



Hastings District Council

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OPEN A G E N D A

HEARINGS COMMITTEE MEETING

**(OBJECTION UNDER SECTION 357A TO A
DECISION MADE REGARDING AN APPLICATION BY
NEW ZEALAND SIKH SOCIETY (HASTINGS) INC)**

Meeting Date: **Monday, 29 July 2019**

Time: **9.30am**

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

Committee Members	Panel Members Rostered on for this hearing: Chair: Councillor Lyons Councillor Barber and Councillor Kerr (Deputy Chair) Other Hearings Committee Members (not rostered on for this hearing): Councillors Heaps, Lawson, Redstone and Schollum and Mr P Kay
Officer Responsible	Environmental Consents Manager – Murray Arnold
Consultant Planner	Rowena Macdonald, Sage Planning
Committee Secretary	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:

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| 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 Why Registration Should Not be Revoked.
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 Appeals, Applications or Objections to Requirements Under Housing Improvement Regulations.

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:

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| 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.

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:

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| 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. |
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HASTINGS DISTRICT COUNCIL

A HEARINGS COMMITTEE MEETING WILL BE HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, CIVIC ADMINISTRATION BUILDING, LYNDON ROAD EAST, HASTINGS ON MONDAY, 29 JULY 2019 AT 9.30AM.

1. APOLOGIES

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

2. OBJECTION UNDER SECTION 357A TO A DECISION MADE REGARDING AN APPLICATION BY THE NEW ZEALAND SIKH SOCIETY (HASTINGS) INC

DOCUMENTS CIRCULATED FOR HEARING - COMPILED AS TWO SEPARATE DOCUMENTS

<u>Document 1</u>	The covering administrative report	Pg 1
Attachment A	Section 357 Objection Hearing Report	Pg 3
Attachment B	Application for Place of Assembly in the Plains Production Zone	Pg 21
Attachment C	Certificate of Title	Pg 23
Attachment E	s95 and 104 Report and Decision - Sikh Temple LUC Non-Notified - PPZ Place of Assembly	Pg 25
Attachment F	Decision - Sikh Temple non-complying place of assembly in the PPZ	Pg 91
Attachment G	Letter of objection from Lara Blomfield on behalf of New Zealand Sikh Society (Hastings) Inc	Pg 93

Document 2 Containing this attachment

Attachment D - Description of Proposal and Assessment of Environmental Effects and updated Appendices

The Agenda 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: MONDAY 29 JULY 2019

FROM: COMMITTEE SECRETARY
CHRISTINE HILTON

SUBJECT: OBJECTION UNDER SECTION 357A TO A DECISION
MADE REGARDING APPLICATION BY THE NEW
ZEALAND SIKH SOCIETY (HASTINGS) INC

1.0 INTRODUCTION

- 1.1 This is a covering report relating to an objection pursuant to section 357A of the Resource Management Act 1991 to the decision made under delegated authority regarding an application by the New Zealand Sikh Society (Hastings) Inc, at 28 Richmond Road.
- 1.2 This agenda can be viewed on the Council's website and a reference hardcopy is held at the Ground Floor Reception, Council's Civic Administration Building, Lyndon Road East, Hastings. For ease of reference the recommendation from the attached Consultant Planner's report is set out below.

RECOMMENDATION

That the objection by the Applicant, to the refusal of consent to RMA20180194 be DISMISSED.

Attachments:

A	Section 357 Objection Hearing Report	55235#0041	
B	Application for Place of Assembly in the Plains Production Zone	55235#0003	
C	Certificate of Title	55235#0004	
D	Description of Proposal and Assessment of Environmental Effects and updated Appendices	55235#0042	Document 2
E	s95 and 104 Report and Decision - Sikh Temple LUC Non-Notified - PPZ Place of Assembly	55235#0027	
F	Decision - Sikh Temple non-complying place of assembly in the PPZ	55235#0030	
G	Letter of objection, dated 8 February 2019, from Lara Blomfield on behalf of the New Zealand Sikh Society (Hastings) Inc	55235#0048	

REPORT TO: HEARINGS COMMITTEE

HEARING DATE: 29th JULY 2019, 10.30am

FROM: CONSULTANT PLANNER
ROWENA MACDONALD ON BEHALF OF
HASTINGS DISTRICT COUNCIL AS CONSENT
AUTHORITY

SUBJECT: SECTION 357A (1)(G) AND (2) RESOURCE
MANAGEMENT ACT 1991 – OBJECTION TO
DECISION ON RESOURCE CONSENT
RMA20180194, 28 RICHMOND ROAD,
HASTINGS (NEW ZEALAND SIKH SOCIETY
(HASTINGS) INC)

1.0 INTRODUCTION

- 1.1 An objection pursuant to section 357A of the Resource Management Act 1991, has been lodged with the Hastings District Council by the New Zealand Sikh Society (the applicant). This objection relates to Council's decision to refuse their application for consent to establish a Sikh Temple on their 3.9041 hectare Plains Production Zone property at 28 Richmond Road, Hastings. This is detailed in the following sections of this report. A copy of the section 357A objection is included as **Attachment G**.
- 1.2 This report considers the basis for the objection to Hastings District Council's decision and makes a recommendation as to whether the objection should be upheld or dismissed.

2.0 BACKGROUND

2.1 The Application

- 2.1.1 Resource consent was sought by the New Zealand Sikh Society (Hastings) Inc to construct a Sikh Temple as a new 'place of assembly' on the applicant's 3.9041 hectare Plains Production Zone site.
- 2.1.2 The proposed development involves the construction and use of a Sikh Temple at 28 Richmond Road, comprising a 1,000m² footprint, (with a 2000m² GFA) and additional hardstand surrounding the site of up to 5,046m².

2.1.3 Ancillary to the temple, is a proposed library building (120m²), and a residential dwelling (260m²) for use by the head priest.

2.1.4 The temple would be open 24 hours a day, seven days a week for anyone to pray, with up to 20 people anticipated at any one time. In addition, there would be ceremonies every weekend from Friday evening through to Sunday for up to 400 people, and up to 15 special ceremonies per year catering for up to 700 people (weddings, annual sports day, annual 8-day prayer event, annual peace march etc).

2.1.5 The proposed site layout provides for open space and recreation grounds around and to the back of the temple. There are some ceremonies that would use the recreation grounds, and these are recreation based. For example, passive exercise and cultural games as well as more familiar games such as cricket and, soccer.

2.1.6 Access and Parking: The proposed development includes a new vehicle access (with seven (7) metre wide vehicle crossing) to the site from Richmond Road, and provision for one hundred and five (105) on-site car parks, bicycle racks and a loading space.

2.1.7 Servicing: The development is proposed to connect to the Council reticulated sewerage system and to an existing bore on-site for potable water supply and firefighting supply. Stormwater is proposed to be managed via a piped network, swales and an attenuation pond discharging to the HBRC drain adjacent to the site.

2.1.8 Earthworks: The proposed development anticipates 2,537m² cut and 2,293m³ fill to sub-base (excluding cut for the swale and attenuation pond), and approximately 2,503m³ of imported materials to achieve the design surface.

2.1.9 The resource consent application is included in **Attachments B, C and D**, and, the Officer's Report is included in **Attachment E**, and the Decision on the application is included in **Attachment F**.

2.2 Reasons for Resource Consent and Activity Status

2.2.1 The Proposed District Plan as amended by decisions on submissions was publically notified on 12th September 2015 and took legal effect from this date. The application was lodged on the 15th May 2018. No appeals had been lodged against the provisions of the Proposed District Plan relevant to this application.

2.2.2 Therefore, in accordance with Section 86F of the Resource Management Act 1991, the provisions of the Proposed District Plan relevant to this application were treated as operative. As such, no assessment was required under the Operative District Plan.

2.2.3 New 'Places of Assembly' in the Plains Production Zone are a Non-Complying Activity pursuant to Rule PP39.

2.2.4 In addition, the earthworks will exceed the extent of earthworks in Standard 27.1.6A where the maximum volume of earthworks permitted in the Plains Production Zone is 100m³ per hectare of site per year. Where earthworks do not meet the requirements of one or more of the General Performance Standards and Terms, the activity is considered a Restricted Discretionary Activity.

2.2.5 The overall proposal was therefore considered to be a **Non-Complying** Activity in terms of the Proposed Hastings District Plan.

2.3 Decision

2.3.1 For the purposes of a decision on public notification, the Section 95 report (HDC HPRM Ref 55235#0027) concluded that adverse effects on the wider environment were likely to be no more than minor¹ and there were no special circumstances that would warrant public notification. As such, public notification was not required.

2.3.2 For the purposes of a limited notification decision, the proposal was initially considered likely to adversely affect persons at 30 Richmond Road, 43 Tomoana Road and Pt Lot 2 DP6463 on Tomoana Road, to a minor or more than minor extent. Written approval was subsequently supplied from those neighbouring properties, and any adverse effects on those persons were then disregarded pursuant to Section 95D(e).

As the adverse effects of the proposal were ultimately deemed to be less than minor, in terms of Section 95E, no parties were then considered to be adversely affected by the proposal.

¹ It is also noted in the decision however, that the adverse effect of the irrevocable loss of high quality Class 1 soils may potentially be more than minor, especially if cumulative adverse effects were more definitively established.

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- 2.3.3 The Section 95 report concluded that the environmental effects of this proposal were minor and no parties were considered affected under Section 95A-F of the Resource Management Act 1991. Therefore, this application was processed on a non-notified basis.
- 2.3.4 When considering an application for resource consent, the consent authority must have regard to any actual and potential effects of the proposal on the environment (s104(1)(a)), any relevant planning provisions (s104(1)(b)) and any other matter the consent authority considers relevant and reasonably necessary to determine the application (s104(1)(c)).
- 2.3.5 Under s104(1)(a), the Officer's Report concluded that the actual and potential adverse effects on the environment would be no more than minor. The report also acknowledged positive effects of the proposal, including the social and cultural benefits for the Sikh community of establishing a fit-for-purpose regional temple, and the likely economic and social benefits to the wider community from a construction project of this size and from having a strong vibrant Sikh presence in the community. Notably however, these benefits were not seen as location-specific to this site.
- 2.3.6 Under s104(1)(b), the Officer's Report concluded that the proposal is contrary to the relevant objectives and policies of the Hawke's Bay Regional Policy Statement and the Proposed Hastings District Plan, as:
- a) *The proposal establishes a new urban activity ('place of assembly') beyond the defined urban edge of Hastings, on highly versatile Class 1 soils, and on land that has not been identified for future urban development of this nature, and represents ad hoc development (Urban Strategy, objectives UDO1 and UDO2, and policies UDP1, UDP3, UDP4 and UDP5).*
 - b) *The proposal and its scale do not promote or complement the resources of the rural area, is not directly related to land-based production or rural services and represents sporadic conversion to an activity that will individually or cumulatively reduce the life-supporting capacity and economic use of the soil resource and its availability for future generations (Rural Resource Strategy, objective RRSO1 and policies RRSP2 and RRSP4).*

- c) *The Tomoana/Whakatu area is currently identified for indicative future wet industry growth once capacity is reached at Whakatu, so the proposal prematurely converts the land from productive use and pre-emptively removes it from future industrial land supply options (Industrial Strategy, objective ISO2 and policies ISP3 and ISP5).*
- d) *The proposed activity and associated buildings are not linked to or in support of land-based production in any way (Plains Strategic Management Area, objective PSMO1 and policies PSMP2 and PSMP3).*
- e) *The proposal represents a creep of urban activities into the Plains Production Zone and the versatile land resource, in a location where there is a clear and distinct urban boundary established by the proposed 'North Eastern Collector' corridor (objective PSMO5).*
- f) *The proposed building coverage associated with the proposal far exceeds that anticipated and permitted for the Plains Production Zone (being 35% of net site area or 1,500m² whichever is the lesser – Standard 6.2.5J) and therefore compromises the versatile land through greater than expected building coverage (Plains Production Zone, objective PPO1 and policy PPP3).*
- g) *The proposal is not located within an area identified for future urban growth and leapfrogs the strongly defined urban limits and buffer strategically provided by the proposed 'North Eastern Collector' corridor, resulting in ad hoc urban development pushing further into the Plains Production Zone (policy PPP7).*

2.3.7 The Officer's Report concluded that:

The application is contrary overall to the relevant provisions of the RPS and HPUDS, which seek to manage the adverse effects of sporadic and unplanned growth and the adverse effects from urban development encroaching on the versatile land of the Heretaunga Plains, given the ad-hoc nature of the development being proposed and the site's possible role as part of the region's future industrial land supply.

The activity bears no direct (or even indirect) relationship with or support for land-based primary production. Locating on this site is, therefore, diametrically opposed to the clear and

overarching strategic and policy direction embedded in the Proposed Plan and the RPS, which is to avoid unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains so as to safeguard the life-supporting capacity of the Plains soils resource and sustain it for existing and future generations.

- 2.3.8 Under s104(1)(c), the Officer's Report concluded that the proposal is contrary overall to the relevant provisions of the Heretaunga Plains Urban Development Strategy, and:

Granting this application would also likely undermine public confidence in, and adversely affect, the integrity of the Proposed District Plan and create an adverse precedent, as the proposal is a significant departure from the clear and understood policy direction for land use in the Plains Production Zone.

- 2.3.9 In giving consideration to Part 2 of the RMA as required in s104(1), the Officer's Report also concluded that:

...this proposal will not achieve the purpose of the RMA, being 'the sustainable management of natural and physical resources', as it will not sustain the potential of the Plains soil resource of the subject site, nor safeguard its life-supporting capacity; and does not accord with section 7 matters in terms of the efficient use and development of the natural and physical land resource or give due regard to its finite characteristics.

3.0 REASONS FOR THE OBJECTION

- 3.1 The applicant has objected to the decision to decline the application (as set out in the Decision, **Attachment F**), with the reasons given as follows (as set out in the Notice of Objection, **Attachment G**):

- 7.1 *Although a decision-maker is required to have regard to the provisions of the Regional Policy Statement, the provisions of that document need not be given much weight in this case because the proposed district plan already gives effect to the relevant provisions of the Regional Policy Statement.*
- 7.2 *There is no need to have particular regard to HPUDS when considering this application given that:*
- (i) *HPUDS is embedded in the RPS; and*

- (ii) *The Proposed Plan gives effect to the RPS; and*
- (iii) *The reporting officer acknowledges that 'the Urban Strategy in the Proposed Plan embeds the settlement pattern envisaged by HPUDS'.*

7.3 *There is no definition of 'urban activities' in the Proposed Plan. The way that places of assembly are controlled in the Proposed Plan (i.e. non-complying in rural areas and less stringently controlled in urban areas) does not determine whether or not the proposed Temple is an 'urban' activity for the purpose of analysing the relevant objectives and policies in the Proposed Plan.*

7.4 *However the explanation to RRSP4 provides useful guidance as to the types of activities which are considered to be urban in nature. It 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 (see Section 2.4 Urban Strategy).

7.5 *The Council relies upon objectives and policies in the Proposed Plan which promote the maintenance of the life-supporting capacity of soil resource as a reason for declining consent and yet the Council's long-term strategic intent is for further industrial expansion to occur*

in this area, notwithstanding the issues that accompany the highly versatile nature of the soils.

- 7.6 It is incongruous to deny the Sikh community the opportunity to develop a place of worship in this location on the basis of preserving the land in question for some future and speculative wet industrial activity.*
- 7.7 As to the effect of removing this land from primary production, the Reporting Planner has concluded that the effect of removing 3.9ha from the supply of scarce LUC Class 1 (Hastings/Selwyn) soils on the overall life-supporting capacity of the wider soils resource would be minor.*
- 7.8 The importance of the versatile soil resource and the strong policy direction to protect it for current and future generations is acknowledged. However, there are times when the community needs to weigh this with other activities that also contribute to the wellbeing of current and future generations.*
- 7.9 Inadequate consideration has been given to the positive effects of the proposed activity. The proposed temple and ancillary activities (residential dwelling, library and recreation area) will enable the Sikh community to provide for their social and cultural wellbeing.*
- 7.10 The subject site is within an area where the rural and urban boundary is not clearly defined. It is surrounded by urban development to the south-west, and west, and industrial neighbours to the east, south-east and south.*
- 7.11 While the proposal might be considered 'ad hoc development', it is not development of a type which will easily be replicated. The proposal is to establish a place of assembly, rather than (say) residential, commercial or industrial activities which are more obvious examples of urban activities and more readily replicated. What makes this application unique is that it is for a place of assembly and it will be the only Sikh Temple in the region. There will be relatively few, if any, similar such applications coming before the Council in the future.*
- 7.12 Other urban activities involving residential, commercial and industrial activities will be readily distinguishable from this application on that basis alone.*

7.13 *Granting consent to a single application for a place of assembly will not undermine the integrity of the Proposed Plan.*

- 3.2 The objector also states that *"there are a number of matters which collectively weigh in favour of a grant of consent"* including effects having been assessed as minor or less than minor, that it can be suitably serviced and developed, that there are no soil contamination issues, that traffic can be managed and that all affected party approvals have been obtained.
- 3.3 The objector also considers that the site is not a wholly rural environment, that the selection of the site was founded on a robust alternatives assessment, and that the Council already envisages alternative and far less benign activities being undertaken on the site compared to those currently permitted under the Plains Production Zone.
- 3.4 This report therefore addresses the general grounds raised, including with reference to the reasons for the Decision as set out above, the application, and relevant case law in this area.

4.0 STATUTORY CONTEXT

4.1 Section 357 – Right of Objection

- 4.1.1 Section 357A(1)(g) RMA sets out the rights of objection for consent holders and states the following:

357A Right of objection to consent authority against certain decisions or requirements.

(1) There is a right of objection to a consent authority, —

...

(g) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if the application or review was not notified.

- 4.1.2 Section 357A(2) states that section 357A(1)(g) will apply to an application for resource consent made under section 88 of the RMA in the following circumstances:

(2) Subsection (1)(f) and (g) apply to an application made under section 88 for a resource consent. However, they do not apply if the consent authority refuses to grant the resource consent under sections 104B and 104C. They do apply if an officer of the consent authority exercising

delegated authority under section 34A refuses to grant the resource consent under sections 104B and 104C.

- 4.1.3 The application was non-notified and was declined consent under section 104B of the RMA by an officer exercising delegated authority. Therefore, the applicant has a right of objection under s357A (1)(g) in respect of Council's decision.

4.2 Section 357C – Procedure for Hearing Objections

- 4.2.1 Section 357C sets out the procedures for making and hearing objections under 357A and 357B. In the case of an objection under section 357A the Council must consider the objection within 20 working days.
- 4.2.2 If the objection has not been resolved, the Council must give at least 5 working days written notice to the objector of the date, time and place for a hearing of the objection. The hearing will be held in the Hastings District Council Chambers on 29th July 2019, commencing at 10.30am.

4.3 Section 357D – Decision on Objections

- 4.3.1 Section 357D sets out possible decisions that can be made in relation to an objection under section 375A and the procedural requirements for making a decision.

357D Decision on objections made under sections 357 to 357B

- (1) *The person or body to which an objection is made under sections 357 to 357B may—*
- (a) dismiss the objection; or*
 - (b) uphold the objection in whole or in part; or*
 - (c) in the case of an objection under section 357B(a), as it relates to an additional charge under section 36(5), remit the whole or any part of the additional charge over which the objection was made.*
- (2) *The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.*

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- 4.3.2 Pursuant to section 358 of the RMA, any person who has made an objection under section 357A may appeal to the Environment Court against the decision on the objection.

5.0 CONSIDERATION OF THE OBJECTION

5.1 Weight given to the Regional Policy Statement

- 5.1.1 The objector considers that the provisions of the RPS need not be given much weight because the Proposed District Plan already gives effect to it.
- 5.1.2 As is required by section 104(1)(b)(v) of the RMA, the relevant provisions of the RPS were given due regard in considering the application, and the application was ultimately assessed as being contrary to the overarching direction of the RPS in terms of managing urban development with the Hawke's Bay region, particularly within the Heretaunga Plains.
- 5.1.3 Whilst acknowledging that the Proposed District Plan gives effect to the RPS, the RPS is explicitly relevant in considering the application, and being 'contrary' to the overarching direction of the RPS is therefore considered relevant in terms of contributing to the decision to decline consent.

5.2 Regard given to the Heretaunga Plains Urban Development Strategy (HPUDS)

- 5.2.1 The objector considers that there is no need to have particular regard to HPUDS, as HPUDS is embedded in the RPS, and the Proposed District Plan gives effect to the RPS.
- 5.2.2 Section 104(1)(c) clearly gives Council the discretion to have regard to 'any other matter' it considers relevant and reasonably necessary to determine the application. Therefore, it is appropriate to have considered this overarching strategic document as further supporting the approach embedded in the RPS and ultimately the Proposed District Plan. This merely adds to the reasons for ultimately declining consent.

5.3 Activity Contrary to the Objectives and Policies of the Proposed District Plan

Definition of Urban Activity

- 5.3.1 The objector refers to the lack of a definition of 'urban activity' in the Proposed District Plan and refers to reference in the explanation to one of the policies in the Rural Resource Strategy (Policy RRSP4)

to residential, commercial and industrial activities as types of urban activities.

5.3.2 On that basis, the objector suggests that a 'place of assembly' is therefore not clearly determined to be an 'urban activity' for the purpose of analysing the relevant objectives and policies in the Proposed District Plan.

5.3.3 The objector does acknowledge (by way of footnote) that there is a definition of 'urban activity' in the RPS. The RPS definition is clearly related to the relevant section of the RPS under the heading 'Managing the Built Environment'. References to 'urban activity' and 'urban development' in the objectives and policies in the RPS and in the Proposed District Plan are interchangeable and aligned in their context, given the Proposed District Plan is clearly giving effect to the settlement pattern and provisions contained in this section of the RPS.

5.3.4 Therefore, in the absence of a specific definition in the Proposed District Plan, the definition contained in the RPS has relevance to interpreting the exact same term used in the Proposed District Plan.

5.3.5 The definition of 'urban activity' in the RPS includes '*use of social infrastructure*' and further defines 'social infrastructure' as '*assets that accommodate social services such as ... places of assembly ...*'.

5.3.6 On that basis, as a 'place of assembly', the proposed Sikh Temple is an 'urban activity' and represents 'urban development', and the associated objectives and policies of the Proposed District Plan have therefore been applied appropriately to this proposal.

Industrial Strategy

5.3.7 The objector suggests that because the Council's long term strategic intent is for further industrial expansion to occur in this area, that the reliance in the decision on the objectives and policies of the Proposed District Plan that promote the maintenance of the life-supporting capacity of the soil resource is insufficient reason to decline the consent, and that Council should not prevent activities in this location on the basis of preserving the land for what they consider is some future and speculative wet industrial activity.

5.3.8 The Proposed District Plan includes an overarching strategic direction for the District, with accompanying objectives and policies, which includes the industrial strategic direction for the District. Section 104(1) provides for Council to have regard to any relevant provisions of the Proposed District Plan, and section 104D enables

consideration of all the objectives and policies of the Proposed District Plan and whether the proposal is contrary overall.

- 5.3.9 The objectives and policies of the Industrial Strategy within the Proposed District Plan are relevant to this application and contribute (in combination) to the determination that the activity is contrary 'overall' to the objectives and policies of the Proposed District Plan, and ultimately to declining consent.

Effect on Soils Resource & Weight Given to Positive Effects

- 5.3.10 The objector refers to the conclusion in the Officer's report that the adverse effect on overall life-supporting capacity of the wider soils resource would be minor, and considers the importance of the soil resource should be weighed up against other activities that also contribute to the wellbeing of current and future generations, and that inadequate consideration has been given to the positive effects of the proposed activity.
- 5.3.11 The Officer's report did conclude that the adverse effect on the wider soils resource would be minor. However, as also stated in the Officer's report, the view that the effects on the soils are minor was reached by a narrow margin.
- 5.3.12 The Officer's report also identified positive effects in section 10.1.1 of the report, acknowledging that the Sikh Temple contributed to social, cultural and economic wellbeing. However, these positive effects were not seen as resting on this specific location (i.e. they could be similarly achieved elsewhere). The assessment in the Officer's Report weighed all the effects (positive and negative) and determined that the proposal was contrary to the objectives and policies of the Proposed District Plan.
- 5.3.13 The objector also considers that the subject site is within an area where the rural and urban boundary is not clearly defined. On the contrary, the urban/rural boundary is very clearly defined in this location. This is evident in the Residential / Plains Production Zone boundary running alongside the proposed North Eastern Collector road reserve, reflecting a clear and intentional use of the collector road as a 'distinct physical boundary' in this location, with the collector road reserve corridor also acting as a buffer.
- 5.3.14 The presence of industrial-zoned land nearby, which is beyond the defined 'urban boundary' is historical and its future expansion is part of a clear strategic direction embedded in HPUDS, the RPS and the

Proposed District Plan for integrated, planned, and staged urban development.

Overall

5.3.15 Having considered the matters raised in the objection, I confirm the view I expressed in the Officer's report that the proposed development presents a significant challenge to the relevant objectives and policies of the District Plan and is contrary to the important strategic objectives and policies of the Proposed District Plan, in particular:

- objectives UDO1 & UDO2 and policies UDP1, UDP3, UDP4, & UDP5 (Urban Strategy);
- objective RRSO1 and policies RRSP2 & RRSP4 (Rural Resource Strategy);
- objective ISO2 and policies ISP3 & ISP5 (Industrial Strategy);
- objective PSMO5 (Plains Strategic Management Area); and
- objective PPO1 and policies PPP3 & PPP7 (Plains Production Zone).

These provisions are all as set out in the Officer's report (**Attachment E**).

5.4 Undermining the Integrity of the Proposed District Plan

5.4.1 Whilst acknowledging the proposal might be considered 'ad hoc development', the objector considers that the proposal will not undermine the integrity of the Proposed District Plan as it cannot be easily replicated. This is on the basis that the proposal is for a 'place of assembly', as distinguished from what they consider are 'more obvious' examples of urban activities, and that it will be the only Sikh Temple in the region. The objector appears to consider that this makes the proposal unique.

5.4.2 'Places of Assembly' are defined in the Proposed District Plan as:

"land and/or buildings used for the public and/or private assembly of people, primarily for worship, education, recreational, social, ceremonial, cultural, and spiritual activities for meditation, and functions of a community character. May include a church, church hall, church yard, and marae. Any charges for entry into or use of the facility may only be made

by groups or organisations operating on a non-profit making basis".

- 5.4.3 Whilst there is unlikely to be another application for a Sikh Temple in this vicinity, it is not unforeseen that other places of assembly (especially given the very broad definition above), or any other non-complying 'urban activity' for that matter, could similarly look to locate on the edge of town beyond the rural / urban boundary, using the very same arguments. For example, other places of worship or other places for the private assembly of people for social or recreational activities etc could equally argue that they cannot find a site big enough within the urban area for their proposal, and that it is a one-off, and that it will have positive social and economic effects for the community. The leap-frogging of the urban boundary for ad hoc development of this nature is exactly what the Proposed District Plan (in also giving effect to the RPS) is looking to avoid.
- 5.4.4 The objector refers to the selection of the site as being founded on a 'robust alternatives assessment'. It is noted that the alternatives assessment was completed after-the-fact, as the subject site had already been purchased several years prior, with the proposed development in mind. Further, the determining criteria adopted for the alternatives assessment were also somewhat self-limiting.
- 5.4.5 One of the primary determining criteria in the alternatives assessment was the requirement for a site comprising a minimum 3ha in area. This single criterion acts to severely lower the overall score, if not ultimately exclude, sites within the urban area. The alternatives assessment did not provide any reasons as to why the applicant required a minimum 3ha site area. Given the current temple is operating on a 1,000m² inner city land parcel and given that the total building footprint and hardstand area proposed for the temple and associated buildings on the site plan submitted is approximately 7,000m² and the ability to continue to use Council reserves for sports and recreation and for annual sports days as at present, the requirement for a minimum 3ha site size has not been clearly established.
- 5.4.6 The subject site does not contain any particularly unique features that would set it apart from other sites within the Plains Production Zone – in fact, it contains the most versatile soils on the Heretaunga Plains (LUC Class 1). Further, there has been no further information to show that the proposal itself is sufficiently distinctive as to place this proposal into the category of unique or distinguishable such that would warrant granting consent to an ad hoc urban development on

some of the highest quality soils within the versatile land of the Heretaunga Plains, against the strong policy direction and settlement pattern envisaged in the Proposed District Plan.

5.4.7 It is also notable that the Proposed District Plan has only recently been prepared and therefore represents the most recent statement of the community's aspirations for the rural resources of the District.

5.4.8 Having considered the matters raised in the objection, I confirm the view I expressed in the Officer's report that to grant consent may give rise to concerns about public confidence in the consistent administration of the District Plan as detailed above.

5.5 Other Matters

5.5.1 The objector identifies a number of other matters which they consider collectively weigh in favour of a grant of consent. A number of these other matters are accepted. For example, the Officer's report concurs that adverse effects will be minor or less than minor (although potentially more than minor, in respect of adverse effects on the soils resource), that the site can be suitably serviced and developed, that traffic can be managed, that there are no soil contamination issues impeding the proposal, and that the proposal will retain the rural character and amenity of the Plains Production Zone (given that affected persons approvals with respect to adjacent land have been obtained).

5.5.2 The final reason given by the objector as weighing in favour of granting consent, is that *'Council already envisages alternative and far less benign activities being undertaken on the site compared to those currently permitted under the Plains Production Zone'*.

5.5.3 It is not clear what is meant by this, but the inference taken is that the proposed Sikh Temple is benign in terms of adverse effects on the environment compared to other activities that are permitted under the Plains Production Zone (e.g. a complying winery or processing, storage and/or packaging industrial activity). Assuming that is what is meant, I respond as follows:

5.5.4 That may be so, however the difference is that these other 'less benign activities' are directly linked to land based primary production and are clearly anticipated and provided for in the objectives and policies for the Plains Production Zone and specifically provided for in the subsequent rules and standards in the Proposed District Plan. They are identified as having a legitimate place in the rural environment.

5.5.5 A Sikh Temple, as a place of assembly, has no direct (or even indirect) relationship with land based primary production, and such activities are not anticipated or provided for within the Plains Production Zone. The proposal is a significant departure from the types of activities anticipated in this zone. Such activities are however, anticipated and provided for within the urban zones.

6.0 CONCLUSION

6.1.1 In terms of assessing the application under section 104(1)(a) of the RMA, the Officer's report on RMA20180194 concluded the proposal will not have adverse effects on the environment that are more than minor, and that there are positive effects. Therefore, it is accepted that consent can be granted, having passed one of the threshold tests in section 104D of the RMA – although, as stated in the Officer's report, the view that the adverse effects of the proposal on the soils resource are minor was reached by a narrow margin.

6.1.2 In terms of assessing the application under section 104(1)(b), the proposal is considered to be contrary to the overall direction set by the Objectives and Policies of the Regional Policy Statement in terms of 'Managing the Built Environment', and to the overall policy direction in the Urban Strategy, the Rural Resource Strategy and the Industrial Strategy, and in the Plains Strategic Management Area and Plains Production Zone sections of the Proposed District Plan. The Proposed District Plan is recently operative and has a coherent set of policies designed to achieve clear environmental outcomes.

6.1.3 The proposal represents ad hoc urban development beyond the defined urban edge of Hastings. It leapfrogs the strongly defined urban limit and buffer provided by the 'North Eastern Collector' corridor, representing urban creep onto highly versatile Class 1 soils, on land that has not been identified for future urban development of this nature. In addition, it does not promote or complement the resources of the rural area, is not directly related or linked to land-based production or rural services in any way, and far exceeds the building coverage anticipated and permitted for sites within the Plains Production Zone.

6.1.4 Granting this application would also likely 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 land use in the Plains Production Zone. Adverse precedent and integrity of

the District Plan are relevant to 'other matters' to be considered under section 104(1)(c) of the RMA.

- 6.1.5 Approval of this application could lead to similar planning arguments being made across the Plains Production Zone for other places of assembly, particularly given the broad definition in the District Plan. The objection has not provided any further information to sufficiently differentiate the site from any other, or to show that the proposal itself is sufficiently unique to warrant granting consent on some of the highest quality soils against the strong policy direction in the Proposed District Plan.
- 6.1.6 In summary, none of the matters raised in the objection have led me to alter the view I expressed in the Officer's report.
- 6.1.7 For the reasons set out above and in the Officer's Report, it is recommended that the objection by the applicant to the refusal of consent to RMA20180194, be dismissed.

Attachments:

Attachments	Document	HDC Reference
B, C and D	Application to establish a new place of assembly (Sikh Temple)	55235#0003; 55235#0004 and 55235#0042
E	Officers Report – RMA20180194	55235#0027
F	Decision – RMA20180194	55235#0030
G	Notice of Objection	55235#0048

Hastings District Council
 207 Lyndon Rd East, Hastings 4122
 Private Bag 9002, Hastings 4156
Phone: 06 871 5000
Email: customerservice@hdc.govt.nz



Application for a Land use Resource Consent

RMA Number	RMA20180194	Submitted On	15/05/2018 02:03 p.m.
Submitted By	Claire Price	Email Address	claire@stradegy.co.nz

1. Property Details

Property No	55235	Property Address	Richmond Road HASTINGS 4120
Legal Description	Pt LOT 1 DP 6463 BLK XV1 HERETAUNGA SD	Valuation No	0963039100

2. Applicant Details

Person applying	I am the authorised agent applying on behalf of the applicant		
Name	New Zealand Sikh Society (Hastings) Inc	Email	
Daytime contact number		Alternative contact	
Postal address	1 Creagh Street, Te Awa, Napier 4110	Preferred means of formal correspondence	Email
Agent Details			
Name	Claire Price	Company name	Stradegy
Contact phone	021712241	Email	claire@stradegy.co.nz
Postal address	PO Box 239 Napier 4140	Customer reference	
First point of contact for technical queries related to the processing of this application			Agent
Billing Details (Debtor/ Billed to)	Applicant	Copy to agent	No

3. Consent Details

Lawfully established uses on site	currently pasture and cropping
Brief description of the proposed use	Place of Assembly in the Plains Production Zone
Are any other resource consent required	
Activity status/type of resource consent	Non-compliant
Relevant rule(s) of the district plan	Rule PP39 , Rule EM10
Certificate of Title	I will provide a Certificate of Title

CT.pdf

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4. Declaration

Declaration by the Applicant

- (i) The Council requires the information you have provided to process your application under the Resource Management Act 1991 and to collect statistics. The Council will hold and store the information, including all associated reports and attachments, on a public register. The details may also be made available to the public on the Council's website. These details are collected to inform the general public and community groups about all consents which have been processed or issued through the Council. Under the Privacy Act 1993 you have the right to access the personal information held about you by the Council, and you can request that the Council correct any personal information it holds about you.
- (ii) The Council will send all invoices and refunds for fees to the applicant/s, and applicant/s will be responsible for payment of all fees in connection with this application.

Terms of Business

- (iii) Additional charges over and above the deposit paid may accrue during processing of a resource consent application (depending on the quality of application and planning issues involved).
- (iv) These charges will be invoiced in accordance with the Schedule of Planning and Regulatory Fees and must be paid by the applicant. Any invoice that remains unpaid after 60 days may attract penalty fees as prescribed in the schedule of fees.
- (v) A full copy of the Schedule of Planning and Regulatory Fees can be viewed at the Council's office or at website www.hastingsdc.govt.nz

As authorised agent for the applicant, I confirm that I have read and understood the above notes and confirm that I have fully informed the applicant of their / its liability under this document, including for fees and charges, and that I have the applicant's authority to complete this application on their/its behalf. I certify that the information provided in this application is true and correct and agree to the terms and conditions. Yes

Applicant name	Claire Price	Date	15/05/2018
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5. Attachments (Supporting Documents)

Description of Proposal and Assessment of Environmental Effects

APP Final_20180515_and_Appendices.pdf

[Download file](#)



COMPUTER FREEHOLD REGISTER UNDER LAND TRANSFER ACT 1952

Search Copy



Identifier **HBG1/1005**
Land Registration District **Hawkes Bay**
Date Issued 18 August 1975

Part-Cancelled**Prior References**

HB96/87

Estate	Fee Simple
Area	5.5006 hectares more or less
Legal Description	Lot 1 Deposited Plan 6463
Proprietors	
	New Zealand Sikh Society (Hastings) Incorporated

Interests

449743.2 Gazette Notice acquiring parts within land (352m², 281m²) for soil and river conservation purposes and vesting the same in The Hawke's Bay County Council - 26.6.1985 at 11.14 am

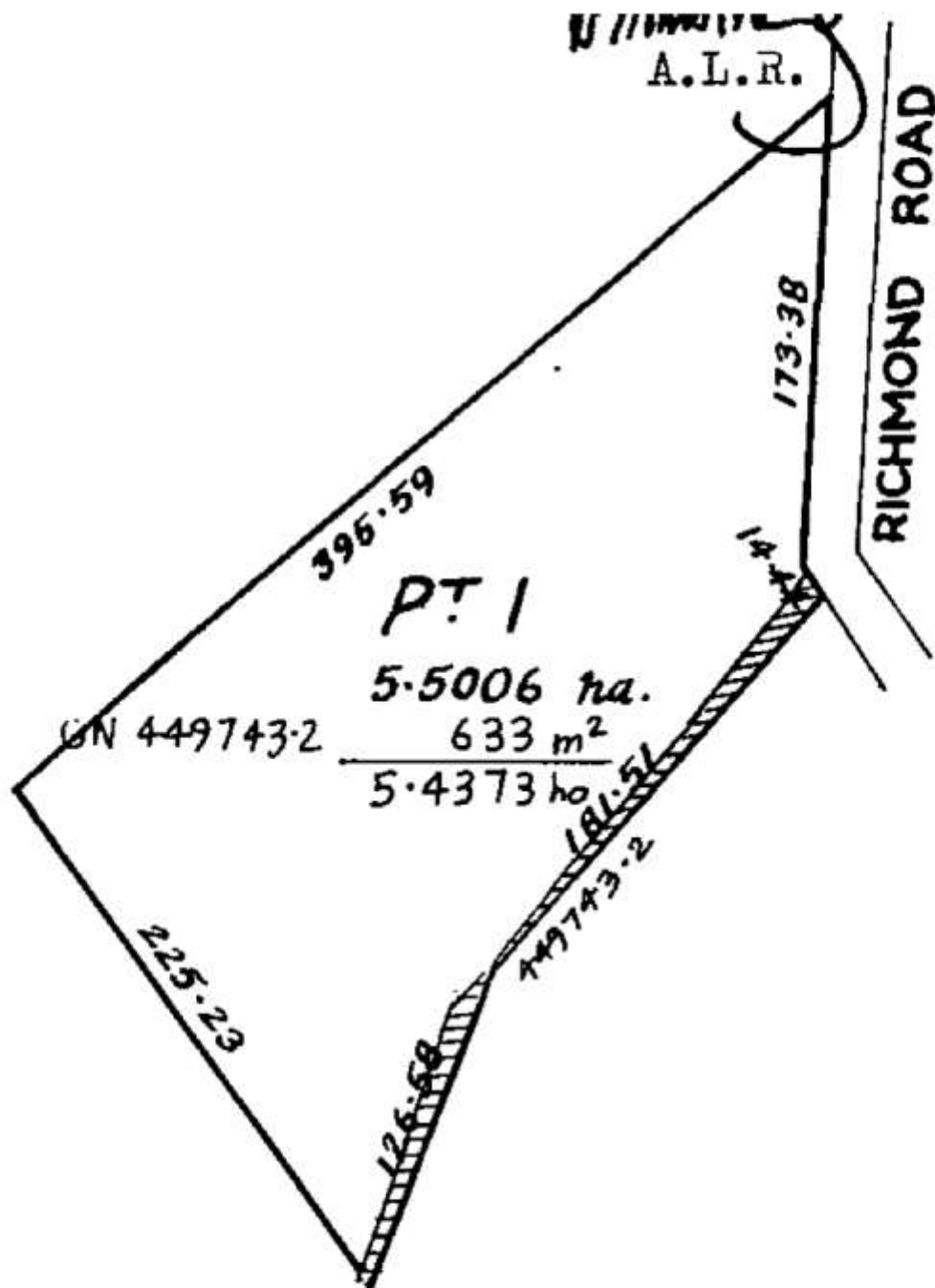
8064179.1 Gazette Notice (NZ Gazette, 18.12.2008, No.195, p.5182) declaring part (6599 m2 Section 12 SO 410516) to be road and shall vest in Hastings District Council - 5.2.2009 at 9:00 am

8064179.8 Gazette Notice (NZ Gazette, 18.12.2008, No.195, p.5182) taking part (9367 m2 Section 13 SO 410516) for severance and shall vest in Hastings District Council - CIR 465451 issued - 5.2.2009 at 9:00 am

9441106.1 Compensation Certificate pursuant to Section 19 Public Works Act 1981 by Hastings District Council - 25.6.2013 at 5:34 pm

Transaction Id 53753591
 Client Reference 17140-CP-Strategy ref 17103

Search Copy Dated 4/05/18 12:59 pm, Page 1 of 1
 Register Only



Measurements are Metric
m

RMA20180194

**NOTIFICATION REPORT FOR RESOURCE CONSENT RMA20180194
SECTIONS 95A AND 95B OF THE RESOURCE MANAGEMENT ACT 1991**

And

**REPORT FOR RESOURCE CONSENT RMA20180194
SECTIONS 104 & 104D OF THE RESOURCE MANAGEMENT ACT 1991**
**PART A:
Notification Report Including Postscript**

Application Received:	18 May 2018	PID: 55235	RMA20180194
Applicant:	<i>New Zealand Sikh Society (Hastings) Inc</i>		
Address of Site:	28 Richmond Road, Hastings 4120		
Applicant's Address for Service:	Strategy Planning PO Box 239 Napier 4140 Attention: Claire Price		
Legal Description:	Pt Lot 1 DP 6463 Blk XV1 Heretaunga SD (CFR HBG1/1005)		
Area:	3.9041ha		
Zoning:	Plains Production		
Proposal:	To establish and use a new 'place of assembly' which includes a Sikh Temple, an ancillary library building, a residential dwelling, grounds for passive recreation, associated hardstand, and associated earthworks.		
District Plan Provisions:	Rule PP39 & Rule EM6 of the Proposed Hastings District Plan		
Assessment of Activity Status:	Non-Complying Activity		
Assessment of Activity Status (National Environmental Standards):	Controlled Activity for a 'change of use' and for 'disturbing soils' (for disturbing more than 25m ³ per 500m ² of soil on a 'piece of land'), pursuant to Regulation 9 of the NESCS.		
Report Prepared By:	Rowena Macdonald, Consultant Planner on behalf of Hastings District Council (site visit conducted Saturday, 26 May 2018)		

1.0 PROPOSAL

The applicant, New Zealand Sikh Society (Hastings) Inc, has sought resource consent to construct a new 'place of assembly' which will operate as a Sikh Temple. The development includes construction of a future library building, a residential dwelling for the head priest, grounds for passive recreation, and associated on site car parking, vehicle access and earthworks as a Non-Complying Activity at 28 Richmond Road, Hastings.

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Excerpts from the documentation supporting the application (pgs 13-16) and further information received 10 August 2018, are accepted and adopted, describing the proposed activity as follows:

"The proposed development involves the construction and use of a Sikh Temple at 28 Richmond Road. Ancillary to the temple, is a library building (120m²) and a residential dwelling (260m²) for use by the head priest. The Temple has a 1,000m² footprint, (with a 2000m² GFA), with additional hardstand surrounding the site of up to 5,046m².

Buildings and Land Use Activities

The temple is a two-level structure and includes a dome at the rear of the building. Much of the building is approximately 10 metres in height, with the dome extending to approximately 13m.

A 20m high flag pole would be placed in proximity to the temple building.

The use of the site will be largely within the temple itself. The proposed site layout provides for open space and recreation grounds around, and to the back of the temple.

There are some ceremonies that will use the recreation grounds, and these are recreation based. For example, passive exercise and cultural games as well as more familiar games such as cricket and, soccer. The proposed temple building and site layout is depicted on the drawings provided ...

The use of the Temple

The temple will be open 24 hours a day, seven days a week for anyone to pray. At any one time, a maximum of 20 people could be at the temple praying, with the majority of the Sikh community attending during the weekend at one of the set 5-6 hour prayer meetings as outlined below.

Every weekend, from Friday evening through to Sunday, there will be one 5-6 hour ceremony.

Numbers of up to 400 people could eventually be expected to attend. The ceremony involves quiet prayer within the temple, a meal made on site, and clean up afterwards. In General, the ceremony would occur between the following hours:

- *Friday evening finishing at 8.00pm, or*
- *Saturday 7.00am – 5.00pm, or*
- *Sunday (2.00pm – 8.00pm).*

Special Ceremonies

Fifteen (15) special ceremonies per year are proposed, where up to 700 people may gather at the temple. These special ceremonies will include weddings or other celebrations involving collective prayer (Akhand Path), the annual 'sports day', the 7-day prayer event, and the peace march (similar to the Blossom Parade).

Weddings (when not included within the weekend ceremony above)

Type of activity	Frequency	Number of people	Day(s) of the week	Time	Activities
Prayers / wedding ceremony	Apprx once a month	Up to 700	Friday and Saturday	7am – 10pm	Ceremony within the building. Arrival / departure of guests from the site.

Peace march (activities only pertain to what occurs on the subject site, not what occurs beyond the site – all other necessary permits and consents from HDC would be obtained outside this application)

Type of activity	Frequency	Number of people	Day(s) of the week	Time	Activities
Peace march from the site to town and return to the site.	Once a year	Up to 700	Saturday or Sunday	7am-10pm	Ceremony within the building. Arrival / departure of peace marchers from the site.

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Sportsday

Type of activity	Frequency	Number of people	Day(s) of the week	Time	Activities
Cultural games outside of the temple in the recreation area to the rear of the site	Once a year	300-400, (up to 700 in the future).	Friday - Sunday	9am-10pm	A sports day event attended by the Sikh community throughout the North Island. Microphone for talking and speakers. Music, but no amplified music. Arrival / departure to the temple.

8-day prayer event (Monday to Monday)

Type of activity	Frequency	Number of people	Day(s) of the week	Time	Activities
Prayer	Once a year	300-400, (up to 700 in the future).	All week	24hours/day	Ceremony within the building. Arrival / departure to the temple.

Access and Carparking

Richmond Road is categorised as a 'district collector' in the District Plan and is a formed two-way road. The proposed development includes a new vehicle access (with seven (7) metre wide vehicle crossing) to the site from Richmond Road enabling cars to enter and exit the site safely and efficiently. The current access and driveway along the northern boundary of the site will be discontinued.

On-site car parking is to be provided. One hundred and five (105) car parks are required, based on the carparking ratios set in the District Plan for the various aspects of the proposal (places of assembly, residential and the ancillary library building). Three (3) of the 105 car parks would be accessible car parks. Twenty (20) on-site cycle racks are to be provided and changing facilities (mens and womens toilets) are included in the design of the temple building. A loading bay designed with a minimum length of 8.5 metres and a minimum width of 3 metres can be provided on site.

...

Traffic Generation

Peak hour traffic generated has been determined in the Traffic Impact Assessment to be 588 trips (294 inbound and 294 outbound). This calculation is based on the gross floor area of the temple (approximately 2,000m²) and peak time during a typical Sunday prayer event. In reality, the number of people attending a typical weekend prayer event would be up to 400 and therefore likely to generate lower levels of traffic than the 588. However, for the purposes of the resource consent application a conservative approach is taken, and the 588 peak hour traffic generation is assessed.

Services

Servicing solutions are outlined in the Strata Group report provided in Appendix 5. In summary:

- The proposed stormwater system will see all hardstand stormwater run-off treated via a swale along the south east boundary prior to discharge into the HBRC drain. Roof water runoff will bypass the swale and connect into a combined discharge point into the HBRC drain. As recommended in the Hawke's Bay Water Way Guidelines, all runoff from the proposed site will be attenuated in a pond located next to the swale to match the pre-development peak flows for a 30-minute 50% Annual Exceedance Probability (AEP) rainfall event.
- All internal wastewater pipes from the temple and proposed dwellings will reticulate to a manhole and have a single discharge connection into the Hastings District Council (HDC) reticulated system. Whilst technically feasible, an approval will be required from the HDC to connect into the domestic network.
- The site has a well with an existing consent from the Hawke's Bay Regional Council to irrigate 3.8 hectares of process crops (200 mm diameter). The proposed water system will require a single connection to be drawn from the well on site to a ring main around the temple. The proposed dwelling will require a feed off the main line. Up to 20m³ of groundwater may be taken per day, however if a greater volume is required an application can be made to amend the conditions of the existing consent to allow water to be taken for potable supply. Firefighting supply is provided for under the RMA. Confirmation of existing

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bore flow rates in this regard and a subsequent solution will be determined at Building Consent stage.

Detailed servicing solutions will be developed at Building Consent stage, however the Strata Group report confirms that the proposed activity can be suitably serviced.

Earthworks

Earthworks involving cut and fill, as well as imported fill, are required to build up the site for a stable platform for the temple and immediate hardstand area. Earthworks will also be required for the creation of the stormwater treatment swale.

The total cut to fill is (2537m³ cut and 2293m³ fill) to sub-base. The amount of imported fill is estimated to be 2503m³.¹ The imported materials will be required to achieve the design surface, and includes all surfaces treatments and concrete floor slabs. Pending on further analysis of the soil, there may be an option to re-use existing silts on site for mixing with imported hardfill.

Construction

Construction activities have not been detailed, except the level of earthworks as described above. The Traffic Assessment determines that construction traffic volumes will be less than the operational capacity of the site, and while involving heavy construction vehicles, these too can be accommodated on the local road network.

A Construction Management Plan to manage construction procedures, runoff, delivery times, noise and dust is proposed to be prepared and provided to Council for certification prior to commencing the works. This will include a construction traffic management component as well."

Further information received 10 August 2018 (pg 2) confirms the following:

Geotechnical

"...all foundations will be subject to a specific design at building consent stage due to the relatively low bearing capacity and liquefaction induced vertical settlement and potential for lateral displacement under a certain earthquake event."

In addition, the proposal anticipates a sign locating the Temple as follows (from pg 19 of the original documentation supporting the application):

"Signs

The design, wording, location, and illumination of a sign that would help those locating the Temple is yet to be designed, however, any sign is expected to comply with the maximum total area of signs per site i.e. 2.5m² and will be limited to the purposes of stating the Sikh Temple name. Any external illumination will be designed to comply with the relevant performance standards relating to the Plains Production Zone. To this end, any signage is expected to fall within a Permitted Activity status. A subsequent application will be made if necessary."

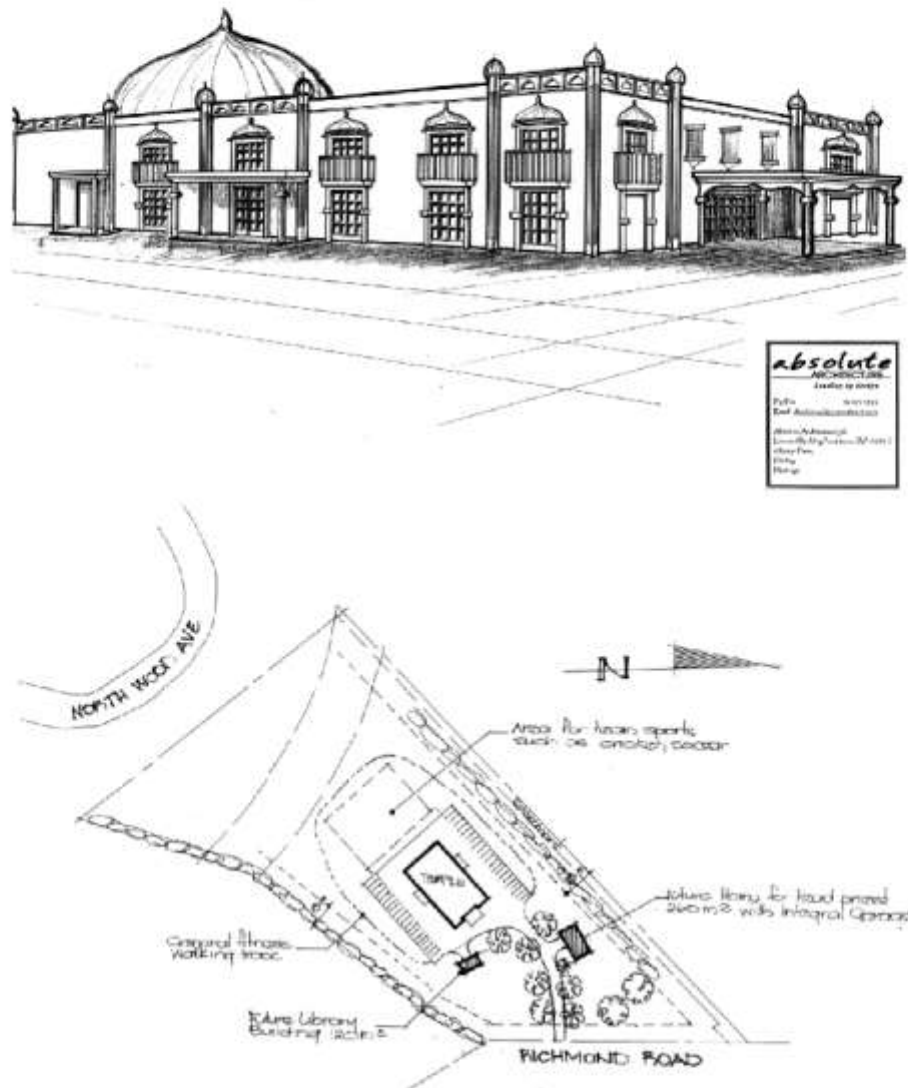
The following are development plans outlining:

- an artist's impression of the Sikh Temple building;
- the proposed site layout and conceptual landscaping; and
- plans showing the proposed stormwater system and the extent of earthworks, provided with the application.

¹ the volumes have been amended to reflect the updated earthworks volumes provided on pg 13 of Strata Group Consulting Engineers 'Land Development Report Rev B – Sikh Society (Hastings) Inc, Richmond Road, Hastings' dated September 2018 (received 16 September 2018, as part of further information response).

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Image 1 – Proposed temple building and site layout²



² Appendix 4 Concept Plans attached to 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.
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Image 2 – Proposed Stormwater System³Image 3 – Proposed Cut and Fill⁴

³ from Figure 4, pg 7 of Strata Group Consulting Engineers 'Land Development Report Rev B – Sikh Society (Hastings) Inc, Richmond Road, Hastings' dated September 2018 (received 16 September 2018, as part of further information response).

⁴ from Figure 7, pg 13 of Strata Group Consulting Engineers 'Land Development Report Rev B – Sikh Society (Hastings) Inc, Richmond Road, Hastings' dated September 2018 (received 16 September 2018, as part of further information response).

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1.1 Consent Conditions Offered by the Applicant

The following outlines consent conditions that have been offered/deemed acceptable by the applicant in the documentation supporting the application (including the further information received on 1 October 2018), and therefore form part of the application.

Access and Parking

The applicant has indicated that conditions in respect of requiring design of vehicle access and provision of on-site parking spaces, loading bay and on-site cycle racks as presented in the application, together with a certification step prior to Building Consent if deemed necessary, would be acceptable⁵.

Construction

The applicant proposes preparation of a Construction Management Plan to manage construction procedures, runoff, delivery times, noise and dust, to be provided to Council for certification prior to commencing the works, and that this will include a construction traffic management component as well⁶.

Noise

The applicant has indicated a review condition enabling a re-examination of noise generated at the site or adoption of a management plan would be acceptable⁷.

No-Complaints

The applicant has indicated a no-complaints condition in terms of neighbouring industrial activities would be acceptable⁸.

The applicant has also indicated they would not object to a no-complaints condition in terms of neighbouring Plains Production Zone land⁹.

Landscaping

The applicant has indicated a condition requiring a landscape plan would be acceptable¹⁰.

Earthworks

The applicant has indicated that conditions and advice notes in relation to construction management and the unexpected discovery of archaeological sites would be acceptable¹¹.

Transportation Network Contributions

The applicant has offered three conditions in relation to making contributions to various upgrades and speed limit review for Richmond Road, as follows¹²:

“Condition 1: Prior to construction, a development contribution of \$30,000 excl GST is to be paid to Hastings District Council for the purpose of contributing to the upgrade of the Pakowhai Road /Richmond Road intersection.

Condition 2: Prior to construction, a financial contribution of \$35,000 excl GST is to be paid to Hastings District Council for the purpose of contributing to the construction of a pedestrian walkway / cycle path from the entrance of the Sikh Temple to the existing footpath on Tomoana Road. Refer

⁵ pg 15 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

⁶ pg 16 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

⁷ pg 27 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

⁸ pg 28 & 29 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

⁹ pg 29 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

¹⁰ pg 29 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

¹¹ pg 30 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Strategy Planning Ltd.

¹² in Attachment 2 to further information letter from Strategy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, s92 Response' dated 1 October 2018.

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to Figure 5 of the Stantec Amended Traffic Assessment Report for Sikh Temple, Richmond Rd, Hastings, dated 20 September 2018.

Condition 3: Prior to construction, a financial contribution of \$1500 excl GST is to be paid to Hastings District Council for the purpose of contributing to the study of a revised speed limit for Richmond Road through the speed limit management programme."

2.0 BACKGROUND

The Applicant advises that they purchased the subject site in 2010 with the intention of establishing a temple on the site. Establishing a Place of Assembly at that time was a Permitted Activity under the previous District Plan (Rule 13.5.7.1) as a District Wide Activity, subject to compliance with General and Specific Performance Standards and Terms.

The Applicant refers in the documentation supporting the application to communication between the landowner/applicant and the Council in 2010 (5 years prior to the Proposed District Plan being notified), during which the landowner/applicant made the Council aware of its intention to establish a temple on the site, and the Council's suggestion at that time, that they apply for a Certificate of Compliance¹³.

That opportunity was clearly not taken, and the landowner/applicant did not participate in the ensuing District Plan Review process and subsequent public notification of the Proposed District Plan, which lead to a change in activity status for new Places of Assembly in the Plains Production Zone to Non-Complying Activity status.

It is noted that consideration of the current proposal against the provisions of the District Plan applying in 2010, shows that the current proposal would not have complied with the relevant Performance Standards in respect of height (maximum height of 10m permitted – General Performance Standard 13.5.8.1(2)) or in terms of gross floor area (maximum gross floor area of 400m² permitted – Specific Performance Standard 13.5.9.1). This means that a resource consent for a Discretionary Activity would have been required pursuant to Rule 13.5.7.3. Whether consent would have been granted is unknown.

Whilst there is a level of sympathy in terms of the situation the Applicant now finds themselves in, this is not a matter that can influence decision-making on the current application put before Council.

3.0 THE SITE AND SURROUNDING ENVIRONMENT

I do not entirely concur with the description of the site and surrounding environment as contained in the application and provide my own description below.

3.1 Site Description and Land Use History

The subject site is a 3.9ha parcel of land located at 28 Richmond Road, Hastings, as shown in Image 4 below. The site is bounded by Richmond Road to the east and the proposed 'North Eastern Collector' road corridor to the west.

The site has a flat topography and has been most recently used for cropping (possibly in conjunction with neighbouring land at 30 Richmond Road – not confirmed).

There is established perimeter tree planting along the road frontage, and also along the south-east boundary of the site where it shares a boundary with a Hawke's Bay Regional Council open stormwater drain.

There is an easement (approximately 5m wide) running along the full length of the north-western boundary of the subject site, in favour of Hastings District Council (approved in 2013). This easement provides the right to convey electricity, telecommunications and computer media, the right to convey water and the right to drain sewage (Memorandum of Easements SO 467338). Half-way along this boundary is a pump shed for an on-site bore that supplies irrigation water to the property.

Historical imagery held on the Council GIS system suggests the site was in pasture until the 1970's then planted as orchard. As evident on the Computer Freehold Register, part of the original title was taken in 1985 for 'soil and river conservation purposes' and vested with the former Hawke's Bay Council (for the stormwater drain). Part of the title was again taken under the Public Works Act 1981

¹³ pg 4 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103API, 15 May 2018', Strategy Planning Ltd.
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in 2008 and vested in Hastings District Council for the proposed 'North Eastern Collector' road (formerly known as the 'Northern Arterial').

The orchard then appears to have been removed around 2009, and the land cropped ever since (this concurs with the history of land use on the site supplied by the Applicant¹⁴, as outlined in the AgFirst report dated 25 July 2018 submitted as further information by the Applicant, and also referenced in the EAM report supporting the application dated February 2018 which references harvesting of squash at the time of site visit¹⁵).

3.2 Surrounding Environment

Adjoining land to the south-east and north-west is cropped. There is a residential dwelling on the adjoining site at 30 Richmond Road. Beyond the adjoining site (at 32 Richmond Road) is a rural service industry specialising in land drainage works and the stockpiling and sale of topsoil (Awakeri Drainage Ltd).

The land diagonally to the north, on the opposite side of Richmond Road, is cropped. Beyond that orchards extend through to Pakowhai Road and Elwood Road, and beyond. Both sides of Richmond Road and along Pakowhai Road in the vicinity exhibit various cropping and orcharding activities. Horticultural activities largely 'wrap' the subject site.

Land to the east opposite the site comprises industrial activities associated with the Tomoana Food Hub (Tomoana Food Industry zone), including currently vacant land for deferred Food Hub expansion and the planned extension of Hanui Road through to Richmond Road. Further to the south and east is industrial land associated with food industry giant 'Heinz Watties'.

Beyond the adjoining future 'North Eastern Collector' road corridor is urban Hastings (residential dwellings associated with the 'Northwood' residential development). The 'North Eastern Collector' road represents the current well-defined 'urban limit' for Hastings City in this location.

Image 4 – Location and Surrounding Environment (Source: HDC Intramaps)



¹⁴ pg 2 of AgFirst report dated 25 July 2018, submitted by the Applicant in response to further information request (received 10 August 2018).

¹⁵ pg 1 of EAM report dated February 2018, submitted as part of the documentation supporting the original application.

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Photographs of Site (taken 26 May 2018)



Subject site and current gate access to the left. Formed access and existing residential dwelling on 30 Richmond Road to the right.



View south from Richmond Road – neighbouring cropped land (left), HBRC drain (middle), subject site and boundary tree planting (right). Residential area of Hastings in the background.

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Photographs of Immediate Surroundings (taken 26 May 18):



View south-east along Richmond Road (from near Pakowhai Road) towards the subject site.



View south-east along Richmond Road towards Tomoana Road corner (edge of Tomoana Food Hub hardstand to the left).

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View into adjoining site from site boundary with HBRC drain, across to Heinz Wattie site and Tomoana Road in the distance.

4.0 DISTRICT PLAN PROVISIONS AND STATUS OF THE ACTIVITY

Decisions on the submissions made to the Hastings Proposed District Plan (Proposed Plan) were released on the 12th of September 2015. Therefore, the entire Proposed Plan now has legal effect.

However, in terms of application of plan rules, Section 86F states:

“86F When rules in proposed plans must be treated as operative

A rule in a proposed plan must be treated as operative (and any previous rule as inoperative) if the time for making submissions or lodging appeals on the rule has expired and, in relation to the rule,—

- (a) no submissions in opposition have been made or appeals have been lodged; or*
- (b) all submissions in opposition and appeals have been determined; or*
- (c) all submissions in opposition have been withdrawn and all appeals withdrawn or dismissed.”*

In terms of Section 86F a review of the submissions received on the Proposed Plan has identified that any submissions relating to the relevant Plains Production Zone objectives, policies, rules and standards have been determined, and that there are no relevant appeals. The relevant zone provisions are therefore beyond challenge and the rules in the Proposed Plan applying to this application can be treated as operative, with no weighting applied to the Operative District Plan.

On that basis, the following assessment assesses the activity entirely against the rules in the Proposed Plan.

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4.1 District Plan Notations

The subject site lies within the 'Plains Production' Zone in the Proposed District Plan (see image 5 below).

Image 5: District Plan Map



Richmond Road is classified as a 'Collector Road', connecting to Pakowhai Road and Tomoana Road which are both 'Arterial Roads' in the Council's Roading Hierarchy (Appendix 69 of the Proposed Plan).

4.2 Activity Status

The proposal involves:

- construction of a Sikh Temple for prayer and weekly ceremonies and ancillary activities, including special ceremonies; and
- a flag pole;
- a future library building;
- grounds for passive recreation;
- associated hardstand (for buildings, on-site car parking and vehicle access);
- a residential dwelling for use by the head priest; and
- earthworks totalling 7333m³ (comprising 2537m² cut and 2293m³ fill to sub-base (excluding cut for the swale and attenuation pond), and approximately 2503m³ of imported fill).

The following assessment addressing the above in turn.

The Temple

This aspect of the proposal includes a two-storey Temple building (maximum height 13m, with a building footprint of 1000m² and gross floor area of 2000m²), a 20m high flag pole, a 120m² future library building and 5046m² of associated hardstand area for access and parking and the normal use of these facilities, including use of grounds for passive recreation. In addition, the application includes provision for 15 special ceremonies carried out on the site each year.

These aspects are deemed to fit comfortably within the definition of 'Places of Assembly'. Places of Assembly are defined in the Proposed Plan as "land and/or buildings used for the public and/or private assembly of people, primarily for worship, education, recreational, social, ceremonial, cultural, and spiritual activities for meditation, and functions of a community character. May include a church, church hall, church yard, and marae. Any charges for entry into or use of the facility may only be made by groups or organisations operating on a non-profit making basis".

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The alteration to, or the addition of new buildings to existing Places of Assembly are specifically provided for in the Plains Production Zone (not exceeding 15% of the gross floor area as at 12 September 2015 as a 'Permitted Activity' pursuant to Rule PP10, and when exceeding 15% of the gross floor area as a 'Discretionary Activity' pursuant to Rule PP34). However, new Place of Assembly activities are not specifically provided for in the Plains Production Zone.

This proposal is to establish a new Place of Assembly, therefore the activity falls to a '**Non-Complying Activity**' pursuant to Rule PP39 as an activity not already provided for as a Permitted, Controlled, Restricted Discretionary or Discretionary Activity in the Plains Production Zone.

Special Ceremonies

Special ceremonies form part of the operation of the Temple as a Place of Assembly but could also be deemed 'Temporary Events' in their own right.

Temporary events are defined in the Proposed Plan as *"the short term or intermittent use of any land or building for an activity not carried out on the site on a regular basis, or the carrying out of an activity outside the limits on hours or scale prescribed in Plan standards. It includes temporary military training activity, but does not include short term social or cultural gatherings where these are ancillary to a permitted activity or in compliance with the standards and terms for permitted activities. Any event for which a Special Licence under the Sale of Liquor Act is required shall be deemed to be a temporary event"*.

On the basis of the above, as the special ceremonies are not ancillary to a permitted activity, the provisions in the Proposed Plan pertaining to 'Temporary Events' would still apply.

Temporary events are a Permitted Activity in the Plains Production Zone pursuant to Rule PP7, provided they comply with the relevant General and Specific Zone Performance Standards and Terms.

As the special ceremonies are unable to meet the following requirements of Specific Performance Standard 6.2.6H Temporary Events;

- i) Standard 6.2.6H(a) – maximum of 6 temporary events on a site over any 12 month calendar period (January to December) (this would capture all those events following the first 6 events of the year); and
- ii) Standard 6.2.6H(c) – only operated consecutively for maximum of 3 days (this would capture the 8-day prayer event);

some of the ceremonies would trigger requirement for consent as a '**Non-Complying Activity**' pursuant to Rule PP39, as activities not already provided for.

Even if all the special ceremonies anticipated as part of the proposal were considered covered within the definition of 'Place of Assembly', the over-riding activity status for the Place of Assembly, as outlined above, is 'Non-Complying' in any case.

Residential Dwelling

The proposal includes the construction of a 260m² residential dwelling on-site for the head priest.

One residential building per site is provided for in the Plains Production Zone, subject to compliance with the relevant General and Specific Performance Standards and Terms.

The proposal is able to meet all the General Performance Standards and Terms and also Specific Performance Standard 6.2.6B(a) requiring that the site has a minimum area of 2500m². Therefore, the residential dwelling is a '**Permitted Activity**' pursuant to Rule PP2.

Earthworks

The definition of earthworks in the Proposed Plan states that *"the volume of earthworks is the sum of both cut and fill operations"*. Therefore, the volume of earthworks associated with the proposed development is calculated at 7333m³ minimum (comprising cut to fill of 2537m³ cut and 2293m³ fill, plus 2503m³ of imported fill¹⁶) – these figures do not include cut for the swale and attenuation pond.

¹⁶ section 7, pg 13 of Strata Group Report
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Earthworks that comply with all the Performance Standards are provided for as a 'Permitted Activity' pursuant to Rule EM1, subject to compliance with permitted activity performance standards. No earth is proposed to be removed off-site.

As the proposed earthworks will exceed the extent of earthworks permitted within the Plains Production Zone, being 100m³ per hectare of site, they are a '**Restricted Discretionary Activity**' pursuant to Rule EM6.

Overall Status

Given that the activities are mutually inclusive, the overall status must be assessed as a '**Non-Complying Activity**'.

5.0 RELEVANT NATIONAL ENVIRONMENTAL STANDARDS

5.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NЕСS)

Pursuant to the NESCS, the applicant engaged Jason Strong of EAM Environmental Consultants (accepted by Council as a suitably qualified and experienced person) to undertake a Detailed Site Investigation (DSI) to assess the site for the presence of potential contaminants in the soil, resulting from historical land use. The DSI Report has been provided and forms part of the application, and states that (refer section 8.0 of the DSI report):

"Based on the findings of this report for the assessed piece of land at Richmond Road, Hastings:

- A review of the site history was carried out that indicated a requirement for site sampling;*
- Appropriate site sampling and preliminary XRF and laboratory soil analysis was then carried out;*
- Results recorded arsenic and lead results are well below the NES soil contaminant standards for the land use scenario of Rural Residential (25% produce);*
- The assessment has identified that the soils at this site are highly unlikely to represent a risk to human health. No further investigation is required."*

The following assessment applies the NESCS to the proposed activity.

The NESCS requires consideration at time of a change in land use, subdivision or earthworks on a piece of land upon which an activity on the Hazardous Activities and Industrial List (HAIL) has/is, or is more likely than not, been undertaken.

Regulation 6(1) Methods, prescribes the only two methods that may be used for establishing whether or not an area is 'a piece of land' that is subject to the NESCS:

- 6(2) By using the most up to date information about the area where the piece of land is located that the territorial authority holds on its dangerous goods files, property files or resource consent database or relevant registers, or which it has available from the Regional Council; or
- 6(3) By relying on the report of a Preliminary Site Investigation (PSI) stating that an activity on the HAIL is or is not / has or has not / been or is being undertaken on the piece of land, or stating the likelihood of a HAIL being or been undertaken on the piece of land.

The DSI report accompanying the application states that *"The desktop summary has identified that a HAIL activity (an orchard) has occurred at the site under assessment from the late 1970s until 2008"*. As such, the site is subject to consideration under the NESCS.

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Applicable Rules

The site is a 'piece of land', under Reg 5(7) and the NESCS must be considered with regard to Disturbing soil and Changing use. Reg 8(3) sets out criteria under which disturbing soil is a permitted activity. Reg 8(4) sets out criteria under which changing use is a permitted activity.

Investigations Undertaken

A DSI has been commissioned, meeting the DSI Definition under Reg 3. Soil samples have been taken and analysed. The DSI confirms that the site is not contaminated, and particularly that any contaminants found do not exceed acceptable levels for the land use scenario applied (as per Regulation 7).

The DSI applied a 'Rural Residential (25% produce)' land use scenario for this purpose, on the basis that the proposed land use activity will involve recreation as well as a small area of residential living¹⁷.

Activity StatusDisturbing Soil Reg 8(3):

The proposal fails one of the permitted status tests for 'disturbing soil' on a 'piece of land' in Reg 8(3), in that:

- (c) the volume of the disturbance of the soil of the piece of land will exceed 25m² per 500m² ((3.9ha/500m²) 78 x 25m³ = 1950m³ of soil disturbance is permitted).

Accordingly, the soil disturbance works must be assigned a 'Controlled Activity' status under Reg 9(1), as the qualifying requirements of Reg 9(1)(a) to (d) are met as follows:

- (a) A DSI exists for the land;
- (b) The DSI identifies that, as any contaminants found do not exceed acceptable levels for 'rural residential (25% produce)' activity (as per Regulation 7), there is unlikely to be a risk to human health;
- (c) The consent authority has been provided a copy of the report (attached with the application); and
- (d) The DSI does not specify any requirements that must be met (as per subclause (2)) to achieve the outcome of subclause (1)(b), these being the matters over which Council control is reserved in assessing a Controlled Activity application.

Changing Use Reg 8(4):

The land is currently production land and the proposed use is for a place of assembly, residence and recreational use. The proposal is therefore considered a 'change of use'.

The 'change of use' does not meet the requirements for Permitted Activities in Reg 8(4) as the EAM Report submitted with the application is a Detailed Site Investigation (DSI) level assessment, not a Preliminary Site Investigation (PSI).

Accordingly, the change of use must be assigned a 'Controlled Activity' status under Reg 9(3), as the qualifying requirements of Reg 9(3)(a) to (d) are met as follows:

- (a) A DSI exists for the land;
- (b) The DSI identifies that, as any contaminants found do not exceed acceptable levels for 'rural residential (25% produce)' activity (as per Regulation 7), there is unlikely to be a risk to human health;
- (c) The consent authority has been provided a copy of the report (attached with the application); and
- (d) The DSI does not specify any requirements that must be met (as per subclause (4)) to achieve the outcome of subclause (3)(b), these being the matters over which Council control is reserved in assessing a Controlled Activity application.

¹⁷ pg 12 of EAM report dated February 2018, submitted as part of the documentation supporting the original application

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Overall Status

With regard to the earthworks aspect of the proposal, as it exceeds the permitted volume, **disturbing soils as part of this application requires consent as a 'Controlled Activity' pursuant to Regulation 9(1) of the NESCS**, with matters for control reserved to:

- (a) *the adequacy of the detailed site investigation, including—*
 - (i) *site sampling;*
 - (ii) *laboratory analysis;*
 - (iii) *risk assessment;*
- (b) *how the activity must be—*
 - (i) *managed, which may include the requirement of a site management plan;*
 - (ii) *monitored;*
 - (iii) *reported on;*
- (c) *the transport, disposal, and tracking of soil and other materials taken away in the course of the activity;*
- (d) *the timing and nature of the review of the conditions in the resource consent;*
- (e) *the duration of the resource consent.*

On the basis of the Detailed Site Investigation provided with the application, the proposed **'change of use' to place of assembly, residential and recreational use is a 'Controlled Activity' pursuant to Regulation 9(3) of the NESCS**, with matters to which control is reserved being the adequacy of the DSI (including site sampling, laboratory analysis and risk assessment).

Regulation 9(5) states that an application for resource consent for an activity under this clause must not be publicly notified.

6.0 NOTIFICATION ASSESSMENT

Under section 95A(1) of the RMA, the consent authority must decide whether to notify a consent application. The notification assessment is in two parts:

- 0) First, an assessment of whether the application should be publicly notified; and
- 1) Secondly, if the conclusion is that the application need not be publicly notified, an assessment of whether the application should be subject to limited notification.

6.1 PUBLIC NOTIFICATION ASSESSMENT**6.1.1 Step 1: Mandatory Public Notification in Certain Circumstances****Section 95A(3)(a) – Public notification if the applicant requests**

Under section 95A(3)(a) the Council must publicly notify an application where an applicant so requests.

The applicant has not requested that the application be publicly notified.

Section 95A(3)(b) - Public Notification if required by under section 95C

Under section 95A(3)(b), Council must publicly notify an application if required under section 95C. Section 95C states that Council must publicly notify an application if the applicant does not provide requested further information before the deadline concerned (s95C(2)(a)) or refuses to provide the information (s95C(2)(b)), or if the applicant does not respond to notification that Council wishes to commission a report before the deadline concerned (s95C(3)(a)) or refuses to agree to the commissioning of the report (s95C(3)(b)).

Further information was formally requested on 31 May 2018 (letter) and on 22 August 2018 (email request for clarifications). The applicant supplied the further information on 16 August 2018, 16 September 2018 and 1 October 2018. No reports were commissioned.

6.1.2 Step 2: If not Required by Step 1, Public Notification Precluded in Certain Circumstances**Section 95A(5) – Determine if Public Notification Precluded**

Under section 95A(5), Council must not publicly notify the application if it is for a resource consent where each activity applied for is subject to a rule or NES that precludes public notification (s95A(5)(a)), or the application is for a resource consent where all the activities are for:

- a controlled activity;

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- a restricted discretionary or discretionary activity for subdivision of land or a residential activity (i.e. construction, alteration or use of a dwellinghouse(s));
- a restricted discretionary, discretionary or non-complying activity for a boundary activity (s87AAB defines 'boundary activity' as an activity requiring resource consent because of the application of 1 or more boundary rules (but no other district rules) and where no infringed boundary is a public boundary; and 'boundary rule' is defined as those that essentially relate to boundary setbacks or recession planes); or
- a prescribed activity (s95A(5)(b)).

The soil disturbance component of the activity applied for requires consent under the NESCS as a 'Controlled Activity' – Reg 9(5) precludes public notification in this case.

However, the wider land use activity applied for is not subject to a rule that precludes public notification (overall) and is not for one of the activities listed in section 95A(5)(b).

6.1.3 **Step 3: If Not Precluded by Step 2, Public Notification Required in Certain Circumstances**

Under section 95A(8), Council must publicly notify the application if the application is for a resource consent where any of the activities applied for are subject to a rule or NES that requires public notification (s95A(8)(a)) or, in accordance with section 95D, the activity is likely to have adverse effects on the environment that are more than minor (s95A(8)(b)).

The activity applied for is not subject to a rule or NES that requires public notification (s95A(8)(a)).

Sections 95A(8)(b) and 95D – Assess if Adverse Effects on the Environment are More than Minor

Section 95D requires that, when deciding whether an activity will have or is likely to have adverse effects on the environment that are more than minor, Council:

- Must** disregard any effects on persons who own or occupy the land over which the activity will occur or any land adjacent to that land;
Refer paragraph 77 below.
- May** disregard an adverse effect of the activity if a rule or NES permits an activity with that effect (permitted baseline);
The site could be used for up to 6 temporary events per calendar year, each of up to 3 consecutive days duration, as a permitted activity.
In addition, the site could accommodate one residential building as a permitted activity.
In terms of applying the permitted baseline to this public notification assessment, those effects have therefore been disregarded.
- In the case of a restricted discretionary activity, **must** disregard an adverse effect of the activity that does not relate to a matter for which a rule or NES restricts discretion;
The activity is not for a restricted discretionary activity.
- Must** disregard trade competition and the effects of trade competition; and
It is not considered that trade competition is applicable in this instance.
- Must** disregard any effect on a person who has given written approval to the application.
No written approvals have been provided with the application.

Assessment of Effects on Wider Environment for Public Notification

The assessment in this section in determining public notification, does not take into account effects on the occupants of the building, or on any persons on adjacent land – it only assesses the actual and potential effects on the wider environment.

The term 'adjacent' applies to properties close to the proposed site. The adjacent land in this case, includes the following properties (properties outlined in red – larger ones identified with yellow star – identified in Image 6 below):

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Image 6 – Adjacent Land



Adjacent Land is deemed to be

- 7 Watt Court, Hastings
- 9 Watt Court, Hastings
- 10 Watt Court, Hastings
- 11 Watt Court, Hastings
- 12 Watt Court, Hastings
- 13 Watt Court, Hastings
- 6 Smidt Lane, Hastings
- 8 Smidt Lane, Hastings
- 30 Richmond Road, Hastings
- 43 Richmond Road, Hastings
- Hanui Road, Hastings (PID 104704)
- 52 Hanui Road, Hastings
- 1400 Tomoana Road, Hastings
- Tomoana Road, Hastings (PID 55236)

Effects on these persons is addressed later in this report, in assessing limited notification.

Taking into account all of the above, the following is an assessment of the adverse effects on the wider environment in relation to:

- the Soil Resource;
- Noise;
- Character & Amenity;
- Reverse Sensitivity;
- the Transportation Network;
- Servicing Networks;
- Stormwater Management; and
- Earthworks Effects.

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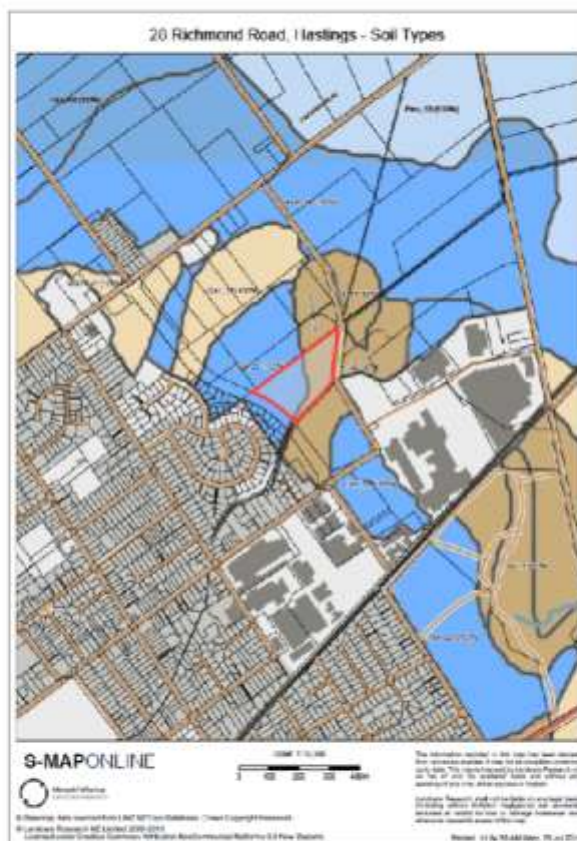
Effects on the Soil Resource

The proposal includes the use of a Plains Production Zone lot for an activity not directly related to the focus of the zone being cropping, viticulture and orcharding. The Plains environment is described in the Proposed District Plan as being central to the economic and social wellbeing of Hastings and the wider community and is a much valued growing and cropping area of the district containing nationally significant versatile land.

The main outcome for the Plains environment is to maintain versatile land on the Plains by ensuring that growth needs are strategically planned and ad hoc erosion of the land resource does not result.

In response to this direction in the Proposed Plan, the application is supported by a soils assessment prepared by Justin France of AgFirst Consultants (HB) Ltd. This assessment confirms the following detail on the soil types present on the subject site:

- 28 Richmond Road soil types are 51.3% Hastings Silt Loam (Sibling 29) and 48.7% Selwyn Loam (Sibling 52) – refer map below.
- These soils are typically considered versatile and of good quality, have a topsoil of approximately 15cm to 20cm, with good soil moisture holding capacity. Selwyn soils are moderately drained; however, Hastings soils are poorly drained and artificial drainage is needed for highly productive horticulture.
- The site is designated as LUC class 1 and is considered highly suitable “for cultivated cropping (many different crop types), viticulture, berry production, pastoralism, tree crops and production forestry”. Historically, the land was used as pasture and then converted to orchard. The orchard was removed in 2009 and has been used for cropping since orchard removal.¹⁸



¹⁸ pg 1 of AgFirst report dated 25 July 2018 (received 10 August 2018 in response to a further information request).
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While highly productive capabilities of the soil types of the site are not disputed, the assessment of AgFirst Consultants states that:

"The area of 28 Richmond Road is 3.84 ha, which is less than half the minimum area necessary for an economic unit in the "range of physically sustainable land uses" defined in by the Hawke's Bay Regional Council.

To become of viable economic size, the two adjacent properties (Part Lot 3 DP 3670 and Part Lot 2 DP 6463) would need to be amalgamated to increase their croppable areas.

Small areas such as 28 Richmond Road, could possibly be farmed as part of a larger unit rather than "stand alone" economic unit if it was farmed with the above adjacent properties, but in it's present form, it is very unlikely that 28 Richmond Road would be of interest to Heretaunga Plains zone orcharding or cropping enterprises wanting to expand their areas.

Process cropping farmers, who are the main users of leased land in the district, are showing very little interest in farming small blocks because of the high costs associated with dealing with small areas of land.

*If 28 Richmond Road was to be intensively farmed, approximately one-third of the land area would be taken up by headlands and shelter belts. Future use of this property in its present form is likely to be residential lifestyle blocks, very intensive protected cropping (i.e. glasshouse tomatoes), or rural servicing businesses; none of which would be likely to utilize the high quality soils on the site in the way of physically sustainable land uses."*¹⁹

Further, the AgFirst report calculates that the site at 28 Richmond Road only represents a loss approximately 0.077% of the total Hastings soil type (of which there is approximately 2614ha) and 0.1% of the total Selwyn soil type (of which there is approximately 2005ha), stating that:

*"Taken in this context, the loss of productive soil is insignificant compared to the total amount available."*²⁰

The AgFirst report also refers to other strategic issues such as the Tomoana/Whakatu area (including the subject land) as being earmarked for future industrial development (albeit referencing HPUDS, which acknowledges the conflict with recognised versatile land values in this area).

Note: Hastings District Council's Principal Advisor District Development confirms that there is an indicative industrial growth node in the vicinity of the subject site, but states that expansion at either Tomoana or Whakatu is planned only after spare capacity is consumed at Whakatu. He suggests that this is unlikely in the short to medium term (and possibly the long term), and concludes that this area ought to "remain in primary production uses that reflect its highly versatile soils for as long as possible until it is needed for industrial uses that either support the primary sector value chain or employment generally, or reduces pressure for ad hoc development elsewhere on the plains"²¹ and that it would not appear to accord "for a sizeable area of the land needed for future industrial growth to be prematurely converted from productive use and be pre-emptively removed from the future industrial land supply"²².

The assessment in the AgFirst report reaches the following conclusion:

*"In summary, AgFirst has concluded that there will be very little impact on the entire plains production resource as a result of 28 Richmond Road, Hastings, being taken out of the land supply. Furthermore, due to the small size of the site and its proximity to residential properties and an industrial site, it is highly unlikely that intensive horticultural or cropping enterprises would want to further develop the site for horticultural land use."*²³

The applicant has provided the following summary regarding actual and potential effects on the wider soil resource as a result of proposed Sikh Temple, informed by the AgFirst report:

- *"The subject site is a small rural block (3.9041ha) and there is low demand for its use as a rural business entity due to the limited production uses and often higher costs associated with smaller land holdings.*

¹⁹ pg 2 of AgFirst report dated 25 July 2018 (received 10 August 2018 in response to a further information request).

²⁰ pg 3 of AgFirst report dated 25 July 2018 (received 10 August 2018 in response to a further information request).

²¹ pg 19, Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

²² pg 19 of Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

²³ pg 1 of AgFirst report dated 25 July 2018 (received 10 August 2018 in response to a further information request).

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- The site is physically disconnected from the adjoining rural property to the south-east (the 'corner site'), constrained to the north by rural residential property, a contracting yard to the north-west, and bordered by urban development on all other boundaries.
- The site is unlikely to be amalgamated and used in conjunction with an adjoining property in order to increase the productivity and breadth of use of its underlying soils.
- The soils at the site are 51.3% Hastings Silt Loam and 48.7% Selwyn Loam. These soils are typically considered versatile and of good quality, have a topsoil of approximately 15cm to 20cm, with good soil moisture holding capacity. Selwyn soils are moderately drained; however, Hastings soils are poorly drained and artificial drainage is needed for highly productive horticulture. A potential production use suggested in the AgFirst report is intensive protected cropping (i.e. glasshouse tomatoes), where the versatile soils would not be used anyway.
- If the entire site were to be taken up by the proposed Sikh temple development, the estimated percentage loss of these soil types is approximately 0.077% and 0.1% for the Hastings and Selwyn soil, respectively. The development of the temple and associated hardstand would take up an area of approximately 5,000m² of the overall 3.9ha site, therefore the permanent loss of versatile soils across the region is even less than these estimated figures.²⁴

Overall, the applicant has concluded that "Based on all of these matters above, it is considered that the loss of the soils would have a less than minor effect across the entire region's soil resource"²⁵.

Whilst I accept the assessment of the soils based on expert input, I disagree with the conclusion that this site is so severely constrained by size and location that the loss of these soils from the wider Heretaunga Plains soil resource is less than minor. The land concerned has been used in the past for orcharding and, more recently, for cropping, and adjoining and adjacent sites with the same or similar soil types also continue to be used productively. In my opinion, current low demand does not preordain or preclude future productive activity demand or amalgamation potential.

I do not concur that the site is physically disconnected from the adjoining site as there are many examples across the Heretaunga Plains where open drains successfully bisect an orchard or cropping block. I do not concur that the site is constrained to the north by rural residential property or the contracting yard (presumably referring to Awakeri Drainage?) to the north-west – as these currently operate in an existing rural environment where land based rural production already dominates, or service productive land uses and therefore have a direct relationship with productive Plains activities. There is no evidence presented that these properties are currently constraining land based rural production on this site.

In terms of reverse sensitivity from nearby urban development, the proposed 'North Eastern Collector' represents a significant buffer between the urban limits of Hastings and the subject site – no different to many other similar situations on the fringes of Hastings City – and the industrial developments of Tomoana and Whakatu are not land uses that are sensitive to land-based rural production activities (in fact, they directly support, service and process the District's land-based rural production).

I accept that the loss of 0.077% and 0.1% of the respective soils is not significant in terms of relative quantity, but I consider that the quality of the soils concerned, and their relative scarcity and finite nature (Class 1 land occupies less than 1% of New Zealand's land area²⁶), are such that even a small quantitative loss is disproportionately more significant than for other soil types.

The cumulative loss of finite versatile / high-class land over time is a significant national issue, as evident in the 'Our Land 2018' Report, which identifies risks from fragmentation of land on urban fringes and urban expansion onto versatile land²⁷, and other sources note that "concern is rising about the potential for a disproportionate amount of risk being applied to remaining agricultural

²⁴ pg 15 of further information letter from Strategy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, Response to Further Information Request' dated 10 August 2018.

²⁵ pg 15 of further information letter from Strategy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, Response to Further Information Request' dated 10 August 2018.

²⁶ pg 67 of New Zealand Science Review Vol 68 (2) 2011 – 'Land: Competition for future use', Mackay et al.

²⁷ pgs 58 & 59 of 'New Zealand Environmental Reporting Series: Our Land 2018'

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landscape because our land with little limitation is highly vulnerable to loss to non-food producing uses"²⁸.

The 'Our Land 2018' Report acknowledges that there is limited national information about how quickly our most versatile land is shifting to urban use. Auckland Council's 'Research and Evaluation Unit' released a paper recently which addresses this uncertainty:

*"In a world with increasing uncertainties surrounding the state of natural resources that support regional, national and global food production, such as versatile agricultural farmland, water quality and quantity, and climatic conditions, it would seem prudent to take a precautionary approach towards developing and fragmenting versatile land."*²⁹

The findings of the 'Our Land 2018' report have highlighted that the land and soils on which so much of New Zealand's social and economic wellbeing depend, are not protected. In response, the Minister for the Environment has initiated work on a National Policy Statement for Versatile Land and High Class Soils.

Halting the trend has clearly been the catalyst for progressively greater strategic policy direction and introducing progressively stronger regulatory intervention via Regional and District Plans in regions such as the Bay of Plenty and Hawke's Bay over the last 20-30 years. In Hawke's Bay, this is supported by the development of the Heretaunga Plains Urban Development Strategy (and its recent review) and embedding of this strategy within the Hawke's Bay Regional Policy Statement and Proposed Hastings District Plan.

Therefore, in my view, the effect of removal of 3.9ha from the supply of scarce LUC Class 1 (Hastings/Selwyn) soils on the overall life-supporting capacity of the wider soils resource would be **minor (and potentially more than minor)**.

Noise Effects

The documentation supporting the application includes an acoustic report prepared by Earcon Acoustics Ltd. The acoustic report addresses:

- the effect of the noise generated by the activities of the temple on the neighbouring areas and the requirement of meeting the noise standards of the Hastings District Plan; and
- Noise Management Plan recommendations.

The assessment anticipates one weekly 5-6 hour ceremony, prayer activities throughout the week, and 15 special ceremonies per year with up to 700 people maximum.

The assessment determines that noise from prayer activities will be limited to traffic noise, and assumes a maximum of 2-3 vehicles over any hour during the night time periods.

The report determines 'predicted noise levels' from the Temple at the neighbouring boundaries in the area (being the residential properties in Watt Court and Smidt Lane, at 1400 Tomoana Road, 52 Hanui Road and 30 Richmond Road), and determines that the predicted noise levels comply with the respective noise limits in the District Plan.

This assessment is based on a number of assumptions in respect of construction materials, including:

- a typical exterior cladding e.g. timber, fibre cement, concrete cladding etc for the walls with thermal insulation and 10mm standard plasterboard;
- minimum standard for glazing to achieve STC29, with windows on the south-eastern/western and north-western façade recommended to be closed during the weekly activities and large events; and
- typical roofing e.g. membrane roofing on plywood, longrun metal roofing etc, with recommended internal ceiling with 13mm standard plasterboard and thermal insulation in the cavity.

Further assumptions include the car speed within the carpark area being limited to 15 km/hr.

²⁸ pgs 67 of New Zealand Science Review Vol 68 (2) 2011 – 'Land: Competition for future use', Mackay et al.

²⁹ Pg 1 of "The odds appear stacked against versatile land: can we change them?", Curran-Cournane et al, Research and Evaluation Unit, Auckland Council, in New Zealand Journal of Agricultural Research 2018.

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The predicted noise levels in the acoustic report indicate that:

"The proposed weekly activity is predicted to comply at all times with the Proposed Hastings District Plan requirements.

Regular sporting activities may occur up to 10pm any day of the week, however, elevated activity may occur prior to 7pm, e.g. all 700 people are outside with sports occurring and the remaining people conversing.

However, we note the sports day is only proposed 1 day a year and may therefore fall under the temporary events rules and requirements. This large sporting event may occur with increased intensity, e.g. all parishioners outside with multiple sporting activities occurring simultaneously, including crowd noise and use of an amplification system for announcements.³⁰

Further, the acoustic report recommends the following under the heading 'Noise Management Plan':

"In order to minimise the noise levels from traffic and car parking activities, it is recommended that regular announcements be incorporated into meetings. These announcements should inform the parishioners of the temple to follow polite car parking etiquette, i.e. no shouting, loud music from cars, excessive revving of engines, not using car horns, etc.

Weekly activities on the proposed sports field are to be restricted to conversational gatherings and small-scale sports activities without spectating/cheering crowds. No music or singing is to be conducted outside during weekly activities.

Where wedding activities include elevated levels of music and / or singing external windows are required to be closed after 10pm.³¹

The Earcon Acoustic Report concludes that *"The noise levels from the temple activities will comply with the noise limits of the Proposed Hastings District Plan provided the recommendations of this report are applied".*

In addition, the assessment of environmental effects supporting the application also references the presence of an acoustic noise fence between the urban residential area of Hastings and the proposed 'North Eastern Collector'. The 'North Eastern Collector' road corridor is 50 metres in width, which further separates the north-eastern extent of the urban area of Hastings City from the subject site.

Given the distance from the closest suburban residential dwellings, the intervening road corridor set aside for the construction of the 'North Eastern Collector' and the presence of the acoustic fence, the noise effects of the proposal on the urban residential environment will be less than minor. The applicant has indicated a review condition enabling a re-examination of noise generated at the site or adoption of a management plan would be acceptable.

The Applicant has also proposed to provide a Construction Management Plan for Council certification, which will address construction noise, and delivery times and construction traffic management (amongst other things) during the temporary construction period.

On the basis of the above, I am satisfied that with appropriate consent conditions in place to address the assumptions and recommendations in the Earcon Acoustic Report and inclusion of a review condition and conditions around preparation and certification of a Construction Management Plan, any actual or potential noise effects on the wider environment will be **less than minor**.

Effects on Character and Amenity

Beyond the adjacent land, the wider environment is characterized by land-based primary production activities to the north and east (Plains Production Zone), an area of large-scale industry to the south and east (General Industrial and Tōmoana Food Industry Zone), and urban residential to the west (General Residential Zone).

Potential adverse effects on character and amenity associated with this proposal could include adverse visual effects, effects from the nature, intensity and scale of development, noise effects and traffic. The sensitivity to these effects varies depending on the type of environment, for example, industrial and rural environments generally have a higher tolerance for noise and traffic than urban residential environments. The following assesses the effects of the proposal on each of these environments, separately.

³⁰ pg 7 of Earcon Acoustics report dated September 2018, submitted as part of the documentation supporting the original application (revised in response to further information request – received 16 September 2018)

³¹ pg 7 of Earcon Acoustics report dated September 2018.

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Noise effects have already been addressed above.

Wider Rural Environment

I generally concur with the assessment of environmental effects supporting the application in so far as assessment of effects associated with the scale of the development on rural character and open space amenity values.

The proposed temple building will have a similar footprint area to some buildings within the Plains Production Zone that are permitted as of right, and its location within the site achieves significant yard setbacks. Therefore, from a bulk and scale perspective, the effect on rural and open space amenity values is less than minor.

However, in my view, the nature and character of effects associated with the Sikh Temple development will differ considerably from that associated with anticipated rural land use activities provided for in the District Plan. The temple will be distinctly different in appearance to a typical rural production or rural industry building such as a packhouse, coolstore or winery. Whilst there is established perimeter tree planting on the road frontage and south-east boundary, the concept plans do not show retention of the trees along the road frontage but do show retention of the trees on the south-east boundary and some conceptual 'new' planting to line the driveway approaching the temple. As this is 'conceptual', no detail has been presented – the applicant has however, indicated a condition requiring a landscape plan would be acceptable.

Similarly, the nature and character of the traffic to and from the site will differ from anticipated rural activities. The amended Stantec Traffic Report supporting the application notes that the generation of traffic during the traditional weekday peak hours will be minimal – based on an anticipated maximum of 20 people praying at the Temple at any one time. The Temple is anticipated to generate most of its traffic during the weekend (Friday evening, Saturday and Sunday)³² during which time the overall background traffic volumes are lower³³. The nature of traffic in this rural environment will alter as a result through contributing to a more urban-like traffic environment. The location on the outskirts of urban Hastings and in the vicinity of a sizeable industrial area means the impact of this change on the wider rural environment is likely to be minimal.

The atypical nature and character of the Temple building and the nature of the traffic associated with Temple activities may impact on people's appreciation of open space and rural amenity, however this is anticipated to be fairly localised. With appropriate landscaping conditions imposed including retention of the perimeter tree planting, I am satisfied that adverse effects on rural character and open space amenity values for the wider rural environment would be **minor or less than minor**.

Wider Industrial Environment

The industrial area of Tomoana and the Tomoana Food Hub are opposite the subject site. I concur with the assessment of environmental effects supporting the application that these areas "operate within different amenity levels, where visually the buildings are large and utilitarian. Light and heavy traffic associated with industrial activities is anticipated and noise within the industrial sites can be louder than the Plains"³⁴.

The scale of industrial buildings in the nearby industrial zones are large and multiple times the size of the proposed Temple buildings.

On that basis, I am satisfied that the effects of the proposal on industrial amenity values for the wider industrial environment would be **less than minor**.

Wider Urban Residential Environment

The subject site is on the Heretaunga Plains, just beyond the Hastings City urban limits. The suburban residential properties located off Northwood Avenue, including the cul-de-sac Watt Court and Smidt Lane, mark the north-east extent of the Hastings General Residential Zone.

³² At its peak, the Stantec Traffic Report assumes a 'worst case scenario' for assessment purposes, whereby the Temple is anticipated to generate 588 trips (294 inbound, and 294 outbound) over the space of an hour, which is anticipated to most likely occur on a Sunday (an assessment of effects on the transportation network is provided separately).

³³ pgs 13-16 of Stantec New Zealand 'Amended Traffic Assessment Report for Sikh Temple, Richmond Rd, Hastings' dated 20 September 2018 (received 1 October 2018, as part of further information response).

³⁴ pg 28 of 'Resource Consent Application for Land Use, 28 Richmond Road, Hastings, New Zealand Sikh Society (Hastings) Inc, 17103AP1, 15 May 2018', Stradegy Planning Ltd.

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As outlined in the assessment of environmental effects supporting the application, immediately beyond these properties is an acoustic noise fence, which presents a visual and acoustic divide between the residential area and the proposed 'North Eastern Collector'. The 'North Eastern Collector' road corridor is 50 metres in width, which provides an effective buffer at the urban/rural interface, and further separates the aforementioned residential properties from the subject site.

I concur with the applicant that, given the distance from the closest suburban residential dwellings, the intervening road corridor set aside for the construction of the 'North Eastern Collector', the presence of the acoustic fence, and the orientation of the proposed Temple activities on the site more towards Richmond Road, the effects of the proposal on residential amenity values in the context of the nearby urban environment would be **less than minor**.

Reverse Sensitivity

Reverse sensitivity is the vulnerability of an existing lawfully established activity to complaint from other nearby activities which are sensitive to adverse environmental effects that may be lawfully generated by the existing activity, thereby creating the potential for the operation of the existing activity to be constrained. The introduction of a Sikh Temple in this Plains Production Zone location potentially generates reverse sensitivity effects for established activities in the vicinity.

It is considered that a Sikh Temple is not sensitive to the typical effects of residential activities, and places of assembly such as churches and temples are anticipated and generally found in urban areas. Therefore, reverse sensitivity is not considered applicable to the wider urban residential environment to the south-west.

However, a Sikh Temple is a potentially sensitive activity when introduced into an established rural working environment or in close proximity to an established industrial area which reflect different amenity values. Beyond the adjacent land, the wider Tomoana Food Industry Zone and General Industrial Zone extend to the east and south of the site, and established orchards and other land based rural production activities extend to the north and east of the site within the Plains Production Zone.

Beyond the adjacent land, at least 200m separates the site from the closest industrial land (at Hanui Road/Elwood Road), and 100m separates the site from the next closest rural property (32 Richmond Road). With distance, sensitivity reduces. Therefore, due to the intervening distance, it is considered unlikely that the Sikh Temple will be impacted by the operations of rural and industrial activities beyond those established on adjacent land.

In my view, the potential for the proposal to introduce reverse sensitivity effects for the wider established rural and industrial environments would be **minor or less than minor**.

Effects on the Transportation Network

The Applicant has provided a Traffic Report in support of the application, prepared by Stantec New Zealand³⁵. This report provides an assessment of transport and traffic related effects of the proposed Temple on the surrounding road network and provides recommendations.

Transportation Network

Richmond Road provides primary access between Pakowhai Road to the north and Tomoana Road to the south. Stantec describe the road as 'rural in nature'³⁶ and it is categorised as a 'District Collector' with posted speed limit of 80km/hr (with the curve at the south eastern corner of the site posted with a 65km/hr speed advisory). Currently, there are no dedicated footpaths or cycle lanes along either side of Richmond Road within the vicinity of the site.

Both Pakowhai Road and Tomoana Road are 'Arterial Roads' and connect to the wider Hastings roading network. A bus service operates along Pakowhai Road passing Richmond Road (Route 12), with the nearest bus stop some 980m from the site. There are no dedicated footpaths along either side of Pakowhai Road or Tomoana Road beyond the urban limits. There are however, cycle lanes in both directions along Pakowhai Road connecting urban Hastings through to the Whakatu Arterial Link Road.

³⁵ Stantec New Zealand 'Amended Traffic Assessment Report for Sikh Temple, Richmond Rd, Hastings' dated 20 September 2018 (received 1 October 2018, as part of further information response).

³⁶ section 3.1, pg 3 of Stantec Traffic Report dated 20 September 2018.

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The Stantec Report references known infrastructure improvements already planned for this area, including:

- a potential link road between Evenden Road and Coventry Road (known as the 'North Eastern Collector') which is anticipated within the next 10 years and would provide an extension of Evenden Road; and
- a link road between Hanui Road and Richmond Road to the east of the site (known as the 'Hanui Road extension') which is anticipated within the next 5-10 years and would connect Elwood Road and Richmond Road.³⁷

Road Safety

The Stantec Report concludes that there is no evidence to suggest that any of the surrounding roads are unsafe for cyclists from a review of the crash history for cyclists in the vicinity, but states that visitors to the site travelling by foot or by bicycle could be vulnerable within the vicinity of the site³⁸. As part of a further information response received 1 October 2018, the applicant has offered, as a condition, to make a financial contribution for the purpose of contributing to the construction of a pedestrian walkway / cycle path from the entrance of the Sikh Temple to the existing footpath on Tomoana Road³⁹.

In terms of current road safety, the Stantec Report reviewed the crash history in the vicinity and noted two cluster sites for vehicle crashes on bends along Richmond Road – one of these bends is at the south-eastern corner in front of the site. However, their analysis of the causes of those crashes determined that these crashes appear to be due to excessive speeding and/or the current speed limit being out of sync with the road geometry.

During discussions between Hastings District Council's Transportation Engineers and Stantec Engineers, there was a level of support for a review of the speed limit on Richmond Road⁴⁰. Following this discussion, as part of a further information response received 1 October 2018, the applicant has offered as a condition to make a financial contribution for the purpose of contributing to the study of a revised speed limit for Richmond Road through the speed limit management programme⁴¹.

Site Access and On-Site Parking and Loading

In terms of the development itself, the proposal includes construction of a new 7m-wide, sealed private access onto Richmond Road, provision of 105 on-site car parks, a dedicated loading bay, and 20 bicycle stands.

The Stantec Report confirms that the proposed access to the site can comply with the District Plan in terms of design, distance from accesses and intersections, and achieving safe sightline distance, and will not negatively impact on the existing operational safety and capacity of the local road network – appropriate carriageway and roadside signage would provide sufficient warning to other road users approaching the proposed access to ensure road safety is not compromised⁴².

On-site provision for vehicle and bicycle parking and for loading is also confirmed as able to comply with the District Plan in terms of number of parking spaces/bicycle racks, provision of a dedicated loading bay, and their respective design and construction. The Stantec Report confirms that the proposal is able to comply with all the relevant provisions in the District Plan in these respects⁴³. By my calculation, with 105 on-site parking spaces the proposal would need to provide 21 bicycle stands in order to comply – however, I do not believe this discrepancy is critical to the application at hand.

Traffic Generation

In terms of effects of the traffic generated by the proposal on the transportation network, the Stantec Report provided an assessment of trip generation based on peak traffic taking place on Friday

³⁷ section 3.4, pg 6 of Stantec Traffic Report dated 20 September 2018.

³⁸ section 3.3, pg 5 of Stantec Traffic Report dated 20 September 2018.

³⁹ Attachment 2 to further information letter from Stradegy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, s92 Response' dated 1 October 2018.

⁴⁰ section 3.5, pgs 7 & 8 of Stantec Traffic Report dated 20 September 2018.

⁴¹ Attachment 2 to further information letter from Stradegy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, s92 Response' dated 1 October 2018.

⁴² section 6.4, pg 16 of the Stantec Traffic Report dated 20 September 2018.

⁴³ section 5, pgs 9-13, and sections 6.6 & 6.7, pgs 17 & 18, of Stantec Traffic Report dated 20 September 2018.

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evenings (finishing at 8pm), Saturdays (7am-5pm) and Sundays (2pm-8pm), with typical use of the temple outside of those times comprising a maximum of 20 people on-site at any one time⁴⁴.

For the purposes of their assessment, Stantec assessed the proposal on a 'worst case' scenario, being the generation of 588 trips during the peak hour (assumed as being on a Sunday) – comprising 294 inbound and 294 outbound trips. The subsequent analysis indicates that the Richmond Road / Pakowhai Road intersection would experience increases of 147 arrivals and departures during the peak hour (a vehicle entering / exiting every 20-30 seconds), and of these, 147 vehicles would be required to perform turning movements against opposing traffic⁴⁵.

The Stantec Report does not consider that this rate of increase is significant – that there is significant room on Richmond Road to allow right turners to wait at the stop line, whilst allowing left turners to continue to the stop line, unopposed⁴⁶.

Whilst the Stantec Report does not consider that the additional vehicle trips due to the Sikh Temple will have a significant adverse effect on the safety of Richmond Road, it does acknowledge Hastings District Council Transportation Engineers' concerns with the additional vehicle trips passing through the Pakowhai Road / Richmond Road intersection on account that this intersection has been identified as a High Risk intersection. In discussions with Hastings District Council Transportation Engineers, it was agreed that the exact improvements to be made form part of a wider network issue, but that it is logical that the Sikh temple contribute financially to the project, as a main user of that part of the network⁴⁷. Therefore, as part of a further information response received 1 October 2018, the applicant has offered, as a condition, to make a development contribution for the purpose of contributing to the upgrade of the Pakowhai Road / Richmond Road intersection⁴⁸.

Construction Traffic

The Applicant has proposed to provide a Construction Management Plan for Council certification, which will address construction traffic management (amongst other things) over the temporary construction period.

Conclusion

The Stantec Report concludes:

It is concluded that, whilst the proposed Sikh Temple will generate 588 additional vehicular movements onto the local road network during the busiest periods, due to the classification of the local roads and the peak trip generation taking place on a Sunday, when the existing road network experiences lower traffic volumes, it is considered that the proposed increase can be accommodated safely. Only 147 of these vehicle movements would result in opposing movements at the Pakowhai Road / Richmond Road intersection. Due to the frequency of these turning movements along with the geometry that the intersection already achieves, it is concluded that these additional trips can be accommodated without generating adverse effects on the safety and efficiency of the road network.

Due to the nature of the activities the site will support, the site will not generate many trips during the traditional weekday AM and PM peak hours. As a result, the network has space capacity to absorb the additional traffic generated by the site.

The proposed site access currently experiences no evidence of road safety issues. In addition, the proposed access will be 7 metres wide ensuring operational safety. On-site parking will be provided in accordance with the District Plan requirements to ensure any additional parking demand can be accommodated within the site boundary without providing added pressures to on-street parking in the vicinity of the site.

The inclusion of a RSA, to be completed on the proposed access to Richmond Road, would provide further reassurance that the existing operational safety is not compromised as a result of the introduction of the Sikh Temple.

The following infrastructure improvements are proposed:

- *Development Contributions for the safety improvement of the Pakowhai Road / Richmond Road roundabout;*

⁴⁴ section 6, pg 13 of Stantec Traffic Report dated 20 September 2018.

⁴⁵ sections 6.2 & 6.3, pgs 14-16 of Stantec Traffic Report dated 20 September 2018.

⁴⁶ section 6.3, pg 16 of Stantec Traffic Report dated 20 September 2018.

⁴⁷ section 3.5.2, pg 8 of Stantec Traffic Report dated 20 September 2018.

⁴⁸ Attachment 2 to further information letter from Stradegy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, s92 Response' dated 1 October 2018.

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- Development Contributions for a new pedestrian crossing located along Richmond Road north of the Watties car park entrance;
- Development Contributions for a new limestone footpath along the western edge of Richmond Road between the proposed new pedestrian crossing and the site access; and
- Undertake a speed limit review of Richmond Road and the results thereof to be provided to HDC for consideration and inclusion into their Speed Management Programme.

Stantec is satisfied that the development impact has been considered and will be designed in such a way as to provide suitable and adequate facilities to accommodate the vehicle demands generated by the new development. It is assessed that the proposed development would not cause adverse effects on the function, safety or capacity of the adjacent road network.⁴⁹

The applicant has discussed the proposal with Hastings District Council's Transportation Engineers, who have confirmed that they are satisfied that the proposal (including the conditions offered by the applicant) can address any adverse effects on the wider transportation network.

Given the above, with appropriate consent conditions in place in respect of a Construction Management Plan and payment of appropriate development contributions, I am satisfied that the activity can be integrated into the District's wider transportation network, and adverse effects on the transportation network as a result of the proposed activity would be **minor or less than minor**.

Effects on Servicing Networks and Stormwater Management

Strata Group Consulting Engineers have prepared a Land Development Report which has been submitted in support of the application, detailing:

- stormwater management, collection, conveyance and treatment;
- wastewater demand and design concepts;
- water supply demand and design concepts; and
- preliminary earthworks concepts.⁵⁰

The Strata Group Report identifies that the proposed site is mostly covered by a low risk flooding hazard status as identified on the Hawke's Bay Regional Council's Hazards Intramaps⁵¹.

Stormwater

The Strata Group Report states that the majority of the existing runoff from the site flows into the existing HBRC drain along the eastern boundary. Full runoff calculations for pre and post development have been completed.

All hardstand stormwater runoff is proposed to be conveyed via piped network (designed to convey a 10 year, 10 minute event – with total piped flow of 267 litres per second), and treated via a swale along the south east boundary prior to discharge via a new outlet into the HBRC drain. Roof water run-off will bypass the swale and connect into a combined discharge point into the HBRC drain.

All runoff from the proposed site is proposed to be attenuated to match the pre-development peak flows for a 30-minute 50% Annual Exceedance Probability (AEP) rainfall event, as recommended in the Hawke's Bay Waterway Guidelines, and this will entail an attenuation pond next to the proposed swale. Figure 4 of the Strata Group Report indicates requirement for an attenuation pond of 300m² in area.

Secondary protection will be provided via overland flow paths. Generally, runoff from the Richmond Road boundary and north-west boundary will travel towards the HBRC drain⁵².

Wastewater

The Strata Group Report proposes that all internal wastewater pipes from the temple and proposed dwelling reticulate to a manhole and have a single discharge connection into the existing 300mm diameter gravity waste water pipe running along the north-west boundary of the site⁵³.

⁴⁹ section 7, pg 18 of the Stantec Traffic Report dated 20 September 2018.

⁵⁰ Strata Group Consulting Engineers 'Land Development Report Rev B – Sikh Society (Hastings) Inc, Richmond Road, Hastings' dated September 2018 (received 16 September 2018, as part of further information response).

⁵¹ section 2, pg 6 of the Strata Group Report dated September 2018.

⁵² section 4 of the Strata Group Report dated September 2018.

⁵³ section 5 of the Strata Group Report dated September 2018.

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Water Supply

The Strata Group Report notes the presence of an existing well with an existing consent from the Hawke's Bay Regional Council to irrigate 3.8 hectares of process crops (200mm diameter).

The proposed system will require a single connection to be drawn from the well on-site to ring main around the temple. The proposed dwelling will require feed off the main line. The Strata Group Report notes that this will require an application to amend the conditions of the existing regional consent, however the assessment of environmental effects supporting the application indicates that this would be required if the take were to exceed 20m³ per day.

The Report notes that firefighting supply will require confirmation of existing bore flow rates and a subsequent solution sought⁵⁴. Any implications for the existing regional consent would need to be ascertained and addressed, but are not anticipated to constrain the provision of adequate potable water to the development.

Summary

Council's Development Engineers have confirmed that they are comfortable that the proposal is feasible in terms of the servicing and stormwater management proposed, subject to standard engineering conditions in line with the Engineering Code of Practice and relevant New Zealand Standards.

On the basis of the above, I am satisfied that the site can be suitably serviced, and with conditions imposed, the effects of the proposal on service infrastructure networks and the wider stormwater network would be **less than minor**.

Effects of Earthworks

Earthworks are solely related to the construction period and are therefore temporary, and the land is flat in topography. Therefore, earthworks are not anticipated to have any adverse effects beyond adjacent land, other than perhaps noise and dust. The applicant has proposed to provide a Construction Management Plan for Council certification, which will address construction noise and dust (amongst other things) over the temporary construction period.

I am satisfied that with conditions requiring a Construction Management Plan in place, the effects of construction-related earthworks would be **less than minor**.

Summary

In summary, with suitable conditions proposed, the proposal will have no more than minor adverse effects on the wider environment, and therefore does not trigger public notification in terms of section 95A(8)(b).

6.1.4 Step 4: Public Notification in Special Circumstances

Under Section 95A(9), Council must publicly notify the application if special circumstances are determined to exist. Special circumstances are circumstances which are unusual or exceptional but may be less than extraordinary or unique (*Peninsula Watchdog Inc v Minister of Energy* [1996] 2 NZLR 529).

It is considered that there are no special circumstances which warrant notification of the application under this section.

6.1.5 Conclusion as to Public Notification

Therefore, it has been determined that the application should **not be notified**, in accordance with sections 95A(9)(b) of the RMA.

⁵⁴ section 6 of the Strata Group Report dated September 2018.
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6.2 LIMITED NOTIFICATION ASSESSMENT**6.2.1 Step 1: Certain Affected Groups and Affected Persons Must be Notified**

Under section 95B(4), Council must notify any affected protected customary rights groups (s95B(2)(a)) or affected customary marine title groups (s95B(2)(b)), and any persons to whom a statutory acknowledgement is made where deemed an affected person under section 95E (i.e. where the consent authority decides that the activity's adverse effects on the person are minor or more than minor (but not less than minor)).

The activity does not affect any protected customary rights groups, affected customary marine title groups, or any persons to whom a statutory acknowledgement applies.

6.2.2 Step 2: If not Required by Step 1, Limited Notification Precluded in Certain Circumstances

Under section 95B(5), Council must not publicly notify the application if it is for a resource consent where each activity applied for is subject to a rule or NES that precludes public notification (s95B(6)(a)), or the application is for a resource consent where all the activities are for:

- a controlled activity (other than subdivision of land); or
- a prescribed activity (s95B(6)(b)).

The soil disturbance component of the activity applied for requires consent under the NESCS as a 'Controlled Activity' – Reg 9(5) precludes public notification in this case.

However, the wider land use activity applied for is not subject to a rule that precludes public notification (overall), and is not for one of the activities listed in section 95B(6)(b).

6.2.3 Step 3: If Not Precluded by Step 2, Certain Other Affected Persons Must be Notified

Under section 95B(9), Council must notify an owner of an allotment with an infringed boundary, in the case of a boundary activity, and any prescribed person for any activity prescribed under section 360H(1)(b) (s95B(7)); or for any other activity, any affected person determined in accordance with section 95E (s95B(8)).

The activity is not for a boundary activity, nor a prescribed activity under section 360H(1)(b).

For the purpose of giving limited notification to a person under section 95B(4) and (9), a person is an affected person if the consent authority decides that the activity's effects on the person are minor or more than minor (but are not less than minor). Sub-sections (2) and (3) provide that in making this decision, the Council:

- **May** disregard an adverse effect of the activity on the person if a rule or national environmental standard permits an activity with that effect;
The permitted baseline has already been addressed above. In terms of applying the permitted baseline to this limited notification assessment, any adverse effects associated with the residential activity and up to 6 temporary events has therefore been disregarded.
- **Must** disregard an adverse effect of the activity on the person that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion;
The activity is not for a controlled or restricted discretionary activity.
- **Must** have regard to every relevant statutory acknowledgement made in accordance with an Act specified in Schedule 11;
The proposed development is not located within or adjoining a statutory acknowledgement area.
- **Must** decide that a person is not an affected person if the person has given their written approval to the activity and has not withdrawn the approval in a written notice received by the authority before the authority has decided whether there are any affected persons; and
No written approvals have been provided with the application.
- **Must** decide that a person is not an affected person if satisfied that it is unreasonable in the circumstances to seek the person's written approval.
It is not considered unreasonable in the circumstances to seek written approvals.

Assessment of Affected Persons for Limited Notification

As noted previously in this report, the persons who could potentially be affected by the proposal include those persons adjacent to the subject site. While any effects on those persons are to be

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disregarded in the consideration of adverse effects on the environment when determining public notification, they are considered when assessing whether there is any affected person when determining limited notification.

Taking the above into account, consideration has been given to the potential for adjacent land to be affected by the proposal, identified previously as being:

- 7 Watt Court, Hastings
- 9 Watt Court, Hastings
- 10 Watt Court, Hastings
- 11 Watt Court, Hastings
- 12 Watt Court, Hastings
- 13 Watt Court, Hastings
- 6 Smidt Lane, Hastings
- 8 Smidt Lane, Hastings
- 30 Richmond Road, Hastings
- 43 Richmond Road, Hastings
- Hanui Road, Hastings (PID 104704)
- 52 Hanui Road, Hastings
- 1400 Tomoana Road, Hastings
- Tomoana Road, Hastings (PID 55236)

Assessment of Effects on Adjacent Land for Limited Notification

Potential adverse effects on adjacent land are considered to be:

- Noise;
- Character & Amenity;
- Reverse Sensitivity;
- Stormwater Runoff;
- Construction Earthworks; and
- Risk from Natural Hazards.

Noise Effects

The activities at the Temple are not considered likely to be inherently noisy in the context of the site and surroundings. The assessment of noise effects on the wider environment outlined above, is considered similarly applicable to the adjacent land. That assessment concluded that with appropriate consent conditions in place requiring a Construction Management Plan, and conditions to address the assumptions and recommendations in the Earcon Acoustic Report as well as inclusion of a review condition, any actual or potential noise effects on the wider environment will be less than minor.

I am of the view that with consent conditions imposed, noise effects (including construction noise effects) will similarly be **less than minor** for adjacent land.

Effects on Character and Amenity

Potential adverse effects on character and amenity associated with this proposal could include adverse visual effects; effects from the nature, intensity and scale of development; noise effects and traffic. Noise effects have already been addressed above.

The following assesses the effects of the proposal on character and amenity for adjacent land in groups of properties where effects are considered likely to be the same or similar, or in terms of individual properties where effects differ.

Adjacent Land – Hastings General Residential Zone

As outlined in the assessment of amenity effects for the wider urban residential environment, the suburban residential properties located off Northwood Avenue, including the cul-de-sac Watt Court and Smidt Lane, mark the north-east extent of the Hastings General Residential Zone, beyond which is the 50m-wide 'North Eastern Collector' proposed road corridor.

I concur with the applicant that, given the distance from the closest suburban residential dwellings, the intervening road corridor set aside for the construction of the 'North Eastern Collector', the presence of the acoustic fence, and the orientation of the proposed Temple activities on the site

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more towards Richmond Road, the effects of the proposal on residential amenity values would be **less than minor** for the following adjacent land:

- 7 Watt Court, Hastings
- 9 Watt Court, Hastings
- 10 Watt Court, Hastings
- 11 Watt Court, Hastings
- 12 Watt Court, Hastings
- 13 Watt Court, Hastings
- 6 Smidt Lane, Hastings
- 8 Smidt Lane, Hastings

Adjacent Land – Tomoana Food Industry, Deferred Tomoana Food Industry and General Industrial Zones

Adjacent land with an industrial or deferred industrial zoning is:

- Hanui Road, Hastings (Lot 5 DP 520691, PID 104704)
- 52 Hanui Road, Hastings
- 1400 Tomoana Road, Hastings

The adjacent properties on Hanui Road (Lot 5 DP 520691 & 52 Hanui Road) are currently vacant, awaiting future industrial development and construction of the Hanui Road extension. The 1400 Tomoana Road property is vast in size (8.84ha), and that part of the property that is within close vicinity of the subject site, is also largely undeveloped (currently used for carparking).

As concluded in respect of amenity effects on the wider industrial environment, industrial areas operate within different amenity levels – traffic and noise are anticipated, and the scale of buildings are large and multiple times the footprint of the proposed Temple buildings.

On that basis, as for the wider industrial environment, I am satisfied that the effects of the proposal on the character and amenity values for adjacent industrial land would be **less than minor**.

Adjacent Land – Plains Production Zone

Adjacent land to the north-west, south-east and diagonally to the north-east are zoned the same as the subject site (Plains Production Zone), being:

- 30 Richmond Road, Hastings;
- 43 Richmond Road, Hastings; and
- Tomoana Road, Hastings (Pt Lot 2 DP 6463, PID 55236).

These sites have an open rural character and amenity, and all are currently in land-based rural production. 30 Richmond Road also contains a rural residential dwelling fronting Richmond Road as part of this 4.25ha site. The dwelling is within 20m of the boundary with the subject site.

Again, it is accepted that the proposed temple building itself will have a similar footprint area as some buildings within the Plains Production Zone that are permitted as of right, and its proposed central location within the site achieves significant yard setbacks.

However, the nature and character of effects associated with the Sikh Temple development will differ considerably from that associated with anticipated land use activities provided for in the District Plan. The temple will be distinctly different in appearance to a typical rural production or rural industry building such as a packhouse, coolstore or winery. Similarly, the nature and character of the activities on the site, and the nature and character of traffic to and from the site, will differ from what could reasonably be anticipated in association with permitted activities in this Zone.

It is accepted that the nature of road traffic in this rural environment is expected to reflect higher traffic volumes over time due to its location on the outskirts of urban Hastings, proximity to a sizeable industrial area, and the anticipated roading projects planned for construction within the next 10 years (Hanui Road Extension and North Eastern Collector). However, it is the effect of localised traffic entering and exiting the site, moving around the site and on-site parking that will be noticeable and will adversely affect the rural character and amenity for adjacent land.

This is particularly so for the residential dwelling at 30 Richmond Road. The atypical nature and character of the Temple building and temple activities and the nature and character of traffic associated with Temple activities would, in my view, impact on the residents of 30 Richmond Road's appreciation of open space and rural amenity.

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Landscaping and screening conditions could be imposed to mitigate the visual impact of the temple and parking areas somewhat (and the applicant has indicated as part of the application that a condition requiring a landscape plan would be acceptable), but this may not sufficiently mitigate adverse effects on amenity values for the adjacent residence at 30 Richmond Road.

In my view, adverse effects on rural character and open space amenity for the owners/occupiers of 43 Richmond Road and Pt Lot 2 DP 6463 (Tomoana Road) would be **less than minor**, but for 30 Richmond Road would be **minor or more than minor**.

Reverse Sensitivity

Whilst reverse sensitivity effects have been assessed as less than minor in respect of the wider environment, such effects tend to be more evident for adjacent land.

Adjacent Land – Hastings General Residential Zone

Similar to the above in terms of reverse sensitivity effects for the wider urban residential environment, the Sikh Temple would not generate reverse sensitivity effects for adjacent residential land to the south, as the Sikh Temple is not considered to be inherently sensitive to residential activities. Therefore, in my view, reverse sensitivity effects would be **less than minor** for the following adjacent land:

- 7 Watt Court, Hastings
- 9 Watt Court, Hastings
- 10 Watt Court, Hastings
- 11 Watt Court, Hastings
- 12 Watt Court, Hastings
- 13 Watt Court, Hastings
- 6 Smidt Lane, Hastings
- 8 Smidt Lane, Hastings

Adjacent Land – Industrial & Plains Production Zone

A place of assembly is considered likely to be sensitive to typical rural and industrial activities. The introduction of a Sikh Temple in this location, adjacent to established land-based rural production activities and established industrial activities, is considered likely to introduce reverse sensitivity issues for those existing activities (for example, in terms of agricultural spray drift, traffic, noise, dust, odours etc). This is deemed applicable to the following adjacent land:

- 30 Richmond Road, Hastings
- 43 Richmond Road, Hastings
- Hanui Road, Hastings (Lot 5 DP 520691, PID 104704)
- 52 Hanui Road, Hastings
- 1400 Tomoana Road, Hastings
- Tomoana Road, Hastings (Pt Lot 2 DP 6463, PID 55236)

It is worth noting that the Council's approach in Hastings to-date has been to work towards developing a strong urban edge (urban limit) and to develop buffer setbacks in order to mitigate conflicts at the urban/rural interface. To this end, the approximately 50m-wide 'North Eastern Collector' corridor (including acoustic fencing) provides a strong effective urban boundary and buffer between the more sensitive Hastings urban residential area of 'Northwood' and the land based rural production activities occurring to the north and east of the City in this location.

In that sense, land use conflicts and reverse sensitivity effects associated with recent urban growth in proximity of existing rural activities have been specifically and purposefully considered and measures put in place to mitigate those effects.

Such measures are not necessary between industrial areas and rural areas, as rural areas (unlike urban areas) are not so sensitive to industrial activities given they are also a working environment – particularly in this setting where the industrial activities themselves are typically processing produce from the surrounding rural area.

The introduction of a Sikh Temple to the east of the established urban limit however, would leap-frog this purposefully established buffer between the urban and rural area on the fringe of Hastings in this location, and would introduce a new sensitive activity in the midst of established rural activities (currently cropping and orchards) and established industrial activities.

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In terms of adjacent industrial land, the intervening Richmond Road reserve provides some mitigation of reverse sensitivity effects in terms of buffer and separation distance, as does the intervening rural property between the site and Tomoana Road in terms of the Heinz Watties site (in association with perimeter tree planting along this boundary and the HBRC drain reserve).

Concept plans accompanying the application indicate that the existing perimeter tree planting to the south-east will remain but the trees along the road frontage are not proposed to remain. Some conceptual 'new' planting is indicated to line the driveway from the proposed new vehicle access to the temple building. As this is conceptual, no detail has been presented, although the applicant has indicated a condition requiring a landscape plan would be acceptable. The applicant has also indicated a no-complaints condition in terms of neighbouring industrial activities would be acceptable.

To that extent, I am satisfied that, with suitable conditions in place to ensure planting to screen the site is in place and a no-complaints condition, the effects of the proposal on reverse sensitivity for the following industrial land would be **less than minor**:

- Hanui Road, Hastings (Lot 5 DP 520691, PID 104704)
- 52 Hanui Road, Hastings
- 1400 Tomoana Road, Hastings

The following addresses the remaining adjacent rural properties, individually.

Tomoana Road – Pt Lot 2 DP 6463, CFR M2/85, PID 55236

In my view any potential reverse sensitivity effects for the land currently used for cropping at Tomoana Road, Hastings (Pt Lot 2 DP 6463, PID 55236), are partly mitigated by the presence of the established perimeter trees along the boundary and the presence of the 5m-wide HBRC drain as a form of 'buffer', combined with the Temple building being centrally located on the site. The applicant has also indicated they would not object to a no-complaints condition in terms of neighbouring Plains Production Zone land.

However, the presence of the Sikh Temple on the subject site would also effectively orphan this parcel of land as there would be no other remaining rural production land adjacent to it. This adds an additional dimension as it presents a barrier to any potential for amalgamation or farming in conjunction with adjacent production land. I do not concur with the view of the applicant in response to a further information request⁵⁵ that to utilise this property together with the subject site, access between the properties would be constrained by the presence of the HBRC drain or the perimeter trees. As stated earlier, there are many properties across the Plains Production Zone that operate across open drains and with shelterbelts in place. In these situations, culverts or other access structures have been installed, allowing rural activities to operate across a drain without having to exit the property. The removal of the subject site from the rural land supply will, in my view, have consequential implications for this site.

Reverse sensitivity effects for this property, combined with effectively isolating this land, reduce future options for its use and development for land based rural production purposes. In my view, for this property, these adverse effects would be **minor or more than minor**.

43 Richmond Road

This land is established cropping and grazing land located diagonally opposite on the other side of Richmond Road. In my view, the conceptual 'new' planting as indicated is not considered likely to provide meaningful mitigation in terms of reverse sensitivity in this case, but the road reserve would act as a reasonable buffer (approximately 50m) and the land is further separated by centrally locating the temple on the site. As above, the applicant has indicated they would not object to a condition requiring a landscape plan or imposition of a no-complaints condition in terms of neighbouring land. Given this, in my view, reverse sensitivity effects for this property would likely be **minor**.

30 Richmond Road

This land is adjacent to the site directly to the north-west (there is an easement in favour of the Council for conveying various services, running the full length of the site along this boundary – approximately 5m in width). A pump shed for the on-site irrigation bore is located approximately half way along in the vicinity of this boundary within the subject site. Aerial photography suggests the

⁵⁵ pg 3 of further information letter from Strategy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, Response to Further Information Request' dated 10 August 2018.

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land at 30 Richmond Road may have been cropped in conjunction with the subject site in the recent past (not confirmed).

There is no established planting evident along this boundary (as at the time of my site visit), however the concept plans accompanying the application indicate conceptual 'new' planting along the boundary length (outside of the easement strip). The applicant has indicated as part of the application that a condition requiring a landscape plan would be acceptable, and that they would not object to a no-complaints condition in terms of neighbouring land.

A Sikh Temple on this site, as proposed, would subject the adjacent rural land at 30 Richmond Road to reverse sensitivity effects. There is no meaningful buffer or physical separation at the interface, and it is unclear as to whether landscaping and a no-complaints condition would comprehensively address reverse sensitivity effects for this property. Therefore, in my view, reverse sensitivity effects for this property would be **minor or more than minor**.

Localised Stormwater Runoff Effects

Again, the assessment in relation to stormwater runoff for the wider environment outlined previously, applies equally to the adjacent land. No particular issues have been raised by Council's Development Engineers in terms of prior stormwater runoff effects onto adjacent land. The applicant proposes to collect and attenuate stormwater runoff and discharge to the HBRC drain such that runoff from the proposed site will match pre-development peak flows for a 30-minute 50% Annual Exceedance Probability (AEP) rainfall event.

With consent conditions imposed, I am satisfied that any adverse localised stormwater runoff effects on adjacent land as a result of the proposed activity would be **less than minor**.

Construction Earthworks Effects

Preliminary calculations provided in the Strata Group Report anticipate 2537m² cut and 2293m³ fill to sub-base (excluding cut for the swale and attenuation pond), and for approximately 2503m³ of imported materials to achieve the design surface⁵⁶.

The applicant has offered to prepare a Construction Management Plan for Council certification prior to commencing works, which will manage construction procedures, runoff and dust, as well as construction traffic management. Council's Development Engineers have also recommended standard conditions in respect of managing earthworks, which could be imposed should consent be granted.

The Strata Group Report has indicated that clean imported hardfill will be used for the pavement sub-base, base-course and building raft. In this respect, Council engineers have commented that imported 'clean fill' will also need to comply with the relevant standards in the NESCS.

I am satisfied that any effects on adjacent land associated with construction earthworks can be adequately addressed through imposing standard consent conditions and requiring the preparation and Council certification of a Construction Management Plan prior to commencing works, and therefore would be **less than minor**.

Risk from Natural Hazards

The site is identified as 'low risk' in terms of flooding on the Hawke's Bay Civil Defence Emergency Management Group's 'Hazards Portal'.

There are no active faults directly impacting the site, but the site is classified as having 'High' risk of liquefaction on the Hawke's Bay Civil Defence Emergency Management Group's 'Hazards Portal'.

Resource Development Consultants Limited (RDCL) have prepared a Geotechnical Report which has been submitted in support of the application⁵⁷.

In terms of geotechnical suitability, the RDCL Report concludes that the site is suitable for the proposed development taking into consideration soft and loose near surface ground conditions, low ultimate bearing capacity, and liquefaction and lateral spreading risk and magnitude.

⁵⁶ section 7, pg 13 of Strata Group Consulting Engineers 'Land Development Report Rev B – Sikh Society (Hastings) Inc, Richmond Road, Hastings' dated September 2018 (received 16 September 2018, as part of further information response).

⁵⁷ Resource Development Consultants Limited 'Richmond Road, Sikh Temple, Geotechnical Investigation' dated 13 September 2018 (received 16 September 2018, as part of further information response).

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The RDCL Report confirms that a two level building could 'conceptually' be constructed on the site, subject to specific design – *"all foundations at this site require specific design due to relative low bearing capacity and liquefaction induced vertical settlement and lateral displacement under ULS conditions"* and *"suitable foundations need to be designed in association with the structural engineer. Feasible options from a geotechnical perspective include a reinforced soil raft which has become relatively common for this kind of situation"*⁵⁸. The RDCL Report concludes that for building consent, site specific geotechnical investigation and assessments are required once the plans are developed⁵⁹.

Council's Development Engineers have confirmed that they are comfortable that the proposal is feasible geotechnically, subject to the recommendations in the RDCL Report and other standard consent conditions.

On the basis of the above, with standard consent conditions in place and conditions reflecting the recommendations in the RDCL Report, I am satisfied that the proposed development is feasible, and adverse effects in terms of the risk from natural hazards on adjacent land would be **less than minor**.

6.2.4 Conclusion as to Limited Notification

Given the above, potential adverse effects for adjacent land at 30 Richmond Road, 43 Richmond Road and Pt Lot 2 DP 6463 (Tomoana Road) are deemed 'minor or more than minor', and the owners and occupiers of these three properties are therefore considered affected persons in terms of section 95E.

Therefore, it has been determined that limited notification must be served on those three properties in accordance with sections 95B and 95E of the RMA.

7.0 INTERIM NOTIFICATION ASSESSMENT

The application is not subject to public notification. However, as adverse environmental effects of the proposal are deemed minor or more than minor for some adjacent land, **this application is subject to limited notification**.

Notification should be served on the owners and occupiers of the following land:

- 30 Richmond Road;
- 43 Richmond Road; and
- Pt Lot 2 DP 6463 (Tomoana Road).

8.0 POST-SCRIPT

Prior to making a final notification decision based on the assessment above, the applicant has since approached and obtained written approvals from those affected persons identified above, as follows:

- Marcus Scott Bishop – owner and occupier of 30 Richmond Road, dated 26 November 2018 (further evidence as to the occupier provided via email dated 12 December 2018).
- Paul Kenneth Apatu and Mark Nicholas Apatu of Token Holdings Limited – owners and occupiers of Pt Lot 1 DP3424 (43 Richmond Road), dated 8 December 2018.
- Paul Kenneth Apatu and Mark Nicholas Apatu of Token Holdings Limited – owners and occupiers of Pt Lot 2 DP6463 (Tomoana Road), dated 8 December 2018.

The last of the three Affected Persons Consent Forms was formally completed and received by Council on 12 December 2018.

In terms of public notification, section 95D(e) determines that a consent authority must disregard any effect on a person who has given written approval to the application, when determining whether an activity will have or is likely to have adverse effects on the environment that are more than minor. The above assessment had already determined that public notification was not required, and the written approvals above do not alter the outcome of that determination.

⁵⁸ section 5, pg 6 of RDCL Report dated 13 September 2018.

⁵⁹ section 6, pg 7 of RDCL Report dated 13 September 2018.

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In terms of limited notification, given the notification assessment above identified these parties as the only affected persons, the recommendation to notify the application to these parties has now been revisited.

Given that section 95E(3) determines that a person is not an affected person in relation to an application for a resource consent for an activity if the person has given, and not withdrawn, approval for the proposed activity (in a written notice received by the consent authority before the authority has decided whether there are any affected persons), the above persons are no longer considered affected persons for the purpose of limited notification in respect of section 95B(8) & (9).

There were no other reasons underpinning the recommendation to notify the application on a limited basis, therefore given the above, it is now determined that there are **no affected persons** in respect of this application, and I am satisfied that **the application can therefore proceed on a non-notified basis**.

9.0 DECISION

I am satisfied the application can be considered without public notification or limited notification to any person.

Recommended by:

**Rowena Macdonald
CONSULTANT PLANNER**

**Notification Decision made
under Delegated Authority by:**



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

Date:

15 January 2019

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PART B**REPORT FOR RESOURCE CONSENT RMA20180194
SECTIONS 104 & 104D OF THE RESOURCE MANAGEMENT ACT 1991****10.0 STATUTORY CONSIDERATIONS – SECTION 104 ASSESSMENT**

Matters to be considered by the Council when assessing an application for resource consent under s104(1) of the Act include, subject to Part 2, any actual and potential effects on the environment and any relevant provisions of a plan or proposed plan, amongst other matters.

Under section 104D of the Act a consent authority may only grant consent for a non-complying activity if it is satisfied that either the adverse effects of the activity on the environment will be minor, or the activity is not contrary to the objectives and policies of the relevant plan or proposed plan. If it grants the application, it may impose conditions under section 108 of the RMA.

10.1 Section 104(1)(a) – Actual and Potential Effects on the Environment

As outlined in sections 6.1.3 and 6.2.3 of this report (refer also section 8.0 above in terms of written approvals subsequently received from affected persons), the overall adverse effects of this proposal, including on adjacent land, have been assessed as being no more than minor. That assessment is considered adequate for the purposes of section 104(1)(A).

10.1.1 Positive Effects

The above only addresses adverse effects on the environment. However, there are positive effects associated with the proposal that should also form part of this assessment. The Sikh community is a substantial and valued part of the Hastings and wider Hawke's Bay community, and there are clear social and cultural benefits for the Sikh community from the construction of a larger, fit-for-purpose, regional temple in which to congregate, socialise and worship together.

In addition, there are likely economic and social benefits to the wider community as well, in terms of short term benefits associated with a construction project of this size, and long term, from having a strong vibrant Sikh presence in the community.

Notably however, these benefits would be present irrespective of location (i.e. the benefits are not reliant on constructing the temple on the Richmond Road site).

10.2 Section 104(1)(b) – Relevant Statutory Instruments

Section 104(1)(b) states that a consent authority must have regard to any relevant provisions of various identified statutory instruments when considering an application for a resource consent, as follows:

'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;'*

There are no 'other regulations' (ii) considered relevant, and the provisions of the New Zealand Coastal Policy Statement (iv) are not relevant to this application.

10.2.1 National Environmental Standards (Section 104(1)(b)(i))

The only national environmental standard considered relevant to this application is the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS).

As stated in section 5.1 of this report, the application included a Detailed Site Investigation report (DSI) prepared by Jason Strong of EAM Environmental Consultants (accepted by Council as a suitably qualified and experienced person) to assess the site for the presence of potential contaminants in the soil, resulting from historical land use. The DSI Report states that:

"Based on the findings of this report for the assessed piece of land at Richmond Road, Hastings:

- A review of the site history was carried out that indicated a requirement for site sampling;*

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- *Appropriate site sampling and preliminary XRF and laboratory soil analysis was then carried out;*
- *Results recorded arsenic and lead results are well below the NES soil contaminant standards for the land use scenario of Rural Residential (25% produce);*
- *The assessment has identified that the soils at this site are highly unlikely to represent a risk to human health. No further investigation is required."*

With regard to the earthworks aspect of the proposal, as it exceeds the permitted volume, disturbing soils as part of this application requires consent as a 'Controlled Activity' pursuant to Regulation 9(1) of the NESCS.

The proposed 'change of use' to place of assembly, residential and recreational use is also a 'Controlled Activity' pursuant to Regulation 9(3) of the NESCS.

10.2.2 **National Policy Statements (Section 104(1)(b)(iii))**

The only national policy statement considered relevant to this application is the National Policy Statement on Urban Development Capacity (NPS-UDC).

The Policy Statement requires Council to provide for sufficient, feasible development capacity at any one time, and to ensure that infrastructure required to support urban development is likely to be available.

The Hastings District Council, Napier City Council and Hawke's Bay Regional Council have addressed urban development and determined where urban development should occur on the Heretaunga Plains through to 2045, through the Heretaunga Plains Urban Development Strategy (refer section 10.3.1 of this report on HPUDS as an 'other matter'). The Hawke's Bay Regional Policy Statement and the Proposed Hastings District Plan have subsequently embedded the urban development pattern envisaged under HPUDS.

The subject land is located within the rural environment and is not located in an area identified as a future greenfield growth area in HPUDS out to 2045 (although the land may fall within a future industrial growth node identified in HPUDS in the longer term) and therefore NPS-UDC has limited applicability in respect of this proposal.

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

The only regional policy statement or proposed regional policy statement relevant to this application is the Hawke's Bay Regional Policy Statement (RPS). As required under section 75(3) of the RMA, District Plans must give effect to the RPS (embedded in the Hawke's Bay Regional Resource Management Plan (RRMP)).

The applicant provided an assessment of the proposal against the objectives and policies of the RPS in response to a further information request⁶⁰. I prefer my own analysis in this respect, as follows:

In terms of assessing the proposal against the provisions of the RPS, the RPS defines 'urban activity' as including any one, or combination of, the following:

- residential activities at a density of more than one dwelling per 2500m² of site area;
- commercial and industrial business, retailing and other commercial activities;
- use of social infrastructure;
- papakāinga or other marae-based housing;
- any other land use within urban limits.⁶¹

It further defines "social infrastructure" as "assets that accommodate social services such as ... places of assembly ...".⁶² The proposed Sikh Temple is a place of assembly and is characterised as an urban activity for the purposes of considering relevant provisions of the RPS. I further consider the fact the current Sikh Temple, which is to be replaced by the proposal, is located within central

⁶⁰ pgs 5-13 of further information letter from Strategy Planning Ltd, titled 'RMA 20180194, 28 Richmond Road, Hastings, Response to Further Information Request' dated 10 August 2018.

⁶¹ Chapter 9 Glossary, Hawke's Bay Regional Resource Management Plan (as at 1 Oct 2015).

⁶² 9.217A, Chapter 9, Glossary, Hawke's Bay Regional Resource Management Plan (as at 1 Oct 2015).

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urban Hastings confirms that the activity is urban in nature. The proposed Temple has no attributes which I consider make it a 'rural activity' for the purposes of analysis under the RPS.

Section 3.1B Managing the Built Environment of the RPS is particularly relevant to the analysis of 'urban activities'. The significant issues identified in this section of the RPS are as follows:

3.1B MANAGING THE BUILT ENVIRONMENT

- 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 provides direction and guidance for managing these two issues through encouraging compact and strongly connected urban form, intensification of existing urban areas, and the integrated, planned and staged provision for urban development.

The relevant objectives and policies of the RPS are as follows:

URBAN FORM (REGION)

- OBJ UD1 *Establish compact, and strongly connected urban form throughout the Region, that:*
- a) *achieves quality built environments that:*
 - i. *provide for a range of housing choices and affordability,*
 - ii. *have a sense of character and identity,*
 - iii. *retain heritage values and values important to tangata whenua,*
 - iv. *are healthy, environmentally sustainable, functionally efficient, and economically and socially resilient, and*
 - v. *demonstrates consideration of the principles of urban design;*
 - b) *avoids, remedies or mitigates reverse sensitivity effects in accordance with objectives and policies in Chapter 3.5 of this plan;*
 - c) *avoids, remedies or mitigates reverse sensitivity effects on existing strategic and other physical infrastructure in accordance with objectives and policies in Chapter 3.5 and 3.13 of this plan;*
 - d) *avoids unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains; and*
 - e) *avoids or mitigates increasing the frequency or severity of risk to people and property from natural hazards.*

The proposal is not wholly consistent with OBJ UD1 as it would not contribute to a compact and strongly connected urban form, given it is urban development that, in my view, encroaches onto some of the most valuable soils of the versatile land resource of the Heretaunga Plains. In my opinion, it does not contribute to achieving compact, strongly connected urban form, and would result in ad hoc urban development that will result in pushing development further into the Plains Production Zone.

As to whether encroachment is "necessary" in my view, the alternative site analysis in the Logan Stone assessment accompanying the application⁶³, does not present sufficient basis for the site selection criteria adopted – particularly the requirement for the land to be at least 3.0 hectares in area in order to accommodate the proposal. The proposed temple and associated hardstand only occupies 0.6 ha, so it is not clear why 3.0 hectares is considered necessary.

I am therefore not satisfied that the proposal necessitates a minimum of 3ha such that a suitable alternative site cannot found within the urban limits that would accommodate the bespoke temple

⁶³ 'Hawke's Bay Temple Proposal', letter dated 19 October 2017, Logan Stone Limited, submitted as part of the documentation supporting the application.

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and its associated activities (especially given the ability to continue to use existing public open space for occasional events, much the same as occurs at present).

In terms of b) and c) above, it is accepted that the proposal is able to mitigate reverse sensitivity effects as detailed earlier in the assessment of effects in sections 6.1.3 and 6.2.3 of this report.

In terms of e) above, I am also satisfied the proposal will not result in an increase in the frequency or severity of risk to people and property from natural hazards as detailed earlier in section 6.2.3 of this report.

PLANNED PROVISION FOR URBAN DEVELOPMENT (HERETAUNGA PLAINS SUB-REGION)

OBJ UD4 *Enable urban development in the Heretaunga Plains sub-region, in an integrated, planned and staged manner which:*

- a) allows for the adequate and timely supply of land and associated infrastructure; and*
- b) avoids inappropriate lifestyle development, ad hoc residential development and other inappropriate urban activities in rural parts of the Heretaunga Plains sub-region.*

Principal reasons and explanation

Successful long term growth management is dependent on integrating long term land use, the infrastructure necessary to support this growth and the ability to fund and supply the infrastructure in a timely and equitable manner. In order to protect the productivity of rural land in the Heretaunga Plains, all inappropriate urban development should be avoided.

The proposal does not reflect integrated, planned and staged urban development in the Heretaunga Plains, as it is located beyond the defined urban limits in an area that has not been identified for this type of urban development. In my view, the proposal is contrary to OBJ UD4.

INTEGRATION OF LAND USE WITH SIGNIFICANT INFRASTRUCTURE (REGION)

OBJ UD5 *Ensure through long-term planning for land use change throughout the Region, that the rate and location of development is integrated with the provision of strategic and other infrastructure, the provision of services, and associated funding mechanisms.*

INTEGRATION OF TRANSPORT INFRASTRUCTURE WITH DEVELOPMENT (REGION)

OBJ UD6 *Ensure that the planning and provision of transport infrastructure is integrated with development and settlement patterns and facilitates the movement of goods and people and provision of services throughout the Region, while:*

- a) limiting network congestion;*
- b) reducing dependency on private motor vehicles;*
- c) reducing emission of contaminants to air and energy use; and*
- d) promoting the use of active transport modes.*

Principal reasons and explanation

Development that is not well integrated with transport infrastructure can result in increased car dependency, higher energy use, greater traffic volumes, and inefficient freight movement. Land use patterns that are integrated with transport infrastructure minimise energy use through network optimisation, and enables greater recognition of the importance of strategic transport networks in supporting the economic and social wellbeing, and health and safety, of people and communities.

No infrastructural capacity issues have been identified, therefore the proposed development can satisfactorily connect to Council's reticulated services for wastewater and the applicant has provided a report confirming sufficient on-site attenuation of stormwater can be achieved. Similarly, consent conditions have been offered by the applicant that would ensure the development can be integrated with the provision of transport infrastructure in this part of the District. The proposal is not inconsistent with OBJ UD5 and OBJ UD6.

PROVISION FOR URBAN ACTIVITIES (HERETAUNGA PLAINS SUB-REGION)

POL UD1 *In providing for urban activities in the Heretaunga Plains sub-region, territorial authorities must place priority on:*

- a) the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production, and*

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- 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).

In looking to locate an urban activity on this rural plains site, the proposal does not place priority on the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production, which the RPS indicates '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'.

Although there is an indicative industrial growth node in the vicinity of the site identified in HPUDS, this is not catering for the type of urban activity that is proposed, and in any case it is not clear when that area will be required for industrial growth or what the final boundaries will be. This is addressed further in the assessment of the proposal against the HPUDS document and comments from Council's Principal Advisor District Development later in section 10.3.1 of this report in respect of 'other matters' pursuant to section 104(1)(c) of the RMA.

ESTABLISHING URBAN LIMITS (HERETAUNGA PLAINS SUB-REGION)

POL UD4.1 *Within the Heretaunga Plains sub-region, district plans shall identify urban limits for those urban areas and settlements within which urban activities can occur, sufficient to cater for anticipated population and household growth to 2045.*

Principal reasons and explanation

Demographic changes to the population within the Heretaunga Plains sub-region will ultimately influence demand for land. Setting urban limits allows long term land use and infrastructure to be adequately managed and planned for, and provides certainty around where future development is planned to occur. Urban limits will ensure development consolidates within and around existing settlements which is critical to transitioning to a more compact urban settlement pattern in the Heretaunga Plains sub-region...

CONTAINING URBAN ACTIVITIES WITHIN URBAN LIMITS (HERETAUNGA PLAINS SUB-REGION)

POL UD5 *Except as provided for in POL UD6.1 (provision for papakainga and marae-based development), district plans shall include policies and methods to avoid inappropriate urban activities beyond urban limits established in accordance with POL UD4.1 within the Heretaunga Plains sub-region.*

Principal reasons and explanation

In containing urban development, it is essential that urban activities are avoided beyond the urban limits established in response to POL UD4.1.

The RPS directs Councils to set urban limits and to contain urban activities within those urban limits. A strong urban boundary around Hastings is evident in the Proposed Hastings District Plan in this locality with the North Eastern Collector corridor marking the delineation between the Hastings General Residential Zone and the Plains Production Zone. Places of assembly are deemed non-complying activities in the Plains Production Zone, whereas they are restricted discretionary activities in the Hastings General Residential Zone (or discretionary if performance standards cannot be met).

APPROPRIATE INDUSTRIAL GREENFIELD GROWTH AREAS (HERETAUNGA PLAINS SUB-REGION)

POL UD4.5 *Within the Heretaunga Plains sub-region, areas where future industrial greenfield growth for the 2015-2045 period have been identified as appropriate, subject to further assessment referred to in POL UD10.1, POL UD10.3, POL UD10.4 and POL UD12, are:*

- a) Irongate industrial area
- b) Omaha industrial area

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- c) Whakatu industrial area
- d) Tomoana industrial area
- e) Awatoto industrial area

The indicative locations of the above areas are shown in Schedule XIVb.

As already stated above, there is an indicative industrial growth node in the vicinity of the site identified in HPUDS and embedded in POL UD4.5 of the RPS (Tomoana industrial area). This policy clearly indicates that these growth areas have been identified as appropriate for future industrial greenfield growth (the timing and extent of which has not yet been determined in all cases). This indicative node is not earmarked for the type of urban activity that is proposed in this application (place of assembly). In that sense, the proposal is contrary to this stated policy direction. This is addressed further in the assessment of the proposal against the HPUDS document and comments from Council's Principal Advisor District Development later in 'other matters' in section 10.3.1 of this report.

STRUCTURE PLANS (HERETAUNGA PLAINS SUB-REGION)

POL UD10.1 In the Heretaunga Plains sub-region, development of urban activities within greenfield growth areas shall occur in accordance with a comprehensive structure plan. Structure plans shall be prepared when it is proposed to amend the district plan, and shall be included in the district plan to provide for urban activities.

STRUCTURE PLANS (REGION)

POL UD10.3 Notwithstanding Policy UD10.1, structure plans for any area in the Region shall:

- a) Be prepared as a single plan for the whole of a greenfield growth area;
- b) Be prepared in accordance with the matters set out in POL UD12;
- c) Show indicative land uses, including:
 - i. principal roads and connections with the surrounding road network and relevant infrastructure and services;
 - ii. land required for stormwater treatment, retention and drainage paths;
 - iii. any land to be set aside for business activities, recreation, social infrastructure, environmental or landscape protection or enhancement, or set aside from development for any other reason; and
 - iv. pedestrian walkways, cycleways, and potential public passenger transport routes both within and adjoining the area to be developed;
- d) Identify significant natural, cultural and historic or heritage features;
- e) Identify existing strategic infrastructure; and
- f) Identify the National Grid (including an appropriate buffer corridor).

As the area is earmarked for potential future industrial greenfield growth, it may ultimately be subject to a comprehensive structure planning process as required in POL UD10.1 and POL UD10.3 above. Any urban activity within this indicative industrial growth area should occur in accordance with a comprehensive structure plan, which is prepared when amendment to the district plan (a plan change) is triggered. Therefore, in my view, the proposal effectively circumvents the policy direction of the RPS in terms of the sequencing and timing of development in this general area for industrial growth sometime in the future.

SERVICING OF DEVELOPMENTS (REGION)

POL UD13 Within the region, territorial authorities shall ensure development is appropriately and efficiently serviced for the collection, treatment, disposal or re-use of sewage and stormwater, and the provision of potable water by:

- a) Avoiding development which will not be serviced in a timely manner to avoid or mitigate adverse effects on the environment and human health; and
- b) Requiring these services to be designed, built, managed or upgraded to maximise their ongoing effectiveness.

Principal reasons and explanation

Appropriate provision for sewerage, stormwater and potable water infrastructure is essential to people's wellbeing, health and safety and to environmental health, as well as ensuring adverse effects on the receiving environment are avoided or mitigated. Developments must manage the

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disposal and treatment of sewage and stormwater recognising the receiving environment (its receiving capacity, and limitations in terms of environmental quality). Servicing should be considered early in the development process. This will ensure that appropriate decisions are made as to how servicing is to be achieved, whether the proposed development is appropriate, and what site limitations may exist. This also enables consideration of water conservation and water efficiency methods.

Servicing of the proposed development has been adequately addressed in the application, and with appropriate consent conditions in place, the development is generally consistent with POL UD13.

Section 3.5 Effects of Conflicting Land Use Activities in the RPS is also relevant, as follows:

3.5 EFFECTS OF CONFLICTING LAND USE ACTIVITIES

ISSUE

The occurrence of off site impacts or nuisance effects, especially odour, smoke, dust, noise, vibrations, agricultural spray drift and increased traffic, caused by the location of conflicting land use activities.

OBJECTIVES

OBJ 16 For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.

OBJ 18 For the expansion of existing activities which are tied operationally to a specific location, the mitigation of off site impacts or nuisance effects arising from the location of conflicting land activities adjacent to, or in the vicinity of, areas required for current or future operational needs.

Explanation and Reasons

Where different land uses are located adjacent to each other there is always the potential for conflict. This is particularly the case where, for example, there is residential development adjacent to industrial or rural activities, or the use or disposal of organic material associated with rural activities. The proximity of these land uses to one another can cause conflict, predominantly in relation to odour, smoke, dust, noise and agricultural spray drift....

... Coupled with this is the need to recognise that the effects of an activity vary according to its location and the surrounding land use activities, e.g. an orchard may not cause any adverse effects to neighbouring orchards and farms, but may cause adverse effects to neighbouring residential areas. Regional Council staff respond to a large number of complaints related to discharges from activities sited in incompatible locations.

It is important that local authorities work together to resolve present issues and to ensure that predicaments surrounding conflicting land use activities do not arise from inappropriate planning decisions. This can be most efficiently and effectively achieved through the District Plan development process through techniques involving regulation such as zoning and buffering or the use of separation distances; or the use of non-regulatory methods such as information provision about the potential nuisances likely to arise.

Of particular concern to industries and rural businesses are complaints about existing activities made by new neighbours. The viability of existing business activities may be threatened as a result of effects which were not perceived as a problem when the activities were first established. Commonly this occurs when rural lifestyle subdivisions are allowed in traditional farming areas. Odours, noise, agricultural and fertiliser applications, and dust may be considered to be incompatible with the new adjacent activity. Similar situations arise when residential areas encroach onto industrial areas.

... These issues form the justification for management on the basis of "reverse sensitivity". The Environment Court has defined the term "reverse sensitivity" as the effects of the existence of sensitive activities on other activities in their vicinity, particularly by leading to restraints in the carrying on of those activities. The crux of this principle is that where an existing activity produces a situation that a new activity would likely regard as noxious, dangerous, offensive or objectionable, then the new activity should not be sited next to the existing one. Alternatively, safeguards should be put in place to ensure that the new activity does not curtail the existing one...

POLICIES

POL 6 PROBLEM-SOLVING APPROACH – FUTURE LAND USE CONFLICTS

To recognise that the future establishment of potentially conflicting land use activities adjacent to, or within the vicinity of each other is appropriate provided no existing land use activity (which adopts the best practicable option or is otherwise environmentally sound) is restricted or compromised. This will be primarily

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achieved through liaison with territorial authorities and the use of mechanisms available to territorial authorities, which recognise and protect the ongoing functioning and operation of those existing activities.

Explanation and Reasons

Policy 6 sets out an approach to avoid the existing level of problems arising from incompatible land uses becoming worse as a result of future decisions. In particular, this policy seeks to encompass the notion of "reverse sensitivity", recognising the rights of existing lawfully established activities.

Introducing a new place of assembly into an existing rural production environment and close to a significant industrial area, does introduce a potential future land use conflict and potentially restricts or compromises existing activities in the vicinity. As indicated in POL 6 above, the RPS largely leaves this issue to mechanisms available to territorial authorities to address. Consequently, the Proposed Hastings District Plan has objectives and policies addressing reverse sensitivity and the 'right to farm', particularly in the Plains Production Zone, and also includes associated rules making activities that conflict with the 'right to farm' a non-complying activity. Notably, the recent comprehensive review of the Hastings District Plan resulted in amendments that intentionally altered the status of new places of assembly to that of 'non-complying', sending a clear message that such activities are no longer considered compatible within the Plains environment.

Despite the above, my assessment of effects in sections 6.1.3 and 6.2.3 of this report concluded that reverse sensitivity effects in this case will be less than minor in most cases with the measures offered by the applicant including the offer of 'no complaints' conditions as a safeguard to ensure the Sikh Temple does not curtail existing activities. It is noted that the enforceability and wording of a no-complaints covenant would be critical if it is to be considered as adequate mitigation of potential reverse sensitivity effects. Where there remains outstanding potential for land-use conflict, this has since been addressed with the subsequent receipt of written approvals from the relevant affected persons, meaning effects on those persons can no longer be considered.

In that sense, the proposal adequately addresses the relevant objectives and policies in Section 3.5 of the RPS and is considered broadly consistent.

3.10 SURFACE WATER RESOURCES

ISSUE

The potential degradation of the values and uses of rivers, lakes and wetlands in Hawke's Bay as a result of:

... (c) Point source discharges which cause contamination of rivers, lakes and wetlands.

OBJ 27 *The maintenance or enhancement of the water quality of rivers, lakes and wetlands in order that it is suitable for sustaining or improving aquatic ecosystems in catchments as a whole, and for contact recreation purposes where appropriate.*

As previously outlined, the proposal includes a proposed stormwater system that will see all hardstand stormwater run-off treated via a swale along the south east boundary prior to discharge into the HBRC drain. Roof water runoff will bypass the swale and connect into a combined discharge point into the HBRC drain. No other discharge of contaminants to land that could enter water are anticipated. Given this, I am satisfied that the proposal is consistent with OBJ 27 in respect of surface water quality.

No other sections of the RPS are considered to be particularly relevant, and where there is some relevance, it is generally considered inconsequential to this assessment.

Summary and Conclusion

One of the pivotal tenets of the RPS with respect to land use is to avoid unnecessary encroachment of urban activities onto the versatile land of the Heretaunga Plains, by ensuring that urban growth needs are strategically planned and that ad hoc fragmentation of the resource does not occur.

Overall, given my assessment above, the proposal for a Sikh Temple to establish beyond the strongly defined urban edge of Hastings evident in this location, on 3.9 hectares of highly versatile Class 1 soils on the Heretaunga Plains that is not strategically identified for this purpose, is clearly contrary to the overarching direction of the RPS in terms of managing urban development within the Hawke's Bay region, particularly within the Heretaunga Plains sub-region.

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10.2.4 Hawke's Bay Regional Resource Management Plan (RRMP) (Section 104(1)(b)(vi))

In addition to the RPS, the Hawke's Bay Regional Resource Management Plan (RRMP) combines the regional plan. Relevant regional plan provisions of the RRMP to have regard to, include:

5.2 LAND

OBJ 38 *The sustainable management of the land resource so as to avoid compromising future use and water quality.*

POL 67 *To encourage landowners and occupiers to manage the effects of activities affecting soil (including both land use activities and discharges of contaminants onto or into land) in accordance with the environmental guidelines set out...*

The proposal involves establishing a place of assembly on 3.9 hectares of rural productive land. As stated in section 6.1.3 of this report, whilst I accept that the loss of soils in terms of the wider soils resource is not significant in terms of quantity, I do consider that the quality of the soils concerned, and their relative scarcity and finite nature (Class 1 land occupies less than 1% of New Zealand's land area), are such that even a small quantitative loss is disproportionately more significant than for other soil types. Further, in terms of the subject site alone, the proposal will result in the soils of that site being effectively lost to production. The proposed land use will irrevocably compromise its future use and is therefore inconsistent with OBJ 38 and POL 67 of the RRMP.

5.4 Surface Water Quality

OBJ 40 *The maintenance of the water quality of specific rivers in order that the existing species and natural character are sustained, while providing for resource availability for a variety of purposes, including groundwater recharge.*

POL 71 *To manage the effects of activities affecting the quality of water in rivers, lakes and wetlands in accordance with the environmental guidelines set out...*

As outlined above, the proposal includes a proposed stormwater system that will see all hardstand stormwater run-off treated via a swale along the south east boundary prior to discharge into the HBRC drain. Roof water runoff will bypass the swale and connect into a combined discharge point into the HBRC drain. No other discharge of contaminants to land that could enter water are anticipated. Given this, I am satisfied that the proposal is consistent with OBJ 40 and POL 71 in respect of surface water quality.

10.2.5 Proposed Hastings District Plan (Section 104(1)(b)(vi))

The Proposed Hastings District Plan (Proposed Plan) is very relevant to this application. As already determined previously in this report, the entire Proposed Plan now has legal effect and is treated as operative.

Part A of the Proposed Plan includes the strategic direction underpinning the Plan. Relevant Part A provisions are contained in Section 2.4 Urban Strategy, Section 2.8 Rural Resource Strategy and Section 2.9 Industrial Strategy, and are considered below. The Proposed Plan does not include a definition of 'urban activities', however the fact that it is required to give effect to the RPS, and the way places of assembly are controlled within the Proposed Plan (i.e. non-complying in rural areas and less stringently controlled in urban areas) means that the proposed Temple is an 'urban' activity for the purposes of analysis under relevant Proposed Plan objectives and policies.

SECTION 2.4 – URBAN STRATEGY**ANTICIPATED OUTCOMES**

UDAO4 *Urban development that avoids, remedies or mitigates adverse environmental effects, particularly in respect of the Heretaunga Plains Unconfined Aquifer and avoids the loss of valuable finite soil resources on the Heretaunga Plains in line with the Heretaunga Plains Urban Development Strategy.*

OBJECTIVES AND POLICIES

UDO1 *To reduce the impact of urban development on the resources of the Heretaunga Plains in accordance with the recommendations of the adopted Heretaunga Plains Urban Development Strategy (HPUDS).*

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- UDP1 To achieve containment of urban activities and provide for residential greenfield growth in the areas identified as appropriate within the Hastings Urban Development Study document through to 2015 and in HPUDS for the period beyond 2015 and through to 2045.
- UDO2 To ensure that new urban development is planned for and undertaken in a manner that is consistent with the matters outlined in the Hawke's Bay Regional Policy Statement.
- UDP3 Priority is to be placed on the retention of the versatile land of the Heretaunga Plains, the protection of the Heretaunga Plains Unconfined Aquifer from the adverse effects of urban development and the efficient utilisation of existing infrastructure.
- UDP4 To establish a sequence of the land that has been identified as appropriate for urban development.
- UDP5 To prepare comprehensive structure plans, in consultation with tangata whenua with Mana Whenua, landowners, infrastructure providers and the local community, for each identified urban growth area. Structure Plans shall be prepared prior to any plan change application to amend the zoning of these areas to facilitate urban development.

Explanation

The Heretaunga Plains Urban Development Strategy (HPUDS) is embedded in the Hawke's Bay Regional Policy Statement. The retention of the versatile land of the Heretaunga Plains for primary production and the efficient use of the existing infrastructure are the main drivers in establishing the desired settlement pattern in HPUDS.

As part of the implementation of HPUDS the Council has identified the sequence of the identified growth areas. This gives certainty for the community and also allows the Council to appropriately plan for the provision of infrastructure and keep the cost of development as low as possible. The sequence of the development areas could change if circumstances change as a result of the on-going monitoring of the supply and demand of the residential needs of the community.

Once this sequencing or prioritizing of growth areas is established, there is a need to begin structure planning for those identified growth areas that are priorities. A comprehensive structure planning process (as required by the Hawke's Bay Regional Policy Statement in Policies UD10.1 and UD10.2 covering the matters set out in UD10.3 and UD10.4 and prepared in accordance with POL UD12) must precede any plan change process to rezone these areas for residential development to ensure an integrated approach to infrastructure provision and that aspirations for development density are in accordance with this provision.

- UDO4 To retain and protect the versatile land resource that is the lifeblood of the local economy from ad hoc urban development
- UDP9 To avoid the unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains
- UDP10 To identify distinct and clear boundaries between the urban area and the Plains Zone.
- UDP11 In the absence of distinct physical boundaries such as roads or rivers, require the provision of greenbelts to maintain separation distances between the Urban and Plains environment and also to separate distinctive urban areas.

Explanation

Studies have shown that primary production is and will continue to be the force behind the local economy. Feedback from the community makes it clear that there should be greater recognition given to the importance of the versatile land of the District and the protection of them from land uses that are not associated with primary production. There has been a perception by the community of an on-going creep of urban development onto the Plains; and the Council has ensured that the identified greenfield growth areas are accompanied by clear and distinct boundaries which will be able to be readily defended from further expansion proposals in the future ...

Consistent with the RPS, the Urban Strategy in the Proposed Plan embeds the settlement pattern envisaged in HPUDS. It places priority on retention and protection of the versatile land of the Heretaunga Plains, so focuses on containment of urban activities and reducing the impact of urban development on that resource from unnecessary expansion and ad hoc development. To achieve this, the Proposed Plan seeks identification of distinct and clear boundaries between the urban area and the Plains Zone, and on identifying areas that are appropriate for future development. The objectives and policies also clearly anticipate sequencing/prioritizing of the urban growth areas identified through HPUDS, as in the RPS, and an expectation that release of land for this purpose will be preceded by the preparation of comprehensive structure plans prior to any plan change to amend the zoning to facilitate such development.

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The proposal to establish a new urban activity ('place of assembly') beyond the defined urban edge of Hastings, on 3.9 hectares of highly versatile Class 1 soils, and on land that has not been identified for future urban development of this nature, is clearly ad hoc development and contrary to these objectives and policies, and is therefore contrary to the overall Urban Strategy for Hastings District as contained in the Proposed Plan.

SECTION 2.8 – RURAL RESOURCE STRATEGY

ANTICIPATED OUTCOMES

- RRSAO1 *The continued availability, development and utilisation of the life supporting capacity of the Hastings District's productive land resources for a range of activities.*
- RRSAO4 *A diversity of activity in the rural area.*
- RRSAO5 *Maintaining and enhancing rural character and amenity including avoiding reverse sensitivity effects.*

OBJECTIVES AND POLICIES

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

Explanation

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...

- 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.*

Explanation

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 (see Section 2.4 Urban Strategy).

The proposal and its scale are considered contrary to the above objectives and policies and therefore the overall Rural Resource Strategy for Hastings District set out in the Proposed Plan, in that it does not promote or complement the resources of the rural area, is not directly related to land-based production or rural services, and represents sporadic conversion to an activity that will individually or cumulatively reduce the life-supporting capacity and economic use of the soil resource and its availability for future generations (at the site level, and also at the wider soils resource level).

The Proposed Plan instead directs and encourages such activities to locate in urban areas. In my view, the proposal is a classic manifestation of the significant pressure from urban activities to expand onto rural land close to urban areas because of the various advantages it offers, including lower land costs relative to urban land.

It is noted that the Stantec Report provided in support of the application (amended in response to a further information request) confirmed that, with recommended measures in place, the proposal will not adversely affect the efficiency of the road network.

SECTION 2.9 – INDUSTRIAL STRATEGY

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2.9.2 THE STRATEGY

2.9.2.4 Future Growth Areas

The Heretaunga Plains Urban Development Strategy (HPUDS) considered the future industrial needs of both Napier and Hastings. One of the policies outlined in HPUDS is that "in locating future industrial land it must be in suitable areas to avoid sensitivity issues and maximise efficient use of existing and planned infrastructure". HPUDS has identified the growth needs of the District through to 2045. It has taken a conservative approach to considering the industrial growth needs and adopted the highest ten year uptake rate (4.4 hectares per year) from the 2008 Industrial Demand Study to project the needs through to 2045. Future need has been considered under the three categories of Dry, Service and Wet Industry.

SITES DEEMED SUFFICIENT TO CATER FOR THE GROWTH NEEDS OUT TO 2045			
LOCATION	CAPACITY (HA)	TIMING	POTENTIAL ACTIVITIES
Irongate Stage 1	35.4	Now	Dry Industry
Irongate Stage 2	36.2	After Irongate 1	Dry Industry
Omahu Stage 1	13	2015-	Service Industry
Omahu Stage 2	23	After Omahu 1	Service Industry
Tomoana/Whakatu	60	After Whakatu full	Wet Industry

SITES DEEMED SUFFICIENT TO CATER FOR THE GROWTH NEEDS OUT TO 2045			
LOCATION	CAPACITY (HA)	TIMING	POTENTIAL ACTIVITIES
Irongate Stage 1	35.4	Now	Dry Industry
Irongate Stage 2	36.2	After Irongate 1	Dry Industry
Omahu Road Stage 1	13	2015	Service Industry
Omahu Road Stage 2	23	After Omahu Stage 1	Service Industry
Tomoana/Whakatu	60	After Whakatu full	Wet Industry

Unlike the 2003 Industrial Strategy, HPUDS identifies that the future demand for land for wet industry may be accommodated adjacent to the existing Tomoana industrial area and/or existing Whakatu industrial area. These potential expansion areas both have recognised soil values. This is an issue that will require careful consideration as much of the infrastructure that is suited to industry is already in place in these areas. HPUDS has identified that the above sites are deemed sufficient to cater for the growth needs out to 2045 which is a period well beyond the lifespan of the District Plan...

ANTICIPATED OUTCOMES

- ISA02 A reduction in the loss of versatile and finite soil resources on the Heretaunga Plains from ad hoc industrial development.
- ISA03 Mitigation or avoidance of any significant adverse effects of industrial development on other more sensitive adjoining activities.

OBJECTIVES AND POLICIES

- ISO2 To protect the finite soil resource of the Heretaunga Plains from ad hoc development through the strategic location of future industrial areas.
- ISP3 Future growth areas shall be consistent with Heretaunga Plains Urban Development Strategy (HPUDS).

Explanation

HPUDS is the region's key strategic document for planning of future growth and the consequential protection of the soil resource. Future industrial development shall be consistent with the key components of HPUDS to prevent ad hoc development on the District's valuable soil resource.

- ISP5 Future industrial land is to be located in suitable areas to avoid sensitivity issues with adjoining activities.

Explanation

Industrial activities can potentially create high levels of conflict with adjoining land uses. New industrial areas will be located away from activities where there are likely to be conflict, if such conflicts cannot be avoided,

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remedied or mitigated. The use of setbacks, buffer areas, screening and appropriate landscaping are encouraged where potential conflicts may occur.

In line with the direction in the Urban Strategy and Rural Resource Strategy of the Proposed Plan (outlined above), the Industrial Strategy provisions similarly elevate the importance of the finite soil resource of the Heretaunga Plains and the need to protect it from ad hoc development through the strategic location of future industrial areas.

Future industrial growth in the vicinity of the site is indicated in the Proposed Plan ('Tomoana/Whakatu') as appropriate for future wet industry expansion. The area is earmarked to proceed only after spare capacity is consumed at Whakatu (the timing and extent of which has not yet been determined but is likely to be in the long term). Essentially, if the subject land is earmarked to be rezoned in the future, the intent is clearly that it will be rezoned for industrial purposes, not for urban activities generally.

The Tomoana/Whakatu industrial area is also the only area currently identified for future wet industry growth, which maximises efficient use of existing and planned infrastructure to support such industry. In that sense, the implication is that this area should remain in primary production uses that reflect its highly versatile soils for as long as possible until it is needed for industrial uses. To prematurely convert from productive use pre-emptively removes it from the future industrial land supply. This is addressed further in the assessment of the proposal against the HPUDS document and comments from Council's Principal Advisor District Development, later in section 10.3.1 of this report in respect of 'other matters' pursuant to section 104(1)(c).

Given this, in my opinion, the proposal is not only contrary to the policy direction set out in the Urban Strategy and Rural Resource Strategy, but also the Industrial Strategy for the Hastings District as set out in the Proposed Plan.

Relevant provisions in Section 6.1 Plains Strategic Management Area and Section 6.2 Plains Production Zone, are addressed as follows:

SECTION 6.1 – PLAINS STRATEGIC MANAGEMENT AREA

6.1.1 THE PLAINS ENVIRONMENT

...

The Plains Environment is central to the economic and social wellbeing of Hastings and the wider Hawke's Bay community...

The characteristics of the Plains area are easily identified. It is an open flat landscape that is a patchwork of orchards, vineyards, crops and grazing. The productive nature of the area is readily apparent through the number of small stalls selling produce or through the continual change of crops grown on the cultivated properties. Cropping and orchard properties are generally large in area, but there are also a number of smaller units in close proximity to the urban boundary. Some of these are used for lifestyle purposes which can lead to a situation of reverse sensitivity (complaints against the effects arising from the productive use of the land). This is a situation which this Plan seeks to avoid.

The Plains environment is open and largely devoid of buildings not associated with the productive potential of the land. However, there are small pockets of industry that have developed to service the surrounding land based primary production land. It is intended that the future use of the Plains environment should avoid activities that compromise the ability to use the soils for food production.

The Plains environment has a large component of versatile land. The soils that characterise this versatile land are nationally significant and provide maximum flexibility in terms of the type of crops that can be grown. Their flexibility will also ensure that land based primary production industry will be able to respond rapidly to changing technologies or crops types demanded in the future. In other words, retention of the versatile soils will assist in 'future proofing' the horticulture industry.

The value of this versatile land to the local economy is well proven with the addition of a further food processing plant to Hastings. The community has also signalled that the protection of this land is of paramount importance and its value to the region is recognised in the Regional Policy Statement. Through the process of drafting the Heretaunga Plains Urban Development Strategy, there was significant support for preventing further urban encroachment onto the versatile land of the Heretaunga Plains. The District Plan will therefore continue with its policy of protecting the land from subdivision and development that is not for the purposes of food production. There is no reason to reduce the minimum subdivision size of lots in the areas where versatile land is identified. It is intended that future generations of Hastings ratepayers will have similar levels of productive rural land available to them as we currently have. This will be achieved by both maintaining the minimum lot size for subdivisions and also restricting the amount of building on

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versatile land to that which is absolutely necessary to support our primary industry. The Council is also identifying clear urban/rural boundaries for its future urban growth options.

It is intended that the Plains Strategic Management Area will protect the versatile land of the Plains so that they can continue to meet the economic needs of the community upon which the local economy is built. Being in such close proximity to the main urban areas of both Napier and Hastings places significant pressure on the Plains resources, and also contributes towards their versatility. This is particularly so for land that is adjacent to the main transport routes.

Part of the protection of the Plains will be maintaining the characteristics that set the Plains apart from other areas of the District. This will include the openness of the Plains, the non-commercial nature and a building scale that is compact and of low intensity. The outcome that is being sought is to maintain the versatile land of the Plains by ensuring that growth needs are strategically planned and ad hoc erosion of the land resource does not result...

ANTICIPATED OUTCOMES

- PAO1 The area of land available for land based primary production purposes is not reduced by ad hoc and unplanned development.
- PAO3 Sufficient areas of land used for crops and orcharding to sustain the local economy.
- PAO4 The number of incompatible activities and sites in the Plains environment zones is minimised.

As stated in the introduction to this section of the Proposed Plan, the outcome that is being sought is to maintain the versatile land of the Plains by ensuring that growth needs are strategically planned and ad hoc erosion of the land resource does not result. The Proposed Plan therefore continues with the policy of protecting the land from subdivision and development that compromise the ability to use the soils for food production. The provisions of the Proposed Plan seek to achieve this by restricting the amount of building on versatile land to that which is necessary to support primary industry, and through identifying clear urban/rural boundaries. This application is contrary to that intent.

OBJECTIVES AND POLICIES

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

Explanation

There are a number of buildings on the Heretaunga Plains that have been constructed on the basis that they service some permitted land use, that together with their curtilages and service areas, have large footprints and therefore utilise large areas of versatile soils. Others have found their way into the Zone by means of community facility provisions. The Council has become increasingly aware of the importance of the versatile Plains soils and the part that they play in the regional economy. As a result the Council has adopted a sustainability approach to this resource which is clearly enunciated in the vision for the District. The approach is to ensure that only the buildings that are directly associated with the productive nature of the Zone should be permitted and those that meet this criteria need to be restricted to a scale that will not have adverse effects on the area of versatile soils available for production on the block. If the development reaches this level it should be looking to relocate to a suitably zoned site. The use of land within the Plains Production Zone for activities other than land based production (commercial or industrial) also undermines the Zones where these activities are specifically provided for.

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

Explanation

There are a number of characteristics which contribute to the character and amenity of the Plains environment. There is an appreciation by the community of these characteristics and what sets the Plains apart from other areas of the District. These include the open nature of the environment, the producing orchards, vineyards and cropping, the small number of large buildings, and the views through to the hills that form the backdrop to the Plains. There are times where buildings are required on the Plains Zone but they should not be of a scale that makes them stand out in their environment.

Achieving sustainable land based production will maintain the much valued characteristics of the Plains. Large out-of-zone commercial and industrial activities in the Plains environment are not considered to add or contribute to the open nature of this Zone.

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The proposal is contrary to these objectives and policies in that the proposed activity and associated buildings are not linked to land-based production in any way.

The proposal involves a large single building for worship purposes, centrally positioned on the site, plus a small library and residential dwelling and, although there is a considerable area of associated hardstand, much of the site will remain open in nature. However, the temple is not linked to land based production and will stand out by virtue of its scale and visual appearance, as well as the nature and scale of activity taking place on the site, which are dissimilar to that of a packhouse, coolstore or winery building which are the types of large buildings that are anticipated and provided for within the Plains environment (evident in the respective objectives, policies and associated rules for such activities). Similar to commercial and industrial activities referred to in the explanation to PSMP3 above, I am also of the view that a Sikh Temple in this location would not add or contribute to the open nature and amenity of this zone, but would not compromise it. Therefore, the proposal is not entirely inconsistent with PSMP3.

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

Explanation

The Heretaunga Plains Urban Development Strategy (HPUDS) identified that future urban development must be cognisant of the value of the Plains versatile resource to the District and that it was important to identify distinct urban boundaries. HPUDS has recommended where growth is appropriate and where it is not. The Regional Policy Statement has implemented these recommendations.

In my view, the proposal represents a creep of urban activities into the Plains Production Zone and the versatile land resource, in a location where there is a clear and distinct urban boundary established by the proposed 'North Eastern Collector' corridor. The proposal is therefore considered contrary to PSMP5.

SECTION 6.2 – PLAINS PRODUCTION ZONE

INTRODUCTION

The Plains Production Zone recognises the growing powerhouse of the District. It is the focus for cropping, viticulture and orcharding in the region and in these activities it is nationally significant. The key to its productivity is the versatile land resource which provides flexibility into the future for changing productive land uses. Retaining this land for production purposes is a principle that forms one of the Council's cornerstones for sustainability of the District's natural and physical resources. While land based primary production is the primary focus of the Plains production Zone it is recognised that other rural production activities that do not rely on the soil resource may also be appropriate in certain circumstances.

The Plains Production Zone surrounds the urban areas of Hastings, Havelock North, and Flaxmere and also includes parts of the Esk, Tutaekuri, and Ngaruroro river valleys. This land is intensively used and safeguarding the natural soil resource on the Plains with consequential benefits for productive capacity, is crucial to the future wellbeing of the District. The Council has clearly articulated this in its Vision which states that Hawke's Bay will be the premier land based production region of the South Pacific." ...

Tangata Whenua with Mana Whenua have a unique relationship with the land of the 'Plains'. As kaitiaki of this resource, Tangata Whenua with Mana Whenua have a responsibility to ensure that the versatile soils of the Plains are available to future generations.

This ethic of sustainable use of the Plains versatile land resource has also been endorsed by the wider community as it is recognised that this land plays a significant role in maintaining the economy of the District and, as a consequence, the wellbeing of the community. The economic prosperity of the District will continue to rely on the productive nature of this land into the future, with the character of the use possibly changing as a result of adaptation to climate change.

For this reason the Plains Production Zone identifies and recognises the area of the District that contains the versatile land which the District relies on...

ANTICIPATED OUTCOMES

PPAO1 The sustainable management of the versatile land of the Heretaunga Plains.

PPAO2 Recognition and acceptance of the level of effects associated with the sustainable management of land based primary production activities on the Heretaunga Plains.

PPAO3 Avoidance or mitigation of adverse effects on adjoining activities, including reverse sensitivity effects.

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PPAO6 Retention of the open character, land based primary production activities, and low scale of buildings that comprise the amenity of the Plains Production Zone.

PPAO7 Recognition of long established infrastructure and community facilities.

OBJECTIVES AND POLICIES

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 Explanation

There have been a number of instances where buildings have impacted on the versatile land of the Plains Production Zone as a result of their scale. Some of these buildings are still associated with food production such as those used for intensive rural production activities. These are subject to resource consent with assessment of the effects on the soil resource. While it is beneficial to allow for industrial or commercial activities that add value to the produce coming off the land it is important that these activities are not allowed to reach such a scale as to impact on the versatile soils that the activity originally relied on at its inception.

Note that this policy does not apply to buildings accessory to land based primary production, which are covered by Policy PPP4.

It is relevant that buildings accessory to land based primary production these buildings can become an issue if their use becomes redundant. While there is value in providing for the re-use of these buildings, the situation should not be allowed where farm buildings are constructed and then their uses change within a relatively short time period.

In relation to PPO1, while the proposal does not result in the fragmentation of the site (as no subdivision is proposed), the highly versatile, scarce and finite Class 1 soils on this land would be compromised. The proposed building coverage far exceeds that anticipated and permitted for the Plains Production Zone (being 35% of net site area or 1,500m² whichever is the lesser – Standard 6.2.5J) and is therefore compromising the versatile land through greater than expected building coverage. This is further reinforced through PPP3 which aims to limit the number and scale of buildings impacting on the versatile soils of the district – soils that have been identified as nationally significant. Therefore, in my view, the proposal is clearly contrary to PPO1 and PPP3.

PPP7 Establish defined urban limits to prevent ad hoc urban development into the Plains Production Zone.

Explanation

The Heretaunga Plains Urban Development Strategy (2010) has identified the importance of the Plains versatile soils to the community. It has recommended that clear urban boundaries be established to prevent the creep of activities onto the versatile soils. The Regional Policy Statement requires through policy, that District Plans shall identify urban limits within which urban activities can occur sufficient to cater for anticipated population and household growth to 2045.

The proposal is not located within an area identified for future urban growth and is therefore not considered consistent with PPP7 in that it leapfrogs the strongly defined urban limits and buffer strategically provided by the proposed 'North Eastern Collector' corridor. Whilst this area may lie within proximity of a future industrial growth node, it is unclear how far that area will extend, or if or when it will be subject to structure planning and a plan change to re-zone and develop it for that purpose – indication from Council's Principal Advisor District Development are that this will most likely be in the long-term. In any case, this node has been earmarked for future industrial growth not for the type of urban activities such as that proposed. Therefore, this proposal results in ad hoc urban development pushing further into the Plains Production Zone, which is inconsistent with PPP7.

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.

Explanation

The Plains Production Zone is topographically flat but does have a distinctive rural character. This relates to the openness of the environment and to the low scale of any development within the Zone. Generally the property sizes within the Plains area are of a size that supports production. These features help to accentuate the flat and open topography of the Plains.

Much of the site will remain open in nature. Nevertheless, as stated above, the temple will stand out by virtue of its scale and visual appearance, as well as the nature and scale of activity on the site,

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which are dissimilar to the types of large buildings that are anticipated within the Plains production environment. I am of the view that it will retain, but will not add or contribute to the rural character and amenity of the Plains Production Zone as a whole. In this sense, the proposal is largely consistent with PPO3 but somewhat inconsistent with PPP13.

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.

Explanation

The District Plan introduces a range of Standards to protect adjoining properties from the effects of activities carried out on any site. The standards reflect the present agricultural nature of the Zone, and the management standards accepted in the Zone. In many cases these have been established over a long period of time and have evolved through a number of District Plan review processes.

My assessment of effects in sections 6.1.3 and 6.2.3 of this report, including consent conditions offered by the applicant in terms of a 'no complaints' covenant, along with subsequent written approvals from affected persons, determines that the proposed activity will manage adverse effects on existing lawfully established land uses to a level that is less than minor. Therefore, the proposal is consistent with PPP14.

PPP15 Noise levels for activities should not be inconsistent with the character and amenity of the Plains Production Zone.

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.

The applicant has supplied an acoustic report (prepared by EARCON) in support of the application with recommendations in terms of noise management. My assessment of effects in sections 6.1.3 and 6.2.3 concludes that, with the mitigation offered by the applicant in terms of controlling construction noise, recommendations in the EARCON acoustic report, and hours of operation offered for activities that may involve noise (i.e. those other than prayer), the noise levels associated with the establishment and ongoing operation of the proposed activity are expected to be able to comply with the noise limits of the Proposed Plan. Therefore, noise levels are not anticipated to be inconsistent with the character and amenity of the Plains Production Zone, and the proposal is likely to be consistent with PPP15.

PPO4 To enable the operation of activities relying on the productivity of the soil without 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.

Explanation

The Council has long adopted the 'right to farm' principle in the rural areas of the District. This has arisen from the occupation of some of the smaller land holdings for lifestyle purposes. The 'right to farm' principle makes it clear to those property owners new to the rural environment that there are farming management practices that by their nature and timing might be considered nuisances in the urban context but are entirely appropriate for the efficient and effective functioning of land based primary production activities.

Again, written approvals have been provided by affected persons on the adjoining Plains sites, and any potential reverse sensitivity to nearby rural and industrial activities can be addressed through the imposition of a 'no-complaints' covenant (in conjunction with the central positioning of the temple on the site and use of appropriate building materials to buffer and somewhat insulate the activity). This is considered sufficient to ensure that the potential for reverse sensitivity will be mitigated to the extent that it will be less than minor. Therefore, the proposal is considered generally consistent with PPO4 and PPP16.

Other relevant provisions in the Proposed Plan are found in Section 26.1 Transport and Parking and Section 27.1 Earthworks, and are addressed as follows:

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SECTION 26.1 - TRANSPORT AND PARKING

ANTICIPATED OUTCOMES

- TPAO1 A safe and efficient District Transport Network.
- TPAO2 A transportation network that actively encourages alternative transport modes.
- TPAO3 Vehicle parking, access and loading facilities that are effective, safe and efficient in meeting the needs of individual activities.

OBJECTIVES AND POLICIES

- TPO1 Ensure that land uses and new subdivision 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.

The proposal will be connected to the existing transportation network through a new access point onto Richmond Road, and this connection can be located and designed to cause to provide for the efficient and sustainable movement of people and goods in a safe manner. The proposal is therefore accepted as being consistent with TPO1.

- TPP1 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.

Explanation

There is a need to take into account the effects of development and subdivision on the transport network to ensure that development is compatible with the function of the road. An integrated transport network will be accessible to all users, create good connections between residential areas and places of employment and commerce, and maximise opportunities for walking cycling and public transport. The consideration of the effects will be achieved through including suitable criteria in the assessment of subdivision and Resource Consents. In order to ensure that land uses are able to be appropriately assessed against the road network there is a need to assess the capability and role of the roads within the District. This has resulted in the development of a road hierarchy which identifies the function of the road and allows a judgement to be made on what level of effects it is able to accommodate.

- TPP3 Increase the use of sustainable transport modes to mitigate the effects of traffic.

Explanation

Transport modes that are sustainable, such as walking, cycling and public transport, need to be encouraged as they reduce the amount of traffic on the road network and consequently result in improved environmental effects.

The proposal (through a response to further information requests) includes an offer a condition for payment towards new provision for walking and cycling to the site from Tomoana Road as mitigation. The proposal is therefore accepted as being consistent with TPP1 and TPP3.

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

Explanation

A sustainable transport network for Hastings District is one where proper consideration is given to the relationship between land use and transport effects, including the long term consequences. The strategic and arterial routes are vital to the long term growth of the District and therefore must be protected against development that would affect their efficiency and effectiveness.

The Stantec Report (amended in response to further information request) includes conditions offered by the applicant for a Construction Management Plan and for payment of a lump sum by the applicant towards planned safety improvements to the transportation network in the vicinity of the subject site. With those in place, Council's transport engineers are satisfied that the proposal would not result in inappropriate development that could damage the strategic and arterial transport networks, and the proposal is therefore generally consistent with TPP4.

- 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.

The proposed access point for the proposed activity is proposed to be of a width and location that will suitably cater for the proposed activity. The vehicle accesses are also considered to be a sufficient distance from road intersections and there is ample visibility in both directions to the site so as not to result in traffic safety concerns from cars entering and existing the site. Therefore, the proposal is consistent with TPP6.

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- TPO2 To establish and maintain an efficient and effective parking regime that meets the present and future parking needs of the community.*
- TPP8 Require land owners and occupiers to provide off-street parking, access and loading facilities which are appropriate to the demands of the activities carried out on their sites and which do not negatively impact on the amenity of the streetscape.*
- TPP10 Establish appropriate design standards for car parking spaces, and parking and loading areas.*

On-site parking for 105 vehicles and a loading space, is proposed and would be designed to comply with Proposed Plan standards thus meeting the requirements of the Plan and the needs of visitors to the proposed temple. It is anticipated that demand can be easily and safely accommodated on-site. Therefore, the proposal is consistent with TPO2, TPP8 and TPP10.

SECTION 27.1 – EARTHWORKS MINERAL AGGREGATE AND HYDROCARBON EXTRACTION

ANTICIPATED OUTCOMES

- EMAO2 The life-supporting capacity of soils is safeguarded.*
- EMAO4 The amenity of the environment, including adjoining land uses, is not compromised by earthworks or mineral extraction.*
- EMAO5 Flood protection of rivers is sustainably managed including the reduction of sedimentation into waterbodies, watercourses and riparian areas.*

OBJECTIVES AND POLICIES

- EMO1 To enable earthworks within the Hastings District while ensuring that the life-supporting capacity of soils and ecosystems are safeguarded and adverse effects on landscapes and human health and safety are avoided, remedied or mitigated.*

The proposal is generally consistent with EMO1 in that there is no earth proposed to be removed off-site.

- EMP1 Require the repasture or revegetation of land where vegetation is cleared in association with earthworks, prospecting and extraction of aggregates or other minerals.*

The proposal is generally consistent with EMP1 as the exposed areas are primarily associated with site clearance to provide for the construction of building platforms, hardstand areas and a stormwater attenuation area, and therefore revegetation is not deemed necessary.

- EMP3 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.*

The proposal involves alteration through stockpiling and re-spreading of topsoil on the site and is also somewhat inconsistent with EMP3 in that the development would effectively remove the ability of the site to support a range of productive land uses.

- EMP4 Allow earthworks and the prospecting of minerals where the adverse effects on the environment will be minor.*
- EMP5 Control earthworks, exploration and mining activities 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 and mitigated.*

Earthworks are solely related to the construction period and are therefore temporary, and the land is flat in topography. The applicant has proposed to provide a Construction Management Plan for Council certification, which will address construction noise and dust (amongst other things) over the temporary construction period. This is considered sufficient and suitable to avoid, remedy or mitigate any actual or potential effects arising as a result of the proposed earthworks and are consistent with 'normal' practice employed for such works.

With conditions requiring a Construction Management Plan, the adverse effects as a result of the proposed earthworks can be controlled and of a less than minor nature, and therefore consistent with EMP4 and EMP5.

Objectives and Policies Conclusion

The weighing up 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 Proposed Plan as a whole, rather than whether each objective and policy is individually satisfied. As such, it is the overall intent of the above objectives and policies that has been assessed in this case.

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It is accepted that parts of the proposal are consistent with what the relevant objectives and policies are seeking to achieve. However, overall, the proposal is clearly contrary to the objectives and policies of the Proposed Hastings District Plan in my view, particularly the overarching direction evident in the urban, rural resource and industrial strategies underpinning the Proposed Plan in Part A.

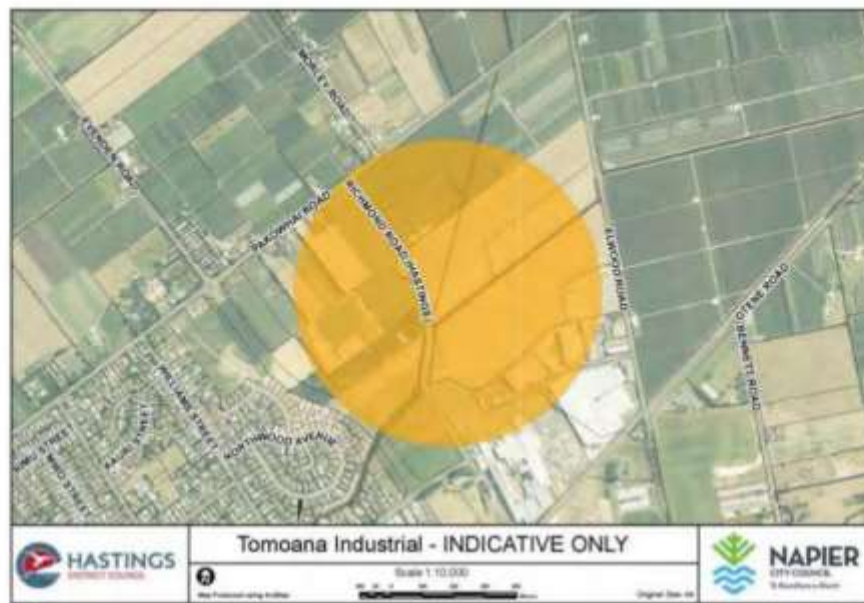
10.3 Section 104(1)(c) – Other Matters

Section 104(1)(c) makes provision for regard to be had to 'any other matters the consent authority considers relevant and reasonably necessary to determine the application'. The following are 'other matters' that are considered relevant and reasonably necessary to have regard to in order to determine this application.

10.3.1 Heretaunga Plains Urban Development Strategy (HPUDS2017)

The Heretaunga Plains Urban Development Strategy 2017 ('HPUDS2017') was adopted by the three partner councils (i.e. Hastings District Council, Hawke's Bay Regional Council and Napier City Council) in early 2017. HPUDS2017 is a refreshed version of the original Strategy adopted in 2010, which has been the subject of a review process during 2016.

Tomoana/Whakatu was identified in the HPUDS2017 as an indicative industrial growth area (refer map below):



HPUDS2017 staging of future industrial land release was indicated as follows:

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Table 2: Business Land Staging 2015-2045

Location	Capacity (ha)	Timing	Potential Activities
Napier Business Park – north of Prebensen Drive and west of the Hawke's Bay Expressway	30	2009 -	Technology
Napier – Redevelopment of existing sites and Awatoto area	36	2009-	Service Industry
Irongate	99.5	2015 -	Dry Industry
Omahu Road	56	2015 -	Service Industry
Tomoana / Whakatu	60	After Whakatu full	Wet Industry
Total¹	281.5 ha		

¹ This is approximately 56.5 hectares more than projected demand for the 30-year period, and four times the projected demand over the next 10 years. At the average projected uptake rate, this represents around 40-45 years supply.

In this respect, HPUDS2017 noted the following:

"...some of the expansion will conflict with recognised soil values, particularly the Tomoana/Whakatu expansion. This is an issue that will require careful consideration as much of the infrastructure that is suited to industry is already in place in these areas. There has been a developing trend for processing industries to want to locate within the rural areas and it is more appropriate that this industry should locate in established industrial zones. This would offset to some degree the effect of industrial zones on the soil resource."⁶⁴

A review of the application has been undertaken by Council's Principal Advisor District Development, Mark Clews. The following summarises his comments in respect of this proposal:

"HPUDS aims to manage urban growth on the Heretaunga Plains taking a long-term view of land use and infrastructure for the next 30 years to 2045. A key principle is to ensure that settlement avoids versatile soils, sensitive natural environments and significant landscapes. This requires a transition from largely greenfields development to intensification over time. As part of this transition HPUDS identifies specific areas for greenfields development out to 2045 and seeks to limit such development largely to these areas.

Although pre-dating HPUDS, this approach is reflected in the proposed North Eastern Connector limiting the north eastern extent of greenfield residential growth in vicinity of the subject site. Other more recently proposed greenfield growth areas on the plains in HPUDS2010 have also essentially been limited to rounding off or filling in of the urban boundary in order to minimize versatile land impacts.

The north western side of the proposed North Eastern Connector on the other hand was identified in the 2003 Hastings Industrial Expansion Strategy (IES) for future industrial growth, notwithstanding the highly versatile and large intact soil resources. Both areas have been carried through into HPUDS 2010 and the 2017 Review, so although the subject site is currently zoned Plains Zone, the Council's clear and long standing strategic intent is for it to be part of a future industrial zone expansion in this locality."⁶⁵

Mr Clews goes on to say:

"In terms of industrial land, the 2016 HPUDS Review concludes that, while acknowledging the difficulties in delivering market ready industrial land, there would appear to be sufficient short to medium term supply (and even long term supply) either available or in the planning process, particularly with the re-development of existing stock, and the then current (2016) plan changes to rezone additional land in the Omahu and Irongate industrial areas in Hastings. This was summarised in HPUDS table 2.... It was again noted that industrial development at Tomoana/Whakatu should only occur after the existing Whakatu zone was approaching capacity.

Again, because structure planning had not been completed for Tomoana, HPUDS2017 identifies the area as a future growth node by way of an indicative circle in the accompanying maps..."⁶⁶

And further:

"A submission however, was received to HPUDS 2017 requesting more defined mapping than the indicative circle. The Officers report to the Joint Hearings Committee noted that from a HPUDS perspective there is no dispute that the Tomoana area is generally suitable as an industrial growth node. Drawing a boundary however, even if indicative, suggests a defined area is required to be converted from plains use to industrial use to meet demand (at a predetermined point in time), and secondly some appreciation of where and how interface and servicing issues can be addressed, at least at a high level. It noted that HPUDS identifies it as being the logical

⁶⁴ pg 23 of HPUDS 2017

⁶⁵ pg 2 of Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

⁶⁶ pg 15 of Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

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choice for wet industry at Whakatu, and later Tomoana, and that expansion at either Tomoana or Whakatu is planned only after spare capacity is consumed at Whakatu.

The Joint Hearing Committee, in their decisions on submissions, noted that zone expansions for dry industry are currently underway at Irongate and Omaha Road and so predicted uptake at Whakatu would be tempered with the knowledge that expansion at Omaha and Irongate is likely to see relatively generous levels of land supply over all (54 ha over the projected need). The committee concluded that at that time it would be difficult to determine with any degree of accuracy, the forward land requirement upon which to draw justifiable urban boundaries and there would also be interface and servicing issues that come into play.

Against this background, the following key points were made by the Joint Committee:

- Uncertainty over the area required given surplus industrial land already identified/zoned beyond the projections
- Highly versatile land conversion to industrial use which will be of interest to other parties seeking to protect such land
- Earlier preliminary Structure Plan indication of different boundary lines to those proposed (by the submitter) for landscape/amenity and flooding reasons.
- Servicing issues have not been fully developed that may impact on land requirements.

The Joint Hearings Committee therefore concluded that overall it would not be prudent to raise expectations by determining a more precise boundary at this time.⁶⁷

In summary:

- Council's long standing strategic intent is for further industrial expansion to occur in the Tomoana area sometime within the next 30 years, notwithstanding the issues that accompany the highly versatile nature of the soils.
- The rezoning of part of the land in 2012 for the Tomoana Food Hub is a strong pointer to the strength of this future intent. While current capacity at Whakatu (approx. 26 ha) and potentially surplus land supply at Irongate and Omaha North indicate no pressing need for the land to be rezoned at this time (total current and new zoned capacity is estimated at 198 ha compared to projected growth for Hastings of around 150ha), it is noted that both Omaha North and Irongate are not suited to wet industry.
- A significant proportion of the industrial growth anticipated for the region will potentially come from downstream processing for primary sector production, thus requiring process water and trade waste discharges. Accordingly, it cannot be said that the land is not required for future industrial growth.

Council's Principal Advisor District Development concludes that:

"...it would accord with HPUDS principles and intent for the Tomoana area to remain in primary production uses that reflect its highly versatile soils for as long as possible. That is to say, until it is needed for industrial uses that either support the primary sector value chain or employment generally, or reduces pressure for ad hoc development elsewhere on the plains. Notwithstanding the indicative node indication in the HPUDS maps, it would not appear to accord with HPUDS or the original IES intent for a sizeable area of the area of land needed for future industrial growth to be prematurely converted from productive use and be pre-emptively removed from the future industrial land supply.

*It is recognised that the application must be considered on its merits in terms of the District Plan and the sustainable management framework of the Resource Management Act. From a strategic development perspective however, the proposed use should, if possible, be accommodated through redevelopment within the existing urban footprint through intensification of existing activities, or on alternative greenfields or brownfield sites of less strategic value to the community."*⁶⁸

Taking into consideration the comprehensive comments received from Mr Clews, I am of the view that, on balance, the proposal is not consistent with the intent and direction of HPUDS2017, as the site is not within an identified greenfield growth area and is potentially located within an area identified for future industrial growth. It would not appear to accord with HPUDS for land potentially needed for future industrial growth to be prematurely converted from productive use and be pre-emptively removed from the future industrial land supply.

10.3.2 Adverse Precedent Effects

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

⁶⁷ pgs 16/17 of Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

⁶⁸ pg 19 of Memorandum from Mark Clews, Principal Advisor: District Development, dated 8 June 2018.

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granting of a consent could lead to similar applications for which Council, being consistent in its approach, would need to consider granting.

The potential precedent relevant in this application relates to the potential for other landowners within the Plains Production Zone to seek to establish an activity that is not directly related to land based production using a similar planning argument to this application. This would be of significant concern if replicated over a number of sites some of which may be in this general location. I consider that the impact on the rural resource and its availability for productive purposes should this precedent be made would be significant.

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

- Approving this application could result in a situation where there is a steady net increase in the number of urban activities that leapfrog the defined urban limits of Hastings, thus pushing development further into the Plains Production Zone in an ad hoc and unplanned way and reducing the potential for versatile land to be used in a productive and sustainable manner.
- Approval in this case could be particularly problematic given that this site contains the highest quality, premium versatile soils, and other sites may be able to use that to further cases where the site does not contain soils of such premium within the Plains Production Zone.
- Approval of this application on the basis that the site is already compromised because of its proximity to urban residential and industrial areas, could lead to similar planning arguments being made all the way around the urban edge of urban Hastings and Havelock North, within the Plains Production Zone.
- There are no particularly unique features or requirements associated with this proposal which would indicate that suitable alternative sites do not exist or are not available elsewhere within an urban environment.
- There are no other particularly unique features associated with this site which would differentiate it from others within the Plains Production Zone, or even in the immediate area, given the site has a history of horticultural use.
- A search of Council's GIS shows that there are numerous similarly sized sites in the Plains Production zone around the periphery of the Hastings urban area

For the above reasons, I am of the opinion that this application has the potential to set an adverse precedent, resulting in the potential for significant cumulative effects to occur in terms of more versatile land being effectively lost to production, irrevocably compromising the life-supporting capacity of soils on the Heretaunga Plains for future generations (i.e. 'death by a thousand cuts').

10.3.3 Integrity of the Proposed District Plan

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.

Several Environment Court cases have considered applications for development in the Plains Zone and their impact on the integrity of the District Plan. However, it is noted that each of these following applications were assessed under a different planning document (previous Hastings District Plan) to this particular application. This application requires detailed assessment under the Proposed Plan. However, 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 previous District Plan to the Proposed Plan.

The Environment Court in *Bunnings v Hastings District Council* [2011] NZEnvC 330 declined an appeal against the Council's decision to decline consent to allow the establishment of a commercial activity on the Plains Zone, on Pakowhai Road in the vicinity of Richmond Road. 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 s104(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

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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.

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.

This case involved land in the Plains Zone in close proximity to the subject site and likewise containing high quality (albeit Class 2) soils. I am of the view that this proposal similarly does not exhibit qualities that distinguish it from other 'place of assembly' proposals of this type.

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 establish non-complying industrial and commercial activities on a Plains Zone property at 1139 Maraekakaho Road.

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.

This proposal is considered to differ significantly from the particular case outlined above for a number of reasons. In the JARA case, the land concerned was deemed an anomaly in the Plains Production Zone. As identified earlier in this report, the subject site is considered to be appropriately zoned Plains Production, and in fact contains some of the highest quality, versatile soils identified on the Heretaunga Plains. For this reason, the subject site is not considered an anomaly in the Plains Production Zone and therefore, the proposal is inherently different to the JARA Family Trust application. As such, the issue of District Plan integrity remains a valid consideration in the assessment of this proposal. The JARA case also illustrates the risk that approving consents for urban activities within the Plains Production Zone risks creating a situation where further urban activities will be approved because the area has already been compromised.

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]).

In my view, for the reasons I have set out above, there is an irreconcilable clash with important provisions of the Proposed Plan when read overall and a clear proposition that there will be materially indistinguishable and equally clashing further applications to follow.

This application proposes to establish a place of assembly that will effectively remove 3.9ha of high quality, scarce, finite Class 1 and 2 soils on the Heretaunga Plains and that is not, in any way, related to land-based production or rural services. It represents ad hoc development leapfrogging the defined urban limit and pushing further into the Plains Production Zone. It also pre-emptively converts the land from productive use and removes it from the potential future industrial land supply.

The proposal is therefore considered to directly challenge the integrity of the Plan, particularly in relation to the overarching strategic intent of the Plan to promote compact urban form within defined urban limits and restricting the amount of building on versatile land to that which is absolutely necessary to support primary industry.

In the circumstances, it is considered that the grant of consent to this application will undermine the integrity of the Proposed Plan to the point that the application should be declined.

10.4 Section 104(1) – Subject to Part 2

Any consideration of an application for resource consent under section 104(1), is subject to Part 2.

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Section 5

Sustainable management means 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 well-being 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.*

In terms of section 5, the establishment of a new regional, purpose-built temple will enable the Sikh community to better provide for their social, economic and cultural wellbeing and adverse effects on the environment have been assessed in sections 6.1.3 and 6.2.3 of this report, and with recent receipt of written approvals from affected persons, the conclusion reached is that adverse effects will be avoided, remedied or mitigated (section 5(c)) to an extent that they will likely be no more than minor – although potentially more than minor in terms of adverse effects on the versatile land resource.

However, as stated in section 6.1.3 of this report, the cumulative loss of finite versatile/high-class land over time is a significant national issue, in terms of risks from fragmentation of land on urban fringes and urban expansion onto versatile land, and concern is rising about the remaining agricultural land because land with little limitation is highly vulnerable to loss to non-food producing uses.

The Proposed Plan sets out very clear direction in terms of prioritising activities that are directly related to land-based production in the Plains Production Zone and containing urban activities within urban limits and avoiding ad hoc urban development pushing further into the Plains (urban creep). The provisions in the Plains Production Zone are arguably the most onerous of the entire Plan reflecting the importance of protecting the finite soil resource of the Heretaunga Plains for current and future generations. Sustaining the potential and safeguarding the life-supporting capacity of the Heretaunga Plains soil resource is seen as pivotal to the social, economic and cultural well-being of the District, the region, and nationally.

Regardless of the conclusion on adverse effects, it is considered that the proposal, as a whole, will not sustain the potential of the Plains soil resource of the subject site nor safeguard it, and are not outweighed by the positive effects which could be similarly achieved elsewhere.

For these reasons, I am of the view that this proposal will not achieve sections 5(a) and (b) and, on balance, the proposal does not therefore represent 'sustainable management' of resources.

Section 6

Section 6 sets out the matters of national importance that must be recognised and provided for. The proposal is not considered to impact on any of these matters.

Section 7

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. Of particular relevance are:

- (b) The efficient use and development of natural and physical resources;*
- (c) The maintenance and enhancement of amenity values;*
- (f) Maintenance and enhancement of the quality of the environment;*
- (g) Any finite characteristics of natural and physical resources;*

In regard to section 7(b) and 7(g), the proposal will not result in the efficient use and development of the key resources of the site which comprises high quality, finite Class 1 soils within the nationally-significant Heretaunga Plains soil resource. The relative scarcity and finite nature of the soils (Class 1 land occupies less than 1% of New Zealand's land area) on this site clearly indicate that the most efficient use and development of this resource is for land-based production or activities that directly support, service and process the District's land-based production.

Council's Principal Advisor District Development anticipates that a significant proportion of the industrial growth anticipated for the region will potentially come from downstream processing for primary sector production, and HPUDES has strategically indicated that this area may be required for future industrial growth.

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Establishment of an activity that bears no relationship whatsoever to land-based production or supporting services, and which pre-emptively removes the land from the future industrial land supply, therefore does not represent efficient use and development of the resources of this site.

In terms of section 7(c) and 7(f), the assessment of effects in sections 6.1.3 and 6.2.3 of this report, and with recent receipt of written approvals from affected persons, I am satisfied that amenity values and the quality of the environment can be maintained (although, the proposal will not enhance those values).

Section 8

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 Treaty of Waitangi issues with the proposal.

Part 2 Conclusions

Considering the points raised above and assessment throughout my report, I am of the view that this application will not achieve the purpose of the Act, being 'the sustainable management of natural and physical resources'. This is because, in my opinion, the proposal:

- will not sustain the potential of the Plains soil resource of the subject site, nor safeguard its life-supporting capacity (section 5(a) and (b)); and
- will not result in the efficient use and development of the natural and physical land resource or have regard to its finite characteristics (section 7(b) and (g)).

10.5 Section 104D – Particular Restrictions for Non-Complying Activities

As already stated, a consent authority may only grant consent for a non-complying activity if it is satisfied that either the adverse effects of the activity on the environment will be minor, or the activity is not contrary to the objectives and policies of the relevant plan or proposed plan.

The assessment of effects on the environment within this report concludes that the adverse effects of the activity on the environment will likely be no more than minor (albeit by a narrow margin in the case of impacts on soils, and subject to the mitigation offered and subsequent consent conditions offered by the applicant), but assessment against the objectives and policies of the Proposed Hastings District Plan concludes that the proposal is contrary to the Proposed Plan.

The proposal therefore, by a narrow margin, is considered to satisfy one of the section 104D gateway tests for a non-complying activity. Granting resource consent, in this case, can therefore be contemplated.

11.0 CONCLUSION

On balance, the adverse environmental effects of this activity are likely to be no more than minor. However, the proposal will result in the high quality Class 1 soils on the site being effectively lost to production, irrevocably compromising their future use, and the adverse effects of this may potentially be more than minor – especially if cumulative adverse effects on the versatile land resource were more definitively established.

As already discussed in the assessment of effects on the soil resource in section 6.1.3 of this report, the cumulative loss of finite versatile/high-class land over time is a significant national issue, as raised in the Ministry for the Environment's 'Our Land 2018' Report, which identifies risks from fragmentation and urban expansion onto versatile land, as well as growing concern about land with little limitation being highly vulnerable to loss to non-food producing uses (hence work has commenced on a National Policy Statement for Versatile Land and High Class Soils).

The application is contrary overall to the objectives and policies of the Proposed Plan. In summary, this is because:

- The proposal establishes a new urban activity ('place of assembly') beyond the defined urban edge of Hastings, on highly versatile Class 1 soils, and on land that has not been identified for future urban development of this nature, and represents ad hoc development (Urban Strategy, objectives UDO1 and UDO2, and policies UDP1, UDP3, UDP4 and UDP5).
- The proposal and its scale do not promote or complement the resources of the rural area, is not directly related to land-based production or rural services and represents sporadic

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conversion to an activity that will individually or cumulatively reduce the life-supporting capacity and economic use of the soil resource and its availability for future generations (Rural Resource Strategy, objective RRSO1 and policies RRSP2 and RRSP4).

- The Tomoana/Whakatu area is currently identified for indicative future wet industry growth once capacity is reached at Whakatu, so the proposal prematurely converts the land from productive use and pre-emptively removes it from future industrial land supply options (Industrial Strategy, objective ISO2 and policies ISP3 and ISP5).
- The proposed activity and associated buildings are not linked to or in support of land-based production in any way (Plains Strategic Management Area, objective PSMO1 and policies PSMP2 and PSMP3).
- The proposal represents a creep of urban activities into the Plains Production Zone and the versatile land resource, in a location where there is a clear and distinct urban boundary established by the proposed 'North Eastern Collector' corridor (objective PSMO5).
- The proposed building coverage associated with the proposal far exceeds that anticipated and permitted for the Plains Production Zone (being 35% of net site area or 1,500m² whichever is the lesser – Standard 6.2.5J) and therefore compromises the versatile land through greater than expected building coverage (Plains Production Zone, objective PPO1 and policy PPP3).
- The proposal is not located within an area identified for future urban growth and leapfrogs the strongly defined urban limits and buffer strategically provided by the proposed 'North Eastern Collector' corridor, resulting in ad hoc urban development pushing further into the Plains Production Zone (policy PPP7).

I note that my view that the effects on the soils are minor is reached by a narrow margin. My comments about the vulnerability and finite nature of such versatile/high class land as is affected by this application might well support a conclusion that the effects were more than minor, and therefore that the threshold test set by s 104D RMA was not met. In that event, consent would not be able to be granted.

The application is contrary overall to the relevant provisions of the RPS and HPUDS, which seek to manage the adverse effects of sporadic and unplanned growth and the adverse effects from urban development encroaching on the versatile land of the Heretaunga Plains, given the ad-hoc nature of the development being proposed and the site's possible role as part of the region's future industrial land supply.

Having regard to Part 2, this proposal will not achieve the purpose of the RMA, being 'the sustainable management of natural and physical resources', as it will not sustain the potential of the Plains soil resource of the subject site, nor safeguard its life-supporting capacity; and does not accord with section 7 matters in terms of the efficient use and development of the natural and physical land resource or give due regard to its finite characteristics.

I do acknowledge the applicant's financial interest and desire to develop a regional Sikh Temple on this site and acknowledge that such a facility is needed and is important to that growing community. However, the activity bears no direct (or even indirect) relationship with or support for land-based primary production. Locating on this site is, therefore, diametrically opposed to the clear and overarching strategic and policy direction embedded in the Proposed Plan and the RPS, which is to avoid unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains so as to safeguard the life-supporting capacity of the Plains soils resource and sustain it for existing and future generations.

Granting this application would also likely 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 land use in the Plains Production Zone. It is noted that this policy direction was in existence in the Hastings District Plan 2003 and has been carried over and progressively and further strengthened in the Proposed Plan.

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 **refused**.

Recommended by:**Rowena Macdonald**

55235#0027

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CONSULTANT PLANNER

Decision issued under
Delegated Authority by:



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

Date:

17 January 2019

RMA20180194

**Decision:**

Pursuant to Rules PP39 and EM6 of the Proposed Hastings District Plan (As Amended by Decisions 12 September 2015) and Sections 104, 104B and 104D of the Resource Management Act 1991, land use consent as non-complying Activity is **REFUSED** to the New Zealand Sikh Society (Hastings) Inc, to establish a new Place of Assembly which includes a Sikh Temple, ancillary library building, residential dwelling, grounds for passive recreation, associated hardstand, and associated earthworks, at 28 Richmond Road legally described as Pt Lot 1 DP 6463 Blk XV1 Heretaunga SD (CFR HBG1/1005).

With the Reasons for this Decision Being:

1. Although the adverse effects on the environment are likely to be no more than minor, the proposal will result in the high quality Class 1 soils on the site being effectively lost to production, irrevocably compromising their future use, and the adverse effects of this may potentially be more than minor – especially if cumulative adverse effects on the versatile land resource were more definitively established.
2. The proposal is contrary overall to the relevant objectives and policies of the Proposed Hastings District Plan. In summary, this is because:
 - a) The proposal establishes a new urban activity ('place of assembly') beyond the defined urban edge of Hastings, on highly versatile Class 1 soils, and on land that has not been identified for future urban development of this nature, and represents ad hoc development (Urban Strategy, objectives UDO1 and UDO2, and policies UDP1, UDP3, UDP4 and UDP5).
 - b) The proposal and its scale do not promote or complement the resources of the rural area, is not directly related to land-based production or rural services and represents sporadic conversion to an activity that will individually or cumulatively reduce the life-supporting capacity and economic use of the soil resource and its availability for future generations (Rural Resource Strategy, objective RRSO1 and policies RRSP2 and RRSP4).
 - c) The Tomoana/Whakatu area is currently identified for indicative future wet industry growth once capacity is reached at Whakatu, so the proposal prematurely converts the land from productive use and pre-emptively removes it from future industrial land supply options (Industrial Strategy, objective ISO2 and policies ISP3 and ISP5).
 - d) The proposed activity and associated buildings are not linked to or in support of land-based production in any way (Plains Strategic Management Area, objective PSMO1 and policies PSMP2 and PSMP3).
 - e) The proposal represents a creep of urban activities into the Plains Production Zone and the versatile land resource, in a location where there is a clear and distinct urban boundary established by the proposed 'North Eastern Collector' corridor (objective PSMO5).
 - f) The proposed building coverage associated with the proposal far exceeds that anticipated and permitted for the Plains Production Zone (being 35% of net site area or 1,500m² whichever is the lesser – Standard 6.2.5J) and therefore compromises the versatile land through greater than expected building coverage (Plains Production Zone, objective PPO1 and policy PPP3).
 - g) The proposal is not located within an area identified for future urban growth and leapfrogs the strongly defined urban limits and buffer strategically provided by the proposed 'North Eastern Collector' corridor, resulting in ad hoc urban development pushing further into the Plains Production Zone (policy PPP7).
3. The application is contrary overall to the relevant provisions of the RPS and HPUDS, which seek to manage the adverse effects of sporadic and unplanned growth and the adverse effects from urban development encroaching on the versatile land of the Heretaunga Plains, given the ad-hoc nature of the development being proposed and the site's possible role as part of the region's future industrial land supply.

HDC Ref: 55235#0030

6. The activity bears no direct (or even indirect) relationship with or support for land-based primary production. Locating on this site is, therefore, diametrically opposed to the clear and overarching strategic and policy direction embedded in the Proposed Plan and the RPS, which is to avoid unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains so as to safeguard the life-supporting capacity of the Plains soils resource and sustain it for existing and future generations.
7. Granting this application would also likely 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 land use in the Plains Production Zone.
8. Having regard to Part 2, this proposal will not achieve the purpose of the RMA, being 'the sustainable management of natural and physical resources', as it will not sustain the potential of the Plains soil resource of the subject site, nor safeguard its life-supporting capacity; and does not accord with section 7 matters in terms of the efficient use and development of the natural and physical land resource or give due regard to its finite characteristics

Recommended by:

Rowena Macdonald
CONSULTANT PLANNER

**Decision issued under Delegated
Authority by:**

Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES
HASTINGS DISTRICT COUNCIL

Date:

17 January 2019



SAINSBURY
LOGAN &
WILLIAMS
LAWYERS SINCE 1875

8 February 2019

The Environmental Consents Manager
Hastings District Council
Private Bag 9002
HASTINGS 4156

Attention: Murray Arnold

By email only: murraya@hdc.govt.nz

**RMA 20180194: 28 RICHMOND ROAD, HASTINGS – RESOURCE CONSENT
APPLICATION MADE BY NEW ZEALAND SIKH SOCIETY (HASTINGS) INC**

- 1 We act for the New Zealand Sikh Society (Hastings) Incorporated.
- 2 On 17 January 2019, the Society received the Council's decision refusing its application for resource consent to establish and use a new place of assembly, namely a Sikh temple and ancillary buildings at 28 Richmond Road, Hastings.
- 3 Our client wishes to object to the decision. This objection is lodged under section 357A(1)(g) and (2) of the Resource Management Act 1991 (**the RMA**).

The decision

- 4 The applicant sought resource consent to construct a new place of assembly which would operate as a Sikh temple, an ancillary library building, a residential dwelling for the head priest, grounds for passive recreation, and associated on-site car parking, vehicle access and earthworks in the Plains Production Zone.
- 5 The proposal was a non-complying activity in terms of the Proposed Hastings District Plan because new places of assembly are not provided for as a permitted, controlled, restricted discretionary or discretionary activity in the Plains Production Zone. The activity is therefore a non-complying activity pursuant to Rule PP39 of the Proposed District Plan.
- 6 Having considered the application, the reporting officer concluded that:
 - 6.1 The adverse environmental effects of the proposal were likely to be no more than minor.
 - 6.2 One of the gateway tests in s104D of the RMA had been met and that the grant of resource consent could be contemplated.
 - 6.3 The application was contrary overall to the relevant provisions of the Regional Policy Statement and the Heretaunga Plains Urban Development Strategy (**HPUDS**).

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6.4 The proposed development overall was inconsistent with the objectives and policies of the Proposed District Plan for the following reasons:

- (i) The proposal establishes a new urban activity beyond the defined urban edge of Hastings on highly versatile Class 1 soils on land which had not been identified for future urban development, and so represents ad hoc development (contrary to Objectives UDO1 and UDO2 and policies UDP1, UDP3, UDP4 and UDP5).
- (ii) The proposal and its scale do not complement the resources of the rural area, is not directly related to land-based production and represents sporadic conversion to an activity that will individually or cumulatively reduce the life-supporting capacity and economic use of the soil resource and its availability for future generations (Objective RRSO1 and policies RRSP2 and RRSP4).
- (iii) The Tomoana/Whakatu area is currently identified for future wet industry growth once capacity has been reached at Whakatu. The proposal prematurely converts the land from productive use and removes it from future industrial land to supply options (Objective ISO2 and ISP3 and ISP5).
- (iv) The proposal does not support land-based primary production (Plains Strategic Management Area, objective PSMO1 and policies PSMP2 and PSMP3).
- (v) The proposal represents a creep of urban activities into the Plains Production Zone in a location where there is a clear and distinct urban boundary established by the proposed northeaster collector corridor (Objective PSMP5).
- (vi) The proposed building coverage exceeds that anticipated in the Plains Production Zone (Plains Production Zone Objective PPO1 and Policy PPP3).

6.5 Granting the application would likely undermine public confidence in the integrity of the District Plan and create an adverse precedent.

Reasons for the objection

7 The applicant objects to the decision for the following reasons:

- 7.1 Although a decision-maker is required to have regard to the provisions of the Regional Policy Statement, the provisions of that document need not be given much weight in this case because the proposed district plan already gives effect to the relevant provisions of the Regional Policy Statement.
- 7.2 There is no need to have particular regard to HPUDS when considering this application given that:
 - (i) HPUDS is embedded in the RPS; and

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- (ii) The Proposed Plan gives effect to the RPS; and
- (iii) The reporting officer acknowledges that 'the Urban Strategy in the Proposed Plan embeds the settlement pattern envisaged by HPUDS'.¹

7.3 There is no definition of 'urban activities' in the Proposed Plan.² The way that places of assembly are controlled in the Proposed Plan (i.e. non-complying in rural areas and less stringently controlled in urban areas) does not determine whether or not the proposed Temple is an 'urban' activity for the purpose of analysing the relevant objectives and policies in the Proposed Plan³

7.4 However the explanation to RRPS4 provides useful guidance as to the types of activities which are considered to be urban in nature. It 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 (see Section 2.4 Urban Strategy).

7.5 The Council relies upon objectives and policies in the Proposed Plan which promote the maintenance of the life-supporting capacity of soil resource as a reason for declining consent and yet the Council's long-term strategic intent is for further industrial expansion to occur in this area, notwithstanding the issues that accompany the highly versatile nature of the soils.⁴

7.6 It is incongruous to deny the Sikh community the opportunity to develop a place of worship in this location on the basis of preserving the land in question for some future and speculative wet industrial activity.

7.7 As to the effect of removing this land from primary production, the Reporting Planner has concluded that the effect of removing 3.9ha from the supply of scarce LUC Class 1 (Hastings/Selwyn) soils on the overall life-supporting capacity of the wider soils resource would be minor.⁵

7.8 The importance of the versatile soil resource and the strong policy direction to protect it for current and future generations is acknowledged. However, there are

¹ Planner's Report, page 48

² It is accepted that there is a definition in the RPS.

³ Planner's Report, page 47

⁴ Planner's Report, page 60

⁵ Planner's Report, page 23

times when the community needs to weigh this with other activities that also contribute to the wellbeing of current and future generations.

- 7.9 Inadequate consideration has been given to the positive effects of the proposed activity. The proposed temple and ancillary activities (residential dwelling, library and recreation area) will enable the Sikh community to provide for their social and cultural wellbeing.
- 7.10 The subject site is within an area where the rural and urban boundary is not clearly defined. It is surrounded by urban development to the south-west, and west, and industrial neighbours to the east, south-east and south.
- 7.11 While the proposal might be considered 'ad hoc development', it is not development of a type which will easily be replicated. The proposal is to establish a place of assembly, rather than (say) residential, commercial or industrial activities which are more obvious examples of urban activities and more readily replicated. What makes this application unique is that it is for a place of assembly and it will be the only Sikh Temple in the region. There will be relatively few, if any, similar such applications coming before the Council in the future.
- 7.12 Other urban activities involving residential, commercial and industrial activities will be readily distinguishable from this application on that basis alone.
- 7.13 Granting consent to a single application for a place of assembly will not undermine the integrity of the Proposed Plan.
- 7.14 Additionally, there are a number of matters which collectively weigh in favour of a grant of consent including:
- (i) Effects, as assessed by the reporting planner, will be minor or less than minor;
 - (ii) The site can be suitably serviced;
 - (iii) Geotechnical assessment has confirmed that the site can be developed;
 - (iv) Traffic can be managed and cyclist and pedestrian connectivity will be improved;
 - (v) There are no soil contamination issues either impeding the proposal or likely to arise from the proposed activity;
 - (vi) The site is effectively surrounded by a mixed-use environment rather than a wholly rural environment and so adverse effects on rural character are diminished;
 - (vii) The selection of this site was founded on a robust alternatives assessment;
 - (viii) All affected party approvals have been obtained which avoids the risk of reverse sensitivity issues arising;

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- (ix) The Council already envisages alternative and far less benign activities being undertaken on the site compared to those currently permitted under the Plains Production Zone.

Relief sought

- 8 The applicant respectfully requests that the Hearings Committee uphold its objection and grant consent to consent application RMA 20180194.
- 9 The \$600 lodgement fee has been paid today by electronic banking. Confirmation of that payment is included with this letter.

Yours faithfully



Lara Blomfield

Partner

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