaller compared with the proposed freestanding signs (9m high and 1.8m wide for the corner signs and 2m high and 1.2m wide for the entry and exit signs). As the signage forms part of the wider site development, that the higher signage is located on the corner and with low landscaping afforded limited buffering / screening, I consider that the application signage in the context of the site corner contributes to the site having an out-of-character large scale commercial appearance in the rural area. I have not identified any resource consents granted for the large existing Oderings sign on the road berm on the Pakowhai Road side of the site.

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- 2.13 The Averill / STA submission questions whether flooding from the drain in Allen Road into the proposed carpark has been addressed. Where such flooding exists there may be issues around control of contamination on the site with greater and uncontrolled water on the site. Council's records do not indicate any area of localised flooding and the application reporting from the Applicant's Engineer does not identify any flooding. In discussions with the Council's Development Engineer it is understood that the drain flooding would have to be an extreme event. If consent is granted, it is recommended that the applicant demonstrate how the site will be protected and managed from localised flooding from the drain in such an event. The applicant's Engineer could further address this matter at the hearing.
- 2.14 The Averill/STA submission raises the issue of lighting outside daylight hours. In terms of direct artificial light over the surrounding land, lighting on the site can be controlled to ensure that no spill or glare outside of the site occurs during the hours of darkness. If consent is granted it is recommended that a lighting plan for the site be provided to ensure that the nature, location and type of lighting, including spill parameters are contained within the site in compliance with Plains Production zone standard 6.2.5E. Lighting, similar to signage, forms part of the wider development, character and appearance of the site. The fully lit hard surfaced area during hours of darkness would make the site clearly visible during the hours of darkness and make the large scale commercial activity stand out visibly in the area. This, in my view, contributes to the visibility in the rural area of a large scale commercial activity.
- 2.15 Apart from site lighting, there may be street lighting changes. Street lighting is likely to be at the junction with Allen Road and Pakowhai Road. There is already street lighting in this location. Street lighting is a feature of road environments throughout the District, less so with rural roads. Street lighting in a public road is undertaken in accordance with Council's Standards which are applied throughout the District. Dwellings are set back from the road and street lighting is likely closer to the vicinity of the junction than further along Allen Road near the dwellings on 16 Allen Road. The nature of the use of the NZ Police Dog training facility at 4 Allen Road is not likely to be adversely affected by any light spill or illumination of the road forward of their section. The building on that site is sited well off the road.

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- 2.16 All submitters have raised the issue of security of their properties. The application information does not address the security risk for adjoining properties. It is my view that the security risk is unlikely to be unreasonable in this case, given the existing environment. Allen Road is a public road and the area is adjacent busy Pakowhai Road and the State Highway. The area already has a garden centre open to the public operating from the site, and other usual activities in the rural area such as pickers and orchard workers. The application site does propose fencing to the boundary with 13 Allen Road which will provide some level of security. The refuelling site will be under 24/7 electronic surveillance.
- 2.17 All submitters are concerned with regards to traffic safety, efficiency and road design particularly regards to the additional truck movements. Given the Traffic information provided with the application, and the Council's traffic peer review conclusions and Council's Development Engineers comments (**Attachment D**), it is considered that (subject to appropriate detailed design of the proposed road upgrading) the access to and from the subject site can be sufficiently undertaken in an appropriately safe and efficient manner. The access and egress for neighbouring properties is also considered to be safe and efficient as a result. There may be limited additional delays for property users in the area with additional traffic using the roading network as a result of the proposal. However, I consider that such delays would likely be very small and not unreasonable in the rural environment.
- 2.18 Further, given the traffic information provided and the peer review of this information, it is considered that there will be adequate functionality and efficiency of Pakowhai Road and the State Highway including roundabout. NZTA has given their agreement to the proposal as being satisfied with the proposal, including traffic generation, as the controlling authority in respect of the State Highway and their designation affecting that area of roading.
- 2.19 There have been substantial changes to the roading network in recent times with the new Pakowhai Road / State Highway roundabout being established which have influenced local traffic movements and flows. These network changes have been



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designed to facilitate predicted greater traffic movements, including truck movements in the network generally.

- 2.20 Lack of detail for the roading design has been raised in the Averill / STA submission. Council's Development Engineer is satisfied in principle that an appropriate design is achievable for the proposed road upgrading works and junction changes, subject to specific details of proposed works being submitted to Council. If Council is minded to grant consent, it is recommended specific design details are submitted to Council's satisfaction, which will include confirmation that the junction design conforms with AUSTROADS standards and with a safety audit included in the information confirming the design achieves the necessary standards.
- 2.21 The Averill / STA submission (16 Allen Road) notes that there are more truck movements on Pakowhai Road. I note that with completion of the Whakatu Arterial link (Te Ara Kahikatea) Pakowhai road is anticipated by NZTA and Council to have high traffic numbers including truck movements, with the improvements and general increases in traffic numbers.
- 2.22 Concern has been raised about sight lines along Pakowhai Road impacted by trucks stacking on Pakowhai Road in relation to the Allen Road junction. Given the traffic reporting provided from Traffic Solutions Limited and the Council's peer review of this, it is considered that a safe junction design and functionality, and adequate sight lines even with queuing, can be achieved. The road upgrading proposed as a part of the proposal will include new designs for the road, which may include broader works than indicated in the initial designs shown in the application information, but within the legal road that Council is the controlling authority for. As mentioned above, if consent is to be granted it is recommended that designs submitted are designed to meet AUSTROADS standards (which is considered reasonably achievable) and should be subject to a safety audit.
- 2.23 All submitters are concerned with noise from the activity. This includes the impact this will have on their amenity, disturbing sleep and quality of life.

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- 2.24 In terms of the noise assessment the applicant has provided a Noise Assessment from Malcolm Hunt Associates, a Malcolm Hunt Associates' Noise Addendum and a further Technical Memorandum prepared by Lindsay Hannah of Cardno (formerly of Malcolm Hunt Associates) dated 2 April 2019. This information has provided predicted noise levels for the activity against the Proposed Hastings District Plan noise standards for Rural zones and has provided clarification on predicted background sound levels for the area. The noise information includes noise mitigation measures (acoustic fencing installed in the vicinity of the boundary with 13 Allen Road). Based on this information and reports, it is considered that the PHDP noise standards would be complied with for dwellings on surrounding properties including at the Police Dog Training Facility at 4 Allen Road.
- 2.25 Further information was sought by Council asking for clarification from the applicant on background noise levels for the area addressing this over a 24 hour period to look at background levels throughout the day / night. Noise reports provided by the applicant have not included actual measurements taken from the site to confirm actual background noise being received. The application information provides *predicted* background sound levels based on a LAEQ (24hour) dB, rather than an LAEQ(15 min) that other noise standards in the PHDP utilise. Because of this different measure, while it can be reasonably concluded that noise in the area is affected by background noise generally generated by traffic on roads, the information provided is not very helpful in providing a complete understanding as to what level of influence this background noise has on receiver sites in comparison to the proposed noise.
- 2.26 The noise information provided provides an assessment against the PHDP standards but does not elaborate to assess the effect of the change of the nature of noise including traffic noise on the amenity, disturbing sleep and quality of life.
- 2.27 Noise forms part of a range of elements that contribute to people's amenity, ability to sleep and quality of life. What level of amenity and quality is considered reasonable in the rural context (such that the subject proposal exists) needs to be understood in the holistic

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context of the PHDP provisions and for the area in which the activity is take place.

*Rural Character and Amenity*

- 2.28 Turning to the PHDP provisions to assist in establishing reasonable rural amenity and character the following comments are made.
- 2.29 Noise standards have various standards throughout different times of day, with higher levels between 7am and 7pm, lower levels between 7pm and 10pm and lower levels between 10pm and 7am daily. It is accepted that where a permitted activity is undertaken in compliance with the permitted noise standards this achieves a reasonable level of rural amenity. Along such lines, such permitted activities in the Plains Production zone may include the likes of land based primary production and accessory buildings, a dwelling, a supplementary residential building up to 100m<sup>2</sup> gfa, seasonal workers accommodation up to 125m<sup>2</sup> gfa, commercial / industrial activity up to 100m<sup>2</sup> gfa. Any retailing to the public is limited to the hours of 8am to 10pm.
- 2.30 Special provisions are made in the Plains Production zone for 'wine making and bottling, storage and packaging' activity and 'Processing, storage and/or packaging of agricultural, horticultural and/or viticultural crops and/or produce'. 'Processing, storage and/or packaging of agricultural, horticultural and/or viticultural crops and/or produce' is provided for up to 2,500m<sup>2</sup> gfa.
- 2.31 Wineries and vertically integrated activities are provided for being up to 2,500m<sup>2</sup> gfa for the wine making and associated bottling, storage and packaging; with retailing up to 150m<sup>2</sup> gfa and entertainment facilities such as serving food and beverages up to 100m<sup>2</sup> gfa. For the Plains Production zone the retailing and servicing of food or beverages to the public is restricted to between 8am and 10pm.
- 2.32 The hours for the 'wine making and bottling, storage and packaging' activity and 'Processing, storage and/or packaging of agricultural, horticultural and/or viticultural crops and/or produce' are not limited.

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- 2.33 These activities do not usually attract uncontrolled visitor numbers in evenings / night time, and any later operating hours are likely to be seasonal.
- 2.34 There are special provisions for temporary events which allow for 6 times per calendar year and up to 1000 persons for no more than 3 consecutive days and has restricted noise standards with generally no amplified noise between the hours of 2200 and 10am Sunday to Thursday and Fridays and Saturdays from 12 midnight until 10am the following day (Standard 25.1.6J).
- 2.35 The nature, scale and intensity of the above permitted activities shows that they vary, but inevitably are unlikely to operate at more intensive levels all year round 24 hours and 7 days.
- 2.36 In this case, rural amenity and quality of living is influenced also by the background noise and activity from the roading network, by the consented garden centre activity on the application site, and orcharding and other land based primary production activities in the area.
- 2.37 The proposal will generate activity on the site all day and night, there would be no days / hours of reprieve from this activity for surrounding sites such as what might occur when a seasonal based operation occurs. The appearance of the site would be clearly a large commercial activity in an area which is otherwise rural in appearance and character. The greenhouse nature of the site currently is in keeping with usual buildings apparent in a rural setting. While the background noise will dominate this presents a more constant sound. Whereas, for adjoining residents the activity will have more immediate sounds which would be more distinct, in my view, such as door slam, potential amplified music and engine starting and stopping. As well as other general disturbance factors such as potential rubbish and public toileting.
- 2.38 Given the above context and information provided with the application, it is my view, that from the information provided I cannot conclude that the adverse effects, particularly during the night time hours, and because the intensive nature of the activity, with general disturbance in vicinity to residential dwellings, will create a reasonable rural amenity for residents of the dwellings at 13 and 16A and 16 Allen Road.



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- 2.39 In my opinion, subject to the clarifications being addressed at the hearing, the adverse effects on the wider environment will be no more than minor. Nevertheless, the assessment also concluded that the effects could be minor in respect to persons at 4, 8 (aka 16) and 13 Allen Road, and this I remain in agreement with. I further conclude, that given the nature, scale and likely intensity of use of the refuelling station, the proposal would be out of character with the area, and would generate more than minor adverse effect on the rural character and amenity of occupiers of 16/16A and 13 Allen Road.
- 2.40 As set out above, section 104D of the RMA sets out the 'gateway test' for non-complying activities. A consent authority may only grant consent for a non-complying activity if it is satisfied that either the adverse effects on the environment will be minor, or that the activity is one that will not be contrary to the objectives and policies of the relevant plan or proposed plan. If either of the limbs of the test has been passed then the application is able to be considered for approval subject to consideration under section 104 of the RMA. If the application fails both tests of section 104D then the application must be refused. As the conclusion above is, that the adverse effects on the environment are more than minor, therefore it is considered that the application meets the first 'gateway test'.

**3.0 ASSESSMENT OF RELEVANT PROVISIONS OF STANDARDS, POLICY STATEMENTS OR PLANS (Section 104(1)(b))**

The following will assess whether the proposal is contrary to any relevant provisions of -

- (i) a national environmental standard:
- (ii) other regulations:
- (iii) a national policy statement:
- (iv) a New Zealand coastal policy statement:
- (v) a regional policy statement or proposed regional policy statement:
- (vi) a plan or proposed plan.

The Proposed Hastings District Plan (PHDP) as amended by decisions on submissions was notified on 12<sup>th</sup> September 2015 and the PHDP provisions took legal effect on this date.

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There are no outstanding Appeals in relation to any matters pertaining to this application. Therefore it is considered that the provisions of the Proposed Hastings District Plan, as they relate to this application are beyond the point of challenge and the Operative District Plan can be treated as inoperative in accordance with Section 86F of the Resource Management Act 1991. As such, no further assessment against the Operative Hastings District Plan is considered necessary.

3.1 **National Environmental Standards (Section 104(1)(b)(i))**

**National Environmental Standards (NESCS)**

- 3.1.1 As stated in the section 95 report in **Attachment B**, the application included a Detailed Site Investigation report (DSI) (**Attachment C**) The DSI concluded that soil samples returned concentrations for contaminants of concern below NESCS soil contaminant standards and other relevant guideline criteria for the proposed commercial use. It also concluded that it was highly unlikely that soil on the site as well as the proposed development would pose any risk to human health and that no other further investigations were required. The report included recommendations on measures to address unanticipated discovery of contamination.
- 3.1.2 Should the application be approved, relevant conditions would need to be imposed in line with the recommendations of the DSI. As such, the proposal is not considered to be contrary to the provisions of the NESCS.

**National Environmental Standard for Sources of Human Drinking Water**

The National Environmental Standards for Sources of Human Drinking Water must be considered if the activity itself may lead to an event occurring that may have a significant adverse effect on the quality of the water at any abstraction point of a registered drinking-water supply or as a consequence of an event (for example, an unusually heavy rainfall) have a significant adverse effect on the quality of the water at any abstraction point.

This is relevant a submitters have raised concerns about the event of a fuel discharge / spill event contaminating their water supply. Additional information from submitters on the location and depth of their bores will assist in the further consideration of this matter. The

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application has proposed various measures including an Environmental Management Plan and a risk assessment by PDP which contribute to my conclusion that the risk of contamination may be very low, nevertheless identifying the neighbouring water supply bores on neighbouring sites will better confirm whether this is the case.

**3.2 National Policy Statement (NPS) (Section 104(1)(b)(iii))**

**NPS on Urban Development Capacity 2016**

- 3.2.1 The National Policy Statement on Urban Capacity requires Council to provide for an adequate or sufficient supply of land for urban development. The purpose of this Policy Statement is to provide direction to decision makers under the Resource Management Act 1991 on planning for **urban environments**. The subject property is located within the rural environment and therefore the 'Statement' has limited applicability in respect of this proposed development, excepting in that service stations are provided for under the PHDP in the urban environment, expressly the industrial zones as permitted activities.

**National Policy Statement for Freshwater Management 2014**

- 3.2.2 This provides for managing water in an integrated and sustainable way. The proposal will maintain freshwater quality without impacting on the quality of water in any nearby watercourses given the stormwater management measures proposed on the site, including stormwater interceptor that will need to be installed, managed and maintained on an ongoing basis if consent is granted.

**3.3 New Zealand Coastal Policy Statement (Section 104(1)(b)(iv))**

- 3.3.1 The Coastal Policy Statement seeks to avoid inappropriate development within the Coastal area. The subject site is not located within the Coastal Environment and therefore this Policy Statement has limited applicability.

**3.4 Hawke's Bay Regional Policy Statement (RPS) (Section 104(1)(b)(v))**

- 3.4.1 As required under Section 75(3) of the RMA, District Plans must give effect to the RPS (embedded in the Hawke's Bay Regional

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Resource Management Plan (RRMP)). In this regard, Section 3.1B Managing the Built Environment of the Hawkes Bay is particularly relevant (refer to **Attachment L**).

3.4.2 The significant issues identified in the RPS are as follows;

**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);*
- b) *the efficient provision, operation, maintenance and upgrading of physical infrastructure or services (particularly strategic infrastructure); and*
- c) *the economic, cultural and social wellbeing of the Region's people and communities.*

**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.*

The RPS/RRMP provides direction and guidance for managing these two issues through encouraging compact and strongly connected urban form (OBJ UD1); intensification of existing residential areas (OBJ UD2); and planned provision for urban development (OBJ UD4).

3.4.3 The relevant objectives and policies of the RPS/RRMP are as follows;

**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*



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*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.*

**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.***

**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**

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*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.***

**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).*

***POL UD2** In the Heretaunga Plains Sub-region, district plans shall provide for business activities to 2045 in a manner which: (e) avoids the unnecessary encroachment into the versatile land of the Heretaunga Plains.*

- 3.4.4 The RPS/RRMP and the specific section on 'Managing the Built Environment' which contains the provision set out above has been developed to implement the principles and purposes of the Heretaunga Plains Urban Development Strategy (HPUDS). It prioritises the retention of the versatile land of the Heretaunga Plains, and seeks to ensure efficient utilisation of infrastructure

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(existing and planned) (POL UD1); provides for business activities (POL UD2), identifies areas for new residential greenfield growth (POL UD4.3), and specific non-growth areas POL UD4.4); and POL UD4.5 identifies appropriate Industrial Green plus criteria for identifying new residential greenfield growth where not part of an identified growth area (POL UD4.2).

3.4.5 The application AEE report does not include commentary in respect of consistency with the RPS/RRMP but rather focuses on the site and Proposed Hastings District Plan provisions.

3.4.6 Upon analysis and in the context of this proposal, the relevant objectives and policies of the RPS/RRMP address the following matters;

- Preventing the loss of productive/versatile land and soils (POL UD1);
- Avoiding unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains (OBJ UD4;
- Sustainable management of the versatile land of the Heretaunga Plains (POL UD1);
- Make provision for business activities including avoiding encroachment into the Heretaunga Plains( POL UD2)
- Avoiding ad hoc residential development (POL UD3);
- Maintaining the openness of the Heretaunga Plains;
- A building scale that is compact and of low intensity;
- Avoiding inefficient use of existing and planned infrastructure (UD10.1, UD10.3);
- Avoiding development in areas subject to natural hazards;
- Transport and connections considerations;
- Reverse sensitivity effects;
- Ensuring compact and strongly connected urban form.

3.4.7 Sustainable management within the context the Heretaunga Plains includes retention of the nationally significant versatile land where the land supports regional and nationally significant intensive economic activity, and ultimately the economic wellbeing of the Region's people and communities. This approach was a key outcome of HPUDES now embedded in the RPS/RRMP. The outcome sought is to maintain the versatile land by ensuring that growth needs are strategically planned and adhoc development of the resource does not occur.

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Item 2

Attachment A

- 3.4.8 As the proposed development will not directly result in widespread loss of productive versatile land, taking into account the total land area of the Heretaunga Plains, and the conclusion reached on soil effects in the section 95 notification assessment (**Attachment B**), it is considered that the proposal (in and of itself) is not inconsistent with this aspect of the RPS /RRMP.
- 3.4.9 I consider that the proposed site developments will not directly compete with the existing or planned urban growth areas within the urban limits closer to Napier or Hastings. Furthermore, the services are dealt with on site rather than relying on a Council reticulated system (excepting use of the Allen Road regional council drain). For these reasons, it is considered that the proposal will not undermine the current or future infrastructure investments that will be made within the urban limits, as addressed under POL UD1.
- 3.4.10 The proposed development is also not considered to represent urban sprawl due to its distance from the defined urban edges of Napier and Hastings. However it does represent an ad-hoc development in the Plains Production Zone and there are established zones throughout the District existing which could accommodate the activity.
- 3.4.11 The proposed activity is does not conform with the direction for business activities (for which the subject refuelling activity is) in a manner that avoids unnecessary encroachment onto the versatile land of the Heretaunga Plains. Versatile land is broader than just soils, including the likes of accessibility, climate and topography factors that contribute to it. The subject site is not argued in the application as to not having any characteristics of versatile land, and I consider that it forms part of a wider versatile land context that together forms part of the wider area of versatile land in the Heretaunga Plains. The application has not argued the establishment of a business activity in the Plains area is necessary. For the establishment in the area it is considered necessary for an activity to have a relationship / link to the land. In this case it does not, and therefore cannot be considered to be consistent with the business activity strategy of the **RPS under POL UD2**.



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**RPS Conclusion**

3.4.12 In conclusion, I consider that this current proposal for a refuelling station on Plains Production zoned land, with no direct relationship to the land, presents an ad-hoc use of land that forms part of an area containing an integral versatile land resource. Thus the proposal is considered to be contrary to the intention of the RPS to the planned uses in the Plains area.

**3.5 Proposed Hastings District Plan (Section 104(1)(b)(vi))**

3.5.1 As a non-complying activity no specific assessment criteria is stated in the Proposed Hastings District Plan for consideration.

**3.6 Hastings Proposed District Plan – Relevant Objectives and Policies**

3.6.1 The assessment of a proposal's consistency with the objectives and policies requires that an overall assessment is made of how the proposal 'sits' within the policy framework of the Plan as a whole, rather than whether each objective and policy is individually satisfied. That said, case law confirms that where a proposal is contrary to a provision, which when the plan is read as a whole, is very important and central to the proposal, a finding that it is contrary to the objectives and policies of the plan as a whole can be reached (*Akaroa Civic Trust v Christchurch City Council*, [2010] NZEnvC110, *Queenstown Central Limited v Queenstown Lakes District Council* [2013 NZHC 817]). This is particularly the case for the second gateway test in section 104D (1)(b), as would apply if a finding were reached that adverse effects of the proposal on the environment are more than minor (noting my finding earlier in this report that that the first gateway test of minor effects is only 'marginally' met) .

3.6.2 Noting this point, it is the overall intent of the below objectives and policies that has been assessed in this case, but with a focus on those objectives and policies that are of central importance to the application.

3.6.3 The relevant objectives and policies as they relate to this application are as follows:

Emphasis added by reporting planner by underlining sections.

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### 3.6.4 Section 2.8 – Rural Resource Strategy (RRS)

*RRSO1 To promote the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels.*

*RRSP1 Reflect the various characteristics and distribution of the rural resources to enable the sustainable management of these characteristics.*

*RRSP2 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.*

The Explanation to this Policy states that:

*The District Plan will enable a wide range of activities both within and beyond the traditional agricultural field to be established throughout the rural areas. However, their establishment and the scale of them, will not be allowed to occur in a manner that threatens the long term sustainable and economic use or enjoyment of the Hastings District's natural and physical resources, including the versatile land of the Heretaunga Plains. The Council will ensure that activities of a commercial or industrial nature will not have an adverse effect on the sustainability of the established Commercial and Industrial Zones in the District.*

*RRSO2 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.*

*RRSP3 To enable rural activities which might generate adverse effects, such as noise or smell, to operate in rural areas in accordance with accepted practices without being compromised by other activities demanding higher levels of amenity.*

The Explanation to this Policy states:

*The rural areas of the Hastings District support a wide range of activities and have amenity levels associated with supporting a range of agricultural processing activities.*

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When establishing in the rural areas, emerging activities, and in particular lifestyle residential users, will need to recognise existing amenity levels associated with agricultural, horticultural, viticultural and related activities which are characterised by fluctuating noise levels (and other potential adverse effects). The Plan will, however, control such effects to provide a level of amenity which protects people's health and safety and minimises adverse effects as far as is practicable.

RRSO3 To enable the effective operation of primary production activities within established amenity levels in the rural areas of the Hastings District.

RRSP4 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.

The explanation to this policy states

There is significant pressure from urban activities to expand onto rural land close to the present urban areas because of marketing or other financial advantages. The District Plan does not provide for the uncontrolled conversion of rural land to a range of residential, commercial or industrial activities. Such activities can adversely affect the sustainable use of rural resources by: amenity conflict, where new activities (particularly residential) anticipate and desire a higher level of amenity than neighbouring rural productive activities can provide; reducing the life supporting capacity of the soil resource and its availability to future generations through impervious ground coverage; and reducing the safety and efficiency of national or arterial traffic routes through an increased number and use of road accessways. They can also negatively affect the viability of the existing Commercial and Industrial Zones. The District Plan will encourage the development of these activities in urban areas, to ensure the controlled development of urban activities at the interface with the rural area

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- 3.6.5 The thrust of the RRS is to provide for activities that complement the rural resource within the overarching premise of protecting the physical and natural rural resources at sustainable levels.
- 3.6.6 The methods for achieving the direction set out in this strategy include the various rural zonings including the 'Plains Production' zone. The Plains Production zone provides for the productive use of the fertile soils (as well as Class 7 gravel areas suitable for viticulture) close to urban centres.
- 3.6.7 I consider the proposal is contrary to **RRSP2 and therefore RRS01** as the proposal involves the introduction of an activity that does not complement the resources of the rural area, as it has no direct relationship to the land for which it is proposed. There is no product sold that is produced from the site or from the Rural area.
- 3.6.8 In terms of **RRSO2**, the proposal is not considered an efficient or innovative use or development of the rural resource. The desire to be innovative could have resulted in a different proposal being put forward and not one that is merely a standard refuelling station in rural area. I acknowledge the site is already in substantial coverage, however the proposal does not proposed to reuse this, with the glasshouses already removed from the site, and all the retail building and garden centre area proposing to be removed and resealed as a part of the refuelling activity. There is little use of any existing site features (parking area and limited trees). I therefore consider the proposal does not present an substantially efficient use of the site resource. The proposal is contrary to this objective.
- 3.6.9 In terms of RRSP3 this policy is about protecting rural activities that exhibit lesser levels of amenity from pressure of lifestyle type properties for increased levels of amenity. The proposal is not inconsistent with this policy.
- 3.6.10 The subject site will contain the refueling activity within its boundaries and with road upgrading will provide ongoing sufficient capacity for the safe and efficient operation of the roading network. The activity is unlikely to have effects on the ability for surrounding production activities to continue to produce from their sites. Nevertheless, the scale and nature of the proposal on the site is considered to be a sporadic form of development and the grant of this consent would not amount to the anticipated management of



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activities in the District area in a controlled manner. As such, it is considered that the proposal is contrary to **RSP4**.

3.6.11 Section 6.1 – Plains Strategic Management Area

3.6.12 The Proposed District Plan identifies a range of 'strategic management areas' that reflect area specific unique features and identify overarching Objectives and Policies to maintain these. The relevant Objectives and Policies in respect of this proposal include:

*PSMO1 The land based productive potential and open nature of the Plains environment is retained.*

This is an overarching objective.

*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.*

*PSMP3 Require that activities and buildings in the Plains environment do not compromise the open nature and amenity arising from land based production.*

*PSMP4 Limit commercial and industrial activities to those that have a direct relationship to crops grown and/or stock farmed within the Plains environment.*

*PSMP5 Establish clear and distinct urban boundaries to prevent incremental creep of urban activities into the Plains Production Zone.*

*PSMP6 Provide for other primary production activities that are not reliant on the life supporting capacity of the soil, provided they are an appropriate scale for a land based production environment and compatible with the amenity expectations of the Plains environment.*

*The explanation to this policy states:*

*The District Plan will enable a wide range of activities both within and beyond the traditional agricultural field to be established throughout the rural areas. However, their establishment and the scale of them, will not be allowed to occur in a manner that threatens the long term sustainable*

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*and economic use or enjoyment of the Hastings District's natural and physical resources, including the versatile land of the Heretaunga Plains. The Council will ensure that activities of a commercial or industrial nature will not have an adverse effect on the sustainability of the established Commercial and Industrial Zones in the District.*

- 3.6.13 The need to retain the land based primary productive potential and open nature of the plains environment and the need to avoid fragmentation of the Plains land resource are the two most important themes running through the Council's strategic direction for the future in the Plains Strategic Management Area. PSMP1 requires the productive potential and open nature of the environment be retained, and the direction to achieve this is through associated policies below.
- 3.6.14 PSMP1 relates to subdivision, so is not relevant to this land use proposal, yet continues to demonstrate the direction of the plan towards ensuring land has a land based productive use.
- 3.6.15 The proposal is considered to be contrary to **Policy PSMP2** as the activity is not linked to land based production and is not of a scale that is compatible with that environment. The activity likely will generate a large number of public vehicle movements and on a 24/7 basis, which would create adverse effects on the rural amenity and character for the zone that are more than minor for the context with rural residents nearby, thus being incompatible in the environment.
- 3.6.16 The proposal is considered to be contrary to **Policy PSMP3** as the activity and associated structures are considered to compromise the amenity of the environment because of the nature, scale and intensity of the activity.
- 3.6.17 The proposal is contrary to Policy **PSMP4** as the proposal again does not have a direct relationship to crops grown and / or stock farmed within the Plains environment. The sale of fuel is not related to the land in the manner that the District Plan intends. It is acknowledged the fuel would serve the area for fuel supplies, but it is understood that it is not contingent on this with passing trade being a key attractor for a business in this location. I do not consider that this relationship is a direct relationship to warrant



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consideration of a linkage to the productive nature of the site or area.

3.6.18 Policy PSMP5 relates to establishing urban boundaries. The proposal is not considered to specifically create urban creep, being on a particular site away from other urban zoned areas.

3.6.19 Policy PSMP6 is relevant to the existing IRP activity on the subject site whereby the plan expressly allows for activities that are not reliant on the life supporting capacity of the soil, but are of an appropriate scale for the environment and compatible with the amenity expectations of the Plains environment. In this context the consented IRP with restricted retail and operation hours, and comparatively low vehicle movements compared with the potentially busier refueling activity, is appropriately compatible and of an accepted scale for its environment. In comparison, the refueling activity is outside of this policy context by not being a primary production activity and not of an appropriate scale and not reasonably compatible with the amenity expectations of the Plains environment, thus not consistent with this Policy.

3.6.20 Therefore, the proposal is also considered to be contrary to Objective **PSM01**, and its associated Policies PSMP2, PSMP3 and PSRM4 and PSMP6.

3.6.21 **Overall conclusion on Plains Strategic Management Area (SMA) objectives and policies:**

As the proposal creates a scale of activity that is not compatible with the area, has more than minor adverse amenity effects and is not for the purpose of a land based productive use, the proposal is considered contrary to the Plains SMA objectives and policies as a whole.

3.6.22 Section 6.2 – Plains Production Zone

*PPO1 To ensure that the versatile land across the Plains Production Zone is not fragmented or compromised by building and development.*

*PPP3 Limit the number and scale of buildings (other than those covered by Policy PPP4) impacting on the versatile soils of the District.*

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- PPP4 To enable land based primary production, including by providing for directly associated accessory buildings where they are not of such a scale as to adversely affect the life-supporting capacity of the versatile land resource and which are consistent with the rural character of the Zone.*
- PPP7 Establish defined urban limits to prevent ad-hoc urban development into the Plains Production zone.*
- PPO2 To provide for flexibility in options for the use of versatile land.*
- PPP8 Provide for industrial and commercial activities in the Plains Production Zone where they are linked to the use of the land and with limits on the scale and intensity to protect soil values and rural character.*
- PPP9 To provide for Rural Transport Depots as activities that are directly reliant on the land to hold stock in transit, or undertake a land based primary production activity as part of this activity taking into account the need to avoid, remedy or mitigate the adverse effects on versatile land, water values and rural character.*
- PPP11 Require that any subdivision within the Plains Production Zone does not result in reducing the potential for versatile land to be used in a productive and sustainable manner.*
- PPO3 To retain the rural character and amenity values of the Plains Production Zone.*
- PPP13 Require that any new development or activity is consistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production Zone.*
- PPP14 Require that any new activity locating within the Plains Production Zone shall have a level of adverse effects on existing lawfully established land uses that are no more than minor.*
- PPP15 Noise levels for activities should not be inconsistent with the character and amenity of the Plains Production zone.*

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Explanation

*Activities associated with rural production can generate significant amounts of noise. While there is a recognised 'right to farm' philosophy built into the Plan in Policy PPP13, there is a need to have limits that maintain the character of the area and protect the health of residents. Performance Standards for noise have been drafted and set at a level which recognises the need for activities to operate in a way that does not unduly restrict normal practices associated with activities in the Plains Production Zone in order to protect their continued economic operation while maintaining appropriate amenity standards for residents in the Zone.*

PPP04 *To enable the operation of activities relying on the productivity of the soil within limitation as a result of reverse sensitivities.*

PPP16 *Require that any activity locating within the Plains Production zone will need to accept existing amenity levels and the accepted management practices for land based primary production activities.*

PP09 *To ensure the life supporting capacity of the Heretaunga Plains Unconfined Aquifer water resource is not compromised.*

3.6.23 Objective PP01 focuses on compromising versatile land. As there is already an existing IRP over the site with substantial consented development, it is unlikely that there would be greater compromise of the soil on the site than currently. However versatile land is more than just soils and it includes the likes of topography, accessibility, within the sub-region, and climate. The proposal if granted is considered to be inconsistent to Objective PP01 as it does not have a direct relationship to the productive nature of the area and its scale, nature and intensity has incompatible rural amenity and character effects on the immediate area.

3.6.24 As the site already has substantial site coverage, the proposed site coverage will not generate substantial additional loss of versatile soils. The proposal is not contrary to Policy PPP3.

3.6.25 **PPP4** directs the enabling of land based primary production as a primary focus for the zone. I consider the proposal is contrary to

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this policy as it has no direct relationship with the land based primary production, being a refueling activity.

- 3.6.26 Policy PPP5 recognises that residential dwellings are part of the primary production land use. This provides confirmation that residential activity has a place in the normality of a Plains Production zone, at a controlled scale. The proposal is not contrary to this policy.
- 3.6.27 As mentioned in PSMP5 the proposal is not considered to compromise clearly defined urban limits, thus the proposal is not considered to be contrary to PPP7.
- 3.6.28 The proposal is contrary to Policy **PPP8** as the activity has no direct link to the use of the land and it's scale and intensity do not, in my view, protect sufficiently the rural character of the area. While the proposal has limited impact on versatile soil of the site given the already established IRP on the land, the proposal is far larger in terms of site activity and movements over longer hours, and therefore does not sufficiently ensure more than minor impacts such as noise and traffic generation, and general activity on the site when viewed holistically are not experienced. Objective **PP02** provides for flexibility in options for the use of versatile land. The site may have other options available for its development that are more compatible with the character of the area. Introduction of a retail commercial activity is not considered to demonstrate such flexible options. The proposal is considered to be contrary to PP02 also.
- 3.6.29 In terms of PPP9, this relates to Rural Transport Depots. The proposal is not a Rural Transport Depot and is not reliant on the land to hold stock or undertake a land based primary production activity. Thus this policy is not applicable.
- 3.6.30 The proposal is considered to be contrary to **Policy PPP13** in that the new activity and development is not consistent with the low scale nature that comprises the rural character and amenity of the zone. The scale of the activity is significant with large numbers of vehicle movements, large area to be utilised for the activity, large signage, and activity including noise occurring 24 hours and 7 days a week.



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- 3.6.31 The earlier assessment of effects considers that overall the adverse effect on the environment is minor on the rural amenity and character of 4, 16/16A and 13 Allen Road. Therefore the proposal is consistent with Policy PPP14.
- 3.6.32 However this effects based direction of PPP14 is distinct from Policy PPP15 which requires noise levels to not be inconsistent with the character and amenity of the Plains Production zone.
- 3.6.33 I consider that the nature, scale and intensity of the activity would generate noise uncharacteristic with the area and amenity of the area for which the activity relates and for residents and therefore is inconsistent.
- 3.6.34 While the noise may comply with noise standards (according to the Malcolm Hunt Associates report provided with the application), it is unusual for a publicly open activity to operate 24/7 with no control on users and numbers of movements generated in the subject rural environment. The vehicle noise in proximity to housing would involve such sounds as engines starting and shutting down, people talking, door slams throughout the day and night. This would occur in a likely uncontrolled manner with no management on the site of site users. Also the large area to the eastern side of the pumps gives rise to potential other uncontrolled types of use which may generate uncharacteristic noise, such as amplified music with gatherings of cars or trucks stopping.
- 3.6.35 Noise from vehicles travelling on a road are excluded from the noise standards under standard 25.1.6B of the PHDP. However, as PPP15 clearly identifies, the purpose of the performance standards for noise are drafted and set at a level which recognises the need for activities to operate in a way that does not unduly restrict the normal practices associated with activities in the Plains Production zone *“to protect their continued economic operation while maintaining appropriate amenity standards for residents in the zone”* (explanation to Policy PPP15). From this it can be seen that the standards contribute to the understanding of the noise environment which affects character and amenity of the rural area, however need to be considered on a wider basis for an activity presenting not ‘normal’ practices in the zone. It is my view that the refueling station is not a ‘normal’ activity, being an unusual activity in the zone given its nature, scale and intensity. Therefore, in terms of a noise assessment for the proposal, I consider there would

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likely be uncharacteristic noise on the site and on the adjacent road network directly associated with the refueling activity. I acknowledge that the existing site activity currently creates far fewer traffic movements, than a likely fuel stop, notwithstanding the potential traffic movements under the consented environment. However the fuel stop would create traffic movements 24/7 which the IRP/garden centre does not. Therefore, it is my view that the proposal is inconsistent with the usual character and amenity of the Plains Production zone and particularly in the vicinity of the application site.

- 3.6.36 Further, the MHA noise assessment provided focuses on compliance with the noise standards from noise generated on the site. Apart from a limited background noise the MHA noise assessment provides no substantial assessment of the noise character or nature in the rural area and how the change in noise environment will be compatible or otherwise. I consider that the activity will generate traffic on the roading network directly related to the activity that would not otherwise occur or at a substantially lesser level if the activity proposal did not occur. Council's Development Engineer acknowledges that there would be a major change to the road environment resulting from the proposal. Noise from this activity is a change to the noise character of the area and as such I consider relevant in the amenity and character considerations of the application. The proposal is contrary to **Policy PPP15**, in my view.
- 3.6.37 Objective **PP03** refers to retaining the open and low scale nature that comprises the rural character and amenity of the Plains Production zone. I consider this is not met given the comments with regards to PPP15 with inconsistent noise generated for the character and amenity levels of the area and the large scale, including traffic movements and hours of operation, for the area.
- 3.6.38 It is unlikely that the activity will be affected (reverse sensitivity) by the surrounding activities, including the opposite Police Dog training facilities, the rural lifestyle activity, and land based primary production, and activity from the State Highway network. Therefore the proposal creates no conflict with Objective PP04 and Policy PPP16.
- 3.6.39 In particular consideration of the proposed landscaping on the site, the landscaping would provide some softening and screening from



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13 Allen Road and those directly across the street. The landscaping to the corner of the site of Allen Road and Pakowhai Road is lower and provides for additional greening to that corner, but not including any planting that generates any height to afford screening to the corner or buffering of views of the site for the general public exposing not a sense of openness or rural nature of buildings such as greenhouses, but an extensive clearly commercial hard surfaced refueling activity. The site would be fairly open as viewed from the Pakowhai Road and the free standing signage would dominate above the planting. The exposure of the forecourt and activity occurring on the site is considered to be inconsistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production zone under Policy PPP13. While the site would be more 'open', being uninterrupted by large buildings, the activity would be visual and not usual at the nature, scale and intensity proposed.

- 3.6.40 The proposed planting on the site as shown in the indicative Planting Plan prepared by Nous Development, has trees planted close to the boundary and with a spread across the boundary of both neighbouring rural sites and the road. Noting the shelter belt standards and the outcome (Standard 6.2.5H) that *"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."* It is considered that the proposal presents a situation on a large site where it appears unnecessary to infringe the standard. There is ample room with no apparent site constraints that would otherwise deem it necessary that the planting overhang the boundary. The proposal could comply without encroachment over the boundary. I consider that the intent of the standard and the landscaping contributes to the proposal being contrary to Objective **PP03** and generates nuisance to neighbours, with trees overshadowing, leaf drop and maintenance of plants for driveway access that is not consistent with the open and low scale nature that comprises the rural character and amenity of the area for 13 Allen Road contrary to Policy **PPP13**.
- 3.6.41 I do not consider that the compliance with PPP14 regarding minor adverse effects is outweighed by the consistency requirements of PPP13 for character and amenity and PPP15 for noise.

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3.6.42 In terms of Objective PP09 the proposal is not within an unconfined aquifer area thus this policy has little relevance.

**3.6.43 Overall conclusion on Plains Production Zone objectives and policies:**

3.6.44 In the context of this particular application, being a non-complying Plains Production Zone activity, I consider that in the circumstances the proposal is contrary to the following objectives and policies:

- PPP4
- PPP8
- PP02
- PPP13
- PPP15
- PP03

3.6.45 For this reason, as the proposal is considered to be contrary to these fundamental objectives and policies, it is also considered as a whole to be contrary to the Plains Production policy framework.

**3.6.46 Advertising – 28.1**

3.6.47 ADS01 seeks *“to provide for a range of advertising devices to meet the needs of the District’s communities which do not cause a nuisance, distraction or hazard to other activities, vehicular traffic or pedestrians or detract from the visual amenities or character or the environment where they are located.”*

3.6.48 This is supported by Policy ADSP1 which provides *“for a diversity of advertising devices that allow for flexibility in the design and style of the device and create diversity and interest in the environment, whilst mitigating any adverse effects.”*

3.6.49 Also “Policy ADSP2 seeks “to ensure that the size and bulk or advertising devices are consistent with the expected amenity levels for each zone by establishing limits on the advertising devices in each zone...”

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3.6.50 I consider that the signage forms part of the overall appearance, scale and compatibility of the activity in the environment. While I consider that the signage will not cause any traffic related effects, I consider that they would detract from the visual amenity and character of the environment which are not sufficiently mitigated for close residents as they form part of the whole proposal and need to be viewed holistically. Therefore the proposal is contrary to with **Objective ADS01 and Policies ADSP1 and ADSP2.**

3.6.51 Natural Hazards – 15.1

3.6.52 Objectives and policies set out in 15.1.3 of the Proposed Hastings District Plan seek to

NH01 – *Minimisation of the effects of natural hazards on the community and the built environment.*

NH02 – *To avoid increasing the risk to people, property, infrastructure and the environment from the effects of natural hazards.*

3.6.53 Earthquake risk is relevant and the site being subject to the effects of liquefaction. This has been addressed in the PDP risk assessment provided with the application and the geotechnical reporting, along with the Environmental Management Plan provided. Subject to the earlier noted clarification on location wells and further assessment that may be required, it is considered that the proposal can be undertaken, subject to compliance with the detail and recommendations within these aforementioned reports, the proposal can reasonably ensure effects of natural hazards are minimised, and risk to people from the earthquake and liquefaction hazard is sufficiently avoided for people, property and the environment. These objectives and policies could be achieved.

3.6.54 Transport and Parking – 26.1

Objective TP01 *“ensure that land uses ....are connected to the transportation network in a manner that provides for the efficient and sustainable movement of people and goods in a safe manner.”*

Policy TTP1 - *Ensure that subdivision and land use are integrated with the transport network and that the traffic effects are mitigated, including through the use of sustainable transport modes.*

Policy TPP4 - *Protect the strategic and arterial transport networks from inappropriate development.*

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*Policy TPP5 - Require turning areas on sites where road safety may be compromised by vehicles reversing onto or off the site.*

*Policy TPP6 - Control the width and position of access points to each property to minimise the adverse effects of manoeuvring and queuing vehicles, the potential effects on pedestrian safety and the effects on streetscape amenity.*

*Objective TP02 seeks to “establish and maintain an efficient and effective parking regime that meets the present and future parking needs of the community.”*

*Objective TP03 seeks to “achieve sustainable transport modes, including walking, cycling and public transport.”*

*Objective TP04 seeks to “maintain a transport network that supports the social and economic wellbeing of the District while avoiding adverse effects on the natural and physical environment and on the safety of the travelling public.”*

*Policy TPP15 seeks to “identify the functions of roads to manage the effects in relation to land use and the environment.”*

*Policy TPP16 seeks to “promote standards for public roads, ...to ensure that they are of a design that is appropriate for the function that they serve.”*

3.6.55 The application provides a transportation assessment and this has been peer reviewed by the Council. Council's Development Engineers has reviewed the information and considers that subject to conditions of consent, if consent is granted, there can be an appropriate and safe road design which will depend on detailed engineering design drawings becoming available to Council and the Council as Roading Authority to agree to. NZTA has given their written consent to the proposal accepting of the proposal in terms of any traffic implications for the State Highway and land affected by their designation along Pakowhai Road.

3.6.56 I consider, given the Council's Peer Review, Development Engineers input and NZTA approval, that the proposal can be achieved with appropriate road works to serve the development and mitigate any unreasonable efficiency and any safety concerns.

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- 3.6.57 There is sufficient space on the site for reverse manoeuvring and parking.
- 3.6.58 There is no need for cycle parking for a refueling activity to support this mode of transport.
- 3.6.59 Use of the road for the likes of cycling would still occur as it currently does, along the roadway.
- 3.6.60 here is currently no footpath along the road, and this will remain as such which is usual in a rural area, and appropriate with no persons likely to be walking to a refueling station in a rural area.
- 3.6.61 The application has not considered alternatives to providing access to the site, including directly off the State Highway, however the application information states that access arrangement off Allen Road is a direct result of consultation with NZTA.
- 3.6.62 The local function of Allen Road and the higher functions of Pakowhai Road and the State Highway will not change as a result of the proposal. Greater truck numbers along Pakowhai Road and traffic generally on the roading network has been planned for in the already upgraded State Highway junction and Pakowhai Road entrance.
- 3.6.63 Subject to appropriate engineering designs being submitted to Council's Satisfaction along with compliance with AUSTRROADS standards and presentation of an acceptable safety audit, I consider that the upgrade of Allen Road and works at the Allen Road / Pakowhai Road junction can be reasonably accommodated, sufficiently mitigating traffic effects to achieve a safe and efficient traffic environment. The amenity effects arising from traffic on Allen Road and on the site are addressed earlier under the Plains Production zone.
- 3.6.64 Given this, I consider that the proposal can achieve consistency with Objective TP01, 02, 03 and 04 along with associated policies.



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### 3.6.65 Earthworks – 27.1

3.6.66 The applicant has addressed relevant earthworks objectives and policies in the AEE report (page 34) submitted with the application.

3.6.67 Objective EM01 seeks *“to enable earthworks within the Hastings District while ensuring that the life supporting capacity of soils and ecosystems are safeguarded and adverse effects on landscaping and human health are avoided, remedied or mitigated.”*

3.6.68 Supporting Policy EMP1 *“seeks to repasture or revegetation of land where vegetation is cleared in association with earthworks...”*

3.6.69 Supporting Policy EMP3 seeks *“protection of productive soils within the District from large-scale stripping, stockpiling alteration and removal to ensure the land can still support a range of productive land uses”*.

3.6.70 Supporting Policy EMP5 seeks to *“control earthworks...to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses and culturally sensitive sites are avoided, remedied or mitigated”*.

3.6.71 The works would be extensive across the site. Substantial works with earth in the rural area is not usual due to tilling and harvesting type activities. Temporary construction effects can be minimised, and if consent conditions of consent are recommended to address temporary construction effects, such as a provision of a suitable Construction Management Plan, requirement to comply with construction noise standards, and provision of an erosion and sediment control plan, including dust control.

3.6.72 The contamination controls as mentioned earlier in the report will minimise any additional or greater contamination for other production activities. The soil is to mainly remain and be reused on the site.

3.6.73 The bunding proposed will provide buffer and containment on the site. Given that at least 2m in height along neighbouring boundaries is provided for it is considered that the appearance of the bunds have minimal adverse impact on the use and appearance of the adjoining land.



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3.6.74 In terms of the impact on runoff of stormwater from the change in land form, the bunds can be designed and set back from the boundary to contain stormwater on-site.

3.6.75 If consent is granted, conditions of consent are recommended for detailed design of earthworks to demonstrate the containment of stormwater flows on site from overland flow paths, particularly in regards to the relationship with adjacent properties, noting that stormwater discharge from the hardsurfaced areas is to discharge to the Allen Road drain.

3.6.76 There are no known culturally sensitive areas affected by the earthworks.

3.6.77 Given the above comments, and given the consented use of the land currently with glasshouse coverage for an IRP and retail outlet, and subject to consent conditions if consent is granted, the proposal can be considered to be reasonably consistent with the earthworks objectives and policies stated above. Nevertheless, the extent of proposed coverage on the site in relation to the activity in my view appears excessive to serve the proposed activity, with a large eastern area far in excess of an area that may be required in the unlikely event that the pumps are full and space is needed for vehicles waiting for a pump. There is unlikely to be any demand for all but perhaps 1 of the parking spaces to be retained on the site. There may have been an opportunity on the site, as a part of the redevelopment proposed, to return a greater area to pasture which would align better with the direction of EMP3 which has the intent of ensuring the land can still support a range of productive land uses.

3.6.78 Noise – 25.1

*NS01 To manage the emission and mitigate the adverse effects of noise so as to maintain or enhance the acoustic environment.*

*NS02 to ensure the adverse effects of noise do not unreasonably affect people's health.*

*NSP1 Control the emissions levels of noise through the District based on existing ambient noise and accepted standards for noise generation and receipt.*

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*NSP2 Manage the interface of different land use zones to protect the aural environment of residential and other less noisy areas of the District.*

*NSP3 Provide for areas where activities which generate higher levels of noise can operate effectively.*

*NSP4 Manage the emission of noise associated with agricultural, viticultural and horticultural activities so that the operation of noise equipment, and in particular crop protection equipment, is provided for while avoiding the generation of unnecessary or unreasonably high noise levels.*

*NSP5 Noisy construction and demolition activities will be allowed subject to restrictions to ensure the protection of the community from unreasonable noise.*

*NSP6 Provide for noisy activities of limited duration and frequency which are of importance to the community, subject to appropriate controls.*

This policy NSP6 relates to temporary type activities.

*NS03 To avoid noise sensitive activities where they will be located in existing high noise environments and the adverse effects of that noise cannot reasonably be mitigated.*

*NSP7 Manage noise from the road network to ensure the community is not exposed to unacceptable levels of road traffic noise.*

*NSP10 Ensure that noise sensitive activities and the addition of a habitable space to existing noise sensitive activities in Commercial and Industrial Zones are acoustically designed and constructed to mitigate noise arising from legitimately established Commercial and Industrial activities.*

3.6.79 The relevant noise issue of this application is the impact of noise from the refuelling activity to residents of the area, particularly those at 13 and 16/16A Allen Road who are closest to the noise source.

3.6.80 The direction of the above policies generally seeks that the exposure of residents to unacceptable levels of noise be avoided (Anticipated Outcome NSA01). The term 'unacceptable' is in context of the expectations of the area for which they relate, and are also impacted by the frequency and duration of noise (such as tolerance levels to allow for temporary activities). In rural areas noise from crop protection structures, such as bird scarers, is acknowledged but should be

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separated from residential activities or operated in a manner that does not compromise health of neighbouring residents (including rural residents). The PHDP makes allowance for noise producing activities in appropriately zoned areas. Rural areas have noise producing activity, however this is in the context of the usual nature of rural activities, such as those provided for as permitted activities in the zone (for example land based primary production; residential dwelling; limited scale retailing relating to the land occurring between 8am and 10pm; limited temporary activities). The proposal is outside of this permitted scope.

- 3.6.81 NSP7 acknowledges noise from the road network and seeks to ensure that the community is not exposed to unacceptable levels of road traffic noise. This primarily relates to main roads, but nevertheless identifies that there are considerations towards road noise in the Proposed Hastings District Plan. Noise standards for permitted activities exclude vehicles travelling on the road. This standard ensures that usual and legitimate levels of activity from a site can generate traffic within the road environment. Again the proposal is considered to generate traffic far greater and on a 24/7 basis not envisaged by the standards, and therefore consideration as to the nature and levels of noise within the road directly attributable to the activity is appropriate in this case.
- 3.6.82 The nature of the activity, its scale potential intensity including hours of operation and large numbers of vehicle movements would generate a nature of noise uncharacteristic, in my view, in the subject area. The background noise in this case from Pakowhai Road and the State Highway are an acknowledged dominating noise factor in the area. However, the access to Allen Road will generate movements on the site and within the road forward of 16/16A Allen Road to a level on a 24/7 basis that could potentially generate noise that creates unreasonable disturbance to occupiers.
- 3.6.83 The NZ Police Dog Training Facility is not considered to be a noise sensitive activity in respect of the noise from the proposed activity, albeit there will be a noticeable change in noise due from the activity to the subject site.
- 3.6.84 While the Malcolm Hunt / Cardno noise assessments provided as a part of the application are useful in the consideration of noise effects, they do not comprise a full assessment of the effects of noise generation for which in my view needs more broadly considering as a part of this application to address the objectives and policies of the PHDP.
- 3.6.85 The proposal is considered to insufficiently manage emission of noise and insufficiently mitigate noise effects (including potential uncontrolled noise from users of the site such as amplified music, talking, and other

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noise such as vehicle noise and door slam) so that the acoustic environment is not maintained or enhanced thus is contrary to **NS01**.

3.6.86 Submitters contend that the proposal may affect their health, including the likes of possible sleep disturbance resulting from the proposal. This relates to noise effects on the health of people. From my assessment, it cannot be concluded that there would be reasonable adverse effect on people's health resulting from the proposal, as such I conclude the proposal is likely also to be contrary to this objective **NS02**.

3.6.87 I consider the proposal to be contrary to **Policy NSP1** as the proposal does not control sufficiently the emission of noise.

3.6.88 In respect of NSP5 the applicant has confirmed that construction noise standards are to be complied with during the construction phase. Conditions of consent, if consent is granted, will ensure that this is achieved. Therefore the proposal will comply with this policy.

3.6.89 NSP6 relates to activities that are of more a temporary nature and there considered more tolerable than activities which generate noise continuously. The proposal will generate noise continuously and therefore NSP6 is not relevant to the proposal.

3.6.90 Hazardous Substances – 29.1

The application AEE report identifies the relevant Objectives and Policies for Hazardous Substances (pg. 35).

*HS01 To protect the community and natural environment from the adverse effects associated with the manufacture, use, storage or transportation of hazardous substances.*

*HS02 To enable activities to utilise hazardous substances where necessary for their operations, in appropriate locations.*

*HSP1 To ensure that activities are able to utilise hazardous substances in compliance with relevant regulation as necessary to their operation, without being compromised by 'reverse sensitivity' (that is, by residential or other sensitive activities moving closer and seeking higher amenity levels, including reduced risks from hazardous substances).*

*HSP2 Ensure that major hazardous facilities are appropriately sited and managed in order to reduce risks to the environment and community.*



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- 3.6.91 These objectives and policies for hazardous facilities, subject to appropriate siting and management of risks. The proposal would not be a Major Hazardous Facility if there was only 50,000 litres of diesel instead of 70,000 litres proposed to be stored on site.
- 3.6.92 If the Council is minded to accept the refuelling activity on the site, then the petrol and diesel tanks are reasonably necessary for its operation in accordance with HS02 with the tanks appropriately located on the site.
- 3.6.93 The applicant has provided an Environmental Management Plan and risk assessment prepared by PDP with additional information provided from PDP after the close of submissions. If the issue of the well location and effect on water supply from a discharge event on the site is addressed at the hearing, then I consider that the measures set out would be reasonably suitable to confirm the siting of the tanks on the site away from neighbouring properties and well off the roading network, is appropriate in the context, and that risks for the environment and community would be sufficiently managed, and the proposal could be consistent with the direction in HS01, HS02 and HSP1 and HSP2. However, until such confirmation is provided the 'protection' required in **HS01** and siting and management requirements of **HSP2** cannot be concluded as being satisfied.

3.7 **Overall conclusion on objectives and policies:**

- 3.7.1 I do not agree with the conclusions in the application report that the proposal "will not be contrary" (pg 35 of the application AEE report) with all relevant objectives and policies.
- 3.7.2 On balance, and when reading the Objectives and Policies as a whole and in the context of this non-complying Plains Production zone application, it is considered that the proposal, is overall, contrary to the relevant Objectives and Policies of the Proposed Hastings District Plan. Further clarifications on matters raised are necessary to confirm the full range of non-conformances occurring, particularly due to the potential well locations raised by submitters, in order that further conclusions can be drawn in respect of Natural Hazards and Hazardous facilities objectives and policies.



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#### 4.0 OTHER MATTERS 104(1)(c)

Section 104(1)(c) makes provision for '*Any other matters the consent authority considers relevant and reasonably necessary to determine the application*'. The following matters can be considered under this provision.

##### 4.1 Submissions

4.1.2 Many aspects raised by submissions are addressed in the effects considerations and the consideration of objectives and policies. Other matters raised are addressed below.

4.2.3 Submitters are concerned with the use the large formed area to the eastern side of the pumps and the intended use of this area. The space is large (over 3000m<sup>2</sup>) and the application information is unclear as to any management of the use of the space (excepting the buildings are to be removed and additional landscaping and fencing is proposed).

4.2.4 It is considered that removing this area may alleviate some of the concerns of submitters about its potential use or unintended use.

4.1.5 The application has not addressed how it would reasonably manage and / or avoid people toileting on the site to avoid health, odour and contamination that may arise from such activity.

4.1.6 The Averill / STA submission raises the issue that the proposal is a commercial activity more than 100m<sup>2</sup> and makes reference to Table 6.2.6D – Commercial Activity Thresholds of the PHDP. For clarification the table states:

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## 6.2.6D COMMERCIAL ACTIVITIES

## 1. Commercial Activity Threshold Limits

The following activity threshold limits shall apply (Table 6.2.6D).

TABLE 6.2.6D COMMERCIAL ACTIVITIES THRESHOLD LIMITS		
COMMERCIAL ACTIVITY	THRESHOLD MEASURE	MAXIMUM LIMIT PER SITE
Retailing	Maximum Gross Floor Area	100m <sup>2</sup> (including outdoor display areas) 50m <sup>2</sup> maximum within the Roys Hill Winegrowing District Overlay.
	Minimum percentage of display area to be stocked with goods produced on the site: - Total Display Area <50m <sup>2</sup> - Total Display Area >50m <sup>2</sup>  Within the period April - September the percentage of the goods produced on the site may be reduced to 50% for display areas <50m <sup>2</sup> and 60% for display areas >50m <sup>2</sup>	- 75% - 85%
All Commercial Activities (including Visitor Accommodation, entertainment facilities including the serving of food and beverages.	Personnel	At least one person resident on the site shall carry out the activity. Maximum number of additional employees - 3.
	Maximum gross floor area for all activities (including structures without external walls and outdoor dining areas)	Total maximum 100m <sup>2</sup> (per site, not per activity).
<p><b>Additional limitations to gross floor limitation</b> Outdoor storage use 100m<sup>2</sup> and Maximum number of persons to be accommodated by entertainment facilities including those serving food and beverages is 40.</p> <p><i>Note 1: Visitor accommodation within an existing residential dwelling will be exempt from the 100m<sup>2</sup> maximum floor area provided that any additional dwelling to replace the dwelling being used for visitor accommodation must meet the maximum floor area for a supplementary dwelling standard of 100m<sup>2</sup>.</i></p> <p><i>Note 2: Visitor accommodation will remain subject to the cumulative aspects of the standard, i.e. if the floor area of the existing dwelling being used for visitor accommodation is greater than 100m<sup>2</sup> no other commercial or industrial activity would be permitted without resource consent.</i></p>		

- 4.1.7 The application report advises that the standard is not met as there is no person resident on the site. It is my view that the proposed refuelling activity is a commercial activity but specifically a retailing activity. The above table is to be read that retail activities need to only comply with retailing rows, being a maximum gross floor area of 100m<sup>2</sup> and the minimum percentage of display area to be stocked with goods produced on the site. Also that the outdoor storage use is limited to 100m<sup>2</sup>. The hard surfacing of the driveway and manoeuvring area does not classify as a building for the purpose of gross floor area. The parking of cars and trucks while refuelling is not technically outdoor storage use.

**Building:** means any temporary or permanent moveable or immovable structure (including any structure intended for occupation by people, animals, machinery or chattels); but does not include:

- (d) any tank or pool including any structural support thereof:
  - (i) not exceeding 25,000 litres capacity and supported directly by the ground; or
  - (ii) not exceeding 2,000 litres capacity and supported not more than 2 metres above the supporting ground; or
  - (iii) not exceeding 500 litres capacity and supported not more than 4 metres above the supporting ground.

- 4.1.8 The application information confirms that underground separator tanks and fuel storage tanks are proposed in addition to the above ground fuel dispensers. The underground tanks are not included in the gross floor area of buildings calculated in the application. The submitter has rightly raised this matter that may be another reason for failure of this standard. The definition of 'building' in the PHDP

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includes structures but excludes tanks where they do not exceed 25,000 litres capacity and are supported directly by the ground.

- 4.1.9 This means that of the underground tanks proposed, any tanks with a capacity of more than 25,000 litres would need to be classified as a building, and thus would be gross floor area. The applicant is suggested to confirm the size and capacity of the underground tanks in order that it is can technically be confirmed whether or not the 100m2 gfa standard for retailing is exceeded as a part of this application.
- 4.1.10 Nevertheless, the non-compliance with this overall standard has been identified in the application and in the Council's section 95 assessment. The relevant considerations can reasonably be made in this recommending report acknowledging the underground tanks forming part of this proposal.
- 4.1.11 In the Averill / STA submission concern is raised that the underlying RMA20110203 consent will be negated. This consent will not be utilised if the subject consent is granted. The RMA20110203 consent provides a basis for an assessment of the existing environment in terms of effects, but the consideration of the proposed refuelling activity is otherwise addressed in the body of the subject report. The application does not purport to be in accordance with the RMA20110203 consent.
- 4.1.12 A question was raised regarding the volumes of earthworks proposed across the site. The described earthworks in the application provide an understanding of what is being proposed with earthworks generally across the whole site. The Averill / STA submission contends volumes stated. The applicant could to provide clarification on the areas and volumes of earthworks at the hearing to address this. I consider that provision of detailed earthworks plans and erosion and sediment control plans by way of consent condition in the event that consent is granted would be sufficient to address the final proposed areas and volumes, which will need to be generally in accordance with the information provided.
- 4.1.13 The Averill / STA submission raises the question as to what other access could be utilised for the subject site. The application proposes utilising Allen Road as the access point to the proposal and that is what is under consideration for this application.

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4.1.14 The Averill / STA submission states that the PDP report dated 20th July 2018 omits consideration of the secondary dwelling at 16 Allen Road and the NZ Police as one of the nearest residential dwellings in proximity to the tank site. The PDP report states "The nearest residential dwellings located at 13 and 16 Allen Road (these dwellings are between 70 and 122 metres from the proposed fuel tanks) are situated north and south east of the site, respectively. To the east of the site the closest building (unknown use) is located at 15 Allen Road – 71.5m away. To the south of the site there is a police dog training centre at 4 Allen Road..." The statement includes dwellings at 16 Allen Road and comments on the Police Dog Training Facility.

4.2 Heretaunga Plains Urban Development Strategy (HPUDS)

4.2.1 This is an overarching non-statutory document providing direction for development of the Heretaunga Plains area, addressing urban growth areas with consideration of the versatile soils and assists in the proper planning for a range of activities in the community. The District Plan addresses this study in its zoning and identifies proposed areas of zoning for urban expansion. The District Plan clearly provides for refuelling stations of the nature and scale proposed in other zones, of particular note light industrial and industrial zones. The RPS direction comes about through the HPUDS and thus comments on the RPS relate to this HPUDS strategy.

4.3 Adverse Precedent Effects

4.3.1 The potential for the grant of consent to a proposal to create an adverse precedent is an 'other matter' that may be considered under section 104(1)(c). A precedent may be created where the granting of a consent could lead to similar applications for which Council, being consistent in its approach, would need to consider granting.

4.3.2 The potential precedent relevant in this application relates to the potential for other landowners within the Plains Production Zone to seek to undertake large commercial activities unrelated to the land. This would be of significant concern if replicated over a number of sites some of which may occur along main traffic routes as it is an attractive and desirable location close for access and business



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visibility. I consider that the potential impact on the rural resource and its availability for productive purposes, over time, should this precedent be made would be high. I believe there would be considerable pressure from other commercial activities including refuelling stations of a similar nature, scale and location to the State Highway.

4.3.3 It is considered that the proposed application could create a precedent on the following grounds:

- The activity has no direct relationship to the land, leading to other proposals for activity with no direct association to the land resulting in more urban activities creeping into the rural area and ad-hoc development in the Plains Production zone.
- The activity would be out of character and be incompatible with the area, leading to undermining of the rural character and amenity.
- There are no other particularly unique features associated with this proposal which would differentiate it from other sites within the Plains Production Zone.

4.3.4 For the above reasons, I am of the opinion that this application has the potential to set an adverse precedent.

#### 4.4 Cumulative Effects

4.4.1 The cumulative effects have been considered in the assessment of effects, earlier in the application. It is considered that there are cumulative effects from the proposal, of note are the cumulative traffic effects that the proposal would contribute to the network. These are considered to be able to be catered in the network sufficiently safely and efficiently subject to conditions of consent if consent is granted to address the design of the road works, as mentioned earlier in this report.

#### 4.5 Integrity of the Proposed District Plan

4.5.1 Any potential impact upon the integrity and consistent administration of the District Plan is considered under Section 104(1)(c). The granting of consents to non-complying activities (where the proposal lacks any unique qualities) may be considered to undermine the confidence of the public in the consistent administration of the District Plan.



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4.5.2 There have been resource consent decisions made in Plains Production zone that I have identified as being of note for the Committee, to address matters of consistency of decision making. I am not aware of any refuelling stations being consented in the Plains Production zone under the Proposed Hastings District Plan.

4.5.3 RMA20150318 (Decision see **Attachment I**)

The application was a proposal for a retrospective consent for an oversize industrial activity at 317 Farndon Road, Clive in the Plains zone under the Operative Hastings District Plan and Plains Production zoned under the Proposed Hastings District Plan. The activity was a forestry logging truck depot for 10 truck and trailer units. Written consent of parties adjacent to the site had been obtained. The consent was processed on a non-notified basis. The consent was declined by Council under Officer delegation as it was deemed to be contrary to plans, would not give effect to Part 2 of the RMA and that:

*“the grant of consent for the establishment of a relatively large scale industrial activity with no relationship to crops grown in the Plains Zone, on Plains zoned land, would establish an adverse precedent for such applications. While this activity alone would not result in more than minor effects on the total soils resource, the repetition of this type of activity being established on Plains zone land would undermine the Plan’s strategy of protecting and maintaining the soils resource.”*

The decision was subject to an objection from the applicant under section 357 of the RMA which was heard by Council’s Hearings Committee. The Committee determined to uphold the decision in part on 21<sup>st</sup> July 2016. The decision was because: the adverse effects on the environment are no more than minor; the proposal is not contrary to the Objectives and Policies of the Operative and Proposed District Plans; and, the activity will not set an adverse precedent and will not undermine the plan integrity of either the Operative or Proposed District Plans.

The consent was granted only for the benefit of and is only to be exercised by Bevin Satherley while he is resident on the site, and the activity is to cease and land be rehabilitated when he ceases to reside on the site. Other conditions of consent imposed by the Committee controlled the nature and scale of the activity and included, but not limited to, a limit of five staff to undertake the activity, an employee resident on the site; buildings for the

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Industrial activity not exceeding 100m<sup>2</sup> gfa; no more than 6 logging trucks, and no storage of logs on the site.

In the context of the subject refuelling station application, the above decision is materially different, with significantly lower scale and character including traffic movement and being a rear site not off a main traffic route and with a total hardstand of approximately 4,320m<sup>2</sup> for the activity. The refuelling activity includes hardstanding of nearly double that of approximately 8,361m<sup>2</sup>.

**4.5.4 RMA20190051 (Decision see Attachment H)**

This is a recent application for Melia Honey Limited to establish a honey processing plant with associated establishment works at 1003 Links Road, Pakowhai. Consent was granted on a non-notified basis on the 15th April 2019 under Officer delegation. This proposal was an overall Discretionary activity for a honey processing, packaging and storage operation exceeding the total coverage for the site. The floor area of the building is some 4,750m<sup>2</sup> and proposes 13,650m<sup>2</sup> of building and hardstanding coverage. The activity will operate Monday to Friday from 8am to 5pm and during peak season (December to February) likely extend from 6am to 10pm. The building is back off the road screened by existing shelterbelt, and signage would be no greater than the permitted 2.5m<sup>2</sup>. The Council's Planner in the Officer's report to this decision recorded that *"Honey is considered a type of agricultural produce, as it is a produce directly derived from a land based primary production activity (beekeeping). Beekeeping requires land and a variety of land based plants that provide the source of food for bees, and crop/horticulture production is directly dependent on pollination provided by bees."* And *"No honey will be produced on site but will instead be sourced from the beehives distributed to orchards and farms across the region. The proposed industrial activity is directly linked to the processing of an agricultural produce."*

I consider that this proposal differs materially from the subject refuelling station proposal at 11 Allen Road, particularly in that the activity has a relationship to agricultural produce, that the activity operates within limited hours and is limited mainly to staff and business visitors (not open to the public) and is not very visible from the surrounding environment due to its existing planting, including shelterbelts, distance from the road and site buildings such as dwellings.

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4.5.6 Several Environment Court cases have considered applications for development in the Plains Zone and their impact on the integrity of the Hastings District Plan. (refer copies in Attachment J) However, it is noted that each of these following applications were assessed under a different planning document (Operative District Plan) to this particular application. This application requires detailed assessment under the Proposed District Plan (September 2015). Notwithstanding this, they are still considered relevant as a guide for the assessment of this application. In particular, it is noted that the key policy directions of the Plains Production Zone have been carried over from the Operative Plan to the Proposed, and that the Plains Production zone is considered to have strengthened provisions particularly shifting from versatile soils to protection of versatile land.

4.5.7 In *McKenna v Hastings District Council* (W106/2008), the Environment Court declined an appeal against Council's decision to refuse consent to a non-complying subdivision application in the Plains Zone. The proposal was to create one lot of 4,018m<sup>2</sup> containing an existing house, and a balance lot of 2.5ha. The Court accepted evidence that the amalgamation provisions of the Operative Plan then in force (Policy PLP3 in particular) provided that subdivision should not occur where the balance area of proposed lifestyle lots was not being amalgamated with adjoining sites to create a complying balance site (at [23]). It found that the proposal would not encourage an amalgamation that would allow a range of activities involving the sustainable use of the resource (at [25]).

The Court therefore held that while the subdivision would have no adverse effects on the environment that were more than minor (at [27]):

*... 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 the 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.*

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- 4.5.8 For that reason, the Court found that the subdivision would call into question the integrity of the District Plan (at [34]). The Court went on to emphasise that *“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”* (at [37]).
- 4.5.9 On appeal, the High Court upheld the Environment Court’s approach, noting at [65]) that the lower court had found *“that notwithstanding this particular subdivision would have adverse effects that were no more than minor, it would run directly counter to the provisions of the Plan in that it would result in a land holding that could not accommodate a wider range of activities that can support the life-supporting capacity of the Plains resources; it is contrary to the intention of the Plan, which is to retain the land in rural use rather than urban use”*.
- 4.5.10 I consider this case to be relevant in describing the nature and importance of the Plains Production Zone provisions of the Proposed District Plan, and the strong preference for the Plains Production Zone to be used for rural, productive uses. In the context of the subject application for the refuelling station, the proposal presents a substantive change to a wholly commercial use of a nature and scale that is uncharacteristic of a Plains Production and rural environment.
- 4.5.11 In *McHardy v Hastings District Council* [2011] NZEnvC 339, the applicant sought to subdivide an 8.2456 ha Plains Zone site to create an additional title of 2300m<sup>3</sup> containing an existing visitor accommodation unit. While the Court agreed there were no adverse effects on the environment, the subdivision would contribute to the fragmentation of rural land and was inconsistent with various objectives and policies. It noted (at [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 as threats to that resource.*



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4.5.12 Having found that the application would undermine the integrity of the District Plan, the Court noted that landowners could potentially develop visitor accommodation on their land and then seek subdivision approval, *“as a mechanism to circumvent the Plan provisions seeking to restrict further ad hoc residential development and urbanisation of the Plains”* (at [39]). The Court declined the appeal on the basis that the proposed subdivision would not sustain the potential of the Heretaunga Plains lands to meet the needs of future generations (at [43]). This case emphasises the overarching intent of the (now equivalent) Proposed District Plan provisions and the problems that can emerge in future when sites are converted to permitted uses (such as visitor accommodation) and then sought to be further subdivided.

4.5.13 The consenting of the IRP on the subject site historically has now given rise to other development being proposed. In the context of the subject refuelling activity application, consenting such a commercial activity with large sealed area could give rise to pressure that some of that sealed area be further developed / altered to other large scale unrelated commercial activity.

4.5.14 The Environment Court in *Bunnings v Hastings District Council* [2011] NZEnvC 330 declined an appeal against the Council's decision to grant consent to allow the establishment of a commercial activity on the Plains Zone. In that case there were adverse effects that were more than minor as well as the proposal being contrary to the objectives and policies of the Plan, however the Court went on to consider other matters, including the integrity of the District Plan under s 104(1)(c). It held, at [156] – [157]:

*The principal other matters to which we have had regard are issues of precedent and consistent administration of the District Plan. It is well recognised that the granting of a resource consent application may give rise to an expectation that similar proposals will be similarly treated and that local authorities should demonstrate a degree of consistency in the manner in which they apply the provisions of their planning documents. We accept the evidence of Messrs Matheson and Holder that approving this application would have a precedent effect or give rise to issues of plan interpretation and integrity.*



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*Bunnings contended that this was a truly exceptional situation which took it beyond the ambit of the objectives and policies and removed any precedent aspect to the grant of consent. We accept the evidence of Mr Matheson that ... there are no qualities in the Bunnings proposal that distinguish it from other commercial service/large format retail proposals of this type.*

- 4.5.15 In this Bunnings case the sites included substantial areas covered by glasshouses and a polythene film house used for growing cherry tomatoes not in the ground and some hydroponic operations. Also dwellings, sheds, garages and a produce stall. This has similar connotations to the subject site existing consented environment. In the scenario of the refuelling station, I consider that the refuelling activity has not qualities that distinguishes it from other large commercial activity proposals of this type.
- 4.5.16 In *JARA Family Trust v Hastings District Council [2015] NZEnvC 208* the Environment Court upheld an appeal against the Council decision to decline consent to construct an industrial workshop of 2,400m<sup>2</sup> and a canopy of 1,200m<sup>2</sup> for the construction, storage, and sale of pre-fabricated residential and commercial buildings, and to utilise existing office and sales buildings of 110.4m<sup>2</sup> on a Plains Zone property at 1139 Maraekakaho Road.
- 4.5.17 The Council's decision was that although adverse effects on the environment were no more than minor, the activity was contrary to the objectives and policies of the Plan and would undermine the integrity of the Plan to the point that the application should be declined.

The Court determined at [35]

*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 Plains.*

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- 4.5.18 This proposal is considered to differ from the JARA case outlined above. 11 Allen Road is considered to be appropriately zoned Plains Production zone with the site in an area surrounded by Plains Production zone and activities aligning with that. Unlike the JARA the proposal is substantially different from the existing activities on the site.
- 4.5.19 The Environment Court case *Te Awanga Lifestyle Limited v Hastings District Council* (W77/2009) for an 18 lot residential development at 380 Clifton Road, Te Awanga is noted. The Environment Court found that the proposal would be contrary not only to many of the objectives and policies of the District Plan seeking to maintain the life supporting capacity of rural land, but also to other provisions of the District Plan related to managing the development and further expansion of the Te Awanga coastal settlement (at [38]). The Environment Court referenced the range of strategic studies then being undertaken by the Council including HPUDS and whereby under the former Hastings Urban Development Strategy (HUDS), two future urban areas had been signalled for Te Awanga. The case found that there was no justification to set aside the structure planning processes in order to address the particular subdivision. This highlights that usual policy planning processes are the appropriate method to address and have considered a change in the policy direction of the plan, such as introduction of activities that are unrelated to the land in the Plains Production zone.
- 4.5.20 Finally, I note that in *Beacham v Hastings District Council* (WO75/2009), the Court cautioned against the 'overuse' of the issue of District Plan integrity. It stated that only in the clearest of cases, involving an irreconcilable clash with the important provisions of the district plan, and a clear proposition that there would be materially indistinguishable and equally clashing further applications to follow would plan integrity be imperil to the point that the instant application should be declined (at [25]).
- 4.5.21 In my view, the proposal does present an irreconcilable clash with the important provisions of the PHDP as a result of the scale of the commercial activity that has a lack of relationship to the purpose and intent of the Plains Production zoning of the land and area as identified earlier in this report. For this reason I do not agree with the statement in the application AEE report (page 35) that

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*“approving this application will not compromise the integrity or undermine public confidence in the District Plans administration”.*

**5.0 SECTION 104(3)(C) – COUNCIL MUST NOT GRANT CONSENT IF CONTRARY TO CERTAIN MATTERS**

- 5.1 Section 104(3)(c) states that a consent authority must not grant a resource consent that is contrary to, section 107, 107A or 217, an order in Council in force under section 152, any regulations; wāhi tapu conditions included in a customary marine title order or agreement; and / or section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011. The proposal is not relevant to and not contrary to any of these matters.

**6.0 SECTION 104(6) – ADEQUACY OF INFORMATION**

- 6.1 The consent authority may decline a resource consent on the ground that it has inadequate information to determine the application.
- 6.2 Earlier in this report it has been identified that certain areas of information need clarification. Subject to this information being clarified or confirmed at the hearing then it is considered that there is sufficient information to proceed with a sustainable determination on the application.
- 6.3 Section 104(7) states that where making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the application for further information or reports resulted in any report being available. The applicant has responded to Council's requests for further information and agreed to the commissioning of a peer review on the traffic information provided which has been undertaken.

**7.0 PART II OF THE RESOURCE MANAGEMENT ACT**

- 7.1 The Act seeks to promote the sustainable management of natural and physical resources. Part II of the Act deals with the purposes and the principles of the Act.
- 7.2 In Section 5 of the Act, “sustainable management” is defined as:

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*managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety while -*

- (a) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) Safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- (c) Avoiding, remedying, or mitigating any adverse effects of activities on the environment.*

### 7.3 Section 5

7.3.1 In terms of Section 5, as stated above, it is considered that any adverse effects on the environment will be minor to residents and surrounding land users to the site, and the wider environment.

7.3.2 It is considered that the proposal does not represent sustainable management of the land and the application does not sufficiently demonstrate that the protection of the natural and physical resources to enable social, economic and cultural wellbeing and health and safety of people and communities. The Proposed Hastings District Plan sets out provisions in a planned manner in which to achieve this purpose of the Act. The proposal in failing to comply with the direction of the PHDP and with adverse effects on neighbouring residents means that the proposal is contrary to Section 5.

7.3.4 Notwithstanding the conclusion on adverse effects, it is considered that the proposal as a whole does not align with the direction for uses in the Plains Production zone with the proposed use having no direct relationship to the land production resource, and at a scale and intensity that is incompatible with the rural character and amenity of the surrounding area. The application has not sufficiently demonstrated that the adverse effects on the environment are sufficiently avoided, remedied or mitigated. For these reasons it is not considered that the application will achieve **sections 5(a) and (b)**.



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The proposal is not considered to sufficiently avoid, remedy or mitigate adverse effects on the environment contrary to **Section 5(c)**.

#### 7.4 Section 6

7.4.1 Section 6 of Part II of the Act sets out the matters of national importance. The relevant sections of Part 6 are as follows:

- (a) *The preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:*
- (b) *The protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development:*
- (c) *The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna:*
- (d) *The maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:*
- (e) *The relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.*
- (f) *the protection of historic heritage from inappropriate subdivision, use, and development.*
- (g) *the protection of protected customary rights;*
- (h) *the management of significant risks from natural hazards.*

7.4.2 In terms of 6(a), the proposal will not impact on the natural character of the coastal environment and proposes measures to ensure control of contaminants and stormwater into water systems.

7.4.3 In terms of 6(b), the site does not contain any 'Outstanding Landscape Areas'.

7.4.4 In terms of 6(c), no development is proposed that will adversely affect indigenous vegetation or fauna.

7.4.5 In terms of 6(d), the proposal does not change any public access arrangements to and along coastal marine areas, lakes and rivers.

7.4.6 In terms of 6(e), it is not considered that there is potential for adverse effects on any archaeological sites, sites of significance, or cultural values as a result of this proposal.



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- 7.4.7 In terms of 6(f) the site has no historic heritage known to protect.
- 7.4.8 In terms of 6(g) there are no customary rights needing protection.
- 7.4.9 In terms of 6(h), it considered that the natural hazard of stability due to the site ground conditions including liquefaction have been addressed in the servicing and geotechnical reporting supplied with the application and the Environmental Management Plan proposal.
- 7.4.10 The risk to water supply in the event of an earthquake event which creates a petrol / diesel spill has been addressed in the PDP risk assessment provided with the application. However there is the matter outstanding regarding confirmation from submitters as to the location of wells at 13 and 16 Allen Road. Provided that these currently unidentified wells are not located in close proximity to the site (eg: 100m) and are not abstracting shallower groundwater then, if consent is granted it is recommended that conditions of consent are imposed to ensure that site works and development are in accordance with the recommendations of the infrastructure and geotechnical reporting and that the Environmental Management Plan be implemented at all times.
- 7.4.11 The potential for flooding of the Allen Road drain and how this may affect the site has been commented on earlier in this report. Subject to any additional information provided by the applicant and submitters on this matter, it is recommended that if consent is granted, conditions of consent be imposed to ensure that appropriate flooding protection measures are put in place to ensure that the stormwater, contamination and environmental safety measures necessary for the proposed activity are not compromised by any such potential flooding. It is noted that the proposed crossings and road upgrading works may impact on the Allen Road drain and require Regional Council consents. The function and capacity of the drain would be further addressed with these changes and through Regional Consenting.
- 7.4.12 Subject to the well locations on 13 and 16 Allen Road being confirmed and the potential impact on ground water being sufficiently addressed, and subject to appropriate conditions, then I consider the application can meet the requirements of Section 6(h) relating to natural hazards.

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## 7.5 Section 7

7.5.1 Section 7 of the Act identifies a number of “other matters” to be given particular regard by the Council in the consideration of any assessment for resource consent. These are:

- (a) *Kaitiakitanga:*
- (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:*
- (h) *The protection of the habitat of trout and salmon:*

Of particular relevance are 7(b), (c), (f) and (g).

7.5.2 In regard to **Section 7(b)**, the proposal may not result in the efficient use and development of the key resources. In my view an efficient use of resources would ensure that land in the Plains Production is utilised with a direct relationship to the land and that there is other appropriately zoned land throughout the District for such uses to occur on. It is acknowledged that the site would reuse an already developed parcel of land for another use.

7.5.3 In regard to **Section 7(c) and (f)** the issue of amenity values has been discussed in previous sections and in the section 95 assessment in **Attachment B**. It has been concluded that the proposal due to its nature, scale and intensity would not maintain or enhance the amenity and quality (including rural character) of the rural environment that is anticipated for the Plains Production zone and subject site.

7.5.4 The subject site forms part of a wider area that contains finite resources in the form of productive soils that are both regionally and nationally significant. Therefore the proposal by creating a precedent is considered to be inconsistent with **Section 7(g)** of the RMA.

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## 7.6 Section 8

- 7.6.1 Section 8 of the Act states that Council shall take into account the Principles of the Treaty of Waitangi in relation to managing the use, development and protection of natural and physical resources. There are no known conflict with the principles of the Treaty of Waitangi for the proposal.

## 7.7 Part II Conclusions

Considering the points raised above, the Section 95A report in **Attachment B** and the above assessments of both the Hastings Proposed District Plan and Hawke's Bay Regional Plan sections of this report, it is considered that this application is inconsistent with Part II of the Resource Management Act 1991. This is because, in my opinion the proposal;

- a) will not result in the efficient use and development of the natural and physical land resource;
- b) will not maintain or enhance the quality of the environment and amenity values; and
- c) may have unreasonable natural hazard risks resulting in fuel discharge to ground;
- d) has not sufficiently demonstrated adverse effects on the environment will be avoided, remedied or mitigated;
- e) In creating a precedent may impact on the finite characteristics of the wider Plains Production zone land soil resource.

## 8.0 SUMMARY AND CONCLUSION

- 8.1 This application seeks consent to remove all existing buildings at 11 Allen Road and establish a refueling station involving hardsurfacing, landscaping, earthworks, fencing, fuel tanks, pumping stations, along with new vehicle crossings and road upgrading works to Allen Road.
- 8.2 As stated above, it is considered that, on balance, the adverse effects on owners and occupiers at 13 and 16/16A Allen Road are considered to be more than minor due to the nature, scale and intensity of the activity, including hours of use, adversely affecting the rural character and amenity, in the context of the existing

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consented activity on the site and anticipated activities in the Plains Production zone.

8.3 The proposal is contrary to the following provisions of the Proposed Hastings District Plan.

- **RRSP2** and therefore **RRS01** as the proposal involves the introduction of an activity that does not complement the resources of the rural area, as it has no direct relationship to the land for which it is proposed.
- **RRSO2**, the proposal is not considered an efficient or innovative use or development of the rural resource
- **RRSO3 and RPSP4** as the proposal presents a sporadic form of development and the grant of this consent would not amount to the anticipated management of activities in the urban area in a controlled manner
- **PSMP2** as the activity is not linked to land based production and is not of a scale that is compatible with that environment
- **PSMP3** as the activity and associated structures are considered to compromise the amenity of the environment because of the nature, scale and intensity of the activity.
- **PSMP4** as the proposal does not have a direct relationship to crops grown and / or stock farmed within the Plains environment.
- **PSMP6** as the proposal does not rely on the life supporting capacity of the soil but is not of a scale and for the environment and amenity expectations for the Plains environment.
- **PSM01**, as it is the overarching direction for Policies PSMP2, PSMP3 and PSRM4 and PSMP6 that the proposal is contrary to.
- **Objective PP01** as it does not have a direct relationship to the productive nature of the area and its scale, nature and intensity has incompatible rural amenity and character effects on the immediate area.
- **PPP4** as it has no direct relationship with the land based primary production, being a refueling activity.
- **PP02** as the proposal does not demonstrate flexible options for use of the wider versatile land resource.
- **PPP8** as the activity has not direct link to the use of the land and it's scale and intensity do not protect sufficiently the rural character of the area.

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- **PPP13** in that the new activity and development is not consistent with the low scale nature that comprises the rural character and amenity of the zone.
- **PPP15** with noise generated to be inconsistent with the character and amenity of the area and Plains Production zone.
- **PP03** as the proposal will not retain an open and low scale nature that comprises the rural character and amenity in the Plains zone.
- **ADS01, ADSP1 and ADSP2** as signage forms part of the wider proposal which would detract from the visual amenity and character of the environment.
- **NS01, NS02, NSP1** as the proposal does not control sufficiently the emission of noise, may impact on resident's health and the rural acoustic environment for the area is not maintained or enhanced.

The application may also be contrary to the following objectives and policies depending on clarifications on well provided at the hearing.

- **NH01 and NH02** as the proposal may not sufficiently mitigate to an acceptable level the risk of a discharge event impacting on the underground water.

- 8.4 The application is considered overall to be generally contrary to the Regional Policy Statement (which seeks to manage the adverse effects of sporadic and unplanned growth and the adverse effects from urban development encroaching on versatile land of the Heretaunga Plains) given the ad-hoc large scale business nature of the development being proposed. In particular, the proposal is considered to be contrary to the **POL UD2** which does not avoid unnecessary business activity encroachment into the versatile land.
- 8.5 The application will undermine public confidence in, and adversely affect the integrity of the District Plan, and create an adverse precedent; as the proposal is a significant departure from the clear and understood policy direction for Plains Production Zone development. It is noted that this policy direction was in existence in the Operative District Plan 2003 and has been continued into the Proposed District Plan yet further strengthened.
- 8.6 Even when viewed in the context of the existing consented IRP and retail use of the site, I do not consider that the proposal warrants



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approval. The consent for Intensive Rural Production and associated retail activity have a long established association with the site and involves growing of plants and glasshouses which are common in rural settings, and have substantially different amenity and character effects given the garden centre nature of the activity, including the restricted hours of operation and lower traffic movements.

- 8.7 The application is considered inconsistent with Part II of the Resource Management Act 1991.
- 8.8 After considering the requirements of Sections 104, 104B and 104D of the Resource Management Act 1991, it is recommended that consent to this application be **declined**.

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## RECOMMENDATION

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That pursuant to Rules PP39, EM10, HS3, PP24, ADS5 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 104B, and 104D of the Resource Management Act 1991, consent is DECLINED to Waitomo Developments Limited to establish a refuelling station at 11 Allen Road, Pakowhai 4183, legally described as Sec 1 SO 9886.

### WITH THE REASONS FOR THIS RECOMMENDATION BEING:

1. The adverse effects on the wider environment will be no more than minor, with mitigation including road upgrading works, landscaping and control of lighting, and stormwater control hazardous facility and emergency management controls in place.
2. The owners and occupiers of 4, 16/16A and 13 Allen Road are considered to be adversely affected by the proposal for the reasons stated below:
  - The rural amenity and character of the location will be compromised as a direct result of the proposal, given the nature, scale and intensity of the activity proposed.
  - The amenity and character for the area will not be reasonably maintained for residents.
  - Trees will be close and overhang the boundary of 13 Allen Road.
  - The activity will create a large area to the east of the pumps that would have potential for uncontrolled use by the public creating rubbish, toileting, and general disturbance and unreasonable security concerns for residents.
3. The proposed development and activity is overall contrary to the relevant Objectives, Policies and other provisions of the Proposed Hastings District Plan in particular to the following objectives and policies:
  - **RRSP2** and therefore **RRS01** as the proposal involves the introduction of an activity that does not complement the

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resources of the rural area, as it has no direct relationship to the land for which it is proposed.

- **RRSO2**, the proposal is not considered an efficient or innovative use or development of the rural resource
- **RRSO3 and RPSP4** as the proposal presents a sporadic form of development and the grant of this consent would not amount to the anticipated management of activities in the urban area in a controlled manner
- **PSMP2** as the activity is not linked to land based production and is not of a scale that is compatible with that environment
- **PSMP3** as the activity and associated structures are considered to compromise the amenity of the environment because of the nature, scale and intensity of the activity.
- **PSMP4** as the proposal does not have a direct relationship to crops grown and / or stock farmed within the Plains environment.
- **PSMP6** as the proposal does not rely on the life supporting capacity of the soil but is not of a scale and for the environment and amenity expectations for the Plains environment.
- **PSM01**, as it is the overarching direction for Policies PSMP2, PSMP3 and PSRM4 and PSMP6 that the proposal is contrary to.
- **Objective PP01** as it does not have a direct relationship to the productive nature of the area and its scale, nature and intensity has incompatible rural amenity and character effects on the immediate area.
- **PPP4** as it has no direct relationship with the land based primary production, being a refueling activity.
- **PP02** as the proposal does not demonstrate flexible options for use of the wider versatile land resource.
- **PPP8** as the activity has not direct link to the use of the land and it's scale and intensity do not protect sufficiently the rural character of the area.
- **PPP13** in that the new activity and development is not consistent with the low scale nature that comprises the rural character and amenity of the zone.
- **PPP15** with noise generated to be inconsistent with the character and amenity of the area and Plains Production zone.
- **PP03** as the proposal will not retain an open and low scale nature that comprises the rural character and amenity in the Plains zone.

**RMA20180217**

- **ADS01, ADSP1 and ADSP2** as signage forms part of the wider proposal which would detract from the visual amenity and character of the environment.
- **NS01, NS02, NSP1** as the proposal does not control sufficiently the emission of noise, may impact on resident's health and the rural acoustic environment for the area is not maintained or enhanced.

The application may also be contrary to the following objectives and policies depending on clarifications on well provided at the hearing.

- **NH01 and NH02** as the proposal may not sufficiently mitigate to an acceptable level the risk of a discharge event impacting on the underground water.
4. The proposal is a significant departure from the clear and understood policy direction for Plains Production Zone subdivision. As such it is considered that the application will undermine public confidence in and adversely affect the integrity of the District Plan. In addition, it will create an adverse precedent effect.
  5. The application is inconsistent with Part II of the Resource Management Act 1991. This is because, in the opinion of the reporting planner, the proposal;
    - will not result in the efficient use and development of the natural and physical land resource; and
    - will not sufficiently avoid, remedy or mitigate adverse effects on the environment, in particular with respect of the rural character and amenity.

As such, it is considered that the purpose of the Act, being the sustainable management of natural and physical resources, will be better achieved if the application is declined.

This report and recommendation prepared by:

Name: Rebecca Jarman  
Title: Environmental Planner (Consents)

RMA20180217

Signed:



Date: 10 May 2019

Report approved for release to the Hearings Committee:

Name: Murray Arnold

Title: Environmental Consents Manager

Signed:



Date: 10 May 2019

Item 2

Attachment A



Attachment E – Copy of Submissions



Received  
19.3.19  
HASTINGS DISTRICT COUNCIL  
207 Lynden Road East  
Hastings 4122  
Private Bag 9002  
Phone 06 571 5030  
www.hastingsdc.govt.nz  
TE KAUHIHERA O HERETAUNGA

by  
courier

## FORM 13

## SUBMISSION ON LIMITED NOTIFIED RESOURCE CONSENT APPLICATION RMA20180133

Date Submission Received: 28 Feb 2019Date Submissions Close: Friday 22<sup>nd</sup> March 2019

To: Environmental Planning  
Resource Management  
Hastings District Council  
Private Bag 9002  
Hastings 4156

Attention: Rebecca Jarman – Environmental Planner (Consents)  
Email: rebecca.j@hdc.govt.nz

## PERSON(S) MAKING SUBMISSION:

Full Name of Submitter(s):

David Glen Ewart  
Penelope Jane Ewart

## APPLICATION:

This is a submission on an application from Waitomo Group Limited

## DESCRIPTION OF PROPOSAL FOR WHICH RESOURCE CONSENT IS SOUGHT:

Establishment of a vehicle refuelling station involving removal of all existing buildings on the site, establishment earthworks, establishment of underground tanks and services, signage, fencing and landscaping. The proposal will involve two dispensing islands as a four lane car stop with a total of eight service positions for 91, 95 and diesel dispensing. It will also involve a two island, 4 land truck stop with four service positions providing diesel fuel. Road works are also required for the proposal. The activity will operate 24 hours per day and 7 days a week.

1. The specific parts of the application that my submission relates to are:

(Please continue on separate sheet(s) if necessary)

The earthworks, The underground Tanks  
The roadworks, The hours of operation 24/7  
The activity noise etc

Page 1 of 3

Glen Ewart

Item 2

Attachment E



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207 Lyndon Road East  
Hastings 4122  
Private Bag 9002  
Phone 06 871 5000  
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2. My submission is: (whether you support, oppose or are neutral regarding the application or specific parts of it and the reasons for your views. (Please continue on separate sheet(s) if necessary)

Totally Oppose. The noise levels have been calculated at the pump. Trucks and cars are turning 25mt from my bedroom window 24 hrs a day 7 days a week (non complying) I would challenge any one who thinks that is acceptable. Truck parking area raises concerns about (trucks cars idling) (sleeping) (toileting) (security issues) (Rubbish) (Privacy) page 3

3. I / We seek the following decision from the Hastings District Council:

(Please give precise details, including whether you wish the applicant to be granted or declined or are neutral, and if applicable, the parts of the application you wish to have amended and the general nature of any conditions sought) (Please continue on separate sheet(s) if necessary)

Definitely declined. This application has so many non complying activities that I cannot see how it has got this far. If this goes through it would establish precedent and totally undermine the integrity of the District plan which surely is there to protect the rights of existing land owners. I'm sorry but they have chosen the wrong spot next to 3 Dwellings

4. I wish to be heard in support of my submissions, or ☒  
I do not wish to be heard in support of my submissions ☐
5. If others make a similar submission I will consider presenting a joint case with them at any hearing, or ☒  
I do not wish to present a joint case ☐

Signed:

Alan Ewart

Date:

14.3.19

Page 2 of 3



HASTINGS DISTRICT COUNCIL  
 207 Lyndon Road East  
 Hastings 6122  
 Private Bag 9002  
 Phone 06 871 5000  
 www.hastingsdc.govt.nz  
 TE KAUNIHERA O HERETAUNGA

Address for service of submitter: (if an organisation, include contact person)

13 Allen Rd Pakowhai Rd 3 Napier

Daytime Phone No: 0274410739 Fax No: \_\_\_\_\_

E-Mail: \_\_\_\_\_

**Note:**

1. The closing date for serving submissions on the consent authority is the 20<sup>th</sup> working day after Limited Notification is given under Section 95B of the Resource Management Act 1991.
2. You must serve a copy of your submission on the applicant (details in attached application and cover letter) as soon as reasonably practicable after you have served your submission on the Hastings District Council.
3. A signature is not required if you make your submission by electronic means.
4. If you wish for the application to be heard by independent commissioner(s) rather than the council, this can be requested up until 5 working days after the close of submissions. (Note: requesting independent commissioner(s) is subject to costs)
5. No submission can be made in regard to trade competition
6. All submissions (including name and contact details) are published and made available to elected members and the public. Personal information will also be used for the administration of this resource consent.
7. Where an email address is provided under section 352 of the Resource Management Act 1991 this will be maintained the default address for service of documents in respect of this application, unless the submitter specifically requested otherwise.

*[Handwritten signature]*



3

- 1) The underground tanks and spillage at the pumps raises environmental concerns in a produce growing district
- 2) The Retail hrs 24hrs 365 days a year is way outside the existing consent 8-5:30 and gives us no let up for noise
- 3) Extra traffic turning into Allen rd will cause major congestion problems at an already congested spot
- 4) There will be safety issues with big truck crossing the centre line of Allen rd to turn in and out of the site
- 5) The grassed area raises the same concerns as the parking area especially security and toileting
- 6) I'm worried about water run off onto my land with a build up of the site after the earth works
- 7) The drain along Allen rd will become a piped culvert. I have seen that drain flood over the rd. Where will that back up when its full to capacity?
- 8) How safe is my well in the event of a diesel tank rupture?
- 9) Apart from initial set up jobs. This fuel station is unmanned produces nothing but noise on site. provides no jobs for the area. and all the money goes out of the area.
- 10) I oppose all the resource applications that fall outside the existing Oderings consent.

John Ewart





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TE KAUNIHERA O HERETAUNGA

2

Item 2

### FORM 13

#### SUBMISSION ON LIMITED NOTIFIED RESOURCE CONSENT APPLICATION RMA20180133

Date Submission Received: \_\_\_\_\_

Date Submissions Close: Friday 22<sup>nd</sup> March 2019

To: Environmental Planning  
Resource Management  
Hastings District Council  
Private Bag 9002  
Hastings 4156

Attention: Rebecca Jarman – Environmental Planner (Consents)  
Email: rebecca.j@hdc.govt.nz

#### PERSON(S) MAKING SUBMISSION:

Full Name of Submitter(s):

Claire Alexandra Banks and Michael Louis Norman  
Banks

#### APPLICATION:

This is a submission on an application from Waitomo Group Limited

#### DESCRIPTION OF PROPOSAL FOR WHICH RESOURCE CONSENT IS SOUGHT:

Establishment of a vehicle refuelling station involving removal of all existing buildings on the site, establishment earthworks, establishment of underground tanks and services, signage, fencing and landscaping. The proposal will involve two dispensing islands as a four lane car stop with a total of eight service positions for 91, 95 and diesel dispensing. It will also involve a two island, 4 land truck stop with four service positions providing diesel fuel. Road works are also required for the proposal. The activity will operate 24 hours per day and 7 days a week.

1. **The specific parts of the application that my submission relates to are:**

*(Please continue on separate sheet(s) if necessary)*

• Hours of operation (24/7)  
- noise, security, safety in traffic, amenity values

Page 1 of 3

Attachment E



HASTINGS DISTRICT COUNCIL  
 207 Lyndon Road East  
 Hastings 4122  
 Private Bag 9002  
 Phone 06 871 5000  
 www.hastingsdc.govt.nz  
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Item 2

Attachment E

2. My submission is: (whether you support, oppose or are neutral regarding the application or specific parts of it and the reasons for your views. (Please continue on separate sheet(s) if necessary)

I oppose this application for the following reasons:  
 What is considered minor by the council or their experts has significant local impact for the residents. I believe this proposal will <sup>cause</sup> larger, noisier and more frequent traffic leading into an already challenging traffic flow towards the Links Road roundabout. This roundabout has been increasingly difficult to enter into especially after the opening of the Whakatu arterial route and large trucks (that this proposal  
 (separate sheet attached)

3. I / We seek the following decision from the Hastings District Council:

(Please give precise details, including whether you wish the applicant to be granted or declined or are neutral, and if applicable, the parts of the application you wish to have amended and the general nature of any conditions sought) (Please continue on separate sheet(s) if necessary)

I wish the applicant to be declined.

4. I wish to be heard in support of my submissions, or ☐  
 I do not wish to be heard in support of my submissions ☐  
 5. If others make a similar submission I will consider presenting a joint case with them at any hearing, or ☒  
 I do not wish to present a joint case ☐

Signed:

[Signature]

Date: 21/3/19

( will exacerbate) are frequently having significant effect on the flow and congestion issues.

( Noise on site: Noise travels more at night causing greater disturbance during sleep hours. The plan suggests that the exit circulation will have an enormous effect on neighbouring residents. The idea of having large trucks idling outside my window will have an adverse effect on quality of sleep (and life).

( Security: Having such a large open commercial site this close to residences and the community will increase opportunity for greater vulnerability to unwanted attention and intrusion.

( The size of trucks is a concern as they enter and exit the site, Although the road is planned to be widened to accommodate these vehicles, this does nothing to rectify the safety of affected residents, as they enter and exit the site.



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Address for service of submitter: (If an organisation, include contact person)

16A Allen Road, RD3, Pakowhai 4183 Napier

Daytime Phone No: 021 338 402 Fax No: N/A  
 E-Mail: bancksie@gmail.com

**Note:**

1. The closing date for serving submissions on the consent authority is the 20<sup>th</sup> working day after Limited Notification is given under Section 95B of the Resource Management Act 1991.
2. You must serve a copy of your submission on the applicant (details in attached application and cover letter) as soon as reasonably practicable after you have served your submission on the Hastings District Council.
3. A signature is not required if you make your submission by electronic means.
4. If you wish for the application to be heard by independent commissioner(s) rather than the council, this can be requested up until 5 working days after the close of submissions. (Note: requesting independent commissioner(s) is subject to costs)
5. No submission can be made in regard to trade competition
6. All submissions (including name and contact details) are published and made available to elected members and the public. Personal information will also be used for the administration of this resource consent.
7. Where an email address is provided under section 352 of the Resource Management Act 1991 this will be maintained the default address for service of documents in respect of this application, unless the submitter specifically requested otherwise.





10 45 am

HASTINGS DISTRICT COUNCIL  
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TE KAUINIHERA O HERETAUNGA

3

## FORM 13

## SUBMISSION ON LIMITED NOTIFIED RESOURCE CONSENT APPLICATION RMA20180133

Date Submission Received: \_\_\_\_\_

Date Submissions Close: Friday 22<sup>nd</sup> March 2019

To: Environmental Planning  
Resource Management  
Hastings District Council  
Private Bag 9002  
Hastings 4156

Attention: Rebecca Jarman – Environmental Planner (Consents)  
Email: rebecca.j@hdc.govt.nz

## PERSON(S) MAKING SUBMISSION:

Full Name of Submitter(s):

Susan Fay Averill  
Timothy Redford Averill  
Simon John Scannell for STA Trust.

## APPLICATION:

This is a submission on an application from Waitomo Group Limited

## DESCRIPTION OF PROPOSAL FOR WHICH RESOURCE CONSENT IS SOUGHT:

Establishment of a vehicle refuelling station involving removal of all existing buildings on the site, establishment earthworks, establishment of underground tanks and services, signage, fencing and landscaping. The proposal will involve two dispensing islands as a four lane car stop with a total of eight service positions for 91, 95 and diesel dispensing. It will also involve a two island, 4 land truck stop with four service positions providing diesel fuel. Road works are also required for the proposal. The activity will operate 24 hours per day and 7 days a week.

## 1. The specific parts of the application that my submission relates to are:

(Please continue on separate sheet(s) if necessary)

- Non-complying activity (Rule Table 6.2.4) Commercial & product not produced on site. • Earth works above set limits.
- Major Hazardous Facility – exceeding storage of greater than 50,000 l. diesel
- ~~exceeding~~ signage : amount of : \* (major) retail hours of operation.
- size of signage.

Page 1 of 3

Item 2

Attachment E





HASTINGS DISTRICT COUNCIL  
 207 Lyndon Road East  
 Hastings 4122  
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 TE KAUNIHERA O HERETAUNGA

Item 2

2. My submission is: (whether you support, oppose or are neutral regarding the application or specific parts of it and the reasons for your views. (Please continue on separate sheet(s) if necessary)

We oppose this application,

Reasons : see attached sheets.

3. I / We seek the following decision from the Hastings District Council:

(Please give precise details, including whether you wish the applicant to be granted or declined or are neutral, and if applicable, the parts of the application you wish to have amended and the general nature of any conditions sought) (Please continue on separate sheet(s) if necessary)

We seek that this application be declined : Reasoning outlined in attached notes. \*

4. I wish to be heard in support of my submissions, or ☒  
 I do not wish to be heard in support of my submissions ☐
5. If others make a similar submission I will consider presenting a joint case with them at any hearing, or ☒  
 I do not wish to present a joint case ☐

Signed:

*[Signature]*  
 Trustees  
 STATRUST.

Date: 22.08.19

Page 2 of 3

Attachment E



HASTINGS DISTRICT COUNCIL  
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 Hastings 4122  
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Address for service of submitter: (If an organisation, include contact person)

16 Allen Rd RD3 Napier 4183

Daytime Phone No: 8450790 or 0274 426806 Fax No: N/A.

E-Mail: sfa@airnet.net.nz

**Note:**

1. The closing date for serving submissions on the consent authority is the 20<sup>th</sup> working day after Limited Notification is given under Section 95B of the Resource Management Act 1991.
2. You must serve a copy of your submission on the applicant (details in attached application and cover letter) as soon as reasonably practicable after you have served your submission on the Hastings District Council.
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5. No submission can be made in regard to trade competition
6. All submissions (including name and contact details) are published and made available to elected members and the public. Personal information will also be used for the administration of this resource consent.
7. Where an email address is provided under section 352 of the Resource Management Act 1991 this will be maintained the default address for service of documents in respect of this application, unless the submitter specifically requested otherwise.

## Section 1

- Non-complying Activity under Rule Table 6.2.4 (PP39) for an activity not complying with standard 6.2.6D(1), being a commercial activity with no person resident on the site, and where the goods being retailed from the site are not produced on the site.

**Commercial Activities**

means the use of land or buildings for the display, offering, provision, sale, repair or hire of goods, equipment or services; and includes commercial service activities

Retailing	Maximum Gross Floor Area	100m <sup>2</sup> (including outdoor display areas)
	Minimum percentage of display area to be stocked with goods produced on the site: - Total Display Area <50m <sup>2</sup> - Total Display Area >50m <sup>2</sup>  Within the period April - September the percentage of the goods produced on the site may be reduced to 50% for display areas <50m <sup>2</sup> and 60% for display areas >50m <sup>2</sup> .	

All Commercial Activities (including Visitor Accommodation, entertainment facilities including the serving of food and beverages.	Personnel	At least one person resident on the site shall carry out the activity. Maximum number of additional employees - 3.
	Maximum gross floor area for all activities (including structures without external walls and outdoor dining areas)	Total maximum 100m <sup>2</sup> (per site, not per activity)

"The proposal will involve two dispensing islands as a four lane car stop with a total of eight service positions for 91, 95 and diesel dispensing. It will also involve a two island, four lane truck stop with four service positions providing diesel fuel."

We suggest that as a commercial activity, as a structure without walls for the sale of a product not produced on site, the proposal will far exceed a 10m x 10m or equivalent footprint (100 sq m)

We suggest that by providing a truck parking site, it is a service to truck drivers and whoever else may decide to utilise the site as a rest area 24/7. Also no facilities will be provided for drivers as it has been noted the existing septic system would be filled and decommissioned and the existing wells will not be suitable for potable water because of their proximity to the proposed tanks. Concern noise, lights, and security. Also rubbish if others chose to use it as an overnight even if there are no facilities.

We also recognize that the products for retail on site are 100% produced off-site.



The current resource consent (Oderings) 18.08.2011 was granted with the adverse effects being minor because (4) points relative to this submission.

- The sale of imported goods displayed for retail sale (i.e those goods not produced on site) will be secondary to the principle activity being IRP.
- The primary driver for locating the activity on the site is to utilise the existing physical resources on the site.
- The overall character of the activity will be consistent with the character and amenity values of the plains in context of the receiving environment.

5. The proposal (Oderings) is not contrary to the provisions of the HDC Plan, in that:

- The adverse effects are no more than minor
- No land currently used in production will be lost
- The primary use of the land will not be changed
- Plains and rural character and amenity values will be maintained and
- The granting of consent will not establish precedent and will not undermine the integrity of the district Plan

The current proposal negates all the above benefits listed and previously granted by the HDC RMA20110203

As affected people noise, security of such a large open site (especially as there is no-one on site), and the increased turns of much larger vehicles/trucks as targeted clients are of concern.

We expect there has been an acoustic assessment done for an existing fuel stop site to establish some benchmark values for vehicular noise. We would like to see the results of this assessment.

## Section 2

- Discretionary Activity for earthworks under Rule Table 27.1.5 (EM10) for earthworks across the site above the threshold limits of 27.1.6A.

<b>EM10</b>	The removal offsite of more than 100m <sup>3</sup> of earth (including topsoil) per site per year from sites in any Zone (excluding Plains Production Zone)
-------------	---

### 27.1.6A

#### EXTENT OF EARTHWORKS

##### Outcome

*Any significant adverse Effects of Earthworks on people, property and the Environment will be avoided, including Effects on the Character and visual Amenity of the area.*

1. For the purpose of assessing the total volume of earthworks allowed as a Permitted Activity for sites in these sub zones, the volume shall be calculated by multiplying the volume threshold (listed in 27.1.6A) by the total area of the subject site in hectares, over any 12 month period.

#### **Earthworks**

means the disturbance of land by moving, placing or replacing earth, or by excavation or cutting; filling or backfilling and the removal or importation of earth (including topsoil) to or from any site, The volume of earthworks is the sum of both cut and fill operations

Hastings All Zones 50m<sup>3</sup> per site  
Per annum

Figures quoted by the developer: No material to be exported from site unless discovery of unanticipated contamination not quantified.

350cu m for hardstand + 340cu m tanks and API

Topsoil approx. 350 cubic m imported. Potential total earthworks well in excess of site capability.

Amount of material involved in excavation of 2 fuel and a water treatment system, foundation for the pump sites, removal of existing buildings and concrete works, and the proposed building of bunds will affect the contour and overall height of the site impacting neighbouring properties and the natural flow of water from the site. This could potentially raise the site 80cm if evenly distributed.

The final contour of the land will need to be carefully calculated to ensure no detrimental effects to neighbouring and near properties or the drain.

We question how much over and above figures quoted, are materials required to be brought on site to create and finish new hardstand area, and installation of tanks,

We acknowledge the drain is under regional council jurisdiction but during excavation pits up to 4.5m deep are to be dug for the tanks.

Re dewatering, how is sediment to be removed before discharge into the existing drain?

This drain (3.1) "an existing public storm drain along Allen road "is in fact a permanent water course flowing all year round connecting with Links Road system and discharging into a larger drain half way down Allen Rd carrying water from the Waiohiki side of the expressway past our property and on down through the Pakowhai network.

#### **watercourses**

means any stream, river, public drain, irrigation canal or channel

The report states that access into and out of the site "could be Allen Road" to minimise noise and nuisance to neighbouring properties

Comment: What other access could be considered? Aren't the neighbouring properties the affected parties on Allen Rd? (Engineering Infrastructure Assessment P4 Dated May 2018)

#### **Section 3**

**Discretionary Activity for the establishment of a Major Hazardous Facility under Rule Table 29.1.5 (HS3), involving storage of more than 50,000 litres of diesel storage.**

Means any facility which involves one or more following activities

☐ The storage/use of more than 100,000L of petrol

☐ The storage/use of more than 50,000L of diesel

While acknowledging the petrol falls within limits, the diesel component does not comply and must be considered "not to be exceeded" Larger tanks can mean additional risk and additional excavation.

A diesel spill would be more detrimental to the environment particularly situated by a drain that is part of a network of waterways within a major horticultural production area. It would of



concern in that contamination would destroy the eels that live there and contaminate watercress that passers-by stop and harvest when it is available.

The supply of diesel is to cater for a much larger vehicle/ trucks than the current vehicle clientele of the nursery which in turn has a greater impact on traffic movements and noise.

"Surveys carried out at other garden centres", indicate no comparative size or location on which to base potential vehicle movements (tph) as in relation to Oderings. The clientele is also 99% cars and it is a shopping destination within set hours of retail in a rural. Comparing tph with that of a fuel stop based on short stay, quicker car turnover and with a far greater proportion of large trucks generating a far greater amount of noise 24/7. Estimations for this are again based on other sites. We seek clarification that the comparisons are valid to similar situations Intensive plains production, with neighbouring rural residents

Currently Oderings have maybe one truck per day, smaller delivery style, and the proposed fuel stop plans on attracting much larger numbers and types as pass-by or diverted link trips drawing from adjacent road networks. This will generate many more turns in and out onto Pakowhai Rd or into the arm of the roundabout These turns will cause conflict with vehicles turning into or out Allen Rd.

With the Allen Rd/ Pakowhai Rd intersection being off set, increased turns will be an issue because large trucks are slow to move and if they are turning to the right they have to duplicate this move again at the roundabout .At present there is an issue with the increased truck numbers on Pakowhai-Whakatu Arterial Route entering the roundabout. This impacts at the Allen Rd intersection as a result of stacking on Pakowhai Rd causing a poor line of sight /visibility because of the curved nature of the road between Allen Rd and the roundabout and blocked access during heavy traffic. As this is currently what is happening, the current proposal would make the situation worse.

Report prepared by Pattle Delamore Partners Ltd ref 20 July 2018 'Potential risk to neighbouring properties'

A natural hazard that could impact on these tanks is liquefaction. Damage is possible- and the report gave the site high liquefaction vulnerability.

The Opus report dated 24 April 2018 6.1.2 Liquefaction Susceptibility indicates the soils in the area are geologically young and hence more susceptible to liquefaction. The tests were performed after a "prolonged, hot dry summer period"

Recent local liquefaction test results showed that climactic conditions and time of year can impact on the results, prolonged wet conditions giving a different result.

Omitted from this report was the existence of a secondary dwelling between 16 Allen Rd and NZ Police as one of the nearest residential dwellings when cited in proximity to the proposed tank site.

The same report when citing nearby wells, have not acknowledged a GPS noted residential well at 16 Allen Rd, which also supplies the secondary dwelling, and an easement to the NZ Police and a well at the adjoining neighbour behind the site.

## Section 4

- ☐ Restricted Discretionary Activity under Rule Table 6.2.4(PP24);  
☐ for a signage within the 15m yard set back (standard 6.2.5B);

<b>PP24</b>	Any Permitted or Controlled activity not meeting one or more of the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in Section 6.2.6C(b) and 6.2.6C(d), 6.2.6D(2), 6.2.6G, 6.2.6H (excluding 'Winemaking and associated bottling, storage and packaging'), 6.2.6I, 6.2.6J, and 6.2.6K.
-------------	--

**setback**

means the minimum distance between the exterior face or edge of a structure (or other feature or activity) and the legal boundaries of its site, or other feature specified in the Plan

Proposed fuel station sign (Prime sign) is 9m high and proposed site is against roundabout boundary fence. The requirement as set out in the plans is 15m setback. Also placed on that corner so close to the roundabout could cause driver distraction NZTA citing visual distraction such as advertising signs being an issue, impacting on the strategic function alongside a state highway, in their pamphlet.

- ☐ for an exceedance in the maximum 1500m<sup>2</sup> total building coverage of standard 6.2.5J;

**TOTAL BUILDING COVERAGE (INCLUDING HARDSTAND AND SEALED AREAS)**Outcome

*The life-supporting capacity of the Plains Production soil resource will be safeguarded and the Amenity of the Plains Production Zone will be protected by limiting the total scale of Buildings on and sealed areas over smaller Sites.*

*The potential negative environmental Effects associated with the increase in storm water runoff created by the development activity will be avoided, remedied or mitigated.*

The maximum building coverage (including hardstand and sealed areas) shall not exceed 35% of the net site area or 1500m<sup>2</sup>, whichever is the lesser.

The net site area is 1.2938h. 35% = 4528sq.m. well in excess of 1500sq.m.(the lesser amount) coverage being hardstand and sealed areas. 11 Allen Rd is a small site in the Plains production zone.

The previous coverage incorporated glasshouse production in line with intensive rural production.

Planting 3500sq m to grass does not equate with intensive rural production, particularly in a horticultural area

This planting has also cited as a way to reduce storm water run-off so there should be less.

The current hardstand is not all impervious surface as suggested as being a nursery, the beds are shingle and the pots provide a permeable surface. Our concern flooding, and contamination in the drain.

The concern of flooding from the drain into the nursery carpark, raised in July 2018 by The concern of flooding from the drain into the nursery carpark, raised in July 2018 Mr C Goodier, (HBRC) has this concern been addressed?

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for an activity not conforming with 6.2.6D(2) (retailing hours of operation):

District plan

## 2. Hours of Operation

Activities which involve the retailing of goods to the public shall be restricted to the following hours of operation:

Any day of the week - 8.00am - 10.00pm

Current resource consent allows for:

"5. The hours of operation for the retail activity shall be 8 a.m. to 5 p.m. (5.30 pm September to February) 7 days a week."

365 days 24 hours per day for retail creates an issue for affected parties with no break from noise, community security and traffic movements and no respite on those days where retail is closed by law. Our concerns as affected people basically stem from this condition. Noise, security, road safety.

- As this is far from compliant with the HDC Plains and rural character and amenity values would not be maintained and
- The granting of consent would establish precedent and undermine the integrity of the district Plan

As retail hours would be outside the current proposed district plan there are guidelines for lighting ( N Beacock 10 Sept 18) that suggest

Prior to any lighting being installed on the site the consent holder shall provide

- Detailed lighting plan to the HDC environmental consents manager
- the hours the external lighting will be in operation

The impact on Allen Road will be constant light outside daylight hours inconsistent with Plains Production.

The hours of operation would impact heavily on noise intrusion.

The type of vehicle the retail business is targeted at impacts heavily on noise production.

(Noise 27.1.6E re-Application "Assessment of environmental effects")

## POLICY NSP2

*Manage the interface of different land use zones to protect the aural environment of residential and other less noisy areas of the District.*

Noise ranks highly on the list of environmental pollutants and is an increasing matter to which communities must have regard. If the emission of noise from the various land use and transportation activities is not controlled, this is likely to result in long term adverse effects on the acoustic environment and the amenity of individual properties, localities, and the wider District

### Explanation

Different land use activities generate different levels of noise. Management of the interface of the different zones is important in order to ensure that noise does not intrude into quieter areas and that, within the boundary of each zone, noise levels meet accepted minimum standards for the receiving environment.

NZTA acknowledges "the loudest source of any one noise at any one particular moment depends on the type of heavy vehicle and the speed it is travelling. Below

about 50kph the engine noise is usually the loudest component."

There is a long exit circulation on site close to the back boundary, which will have a great effect on a neighbouring houses, and if the trucks were to park/idle in the "rest area" that sound would impact on the houses over the road.

It is stated p25 Assessment of Environmental effects that "sources of noise include vehicle noise and the noise of patrons using the fuel stop"

There is no acoustic assessment done for trucks leaving the site, while still located on-site.

The noise assessment received from Malcolm Hunt Associates has been based on noise generation from a stationary point at the centre of the fuel pumps using ISO 1996 Acoustic standards

No consideration has been made for the fact that the principle generator of noise motor vehicles/ trucks will be moving around the site at times being only metres from the boundaries.

Reference to NZS 6802:2008 superseding the 1999 standards.6.4.1 in this standard

...However, because of the importance of protecting sleep, no adjustment is allowed during a prescribed time frame defined in a consent condition, rule, as night-time (e.g. 10 pm – 7 am)

Once again 24/7 retail will have a significant effect in this period, with a suggested 2 heavy vehicle movements per ¼ hr at night.

C6.4.1 Sleep disturbance is related to both the level and number of intrusive events and therefore no duration adjustment is permitted at night.

The noise prediction method used gives us no indication how the noise from vehicles is assessed, bearing in mind the noise from vehicles should be taken into account wherever the vehicle is within the site boundaries. The noise assessment table provides just one number value. How was that number created?

It appears that noise levels are essentially set based on "expert" recommendations, rather than considering the level and effects on residential amenity and adverse effects on affected parties.

For example predicted worse case sound pressure level exceeded night-time guideline residential upper noise limits set at 45dB, at every identified affected dwelling.

**Establish trees being a shelterbelt to the eastern side boundary infringing standard 6.2.5H.**

#### SHADING OF LAND, BUILDINGS AND ROADS

##### 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.*

##### Outcome

*Adjoining residential land will not be significantly adversely affected by shading from Buildings.*

#### **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:

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

li 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).

#### Section 5

□ Restricted Discretionary Activity for advertising signage under Rule Table 28.1.5 (ADS5), not meeting the maximum 2.5m<sup>2</sup> area standard of Table 28.1.6A, due to the number and size of signage.

Plains Production, Rural, Rural Residential and Te Mata and Tuki Tuki Special Character Zones	All Advertising Devices.	2.5m <sup>2</sup>
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Advert on pylon 9m high = 5.37sq m

There seems to be a discrepancy between the illustration showing the sign approximately third way along the boundary and the text description being "the most significant advertising sign... located near the south-west corner of the site,... considered necessary to assist in guiding motorists to the fuel stop from the Napier/Hastings expressway."

Placed on that corner so close to the roundabout could cause driver distraction NZTA citing visual distraction such as advertising signs being an issue, impacting on the strategic function alongside a state highway.

Also refer to comments made under fuel storage re traffic issues / clientele directed to this site this proposed site

Current RMA (Orderings) stipulates

6. All signage (advertising devices) on the site shall not exceed 2.5sq m in area (visible from any one viewing position)

Reasons for this decision being

4. The site will be sufficiently screened and the total area (m sq) of signage will be restricted to ensure plains and rural amenity values are maintained.



## Section 6

Consent is also required as a controlled activity under the Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2012. Only to reiterate contamination in the soil leaching into the waterways would be of concern in that it could destroy flora/fauna e.g the eels that live there, and potentially contaminate watercress that passers-by stop and harvest when it is available.

We are concerned that compliance has been given to aspects of this proposal supported by diagrams that do not provide a true or complete representation of the layout of the roading network and the proximity of this site proposal. Drawings and predictions were also produced while the expressway and arterial works were incomplete and need to be reassessed to meet the completed roading..

We have reservations of safety for all motorists as NZTA states that developments that occur alongside state highways can impact on the strategic function which is about keeping through traffic moving safely and efficiently with appropriately efficient access, and safe movement of traffic is currently an issue with the new configuration of the road/ roundabout.

Activities that may affect the state highway include "subdivision, development or changes made to the use of the land near a state highway" and may include additional traffic movements and their impact on flow and congestion. As identified affected residents, the proposed development is not site appropriate as the additional works that are required off-site would not be required with a more compliant proposal.

With the recent opening of the Whakatu Arterial Route there is evidence already of flow and congestion issues at peak traffic times exacerbated by the increase of large trucks and trailers and increased traffic flow trying to access a dominating north/ south expressway through the new Links Rd roundabout. At times traffic is banked up over the Allen Rd intersection. Stacking/ queuing of vehicles trying to turn towards Napier at the roundabout and the increased number of trucks is a growing issue, particularly around safety.

This proposal has indicated because of " the site location being able to take traffic from the expressway" into Allen Rd and then a right turn back into the Pakowhai arm of the roundabout , followed by another right turn onto the expressway is an acceptable manoeuvre and safe, but this combination of turns are already presenting challenges.

Additional concerns that will have significant effect would be the prescribed road works that would need to be completed to enable access to be compliant. While it is under different jurisdiction it impacts on us physically the most.

To this point we have seen no formal plans to extend the carriageway of Allen Rd to the second entry/ exit of the site. There have been a couple of suggestions as to the extent of the road development involved in this aspect of accessing the site but both differed in what length of roading / tapering would be required.

The plans for road changes, the effect on the existing HBRC drain and collection and discharge of increased storm water run-off from the increased road surface area involves a significant area of road frontage and tapering in front of the two dwellings opposite, 16 Allen Rd and secondary dwelling. There is no water table opposite 11 Allens Road from the police dogs, to the far side of our entrance way.

In episodes of heavy, prolonged rainfall the run-off goes down the side of our house, across the back lawn and out to the orchard causing flooding. This is happening more frequently and we are told to expect more episodes of this nature (Can provide photographs of one episode as illustration)

The concern of flooding from the drain into the nursery carpark, raised in July 2018 Mr C Goodier, (HBRC) has this concern been addressed?

No account has been made for increased storm water flows into the roadside drain as a result of increased hard surfaces associated with the newly completed roundabout and associated roading and lanes.

Another aspect of these access ways is the suggested width of the entrance culverts as the proximity to the corner will make it difficult for all drivers to "enter and leave the site without crossing the centre line". The suggestion from a transport operator is that potentially 30 % of drivers will cross the centre line, often influenced by the type of rig they are driving, their experience and the width of the culvert/entry.

Vehicle movement figures need to be reassessed to current traffic flow as the movements for Allen Rd were last taken Dec 2013; and Jan 2010. Since then changes within the community, new dwellings, change in land use to apples which have a longer season, and the survey times were more low-season so only representative of that particular time of year. There has also been the difficulties and break down of the road with the large truck and trailer units using it as access for the purpose of silt mining

The accident report does not reflect the current lay-out where exiting traffic is influenced by the intersections and close proximity to the roundabout.

Diagrams provided only give a partial impression of the complete road/ set-up.

The Distribution of generated traffic has not included any trips from Links Rd direction across to Pakowhai Rd and with the advent of the roundabout this has had a notable increase .Appendix A Proposed Service Centre shows only the intersection with a limited portion of Pakowhai Rd.

We would support an application that maintains the status quo of the current resource consent, a tenant that meets the proposed district plan, but feel that the degree and number of changes this application is demanding is contrary to the provisions of the HDC Plan for Intensive Rural Production and granting of the consent would establish precedent and undermine the integrity of the District Plan.

As a proposal on this site, it offers no benefits to the community, as there are no jobs created, product will come 100% from off-site, access to the product is available at numerous other sites, and apart from the offered landscaping termed "generous" the amenity values i.e. the natural or physical qualities and characteristics of an area will be compromised outside the regulations and guidelines for the Plains Zone as outlined in the HDC Plan.

While each aspect of the consent appears to be deemed of minor impact to us, the cumulative effect of each and every one of these aspects becomes in combination, major impact ,noise, road safety, flooding, security ,pollution .

What is considered minor, may have significant local impacts for us and our community.