



# *Hastings District Council*

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## OPEN A G E N D A

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### COMMISSIONER HEARING MEETING

**LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO  
ESTABLISH SEASONAL WORKERS ACCOMMODATION AT 97  
YORK ROAD, AND FOR A SUBDIVISION TO CREATE TWO LOTS AT  
97 YORK ROAD AND INVOLVING AMALGAMATION WITH 9  
MAULTSAID PLACE, HASTINGS 4120 - JARA FAMILY TRUST**

Meeting Date: **Thursday, 20 February 2020**

Time: **9.30am**

Venue: **Landmarks Room  
Ground Floor  
Civic Administration Building  
Lyndon Road East  
Hastings**

<b>Hearing Commissioner</b>	<b>Chair:</b> Commissioner Bill Wasley
<b>Officer Responsible</b>	Group Manager: Planning & Regulatory Services
<b>Reporting Planner</b>	Environmental Planner (Consents) - Rebecca Jarman
<b>Democracy Governance Advisor</b> &	Christine Hilton (Extn 5633)

# **HASTINGS DISTRICT COUNCIL**

**A COMMISSIONER HEARING MEETING WILL BE HELD IN THE  
LANDMARKS ROOM, GROUND FLOOR, CIVIC ADMINISTRATION  
BUILDING, LYNDON ROAD EAST, HASTINGS ON  
THURSDAY, 20 FEBRUARY 2020 AT 9.30AM**

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**1. APOLOGIES**

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

**2. LIMITED NOTIFIED RESOURCE CONSENT APPLICATION TO  
ESTABLISH SEASONAL WORKERS ACCOMMODATION AT 97 YORK  
ROAD, AND FOR A SUBDIVISION TO CREATE TWO LOTS AT 97 YORK  
ROAD AND INVOLVING AMALGAMATION WITH 9 MAULTSAID PLACE,  
HASTINGS 4120 - JARA FAMILY TRUST**

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

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

**Attachments:**

Attachment A - Officer's Hearing Report	54413#0136	Pg 5
Attachment B - Section 95A and 95B Notification Report	54413#0137	Pg 109

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

**REPORT TO:** COMMISSIONER HEARING

**MEETING DATE:** THURSDAY 20 FEBRUARY 2020

**FROM:** DEMOCRACY AND GOVERNANCE ADVISOR  
CHRISTINE HILTON

**SUBJECT:** LIMITED NOTIFIED RESOURCE CONSENT APPLICATION  
TO ESTABLISH SEASONAL WORKERS  
ACCOMMODATION AT 97 YORK ROAD, AND FOR A  
SUBDIVISION TO CREATE TWO LOTS AT 97 YORK ROAD  
AND INVOLVING AMALGAMATION WITH 9 MAULTSAID  
PLACE, HASTINGS 4120 - JARA FAMILY TRUST

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**1.0 PURPOSE AND SUMMARY - *TE KAUPAPA ME TE WHAKARĀPOPOTOTANGA***

- 1.1 This is a covering report relating to a limited notified application from Jara Family Trust for seasonal workers accommodation and subdivision.
- 1.2 The reporting planner's report is attached to this covering report and contains the details regarding this application.
- 1.3 For ease of reference the recommendation and associated conditions from the attached planning report are set out below.

## 2.0 RECOMMENDATIONS - NGĀ TŪTOHUNGA

That pursuant to Rules SLD25, PP24, and EM6 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 104B, and 104D of the Resource Management Act 1991, consent to JARA Family Trust is **DECLINED** to establish Seasonal Workers Accommodation and undertake a subdivision at 62 Irongate Road (9 Maultsaid Place) legally described as Lot 1 DP 13268 (RT F1/19) and 97 York Road, Hastings legally described as Pt Sec 24 Block XV Heretaunga SD and Sec 66 SO 438108 (RT 748603)

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

1. The adverse effects on the wider environment will be no more than minor, and localised adverse effects can be sufficiently mitigated by way of consent conditions to ensure these will be no more than minor.
2. The proposed development and activity is overall contrary to the relevant Objectives, Policies and other provisions of the Proposed Hastings District Plan, taking account of the changes identified under Variation 7 – Seasonal Workers Accommodation to the Proposed Plan, in particular being overall contrary to the following objectives and policies:
  - RRS02- with the subdivision not being a substantially efficient use of the land resource of 97 York Road over time.
  - PSMP1 - by separating off a lot from the Plains Production zone for SWA which may also be an urban activity, does not accord with the direction of this - that subdivision is for land based primary production activities.
  - PSMP5 – due to the relationship to be created between the Irongate Industrial zone and Plains Production zone encourages rather than preventing urban creep.
  - PP01 – whereby the proposal seeks to fragment versatile land.
  - PPP7 – the proposal has the potential to create urban creep and extend outside the urban limit of the Irongate Industrial zone and result in ad-hoc development.
  - PP02 and PPP11 – the subdivision creating Lot 2 being a smaller parcel of Plains Production zoned land reduces its flexibility and versatility to provide for land based primary production use due to being a smaller parcel and fragmenting the Plains Production land resource.
  - SLD01 and SLDP1 whereby Lot 2 is an undersized Plains Production site and not being consistent with the Plains Production zone objectives and policies.
3. The proposal is not consistent with Industrial strategy Objective IZ01 and Policy ISP3 as it does not represent a planned approach to establishment and use of Industrial land.
4. The proposal is inconsistent with the direction of the RPS representing an unplanned and ad-hoc potential extension to the Industrial Urban area



particularly due to the intended relationship proposed by the application to connect proposed Lot 2 with Irongate zoned land.

5. The proposal would create a precedent effect and likely result in the demand for other proposals to expand and merge industrial use with Plains Production zoned land and create smaller lots in the Plains Production zoned area around existing and consented uses.
6. The proposal creates an irreconcilable clash with the important provisions of the PDHP as a result of the subdivision creating an undersize Plains Production zoned lot lacking in sufficient relationship with other Plains Production zoned land, only linking to Industrial zoned land. The proposal, if granted, could result in compromising the integrity of the Proposed Hastings District Plan and undermine public confidence in the Hastings Proposed District Plan's administration.
7. The application is inconsistent with Part II of the Resource Management Act 1991. This is because, in the opinion of the reporting planner, the proposal;
  - Does not promote the sustainable management of the district's versatile land for future generations.
  - will not result in the efficient use and development of the natural and physical land resource; and
  - In creating a precedent may impact on the finite characteristics of the wider Plains Production zone versatile land resource.

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

#### Attachments:

<a href="#">A</a>	Officer's Hearing Report	54413#0136	
<a href="#">B</a>	Section 95A and 95B Notification Report	54413#0137	
<a href="#">C</a>	Application Information	54413#0138	Document 2
<a href="#">D</a>	Section 92 Request	54413#0140	Document 3
<a href="#">E</a>	Additional Information Received	54413#0141	Document 3
<a href="#">F</a>	Council's Development Engineering Comments	54413#0142	Document 3
<a href="#">G</a>	Extract of PHDP standards and criteria	54413#0143	Document 3
<a href="#">H</a>	RMA20190334 Decision seasonal workers accommodation for 96 persons in the General Industrial Zone (PHDP prior to V7)	54413#0144	Document 3
<a href="#">I</a>	RMA20190365 Decision SWA in the General Industrial zone (49 workers and staff) OP and PDHP (v7)	54413#0145	Document 3
<a href="#">J</a>	RMA20190168 -Earthworks and Seasonal Workers Accommodation Irongate General Industrial zone (PHDP prior to V7)	54413#0146	Document 3
<a href="#">K</a>	Copy of Environment Court Decisions	54413#0147	Document 3
<a href="#">L</a>	Regional Policy Statement Extract	54413#0148	Document 3



**REPORT TO: HEARINGS COMMITTEE**

**MEETING DATE:**

**FROM: REBECCA JARMAN  
ENVIRONMENTAL PLANNER (CONSENTS)**

**SUBJECT: LIMITED NOTIFIED APPLICATION FOR  
SEASONAL WORKERS ACCOMMODATION AND  
SUBDIVISION**

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

### **EXECUTIVE SUMMARY**

<b>Applicant:</b>	JARA Family Trust
<b>Applicant's Agent:</b>	Development Nous Limited
<b>Site Addresses / Legal Description / Area / zoning / PID Ref's:</b>	<p>(as at the time of application)  <b>62 Irongate Road East, Hastings</b></p> <ul style="list-style-type: none"> <li>– PID 25106</li> <li>– legally described at the time the application was made as Lot 1 DP 13268 (RT HBF1/19)</li> <li>– 4.0469 Hectares</li> <li>– Zoned General Industrial (Irongate) under the Proposed Hastings District Plan</li> </ul> <p><i>[consented Lot 4 of this parcel which is the subject of this application, has been subdivided and is now known as Lot 4 DP542005 and referred to hereafter as <u>9</u></i></p>

	<p><u>Maultsaid Place]</u></p> <p>And</p> <p><b>97 York Road, Hastings</b></p> <p>PID 54413</p> <ul style="list-style-type: none"> <li>– legally described as Part Section 24 Block XV Heretaunga Survey District and Section 66 SO Plan 438108 (RT 748603)</li> <li>– 19.7011 Hectares including the area of Marginal Strip</li> <li>– [Sec 66 SO 438108 is indicatively measured as approximately 2.6709ha being the site area less the area of the Marginal Strip]</li> <li>– zoned Plains Production under the Proposed Hastings District Plan</li> </ul> <p>And involving access over:</p> <ul style="list-style-type: none"> <li>• <b>11 Maultsaid Place</b> (legally described as Lot 3 DP 524530 – RT 837394) where a right of way extends from Maultsaid Place to serve 9 Maultsaid Place. – zoned General Industrial (Irongate).</li> <li>• <b>Irongate Stream</b> - the northern side of the stream is zoned Plains Production and the southern side of the stream is zoned General Industrial (Irongate)</li> <li>• <b>Marginal Strip</b> on both sides of the Irongate Stream remaining in Crown ownership subject to Pt 4A of the Conservation Act.</li> </ul>
<b>Proposal:</b>	<b>Subdivision</b> of 97 York Road creating Lots 1 and 2, and amalgamating Lot 2

	<p>with 9 Maultsaid Place, involving a right of way over Marginal strips and establishing bridge access over the Irongate stream.</p> <p>And</p> <p><b>Land use</b> to establish Seasonal Workers Accommodation for 150 persons involving establishing an associated caretaker's dwelling (Mangers unit), three kitchen/dining blocks, six ablution/laundry blocks, six sleeping accommodation blocks and two outdoor volleyball courts, along with associated establishment earthworks, on-site wastewater discharge, water tanks and parking and access driveways.</p>
<b>Proposed Hastings District Plan (PHDP) Provisions:</b>	<ul style="list-style-type: none"> <li>• Non-complying Activity under the PHDP under SLD25 for the Section 11 RMA subdivision.</li> <li>• Restricted Discretionary under the PHDP under PP24 for Seasonal Workers Accommodation on Plains Production zoned land and not meeting standards and terms and over General Industrial zoned land.</li> <li>• Restricted Discretionary Activity under EM6 of the PHDP for earthworks associated with the development.</li> </ul>
<b>Assessment of Status:</b>	As a bundled Non-Complying activity
<b>Date consent application received:</b> 30 <sup>th</sup> May 2019	

1. The applicant seeks resource consent to undertake a two lot subdivision of 97 York Road and amalgamate the southern Lot 2 created with land at 62 Irongate Road (9 Maultsaid Place). The access will be via a bridge over the Irongate Stream and across

Lot 2, and via other rights of way to Maultsaid Place. The proposal also involves concurrent establishment of Seasonal Workers Accommodation (SWA) for up to 150 persons, including establishment of associated buildings for this activity including sleeping, ablution, kitchen / dining facilities, managers unit and volleyball courts. Servicing for the proposal is proposed to be either by way of on-site methods or via public reticulation.

2. The full proposal is described in Council's Section 95A and 95B Notification Assessment Report ('Notification Report') attached in **Appendix B** to this report.
3. The following table identifies the various attachments to this report.

<b>Attachment B</b>	Section 95A and 95B Notification Assessment Report ['Notification Report']
<b>Attachment C</b>	Original Application
<b>Attachment D</b>	Council's Request for Further Information (S92 RMA) Letter
<b>Attachment E</b>	Additional Application Information Received
<b>Attachment F</b>	Council's Development Engineers Comments
<b>Attachment G</b>	Extract of District Plan Standards 6.2.5D, H and 6.2.6K
<b>Attachment H</b>	Copy of RMA20190334 96 person SWA facility consent at 62 Irongate Road
<b>Attachment I</b>	Copy of RMA20190365 49 person SWA facility at 1139 Maraekakaho Road
<b>Attachment J</b>	Copy of RMA20190168 for 160 SWA facility at 22 Irongate Road.
<b>Attachment K</b>	Copy of Environment Court case law.
<b>Attachment L</b>	Extract from Hawkes Bay Regional Resource Management Plan (Regional Policy Statement)

4. A notification report pursuant to section 95A and 95B of the Resource Management Act was undertaken which identified parties potentially affected by the proposal. Council determined under section 95B of the Resource Management Act that the application be limited notified (see below table for parties notified).

5. The notification report is in **Attachment B** and covers the following matters;
- (a) Description of the proposal;
  - (b) Further information and responses to these;
  - (c) Background to the proposal, and details of the information received;
  - (d) Description of sites including photographs of the site and surrounding environment;
  - (e) Assessment in accordance with National Environmental Standards for Assessing and Managing Soil Contaminants in Soil to Protect Human Health Regulations 2011;
  - (f) Assessment of the proposal against the provisions of the Proposed Hastings District Plan;
  - (g) Resource Management Act 1991 notification provisions which included an Assessment of Effects on the Environment and Assessment of Affected Persons.

Council's Development Engineer has provided Development Engineering input on this application for Council, his comments are attached in **Attachment D** to this report. I accept the input and recommend adopting his recommended conditions in the event that consent is granted.

The application was limited notified on the 11<sup>th</sup> November 2019 to persons considered to be affected by the proposed development, these persons were:

Name	Property to which they relate	Postal Address
Department of Conservation	Bed of Irongate Stream And Marginal Strip shown on RT 737738. And Marginal Strip shown	Attention: Minister of Conservation of New Zealand Department of Conservation Te Papa Atawhai Hawke's Bay Area Office

	across Sec 66 SO 438108 on RT 748603.	PO Box 644 Napier 4140
JK and LM Hammond	59 York Road, Hastings Legally described as Lot 1 DP 24603 Block XV Heretaunga SD	JK and LM Hammond 59 York Road Longlands Hastings 4120
Hastings District Council	Esplanade Reserve to south of Irongate Stream adjacent to northern boundary 13 Maultsaid Place, legally described as Lot 5 DP 515835 (RT 816011) And Esplanade Reserve to north of Irongate Stream adjacent to southern boundary of 59 York Road, legally described as Lot 7 DP 515835 (RT 816012)	Attention: Public Spaces and Building Assets Manager Hastings District Council Private Bag 9002 Hastings 4156
Heretaunga Tamatea Settlement Trust		Attention: Liz Munro Heretaunga Tamatea Settlement Trust Trustees PO Box 2192 Stortford Lodge Hastings 4153

6. Submissions closed on the 9<sup>th</sup> December 2019. No submissions were received at the close of submissions.
7. A full assessment of effects on the environment was undertaken for the Section 95A and 95B notification assessment in **Attachment B**. That assessment remains applicable to the substantive decision, and, other than noting any new information relevant to the assessment of effects below, I have not repeated the consideration of effects here. This hearings report therefore



focuses on the remaining matters relevant under section 104 of the Resource Management Act 1991.

8. By way of summary, the effects assessment in the notification report was that the adverse effects on the environment are minor and can be sufficiently controlled by way of conditions of consent. In this regard, I note an important factor was that the buildings would be relocatable and any effect on the soils resource from the Seasonal Workers Accommodation activity would be temporary, and minor.
9. I note that positive effects are not able to be taken into account in the notification assessment, but are relevant for the purposes of section 104. The Seasonal Workers Accommodation would provide further accommodation required for these workers and support the horticultural industry in the Hawkes Bay Region. This beneficial outcome is considered to offset of the adverse effects that may be generated from the Seasonal Workers Accommodation activity and associated establishment works, given conditions of consent can further avoid or mitigate adverse effects, and that the buildings are to be relocatable and thus temporary with land being able to be returned to other uses in the future.
10. While the adverse effects of the proposal are considered minor, and some positive effects are recognised, it is considered that the proposal is contrary to the objectives and policies of the Proposed Hastings District Plan. This is discussed further below, but principally relates to the subdivision fragmenting Plains Production zoned land, and being ad-hoc unplanned development of the rural area (particularly Plains Production zone). It is further considered that the grant of consent would create an adverse precedent and potentially undermine the integrity of the Proposed Hastings District Plan. The proposal is considered to be inconsistent with the direction of the Hawkes Bay Regional Policy Statement, and my opinion is that it does not represent sustainable management of the environment under Part 2 of the RMA.
11. Under Section 104D of the RMA the Committee may consider granting the proposal as the adverse effects are considered to be minor provided that consent conditions are imposed to mitigate effects that would otherwise be more than minor. The Committee

must then consider whether it wishes to grant or decline the consent under section 104B of the RMA.

12. Subject to any additional or further information submitted at the hearing, it is my recommendation to decline the application on the basis that the proposal is contrary to important objectives and policies of the Proposed Hastings District Plan, relevant provisions of the Hawkes Bay Regional Policy Statement and principles and purposes of the Resource Management Act, that the grant of consent would, create an adverse precedent and would potentially undermine the integrity of the Proposed Hastings District Plan; and that the proposal is not in accordance with Part 2 of the RMA.

### **REPORTING PLANNER**

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

### **ASSESSMENT PURSUANT TO SECTION 104 OF THE RESOURCE MANAGEMENT ACT 1991**

#### **1.0 STATUTORY CONSIDERATIONS**

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

- (1) *Despite any decision made for the purpose of section 95A(2)(a) in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—*
- (a) *the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies) will be minor; or*
  - (b) *the application is for an activity that will not be contrary to the objectives and policies of—*
    - (i) *the relevant plan, if there is a plan but no proposed plan in respect of the activity; or*
    - (ii) *the relevant proposed plan, if there is a proposed plan but no relevant plan in respect of the activity; or*
    - (iii) *both the relevant plan and the relevant proposed plan, if there is both a plan and a proposed plan in respect of the activity.*
- 1.2 It is noted that the proposal, if granted, would also be subject to consents from the Hawkes Bay Regional Council (HBRC). These matters are addressed in 3.2 of the Officer's 'Notification Report' in Attachment B to this report.
- 1.3 The 'Notification Report' (Attachment B) concluded that the adverse effects of the activity on the wider environment are no more than minor, while there would potentially be adverse effects on other parties, being those who were limited notified.
- 1.4 Section 104(1) RMA sets out those matters that Council must have regard to, subject to Part 2, namely:
- (a) *Any actual and potential effects on the environment of allowing the activity; and*
  - (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
  - (b) *Any relevant provisions of:*
    - (i) *a national environmental standard:*

- (ii) *other regulations:*
  - (iii) *a national policy statement:*
  - (iv) *a New Zealand coastal policy statement:*
  - (v) *a regional policy statement or proposed regional policy statement:*
  - (vi) *a plan or proposed plan; and]*
- (c) *Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*

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

- 2.1 A full assessment of effects on the environment has been considered in 4.0 of the 'Notification Report' (Attachment B). In addition to that assessment, the following assessment and comments are made.

### *Additional Background*

- 2.2 Since the Notification Report was prepared, a Section 224(c) certificate has been issued for the subdivision referenced RMA20190193 for subdivision of 62 Irongate Road. Lot 4 DP 542005 of that subdivision is proposed as part of the current proposal to be amalgamated with new Lot 2 of 97 York Road. At the time of the notification assessment, I assessed effects based on new Lot 2 being amalgamated with the whole of 62 Irongate Road. That part of the assessment no longer applies. I note that new Lot 4 is subject to the following consent notice requirements (Council's reference HPRM 25106#0158):

1. *There is no reticulated stormwater system available for this site.*
2. *All stormwater discharge shall be disposed of within the site (on-site).*
3. *At the time of any building consent application, and when any impervious areas are added to the site, a design for the management and disposal of on-site stormwater discharge (Stormwater Management Plan - SMP) shall be submitted to the satisfaction of, and for the approval of, the Council. The details provided for the SMP shall include site specific infiltration testing and reporting prepared and*

*undertaken by a suitably qualified and experienced Engineer. The details for the SMP shall be supported by plans and information of the proposed development / impervious areas and shall satisfactorily demonstrate how the stormwater discharge will be discharged on-site.*

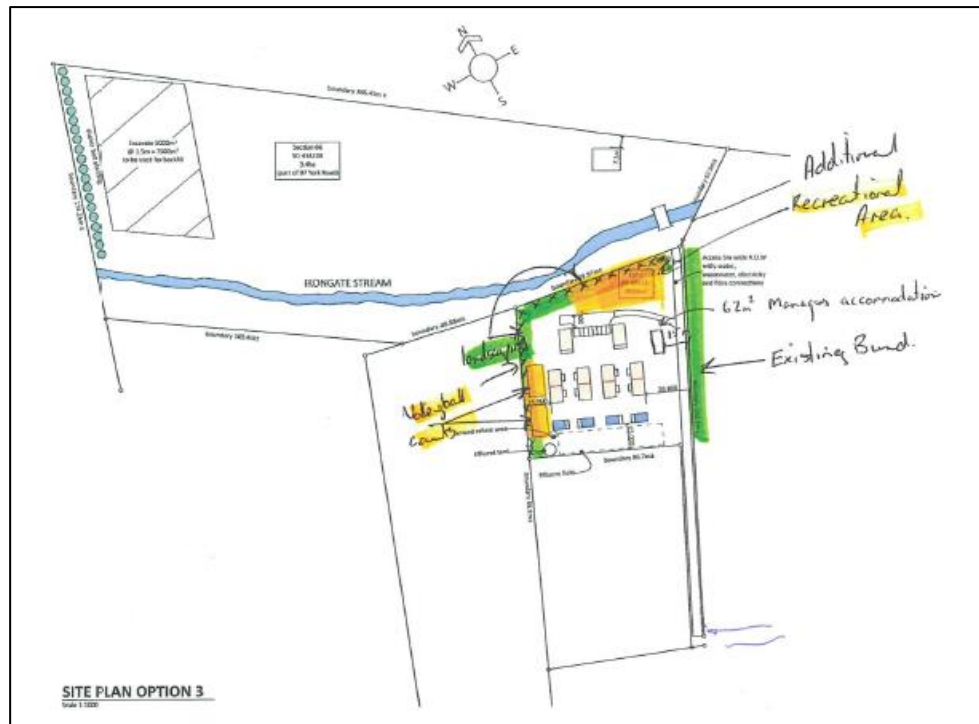
4. *This site shall not discharge any stormwater directly to the Irongate Stream.*
5. *Resource Consent from the Hawke's Bay Regional Council to discharge stormwater to land and/or water may also be necessary prior to any development.*
6. *That the total sanitary (domestic) discharge to the Council wastewater network in Irongate Road East from the land contained within Lot 1 DP 13268 with a total area of 4.05 hectares shall be restricted to a maximum wastewater volume not exceeding 14,000 litres per day. This shall be allocated to each of the Lots as follows:-*
  - *Lot 1 maximum wastewater volume not exceeding 5,220 litres per day,*
  - *Lot 2 maximum wastewater volume not exceeding 1,730 litres per day,*
  - *Lot 3 maximum wastewater volume not exceeding 3,950 litres per day,*
  - *Lot 4 maximum wastewater volume not exceeding 3,100 litres per day*

- 2.3 Furthermore, the following decisions have been made since the notification report, and are relevant to the assessment of the current proposal.

For information, in the locality of the subject site the following is noted:

- RMA20190365 – Applicant: Hawkes Bay Project Management Limited (title showing site in ownership of JA Roil, RA Roil and GH Thorp), The proposal was made under the Operative Hastings District Plan and Proposed Hastings District Plan (Variation 7 – SWA) as a non-complying activity for 48 Seasonal Workers in the General Industrial zone at 1139 Maraekakaho Road (near corner of Maraekakaho Road and Irongate Road), granted 4 December 2019 on a non-notified basis under delegated authority. [Copy of decision in Attachment I]

- RMA20190334 – Applicant: John Roil (one of the site owners along with RA Roil and GH Thorp). Proposal under the Proposed Hastings District Plan as a non-complying activity in the General Industrial zone, being an application made prior to the notification of Variation 7 – SWA to the Proposed Hastings District Plan. This consent is for accommodation for 95 Seasonal Workers and one manager (total 96 persons) at 9 Maultsaid Place (Lot 4). Consent was granted on the 4th December 2019 on a non-notified basis under delegated authority. Conditions of consent include establishment of access and parking, acoustic measures to buildings, provision of a Site Management Plan, imposition of a reverse sensitivity covenant, establishment of landscaping (including shelterbelt planting along the northern boundary to the Irongate Stream), imposition of a restrictive covenant on a remote site at 1139 Maraekakaho Road in the Irongate General Industrial zone that reduces the potential wastewater discharge capacity of that site to account for higher discharge from 9 Maultsaid Place; provision of water supply, management of lighting and glare and construction controls such as construction noise and earthworks sediment and erosion management. [Copy of decision in Attachment H] See extract of consented plan below.



In respect of the above application, it is noted that the proposal does not comply with the underlying consent notice for 9 Maultsaid Place relating to wastewater discharge limits. In order to utilise the land use consent for Seasonal Workers Accommodation on Lot 4 DP 542005 a s221 RMA change of consent notice application is still required.

For the purposes of this application the above two consents form part of the existing consented environment and the adverse effects of the proposal must reasonably therefore be considered inclusive of these and on a cumulative basis in the below assessment of effects.

- RMA20190168 – Applicant: Bostock NZ Irongate Limited (title showing site in ownership of Bostock NZ Irongate Limited). The proposal was made under the Proposed Hastings District Plan prior to the notification of Variation 7 - SWA as a non-complying activity for earthworks and Seasonal Workers Accommodation for 160 persons in the General Industrial zone at 22 Irongate Road East, granted non-notified under delegated authority on the 4 July 2019. [Copy of decision in **Attachment J**].



The above four consents illustrate that there are alternative suitable locations for the provision of SWA in the Industrial area for large scale SWA.

There have been numerous resource consents issued by Council under the Proposed Hastings District Plan provisions for establishing Seasonal Workers Accommodation in the Plains Production zone under the same provisions the subject application is subject to. These vary in size, scale and location, with all considered in their own context and environment.

However, resource consents have also been issued more recently that are subject to Variation 7 – Seasonal Workers Accommodation, to the Proposed Hastings District Plan.

For information, resource consent referenced RMA20190412 for accommodation for 86 seasonal workers at 232 Twyford Road, Twyford has been granted on the 17 December 2019, in the Plains Production zone. This accommodation is sited in a location benefitting by substantial screening due to existing orchards and shelterbelts.

None of the above decisions, or other historical seasonal workers accommodation resource consents I have reviewed, have involved subdivision to facilitate or enable the use.

- Building Consent referenced ABA20191083 by Council was granted in September 2019 relating to Lot 3 of 62 Irongate Road East (now known as 7 Maultsaid Place) south of subject Lot 4 (known as 9 Maultsaid Place). This involves a 1,250m<sup>2</sup> workshop and associated office/staff facilities block, and on-site stormwater disposal area.



### Permitted Baseline

- 2.4 Section 104(2) states that in the assessment of effects under section 104(1) Council may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. Permitted Baseline is not considered useful for this proposal, whereby the application is considered as a bundled activity and all subdivision requires a resource consent.
- 2.5 In terms of land uses it appears from aerial photos that the existing activity on 97 York Road (combined parcels) may already be over the site coverage, so any additional buildings would likely require a resource consent.
- 2.6 In terms of the existing environment however it is noted that Land Based Primary Production currently occurs on 97 York Road, there is an existing dwelling on the site and associated accessory buildings, and effects associated with such uses are acknowledged.

### Affected Persons Consent

- 2.7 Section 104(3) states that the consent authority must not have regard to: (a)(i) trade competition; and (a)(ii) any effect on a person who has given their written approval to the application.
- 2.8 I have not had regard to trade competition nor the effects of trade competition for the purposes of this assessment.
- 2.9 The attached 'Notification Report' addresses written consents on page 37. For clarification, no written consents have been provided with the application, albeit for the purposes of Section 95E considerations no persons were deemed adversely affected, by way of S95E(3)(b) of the RMA. Therefore consideration is given to effects on all parties as a part of the below considerations.

### Consideration of Effects

- 2.10 In addition to the effects assessment in 4.0 of the 'Notification Report', the additional comments are made. The below comments should be

read in addition to the effects assessment in 4.0 which, as noted above, is not repeated here.

### **Effects on Plains Production / Versatile soil / land**

- 2.11 The proposed SWA development would utilise only a small area of the wider versatile land resource.
- 2.12 The SWA is to be established with 'relocatable' buildings, in that the activity is able to be removed / disestablished readily upon the demand or need for the SWA being no longer being required. In effect this ensures that the use is more 'temporary' and the land resource can be adapted into other uses. If consent is granted I consider it appropriate to impose a condition of consent to ensure that upon cessation of the SWA activity in the buildings that the buildings and associated features are removed from the site. This is consistent with the approach taken in other consented SWA activities. If repurposing is to be proposed, then a separate consent could be sought at that time to address the suitability of any future use.
- 2.13 The proposal includes substantial building coverage. This utilises the land resource and has a potential effect of minimising its ability to be utilised for alternative uses in the future. 97 York Road currently appears to be over building coverage. The applicant may wish to clarify this at the hearing. The proposal increases this much further. It is not uncommon for SWA to exceed the site coverage standard in the Plains Production zone, with other consents granted for an exceedance. However, it is considered appropriate to minimise the degree of necessary coverage utilised for the SWA activity. This would ensure that less land would need reverting if the activity is removed in the future. The application information does not show the extent of coverage clearly. I recommend that, if consent is granted, a specific site plan is provided clearly detailing the necessary surfaces on the site and afford some certainty as to the area to be included in building coverage (including hardstand and sealed areas). The applicant could provide a plan detailing this at the hearing to provide this certainty.

- 2.14 Subject to the comments above, it is considered that the coverage and use of Lot 2 for Seasonal Workers, in itself, would have no more than minor adverse effects on the versatile land resource as a whole.

### **Visual Amenity and Character**

- 2.15 The application information has limited assessment on the adverse visual effects and character effects of the proposal. I consider that given the low profile of the proposed buildings and their separated location from other uses that there would be no more than minor wider adverse visual amenity and character effects on the environment from the SWA activity. In the immediate vicinity of the site however, I consider that some softening, visual screening and buffering of the SWA from surrounding sites would assist in minimising the hard appearance of the buildings in the setting so they are better visually absorbed in this context. I do not consider that screening from the adjacent industrial zoned land is necessary, given their use and likely planting along their interface boundary with the Irongate Stream.
- 2.16 The proposed buildings face the Irongate Stream and Marginal Strip and would present a visual face to this over 40m wide width. The SWA activity would take up a substantial length of the Marginal Strip frontage on the northern side of the Irongate stream. Nevertheless given the buildings are to be set at least 15m from the marginal strip, with open parking area between, I consider there to be sufficient separation for the buildings to not present an unreasonable and overly dominant or intrusive appearance to this public space. However additional planting to soften the hard surfaces along the southern side of the SWA facility would further assist in mitigating the built form bulk and hardsurfacing on this site with the stream interface. The stream network already has industrial land along the southern side and the stream vista has been interrupted by the state highway culvert. Adding additional bulk in the form of SWA activity adds visually to this context and without buffering and softening it would be to stark for the rural

context. If consent is to be granted, I recommend a condition to be included to for additional planting to this effect.

- 2.17 The proposed bridge would introduce a further structure across the stream, smaller than the existing culvert for the State Highway. The structure is relatively small in the context of the wider stream network. The part of the stream where the bridge is going is fairly open and in my view, a proposed bridge would not be in character with this existing environment. However, in the context of the stream being adjacent to industrial zoned land and the state highway culvert, I consider that this loss of character would be minor.
- 2.18 Use and enjoyment of the Marginal Strip and HDC esplanade reserve forms part of the amenity of these spaces. However there are currently few users of the marginal strip and adjoining HDC esplanade reserve as a result of its location and it not forming part of a wider network. I have not been informed of any plans from the Department of Conservation or Hastings District Council with regards to proposing wider network linkages for use of these public spaces, at this time. Therefore I consider there to be likely minor adverse effects on the use and enjoyment of the Marginal Strip and HDC esplanade reserve resulting from the proposal.
- 2.19 While the applicant has offered conditions of consent with respect to landscaping, the details of what type of planting this might involve has not been provided. The application includes screening in accordance with Standard 6.2.5D (see Attachment G) of the outdoor storage and parking areas of the SWA activity from a residential activity. This applies to screening particularly for the nearby caretakers dwelling at 13 Maultsaid Place and those on 97 and 59 York Road. More details on the planting and location to be undertaken to achieve this standard would assist in better understanding visual and character implications of the proposal for surrounding properties.

- 2.20 SWA facilities will often have an outdoor clothes drying area. For 150 persons this equates to a potentially large area of clothes lines. Identifying the nature and area of this activity on a site plan and including screening for this area/s is recommended as a condition of consent, if Council is minded to grant consent.
- 2.21 The applicant has also shown on the plans planting along the State Highway edge of the property. Planting along this edge may afford some buffering and screening of the site from the State Highway. However more details on the planting is required to understand the effectiveness of such planting. The Department of Conservation will need to separately agree to the planting within the Marginal Strip for this planting to occur.
- 2.22 The Proposed Hastings District Plan provides a standard for shading from trees along boundaries, standard 6.2.5H(1) and (2) (see Attachment G). The applicant has not included failure to meet this standard and therefore, it is assumed that any landscaping proposed will also meet this standard.
- 2.23 From a visual amenity and character viewpoint, it is my opinion that planting in the vicinity of the subject buildings would be a more successful method to buffer, screen and soften the proposed buildings and activity, rather than planting further away, such as along the State Highway edge. Planting further away would potentially allow large gaps and views around and through to the site activity. I have no concerns with the installation of a shelterbelt along the State Highway boundary (in compliance with standards 6.2.5H). However, overall, it is my view that a landscaping plan with planting appropriate for the soil types, quick growing species and of sufficient size at time of planting to provide sufficient immediate visual mitigation, is recommended. Such planting should be accompanied by irrigation as a part of the maintenance for this area due to the hot Hawkes Bay summers. A suitably qualified and experienced landscape person preparing such a plan addressing all the above is recommended, if consent is granted.

- 2.24 If a suitable landscaping plan is provided, then I consider the more uncharacteristic built form in the open environment on the northern side of the Irongate Stream will be sufficiently visually mitigated to ensure adverse visual effects for the vicinity are no more than minor. This includes visual softening and buffering from the residents at 59 York Road, 13 Maultsaid and 97 York Road.

### **Public Access**

- 2.25 The public access along the marginal strip would likely be restricted as a result of the bridge design. However, as an easement method is to be used for securing the access it is envisaged that public would still be able to pass by the bridge and /or use the bridge. The specific bridge design has not been provided by the applicant. It is understood that the bridge structure is likely to be a low structure spanning the river supported at each side, but then grading into the levels at each side of the river bank. The bridge would provide flow capacity under it the same as the culvert under the State Highway. I consider that if Council is minded to grant consent, then details of the earthworks, driveway and bridge all be provided to ensure that the proposal is consistent with this, and including that the design affords sufficient pedestrian grade along each side of the Marginal Strip for any use along the side of the river.

- 2.26 It is a matter for the Department of Conservation as owners of the Marginal Strip as to who manages and maintains the bridge and whose asset it becomes, and who will be entitled to utilise the bridge. I do not raise any concerns if public utilising the Marginal Strip also cross the Irongate Stream using the proposed bridge.

### **Earthworks**

- 2.27 Localised earthworks are required for the establishment works. The originally proposed mining of metal (shingle) from the site has been withdrawn from the proposal. As the site is already fairly level and the

buildings are to be on piles, there is likely to be limited earthworks involved for the SWA itself. In the rural area earthworks, such as tilling of the land, is usual and so it is not uncharacteristic for the land to be worked.

- 2.28 The application information does not include any earthworks plans or cut and fill areas or volumes. While erosion and sediment controls are offered to be undertaken through a consent condition, there are no details of these. There is no indication in the application information as to the degree of top soil removal or levels changes across the site as a result of the proposed works.
- 2.29 The site is large and any cut and fill from the proposal should reasonably be able to be retained on site. I consider that any topsoil affected can be stockpiled and reused on site, rather than removed off-site, minimising the loss of topsoil from the Plains Production zone.
- 2.30 As the proposed site is within an area subject to flooding from the Irongate Stream (mentioned later in this report), any earthworks design will need to account for this flooding so flood waters can be accommodated on the site and not change to impact on other land outside of the application site. The application information does not identify any change to the flooding parameters across the site from earthworks (excepting I have identified potential for flooding changes around the proposed bridge area).
- 2.31 The bridge works and works to / within the Irongate Stream, including the associated earthworks, are subject to consents under the Hawkes Bay Regional Resource Management Plan from the Hawkes Bay Regional Council (HBRC) The applicant would need to obtain these additional consents which will include consideration of the earthworks and erosion and sediment control measures in respect of the stream network and the impact on flooding resulting.

- 2.32 It is my view that, if Council is minded to grant consent, a condition should be imposed to ensure that all HBRC consents are obtained prior to any works associated with the SWA. This will reasonably ensure that the effects of the bridge works and on the stream are addressed through that process.
- 2.33 Further, I recommend that earthworks plans and erosion and sediment control information are provided prior to the commencement of works associated with the SWA. This will provide confirmation of the scope of earthworks proposed and enable reasonable ability for Council to monitor the works and to manage the adverse effects. Such details supplied will need to be consistent with consented plans and information from the HBRC. The details will also need to demonstrate levels across the site do not change or reduce off site flooding parameters.

### **Traffic Parking and Access Effects**

- 2.34 Traffic effects have been addressed in the 'Notification Report'. This needs to now be also put in the context of the consented new activities on 7 Maultsaid Place (industrial activity) and 9 Maultsaid Place (SWA). Given these other uses, I still consider the conclusion that physical access can be achieved through to Lot 2 and the SWA activity. However given the low level of detail provided with the application with respect to access, I consider that conditions of consent should be imposed to ensure that adequate formation and access widths are achieved.
- 2.35 Like the consented proposal on 9 Maultsaid Place, I consider that the formation of the 1.5m wide footpath within the shared easement off Maultsaid Place to be necessary to serve the various uses utilising the access. This ensures a separate passage for pedestrians along this higher use link. However, I consent that a shared use space along the entrance strip and across 9 Maultsaid Place reasonable, given likely low traffic volumes and potentially limited pedestrian movements also along this access to the consented and proposed SWA. It is appropriate, in my view, that the industrially zoned section of the



access is formed and sealed with appropriate stormwater management controls, given the shared use of this space. However, on the Plains Production zoned side, with the more rural setting and 'relocatable' nature of the SWA, I consider that access and parking areas finished in a metalled surface would suffice and be more readily disestablished if the need arose in the future.

- 2.36 Consistent with the Council's Development Engineers comments (Attachment F), I recommend that if Council is minded to grant consent, conditions are imposed for further detailed plans of access, parking, footpath and bridge be provided to Council to confirm the scope of works and sufficiency for the final design. The minimum widths for the shared movement lane (driveway) within 9 Maultsaid Place is recommended to be 6m in width providing for two way movement of vehicles and shared use with cyclists and pedestrians, and being a width consistent with the movement lane requirements for Industrial access in the District Plan. However, to minimise the impact of the bridge structure, I consider that a one-way bridge that provides a clear movement lane of no less than 3m is appropriate in this context. A 3m driveway from the bridge to the parking area for the SWA would then suffice in my view. These parameters are recommended to ensure that adverse traffic effects are minimised with safe and efficient access provided suitable for the nature of the SWA activity.
- 2.37 As mentioned in the 'Notification Report' 12 parking spaces appear to be insufficient for 150 Seasonal Workers all utilising vans and with a managers unit. With ample room on site I recommend that at least 18 spaces for the vans and 1 space for the managers unit. This will ensure sufficient parking on site for intended users, and with these areas formed (metalled) creation of mud and debris spread will be minimised.
- 2.38 Also I recommend, if Council is minded to grant consent, that the access, footpath and parking, including the bridge formation, be

established prior to first use of the SWA to ensure that it is available in a timely manner for intended users.

- 2.39 The subdivision does not include an easement for right of way over the Marginal Strip to the north. This will mean that the SWA / Lot 2 is not able to be legally accessed, creating a disconnect. If consent is granted, it is recommended that an additional right of way easement is included across the marginal strip linking the two subject parcels. Separate agreement is required from the Department of Conservation for this and the already proposed easement and bridge works.
- 2.40 Subject to above recommended conditions, I consider that the traffic effects from the proposal will be minor.

### **Natural Hazards**

- 2.41 Flooding and Liquefaction are the key hazards that proposed Lot 2 is subject to.
- 2.42 As mentioned in the 'Notification Report' foundations will need to account for impacts of liquefaction and sufficient reporting and consideration can occur at the time of building consent for this.
- 2.43 Flooding has also been discussed in the 'Notification Report'. The key issues for the proposal in respect of flooding are: the effects of flooding on the proposed activity; and the effects on flooding from the proposed bridge structure.
- 2.44 The application information shows Council's mapped GIS 2% AEP (1 in 50 year flood level) flood extent. This information does not account for climate change and does not show the 1% AEP (1 in 100 year flood level). It would be helpful for the applicant to provide further certainty on the extent and implication of the flooding if the 1% AEP was

identified on a plan and that information showed the changes resulting from the bridge installation proposed.

- 2.45 It is likely that the bridge works will alter the flood parameters. Having discussed the matter with the Council's Development Engineer, it is my view that with a bridge design spanning the stream the change to flooding parameters would be minimal and unlikely to be detrimental to surrounding uses and land to an unacceptable level. The bridge design is subject to HBRC resource consent approval (as mentioned earlier in this consent). As the higher authority, I consider that obtaining these regional consents prior to any works commencing for the consent, assurance can be afforded to HDC through that process that the flooding changes and bridge design will be fully considered.
- 2.46 The flooding hazard means that the SWA facility on Lot 2 would be located within an area subject to flooding. Upstream flows down the Irongate Stream past the site are restrained due to the culvert under the State Highway. Given this, the stream channel depth and fairly level nature of the proposed Lot 2 flood waters are likely to rise more gently spanning across the site, rather than fast-moving water.
- 2.47 The proposed SWA buildings can be established on piles above flood levels to protect the buildings from flooding. Having discussed the levels with Council's Building Officers' this level is likely to be 0.3m above the 1%AEP level. This will need confirming at the time of building consent. At the time of building consent the flood level across the site will need to be established in order establish the relevant minimum floor levels to be applied to these buildings.
- 2.48 While buildings may be above potential flood waters in the event of a flood event, given the above, other features on the site may be affected by the flood. For example in the event of a flood any outdoor rubbish receptacles or outdoor furniture may be moved by flood water downstream or off-site, and / or damaged. Also the parking area is to

be within a potential flooding area and vehicles parking in this area may be impacted by flood waters.

- 2.49 Given the potential for such, to be affected, it is recommended (if consent is granted) that moveable features be either located outside of the flood area, tied down, and / or a plan is in place to move such clear of flood water in the event of a flood.
- 2.50 While the subject bridge may be established above the stream, the access from the SWA facility will be likely be flooded restricting access into and out of the site. It is recommended that an emergency flooding management plan be prepared for the SWA and be in place at all times to ensure that there are sufficient measures for the safety of all persons on the site during a flood event. This may include the likes of an evacuation plan. Such a plan could be included in the site management plan (referred to later in this report offered by the applicant as a condition of consent).
- 2.51 While there is a risk to people and property as a result of the flooding, flooding events are likely to be very low in frequency and therefore, as a 'relocatable' SWA facility and with emergency measures in place, the risk to is considered to be minimised.

### **Reverse sensitivity**

- 2.52 There will be potential sensitivity from surrounding activities including mainly industrial activity to the south, State Highway traffic noise, and rural activities occurring on land to the north of the SWA.
- 2.53 I consider that there would be only minor potential effects on the SWA as a result of its surrounding environment and inherent activity. It would be unusual for neighbouring rural activity in this area to have noise impacting on sleeping of seasonal workers during the night time. This is given the limited orchard activity and sheep grazing occurring on

neighbouring sites. Any bird scare devices and frost fans would be infrequent and therefore temporary impacts only. The industrial land may make night time noise, however the SWA sleeping accommodation is afforded some buffering from the exterior noises given there are to be sited between the ablution block and kitchen / dining facilities.

2.54 The proposed Hastings District Plan does not consider Seasonal Workers Accommodation to be a noise sensitive activity in the rural area, and as such I consider in the context of the subject application no special acoustic insulation measures for the buildings is necessary to impose in this rural context. The building regulations will ensure usual standards are achieved for structures.

2.55 The offer of a 'no-complaints' condition on the consent in respect of reverse sensitivity I consider appropriate to include on a decision to grant consent if Council is minded to do so. I consider this could be included as a consent notice on the subdivision and / or condition on the land use consent to acknowledge on an on-going basis the industrial neighbouring activity uses and rural environment surrounding Lot 2. This condition, however, would not avoid, remedy or mitigate, in my view, any reverse sensitivity adverse effects that may be experienced.

### **Noise effects from the SWA**

2.56 As discussed in the 'Notification Report' the management of the site will be the determining factor as to the level of noise generation from the activity and impact of this on surrounding sites / persons. The noise sensitive activities in the area of the SWA are the residential uses at 97 York Road, 59 York Road and 13 Maultsaid Place.

2.57 Due to the scale and nature of the SWA activity, the noise generation from the SWA is considered to be different in character to the usually anticipated noise generated in the rural area. However, with appropriate management of the site and users, the level of noise and

any unreasonable characteristics (such as outdoor amplified noise or noise during night time hours), can be controlled to a level that, in my opinion, will be sufficient to ensure that the reasonable use and enjoyment, including sleeping for residents, of nearby residential dwellings is not detrimentally affected. The noise standards of the District Plan are likely to be met by the proposal given the vicinity of the activity to dwellings.

- 2.58 The applicant has stated in their reply to Council's Section 92 response that *"The proposed accommodation complex will be managed by an on-site manager..... The overall management will be governed by the Department of Labour rules which pertain to the activity. The operation, rules of management will be no different to other approved facilities within the District. We would accept a condition requiring a management plan to be submitted [prior] to occupation..."*
- 2.59 I consider that it would be necessary to ensure that the activity is managed so that only the intended users are accommodated in the facility, that it is undertaken in the intended manner, and to minimise potential effects such as noise disturbance. Other recent consents for SWA (including for that recently granted for 62 Irongate Road) have included a consent condition requiring the submission of a Site Management Plan. I consider that, taking the same approach for this consent in terms of conditions, would be appropriate and assure consistency of decision making in respect of such management plan requirements. These Site Management Plans will need to be sufficiently robust in their content as to address all relevant matters. If Council is minded to take the approach of granting consent subject to a site management plan being supplied then I further recommend that a review condition is imposed so that the adequacy of the plan can be reviewed to ensure the effects such as noise are sufficiently controlled to protect the reasonable noise environment for nearby residents.

## Temporary Construction Effects

- 2.60 These are short-lived during the construction phase and subject to usual construction noise management measures, are considered to have less than minor wider adverse effects. Earthworks and temporary construction effects are addressed in the early earthworks comments.

### **Servicing Effects**

- 2.61 While the applicant has maintained their desire to service the SWA activity via public services in the Irongate Industrial area (excepting stormwater), the Council's Asset Management team and Council's Development Engineer have confirmed that the Council has not agreed to provide public services to proposed Lot 2.
- 2.62 Therefore, as this public reticulation option is not reasonably available in the consideration of this consent, on-site servicing for wastewater and water supply will need to be provided. On-site stormwater discharge will also be required. On-site disposal of stormwater and wastewater are controlled by the HBRC and as such I defer to them for the provision of these services. These services will need to be provided in order that it can be confirmed that the SWA facility can be reasonably established on proposed Lot 2. As such confirmation from HBRC that suitable systems are available on-site prior to any works associated with the activity occurring is recommended by way of a condition of consent if consent is granted. As the higher authority I consider that deferring the determination of on-site disposal for stormwater and wastewater appropriate in this case.
- 2.63 The on-site wastewater discharge report by HB Wastewater Management Limited (HBWML report) submitted with the application was prepared in April 2019, prior to the Soil Report by Agfirst in May 2019. The HBWL report places the soil types in Category 3 (Loams) of AS/NZS 1547:2012, while the Agfirst report indicates that the soils across Sec 6 SO 43108 are either loam over sandy loam or sandy loam. It would be helpful if HBWM Limited could clarify the wastewater report assumptions and conclusions in light of the Agfirst report soil information, for the proposal (150 persons) and proposed location of

the wastewater in the Matapihi Loam portion of the site that is categorised as having high water logging vulnerability characteristics. This would assist in informing whether the proposed land use activity and site can reasonably be sufficiently serviced.

- 2.64 The District Plan does not require power supply to proposed Lot 2, however if the power utility operator is willing to serve the site I raise no concerns with this. Much development in the rural area is served by connection to the public power supply. Easements may be required for this connection and the applicant may include these on a plan of subdivision if desired.
- 2.65 Water supply would also need to be provided on-site. The applicant could reuse rainwater from roofs and would likely need to include water storage tanks.
- 2.66 Council's Development Engineer has identified that there is no clear provision for firefighting water supply for the proposal and recommends inclusion of a condition of consent that provision is made. The proposal will be too far from any public fire hydrant to serve the site in the event of a fire. The building regulations through the building consent process also address firefighting. However, I consider it appropriate to ensure that sufficient measures are included, if consent is granted, to ensure that provision for firefighting water supply is provided in accordance with the New Zealand Fire Service Code of Practice SNZ PAS 4509:2008. Again, if consent is granted a condition of consent can ensure this is reasonably provided. This will ensure that the potential effects on people and property in the event of a fire are minimised as provision is made for firefighting.

## Security

- 2.67 The above mentioned Site Management Plan will include a code of conduct for workers including expected behaviours and a manager will reside on site to ensure the management plan is upheld. Usual



Management Plans also include strict measures about visitors and that no visitors are allowed to stay at the facility. These requirements can be reinforced by way of condition of consent, if Council is minded to grant consent.

- 2.68 I am not aware of any reason to expect residents at the seasonal worker accommodation to present a risk to the safety and security of neighbouring properties.

### **Adjacent properties**

- 2.69 I consider that with conditions recommended in earlier comments, that the Irongate Industrial users would be able to reasonably undertake permitted and consented activities on their land without unreasonable levels of adverse effects.
- 2.70 The owners / occupiers of 97 York Road are subject to a sale and purchase agreement for the disposal of Lot 2 for the purpose of Seasonal Workers Accommodation. It is therefore implied that they are accepting of the proposal and its adverse effects. Nevertheless, I consider that with landscaping and the site management plans, and consents obtained from HBRC, there would be a reasonable interface with this adjoining property which would not be unreasonably detrimental to rural use and occupation of this site.
- 2.71 In terms of the Council Esplanade Reserve north of 13 Maultsaid Place, there will be a potential change to the visual quality and use of the reserve area. Any public use of the reserve is currently low to negligible. The function of the esplanade reserve currently is as a riparian edge to the stream. The Council as owner of the esplanade reserve has informally raised no concerns with the impact of the proposal on the esplanade reserve. The bridge works proposed are the key potential impact to the reserve. Provided public access past the bridge remains available to get to the esplanade reserve and that the

HBRC consent to the proposed bridge / stream works, then I consider the adverse effects on the esplanade to be minor.

- 2.72 The effects on the Irongate Stream and Department of Conservation managed Marginal Strips have been discussed above in terms of visual effects. Flooding will be altered around the bridge to a limited level. The adverse effects of the bridge on the stream and environs, including flooding and water quality, and stream use, are covered by regional consents required from HBRC. In this case deferral of the stream work considerations to the HBRC is appropriate for this consent. Provided consent is obtained from HBRC for the stream works, then I consider the bridge access and impact on the stream network and environs will be acceptable.
- 2.73 The owners / occupiers of 59 York Road have not made a submission on the application. The adverse effects of the proposal on this property are limited with large open paddocks between the subject proposal and the dwelling on the site. The dwelling has outdoor living orientation generally to the north away from the site. Given the recommendations on landscaping, screening and management plans for the site, earlier in this report, I consider that the adverse effects experienced for this neighbouring site to be reasonable. The current use of this neighbouring land is able to be maintained as the existing use is for sheep grazing.

### **Cultural Effects**

- 2.74 The Heretaunga Tamatea Deed of Settlement of Historical Claims (2015) lists the Karamū Stream and its tributaries as an area or areas of statutory acknowledgement with regard to cultural, spiritual, historical and traditional association by tangata whenua. The Irongate Stream is one of many tributaries of the Karamū Stream. With Hastings district, formerly an extraordinarily series of wetlands, with its braided, meandering rivers, streams, swamps, lakes, and lagoons, the whole area including what is now known as the Irongate Stream, was an important hunting and fishing ground for tangata whenua. Over the

last 150 years, here in the Hastings district, we have lost approximately 98% of the wetlands due to water drainage, land reclamation, and or the safeguarding of flood-prone areas. A number of hapū are associated with the immediate area of concern including Ngāti Pōporo and Ngāti Rahunga-i-te-rangi of Bridge Pā, Ngāti Hāwea, Ngāti Hori and Ngāti Hinemoa of the Waipatu and Ruahāpia settlements, and Ngāti Ngarengare, Ngāti Mihiroa, Ngāti Papatuamārō, and Ngāti Tamaterā of the Pakipaki area.

- 2.75 The Notification Report identified that there is a particular association between the mana whenua of the subject area with the Irongate Stream environment. In 4.2 of the Notification Report an extract from the Statement of Association related to the Heretaunga Tamatea Settlement Trust (HTST) was provided. Key factors for consideration in my view in terms of the proposal and in terms of this cultural relationship include character of the stream, access, ecosystem values including stream values such as aquatic value, fishing and water quality.
- 2.76 The HTST were deemed potentially affected by the proposal including works to and across the Irongate Stream (being a tributary to the Karamu Stream). No submission or comments have subsequently been received as a result of this process. I consider that there is a special relationship between tangata whenua with the stream environment in this area, albeit the State Highway has culverted a portion of the stream in the vicinity altering the natural flow and character along that portion of stream.
- 2.77 The proposed SWA activity will be set back from the Marginal Strip and with landscaping recommended earlier in this report to soften the edge of the facility with the stream network, I consider that the activity itself, in context of permitted rural activity will ensure that the values of the stream will be maintained. The area that may impact the values more is in respect of the bridge works. It is understood that the bridge design will span the stream and provide capacity at least as sufficient as that the culvert under the State Highway. On this basis it is likely that

the movement of aquatic species (eg: fish) along the stream network will be impacted, excepting for a possibly temporary period during the construction works.

- 2.78 The proposed bridge and associated disturbance to the stream will be localised to the area of the works. The bridge itself will likely have a design spanning the stream allowing for sufficient passage beneath of water flows. Public access has been discussed above and will apply to tangata whenua as well, so parties can still reasonably get to and along the stream.
- 2.79 The stream works / bridge is likely to require a resource consent from the Hawkes Bay Regional Council and /or needs to meet their permitted activity standards for works. I consider, that as the higher authority provides control over these matters, including the quality of the water, flooding and aquatic ecosystems, that consideration by the HBRC and through the HBRRMP for these works should sufficiently address the values.
- 2.80 I consider that given the localised nature of the works, limited area taken up by the proposed bridge and with controls of the HBRC, then the adverse cultural effects resulting would likely be no more than minor.
- 2.81 As mentioned earlier in this report, if Council is minded to grant consent, I recommend conditions of consent seeking clarification of the bridge and associated works design, it's access width, supply of confirmation from HBRC the works are consented / permitted prior to their commencement, and with public access along the stream banks maintained.
- 2.82 Further, due to historical use including farming and vineyards along the Irongate stream in the vicinity of the proposal, it is unlikely there would

be any archaeological discovery of historical use and occupation of the area. However, an accidental discovery protocol could be imposed as a condition of consent if the Council was minded to grant consent to ensure that any discovery is appropriately managed.

### **Cumulative Effects**

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

### **Positive Effects**

- 2.84 The proposal will provide accommodation for seasonal workers which is beneficial to support the regions horticultural industry.

### **Conclusion**

- 2.85 The section, read in conjunction with the assessment in the notification report, has had regard to the actual and potential effects on the environment of allowing the activity, as required by s104(1)(a) RMA.
- 2.86 As set out above, section 104D of the RMA sets out the 'gateway test' for non-complying activities. The first test as to whether Council may determine to grant a consent, if it chooses to do so, is whether the adverse effects on the environment are more than minor. It is considered that the adverse effects would be no more than minor subject to consent conditions, and therefore Council may make a determination to grant consent.

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

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

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

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

##### **National Environmental Standards (NESCS)**

- 3.1.1 Since the subject application was lodged, the contamination conditions of underlying subdivision consent for 62 Irongate Road have been satisfied and there are no outstanding contamination requirements under the NESCS in respect of 62 Irongate Road. No consents are deemed to be necessary under the NESCS in respect of the subject application and as such there are no further contamination matters of requiring further consideration in respect of effects on the environment for the purpose of this report. The proposal creates no conflict, therefore, under the NESCS.

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

- 3.1.2 The National Environmental Standards for Sources of Human Drinking Water must be considered if the activity itself may lead to an event occurring that may have a significant adverse effect on the quality of the water at any abstraction point of a registered drinking-water supply or as a consequence of an event (for example, an unusually heavy rainfall) have a significant adverse effect on the quality of the water at any abstraction point.
- 3.1.3 The proposed SWA and subdivision will include servicing methods, either on or off-site, and where on-site will be controlled by way of HBRRMP provisions. The proposal is not near a registered drinking water supply. It is therefore unlikely there will

be any conflict with the requirements of the NES for Sources of Human Drinking Water.

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

#### **NPS on Urban Development Capacity 2016 (NPSUDC)**

- 3.2.1 The National Policy Statement on Urban Capacity requires Council to provide for an adequate or sufficient supply of land for urban development. The purpose of this Policy Statement is to provide direction to decision makers under the Resource Management Act 1991 on planning for urban environments.

The subject property is located partially in the urban and partially within the Rural environment.

The amalgamation and integration of land of different zones (General Industrial with Plains Production zoned land) may result in the implication that the Irongate Industrial urban area is being expanded to include proposed Lot 2. This implication is identified in the application AEE document in the last paragraph of the second Section 9.0 which states that *“Amalgamating the land transfers the RSE site into the industrial resource, where it is able to be better utilised rather having it remain as an unutilised site.”*

There has been an ongoing planned approach to the provision of Industrial land in the Hastings District. The Hastings Industrial Growth Strategy identified the Irongate area for dry industrial activity in 2003. A later review in 2009 updated this strategy. In 2010 the Council adopted the Heretaunga Plains Urban Development Study (HPUDS) as it's framework for urban growth in the Heretaunga Plains, which identified an indicative Industrial 'node' in the Irongate area. The Operative District Plan under Plan Change 50 in 2011 introduced the 'Deferred General Industrial' Irongate Area. Under Plan Change 50 the Irongate Stream was the boundary to the Industrial zone interface with the Plains zone for 62 Irongate Road. The Proposed Hastings District Plan, continued a similar approach until Variation 2 to the Proposed Hastings District Plan, which had all appeals resolved in early 2018. The HPUDS was reviewed, adopted in 2017, indicating planned supply is around 40-45 years of supply<sup>1</sup>.

<sup>1</sup> HPUDS – 2107 Page 23 Table 2.



The Irongate Variation 2 to the Proposed Hastings District Plan identified in the conclusions of the section 32 that the variation to the plan will “...achieve integrated management of the effects of the use and development of land for industrial purposes, while being affordable to the community. In this way, the proposal seeks to enable people and communities to provide for their social and economic wellbeing.”<sup>2</sup>

An unplanned industrial expansion of the Irongate industrial area into the Plains Production zone would not represent the broader intention of the NPS for an informed, planned and coordinated approach to development.

Seasonal Workers Accommodation is not specifically an urban or rural activity, whereby is located in urban and rural environments to various degrees. At the time of the subject application Seasonal Workers Accommodation was expressly provided for in the Plains Production zone as permitted activities limited to generally up to 125m<sup>2</sup> gross floor area and where the buildings are relocatable.

Variation 7 – SWA to the PDHP (mentioned later in this report) has been prepared in consideration of the NPSDUC. The Variation acknowledges the obligation under the NPSDUC to provide for sufficient land capacity to meet its housing demands and that part of meeting these demands is ensuring that different accommodation needs in the district (such as SWA are provided for). This Variation presents a planned and coordinated approach to addressing the matter of SWA demand throughout the District in line with expectations of the NPSUDC. Further submissions closed on Variation 7 on the 29th October 2019, but yet no decisions have been issued in respect of this variation.

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<sup>2</sup> Section 8, Pt 3, page 42 of the Sage Planning ‘Section 32 Summary Evaluation Report’  
<https://www.hastingsdc.govt.nz/assets/Documents/Irongate-Industrial-2016/irongate-section-32-report-with-appendices-a-d.pdf>



### **National Policy Statement for Freshwater Management 2014 [Freshwater NPS]**

- 3.2.2 The Freshwater NPS directs regional councils, in consultation with their communities, to set objectives for the state of fresh water bodies in their regions and to set limits on resource use to meet these objectives.

Freshwater is defined in the RMA as “all water except coastal water and geothermal water”. Therefore this NPS applies to the proposal in particular respect to the impacts on the Irongate Stream and the impacts on stormwater and groundwater from the proposal, principally from on-site servicing necessary.

HBRC is the overarching authority for stormwater and wastewater discharge to ground and in respect to stream works. In this regard, provided all relevant consents are obtained from the HBRC and / or permitted standards for these activities I consider that there should be sufficient consideration of management of freshwater to address the objectives of the Freshwater NPS.

### **National Policy Statement for Highly Productive Land (Discussion document for a proposed NPS)**

- 3.2.3 The Ministry for the Environment has prepared the ‘Valuing Highly Productive Land: Discussion Document: August 2019’. This document proposes a NPS addressing highly productive land. The proposed objectives include recognising the benefits of highly productive land, maintaining the availability of highly productive land; and protection from inappropriate subdivision, use and development. (Objectives 1 - 3). This discussion document acknowledges that productive land has various factors contributing to its value factors such as soil class, climate, water availability and size of area of land, which may contribute to the productivity of land and its value as production land.

This proposed NPS is at a discussion document phase of Policy development only. Therefore, no weight can be placed on this document as a part of this assessment.

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

- 3.3.1 The Coastal Policy Statement seeks to avoid inappropriate development within the Coastal area. The subject site is not

located within the Coastal Environment and therefore this Policy Statement has limited applicability.

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

3.4.1 As required under Section 75(3) of the RMA, District Plans must give effect to the RPS (embedded in the Hawke's Bay Regional Resource Management Plan (RRMP)). In this regard, Section 3.1B Managing the Built Environment of the Hawkes Bay is particularly relevant (refer to **Attachment L**).

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

**UD1** *The adverse effects of sporadic and unplanned urban development (particularly in the Heretaunga Plains sub-region), on:*

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

In part, the explanation supporting this Issue states:

*"...Unplanned urban form and ad hoc management of urban growth can have adverse effects on people and communities, and on the natural environment (land and water). Effective management of growth in the region is necessary to ensure development occurs in a planned, sustainable manner and in a way that also does not compromise the planned provision, operation, maintenance and upgrading of strategic and regionally significant infrastructure...."*

**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 supporting explanation to this Issues states:

*“The Heretaunga Plains sub-region contains areas with a high proportion of very high value versatile land. There are competing demands for this valuable finite resource. The diversity and intensity of horticultural and viticultural production on the Heretaunga Plains, for instance, creates a high demand for land which is in short supply, whilst the same land is highly desirable for urban and rural lifestyle development. The versatile land of the region, particularly in the Heretaunga Plains sub-region is a regionally, if not nationally, significant resource for primary production and ultimately underpins the economy of the Region. Therefore, pressure from urban development encroaching on this resource is a regionally significant issue. Pressure for urban expansion on to agricultural land continues unless controlled, because the financial incentives are strong. The increased market value of land developed for urban use is considerable and beyond agricultural returns to sustain. Once developed, the economic value of urban and industrial infrastructure typically means this land is permanently removed from primary production. In short, within agriculture, land use conflicts occur between short-term economic incentives and the future sustainability of the soils. Subdivision for urban development removes land from agricultural production but also impacts on the productivity of other land, in particular through reverse sensitivity. The concentration of highly versatile soils in conjunction with significant concentration of the Region’s population on the Heretaunga Plains, reinforces the focus of urban growth policy in the Regional Policy Statement on the Heretaunga Plains sub-region at this time.”*

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

- 3.4.3 The relevant objectives and policies of the RPS/RRMP are as follows (underlining for emphasis);

***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.*

**OBJ UD2** *Provide for residential growth in the Heretaunga Plains sub-region through higher density development in suitable locations.*

*Principal reasons and explanation*

*New development accommodates growth and provides the opportunity to enhance the quality of the environment. In the right location, more intensive forms of development will, amongst other things, promote efficient use of existing infrastructure or any planned infrastructure already committed to by Local Authorities (e.g. by funding) but not yet constructed, minimise energy use (as development spreads, the demand for transport and energy use increases), and reduce the need to encroach onto the versatile land of the Heretaunga Plains.*

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

a) *allows for the adequate and timely supply of land and associated infrastructure; and*

b) avoids inappropriate lifestyle development, ad hoc residential development and other inappropriate urban activities in rural parts of the Heretaunga Plains sub-region.

*Principal reasons and explanation*

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

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

- a) the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production, and
- b) ensuring efficient utilisation of existing infrastructure, or
- c) ensuring efficient utilisation of planned infrastructure already committed to by a local authority, but not yet constructed.

*Principal reasons and explanation*

Efficient utilisation of existing infrastructure investment (or planned infrastructure already committed to (e.g. by funding) by not yet constructed) and the retention of the versatile land of the Heretaunga Plains for existing and foreseeable future primary production must underpin all decisions surrounding provision for urban activity in the Heretaunga Plains sub-region in order to achieve the desired settlement pattern outlined in HPUDS2010. For clarification, the supply of land for residential and industrial activities where they support effective and efficient use and management of versatile land would not conflict with Policy UD1, and would assist in achieving Policy UD1(a).

**POL UD2** In the Heretaunga Plains Sub-region, district plans shall provide for business activities to 2045 in a manner which:

- (e) avoids the unnecessary encroachment into the versatile land of the Heretaunga Plains.

3.4.4 The RPS/RRMP and the specific section on 'Managing the Built Environment' which contains the provision set out above has been developed to implement the principles and purposes of the



Heretaunga Plains Urban Development Strategy (HPUDS). It prioritises the retention of the versatile land of the Heretaunga Plains, and seeks to ensure efficient utilisation of infrastructure (existing and planned) (POL UD1); provides for business activities (POL UD2), identifies areas for new residential greenfield growth (POL UD4.3), and specific non-growth areas POL UD4.4); and POL UD4.5 identifies appropriate Industrial Greenfield Growth Areas plus criteria for identifying new residential greenfield growth where not part of an identified growth area (POL UD4.2).

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

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

- Preventing the loss of productive/versatile land and soils (POL UD1);
- Avoiding unnecessary encroachment of urban activities on the versatile land of the Heretaunga Plains (OBJ UD4);
- Sustainable management of the versatile land of the Heretaunga Plains (POL UD1);
- Make provision for business activities including avoiding encroachment into the Heretaunga Plains (POL UD2)
- Avoiding ad hoc residential development (POL UD3);
- Maintaining the openness of the Heretaunga Plains;
- A building scale that is compact and of low intensity;
- Containing Urban Activities within Urban Limits (POL UD5)
- Avoiding inefficient use of existing and planned infrastructure (UD10.1, UD10.3);
- Avoiding development in areas subject to natural hazards (OBJ 31);
- Transport and connections considerations;
- Reverse sensitivity effects and compatibility of land uses.
- Ensuring compact and strongly connected urban form.
- Recognise tikanga Maori values and consult with Maori (OBJ34 and 35), and the important of river environments and their associated resources to Maori should be recognised in the management of those resources (POL66).

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

3.4.8 The Plan uses the term Versatile Land. This is defined in the HBRRMP as:

*"In relation to the Heretaunga Plains sub-region, means contiguous, flat to undulating terrain within the Heretaunga Plains sub-region that acts collectively to support regionally (and nationally) significant primary production and associated secondary services on the Heretaunga Plains, based around<sup>4A</sup>:*

- a) an exceptionally high proportion of versatile Class 1-3 soils (comprising almost 90%);*
- b) Class 7 soils that are internationally recognised as having very high value for viticultural production (comprising almost 7%);*
- c) its proximity to a cluster of national and international processing industries and associated qualified labour force; and*
- d) its proximity to the Port of Napier and other strategic transport networks providing efficient transport of produce."*

The note to this definition clarifies:

*4A "While this definition is based around matters in (a) to (d), the Environment Court's decision in Canterbury Regional Council v Selwyn District Council [W142/96] provides a statement from Judge Treadwell about the wider range of factors he took into account regarding land versatility"*

3.4.9 From the above it can be seen that what may be considered versatile land is far broader and more encompassing than just the soil type. The Land Use Capability (LUC) System considers physical factors (rock type, soil, slope, severity of erosion and vegetation) as well as inventory factors (climate, the effects of past land-use, and potential for erosion). This LUC assists in

understanding versatile lands, however needs to be part of a broader context. The flat nature of the land, the climatic conditions (sunshine hours and wind conditions for example), and vicinity to other versatile land associated services, and transport networks all contribute to the versatility of the land. This understanding is relevant in the consideration of the uses on the Plains Production zoned portion of land the subject of this application at 97 York Road.

3.4.10 I consider that the land at 97 York Road is appropriately classed as versatile land based on broader matters than its soil classification. The land is currently part of a large parcel of over 19ha (less marginal strip), the existing land parcel has access to York Road and in close vicinity to the State Highway, it is close to the suburb of Flaxmere and Hastings City with work force, the site has sufficiently good climatic conditions such as sunshine hours (similar to other land surrounding the site zoned Plains Production), and with the Proposed Hastings District Plan providing for various activities that do not rely solely on the soil itself to be established.

3.4.11 The Agfirst report submitted with the application addresses soil on Sec 66 SO43108 only and does not consider the whole of 97 York Road in context, and does not consider the whole of 97 York Road as an existing site / economic unit.

3.4.12 The Agfirst report limits its consideration by focusing on the implied separate nature of Sec 66 SO43108 to come to its conclusions, rather than considering the 97 York Road at over 19ha (less marginal strip) as a whole. Further the report, focuses on uses that utilise the soil, and therefore presents a limitation in its application in its use to determine whether the subject site is versatile land in the broader sense. The Agfirst report suggests that the part of Sec 66 SO 43108 is moderately well drained while the majority is poorly drained. These more refined soil conclusions of the Agfirst report about the drainage conditions will need to be taken into consideration in the design of any on-site discharge.

3.4.13 The HBRRMP also uses the term 'urban limits' which means "the outer extent of the areas within which urban activities are located or which are committed for future urban expansion." Industrial activity is an Urban Activity.



3.4.14 I consider that the proposal in itself will not result in significant loss of versatile land, taking into account the total land area of the Heretaunga Plains. In respect of loss of soils, the proposal (in and of itself) is not inconsistent with this aspect of the RPS /RRMP. However, precedence is addressed later in the report.

3.4.15 The stormwater, wastewater and water supply services for the SWA are likely to be dealt with on-site rather than relying on a Council reticulated system (given no confirmation of any support from Council's Asset Management team for connection into the public systems in Irongate Industrial area at the time of writing this report). For these reasons, it is considered that the proposal will not undermine the current or future infrastructure investments that existing or planned within the urban limits, as addressed under POL UD1.

3.4.16 I consider the proposal would create urban creep outside of the urban boundaries, by severing land from a larger economic unit zoned for rural uses, and merging with Industrial zoned land. This is mainly contributed to by the following factors -

- The Plains Production zoned land is to be separated from other PP zoned land by way of subdivision and directly amalgamated with Industrial zoned land;
- Access for proposed Lot 2 will be over Industrial zoned land;
- Seasonal Workers Accommodation can be urban activity (as seen by various consents for SWA in urban areas) as well as rural, and differentiating the urban and rural areas as a result of the vicinity and relationship of land would be difficult to discern.
- The application asserts a preference to connect Lot 2 activity into reticulated services in Irongate (albeit unlikely given Council's Asset Managers have not agreed to this at the time of writing this report).

3.4.17 I consider the proposal creates unjustified fragmentation of versatile land. The SWA activity could be established on the subject area with access back to York Road without any need to

fragment 97 York Road, and ensure a sustainable long term approach to the management of versatile land.

- 3.4.18 I do consider that the Seasonal Workers Accommodation use itself which presents an activity with a relationship with the land based primary production industry does not present a challenge to the business activity strategy of the RPS under POL UD2. However, as above, with the potential for urban creep resulting from the land framework changing (due to the subdivision proposal), there may be implications for the Irongate Industrial area and expansion of the area, if the consent is subdivision is granted.

### **RPS Conclusion**

- 3.4.19 In conclusion, I consider that the Seasonal Workers Accommodation activity could be considered consistent with the RPS (subject to conditions addressed elsewhere in this report to address servicing, earthworks, interface with surrounding uses and reverse sensitivity matters). However the associated subdivision would potentially establish urban creep and place unacceptable pressure on the urban boundary of the industrial area, and result in inconsistency with the wider urban and industrial land provision strategy. The undersize Plains Production lot presents ad hoc fragmentation of land which remain in my view sufficiently justified as classed as versatile land. Thus the proposal is considered to be contrary to the relevant provisions of the RPS.

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

- 3.5.1 Since the subject application was applied for, a further variation to the Proposed Hastings District Plan has been notified (Variation 7 – Seasonal Workers Accommodation) [V7], and submission and further submissions periods have both closed for this. However, no decision has yet been made on this V7. The subject application was made prior to the V7 being notified.

Regardless of whether an application was lodged before or after Variation 7 (V7) was notified, it must still be assessed against the PDP as if amended by V7. The activity status remains the same as it was when lodged (protected by s 88A), however the

assessment under s 104(1)(b) must take into account the Variation – see s 88A(2) and cl 16B(2) RMA.

As such the Proposed Hastings District Plan remains the relevant document but the provisions of V7 must be taken into account.

The application documentation was submitted with the application before Variation 7 was notified and the information does not include consideration of V7 changes to the PDHP.

It is noted that V7 provides for up to 125m<sup>2</sup> of SWA where it is relocatable or able to be reconfigured to buildings accessory to land based primary production, has 15m set backs from boundaries (and complying with other standards and terms such as noise and site coverage) as a permitted activity.

However, it provides for a consideration as a restricted discretionary activity for up to 80 people on a site where the site is at least 12ha in area, buildings are at least 15m from the boundaries and relocatable or able to be refigured to buildings accessory to land based primary production.

In this case, with 150 persons to be accommodated and on a site less than 12ha (opposed Lot 2) the Seasonal Workers Accommodation is a Non-complying Activity under V7 also.

As a non-complying activity no specific assessment criteria is stated in the Proposed Hastings District Plan and as varied by V7 for consideration.

Nevertheless, it is appropriate, as a guide for the consenting considerations, to address the following assessment criteria:

Plains Production zone

**PDHP Assessment Criteria 6.2.8J** – Seasonal Workers Accommodation (Variation 7 additional criteria in bold and underline)

- (a) *Whether the proposed building location will continue to allow for efficient use of the remaining undeveloped land for land based primary production*
- (b) *Whether the scale and design of the proposed building complements the character of the area.*

- (c) *Whether the siting of the activity will impact on the amenity of the adjoining property.*
- (d) *Whether soil values have been taken into account in the chosen site for the building **and whether buildings can be located on a part of the site where land versatility is already compromised.***
- (e) *Whether traffic generation associated with the number of occupants will adversely impact on the road network.*  
[replaced by (e) below for V7]
- (e) Whether safe and efficient vehicle access can be provided to the site.**
- (f) The ability of the site to provide for appropriate on site servicing without creating adverse effects on the environment or neighbouring properties.**
- (g) Whether the activity will utilise any existing buildings or whether the buildings can be reconfigured for buildings accessory to land based primary production**
- (h) The cumulative effects on the versatile land resource taking into account the existing buildings on the site.**

The above matters have been considered in the earlier assessment of effects and have been sufficiently addressed by the application proposal, subject to conditions of consent.

In respect of (d) criteria above, the buildings are not located on the site in an area already compromised, as the area chosen to site the buildings is currently in pasture.

**Assessment Criteria 6.2.8K** – Activity not meeting terms in 6.2.5 and 6.2.6:

- (a) *The ability of the activity to achieve the particular stated outcome of the General or Specific Performance Standard(s) and Terms which it fails to meet. Within the Plains Production Zone the outcomes principally relate to the soil effects and the effects on amenity. In this Zone the amenity centres around the open nature of the landscape, the low scale and intensity of buildings and the use of the land for orchards and cropping.*

Site coverage is exceeded by the proposal. The Outcome for site coverage states:

*“The life-supporting capacity of the Plains Production soil resource will be safeguarded and the amenity of the Plains Production zone will be protected by limiting the total scale of buildings on and sealed areas over smaller sites.*

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

The applicant has provided limited plans of specific coverage areas. Provision of such plans would be helpful in confirming the degree of additional coverage that would occur on the site. This coverage is in addition to the existing coverage already on 97 York Road. As the proposed buildings are to be ‘relocatable’ and with driveways metaled, the activity should be able to be disestablished when no longer needed for SWA. On this basis the additional coverage over the 19 plus hectare size site is not considered to be significant and land could be reverted in the future (buildings being ‘relocatable’). In my view the proposal sufficiently addresses the assessment criteria and above outcome for the SWA activity. Conditions of consent are recommended to ensure that adequate site plans are provided clearly showing coverage areas and minimising these on site.

**Assessment Criteria 27.1.7 Earthworks** (for full assessment criteria see Attachment G) – unchanged by V7

- Earthworks have been addressed in the earlier assessment of effects. Provided that HBRC consents are obtained, that appropriate erosion and sediment measures are in place during the establishment works, and with levels not affecting flooding, top soil remaining on site, it is considered that the earthworks would sufficiently address each of the assessment matters in 27.1.7.
- There are no known archaeological sites or wāhi tapu sites specifically identified on the site. Heretaunga Tamatea Settlement Trust has not provided particular feedback raising concerns over the proposal.

- With the earthworks being enabling works the visual impacts are likely to be minimal.
- Regrassing exposed areas post works will ensure management of sediment and erosion and also return current paddock area back to greenery.
- Construction noise is limited and will be subject to usual construction noise standards.
- There may be temporary restrictions along the watercourse from the earthworks, however this will likely be short-lived given the works are for bridge installation only along the Irongate Stream.

**Assessment Criteria 30.1.8** : Subdivision (full extract of standards see Attachment G) – unchanged by V7

30.1.8.1.1 – Structure Plans : The Irongate Industrial Area has a structure plan in Appendix 16. This clearly identifies the Irongate area excluding the subject parcel at 97 York Road. The proposed roading identified for development as a part of the structure plan for Irongate is not affected by the proposal.

30.1.8.1.2 – Subdivision Design

(a) Connectivity – The subject subdivision can be reasonably connected with Lot 1 to York Road and Lot 2 through to Maultsaid Place, subject to recommended conditions mentioned earlier in this consent regarding physical and legal establishment, including right of way easements, establishment of bridge and establishment of footpath in the right of way to Maultsaid Place, and shared use of the entrance strip.

(b) Street, Block and Site Orientation – The proposal has no implications here with large rural and industrial lots involved.

(c) Site or Lot design – The proposal has no implications here with large rural and industrial lots involved.

(d) Public Open Space design – There are no key implications for land zoned public open space. The esplanade nearby and Irongate Stream network have been considered in the earlier assessment of effects.



(e) Stormwater management – This will be on-site for Lot 2. Lot 1 will have stormwater as it currently does, on-site. A consent notice for Lot 4 of 62 Irongate Road (9 Maultsaid Place) requires discharge within that Lot. There is sufficient space in some capacity for each area to provide for stormwater management and will be controlled by way of the HBRC provisions as they are the controlling authority for stormwater.

(f) Road / Street Design – no new roads are proposed.

30.1.8.1.3 Property Access – This has been discussed in the earlier assessment of effects, and I consider subject to appropriate conditions suitable physical and legal access can be provided to the subject parcels. Lot 1 proposed will retain reasonable existing access to York Road. Safe and efficient access for all intended users can be provided for the proposed subdivision.

30.1.8.1.4 – Water Supply, Wastewater Disposal, Stormwater Disposal

There is reticulation for water and wastewater disposal in the Irongate Area. The applicant has sought to connect to these to serve proposed Lot 2, but will as an alternative provide for on-site disposal for activities on Lot 2. Council's Asset Managers, as confirmed by Council's Development Engineer in his attached memo, have advised that the Council has not agreed to any public servicing being utilised for proposed Lot 2, being outside of the planned reticulation serve area. There are restrictions for Irongate zoned sites for wastewater disposal already with limited wastewater capacity for the Irongate Area. Water supply is sufficient but again, Lot 2 is not planned to be served by this infrastructure. Therefore, on-site servicing for stormwater, and wastewater is required for Lot 2 activity.

Council's Development Engineer identifies that there will be no firefighting water supply accessible in the vicinity of Lot 2 and recommends that any activity on Lot 2 have sufficient firefighting water supply in accordance with the relevant NZS standards. I concur with this view, and consider that the land use consent have a condition, if consent is granted, to address this necessary supply for SWA, which will also be considered under the Building

Regulations. No additional notation is considered necessary for the subdivision consent as a result.

Water supply can be via on-site methods for Lot 2. The water supply for the SWA accommodation may be substantial and would need to be provided for that activity with water tanks for storage required, however for the subdivision any special requirement on the title for water supply is not deemed necessary.

The HBRC HBRRMP provides controls for on-site wastewater and stormwater disposal and water take (if so), and therefore these controls will ensure no contamination beyond the proposed site boundaries. Minimising covered areas on the site will assist with minimising the amount of stormwater discharge required. Also the potential to use and store roof water will assist in reuse of rain water.

Lot 1 will be serviced as it currently is, on-site, and within the boundaries of the proposed lot.

30.1.8.1.5 Natural Hazards – This has been considered in the earlier assessment of effects. At the time of building consent the foundation stability in context of the soil conditions will be separately addressed. Flooding is the key factor. Avoiding flooding areas is ideal, however appropriate measures, such as minimum floor levels for buildings above flooding levels across the site, can be separately addressed at the time of building consent. The access will be limited in the event of a flooding event across the Irongate Stream from Lot 2. If Council is minded to grant consent, I recommend that a consent notice be placed on the Record of Title for Lot 2 which would alert future owners to this restriction on an on-going basis. Earthworks also addressed the flooding hazard in the above assessment. Again, conditions of consent will ensure that finished levels maintain the flooding parameters (excepting localised change around the proposed bridge).

30.1.8.1.6 Building Platforms – Each parcel has sufficient area to establish reasonable structures. As discussed above floor levels above flood levels are necessary due to flooding. Heritage and cultural matters have been addressed in the earlier assessment



of effects also, and there are unlikely to be any such matters to avoid on the site.

30.1.8.1.7 Esplanade areas – the Marginal strip is already established for this purpose and no additional esplanade is considered necessary to be established as a part of the subdivision.

30.1.8.1.8 – Access strips – no access strip is necessary to serve the development / subdivision.

30.1.8.1.9 – General

- (i) If consent is granted then conditions of consent are recommended to ensure that access is completed as a part of the subdivision.
- (ii) I do not consider there to be any need for special fencing requirements as a part of the subdivision.
- (iii) I consider there to be no necessity for the creation of easement in gross for the Council associated with this subdivision.
- (iv) Hastings District Council's Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide has little relevance to this proposal.
- (v) Landscaping is considered necessary as a part of the land use component of the application, however as a part of the subdivision works, except regrassing post earthworks then additional landscaping is not required as a part of the subdivision.
- (vi) Earthworks has been addressed in the earlier assessment of effects and addresses these matters and above in Assessment Criteria 27.1.7 considerations.
- (vii) The cumulative effects have been addressed in the earlier assessment of effects. The establishment of a precedent is addressed later in this report.
- (viii) The proposal has and creates no constraints for the National Grid Corridor or stormwater drains. The impact on the Irongate Stream has been addressed in the earlier assessment of effects.

- (ix) There are no implications for network utilities as a part of the proposal.
- (x) Power supply already serves 62 Irongate Road and 97 York Road. Proposed Lot 2 may have a supply if it desires, but is not necessary as a requirement of the subdivision.
- (xi) The effects on the principles of the Treaty of Waitangi and any sites or taonga of significance to Maori are addressed in the earlier assessment of effects in this report and further addressed in section 8 considerations later in this report. With adverse effects likely to be minor on cultural values given the nature of the proposal and limited affected area and current and historical land uses of the subject land.
- (xii - xiv) There are no implications for National Grid Transmission Lines as a part of the proposal.

Overall, subject to conditions, the proposal addresses the above criteria utilised as a guide to relevant matters to be considered for a subdivision. I note that there are no criteria for non-complying subdivision activities and the non-compliance with standards relating to the creation of an undersized Plains Production lot and then amalgamation with this with Irongate Industrial zoned land is not covered by the above assessment criteria matters, but further explored in the context of the relevant objectives and policies for the proposal.

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

- 3.6.1 The Proposed Hastings District Plan (PHDP) as amended by decisions on submissions was notified on 12th September 2015 and the PHDP provisions took legal effect on this date. At the time the application was lodged there were no outstanding Appeals in relation to any matters pertaining to this application. Therefore it is considered that the provisions of the Proposed Hastings District Plan as at the time the application was made, as they relate to this application are beyond the point of challenge. As such, no further assessment against the Operative Hastings District Plan is considered necessary. The consent was applied

for prior to Variation 7 – Seasonal Workers Accommodation (V7) to the PHDP. This variation is relevant in considerations, albeit little to no weight can be placed on the provisions in my opinion given that no decisions have yet been made on the variation, and the broad range of matters raised in the submissions and further submissions.

- 3.6.2 The assessment of a proposal's consistency with the objectives and policies requires that an overall assessment is made of how the proposal 'sits' within the policy framework of the Plan as a whole, rather than whether each objective and policy is individually satisfied. That said, case law confirms that where a proposal is contrary to a provision, which when the plan is read as a whole, is very important and central to the proposal, a finding that it is contrary to the objectives and policies of the plan as a whole can be reached (*Akaroa Civic Trust v Christchurch City Council*, [2010] NZEnvC110, *Queenstown Central Limited v Queenstown Lakes District Council* [2013 NZHC 817]). This is particularly the case for the second gateway test in section 104D(1)(b), as would apply if a finding were reached that adverse effects of the proposal on the environment are met in the event that recommended conditions are imposed which mitigate effects to a 'minor' level.
- 3.6.3 Noting this point, it is the overall intent of the below objectives and policies that has been assessed in this case, but with a focus on those objectives and policies that are of central importance to the application.
- 3.6.4 The relevant objectives and policies as they relate to this application are as follows (V7 provision changes are shown in **bold and underlining** – other underlining is added by reporting planning for emphasis only):

Emphasis added by reporting planner by underlining sections.

3.6.5 Section 2.8 – Rural Resource Strategy (RRS)

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

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

*RRSP2 Provide for a wide range of activities to establish, which complement the resources of the rural area, provided that the sustainability of the natural and physical resources of the area is safeguarded.*

The Explanation to this Policy states that:

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

*RRSO2 To enable the efficient and innovative use and development of rural resources while ensuring that adverse effects associated with activities are avoided, remedied or mitigated.*

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

The Explanation to this Policy states:

*The rural areas of the Hastings District support a wide range of activities and have amenity levels associated with supporting a range of agricultural processing activities. When establishing in the rural areas, emerging activities, and in particular lifestyle residential users, will need to recognise existing amenity levels associated with agricultural, horticultural, viticultural and related activities which are characterised by fluctuating noise*

levels (and other potential adverse effects). The Plan will, however, control such effects to provide a level of amenity which protects people's health and safety and minimises adverse effects as far as is practicable.

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

RRSP4 *Rural land close to urban areas or on arterial or national traffic corridors will be managed to avoid sporadic and uncontrolled conversion to activities that will individually or cumulatively adversely affect the sustainability of the rural resource base and the efficiency of the road network.*

The explanation to this policy states

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

3.6.6 The thrust of the RRS is to provide for activities that complement the rural resource within the overarching premise of protecting the physical and natural rural resources at sustainable levels. The RRS focuses on protecting the rural land resource. Which in my view is broader than protecting the soil values in isolation and

more broadly encompasses other land qualities such as the location, slope, climatic condition, surrounding use context and connectivity.

- 3.6.7 The methods for achieving the direction set out in this strategy include the various rural zonings including the 'Plains Production' zone. The Plains Production zone provides for the productive use of the fertile soils (as well as Class 7 gravel areas suitable for viticulture) close to urban centres.
- 3.6.8 I consider the proposed SWA is not contrary to RRSP2 and therefore RRS01 as the proposal involves the introduction of an activity that does complement and support the resources of the rural area, as it has a direct relationship to the rural land for which it is proposed in. However, the associated subdivision proposed is not in my view a sustainable approach to the management of the rural land resource, as the fragmentation limits the adaptability of the site use and flexibility for future uses which is contrary to **RRSP2 and therefore RS01**.
- 3.6.9 In terms of RRS02, the proposed SWA is considered an efficient use of the rural resource, with the SWA being 'relocatable' and serving a current demand for workers accommodation with the flexibility to be removed in the future if no longer required. However undertaking an associated subdivision severing off a smaller parcel from the wider 97 York Road restricts flexibility of land use in the future. I therefore consider the subdivision proposal does not present a substantially efficient use of the site resource over time. The proposal is therefore contrary to this **RRS02** objective.
- 3.6.10 RRSP3 relates to protecting rural activities that exhibit lesser levels of amenity from pressure of lifestyle type properties for increased levels of amenity. Reverse sensitivity of the SWA has been considered in the earlier assessment of effects and it is considered that the proposal does not conflict with this policy.
- 3.6.11 The activity is unlikely to have effects on the ability for surrounding production activities to continue to produce from their sites. As such, it is considered that the proposal is not contrary to RSP4.



## Section 6.1 – Plains Strategic Management Area

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

I have included references to the Variation 7 changes the body to this assessment; albeit I consider that there is little to no weighting on these provisions given the earlier stage in its process (as mentioned above):

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

This is an overarching objective.

*PSMP1 Require that the subdivision of land within the Plains Strategic Management Area shall be for the purpose of a land based productive use.*

The explanation to the Policy States

*The proximity of the Plains area to the major urban centres of the region place considerable pressure for urban related land uses (including ad hoc commercial and industrial uses). The fragmentation of the Plains land resource is to be avoided as the small size of holdings is often used to justify the use of a property for non-land based purposes. For these reasons the Plan has clear Rules which accept subdivision as a Controlled activity but only for circumstances associated with the use of the land for horticultural/agricultural purposes.*

*PSMP2 Require that activities and buildings in the Plains environment be linked to land based production and are of a scale that is compatible with that environment.*

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

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

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

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

*The explanation to this policy states:*

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

3.6.13 The need to retain the land based primary productive potential and open nature of the plains environment and the need to avoid fragmentation of the Plains land resource are the two most important themes running through the Council's strategic direction for the future in the Plains Strategic Management Area. PSMO1 requires the productive potential and open nature of the environment be retained, and the direction to achieve this is through associated policies below.

3.6.14 The proposed subdivision is not proposed for the purpose of a land based productive use. While SWA is associated with horticultural practices, is not considered in itself to be for land based productive use. Therefore the proposed subdivision is contrary to this **Policy PSMP1**.



- 3.6.15 The proposed SWA activity is considered to be consistent with Policy PSMP2 as the activity is linked to land based production, and given the accompanying assessment of effects and recommended conditions, the proposed SWA activity would be of scale that is compatible with that environment.
- 3.6.16 The proposed SWA is considered to be consistent with Policy PSMP3 as the activity and associated structures, subject to recommended conditions, are considered to not unreasonably compromise the amenity of the environment.
- 3.6.17 The proposal is for a SWA activity rather than other commercial or industrial activities and is linked to the wider horticultural industry. The proposal is not considered to be inconsistent with Policy PSMP4
- 3.6.18 Policy PSMP5 relates to establishing urban boundaries. The proposal extends over the Industrial urban boundary and seeks to join rural Plains Production zoned land with it. The proposed subdivision creating amalgamation with Industrial zoned land directly challenges the boundary of the Industrial site and has, in my view the potential to create urban creep by way of establishing a legal relationship between the lots and uses. The explanation to this Policy clearly identifies that the urban development be contained in Urban boundaries to manage growth which is a direction coming from the HPUDS and the RPS. Implying a relationship between parcels of urban and Plains Production zoning by way of amalgamation, in my view encourages rather than prevents the potential for incremental creep of urban use and development into the Rural area. **The proposal is contrary to Policy PSMP5.**
- 3.6.19 Policy PSMP6 provides for other primary production activities that are not reliant on the life supporting capacity of the soil, provided they are of an approximate scale for a land based primary production environment and compatible with the amenity expectations of the Plains environment. The proposal is not contrary to this Policy. This Policy direction is relevant however as it provides context to the uses available in the Plains Production zone (proposed Lot 2). The subject application generally contends that the soils are poor for growing fruit as discussed in the Agfirst report submitted with the application. While I consider the Agfirst report is not sufficient in itself to

adequately determine the productive nature of the soils in themselves, it is recognised that the soils of Lot 2 are likely to be poorer quality than other soil in the Plains zone. However, it is my view that (as mentioned earlier in this report) that 97 York Road including proposed Lot 2 falls in the definition of versatile land given its range of attributes. Other types of potential uses in the Plains Production zone include the likes of Intensive Rural Production and which could potentially be undertaken on the application site. If the proposed subdivision severs Lot 2 it will frustrate the ability for the realisation of other primary production activities to occur on the land in the future.

3.6.20 Therefore, the proposal is also considered to be contrary to Objective **PSM01**, and its associated **Policies PSMP1 and 5**.

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

3.6.21 The SWA proposal creates a scale of activity that is, subject to recommended conditions, sufficiently compatible with the area, with resulting reasonable amenity for the surrounding area and of a character that would not undermine the character of the area. The subdivision, however is, in my opinion, contrary to the Plains SMA objectives and policies as a whole.

3.6.22 Section 6.2 – Plains Production Zone

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

*PPP1 Encourage the amalgamation of existing Plains Production zone lots into larger land parcels.*

The Explanation to this policy states:

*There are a large number of small lots within the Plains Production zone and the council will continue to actively encourage the amalgamation of these lots as and when the opportunity arises through resource consent and subdivision applications. This will result in larger property sizes that will provide greater potential flexibility for future soil based activities.*

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

The explanation to this policy acknowledges benefits in supporting industrial and commercial activities in the in Plains Production zone. Variation 7 expands this explanation to acknowledge that Seasonal Workers Accommodation adds value, subject to scale considerations.

The explanation states as follows : (V7 added reference included in bold and underline) :

*“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, **or seasonal workers accommodation**, 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....”*

- PPP4 To enable land based primary production, including by providing for directly associated accessory buildings where they are not of such a scale as to adversely affect the life-supporting capacity of the versatile land resource and which are consistent with the rural character of the Zone.*

- PPP5 Recognise that residential dwellings and buildings accessory to them are part of the primary production land use but that the adverse effects of these buildings on the versatile land of the Plains Production zone are managed by specifying the number and size of the buildings that are permitted.*

This policy relates to residential buildings, and under the decisions version of the PHDP SWA are not residential

activities in the Rural zone. However, the explanation to this Policy has been varied under V7 to add the following comment under this policy (V7 additional comment shown in bold and underlining), stating:

**Seasonal worker accommodation is provided for as a special form of accommodation which is generally considered appropriate in the Plains Production Zone and especially for RSE workers, due to its direct relationship to the management and harvesting of primary produce close connection with the productive activities within the Zone, subject to limits on size and assessment of its effects, particularly on versatile soils. Beyond the 80 resident limit the scale of the activity is considered to have more significant effects on the versatile land with building scale and the requirements around on-site servicing.**

The note to this policy reinforces that it is not appropriate to use Supplementary Residential Buildings for permitted baseline as they are to be directly related to the residential use of the site and cannot be subdivided off as they remain in the curtilage of the main dwelling.

V7 adds to this note to PPP5 states that **“Similarly, seasonal workers accommodation should not be used as a permitted baseline comparison as they are considered to be of a temporary nature with a requirement that they are relocatable.”**

PPP7 *Establish defined urban limits to prevent ad-hoc urban development into the Plains Production zone.*

The explanation to this Policy states:

*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.

PPO2 To provide for flexibility in options for the use of versatile land.

PPP8 Provide for industrial and commercial activities in the Plains Production Zone where they are linked to the use of the land and with limits on the scale and intensity to protect soil values and rural character.

PPP11 Require that any subdivision within the Plains Production Zone does not result in reducing the potential for versatile land to be used in a productive and sustainable manner.

The explanation to this Policy states:

The subdivision of land within the Plains Production Zone is an important activity to control as it involves a finite resource. The Council aims to prevent the cumulative effects of numerous small scale subdivisions on the overall area of the versatile land resource. The aim is that the subdivision of land should not result in activities that will negatively impact on the sustainability of the versatile land.

PPO3 To retain the rural character and amenity values of the Plains Production Zone.

PPP13 Require that any new development or activity is consistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production Zone.

PPP14 Require that any new activity locating within the Plains Production Zone shall have a level of adverse effects on existing lawfully established land uses that are no more than minor.

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

Explanation

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

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

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

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

*PP07 To ensure the integrated management of the land and water resource on the Heretaunga Plains.*

*PPP19 Work collaboratively with the Hawke's Bay Regional Council to manage land uses that impact on water quality and quantity.*

*PP09 To ensure the life supporting capacity of the Heretaunga Plains Unconfined Aquifer water resource is not compromised by the effects of land use occurring above it.*

3.6.23 Objective PP01 focuses on compromising versatile land. Versatile land is more than just soils and it includes the likes of topography, accessibility, within the sub-region, and climate. The proposal if granted is considered to be **contrary to Objective PP01** as the



subdivision does fragment the Plains Production land creating a parcel of just over 2.5ha excluding the marginal strip area).

3.6.24 The SWA accommodation has been considered earlier in this report and is considered, subject to conditions, appropriate in scale for the context. The proposal is not contrary to Policy PPP3 under the decisions version or V7.

3.6.25 The proposal accesses the site from the Irongate Industrial area and seeks to extend public services through from the Irongate Industrial area (albeit Council hasn't agreed to this). The subdivision includes amalgamation of Plains Production land with Irongate Industrial zoned land. This appears to assert an intention to bring Lot 2 into the Industrial area. This would be an expansion of the urban area and would be contrary to the direction of Policy PPP7 to prevent ad hoc urban development into the Plains Production zone. Thus the proposal is contrary to **PPP7**.

3.6.26 By fragmenting Lot 2 into a small lot the flexibility for its use as versatile land is reduced. Therefore the proposal is contrary to Objective **PP02 and PP11**.

3.6.27 Given the earlier assessment of effects, and subject to conditions of consent, the proposal for SWA accommodation would sufficient retain wider rural character and amenity values in the Plains Production zone, not contrary to PP03 and PPP13, PPP14 and PPP15.

3.6.28 Given the earlier assessment of effects the operation of activities on surrounding land will not create an unreasonable conflict with PP04 and PPP16.

3.6.29 With on-site wastewater and stormwater controlled by the HBRRMP I consider that the proposal is unlikely to create any conflict with Objective PP09 and PPP22 with respect to ensuring the life supporting capacity of the unconfined aquifer of the area is not compromised by land uses. No hazardous facility is proposed.

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



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

- PP01
- PPP7
- PP02
- PPP11

3.6.31 For this reason, as the proposal is considered to be contrary to these fundamental objectives and policies, it is also considered as a whole to be contrary to the Plains Production policy framework as per the PHDP decisions version and in consideration of changes under Variation 7.

#### Section 2.9 - Industrial Strategy

3.6.32 The PHDP Objectives and Policies for the General Industrial zone in Irongate stem from the Industrial Strategy in 2.9 of the PDHP, This strategy acknowledges increase demand for industrial areas which has resulted on pressure on the Plains and rural areas for use as industrial activity. As such the industrial strategy includes rezoning of land for industrial purposes. The Irongate Industrial areas is one of the areas rezoned with a Variation to the PDHP enabling this. The industrial strategy sets out in 2.9.2.1 that for the Irongate Industrial Area.

3.6.33 The Irongate Cluster Area was identified in the Industrial Strategy as being suitable for further industrial development as it would consolidate the existing industrial area in this location while also catering for the demand for additional industrial land. The Irongate Industrial Area is located at the corner of Irongate and Maraekakaho Roads. In 2011 the Council adopted Plan Change 50 to the Operative Plan for the development of dry industries in the District.

3.6.34 Final appeals on the Irongate Variation were settled January 2018, meaning that the boundaries of industrially zoned land in the Irongate area have only recently been determined. 62 Irongate Road is included in the Industrial zoning, but the Irongate

Stream to the north of it is the boundary interface with the Plains Production zone and 97 York Road has not been included in this recent rezoning.

Relevant objectives and policies are as follows (emphasis added)

*IS01 To provide a sustainable supply of industrial land which meets the current and future needs of a variety of industrial activities in order to facilitate the economic development of the District.*

*ISP1 Provide for industrial development within the nominated industrial areas in the District as well as controlled opportunities for industry to locate within the deferred industrial areas subject to the provision of adequate infrastructure services.*

*IS02 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).*

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

*IS03 To ensure the efficient use of existing and planned infrastructure in nominated industrial areas.*

3.6.35 I consider the SWA aspect of the proposal with access over the Irongate area does not in principle undermine this strategy. On-site servicing for Lot 2 does also not undermine this strategy.

3.6.36 The amalgamation of a Plains Production zoned parcel with Industrial zone land represents a potential creep of Industrial land into the Plains zoned area. The Council's broader strategy through the above identifies that there is sufficient planned industrial land to meet current and future needs of the district under IS01 without an expansion of the Irongate Industrial zoned land. The proposal is not consistent with the Industrial direction of the plan and intent to protect finite soil resource under objective IS02.

Industrial – 14.1

3.6.37 The below are the Industrial zone objectives and policies of the decision version of the PDHP, with the changes of **V7 identified in bold and underlining**. I note that the SWA is not proposed in the Industrial zone under the subject application, but in the Plains Production zone so V7 has little relevance in the considerations under this section, but relevant for context and given that recent decisions have been made to grant consent allowing for SWA on the subject 9 Maultsaid Place.

*IZ01 To facilitate efficient and optimum use and development of existing industrial resources within the Hastings District.*

*IZP01 Ensure that non-industrial activities will remain ancillary to the principal activities taking place in the Industrial zones.*

The explanation to this policy refers to the introduction of commercial and residential activities into the Industrial zone may create reverse sensitivity in the Industrial zone. However, V7 includes an exemption for SWA which specifically serves the primary production industry.

*IZP3 Ensure the integrated and efficient development of the Irongate Industrial Area through the use of a Structure Plan.*

*IZO2 To enable a diverse range of industrial activities within the Hastings District while ensuring adverse effects on the environment, human health and safety are avoided, remedied or mitigated.*

*IZP7 The Protection of the vital water resource contained in the unconfined aquifer from contamination risks from industrial uses and development.*

*IZP11 Provide for healthy and safe working, shopping and recreational environments by avoiding and mitigating excessive noise, vibration, odour and dust nuisance*

*generated from industry located in close proximity to commercial and recreational areas.*

*IZO3 Industrial activities shall maintain acceptable amenity levels or be safeguarded from incompatible uses within surrounding environments.*

*IZO4 To enable the efficient and effective use and the sustainable management of the District's resources by providing for the development of new industries in accordance with the Hastings Industrial Strategy.*

**IZP17A Provide for the establishment of Seasonal Workers Accommodation in the General Industrial zones at Omahu and Irongate.**

**The explanation to this policy identifies that large scale SWA facilities are more appropriately located in Industrial zones where their scale is not out of character with surrounding activities.**

**IZP17B To ensure that the scale of seasonal workers accommodation is consistent with the infrastructure capacity of the Irongate Industrial area.**

Policy IZP17B clearly acknowledges the limited capacity of the water and wastewater systems to serve the Irongate area.

3.6.38 I consider the SWA aspect of the subject proposal with access over the Irongate stream to the industrial area does not in principle undermine the above objectives and policies. On-site servicing for the proposed SWA and Lot 2 does also not undermine this strategy.

3.6.39 As concluded above under the Industrial Strategy, the amalgamation of a Plains Production zoned parcel with Industrial zoned land represents a potential creep of Industrial land into the Plains zoned area. The Council's broader strategy through the above identifies that there is sufficient planned industrial land to meet current and future needs of the district without an expansion of the Irongate Industrial zoned land. The proposal is not consistent with the Industrial direction and Irongate Structure Plan IZP3 as it blurs the lines of the planned industrial area with Plains

zoned land around it. The proposal is not consistent with the industrial objectives and policies **IZ01 and IZP3**.

#### Natural Hazards – 15.1

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

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

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

3.6.41 Flooding / Earthquake risk is relevant and the site being subject to the effects of liquefaction. These have been addressed in the earlier assessment of effects and subject to conditions of consent, I consider that the direction of these can be met.

#### 3.6.42 Transport and Parking – 26.1

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

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

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

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

*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.*

- TP02 seeks to “establish and maintain an efficient and effective parking regime that meets the present and future parking needs of the community.”*
- TP03 seeks to “achieve sustainable transport modes, including walking, cycling and public transport.”*
- TP04 seeks to “maintain a transport network that supports the social and economic wellbeing of the District while avoiding adverse effects on the natural and physical environment and on the safety of the travelling public.”*
- TPP15 seeks to “identify the functions of roads to manage the effects in relation to land use and the environment.”*
- TPP16 seeks to “promote standards for public roads, ...to ensure that they are of a design that is appropriate for the function that they serve.”*

3.6.43 In my view the Seasonal Workers Accommodation can be physically serviced to a reasonable level with parking and access given the availability of land for these on the site.

3.6.44 I recommend that, if consent is granted, conditions of consent be imposed so that parking and access is formed to an appropriate standard and established in a timely manner to serve the SWA as prior to commencement of use.

3.6.45 For access, this means the establishment of the bridge under a HBRC consent, and forming the full driveway access from the SWA to Maultsaid Place (noting some parts of this may be established under other consents).

3.6.46 The consented subdivision for 62 Irongate Road required the right of way off Maultsaid Place to be formed. This did not include a pedestrian footpath. The subsequently consented SWA activity for 9 Maultsaid Place did require a 1.5m wide footpath within the right of way from Maultsaid Place, and also a shared access along the entrance strip to serve the SWA activity. I consider that taking the same approach for the subject application to be appropriate, based on the premises that most movements to and from the consented and proposed SWA activities will be by way of vehicles. However, this basis may change, and with greater



pedestrian or cycle use of the driveways it may be necessary for other measures to assure safety, such as a dedicated pedestrian link, traffic calming measures, or other signage and markings. On these grounds I recommend that, if council is minded to grant consent, then a review condition with respect to the safety and sufficiency of access for the proposed SWA is imposed.

3.6.47 In terms of parking numbers, the basis on which parking is to be provided is one space per accommodation unit. As assessed in the Notification Report, on the basis of 150 persons all utilising shared vans, at 8 person per van would be approximately 18 vans. Therefore, I consider that the 12 formed parking spaces proposed unlikely to be sufficient for the vans serving the activity. Therefore, I consider increasing the parking to a minimum of 18 spaces will better serve the development. The Manager's unit will also likely need a separate carpark, so on-site spaces should be at least 19 parking spaces overall, in my estimation and on this basis, to adequately provide for the uses on the site and parking demand. If the Council is minded to grant consent, then I recommend having at least 19 formed spaces for the SWA and managers unit use established.

3.6.48 The parking spaces on site, when vacant during the day, could be utilised for any loading necessary for the SWA activity. Given the likely low scale and frequency of any possible loading (rubbish) then it is likely the arrangement of parking on site will be sufficient for loading required for the activity.

3.6.49 The consented proposal for RMA20190334 for SWA at 9 Maultsaid Place, requires that a footpath be established along the right of way easement across 11 Maultsaid Place, being a compacted type metal surface. This same approach is considered appropriate for the subject development, whereby the formation of a 1.5m wide pedestrian footpath connection along that easement is recommended to be provided. RMA20190334 also required that the driveway along the entrance strip of 9 Maultsaid Place be formed. This is considered appropriate also, for this SWA proposal. The driveway across 9 Maultsaid Place is in the Industrial zone, and I consider it appropriate in this context for it to be formed and sealed with stormwater controls. However, the Plains Production zone part of the access and associated parking could be formed in compacted metal given the more rural setting.



- 3.6.50 Given this, I consider that the proposal can achieve consistency with Objective TP01, 02, 03 and 04 along with associated policies.

#### Earthworks – 27.1

- 3.6.51 The applicant has addressed relevant earthworks objectives and policies in the application AEE however, this was when the mining activity was still proposed, now withdrawn from the application. Therefore limited weight can be placed on the conclusions of these in the application.

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

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

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

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

- 3.6.56 The subject site is currently in pasture. The proposed plans do not accurately detail the actual earthworks areas or specify hardsurfacing and sealed accurately. The Council's Notification Report has conservatively estimated the amount coverage proposed due to a lack of accurate information provided on coverage. I consider this estimated area to be excessive and could be substantially reduced if accurate plans were prepared detailing what areas are necessary to disturb and cover for the proposal. This information would likely result in a lesser amount of soil disturbance and sealed area, and thus lesser land needing to be remediated in the future in the event that the SWA is no longer

required and land is to be reverted back to pasture / changed to other uses (this reverting / change is anticipated for SWA activity in the Plains Production zone). If Council is minded to grant consent then I recommend a condition of consent be imposed to ensure a specific coverage plan is provided minimising the amount of soil disturbance and formal areas utilised by the development. This would ensure better consistency of the proposal with Policy EMP3 which has the intent of ensuring the land can still support a range of productive land uses.

3.6.57 Further, conditions are recommended, if consent is granted, to ensure that the earthworks are managed to ensure appropriate erosion and sediment controls are undertaken throughout the construction works. These would need to be consistent with any requirements / consents of HBRC for the proposal.

3.6.58 Given the above comments, subject to consent conditions if consent is granted, including provision of a copy any HBRC consents, the proposal can be considered to be reasonably consistent with the earthworks objectives and policies stated above.

### 3.6.60 Noise – 25.1

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

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

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

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

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

*NSP4 Manage the emission of noise associated with agricultural, viticultural and horticultural activities so that the operation of noise*

*equipment, and in particular crop protection equipment, is provided for while avoiding the generation of unnecessary or unreasonably high noise levels.*

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

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

This policy NSP6 relates to temporary type activities.

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

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

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

3.6.61 Noise effects have been addressed in the earlier assessment of effects. Subject to the recommended conditions of consent, I consider that the SWA activity would be consistent with noise objectives and policies above.

#### 3.6.62 Subdivision

SLD01 - To enable subdivision of land that is consistent with each of the Objectives and Policies for the various SMA, Zones, Precincts, or District Wide Activities in the District Plan.

SLD02 - To ensure that sites created by subdivision are physically suitable for a range of land use activities allowed by the relevant Section Rules of the District Plan.

SLDP1 - That standards for minimum and maximum site sizes be established for each SMA/Zone in the District.

SLDO3 - Avoid subdivision in localities where there is a significant risk from natural hazards.

SLDP4 - Ensure that land being subdivided, including any potential structure on that land, is not subject to material damage by the effects of natural hazards.

SLDP5 - Ensure that any measures used to manage the risks of natural hazards do not have significant adverse effects on the environment.

SLDO4 - To ensure that land which is subdivided is, or can be, appropriately serviced to provide for the likely or anticipated use of the land, so as to ensure the health and safety of people and communities, and the maintenance or enhancement of amenity values.

SLDP8 - Ensure provision of onsite services for water supply, wastewater disposal and stormwater disposal for sites outside of the reticulated urban areas unless the provision of reticulated services is identified as an appropriate work to mitigate adverse effects on the environment.

SLDP10- Require the provision of safe and practicable access for pedestrians and vehicular traffic from a public road to each site.

SLDP14 - Ensure that earthworks associated with providing vehicle access, building platforms or services on land being subdivided will neither detract from the visual amenities of the area, nor have adverse environmental impacts, such as dust, or result in the destruction of heritage sites (include archaeological sites), cause natural hazards, or increase the risk of natural hazards occurring.

SLD05 - To ensure that reverse sensitivity effects are avoided where practicable, or mitigated where avoidance is not practicable.

SLD16 - To ensure that, when assessing the subdivision of existing sites, potential reverse

sensitivity effects are considered and avoided where practicable or otherwise mitigated.

SLDP18 - Require the establishment of Esplanade Reserves when land is subdivided in the Residential, Commercial and Industrial SMA/Zones of the District.

3.6.63 The minimum lot size for Plains Production zone subdivision is 12ha. Proposed Lot 1 will meet the standard. Proposed Lot 2 will not. Proposed Lot 2 is not proposed as a lifestyle subdivision, being specifically intended for the SWA accommodation.

3.6.64 If 97 York Road were to undertake a lifestyle subdivision the maximum lot size would be 0.5ha and with the balance amalgamated with other Plains Production zoned land. The proposed lot over 2.6ha far exceeds even the maximum area for lifestyle lot provisions, and is not a subdivision of an undersize PPZ site including amalgamation with other Plains Production zoned land.

3.6.65 The subdivision proposal has no key implications for the land parcel in the Industrial zoned land (Lot 4 DP 542005) excepting the addition of easements which will have negligible implications for the use of the land.

3.6.66 However, proposed Lot 2 is not consistent with the objectives and policies for the Rural SMA and Plains Production zone (as discussed earlier in this report) creating fragmentation and ad hoc development potential, creep expansion of the Industrial zoned and therefore not complying with **SLD01**.

3.6.67 The proposed land parcels, as discussed in the assessment of effects, is considered suitable for the proposed SWA activity proposed and could contain a range of land uses allowed for in the Plains Production zone such as a dwelling, thus not inconsistent with SLD02. However fragmenting off of Lot 2 reduces its flexibility for use if it were part of a larger horticultural block / farming unit.

3.6.68 The proposal does not meet the standards for minimum and maximum lot sizes, not complying with **SLDP1**.

3.6.69 The natural hazards of liquefaction stability of land and flooding risk have been addressed in the earlier assessment of effects, and the adverse effects are considered to be able to be sufficiently avoided or mitigated subject to conditions of consent (including which involve emergency procedures, minimum floor levels established for building under building regulations). Therefore the proposal is not considered to be contrary with SLD03, SLDP4 and 5.

Subject to HBRC consenting for on-site disposal of stormwater and wastewater as required, the proposal for on-site servicing will not be inconsistent with Policy SLDP8.

3.6.70 Traffic, parking and access effects have been addressed in the earlier assessment of effects and subject to recommended conditions of consent the proposal is not considered to create a conflict with Policy SLDP10. This includes establishment of the bridge and right of way across the Irongate Stream and Marginal Strips which are subject to separate processes through the Department of Conservation.

3.6.71 Earthworks effects have been addressed in the earlier assessment of effects in the report, subject to recommended conditions of consent the proposal is not considered to create a conflict with Policy SLDP14.

3.6.72 Reverse sensitivity matters have also been addressed in the earlier assessment of effects. The proposal would not be inconsistent with Policy SLD05 and SLDP16.

3.6.73 With existing marginal strips additional esplanade reserve is not required upon subdivision of Lot 2. However, ensuring access past the bridge structure proposed is maintained in order to access the Council's esplanade reserve to the east, is considered necessary to impose as a condition of consent if consent is granted to maintain reasonable public access along the stream edges to maintain the potential for public access if required in the future or for maintenance access purposes. This would ensure the proposal is consistent with Objective SLD06 and SLDP20.

3.6.74 Overall, the proposal is considered to be contrary to **SLD01 and SLDP1**.



### 3.7 Overall conclusion on objectives and policies:

3.7.1 I do not agree with the conclusions in the application report that state "It is considered that the proposed activity, with its relationship to fruit produced in the Plains and Plains Production zone, is consistent with the overall intent of the relevant Objectives and Policies of the District Plan." I consider the while the SWA is generally consistent with the Proposed Hastings District Plan direction, the subdivision is not in my view, given the above assessment.

3.7.2 On balance, and when reading the Objectives and Policies as a whole and in the context of this non-complying Plains Production zone application as a combined land use and subdivision proposal, it is considered that the proposal, is overall, **contrary to the relevant Objectives and Policies of the Proposed Hastings District Plan.**

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

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

#### 4.2 Heretaunga Plains Urban Development Strategy (HPUDS)

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

#### 4.3 Adverse Precedent

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



Council, being consistent in its approach, would need to consider granting.

4.3.2 The assessment above concludes that while the SWA aspect of the proposal is not contrary to relevant objectives and policies of the Proposed District Plan, the subdivision, which proposes to create a site with split Industrial/Plains Production zoning, is contrary to important provisions of the Plan. The proposed subdivision represents a significant departure from what is provided for in the Plan.

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

- The subdivision activity involves the creation of a significantly undersized Plains Production zoned lot which is then to be combined with an Industrial zoned site, creating a split zoned site. Granting consent to the subdivision aspect of the proposal may lead to:
  - other proposals for subdivision to link land of different zonings, specifically urban zoned land with rural and production zoned land, and
  - applications to subdivide around seasonal workers accommodation facilities separating the facility from the productive land holdings, and
  - applications for oversize lifestyle lots with no amalgamation of titles or aggregation of sites.

This would potentially result in more urban activities creeping into the rural area and to ad-hoc development in the Plains Production zone.

- In my view, there are no particularly unique features associated with this proposal which would differentiate it from other sites within the Plains Production zone. The subject land at 97 York Road is recognised as having a unique history in that Sec 66 SO 438108 has been severed off from its original parcel due to the State Highway 2 establishment. However, the land was associated with production land prior to it being retained for the State Highway works, and was then amalgamated back into a larger Plains land holding after the State Highway works so the wider intent of the land never in my opinion been intended to be left as a separate independent lot in the Plains Production zone. Only that it

was affected during a period while the state highway was established. Further, Sec 66 SO 438108 is not inaccessible from York Road as there is sufficient ability for the establishment of practical physical access within 97 York Road to access Sec 66 SO 438108 and to exit / enter York Road. Thus, there is no evidence that the land was ever intended to be permanently removed from the productive land resource or left as an independent lot. This history of the lot is not a distinguishing feature that warrants a departure from the intent of the Plan, or which would distinguish it from other applications seeking to sever a Plains site for use in conjunction with an urban site.

- 4.3.4 For the above reasons, I am of the opinion that this application has the potential to set an adverse precedent and has no distinguishing features that would separate it from other possible applications seeking to use Plains zoned land in conjunction with land zoned for urban uses.

#### 4.4 Integrity of the Proposed District Plan

- 4.4.1 Any potential impact upon the integrity and consistent administration of the District Plan is considered under Section 104(1)(c). The granting of consents to non-complying activities (where the proposal lacks any unique qualities) may be considered to undermine the confidence of the public in the consistent administration of the District Plan.
- 4.4.2 There have been resource consent decisions made in Plains Production zone that I have identified. This is to provide context to assist in addressing matters of consistency of decision making.
- 4.4.3 While Seasonal Workers Accommodation has been granted in the Plains Production zone, there are no known similar examples of undersize Plains Production zone parcels being created under the PDHP where they are not amalgamated with Plains Production zoned land. There are no known Plains Production zoned land being specifically amalgamated with Industrial zoned land under the PDHP. There are no known Seasonal Workers Accommodation activities on Plains Production zoned land with an amalgamated subdivision.

- 4.4.4 Several older Environment Court cases have also considered applications for development in the Plains Zone and their impact on the integrity of the Hastings District Plan. (refer copies in **Attachment K**) It is noted that each of these following applications were assessed under a different planning document (Operative District Plan) to this particular application. This application requires detailed assessment under the Proposed Hastings District Plan (September 2015 and Variation 7 – Seasonal Workers Accommodation). Notwithstanding this, they are still considered relevant as a guide for the assessment of this application. In particular, it is noted that the key policy directions of the Plains Production Zone have been carried over from the Operative Plan to the Proposed, and that the Plains Production zone is considered to have strengthened provisions particularly shifting from versatile soils to protection of the broader versatile land.
- 4.4.5 In *McKenna v Hastings District Council* (W106/2008), the Environment Court declined an appeal against Council's decision to refuse consent to a non-complying subdivision application in the Plains Zone. The proposal was to create one lot of 4,018m<sup>2</sup> containing an existing house, and a balance lot of 2.5ha. The Court accepted evidence that the amalgamation provisions of the Operative Plan then in force (Policy PLP3 in particular) provided that subdivision should not occur where the balance area of proposed lifestyle lots was not being amalgamated with adjoining sites to create a complying balance site (at [23]). It found that the proposal would not encourage an amalgamation that would allow a range of activities involving the sustainable use of the resource (at [25]).
- 4.4.6 The Court therefore held that while the subdivision would have no adverse effects on the environment that were more than minor (at [27]):

*... the proposal is not only contrary to Policy PLP3 but also the overall thrust of the objectives, policies and other provisions of the District Plan. Those provisions aim to promote the sustainable management of the Heretaunga Plains land resource, finite in nature and with a productive and life-supporting capacity not just for the present, but also for future generations. The type of ad hoc subdivision and associated*

*residential development of the land resource that is proposed would run directly counter to those provisions.*

- 4.4.7 For that reason, the Court found that the subdivision would call into question the integrity of the District Plan (at [34]). The Court went on to emphasise that *"Things do not begin and end with effects, and it must be the case that on occasion, the terms of a planning document may prevail, even if adverse effects are not decisive"* (at [37]).
- 4.4.8 On appeal, the High Court upheld the Environment Court's approach, noting at [65]) that the lower court had found *"that notwithstanding this particular subdivision would have adverse effects that were no more than minor, it would run directly counter to the provisions of the Plan in that it would result in a land holding that could not accommodate a wider range of activities that can support the life-supporting capacity of the Plains resources; it is contrary to the intention of the Plan, which is to retain the land in rural use rather than urban use"*.
- 4.4.9 I consider this case to be relevant in describing the nature and importance of the Plains Production Zone provisions of the Proposed District Plan, and the strong preference for the Plains Production Zone to be used for rural, productive uses. In the context of the subject application, the proposal presents a change of Plains Production zoned land to Seasonal Workers Accommodation which is acknowledged to have an association with rural functions.
- 4.4.10 The relationship drawn between this McKenna decision and the subject proposal is that both proposals involve severing Plains Production zoned land to create undersized Plains / Plains Production zoned parcels. Thus the findings of this McKenna decision that a smaller land holding would result in a land holding that could not accommodate a wider range of activities that can support the life-supporting capacity of the Plains resources, could, in my view, be applicable to the subject proposal.
- 4.4.11 In *McHardy v Hastings District Council* [2011] NZEnvC 339, the applicant sought to subdivide an 8.2456ha Plains zone site to create an additional title of 2300m<sup>3</sup> containing an existing visitor accommodation unit. While the Court agreed there were no adverse effects on the environment, the subdivision would

contribute to the fragmentation of rural land and was inconsistent with various objectives and policies. It noted (at [33]):

*Our conclusion is that the overarching intent of the relevant plan provisions is to at least maintain, and if possible increase, the availability of land with suitable soils for productive use and to seek the sustainable utilisation of the soil resources of the Plains. Loss or damage to soils, as well as fragmentation of Plains land, are seen as threats to that resource.*

4.4.12 In McHardy, having found that the application would undermine the integrity of the District Plan, the Court noted that landowners could potentially develop visitor accommodation on their land and then seek subdivision approval, *“as a mechanism to circumvent the Plan provisions seeking to restrict further ad hoc residential development and urbanisation of the Plains”* (at [39]).

4.4.13 The Court declined the appeal on the basis that the proposed subdivision would not sustain the potential of the Heretaunga Plains lands to meet the needs of future generations (at [43]).

4.4.14 This case emphasises the overarching intent of the (now equivalent) Proposed District Plan provisions and the problems that can emerge in future when sites are converted to uses (such as visitor accommodation) and then sought to be further subdivided on the basis of these uses.

4.4.15 There are numerous permitted and consented Seasonal Workers Accommodation activities in the Plains Production zone. If the subject subdivision were granted on the basis of the Seasonal Workers Accommodation being acceptable, then I consider this could lead to other subdivision proposals being made to subdivide off Seasonal Workers Accommodation, leading to fragmentation of the versatile land, and moreover, other permitted or consented uses in rural areas seeking subdivision consent on the same basis (such as visitors accommodation in the McHardy example).

4.4.16 In *JARA Family Trust v Hastings District Council* 2015 [ENV-2015-WLG-00017 : NZEnvC208] the Environment Court upheld an appeal against the Council decision to decline consent to construct an industrial workshop of 2,400m<sup>2</sup> and a canopy of 1,200m<sup>2</sup> for the construction, storage, and sale of pre-fabricated residential and commercial buildings, and to utilise existing office

and sales buildings of 110.4m<sup>2</sup> on a Plains Zone property at 1139 Maraekakaho Road.

- 4.4.17 The Council's decision was that although adverse effects on the environment were no more than minor, the activity was contrary to the objectives and policies of the Plan and would undermine the integrity of the Plan to the point that the application should be declined.

The Court determined at [35]

*We consider that the reality is that this node around the intersection of Maraekakaho and Irongate Roads has, de facto, ceased to be Plains zone land in a true sense. This piece of land, and those to its north, west and south, have, by their inherent nature in terms of productivity, and by the consent decisions that have affected them, become something of an anomaly in the Plains or Plains Production zones, and a simple recognition of that will not, we consider, do harm to the integrity of the Plains.*

- 4.4.18 The subject proposal differs from the JARA Family Trust matter in that the latter concerned a land use application for an industrial use in the Plains zone, which is not proposed here. What is relevant is that the grant of resource consents to activities that 'blur the line' between industrial and Plains zone land can change the nature of an area, such that 'urban' type activities will be increasingly able to establish in the Plains zone. In other words, it demonstrates the implications of the integrity of the Plan being undermined. In JARA, the fact that consent decisions had been made to allow industrial type activities in the vicinity of the site meant that, despite its Plains zoning, further industrial activities were allowed to establish. This demonstrates the importance of maintaining a clear separation between Industrial zoned land and Plains Production zoned land. The proposal to create a split zoned site is considered to create a real difficulty in declining future applications to use the Plains zoned portion of the site for urban-type activities, or to resist future applications with similar implications.

- 4.4.19 The Environment Court case *Te Awanga Lifestyle Limited v Hastings District Council* (W77/2009) for an 18 lot residential development at 380 Clifton Road, Te Awanga is noted. The



Environment Court found that the proposal would be contrary not only to many of the objectives and policies of the District Plan seeking to maintain the life supporting capacity of rural land, but also to other provisions of the District Plan related to managing the development and further expansion of the Te Awanga coastal settlement (at [38]). The Environment Court referenced the range of strategic studies then being undertaken by the Council including HPUDS and whereby under the former Hastings Urban Development Strategy (HUDS), two future urban areas had been signalled for Te Awanga. The case found that there was no justification to set aside the structure planning processes in order to address the particular subdivision. This highlights that usual policy planning processes are the appropriate method to address (and have properly considered) a change in the policy direction of the plan. Consistent with the direction of this decision, I believe that the expansion of the Irongate Industrial area into the adjacent Plains Production land is appropriately considered through a wider plan variation / change process, not on an individual site basis through the resource consent process.

4.4.20 Finally, I note that in *Beacham v Hastings District Council* (WO75/2009), the Court cautioned against the 'overuse' of the issue of District Plan integrity. It stated that only in the clearest of cases, involving an irreconcilable clash with the important provisions of the district plan, and a clear proposition that there would be materially indistinguishable and equally clashing further applications to follow would plan integrity be imperil to the point that the instant application should be declined (at [25]).

4.4.21 In my view, the proposal does present an irreconcilable clash with the important provisions of the PHDP as a result of the subdivision creating an undersize Plains Production zoned lot lacking in sufficient relationship with other Plains Production zoned land, only linking to General Industrial land. For this reason I consider that approving this application will compromise the integrity of the PDHP and undermine public confidence in the Hastings Proposed District Plan's administration.

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

5.1 Section 104(3)(c) states that a consent authority must not grant a resource consent that is contrary to, section 107, 107A or 217, an



order in Council in force under section 152, any regulations; wāhi tapu conditions included in a customary marine title order or agreement; and / or section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011. The proposal is not relevant to and not contrary to any of these matters.

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

6.1 The consent authority may decline a resource consent on the ground that it has inadequate information to determine the application.

6.2 Section 104(7) states that where making an assessment on the adequacy of the information, the consent authority must have regard to whether any request made of the application for further information or reports resulted in any report being available. The applicant has responded to Council's requests for further information. There is sufficient information in order to come to a sustainable determination on the application, for which the determination may include consideration of the imposition of conditions to avoid, remedy or mitigate adverse effects.

## **7.0 SECTION 106 – REFUSAL OF CONSENT IN CERTAIN CIRCUMSTANCES**

7.1 Section 106 of the RMA states that the consent authority may refuse to grant consent to a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that –

*(a) there is significant risk from natural hazards; or*

*(c) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.*

7.2 Given the earlier assessment of effects, and the ability for conditions to be imposed as appropriate, then I consider that there is no justification for refusal under section 106 for this application.

7.3 Natural hazards for this site include mainly flooding. The applicant has included in the application to establish structures above the flooding level. A condition of consent to address this, if consent is granted, would ensure that this measure is captured at

- the time of application for building consent, and also maintained ongoing.
- 7.4 How the flooding hazard adversely affects the ability for the on-site wastewater disposal and stormwater disposal system will be addressed through the Hawkes Bay Regional Council's provisions of the Hawkes Bay Regional Resource Management Plan (HBRRMP). I consider that, if Council is minded to grant consent, and prior to commencement of any works associated with the consent, confirmation be provided from the HBRC that the proposal is either permitted under the HBRRMP or that any necessary consent has been obtained under the HBRRMP that is sufficient to serve the intended Seasonal Workers Accommodation activity.
- 7.5 The applicant has advised in discussions that the bridge will be above flood levels, thereby allowing for access. No specific details of the bridge design or the stream and flood levels have been provided with the application. Therefore, if the Council is minded to grant consent, it is recommended that specific bridge details are provided demonstrating this. This will ensure that there is reasonable access ensured for users of proposed Lot 2 which will not get flooded out; and that the bridge itself is sufficient in design to not be damaged, or create damage if it fails, in the event of a flood event.
- 7.6 Physical access can be reasonably achieved, subject to conditions of consent if consent is granted, to ensure that the access is formed and of appropriate widths and the bridge is sufficiently established across the Irongate Stream. However, although the sites are to be amalgamated and easements are proposed, the plan of subdivision does not include an easement across the Marginal Strip on the northern side of the Irongate Stream. An easement will be necessary to establish access between the proposed amalgamated lots. This access is necessary to facilitate the amalgamation, given there is no other physical / legal means to connect the disjointed parcels involved in the amalgamation. A condition of consent is recommended, if consent is granted, to ensure that a right of way easement is established and shown on the land transfer plan at the time of section 223 application. This will involve privately an agreement

with the Department of Conservation, as occurring with the already proposed easement across the Marginal Strip on the southern side of the Marginal Strip to Irongate Stream.

## **8.0 SECTION 220(3) - AMALGAMATION CONSULTATION WITH LINZ**

8.1 Section 220(3) states that *“before deciding to grant a subdivision consent on a condition ... [to amalgamate parcels to be held in one Record of Title] ..., the territorial authority shall consult with the Registrar-General of Land as to the practicality of that condition. If the Registrar-General of Land advises the territorial authority that it is not practical to impose a particular condition, the territorial authority shall not grant a subdivision consent subject to that condition, but may if it thinks fit grant a subdivision consent subject to such other conditions ....which the Registrar-General of Land advises are practical in the circumstances.”*

8.2 The application includes the following amalgamation condition: “That Lot 2 hereon and Lot 4 DP 542005 be held in the same record of title.”

8.3 Council has consulted with the Land Information New Zealand (LINZ) in this regard, and confirmation that they consider the condition proposed is practical has been provided under LINZ reference number 1629616. LINZ has requested that the reference number be provided on any plan submitted to LINZ.

## **9.0 PART 2 OF THE RESOURCE MANAGEMENT ACT**

9.1 The Act seeks to promote the sustainable management of natural and physical resources. Part II of the Act deals with the purposes and the principles of the Act.

Recent case law has clarified that that there is no need for separate resort to Part 2 where the plan has been competently prepared under the Act, as it would not add anything to the evaluative exercise. The Court in *RJ Davidson v Marlborough District Council* [2018] 3 NZLR 283 held:

*If it is clear that a plan has been prepared having regard to pt 2 and with a coherent set of policies designed to achieve clear environmental outcomes, the result of a genuine process that has regard to those policies in accordance with*

*s 104(1) should be to implement those policies in evaluating a resource consent application. Reference to pt 2 in such a case would likely not add anything. It could not justify an outcome contrary to the thrust of the policies.*

In *Stone v Hastings District Council* (above) the Environment Court held that the Hastings Proposed District Plan “*has a coherent set of policies designed to achieve clear environmental outcomes. ... Further, the PDP has only recently been made operative and we understand there to be no challenge to the competency of the plan.*” It therefore did not undertake an extensive Part 2 analysis.

- 9.2 However in this case, as Variation 7 has only recently been notified, and therefore has not been tested or reached a stage where much weight can be applied to it, I have undertaken an assessment against Part 2, for the avoidance of doubt.

In Section 5 of the Act, “sustainable management” is defined as:

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

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

### 9.3 Section 5

- 9.3.1 In terms of Section 5, as stated above, it is considered that any adverse effects from the SWA activity on the wider environment will be minor and localised adverse effects of the activity can be managed by way of consent conditions. The subdivision however, does not promote the sustainable management of versatile land resource.

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

For these reasons it is not considered that the application will achieve **sections 5(a) and (b)**.

#### 9.4 Section 6

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

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

- 9.4.2 In terms of 6(a), the proposal will not impact on the natural character of the coastal environment. The proposal will have potential temporary effects on the natural character of the Irongate Stream. These will be addressed through the HBRC resource consents required and as such will sufficiently cover

relevant resource management matters with respect to the natural character of the stream environment.

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

9.4.4 In terms of 6(c), no development is proposed that will adversely affect any identified indigenous vegetation or fauna of any significance or that would warrant special consideration or protection.

9.4.5 In terms of 6(d), the proposal does change the public access arrangements to and along the Irongate Stream. Conditions of consent will ensure that access along the stream for public and maintenance purposes past the proposed bridge will be assured to address this matter.

9.4.6 In terms of 6(e), it is not considered that there is potential for adverse effects on any archaeological sites, sites of significance. In terms of cultural matters refer to comments for s8.

9.4.7 In terms of 6(f) the site has no historic heritage known to protect.

9.4.8 In terms of 6(g) there are no customary rights needing protection.

9.4.9 Subject to appropriate conditions (as mentioned earlier in this report), then I consider the application can meet the requirements of Section 6(h) relating to natural hazards.

## 9.5 Section 7

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

- (a) *Kaitiakitanga [see comments under s8]:*
- (b) *The efficient use and development of natural and physical resources:*
- (c) *The maintenance and enhancement of amenity values:*
- (d) *Intrinsic values of ecosystems:*
- (f) *Maintenance and enhancement of the quality of the environment:*
- (g) *Any finite characteristics of natural and physical resources:*



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

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

9.5.2 In regard to **Section 7(b)**, the proposal may not result in the efficient use and development of the key resources, namely the land resource.

9.5.3 In regard to Section 7(c) and (f) the issue of amenity values and quality of the environment has been discussed in previous sections and in the 'Notification Report'. I consider that with appropriate conditions the SWA will amenity values and the quality of the environment can be sufficiently broadly maintained.

9.5.4 The subject site forms part of a wider area that contains finite resources in the form of productive land that is both regionally and nationally significant. Therefore the proposal by creating an undersize portion of land in the Plains Production zone and creating a potential precedent is considered to be inconsistent with **Section 7(g)** of the RMA.

## 9.6 Section 8

9.6.1 Section 8 of the Act states that Council shall take into account the Principles of the Treaty of Waitangi in relation to managing the use, development and protection of natural and physical resources.

9.6.2 There is no known conflict with the principles of the Treaty of Waitangi for the proposal.

9.6.3 The association of local mana whenua with the Irongate Stream is acknowledged. Notification to Heretaunga Tamatea Settlement Trust was given with no submission received. The reporting planner has consulted with Council's Cultural liaison officer. Given historical works for the state highway culvert and historical pasture and vineyard uses along the Irongate Stream in the vicinity of the proposed works it is unlikely that any archaeological discovery would be found in undertaking the works. The consent is subject to HBRC consideration for the stream works and their considerations will address the water flows, quality and aquatic functions. I consider in ensuring that relevant HBRC consents are obtained sufficient and appropriate consideration will be given



in the resource management realm to the range of cultural matters of interest to mana whenua.

## 9.7 Part 2 Conclusions

Considering the points raised above and in the Notification Report in Attachment B and the above assessments of both the Hastings Proposed District Plan and RPS sections of this report, it is considered that this application is inconsistent with Part II of the Resource Management Act 1991. This is because, in my opinion the proposal;

- a) will not result in the efficient use and development of the natural and physical land resource;
- b) In creating a precedent may impact on the finite characteristics of the wider Plains Production zone versatile land resource.
- c) Does not promote the sustainable management of natural and physical resources.

## 10.0 SUMMARY AND CONCLUSION

- 10.1 This application seeks consent to establish SWA and undertake a two lot subdivision of Plains Production zoned land involving amalgamation with Industrial zoned land.
- 10.2 The SWA activity has some merit with benefits of providing accommodation to workers that support the horticultural industry in the District.
- 10.3 Subject to consent conditions, the adverse effect generated from the proposal can be sufficiently avoided, remedied or mitigated to ensure that they are no more than minor. Therefore passing the effects threshold test of section 104D of the RMA, in order that the consent may be considered for granting, if Council is minded to do so. My conclusion on effects made is premised on the basis that conditions of consent recommended in this report are imposed.
- 10.3 The key issue in contention is the establishment of an undersize Plains Production parcel (Lot 2) and combining this with Industrial zoned land.

- 10.4 I consider that proposed Lot 2 with the wider 97 York Road is versatile land and appropriately zoned Plains Production zone, due to a combination of factors that contribute to the versatility of the land.
- 10.5 I consider that granting the subdivision proposal will present a pseudo unplanned expansion of the Industrial zone, which is not justified as required into the future to meet industrial land demand needs.
- 10.6 I consider the proposal is an ad-hoc fragmentation of Plains Production zoned land.
- 10.7 I disagree with the application conclusions that the proposal is consistent with the Proposed Hastings District Plan. I find that the proposal, being viewed as a whole, is contrary to the Proposed Hastings District Plan, in turn the RPS, and is inconsistent with the planned urban strategy of HPUDS, and does not promote the sustainable management of land resources.
- 10.8 The proposal is contrary to the following provisions of the Proposed Hastings District Plan:
- RRS02- with the subdivision not being a substantially efficient use of the land resource of 97 York Road over time.
  - PSMP1 - by separating off a lot from the Plains Production zone for SWA which may also be an urban activity, does not accord with the direction of this that subdivision is for land based primary production activities.
  - PSMP5 – due to the relationship to be created between the Irongate Industrial zone and Plains Production zone, encourages rather than prevents urban creep.
  - PP01 – whereby the proposal seeks to fragment versatile land.
  - PPP7 – the proposal has the potential to create urban creep and extend outside the urban limit of the Irongate Industrial zone and result in adhoc development.
  - PP02 and PPP11 – the subdivision creating Lot 2 being a smaller parcel of Plains Production zoned land reduces its flexibility and versatility to provide for land based primary production use due

being a smaller parcel and fragmenting the Plains Production land resource.

- SLD01 and SLDP1 whereby Lot 2 is an undersize Plains Production site and not being consistent with the Plains Production zone objectives and policies.

10.9 The proposal is not consistent with Industrial strategy Objective IZ01 and Policy ISP3 as it does not represent a planned approach to establishment and use of Industrial land.

10.10 The application is considered overall to be generally contrary to the Regional Policy Statement (which seeks to manage the adverse effects of sporadic and unplanned growth and the adverse effects from urban development encroaching on versatile land of the Heretaunga Plains) given the ad-hoc nature of the subdivision and amalgamation proposed. Potential creep of the urban boundary of the Industrial area may result from the proposal.

10.11 The application will undermine public confidence in, and adversely affect the integrity of the District Plan, and create an adverse precedent; as the proposal is a significant departure from the clear and understood policy direction for subdivision in the Plains Production zone. It is noted that this policy direction was in existence in the Operative District Plan 2003 and has been continued into the Proposed District Plan yet further strengthened.

10.12 The application is considered inconsistent with Part II of the Resource Management Act 1991.

10.13 After considering the requirements of Sections 104, 104B and 104D of the Resource Management Act 1991, it is recommended that consent to this application be **declined**.

10.14 The Seasonal Worker Accommodation component of the proposal is considered to have some merit given the benefits of accommodation to be provided to workers that support the horticultural industry in the Hawkes Bay region. However as its establishment is predicated on the subdivision component which includes establishment of the legal access arrangements, and

which is not considered to have merit, the whole of the proposal is recommended to be declined. A decision in part to grant the Seasonal Workers Accommodation and decline the subdivision is not considered appropriate given the manner in which the application has been made and the interrelatedness of the two matters.

**Item 2****Attachment A**

## RECOMMENDATION

That pursuant to Rules SLD25, PP24, and EM6 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 104B, and 104D of the Resource Management Act 1991, consent to JARA Family Trust is **DECLINED** to establish Seasonal Workers Accommodation and undertake a subdivision at 62 Irongate Road (9 Maultsaid Place) legally described as Lot 1 DP 13268 (RT F1/19) and 97 York Road, Hastings legally described as Pt Sec 24 Block XV Heretaunga SD and Sec 66 SO 438108 (RT 748603)

## WITH THE REASONS FOR THIS RECOMMENDATION BEING:

1. The adverse effects on the wider environment will be no more than minor, and localised adverse effects can be sufficiently mitigated by way of consent conditions to ensure these will be no more than minor.
2. The proposed development and activity is overall contrary to the relevant Objectives, Policies and other provisions of the Proposed Hastings District Plan, taking account of the changes identified under Variation 7 – Seasonal Workers Accommodation to the Proposed Plan, in particular being overall contrary to the following objectives and policies:
  - RRS02- with the subdivision not being a substantially efficient use of the land resource of 97 York Road over time.
  - PSMP1 - by separating off a lot from the Plains Production zone for SWA which may also be an urban activity, does not accord with the direction of this - that subdivision is for land based primary production activities.
  - PSMP5 – due to the relationship to be created between the Irongate Industrial zone and Plains Production zone encourages rather than preventing urban creep.
  - PP01 – whereby the proposal seeks to fragment versatile land.
  - PPP7 – the proposal has the potential to create urban creep and extend outside the urban limit of the Irongate Industrial zone and

result in ad-hoc development.

- PP02 and PPP11 – the subdivision creating Lot 2 being a smaller parcel of Plains Production zoned land reduces its flexibility and versatility to provide for land based primary production use due to being a smaller parcel and fragmenting the Plains Production land resource.
  - SLD01 and SLDP1 whereby Lot 2 is an undersized Plains Production site and not being consistent with the Plains Production zone objectives and policies.
3. The proposal is not consistent with Industrial strategy Objective IZ01 and Policy ISP3 as it does not represent a planned approach to establishment and use of Industrial land.
  4. The proposal is inconsistent with the direction of the RPS representing an unplanned and ad-hoc potential extension to the Industrial Urban area particularly due to the intended relationship proposed by the application to connect proposed Lot 2 with Irongate zoned land.
  5. The proposal would create a precedent effect and likely result in the demand for other proposals to expand and merge industrial use with Plains Production zoned land and create smaller lots in the Plains Production zoned area around existing and consented uses.
  6. The proposal creates an irreconcilable clash with the important provisions of the PDHP as a result of the subdivision creating an undersize Plains Production zoned lot lacking in sufficient relationship with other Plains Production zoned land, only linking to Industrial zoned land. The proposal, if granted, could result in compromising the integrity of the Proposed Hastings District Plan and undermine public confidence in the Hastings Proposed District Plan's administration.
  7. The application is inconsistent with Part II of the Resource Management Act 1991. This is because, in the opinion of the reporting planner, the proposal;
    - Does not promote the sustainable management of the district's versatile land for future generations.

- will not result in the efficient use and development of the natural and physical land resource; and
- In creating a precedent may impact on the finite characteristics of the wider Plains Production zone versatile land resource.

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

This report and recommendation prepared by:

Name: Rebecca Jarman

Title: Environmental Planner (Consents)

Signed:



Date: 17 December 2019

Report approved for release to the Hearings Committee:

Name: Murray Arnold

Title: Environmental Consents Manager

Signed:



Date: 17 December 2019



Council's S95A and S95B Notification Report

Item 2

Attachment B



## SECTION 95A AND 95B NOTIFICATION REPORT

Application Received: 30 May 2019	PID's: 25106 & 54413	RMA20190203
Applicant:  Sites' Addresses:	<p><b>Jara Family Trust</b></p> <ul style="list-style-type: none"> <li>62 Irongate Road East, Hastings - PID 25106 <ul style="list-style-type: none"> <li>legally described as Lot 1 DP 13268 (RT HBF1/19)</li> <li><b>4.0469</b> Hectares</li> <li>Zoned General Industrial (Irongate) under the Proposed Hastings District Plan</li> </ul> </li> <li>97 York Road, Hastings- PID 54413 <ul style="list-style-type: none"> <li>legally described as Part Section 24 Block XV Heretaunga Survey District and Section 66 SO Plan 438108 (RT 748603)</li> <li><b>19.7011</b> ha including Marginal Strip</li> <li>[Sec 66 SO 438108 is indicatively measured as approximately 2.6709ha being the site area less the area of the Marginal Strip]</li> <li>zoned Plains Production under the Proposed Hastings District Plan</li> </ul> </li> </ul> <p>And involving access over:</p> <ul style="list-style-type: none"> <li>11 Maultsaid Place (legally described as Lot 3 DP 524530 – RT 837394) where a right of way extends from Maultsaid Place to serve 62 Irongate Road. – zoned General Industrial (Irongate).</li> <li>Irongate Stream - the northern side of the stream is zoned Plains Production and the southern side of the stream is zoned General Industrial (Irongate)</li> <li>Marginal Strip on both sides of the Irongate Stream remaining in Crown ownership subject to Pt 4A of the Conservation Act.</li> </ul> <p>Zoning:</p> <p>General Industrial – Irongate Area (Proposed Hastings District Plan As Amended by Irongate Variation); and Plains Production zone</p>	

Proposal:	<ul style="list-style-type: none"> <li>Subdivision to separate Sec 66 SO 438108 from Pt Sec 24 Block XV Heretaunga SD and amalgamate Sec 66 SO438108 with 62 Irongate Road East(or Lot 4 of RMA20190193), involving a right of way over Marginal strips and establishing bridge access over the Irongate stream.</li> </ul> <p>And</p> <ul style="list-style-type: none"> <li>Involving subdivision of land involving a parcel of land (62 Irongate Road) with a DSI available but identified contamination above NESCS criteria threshold limits.</li> </ul> <p>And</p> <ul style="list-style-type: none"> <li>To establish Seasonal Workers Accommodation for 150 persons involving establishing an associated caretaker's dwelling, three kitchen/dining blocks, six ablution/laundry blocks, six sleeping accommodation blocks and two outdoor volleyball courts, along with associated establishment earthworks, on-site wastewater discharge, water tanks and parking and access driveways.</li> </ul>
Reasons for Consent Application:	<ul style="list-style-type: none"> <li>Non-complying Activity under the PHDP under SLD25 for the Section 11 RMA subdivision.</li> <li>Restricted Discretionary under the PHDP under PP24 for Seasonal Workers Accommodation on Plains Production zoned land and not meeting standards and terms and over General Industrial zoned land.</li> <li>Restricted Discretionary Activity under EM6 of the PHDP for earthworks associated with the development.</li> </ul>
Report Prepared By:	Rebecca Jarman – Environmental Planner (Consents)

## 1.0 THE PROPOSAL

The applicant seeks resource consent for subdivision and land use.

The subdivision proposes to effectively separate Sec 66 SO 438108 from Pt Sec 24 Block XV Heretaunga SD (with a small boundary change to create Lot 2 and amalgamate Lot 2 with 62 Irongate Road East being Lot 4 of RMA20190193, involving a right of way over a Marginal strip and establishing a bridge access over the Irongate stream.

The plan of subdivision proposed is as follows:



Note that the original application plan of subdivision included two subdivision scenarios which are superseded by the above proposed plan of subdivision. There is an underlying consent for subdivision of 62 Irongate Road East (RM20190193) which has been commenced.

The application also proposes to establish Seasonal Workers Accommodation (SWA) on Section 66, for 150 persons involving establishing an associated caretaker's dwelling, three kitchen/dining blocks, six ablution/laundry blocks, six sleeping accommodation blocks and two outdoor volleyball courts, along with associated establishment earthworks, on-site wastewater discharge, water tanks and parking and access driveways. The Seasonal Works Accommodation is to be managed under a 'management plan' with "the operation, rules of management will be no different to other approved facilities within the District"<sup>1</sup>.

Proposed planting is shown on the proposed plan (below). This involves a shelterbelt to the State Highway side of the site. The proposal also includes some additional planting to the northern side of the buildings. There is no detail on the type of plants and size at time of planting. There is also proposed to be a 1.5m high earth bund along part boundary adjacent to 59 York Road.

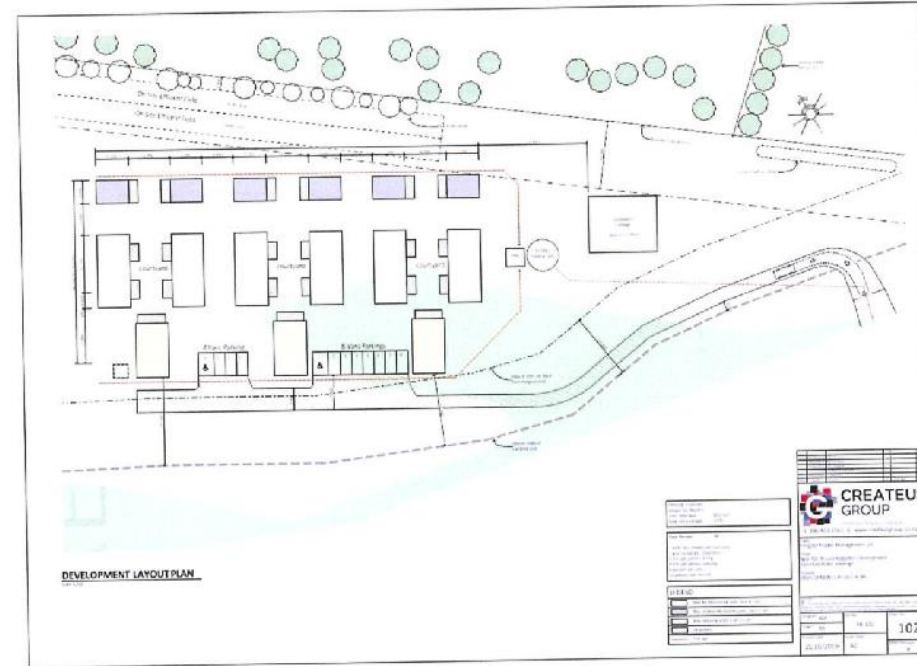
The application states that all buildings are to be relocatable, and to be established on piles.

The proposed access formation is to be 5m wide and with a 7m wide bridge (Figure 4 of the AEE3 report). The proposed right of way legal width is however to be 10m.

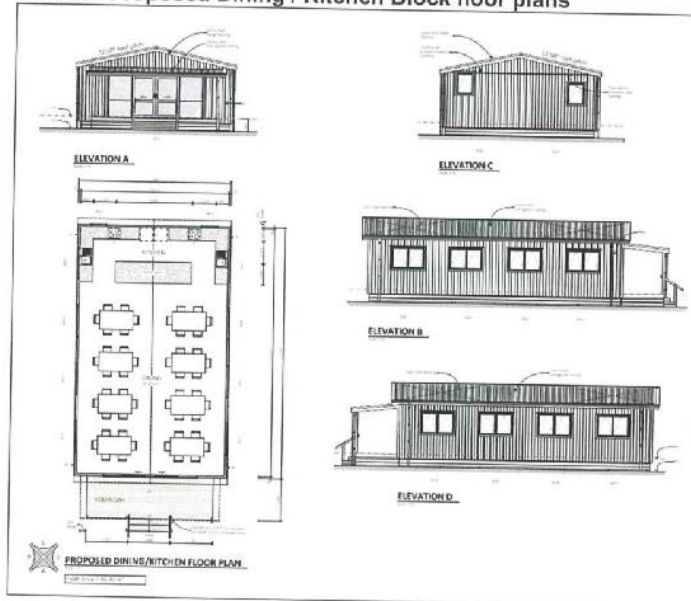
<sup>1</sup> Development Nous Ltd Section 92 reply letter dated 11 July 2019 Pt 5, pg 2.



Below: Proposed Site Layout Plan (excludes hashed out area to west previously sought to be for mining activity now not forming part of the application)



Below: - Proposed Dining / Kitchen Block floor plans

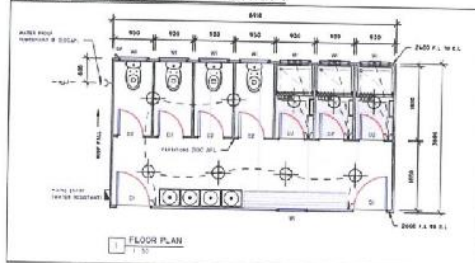


Below:- Proposed Sleeping Accommodation Units

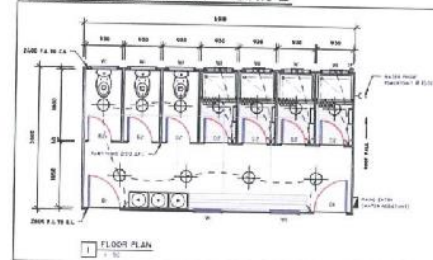


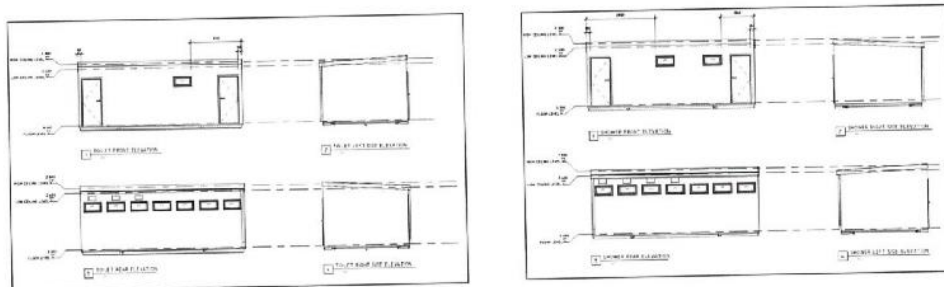
Below: - Proposed Ablution Block plan extracts:

Ablution Block Plan – Unit A



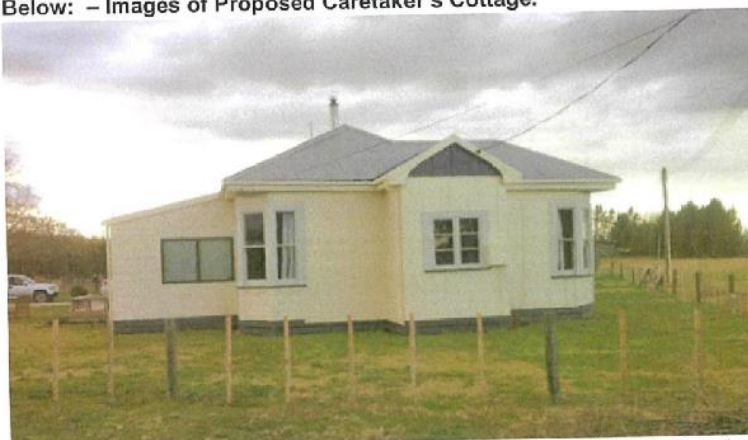
Ablution Block Plan – Unit B





The 'caretaker's cottage' (also referred to by the applicant in correspondence as Managers Cottage) is the former dwelling that was historically located at the front of 58 Irongate Road and subsequently moved. The dwelling is between approximately 180m<sup>2</sup> and 190m<sup>2</sup> in area. The below images show extracts from Council's records identifying the building which is currently stored on the rear of 62 Irongate Road.

Below: – Images of Proposed Caretaker's Cottage.



Source: HPRM 25015#0047 scanned page 86 (DSI for 58 Irongate Road) which shows an 'existing dwelling' at former 58 Irongate Road.

Below: – Historical aerial imagery showing former location of building to be used as the 'Caretaker's Cottage'.



Source: Council's GIS historical imagery for 58 Irongate Road. Recent aerial images do not show the buildings.



Below: – Site Visit Photo of building to be utilised for Caretaker's Cottage.



Above: Photo taken during Reporting Officer's site visit 31 May 2019 – building at the rear of 62 Irongate Road East on blocks.



Above: Photo taken during Reporting Officer's site visit 15<sup>th</sup> October 2019

The applicant has advised that the building is currently on blocks at 62 Irongate Road.

The application in the various documents supplied refers to the proposed use of buildings and site for RSE accommodation. The Application Assessment of Effects report however confirms that the application is made under the broader definition of Seasonal Workers Accommodation under the Proposed Hastings District Plan.

The application proposes two methods of servicing.

Firstly the applicant has sought to supply the site with public wastewater and water reticulation via Maultsaid Place. This is shown on the subdivision plan with proposed services easements to allow for connections to the public services.

If connections to the public reticulation are not available for the Plains Production zone site, then the applicant has sought to provide for on-site disposal for wastewater and own supply for water supply.

In respect of this second method for servicing the application would achieve this by the provision for on-site wastewater disposal, utilising at least three 25,000 litre advanced primary treatment tanks, and one 2000 litre pump chamber. These tanks are proposed to be underground. The disposal field is shown as approximately 182m long and 5m wide (910m<sup>2</sup> in area). It is understood that no wastewater discharge consent has been sought from or granted by the Hawkes Bay Regional Council for on-site wastewater disposal as proposed. There is no indication from the Hawkes Bay Regional Council as to the acceptability of the wastewater proposal on the site at the time of writing this report. The wastewater disposal report addresses up to 140 person capacity only, whereas the proposal is for 150 Seasonal Worker capacity plus caretaker's unit occupants, thus by implication the facility and areas for wastewater will be larger than stated above.

The proposal in both the above scenario includes on-site provision disposal for stormwater disposal which will likely be require consent from the HBRC.

Application Information

The original application submitted 30 May 2019 4.13pm includes:

- An Assessment of Environmental Effects (AEE1) report referenced H201900005 prepared by Matthew Holder of Development Nous Limited. This includes a site description, description of planning background, description of proposal, outlines District Plan provisions and addresses the NESCS, comments on statutory considerations, addresses assessment criteria 6.2.8 and 27.1.7 of the Proposed Hastings District Plan, provides an assessment of effects, and comments on District Plan Objectives and Policies.  
*[The application included accommodation for 100 seasonal workers and included mining and earthworks activity between 62 Irongate Road and 97 York Road. Subsequently altered.]*
- Copy of the Record of Titles 748603 (97 York Road) and HBF1/19 (62 Irongate Road).
- Proposed Plans prepared by Createus Group including:
  - o 'Overall Site Plan' Sheet No. 101, Rev D, dated 2 May 2019
  - o 'Development Layout Plan' Sheet No. 102, Rev D, dated 2 May 2019
  - o 'Floor Plans and Elevations' Sheet No 104, Rev D, dated 2 May 2019 [plan for accommodation blocks]
  - o 'Floor Plans and Elevations', Sheet No. 104, Rev D, dated 2 May 2019 [for kitchen / dining blocks]
- Proposed Scheme Plan prepared by Development Nous, Drawing Number H20190005-S001 Rev 1, dated 5 June 2019, entitled 'Proposed RSE Accommodation on Section 66 SO 438108 Comprised in RT 748603 97 York & 70 Irongate Road East Hastings Scheme Plan'.
- Proposed Scheme Plan prepared by Development Nous, Drawing Number H20190005-S001 Rev 1, dated 5 June 2019, entitled 'Proposed RSE Accommodation on Section 66 SO 438108 comprised in RT 748603 97 York & 70 Irongate Road East Hastings Scheme Plan'.
- 'Soil Report : 62 Irongate Road, Longlands' prepared by Justin France of AgFirst, dated 21 May 2019. *[note that this report only addresses Section 66 SO 438108 which is 97 York Road not 62 Irongate Road East stated in the title].*
- A wastewater report prepared by Hawke's Bay Wastewater Management Limited, entitled 'Proposed RSE Workers Accommodation, Irongate Project Limited, Maultsaid Rd' dated 11 April 2019. This report is for up to 140 bed RSE Workers Accommodation facility only.
- A copy of one page of a letter from The Property Group dated 30<sup>th</sup> May 2012 regarding disposal of surplus land by NZTA.
- An unsigned copy of a letter from Lattey group to Mr Roil dated 24<sup>th</sup> April 2019 from Jonty Underhill – Contracts Manager, with an extract from an email relating to comments from Mr Carruth from HBRC about a proposed bridge.

An amended Assessment of Environmental Effects Report (AEE2) was received on the 19.6.19 at 5.30pm and then further amended with copy received on the 20.6.19 at 2.43pm (AEE3). The amended report AEE3 superseded the earlier AEE1. No updated plans were provided with the updated plans and no updated wastewater report was provided with the AEE2 or AEE3.

Further Information was sought on the 20th June 2019 at 10.53am by Council.

Further information was received on the 15<sup>th</sup> July 2019 at 4.25pm. This information included:

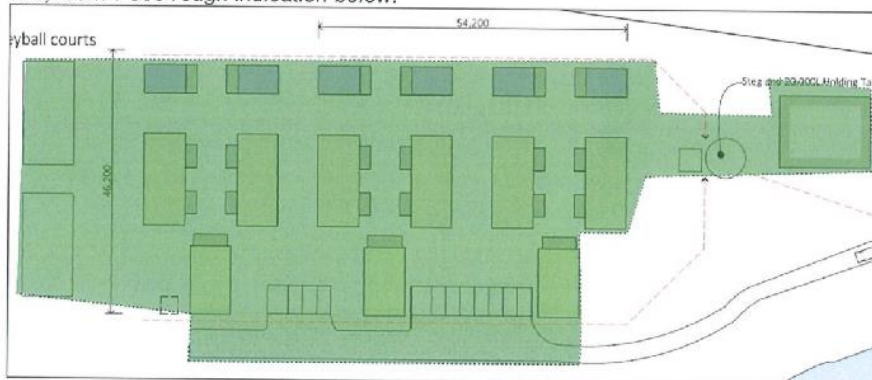
- A letter prepared by Matthew Holder of Development Nous dated 11th July 2019.
- A copy of one page (page 1) of a letter from The Property Group dated 30<sup>th</sup> May 2012 regarding disposal of surplus land by NZTA. This is the same as already submitted under the 30<sup>th</sup> May 2019 application.
- Plan prepared by Development Nous entitled 'Proposed RSE Accommodation on Section 66 SO 438108 comprised in RT 748603 97 York & 70 Irongate Road East Hastings, Flood Extents Plan', referenced drawing number H20190005-S0002 Revision 1, dated 15 July 2019.

Planners Comments of note on information received:

- o Pt 1 – Further review of the site history and consideration of the applicant's comments, confirmed 97 York Road would not be deemed a HAIL site.
- o Flooding Comments were incomplete – see below.
- o The information provided deleted the mining activity and earthworks from the proposal, yet by implication of undertaking site development there will remain some earthworks required for the establishment works.



- Pt 5- The information suggested that a condition would be accepted requiring a management plan be submitted. The complex would be managed by an on-site manager, and the overall management governed by the Department of Labour rules. The information state that the operation and rules of management will be no different to other approved facilities within the District. It would be appropriate to consider activities of similar size relevant. An example of an approved draft management plan for a large Seasonal Workers Accommodation for RSE workers is (HPRM54959#0048 scanned pages 8 – 13) is RMA20190208 for a site on Omaha Road. Given the s92 response it has to be taken that the content of such an example is being accepted for this proposal.
- Pt 9 and 10 – Plans were not provided.
- Pt 13 – In terms of building coverage the application AEE on page 8 states "The proposed hardstand coverage will not exceed the District Plan standard of 1500m<sup>2</sup>." Yet on page 10 it states the standard is infringed, but does not say by how much. The plans include the coverage calculated on building coverage and based on a site of 3.4ha, rather than the building coverage, hardstanding and sealed area numbers, and based on proposed lot land minus the Marginal Strip. The plans do not show the gravelled areas around the buildings suggested in the AEE page 6, and it is unclear if the volley ball courts are to be informal grassed areas or sealed compacted court areas. Given the information provided an estimation on coverage is therefore made, taking a conservative approach to building / formed / sealed areas on the site the total potentially up to 5,700m<sup>2</sup>. See rough indication below.



- Pt 15. The Property Group letter still only had one page provided. The relevance the letter has is limited to the planning consideration and therefore its non-provision is not considered necessary to progress the consideration of the application.
- Pt 20 - Note that the information provided in response to yard set back queries referred to 59 Irongate Road East which is not a known address, and it is assumed that this address is a typo, and that it is intended to refer to 59 York Road. The plans have not been updated to represent a proposal demonstrating compliance with the standard to 59 York Road or the Marginal Strip boundary.
- Pt 17 - The application plans will provide wastewater on-site, but the location of this disposal area has not been specified on the site plan.
- Pt 22 – 24 - The scheme plans continue to refer to 70 Irongate Road East in the description. Given the s92 reply, this is considered to be an error on the plans submitted, whereby 62 Irongate Road East should be referred to. An updated plan was not attached to this reply.
- Pt 25 -The only landscaping shown on the plans is a 'shelterbelt' to the western boundary, and the applicant has not provided information on the heights of planting at the time of planting and the species proposed, however offered for a condition of consent for landscaping details to be submitted if consent is granted. No clarification has been provided as to what sort of details would be provided in this condition scenario.
- Pt 31 – The applicant did not confirm in respect to this point whether all these parcels form part of the application. It is taken for the purposes of this application, given other clarifications and plans, that the involved land is 62 Irongate Road East with access over 11 Maultsайд Place, 97 York Road, Marginal Strip and Irongate River bed. No documentation

*has been provided to clarify any formal agreements between the applicant and parties of involved land. The application process can continue on this basis.*

An email confirming that the response is incomplete was sent on the 31st July 2019 by Council. This was responded to on the 31st July 2019 by Mr Roil for JARA Family Trust. This information included email comments in the body of the email and Portacom Building Solutions Plans:

- 'Floor Plan – Ablution Unit, Project Number DE0719-19B Sheet 001 Revision 3 dated 23 July 2019;
- 'Elevations', Project Number DE0719-19B Sheet 002 Revision 3 dated 23 July 2019;
- 'Perspectives' Project Number DE0719-19B Sheet 003 Revision 3 dated 23 July 2019;
- 'Base Frame Details' Project Number DE0719 Sheet 005 Revision 3 dated 23 July 2019;

*This information states that all yard setbacks are to be complied with. The proposed plans do not reflect this. Note: Further information was provided with an updated plan received on the 27<sup>th</sup> August 2019.*

*The level of information sought on stormwater discharge has not been provided. A site visit would not confirm the infiltration capacity of soil for intended volumes generated. Nevertheless, it has been confirmed that this will be discharged on site based on infiltration methods in accordance with HBRC requirements. On this basis, the notification consideration can be made.*

*Details on the caretaker's cottage were not made available. This additional information was provided in emails up to 27<sup>th</sup> August 2019 from Mr Roil for the Applicant – see later comments in this report.*

*The information states that HBRC is responsible for the flooding. Flooding is a matter appropriate for consideration for such a proposal to understand if the hazard is appropriately managed and including whether legal and physical access can be achieved for the site within a flooding area. With the information provided up to this date with respect to flooding it is considered that sufficient conclusions can be come to with regards to effects for the notification assessment under section 95A and 95B of the RMA.*

*The application plans show legal widths of approximately 15m across existing right of way over 11 Maultsaid Place, 10m up to the Marginal Strip via entrance strips / rights of way. And then a wider right of way over the southern side of the Marginal Strip. There are no legal arrangements in place for full access over the Irongate Stream or Marginal Strip shown on the plans. The proposed movement lane construction is not shown on plans excepting a portion on the Createus Group Plans where a 5m wide right of way is indicated, but no movement lane referenced. The application AEE states that the access widths will comply with the requirements of 26.1.6A. It is therefore taken for the purposes of this application that at least a 3m movement lane is to be proposed, possibly 5m in sections, but with reducing width possibly after the 7m wide bridge. Further, if the consented four lot industrial subdivision RMA20190193 is completed prior to the Seasonal Workers proposal and the proposed subdivision occurs, then right of ways and movement lanes within 11 Maultsaid Place, and proposed Lot 3, will be established as a part of that decision.*

An email from Development Nous was received 2nd August 2019 3:50pm, with attached plans prepared by Development Nous referenced:

- Drawing Number H20190005-S001 revision 1 entitled 'Proposed RSE Accommodation on Section 66 SO 438108 Comprised in RT 748603 97 York & 70 Irongate Road East Hastings Scheme Plan', dated 5 June 2019; [this plan shows the amalgamation with proposed Lot 4 of RMA20190193 – while the revision number and date on the plans have not been updated the plan has been amended to remove the amalgamation symbol between proposed Lot 4 and 70 Irongate Road East.]
- Drawing Number H20190005-S002 revision 1 entitled Proposed RSE Accommodation on Section 66 SO 438108 Comprised in RT 748603 97 York & 70 Irongate Road East Hastings Scheme Plan, dated 5 June 2019 [this plan shows the amalgamation with 62 Irongate Road East in its current title – while the revision number and date on the plans have not be updated, the plan has been amended to remove the amalgamation symbol between 62 Irongate Road East and land known as 70 Irongate Road East];

*These plans show easements for right of way over one marginal strip, but there is no indication on the plans as to the legal arrangement for access across the Crown owned stream and Crown owned marginal strip to the northern side of the Irongate Stream. Thus the easements for right of way access and services would, by implication stop, at the Irongate Stream bank.*



*Further, with the amalgamation condition proposed, it appears that the right of way and services easement numbered C is superfluous as the sites being proposed to be held together and therefore implicitly confer shared rights.*

*The proposed scheme plans, drawn to a metric scale, show the proposed land use layout in context of boundaries, including Marginal Strip, however do not show compliance of buildings with the 15m yard setback. Subsequent information provides updated dimensions for buildings to boundaries.*

*It is noted that the proposed plans of subdivision provide no additional right of way provided across 11 Maultsaid Place for the future use of those accessing Sec 66 SO 438108.*

An email was received from Mr Roil on the 20 August 2019, with a copy of a letter from N Grant Community Ranger, Department of Conservation Napier, dated 20 August 2019 re grant of right of way easement.

*Council has confirmed to the Applicant / Agent that this documentation does not constitute written consent for the purposes of this assessment.*

Emails were received from Mr Roil, including final clarification of the proposed 'caretaker's cottage' building to be utilised, and providing a plan showing the proposed 15m yard set back, were provided on the 27<sup>th</sup> August 2019.

*This information is in Council's file under HRP Ref 54413#0085. The plan with mark ups are not drawn to scale, and the marginal strip boundary is actually 20m in width as measured from the true left bank of the Irongate stream. To comply with the yard set backs the final site layout may need altering.*

The Applicant / Agent were advised of the parties who were considered potentially adversely affected by the proposal on the 10<sup>th</sup> September 2019 and again on the 18<sup>th</sup> September 2019. Both these times Council sought clarification as to whether they wished to suspend the application in order to seek to obtain the consents of these parties. No confirmation was received in reply to confirm this. A meeting was held with the Council regarding this correspondence on the 20<sup>th</sup> September 2019. After this meeting Council sought further confirmation on the 26<sup>th</sup> September 2019 as to whether the Applicant wished to have further time to obtain affected persons consents or proceed with limited notification.

On the 26<sup>th</sup> September 2019 a further email was received from Mr Roil, which generally states:

- The bridge will not cause flooding issues;
- They are happy to include screening and landscaping to any neighbours that are affected by the buildings;
- Verbal agreement in principal has been provided from Mr Chapman of Council, that credits for effluent disposal at 58 Irongate Road East and 1139 Irongate Road East could be utilised for the proposed site;
- That they are happy to include a 'no complaints covenant'.
- That the parties identified as potentially affected by the Council are "not affected".

*Note: In respect of wastewater details of the off-site reticulated servicing agreement have not been provided to confirm any substantive arrangement with Council to allow for the Plains Production zoned land to discharge into public reticulation. The potential for on-site servicing has not been removed from the proposal, and therefore is relevant in the consideration of this proposal.*

The email of the 26<sup>th</sup> September 2019 included three attachments, as follows:

1. A letter, dated 24<sup>th</sup> September 2019 on a letterhead from Hawkes Bay Project Management which is not authored or signed, but is a referenced attachment to Mr Roil's email of the 26<sup>th</sup> September 2010. By implication the letter is taken to be prepared and authored by Mr Roil who is a Director and shareholder of Hawkes Bay Project Management Limited. The letter contends that Council's adverse assessment of the effects on neighbours is incorrect for several reasons.
  - Potential Risk to Flooding - discussing the existing bridge construction at the State Highway and advising that details of the bridge will be provided to the HBRC at a later stage. Information provided for the proposed bridge structure stating:

*"The height of the underside of the bridge structure, is above the banks of the stream. The area under the bridge and between the 2 banks is a great area than the culvers upstream and in the location of the expressway crossing." And "The style and construction is with screw piles and away from the bed of the stream and will have less than minor effects to the stream."*

- Visual Effects – confirmation that they are happy to have a condition on the consent to provide for plantings screen the affected neighbours.

Note: The applicant has not provided any details as to which neighbours they refer to and has not provided any details of proposed planting.

Confirms a no-complaints covenant to be provided for any neighbouring properties.

Confirms that Mr Roil has authority to sign off on the consent application for 58 and 62 Irongate Road East and 11 Maultsaid Place.

Confirms that a landscape condition and no-complaints covenant is able to be provided for 59 York Road.

Comments that the soil is alluvial and free draining, Omaha Stoney Gravel with good natural drainage.

Provides comments on mitigation measures and refers to 'positive effects'. Under s95A and s95B of the RMA the consideration of effects is limited to an adverse effects assessment. It is not a substantive assessment of the application and does not weigh up positive effects of the proposal. This balancing occurs under Section s104(a) and (ab) of the RMA. Mitigating circumstances and measures have been considered in the adverse effects assessment later in this report.

Note: The letter included reference to an attached Sale and Purchase Agreement for 97 York Road. This had not been provided with the email documentation. When questioned on its whereabouts (email from Murray Arnold 10.10.19) Mr Roil advised (email 11.10.19) that he will bring a copy to 'view'.

The final comment in the letter is that *"There are no adverse effects, but in fact the opposite is provided with the delivery and use of RSE Workers to the current production requirements to the horticultural industry. The purpose built facility will help relieve the current shortfall of social housing in Hastings whilst locating workers in an appropriate area."* It is unclear what the reference to 'social housing' is in this context, as the proposal is not for housing provided by MSD or Housing NZ, but for seasonal workers.

2. A letter from the Department of Conservation dated 20<sup>th</sup> August 2019 prepared by Neil Grant. The letter confirms that the proposal involves a bridge access over the Irongate Stream and marginal strips bordering the stream, and the marginal strips are administered by DoC. The letter confirms that an application to DoC will need to be sought and granted for an access easement. The letter states that *"At this stage the Department does not see any reason for not granting such an easement, however you will need to complete the required application forms in due course, submit them to the Department, and be granted the easement to authorise this access."*

This letter is in relation to the easement, but makes no confirmation or conclusions as to the accepting of adverse effects or whether DoC formally has no objection to the proposal for the purposes of the S95E RMA considerations.

3. Copy of email correspondence chain:
  - From John Roil to Mark of Lattey Group dated 21 August 2018 with a photo of the proposed bridge location at Irongate Road. This photo referred to, is not attached to the email train provided to Council;
  - From John Roil to Mark of Lattey Group dated 13 September 2018 seeking a cost to design and construct the bridge and seeking input from Gary Clode of HBRC as to any issues with "what was proposed at the site visit, ie: location?"; and
  - From Gary Clode – Regional Assets Manager of HBRC to Mr Roil and Mark of Lattey Group on the 14 September 2018, stating *"No issues. The expressway culvert upstream is an indication of the bridge waterway opening plus some allowance for a bit more catchment. A crossing along the lines we discussed should be fine."*



For clarification this correspondence is considered to be information from the Asset Team of the HBRC and is not an effects assessment undertaken for the purposes of effects relating to a resource consent application, by the Regulatory arm of HBRC.

Subsequently an email from Mr Holder was received with a copy of an updated plan of subdivision. Only one plan of subdivision was provided as the updated plan of subdivision. The underlying subdivision to create Lot 4 has been commenced. Therefore it is assumed that the submitted plan is now the only proposed subdivision arrangement to be considered under this application.

A further meeting was held with Council staff and Mr Roil on the 11 October 2019. Subsequent to this meeting a copy of the Sale and Purchase Agreement in respect of 97 York Road was provided to Council (18 October 2019).

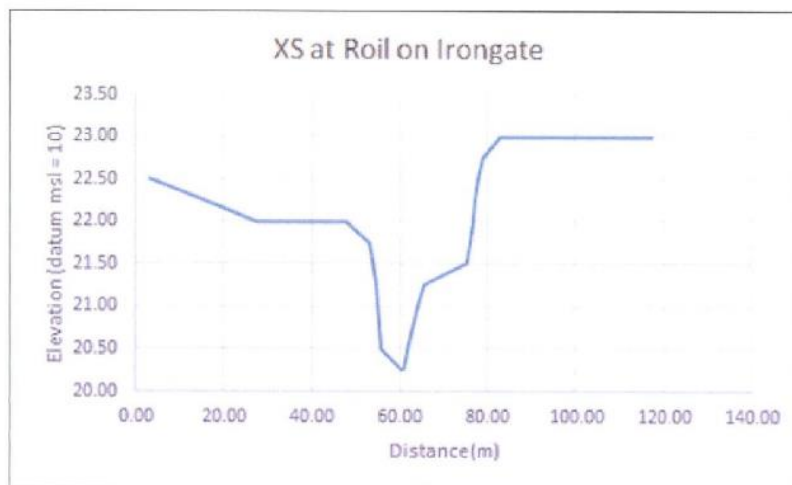
In addition the following documents were provided on the 15 October 2019

- Updated site layout plan prepared by Createus Group Sheets 101 Rev E and 102 Rev E.
- Photos of State Highway Culvert.
- Written responses to meeting.
- Table of Bridge and Culvert Standards from HBRC.
- Flooding Mapping extract from HBRC.

On the 24th October 2019 the applicant provided to Council a copy of a letter dated 16<sup>th</sup> October 2019 advising that Mr Roil has authority for owners of 11 Maultsaid Place and 62 Irongate Road stating "As the submitter to the original resource consent under RMA 20190203, I am fully aware of the proposal, and as such do not believe that we are affected in any adverse way."

#### Other Information

Craig Goodier of HBRC has provided an indicative cross-section of the Irongate Stream at the location of the bridge as follows:



#### Procedural Matters

A determination under Section 95A and 95B of the RMA must first be made before a substantive decision can be made on the resource consent application. A section 100 RMA decision in order to determine to hold a hearing can be made once the notification determination has been made.

Section 91 of the RMA has not been utilised by the Council at this stage of the process, however may still be able to be applied at a later stage.



## 2.0 THE SITE AND SURROUNDING ENVIRONMENT

The application land and involved parcels are set out in the table at the beginning of this report.

The application provides a site description in 2.0 of the application AEE3 report.

### 97 York Road

This is a large production parcel of land, with orchard uses, trees and existing dwelling. Access to this parcel is off York Road. The parcel adjoins a marginal strip 20m wide to the south and beyond this is the Irongate Stream.

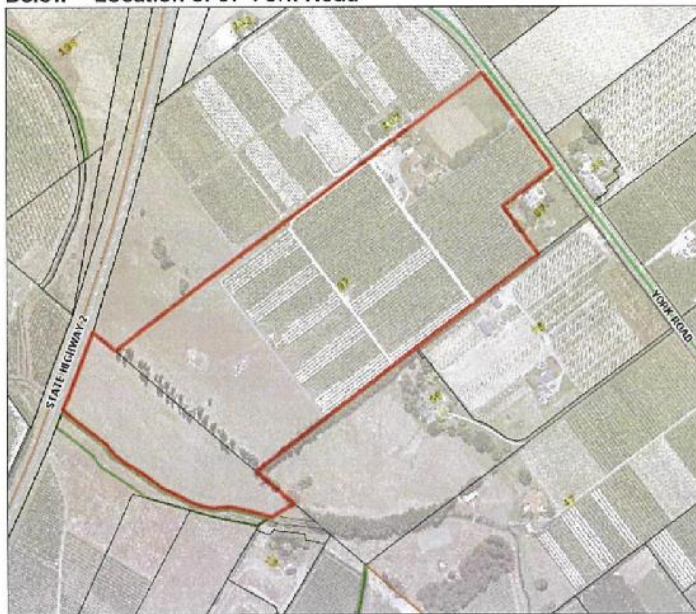
To the west of the rear portion of this land is the State Highway.

To the east of the site is other Plains Production zoned land in production use including pasture.

The south-easternmost part of the site adjoins esplanade reserve on the northern side of the Irongate Stream.

The land is generally flat and rural in character and nature.

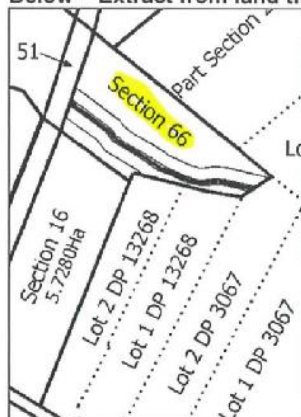
### **Below – Location of 97 York Road**



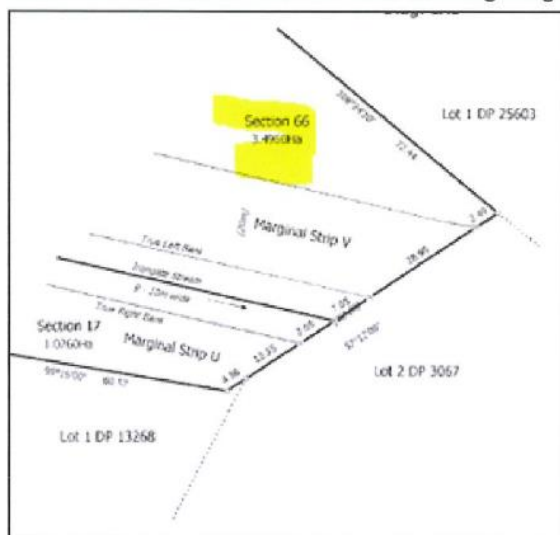
This title is technically not as large as shown, as the above image shows the red line inclusive of the marginal strip and Irongate Stream width. The title is subject to Section 4A of the Conservation Act, which accounts for the bed of the stream and marginal strip for the Irongate Stream.

The below title extracts clearly show the 20m marginal strip from the edge of the true left bank of the Irongate Stream.

Below – Extract from land titles showing Marginal Strip



Below – Further extract from land titles showing Marginal Strip area.



The title records Sec 66 SO 438108 as 3.496ha, however that area includes the area of the marginal strip and utilising the Development Nous proposed subdivision plan as a guide the available area is only approximately 2.6709ha).

#### 62 Irongate Road

This land is currently in paddock, with buildings to the front of the site. The site is subject to two consented Industrial lot subdivisions, one for a two lots from the parcel, and one for 4 lots from the parcel.

The site adjoins a marginal strip to the northern boundary and beyond that Irongate Stream.

To the west is land currently in production use, but currently with a resource consent being processed for Industrial lot subdivision.

To the south is fairly recently subdivided Industrial land that has access off Maultsaid Place.

The land has an established 15m right of way easement from Maultsaid Place to the eastern side of the parcel. However it is unformed. There is a consent notice requiring the formation of the right of way.

The land is generally flat, and forms part of an emerging Industrial area, the change being symbolised by road upgrading along Irongate Road, established Maultsaid Place and industrial activities on land to the east of the site.

An aerial photo is shown below showing the outline of this site.

Below – Location of 62 Irongate Road East – Aerial Photo (2014)



Site Visit photos below taken 31.5.19:

*Below - View of site as viewed from ROW easement gate centrally along the eastern side boundary. The building in background is on blocks appearing temporarily placed. The row of trees is generally the location of the Irongate Stream but further north.*





Below - View of the 62 Irongate Road East as viewed from ROW easement gate centrally located along the eastern side boundary of the site, The view is across the site to the south towards Irongate Road East.



Below: View of the easement driveway to Maultsaid Place from 62 Irongate Road East viewed from the site eastern side boundary. Containers are along the northern boundary of 3 Maultsaid Place.

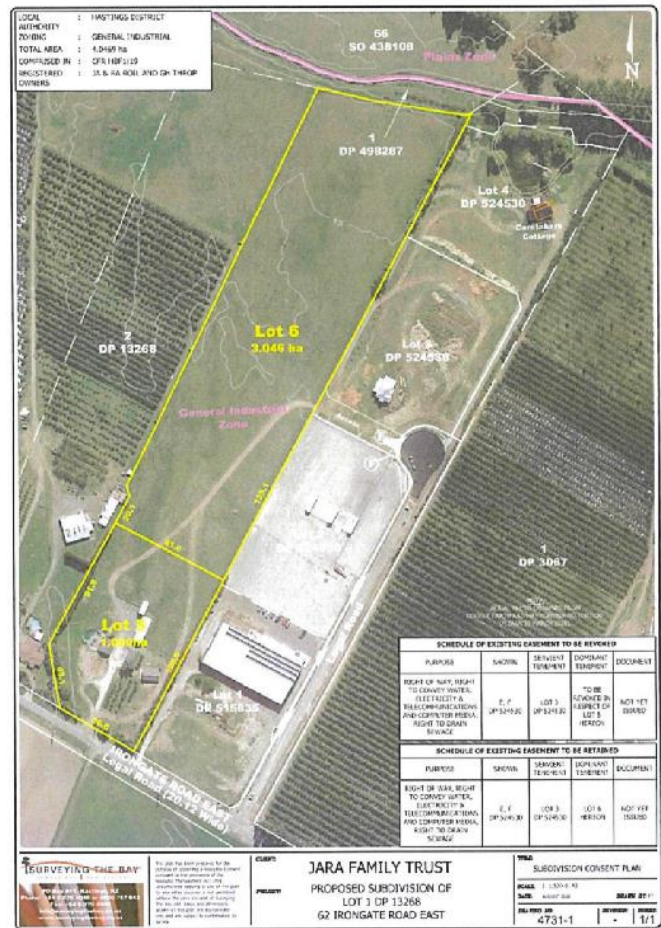


Site Visits were also undertaken by the Reporting Officer:

- Visiting the DoC land 15 October 2019
- Visiting 59 York Road 18 October 2019

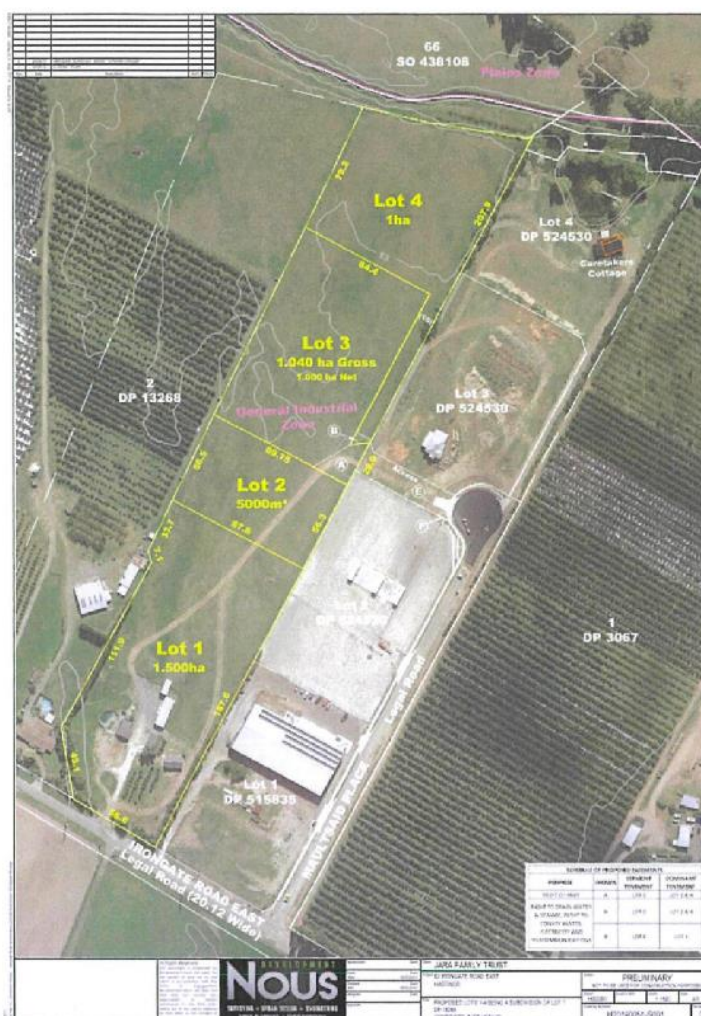
Background:

A resource consent was granted in 2018 for a two lot subdivision of 62 Irongate Road (RMA20180352), which approved the following subdivision arrangement (below).



Resource Consent for a four lot non-complying subdivision of 62 Irongate Road East was recently granted (RMA20190193). This consent included formation of the access and establishment of a non-complying subdivision whereby the average lot size was under the 1ha average net site area for the Industrial area with Lot 4 at 1ha gross site area and approximately 8980m<sup>2</sup> net site area.





This consent did not require the formation of the footpath along the right of way from Maultsaid Place to the subject lots, but retained an area of 1.5m in width in the access design, if one were to be established in the future. This consent has been commenced.

#### Existing Access and Easements for access

Easement 'E' and 'F' over neighbouring Lot 3 DP 524530 (11 Maultsaid Place) were established at the time of subdivision of that land (RMA20180109 as varied by s127 RMA20180305). The subdivision resulted in various consent notices imposed on Lot 3 DP 524530 (11 Maultsaid Place). The following consent notices are noted:

- "There is no reticulated stormwater system available for this site. An onsite stormwater solution shall be provided at the time of any Building Consent application which demonstrates that a satisfactory method of disposal can be provided for the site."
- "Unless Resource Consents from the Hawkes Bay Regional Council are sought and granted, this site shall not discharge any stormwater directly to Irongate Stream, or pond on Lot 4 DP 524530."



It is noted that no services easements are known to have been established for use by Lot 3 DP 524530 for such a scenario to occur, and no known HBRC Resource Consent is known to have been consented for any discharge into the Irongate Stream from the land. The building consent for 11 Maultsaid Place provides for on-site stormwater discharge only using a stormwater infiltration method.

(Consent Notice ref: CONO 11162880.6 – HPRM 25105#0258)

*"Prior to any new land use or building works on Lot 1 DP 13268 (that uses right of way 'E' Shown on approved scheme plan for Resource Consent RMA20180109), the owners shall:*

- "Provide full Engineering designs as specified in the Hastings District Council Engineering Code of Practice (2011) relating to right of way 'E' shown on approved scheme plan for Resource Consent RMA20180109, which shall be designed by a suitably qualified Chartered Professional Engineer or other appropriately qualified person and submitted to the Senior Development Engineer, Hastings District Council (or nominee) for approval prior to construction.*
- Construction work shall not commence until engineering design plan approval from Council has been given.*
- The owner shall construct the right of way using an appropriately skilled contractor and in accordance with the Council approved design.*
- That a Chartered Professional Engineer or other appropriately qualified person shall certify that the works have been constructed in accordance with the approved design.*
- That as-built plans and documents showing the construction of the right of way including services, road markings and signage, in accordance with the requirements the Hastings District Council Engineering Code of Practice (2011), shall be submitted to Council once construction is completed and shall be certified as a complete and correct record by a Chartered Professional Engineer or other appropriately qualified person.*
- Submit Form 5 "Certification of Construction and Completion of Roding Works for Subdivision" (Appendix 62 of the Proposed Hastings District Plan) from a Chartered Professional Engineer or other appropriately qualified person, to the Development Engineer, Planning and Regulatory Services, Hastings District Council, on the completion of the engineering works."*

If the subject activity and subdivision is to utilise the access then the above will need to be met.

The parent title for the subdivision consent creating 11 Maultsaid Place adjoined the Irongate Stream and at that time, the stream bed of the Irongate Stream and a 20m esplanade reserve was created along the stream bed area. This has been vested in Council. The esplanade reserve was reduced in area for a portion of its length under this consent, however, because of the location of existing site features being an on-site pond (pond on Lot 4 PD 524530). The bed of the Irongate Stream is in Crown ownership, and esplanade under Hastings District Council control.

### 3.0 REASONS FOR CONSENT AND ACTIVITY STATUS

#### 3.1 National Environmental Standards

Resource Management (National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 (NESCS)

The NESCS proposal must be considered for this proposal as it is production land changing use and also with soil disturbance, and also involving a subdivision.

Historical information

For 97 York Road, the application information suggests vineyards have been grown on the site which are not an HAIL activity. The land is currently in paddock and trees. No known sheep dips or fuel storage is known on the site. Aerial photographs have been reviewed and the site history file for the

property reviewed. Given this information there is no indication on Council's records to suggest that a HAIL activity is or has occurred on this land.

For 62 York Road a Detailed Site Investigation is available on the Council's records for 62 Irongate Road ref (HPRM 25106#0039). The DSI records no contamination in the area of the proposed works on the site including for the formation of the right of way. The DSI reports contamination near the front of 62 Irongate Road near existing buildings. Previous decisions have required that this contamination be remediated as a condition of the subdivision consent.

Given the above and that the Marginal Strips and Irongate Stream runs between the abovementioned land parcels, and that there are no records on Council's files suggesting any HAIL activity relating to the area of the Irongate Stream and Marginal Strips, then I consider that there is no reason a resource consent would be required under the NESCS in respect of works in and over the Marginal Strips and Irongate Stream.

Assessment of Activity Status:

The application originally included two scenarios for subdivision of the land. This is changed (as noted above) and now is only for the amalgamation with consented Lot 4 of RMA20190193 with the Lot 2 of 97 York Road. In this scenario, RMA20190193 will be completed, thus Lot 4 created, and as such the contamination conditions will be completed too. Therefore the NESCS will have been addressed and consented for this scenario.

No consent under the NESCS is therefore necessary to in conjunction with this application, being addressed under the previous consent that will be completed.

### 3.2 Hawkes Bay Regional Resource Management Plan (HBRRMP)

The applicant has identified that additional consents under this plan would likely be needed, including:

*"Under the RMA – Resource consent may also be required under Rule 52 'Discharges that do not comply with Rules 31 – 51' – if the topsoil fill is deemed a contaminant under the RRMP, and if the fill is located within 20m of a surface water body (the Irongate Stream). This would breach the permitted activity standards of Rule 49 'Discharges to land that may enter water'."*

The applicant has (Development Noun Letter dated 11<sup>th</sup> July 2019) withdrawn the mining activity from the proposal and has confirmed the limited scope of earthworks now proposed being *"The only earthworks will be related to the formation of carparking, access and piling of buildings (though as part of a building consent would be exempt)."*

Therefore, the above reason for consent for discharges may not now apply.

*"Resource consent for a bridge over the Irongate Stream is likely to be required either under Rule 71 or 72 of the RRMP. Confirmation will be sought from HBRC staff."*

Consent is considered to be likely for works to form a bridge over the stream. The applicant has not provided particular details of the bridge structure and works involved and the areas of these works to assist with a more specific determination on the consents that may be required in this regard. Plans indicate part of the southern side of the bridge structure will be within the bed of the stream.

The applicant has provided a report prepared by Hawkes Bay Wastewater Management Limited in respect of on-site wastewater disposal from a Seasonal Workers Accommodation activity for 140 persons. This report indicates other proposals where Resource Consents for a wastewater discharge consent have been consented by the HBRC for RSE accommodation as a comparison for the subject proposal. It is likely given the conclusions of the reporting, that a wastewater discharge consent would be required for the disposal of wastewater on-site, where this method is utilised, from the HBRC under the HBRRMP.

The HBRRMP also has rules and standards for the discharge of stormwater on-site. Excepting the application confirming that stormwater discharge will occur on the site, it does not detail what the infiltration capacity is, and how the stormwater will be managed. It cannot therefore, in my view



(based on the information provided) be confirmed whether it is likely or not that a regional consent would be required for the discharge of stormwater on the site.

The applicant has confirmed in the original documentation and again in the Development Nous letter dated 11 July 2019 that no consents have been sought from the Hawkes Bay Regional Council.

### 3.3 Operative Hastings District Plan Status

The Proposed Hastings District Plan as amended by decisions on submissions took legal effect on 12<sup>th</sup> September 2015. The appeals period closed on 23<sup>rd</sup> October 2015. No appeals were lodged against the relevant provisions of General Industrial Zone that are relevant to this application. In accordance with Section 86F of the Resource Management Act 1991, the provisions of the Proposed District Plan relevant to this application must be treated as operative. As such, no assessment is required under the Operative District Plan.

### 3.4 Proposed Hastings District Plan Status

Since the application was made and at the time of writing this notification assessment, the Council has notified (23 August 2019) Variation No.7 to the Proposed Hastings District Plan – Seasonal Workers Accommodation. The variation is to allow for SWA within the Light Industrial zone and General Industrial zone at Omahu, and also seeks to place a more realistic scale for SWA in the PP zone. The variation does not have immediate legal effect. No decisions have been made on this variation at the time of writing this report.

Given this, application is being considered under the provisions applicable at the time the application was made.

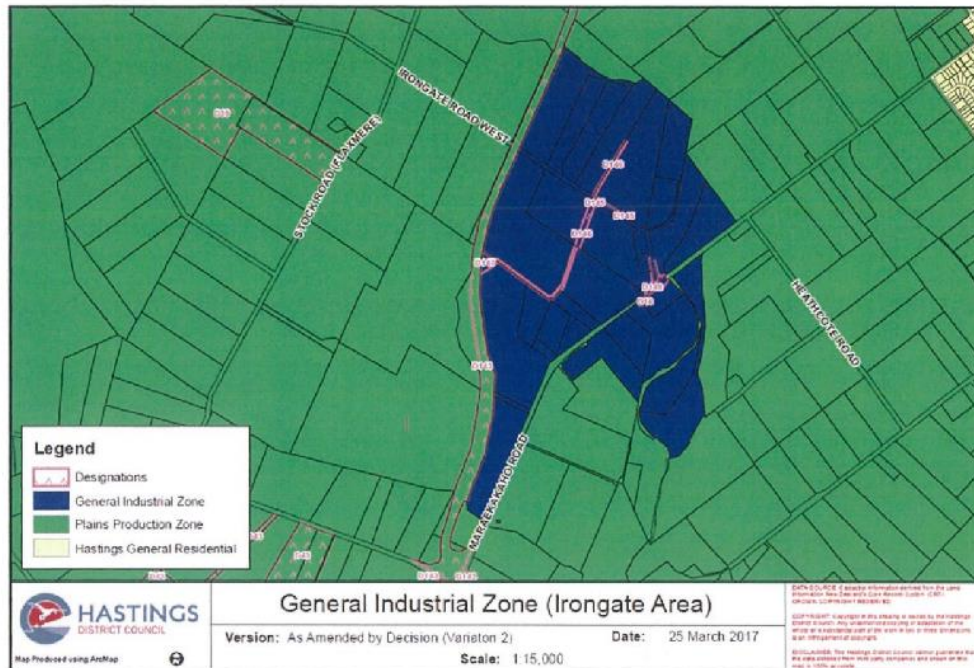
97 York Road is zoned **Plains Production zone (PP zone)**:

The provisions of the PDHP and the PP zone for the subject site are beyond challenge with no outstanding appeals.

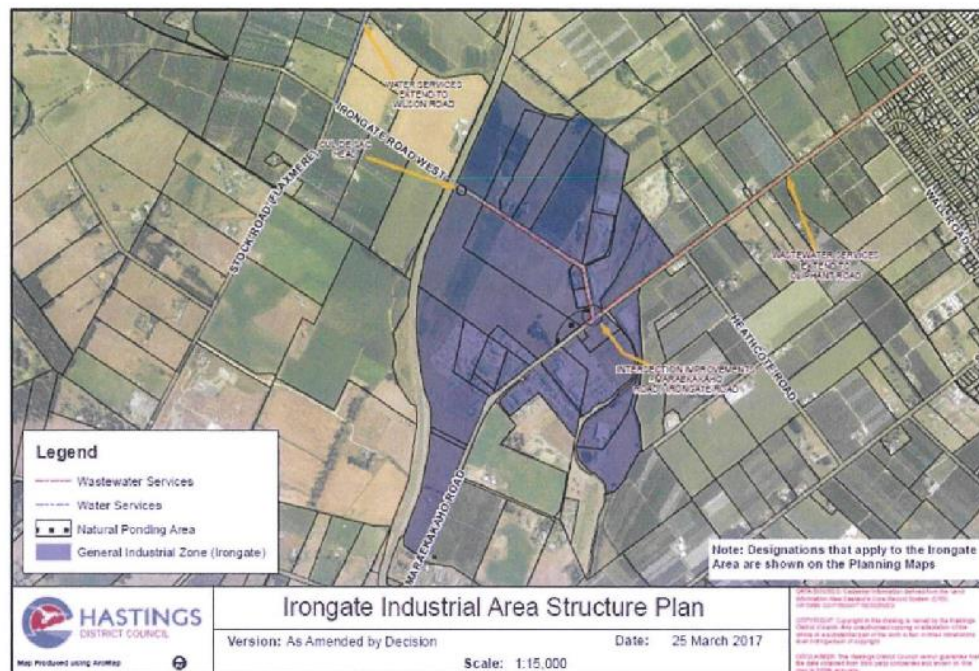
62 Irongate Road East is zoned **General Industrial (Irongate Area) (GI zone)**:

Variation 2 to the Proposed Hastings District Plan was publically notified on 16 July 2016 with submissions closing on Friday 12<sup>th</sup> August 2016. Decisions were issued on the 25<sup>th</sup> March 2017 with one appeal being lodged by the close of the appeal period on 10 May 2017. This appeal was resolved in March 2018 and the Variation is now beyond challenge.

The General Industrial Zone (Irongate) is shown below:



Above – Irongate Industrial Area Zoning



Above – Amended Irongate Industrial Area Structure Plan  
(As amended by Decisions on Variation 2)



The split between the GI zone and PP zone for the subject land is at approximately the centreline of the Irongate Stream.

Irongate Road and York Road are classified as a 'Local Road'; and State Highway 50 is a 'National Route'; under the Council's Roading Hierarchy.

The site is outside of the Unconfined Aquifer and is not subject to any Designations.

#### 3.4.1 Subdivision Status

The proposal is for the subdivision of 97 York Road into two lots.

The proposal refers to Lot 2 as a 3.52ha site. However the area in control of the applicant is technically less than that as the parcel involves Marginal Strip.

Lot 2 is to be amalgamated with Lot 4 area of 62 Irongate Road East and involves easements for right of way access.

97 York Road is a combined title of 19.7011ha (16.2051ha for Pt Sec 24 Block XV Heretaunga SD, and 3.4960 less marginal strip for Sec 66 SO 438108).

62 Irongate Road East is a title of 4.0469ha, and proposed Lot 4 of RMA20190193 is to have a net site area of 8980m<sup>2</sup>.

- Rule SLD1 does not apply as the standards and terms in 30.1.6 and 30.1.7 will not be met for the reasons below.
- Rule SLD17 does not apply as the standards in 30.1.7 will not be met for the reasons below.
- Rule SLD23 is not relevant because the applicant does not seek consent for a Plains Lifestyle Lot and the proposal does not involve amalgamation with other Plains Production zoned land.

The proposal is therefore a **Non-complying Activity** under **SLD25**.

Assessment against zone standards:

The proposal involves an undersized Plains Production zone parcel (Section 66), and a non-complying Industrial zone site (Lot 4 RMA20190193) and therefore does not comply with the general and specific standards 30.1.6 and 30.1.7, as follows:

- The proposal involves amalgamation with Lot 4 of RMA20190193 which has not yet been created and forms part of a non-complying activity proposal, being under the minimum 1ha net set area average allowed for the in the General Industrial (Irongate) area. Standards for the subdivision of involved 62 Irongate Road East Lot 4 of RMA20190193 have been addressed under that consent, including particular Irongate standards in 30.17Q.
- 97 York Road will create one Plains Production zone parcel over 12ha and one less than 12ha, thus does not comply with 30.1.6A(10)(A).
- Given that the application is an integrated proposal for the subdivision and use of land as Seasonal Workers Accommodation, it is considered appropriate to apply consideration of the subdivision standards based on the purpose of the land for which the subdivision is intended to support, being Seasonal Workers Accommodation for 150 persons.
- Standard 30.1.7A - While the proposal shows buildings on 97 York Road for the Seasonal Workers Accommodation and caretaker's accommodation, the proposal does not show a specific 30m x 30m platform complying with standards for the zone (including 1500m<sup>2</sup>

coverage of buildings, sealed areas and hardstanding) for the Plains Production portion of the site.

- Standard 30.1.7B – The proposal provides an either / or option for water supply, wastewater disposal and stormwater disposal. The applicant may still utilise on-site disposal methods.

The applicant has confirmed that water supply can be by means of 'on-site' means, but no greater explanation is made in the application in terms of the volumes and methods for potable water. With 150 persons on the site this will likely be substantial. An underground 'holding tank' is shown on the plans, but it is unclear as to whether the applicant envisages this as stormwater holding tank for disposal or drinking water supply. The s92 reply from Development Nours dated 11<sup>th</sup> July 2019 comments on firefighting water supply, "Firefighting supply and access has been discussed with the NZ Fire Service who has advised our client that they are satisfied all building will be accessible by fire appliances and 75m of hose. A condition of consent is appropriate and acceptable to reinforce." No copies of correspondence to supply this discussion or confirmation has been provided in the application. The s92 response has not referred to any relevant standard for firefighting water supply nor storage location or volumes.

Given the information provided, it cannot be confirmed that the proposal "demonstrates how an alternative and satisfactory water supply can be provided" and therefore does not meet standard 30.1.7B.

- 30.1.7C - The applicant has provided information for on-site wastewater disposal. However the wastewater details cover only 140 persons and not 150 persons as sought under the application. The information therefore cannot be considered to "demonstrate how an alternative and satisfactory method" is to be achieved required by Standard 30.1.7C. Likewise, no sufficient off-site details are available to confirm this standard is met.
- 30.1.7D - The applicant has not provided information on the methods, areas to be used and infiltration capacity on-site for the discharge of stormwater from the Seasonal Workers Accommodation. It cannot be confirmed therefore, that the requirement for the subdivider to "demonstrate how an alternative and satisfactory method of disposal for each site can be provided" [underlining for emphasis] has been met. The proposal does not meet 30.1.7D. Likewise, off-site servicing details are not available to confirm that this standard can be met via Council's reticulation.
- 30.1.7E - Property Access:  
The access does not cross the National Grid Corridor.  
No access to the State Highway is proposed.  
No access to Maraekakaho Road is proposed.  
The proposed front lot of 97 York Road will have access to York Road as it currently does.  
The proposed rear lot of 97 York Road (Section 66) will have road access via 62 Irongate Road East and 11 Maultsaid Place.  
There is an existing formed crossing at Maultsaid Place.  
The proposed formed access widths are to be 5m within 62 Maultsaid Place and the bridge 7m and then narrowing to 3m closer to the Seasonal Workers Accommodation. [Figures 4 and 5 AEE3].  
The subdivision shows 10m+ wide right of way connections across 62 Irongate Road East and 11 Maultsaid Place to Maultsaid Place.  
The existing right of way across 11 Maultsaid Place serves 62 Irongate Road, and would under the amalgamation proposed serve the additional activity within Section 66.

The proposed right of way D provides legal access over the marginal strip to the southern side of the Irongate Stream; but as there is no mechanism proposed or indicated to allow for legal right to pass over the Irongate Stream or the marginal strip to the northern side of the Irongate Stream, the proposal does not meet the requirements of standard 30.1.7E,



The application with partial right of way provision to provide legal access to the proposed Sec 66 SO 438108 cannot be considered to have satisfied the "legal, safe and effective vehicular access" requirements of standard 26.1.6A for activities carried out on the site.

Loading would be limited and likely not from heavy vehicles, if any, and considered to comply with standards in 26.1.6C for loading.

There is no particular standard for parking for SWA and therefore does not fail 26.1.6D.

#### Notes

*As the proposal serves part urban and part rural zone the most restrictive of each standard has been applied.*

*Seasonal Workers Accommodation is not deemed to be a 'residential' activity for the standards.*

- 30.1.7G – Electricity – this is only required for the industrial part of the subdivision. Which will be provided as per RMA20190193 where proposed lot 4 of that consent is involved, or will be provided as it is existing where the current parcel of 62 Irongate Road East is involved.
- 30.1.7H – Esplanade Reserves and Strips: 62 Irongate Road East does not adjoin the bed of a river and therefore the standard for reserve strip or reserve is not triggered here. For 97 York Road, the Irongate Stream is not identified in Appendix 54 and the site being created is in excess of 4ha therefore does not trigger esplanade reserve or strip under this standard. Nevertheless, the marginal strip remains in place.

In respect of proposed Lot 1 of 97 York Road, it will be serviced on-site as it currently is and via current access. This is sufficient to demonstrate compliance with servicing and access standards for Lot 1.

Accordingly the proposal can therefore be considered as a **non-complying activity** pursuant to **Rule SLD25** of the Proposed Hastings District Plan.

#### 3.4.2 Land Use Status

##### Plains Production

The proposal is for Seasonal Workers Accommodation (SWA). PP9 provides for SWA as permitted activities where standards and terms are met.

SWA is defined in the PHDP as:

*"means any premises used for accommodation purposes directly associated with the seasonal labour requirements of the Districts horticulture, viticulture, and cropping industries and includes both new and existing permanent buildings and relocatable structures."*

The application information states that the 'caretaker's cottage' is to be utilised directly as accommodation for the manager associated with the Seasonal Workers Accommodation and is not suggested in the application to be for any other use or an independent private residence. Therefore, the SWA floor area includes the 'caretaker's cottage' floor area in this assessment.

The proposal involves a relocated building, however as the buildings are associated with Seasonal Workers Accommodation PP17 the specific relocated building standards do not apply.

Standard 6.2.5B relating to yard setbacks requires all SWA buildings to be 15m off the boundary. The application information, in the further information provided shows that the proposal will comply with all yard set backs, and this is annotated on a site layout plan provided, albeit not drawn to scale.

The proposal does not meet standard 6.2.5J being in excess of the 1500m<sup>2</sup> coverage area, and 6.2.6K(1) exceeds the maximum 125m<sup>2</sup> gross floor area for Seasonal Workers Accommodation under Rule 6.2.6K(1).

6.2.5F states that activities shall comply with section 26.1 of the District Plan (addressed below).

**PP24** states that any permitted activity not meeting Standards and terms in 6.2.5 and 6.2.6K are a **Restricted Discretionary Activity**.

#### Access

The proposal is not considered to be able to meet Standard 26.1.6A as no legal access to the SWA activity has been demonstrated, as there is no legal access provision (ROW) proposed as a part of the concurrent subdivision proposal for access across the Irongate Stream and northern side of stream Marginal Strip, and passing bays are not shown or indicated on the plans and no footpaths are proposed. **TP2** requires consideration as a **Restricted Discretionary Activity** with the proposal unable to comply with 26.1.6A.

#### Earthworks

The applicant sought a consent under EM8 and EM10 as a Discretionary Activity. This was based on a proposed mining and removal of topsoil from the Industrial zoned land to the Plains Production zoned land. This proposal that has now been withdrawn.

The proposal has defined the remaining earthworks included in the proposal as involving the establishment of access, services and for the establishment of site works (including the likes of buildings, volley ball courts, wastewater servicing on-site and stormwater on-site, pathways and parking).

The proposed earthworks for the application including access, will be associated with the subdivision which is exempt from standards for earthworks under Table 27.1.5 as the earthworks are considered under the subdivision considerations and assessment criteria.

Other non-subdivision required earthworks associated with the land use component of the proposal would be exempt up to 150% of the footprint of the buildings under 27.1.5(b). However given the extent of site works and surfacing for the parking and volley ball area etc., it is likely that the works will be extend beyond the 150% of the footprint of the buildings. Taking a precautionary approach given the limited information provided, it is considered that a consent under **EM6** would be appropriate in the circumstances.

With the withdrawal of the mining aspect of the proposal there are no other areas identified where more than 100m<sup>3</sup> of soil would be removed from the subject Plains Production zoned land site, so EM10 is considered to not be applicable.

### 3.3 Overall Activity Status

Consent is required for the following reasons under the PHDP:

- SLD25 - Non-complying activity subdivision in the Plains Production (PP) zone.
- PP24 – Restricted Discretionary Activity for a SWA not meeting standards in the PP zone.
- TP2 – Restricted Discretionary Activity for a land use activity proposal not meeting access standards.
- EM6 – Restricted Discretionary Activity for earthworks associated with a land use activity.

As an integrated bundled activity the proposal needs to be considered as a **non-complying activity** overall.

## 4.0 NOTIFICATION ASSESSMENT – SECTIONS 95A-F RESOURCE MANAGEMENT ACT 1991

### Section 95A Public Notification Assessment - Are the Adverse Effects more than Minor?

#### 4.1 Public Notification

##### **Step 1: mandatory public notification in certain circumstances**

The applicant has not requested the application be publicly notified.

The applicant has responded to the Council's further information request sufficiently in order that Council may now continue to process the application to come to a determination on notification. Information up to the 27<sup>th</sup> August 2019 satisfied this requirement in order to be able to proceed to make a notification determination. Public notification on the basis of information is therefore not required.

The application stands alone i.e. it has not been made jointly with an application to exchange reserve land.

In terms of the above statements, therefore, mandatory public notification is not required (S95A(2)(a)).

**Step 2: if not required by step 1, public notification precluded in certain circumstances**

The application is for a non-complying activity resource consent that is not subject to a rule or NES precluding public notification.

Therefore, public notification is not precluded under S95A(5)(a) or (b)(i).

**Step 3: if not precluded by step 2, public notification required in certain circumstances**

Public notification is required if the adverse effects on the wider environment are more than minor when assessed under section 95D and if the application requires notification due to a rule or NES regulation. No such rule or NES regulation applies for notification. The adverse effects on the wider environment under Section 95D are considered in the following assessment.

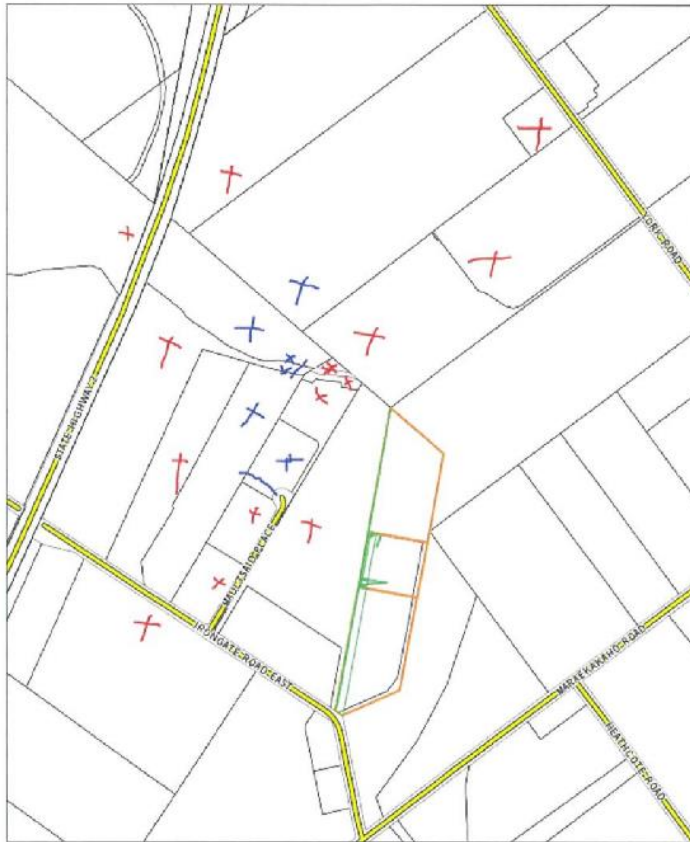
Section 95D assessment

The adverse effects persons who own or occupy the subject sites and adjacent land are disregarded for the purposes of this assessment.

The adjacent land includes land identified with a red 'X' on the plan below. The subject sites are indicated with a blue 'X' and the access connections identified with a blue line. 11 Maultsaid Place with access across it proposed is considered to be the subject land also. 22 Maultsaid Place is considered adjacent being across the road from the access.



Figure 1 – Adjacent Parties.



Trade competition and the effects of trade competition are disregarded for the purposes of this application.

No written adversely affected persons consent forms have been provided with the application (see s95B comments for s95E consideration of adversely affected persons).

Permitted baseline is not considered appropriate to apply given that any subdivision would require an application for resource consent, and this has been assessed as a bundled consent.

Council is not limited in its consideration given the non-complying activity status of the bundled application.

The following section of this report discusses the Council's understanding of the adverse effects on the environment (excluding the application land and adjacent properties identified above) of the application, taking into account the matters set out in Schedule 4 of the RMA.

Adverse effects on the wider environment likely to result from the proposal are as follows:

- Effects on availability of versatile land
- Effects on Industrial land uses and availability of industrial land
- Effects of on-site servicing
- Effects on visual amenity
- Traffic effects

- Earthworks effects
- Noise effects
- Temporary construction effects
- Reverse sensitivity effects
- Stability and flooding effects (natural hazards)
- Effects on conservation values and public access
- Effects on cultural values

There are no known specific items of heritage or cultural significance identified on the sites or area of works, acknowledging the Irongate Stream is a tributary to Te Karamu Stream and in the Statutory Acknowledgement under the Heretaunga Tamatea Deed of Settlement. This is addressed under the assessment for limited notification.

- Loss of availability of versatile land

The area to be utilised for the Seasonal Workers Accommodation within the Plains Production zone is limited and buildings would be on piles. The activity could be removed and be available for other uses when the SWA activity ceases.

In the wider context of the large area of versatile land in the whole of the Plains Production zone, the loss of the area of land for seasonal workers accommodation in itself is considered to be a small comparative portion of the wider land resource. On this basis the proposed subdivision and land use is considered to result in no more than minor adverse effects on the availability of versatile land.

- Industrial Land Uses and Availability of Industrial Land

The activity would utilise a small area of industrial land for access, in comparison to the wider land zoned Industrial. Therefore having less than minor wider adverse effects on the availability of industrial zoned land.

It is noted, that the applicant proposes a right of way across 62 Irongate Road East / consented Lot 4 of RMA20190193. As land is being amalgamated there appears no need for this right of way, however as it is proposed on the plans, technically the right of way area gets excluded from the net site area calculation for 62 Irongate Road East / consented Lot 4. The Irongate Industrial area requires an average net site area of 1ha when subdivided. The subdivision RMA20190193 infringed this 1ha average. Further reduction of the net site area of consented Lot 4 has an implication of 62 Irongate Road East further infringing overall 1ha average.

- Servicing

The applicant has provided an either / or scenario with respect to servicing the proposed Plains Production zoned lot and SWA activity.

If servicing was to be provided via reticulation this would need to be agreed by the Council, who have not provided formal confirmation of this to the Reporting Officer at the date of writing this report.

Services may need to occur, therefore, on-site in compliance with HBRRMP standards or with resource consent from HBRC. With the size of the site, it is considered likely these can be undertaken in some form on the Plains Production zone land without minor or more than minor adverse environmental effects relevant to this subdivision and land use application.

- Visual, Character and Amenity effects

Views across the site from the State Highway are fairly open with scattered trees in the area creating interspersed views across the site. Buildings and structures are not uncommon in the Plains Production zone, with the likes of winery buildings able to be established up to 2,500m<sup>2</sup> on a site and up to 15m in height, residential dwellings and accessory buildings also provided for in the zone.



The Irongate Industrial area is anticipated to be established with built form and large bulky buildings with parking and loading are anticipated on these lots in accordance with the zoning. This provides the context and understanding that the subject land and development is on an interface between Industrial and rural areas.

Passers-by along the State Highway will have a view across the site to the SWA activity. The State Highway is a higher speed limit area and vehicles tend to travel at speed past the site along the State Highway.

The application includes proposed shelterbelt planting along the State Highway Boundary of the site, north of the Irongate Stream and within the Marginal Strip on the northern side of the stream, although it is unknown at this stage the species and size at time of planting. Without that information it cannot be confirmed that the planting would provide any visual or landscape buffering, softening or screening to activities, so little weight can be afforded to this as visual mitigation.

Given the distance set back from the State Highway and single storey nature of the proposed buildings, neutral colours of buildings proposed, and that vehicles travel fast past the site, it is considered that the visual character and amenity impacts for passers-by would be minimal, temporary and short-lived, and therefore having less than minor adverse effects on passers-by.

Users of Irongate Road East have limited view of the SWA activity area due to the distance separation and intervening buildings and industrial activity.

Any other wider views of the SWA activity are limited due to the intervening sites and structures, and distance.

The application includes proposed compliance with screening standards of 6.2.5D relating to screening of the SWA from residential activity. The standard is for screening to a residential activity not just in a residential zone. Compliance with this standard in this case would involve fencing or planting screening of the parking and outdoor storage of the SWA from adjacent residential activities. This would be screening of the dwelling at 13 Maultsaid Place and the dwellings at 97 and 59 York Road. In my view the standard obliges the application land to provide such screening irrespective of any features on adjoining land between the site and adjacent dwelling/s. This can be secured by way of condition of consent.

The proposal will have the result of adding greater built form to the site than if a permitted activity were undertaken on the land, it will reduce the sense of openness and change the rural production character of the site to present a more urbanised character. However, because of the location of the site and the set back of the buildings, along with the single storey nature of buildings, proposed neutral colours of the buildings, I consider effects of this visual, character and amenity change to be less than minor on the wider environment. Outside of the adjacent parties, the viewing audience is either located well away from the site, or are passing vehicles with vehicle occupants having temporary exposure.

Therefore, I consider the adverse visual amenity and character effects of the proposal to be less than minor on the wider environment.

- Traffic Effects

The application includes limited traffic assessment.

There are likely to be low levels of traffic occurring with the proposed activity (vans utilised approx. 8 persons possible per van equates to approximately 19 vans, plus and caretaker's vehicles) with peak movements in the morning and afternoon with limited activity during the day time as the majority of persons to be accommodated would be out to work (potentially the caretaker would remain on site and any persons that perhaps off work sick).

No concerns are raised by Council's Development Engineer with regards to the capacity of the roading network in Maultsaid Place, Irongate Road East and the connecting roading network to

accommodate this additional traffic, considering anticipated future traffic from the industrial zoned area.

Given the scale and nature of the activity proposed, and the low vehicle movements and times of days of these, it is considered that the wider adverse traffic effects, including traffic safety and efficiency would be less than minor.

- Earthworks

The exact extent of earthworks required for the proposal has not be clearly defined, but generally described. The works are localised to the application land and the land is generally fairly level in nature. The works are likely to be of such a scale that they will be able to be undertaken over a short period of time. The application AEE addresses standard 27.1.6H relating to Sediment Control and states that *"standard construction management measures will be implemented to prevent uncontrolled sediment movement. There will be no sediment run-off into a Council reticulated network."* Any works to and near the Irongate Stream are further controlled by way of HBRMP requirements. Therefore, I consider that it is likely any movement of sediment as a result of the earthworks will be localised and controlled, to such a level that the adverse effects on the wider environment, including water course will be less than minor.

- Noise

Noise associated with the SWA activity is likely to be limited to traffic movements at the beginning and end of the day and from the use of outdoor recreational facilities.

Noise from traffic once on the road would form part of the roading network noise in the wider environment. The immediate road network being an Industrial zone higher noise limits (compared with more sensitive areas such as residential) is considered unlikely to be out of character or create adverse effects on the amenity anticipated in an Industrial zone.

Noise effects from the activity from internal people movements and activities on the other hand will be determined by the efficient management of the on site management protocol proposed. Again however, given the location of the activity against the background noise from the expressway, and in the context of noise standards in the Plains Production zone, the adverse noise effects on the wider environment are considered to be less than minor.

- Temporary Construction Effects

Noise, dust, odour, and traffic associated with facilitating the development including construction of any building, access, roading and services installation will be temporary in nature and will be largely concentrated to sites directly adjoining the subject site. Overall and given that construction effects will only be temporary, it is considered that there will be no more than minor effects on the wider environment.

- Reverse Sensitivity

Any reverse sensitivity effects are likely to relate to activities in close vicinity (adjacent) to the subject site, rather than further away. Reverse sensitivity includes the likes of noise from neighbouring industrial activity which may occur all through the day and night, and the likes of horticultural and agricultural practices, including spraying and bird scarers. Given the exclusion of consideration of effects in respect of adjacent parties for this 95D assessment, it is considered that the wider adverse effects to parties as a result from reverse sensitivity on the SWA would be less than minor.

- Subdivision

The application makes no suggestion that that the subdivision would not continue without the SWA activity. As the application is made as a combined integrated land use and subdivision application, then scope of the proposal and considerations is necessarily limited to the proposed activity. Therefore alternative potential uses for the proposed subdivided land / amalgamated



General Industrial and Plains Production land zone and associated adverse effects are not addressed.

- **Natural Hazards**

The hazards for the application land relates to moderate risk of liquefaction and flooding from the Irongate Stream.

Liquefaction effects will need to be addressed at the time of building consent for any building to ensure its foundations are appropriate for the ground conditions, noting that the proposed buildings are to be established on piles. This hazard effect from liquefaction is contained on the site for which the proposal occurs adversely affecting the future development only.

The applicant has identified flooding parameters being a 2% AEP flood level across the site. The applicant advised that mitigation measures include establishment of 'dwellings' at 0.5m above the computed 1% AEP. It is assumed that this actually refers to all SWA buildings including kitchen/ dining and ablution blocks as well as the accommodation units and caretaker's cottage. The application does not include specific levels to ascertain how high overall the buildings may be off the ground as a result of the flooding across the site and the minimum floor level above. It can be clearly deduced that flooding will be a factor for the design of development and for the location of servicing on the site, including wastewater and stormwater disposal. There are areas outside of the identified flooding parameter available for use and activity on the site, if needed.

Irongate stream flows in an eastward direction with upstream flows constrained by the culvert under the State Highway. With information in the application stating that the stream will be bridged, and that consultation with HBRC provided in the application indicating the proposal is to provide for the same flow as the State Highway culvert, it is considered that the upstream and downstream usual stream flows should be able to occur as existing, without minor or more than minor adverse effect on usual stream flows.

There may, however, be localised change in the flooding pattern in the location of the bridge. This would potentially impact on adjacent properties only.

Therefore, the wider adverse effects from natural hazards is considered to be less than minor on the wider environment.

#### Conservation Values and Public Access

The proposal involves a limited area of works for access across Marginal Strip and the Irongate Stream. Given the limited public use and no established / formal linkages for public access along the Irongate Stream it is considered that there would be no more than minor adverse effect wider public access, use and recreational enjoyment of the Irongate Stream network.

Further, given the limited and proposed localised works, it is considered that broader conservation values of the Irongate Stream network would not be adversely affected to a minor or more than minor degree.

Overall, it is considered that the actual and potential wider adverse effects, considered within the parameters of Section 95D of the RMA will be no more than minor.

#### Step 4: public notification in special circumstances

There are no special circumstances attributable to this application that warrant the application being publicly notified, with all relevant matters reasonably able to be considered through the usual resource consent process as the application is a non-complying activity overall.

**Section 95A Public Notification Conclusion**

No public notification is deemed necessary under section 95A of the RMA.

**4.2 Limited Notification****Step 1: Mandatory public notification in certain circumstances**

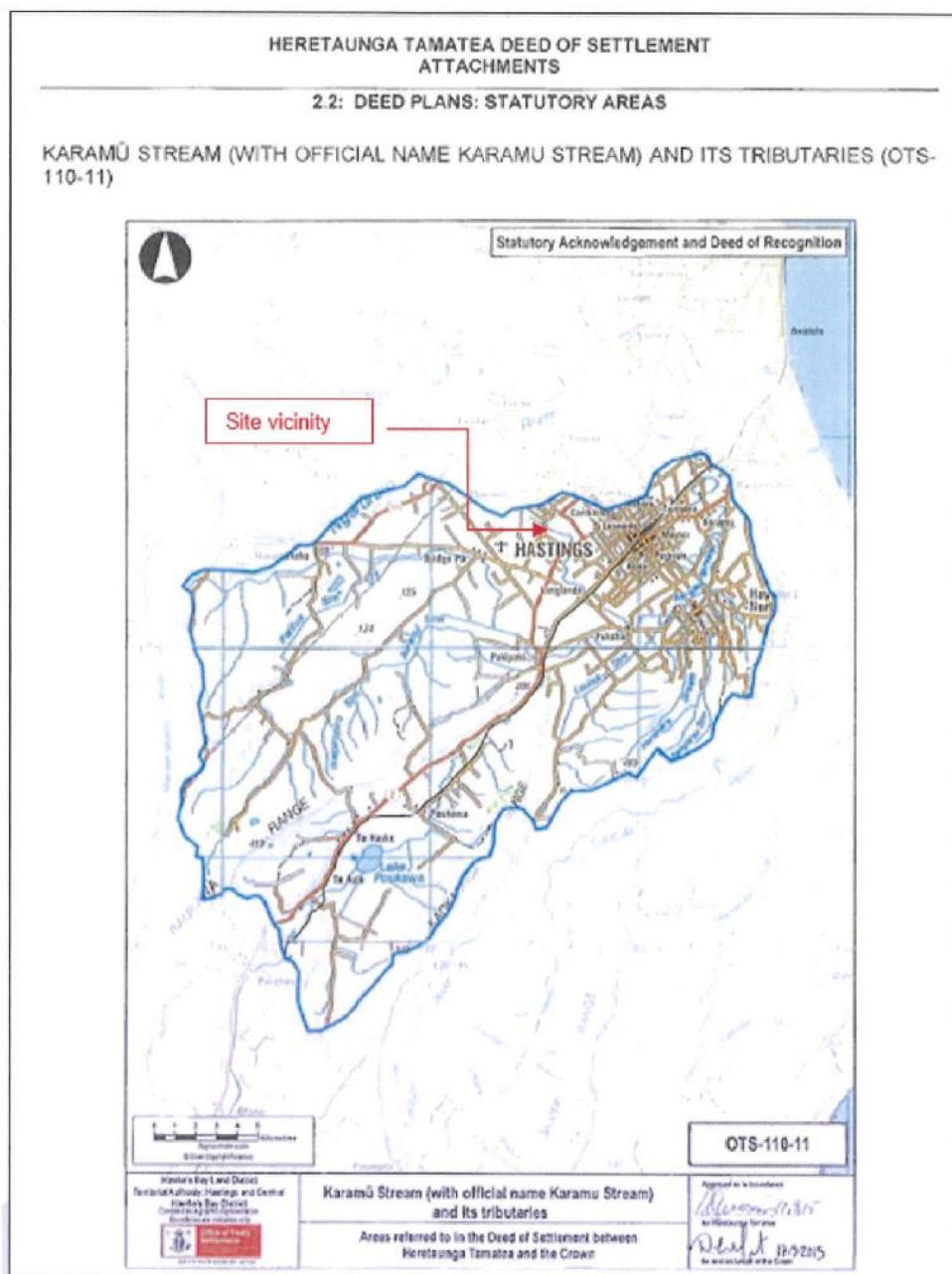
Under section 95B(4), Council must notify each affected protected customary rights groups (s95B(2)(a)) or affected customary marine title groups (s95B(2)(b)), and each affected person to whom a statutory acknowledgement is made under section 95E.

The activity does not affect any protected customary rights groups or affected customary marine title groups.

Council is required to determine whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement and whether the person to whom a statutory acknowledgement is made is an affected person under section 95E (s95B(3)).

Karamu Stream and its tributaries (for which the Irongate Stream is), is a statutory acknowledgement area identified in the Heretaunga Tamatea Claims Settlement Act 2018 (HTCS Act), identified as OTS-110-11 (refer relevant Deed Plan in Image below).

*Below: Deed Plan from Heretaunga Tamatea Deed of Settlement*



Notice has been sent to the Trustees of the Heretaunga Tamatea Settlement Trust (HTST) in accordance with the requirements of the HTCS Act requirements. Feedback has been received verbally by Council, where mana whenua have suggested the applicant contact mana whenua over the proposal. The Applicant / Agent has been advised of this.

To be considered an affected person under section 95E, the consent authority must decide that the adverse effects of the activity on persons to whom a statutory acknowledgement is made are minor or more than minor (but not less than minor).



The Statement of Association in respect of Karamu Stream and its tributaries from the Deed of Settlement has been reviewed. A key attribute for the stream network includes the stream as a freshwater fishery. The Statement of Association also identifies the following, amongst other things:

*"The name Karamu encapsulate a sacred corpus of oral traditions that describe the deeds of tupuna, imbuing the land with character, shape and mana in order to protect it, and Kaitiakitanga to maintain and development it. The long history of Maori occupation and travel on and around the stream has enabled hapu to accumulate extensive knowledge of its natural resources and to develop sustainable management practices around the use of fisheries, forests and kai in and around the Karamu Stream."*

The proposal involves bridging the stream and allowing flows to continue along the network, which are unlikely to have permanent implications for stream life and fish movements that are minor or more than minor. There may be temporary implications during the construction works.

The stream currently runs between two zones, Industrial and Plains Production zone providing a unique buffer and relationship between these areas.

HTST has a special relationship to the stream network as identified in the Statement of Association. As the proposal involves works over the stream for access, it is considered HTST may be adversely affected in relation to effects on cultural, character and access values generated by the proposal, in a manner that is different from the public generally. Therefore, limited notification is considered appropriate to this party.

Given the above, limited notification to HTST is considered to be required, but notification to the other abovementioned parties pursuant section 95B(4) is not required.

#### **Step 2: Limited Notification Precluded in Certain Circumstances**

Section 95B(5) requires determination as to whether any of the criteria in subsection (6) is met.

In terms of section 95B(6)(a) the application is not for an activity that is subject to a rule precluding limited notification. Thus this criteria is not met.

In terms of section 95B(6)(b) the application is a resource consent for a non-complying activity and is not a prescribed activity under section 360H(1)(a)(ii) of the Act. Thus this criteria is not met.

As the criteria is not met under 95B(6)(a), the application is not precluded from limited notification under section 95B(5).

#### **Step 3: Certain other Affected Parties must be Notified.**

The application is not a boundary activity, and the activity is not a prescribed activity. Therefore 95B(6)(a) and (b) do not apply in order to require notification to certain parties.

#### Section 95E assessment

- For the subdivision, permitted baseline is not useful in this case as all subdivision applications require a resource consent and due to the scale and nature of the proposal.
- For the land use component, there is considered to be little applicability for permitted baseline to be applied in respect of the Plains Production zoned land forming part of the application. There is already a dwelling on 97 York Road. The Proposed Hastings District Plan provides for land based primary production activity, accessory buildings, up to 100m<sup>2</sup> gfa of visitors accommodation, and complying with standards, such as 15m setbacks to boundaries for visitors accommodation and 5m for accessory buildings to land based primary production; and coverage for the overall 97 York Road of 1500m<sup>2</sup> of building / hard surfacing / sealed areas. Further, 125m<sup>2</sup> of Seasonal Workers Accommodation is provided for where buildings are relocatable and sited a minimum of 15m off a boundary. Also, works on the land associated with land based primary production, such as tilling of land, is provided for as a permitted activity in the zone Other earthworks up to 100m<sup>3</sup>/ha of site is

provided for in the Plains Production zone, but involving no removal off site of more than 25m<sup>3</sup> of topsoil, sand, gravel, metal or earth. Shelterbelts are provided for meeting with standards such as 5m set back off the boundary (standard 6.2.5H). Buildings may be relocated structures, in accordance with standards in 6.2.5 and 6.2.6J(2).

For 62 Irongate Road, Industrial activity may occur on the land in accordance with standards and terms.

- The assessment is not limited to any matters under the District Plan due to the bundled non-complying activity status overall.
- Written Consents

The applicant has provided a letter from the Department of Conservation. This is not deemed to be an affected party's written consent to the proposal.

Hastings District Council as the adjacent land owner of the esplanade reserve on either side of the Irongate Stream north of 13 Maultsaid Place, have not raised any concerns about the proposal and its impact on the esplanade reserve land and its purpose. However no formal confirmation has been provided to the reporting Officer at the time of writing this report, in order to be able to deem Hastings District Council not to be an adversely affected party in this case.

The application is made under the name of the JARA Family Trust. In the email dated 26<sup>th</sup> September 2019 from John Roil, and with the attached letter dated 24<sup>th</sup> September 2019, Mr Roil confirms that "As the applicant and also the owner of a number of properties, I have the authority to sign off on the consent application". A further letter has been provided from the applicant on the 24<sup>th</sup> October 2019 confirming that Mr Roil has authority for the owners of 62 Irongate Road and 11 Maultsaid Place, and that they consider that there are no adverse effects on them. Given this documentation provided, while I consider there may be potential effects resulting to the abovementioned sites, given the above confirmation I deem that the owners of 11 Maultsaid Place and 62 Irongate Road are not adversely affected parties in accordance with Section 95E(3)(b) of the RMA.

Additionally, the applicant has provided a copy of the sale and purchase agreement which has conditions included acknowledging the intended purpose of workers accommodation. Provided this sale and purchase agreement remains in valid (does not expire) then it is considered the owners of 97 York Road are not adversely affected parties pursuant to section 95E(3)(b) of the RMA.

No other written approvals have been provided with the application. No written consents have been withdrawn prior to making this assessment.

- The Heretaunga Tamatea Settlement Trust has been given notice of the application as required by the Settlement Act. This is not notice under section 95A or s95B of the RMA. The Trust is considered to be a potentially adversely affected party by the proposal given the earlier assessment in this report.

There are no other statutory acknowledgement parties to consider.

- The application information makes no suggestion that future industrial activity provided for in the Industrial zone would not be undertaken on the Industrial zoned land at 62 Irongate Road. This industrial environment context forms part of the receiving environment.

The assessment for the purposes of public notification is adopted here, whereby it is concluded that the adverse effects on the wider environment are considered to be no more than minor.



It is considered that outside of the application land and adjacent land (identified earlier in this report) there are no other potentially affected persons because the effects will mostly be internalised within application land where the SWA is being proposed. Further, that traffic movements to and from the site within the roading network will be minimal and unlikely to create traffic safety and efficiency effects commensurate with the industrial roading environment for which they will occur. There are no roading capacity issues identified for the low additional traffic movements likely to be generated.

Given that assessment, the following comments are made with respect of adverse effects including those adjacent parties and the application land.

The adverse effects are discussed generally, and then consideration on a site by site basis is provided given these adverse effects.

- Effects on Availability of Plains Production / Versatile soils

This has been addressed earlier in the wider effects assessment, and the same conclusion held here. The effects on the availability of this land is wider reaching than being a localised effect on adjoining persons.

- Effects on availability of Industrial zoned land

The amount of industrial land will remain similar to that existing with a small additional area utilised for access to the SWA and which could be a shared access for any future use of 62 Irongate Road East / consented Lot 4.

- Visual Amenity and Character Effects

The application land is across two zones, Plains Production and Industrial, which has an interface and effective buffer resulting from the Irongate Stream and its associated Marginal Strips.

The application AEE comments that "the existing property presents an open undeveloped pastoral land". This may be so for the space that the SWA buildings are to be established on, but the area has a broader character than this. 97 York Road has orchard and a dwelling and other associated structures. There are a row of visually tall trees along the boundary between proposed lot 1 and proposed lot 2 (SWA site) on 97 York Road as well. The Irongate Stream is a key natural feature within the landscape.

I agree with the AEE comments that there will be a visual change as a result of the proposal.

Visual adverse effects are minimised by the single storey nature of buildings, proposed neutral colours, proposed screening and the 15m yard set back and likely minimal earthworks required due to the fairly flat nature of the area.

An email dated 26th September 2019 from Mr Roil confirms that they are "happy to include screening and landscaping to any neighbours that are affected by the buildings, taking into account that any housing is at least 300-400m away from the proposed buildings and site." This information is supported by limited information as to the nature of this screening / landscaping in order for it to be adequately assessed as effective mitigation or otherwise, and / or whether the screening and landscaping would create further infringements that themselves may create an adverse effect on neighbouring properties. I note the PHDP standard with respect to shelterbelt planting in the Plains Production zone (6.2.5H). As such, I cannot place weight on these landscaping measures to act as mitigation for the purposes of this adverse effects assessment. The earth bund proposed would be 1.5m in height and may provide some limited visual buffering at a lower level and for a limited portion, and may provide some limited obscuring for headlight glare from cars utilising the site for 59 York Road.

- Contaminants in Soil

Contamination identified in the soil is localised to the southern portion of 62 Irongate Road. This application does not change the land uses of that area as a part of this application and works are away from this area. The adverse effects of any contamination are considered to be contained to the site and therefore adversely affecting no persons outside of the application site.

- Earthworks

Adverse effects of earthworks include erosion and sediment, and may include temporary changes during the works and permanent changes.

Given the fairly level existing nature of the area, and minimal potential earthworks within 97 York Road and 62 Irongate Road East (given the proposed buildings will be established on piles) changes in earthworks levels across the site are unlikely to create noticeable level differences in the area.

The applicant proposes erosion and sediment controls. The nature and scale of these controls for the management of earthworks is not fully expressed in the application. The majority of the works would be within Plains Production zoned land and Industrial land. Earthworks in these areas, are likely to be managed using standard controls, without more than minor temporary adverse sediment and erosion (including dust) adverse effects resulting. The adverse effects are localised.

In respect of the earthworks to enable the access and bridge across the Irongate Stream and Marginal Strip there is the potential for the works to alter levels to the stream (flooding effects is addressed later) and erosion and sediment localised to the area of the works.

- Traffic, Parking and Access

There would be additional traffic generated by the proposal, primarily vans transporting workers morning to work and in the evening after work. The route of movement is across mainly Industrial zoned land, stream and marginal strip and across the Plains Production zoned land. The proposed access widths are likely to be sufficient for use by the subject activity given the number of vehicle movements and vans likely to be utilised, and where the driveways and bridge all the way from Maultsaid Place to the SWA use. Where the formed width is potentially only 3m wide and vehicles need to pass there may be some driving off the formed surface to achieve this. This may create tracking of dirt and damage of grass along the access route. This is considered to be of low impact and low potential, given the likely traffic movements from the activity.

Once Industrial activities are established on 62 Irongate Road, there would be shared use of the access. The low traffic movements proposed from the SWA are unlikely to impact on the capacity for activities to provide for traffic movements from their sites. Depending on future activity established, there may be minimal delays for traffic movements on-site and at the access point onto Maultsaid Place. Such delays are likely to be very short with less than minor adverse effect on existing and future users.

The application has not indicated any pedestrian or cycle access, assumedly therefore being shared in the proposed movement lane. There may be internal safety issues with 150 persons utilising non-vehicular methods (bicycles and walking) along the same access as future industrial uses from 62 Irongate Road. The application does not address footpaths or other separation safety measures to manage such risks. There is no indication that persons accommodated in the SWA would be confined to the site and only be allowed to enter and exit by van, and the therefore the potential for persons walking / cycling sharing the access is considered possible. The Industrial activities on the Industrial zoned land that are the access, are currently unknown at the time of writing this report, but the zone allows for activity throughout the day and night with no limits of activity during certain times. Heavy vehicles and



high volumes may utilise the access points. This shared use of industrial access may create a reverse sensitivity for users of 62 Irongate Road East and 11 Maultsaid Place who share part of the access proposed.

In terms of parking, with 150 persons, and 8 people to a van, assuming van is the primary form of transport, would mean 18 vans utilising the site. The 12 formed parking spaces proposed is therefore potentially insufficient for all parking associated with the activity. Nevertheless, the site is large and informal overflow parking could occur on the land, without generating off-site parking demand and adverse effects, but with potentially localised impact on unformed areas of the subject land at 97 York Road.

- Natural Hazards

As mentioned in the s95A assessment of effects, the key hazards are flooding and liquefaction for the proposal.

Liquefaction potentially adversely affects future development established, and this potentially impacts on future seasonal workers staying on the site if buildings are affected during an earthquake. This matter is addressed through the building consent process and appropriate construction for ground conditions will be required, accounting for this liquefaction potential and lateral spread, which will provide mitigation for future development. Thus no parties are identified as being adversely affected by this.

In terms of flooding the applicant has provided plans showing the flooding parameters across the site and area based on HBRC information for a 1:50 year flood event from the Irongate Stream. This does not take account of the 1:100 year flood levels nor effects of climate change.

The applicant has offered as a part of the proposal to establish buildings above the 1:50 year flood event (minimum floor levels) to provide some protection above these likely flood waters. Discussion has been had between the Reporting Officer and Hawkes Bay Regional Council on flooding matters in the context of implications to the flooding parameters as a result of the establishment of a bridge across the Irongate Stream. Discussion has also been had with Council Engineers. Mr Roil for the applicant has advised generally that he considers the bridge design (yet to be formally determined) they will establish will accommodate flows without implications for flooding. It is my view, given the information provided, there are likely to be only localised effects on flooding resulting from the bridge and associated driveway, limited to the immediate vicinity of the bridge structure itself.

A 1:100 year flood event may have different flooding parameters, however this is likely to be across the application land at 97 York Road, thus not adversely affecting any other parties.

Given the information provided to date, I do not support the conclusion of Mr Roil that there will be no adverse effects to neighbouring properties through potential flooding, and prefer the feedback provided through discussions with Council's Development Engineers regarding potential for localised change and thus adverse effects as discussed above. Such localised adverse effects are to Hastings District Council as owner the adjacent esplanade reserve and DoC for the stream and marginal strip.

- Reverse Sensitivity Issues

The applicant has not included information as to any special mitigating acoustic measures for the sleeping accommodation.

There are likely to be persons associated with the SWA activity during all hours of day on the application land, this might be due to days off, bad weather or sickness, and with the caretaker/manager on site.



70 Irongate Road East is currently subject to a subdivision application for multiple industrial lots. 62 Irongate Road East has consent to be divided into 4 lots. Maultsaid Place properties are already subdivided into industrial lots, with emerging development. 11 Maultsaid Place has a large industrial building on it, 3 Maultsaid Place has many containers stacked across it.

Seasonal Workers Accommodation is not considered to be a 'noise sensitive activity' under the PHDP, for the purposes of the noise standards. The PHDP does not provide special noise parameters for industrial activity in respect of the SWA activity. Usual Industrial noise standards of the PHDP would apply (standard 25.1.6F), being 70dB LAeq(15 min); and 85 dBLAFmax as measured at the site boundary at any time of day. Depending on future operations in the Industrial land, given the flat nature and fairly uninterrupted nature between the Industrial zoned land this level of noise may be fairly audible and may be disruptive to future occupants.

Plains Production activity, including the likes of spraying, bird scare devices, land production equipment and machinery, occurring within the Plains Production zone land may adversely affect the seasonal workers and generate reverse sensitivity effects for adjoining land owners and their farming operation.

Noise is the primary area for reverse sensitivity issue, even where Industrial activity and land based primary production is undertaken within the noise standards, then the adverse effect lies with parties staying in the future accommodation.

As all buildings are to be 15m set back off the boundaries, it is considered there is limited likely cause for adverse effects from any spray drift that would be minor or more than minor.

Mr Roil in his email dated 26th September 2019 has advised that they are happy to include a 'no complaints covenant'. For the purposes of assessing the adverse effects on the environment this mechanism is not considered to provide mitigation or avoid the reverse sensitivity adverse effects generated.

- Noise Effects

Noise associated with the SWA activity is likely to be associated with traffic movements at the beginning and end of the day and from the use of recreational facilities on the site being volleyball courts, and outdoor seating areas such as those off the kitchen / dining blocks.

The adverse effects from traffic movements has been assessed earlier in this report. The traffic noise would be limited and localised to the route of movement.

For the Industrial zoned land, given the limited anticipated number of traffic movements, and that the route of traffic is through an Industrial zone where high vehicle movements and types of vehicles are anticipated, noise from traffic would not be unusual or out of character, albeit discernible.

The noise from users of the site are anticipated to be focused around the buildings on the site. While the accommodation buildings are to be 15m off the boundary, the activity itself, people walking around and the scale and number of persons to be accommodated means that the activity is unlike any usual rural activity on the Plains Production zone. In the Plains Production zone the noise standards are higher than a usual residential area and noise associated with rural activities are anticipated. Noise from 150 persons is likely to be discernible from surrounding land and noise of a nature and character not usual in the rural area and alongside a stream in the rural area.

The level of noise from the activity is unlikely to be generated in a manner that would adversely affect those residing in nearby dwellings given the distance of the activity to these dwellings and the background noise from the expressway and industrial zone, albeit the noise is likely to be out of character for the subject Plains Production zone site and may affect aural amenity.

Noise sensitivity of the SWA to surrounding uses is addressed in reverse sensitivity assessment above.

- **Temporary Construction Effects**

Noise, dust, odour, and traffic associated with facilitating the development including construction of any building, access, roading and services installation will be temporary in nature and will be concentrated to the application land and sites directly adjoining the subject site. Overall and given that construction effects will only be temporary, it is considered that there will be potentially minor adverse effects on the application land and less than minor temporary construction effects on adjacent sites.

- **Servicing Effects**

Where public reticulation is not provided off site to an approved Council system, if agreement of Council is provided, then wastewater treatment and disposal on-site will be provide, according to the application. Therefore, with this a possible outcome of the proposal, an assessment of the on-site disposal needs to be addressed in terms of adverse effects for this consideration.

The on-site treatment and disposal of wastewater and stormwater will have adverse localised effects on-site. The works involve establishing multiple underground wastewater tanks and pumping system with over 910m<sup>2</sup> of disposal bed. The applicant has advised that they will likely need a resource consent from the HBRC for on-site disposal.

The information to date does not show the location of the stormwater and wastewater disposal fields on the site and does not show a reserve area for wastewater disposal. The information does not indicate any emergency management for the systems or indicate management in the event of flooding from the Irongate Stream.

As the proposal involves substantial quantities of on-site disposal in close proximity to the stream, there is a possibility that there may be an impact on ground water quality and potential for this to impact on the stream water, however this will be controlled through the HBRC consent which will ensure that any effects on the stream will be managed.

Potable water will be separately stored and managed on-site and disposed via the wastewater treatment system.

- **People on Adjacent Properties**

#### **62 Irongate Road**

As mentioned earlier in this report the owners of this land are not deemed adversely affected parties.

The occupiers of this land are well away from the proposed works and access and are unlikely to be adversely affected by the SWA and subdivision proposal.

#### **70 Irongate Road**

This property is Industrial and separated from the subject SWA by 40m of Marginal Strip and the width of Irongate Stream. The SWA is also located toward the eastern side of its lot away from 70 Irongate Road. No access from 70 Irongate Road East would be affected by the proposal, with their access directly to Irongate Road East away from the subject access. The application includes 'usual management measures' on the site for those accommodated on the site. With such measures the likelihood of any security issues to this land I consider to be unlikely. Any general noise and disturbance occurring on the application land, is unlikely to be greater than the noise and disturbance that may occur on Industrial zoned land surrounding 70 Irongate Road. There may be some impact on the flood risk area mapped on this site, but this has not



been specifically quantified at this stage. However, any such change, however, is likely to be in closer vicinity to the bridge works, and therefore unlikely to generate minor or more than minor adverse effects on this property. It is therefore considered that the owners / occupiers of this property would not be adversely affected to a minor or more than minor degree from the proposal.

#### **97 York Road**

As mentioned earlier in this report the owner/s of this site are not deemed to be adversely affected parties.

There will be general noise and disturbance from the SWA activity on the subject site which, with 150 persons being accommodated at any one time, would be out of character and scale in the Plains Production zone environment.

There is a substantial distance between the SWA activity and the residential dwelling at 97 York Road. The access for the SWA and dwelling on 97 York Road will be separate. No shared services will occur and no existing productive planting will be removed as a result of this proposal. I consider that while the rural amenity of the occupiers of 97 York Road will be sufficiently maintained because of the separation distance to the existing dwelling at 97 York Road, I do consider that the owners of 97 York Road will be potentially adversely affected by environmental effects as a result of the development and use of their land to a degree that is minor or more than minor, including, but not limited to, additional potential flooding effects and potential effects of on-site servicing.

#### **Land Across the State Highway to the West**

This land is separated by the State Highway and the nearest dwellings are well away from the application land. The proposed shelterbelt may generate some visual mitigation for persons across the State Highway from the site, however given it is unclear of the height and density of the planting little weight is afforded to this mitigation. Because the buildings are to be well set back from the road a sense of openness from this perspective, and will be therefore sufficiently retained to have less than minor adverse rural character and amenity effects for these properties. There is no access proposed to the State Highway and no access in the location of these sites will be adversely affected by the proposal. I consider that owners and occupiers adjacent and across the State Highway would not be potentially adversely affected by the proposal.

#### **Council Esplanade Reserve to the East of SWA**

This esplanade reserve directly adjoins the area of access works and the SWA accommodation. The reserve serves a conservation and public access purpose. The proposed works would potentially disturb soil and create temporary sediment and erosion effects to the esplanade area.

The esplanade reserve is provided access by way of its linkage with the Marginal Strip. The proposed bridge and access may limit or restrict safe and efficient public access linkage in the future to the esplanade reserve. However, Council has advised that there are no walking or cycling public linkage strategy for the Irongate Stream at this time. The Reporting Planner has had feedback from the Council's Parks Department who are responsible for the esplanade reserve area. Officer feedback has indicated that they do not consider the esplanade reserve is adversely affected by the proposal. However Council has not, at the time of writing this report, provided written consent to the proposal. Council needs to go through a formal process above Officer level to provide such formal approval.

Given the close vicinity of the works, bridge and SWA activity to the esplanade reserve, I consider, for the purposes of this consideration, that there may be potentially minor adverse effects from the proposal on this esplanade land in terms of visual amenity, character and

localised potential erosion and sediment effects, and potential access related implications for the land. Therefore the Council as the owner of this land is deemed potentially adversely affected.

#### Marginal Strip and Irongate Stream

Formal written consent has not been provided from the Crown / Department of Conservation for access and the development alongside the Marginal Strip.

The purpose of the Marginal Strip under the Conservation Act 1987, include those purposes under Section 24C, which states:

*"Subject to this Act and any other Act, all marginal strips shall be held under this Act—*

*(a) for conservation purposes, in particular—*

*(i) the maintenance of adjacent watercourses or bodies of water; and*

*(ii) the maintenance of water quality; and*

*(iii) the maintenance of aquatic life and the control of harmful species of aquatic life; and*

*(iv) the protection of the marginal strips and their natural values; and*

*(b) to enable public access to any adjacent watercourses or bodies of water; and*

*(c) for public recreational use of the marginal strips and adjacent watercourses or bodies of water."*

Temporary and permanent works across the land are proposed for access, utilities connections, and shelterbelt planting. The Irongate Stream and Marginal Strip are potentially affected by these works, with potential adverse implications for the function, use and enjoyment of the stream its marginal strips, such as sedimentation, flooding parameter changes, and restricted use along its length. The proposed on-site disposal of stormwater also has the potential to shed into the stream and mix with flood waters potentially impacting on the capacity and quality of the stream, but will be managed / controlled by the Hawkes Bay Regional Council.

The proposal is directly adjacent to the Marginal Strip. The amenity and character, quality and values of the open marginal strip may be adversely affected by the nature and scale of the SWA activity. SWA activity in close vicinity to the marginal strip and being for a substantial distance adjacent its length, is not within the anticipated character of the Plains Production zone. While recognising the subject area of the proposal is not wholly an open rural character, with the state highway fringing to the west and industrial activity anticipated to the southwest, the subject SWA activity may further reduce the potential for a sense of openness for the space along the stream network.

Therefore the owners of this land (Department of Conservation) are considered to be potentially adversely affected by environmental adverse effects generated by the proposal

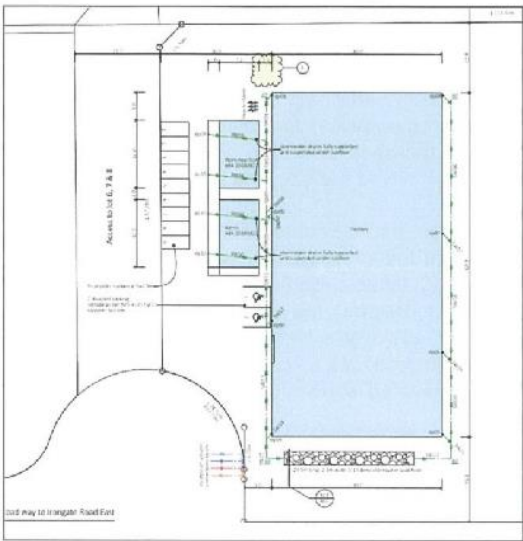
#### 11 Maultsaid Place

The owner/s of this property are not deemed adversely affected as mentioned earlier in this report.

The occupiers have separate access and parking to the right of way access, and therefore any additional movement to and from the SWA activity is unlikely to have any implications to the use and functionality of this site for the occupier. Given the industrial nature of the area for which 11 Maultsaid Place resides, it is unlikely any adverse character and amenity adverse effects would result from the proposal to this occupier. Therefore I do not consider the occupier/s of 11 Maultsaid Place adversely affected by the proposal.

The building consent plans show the consented site arrangement (as per the below extract. ABA2018113 : HPRM Ref 104916#0012)





13 Maultsaid Place

This land has a consented caretaker's unit on it, and a pond. The site is zoned Industrial and would not share any access with the application land. The site has its own direct access to Maultsaid Place. There are currently limited views from the cottage to the subject site given the fairly level ground contours and interspersing trees. The site is separated from the SWA accommodation and proposed bridge by Council owned esplanade reserve, but will have a driveway extending along the site's western boundary.

I consider it unlikely for there to be any minor or more than minor adverse reverse sensitivity effects generated by the proposal to the owners and occupiers at 13 Maultsaid Place given the Industrial environment for which it lies and the location of the site comparative to the main activity area on the Plains Production land.

The access to 13 Maultsaid Place would not be hindered by the proposed activity and subdivision. There are pedestrian footpaths along Maultsaid Place to accommodate pedestrian movements safely. Any delay entering or existing 13 Maultsaid Place from the additional traffic generation associated with the SWA proposal would be very minimal given low traffic movements likely.

The proposed SWA would be over 90m away to the closest building being a 'caretaker's cottage' at 13 Maultsaid Place. Given this, and that the cottage is on, and surrounded on three sides by, Industrial zoned land the level of amenity for the cottage is already affected by this context, and a lower amenity and visual quality is considered to apply to this cottage than in a residential area given this context. There are no special provisions in the Irongate Industrial zone under the PHDP to especially protect the amenity of an existing dwelling such as this Caretaker's Cottage. The additional driveway and traffic along the western boundary of this site would be barely discernible from an activity that may occur on 62 Irongate Road East under the Industrial zoning, and therefore, is unlikely to have any visual, character or amenity implications for the owners and occupiers of 13 Maultsaid Place.

Therefore, I consider the owners and occupiers of 13 Maultsaid Place are likely to experience less than minor adverse effects from the activity, with adverse environmental effects on the character, amenity, quality and use of 13 Maultsaid Place to be less than minor.

59 York Road



This property is currently fairly open with boundary trees and paddocks separating the dwelling located over 220m from Sec 66 SO 438108. The majority of the SWA accommodation and parking and recreational area (volley ball courts) will be further away from this neighbour's boundary, with the nearest activity being the caretakers cottage 15m off the boundary. There will be a 1.5m high earth bund to be established along the boundary with 59 York Road. The bridge across the Irongate Stream is in vicinity to the site also.

While the dwelling at 59 York Road direct its main outdoor living space to the north, and with little ability currently on-site for outlook to the south across the RSE accommodation, there are facing windows and outlook directly from habitable rooms (bedroom and living space) across 59 York Road paddocks to the southwest and across the area where the RSE accommodation is proposed. The buildings at 59 York Road sit at a higher ground level than the area of RSE accommodation providing a more elevated outlook. The parking and turning area adjacent to the buildings at 59 York Road are also elevated with southwestern outlook.

There are trees within 97 York and 59 York Road and on properties to the south. However, as mitigation to the subject development substantial weight cannot be placed on these existing trees as mitigation as they are not in control of the applicant and reliance on their retention cannot be reasonably assured in my view. There are gaps between trees and openness under the trees that provide opportunity for views through to the site.

In terms of the anticipated amenity and character for 59 York Road, it is my view that it can be reasonably anticipated that the future industrial buildings off Irongate Road and Maultsaid Place will provide an urbanised backdrop to the area. The Irongate Stream and its 40-50m separation (marginal strip plus stream width) provides a buffer to between these areas. Council's reserve provides also a further established buffer to the rear of 59 York Road to the Industrial zone.

While it is not unusual to have buildings in the rural area and for seasonal workers accommodation, to be in the Plains Production zone, the scale of the proposal is far greater than the permitted 125m<sup>2</sup> gfa provided for under the PHDP. Given the vicinity and position of the facility adjacent 59 York Road, it is considered that the scale of the activity in relation to this neighbouring site would generate potential character and amenity adverse effects for the owners and occupiers of this site that are potentially very minor, however they are not considered to be negligible, de minimus, and not to be less than minor. As mentioned earlier, the nature and extent of landscaping is not sufficiently detailed in order to ascertain and place weight on the level of mitigation to be afforded by its establishment, albeit if consent is granted the applicant has offered to accept a landscaping condition.

The proposed buildings are to be single storied, and no closer than 15m from this neighbours boundary. While workers are to be managed on site, there is the potential for unusual movements and activity in direct vicinity to this neighbouring property and deemed to be uncharacteristic for the site and area. There may be reverse sensitivity adverse effects also because of the relationship of this land to the activity proposed. While the applicant has offered the inclusion of a 'no-complaints' covenant, this does not reduce the potential adverse effects received by the neighbours. For these reasons the persons at 59 York Road are considered to be potentially adversely affected.

#### **87 York Road**

The proposal and works are well away from this small lifestyle lot adjacent to York Road. 97 York Roads has orchard separating the lifestyle lot and subject SWA accommodation proposed. There are unlikely to be any adverse rural amenity adverse effects to the owners and occupiers of this property from the proposal.

**107 York Road**

The dwelling on this site is located closer to York Road and with access to York Road. The southern end of this property is in paddock and has a small boundary to the area to be utilised as Seasonal Workers Accommodation. The openness of the rear of 97 York Road means that from the southern end of 107 York Road views across 97 York Road to the proposed SWA will be possible. There will be some buffering resulting from the existing row of trees on 97 York Road. Outlook from the dwelling on 107 York Road is buffered from the SWA development area due to the over 500m separation distance and working orchards between.

The proposed buildings are to be single storied, and no closer than 15m from this neighbours boundary. I consider that the visual impact from the proposal will be negligible, in the context of the Plains Production zone, as viewed from this neighbouring site, given the buildings scale and set backs, and colours proposed. The workers are to be managed on site, and as such I consider that the adverse effects on the Plains Production zoned site use, potential for productivity, and to the rural amenity for occupiers of the dwelling, will be less than minor. Therefore, the owners and occupiers of this site are not deemed adversely affected by the proposal.

**70 Irongate Road**

This site is Industrial zoned and has recently been consented for subdivision into smaller industrial use lots with access directly to Irongate Road. I consider there to be negligible traffic and access related adversely effects on this adjacent site.

The site is separated from the proposed SWA with approximately 50m made up of Marginal Strips and stream width. Currently the activity on 70 Irongate Road East is pasture however the area is an emerging industrial area and envisaged to be changing to Industrial uses in line with the zoning and anticipated by the consented subdivision.

Given the separation distance and the industrial zoning of 70 Irongate Road, I consider that the effects on owners and occupiers of this industrial site would be less than minor.

**Table A – List of Potentially Affected Persons/ Parties**

Party/s	Address / Description	Legal Description
Department of Conservation	-	Marginal Strip shown on RT 737738. And Marginal Strip shown across Sec 66 SO 438108 on RT 748603.
Department of Conservation	Bed of Irongate Stream	
JK and LM Hammond	59 York Road, Hastings	Lot 1 DP 24603 Block XV Heretaunga SD
Hastings District Council	Esplanade Reserve to south of Irongate Stream adjacent to northern boundary 13 Maultsaid Place	Lot 5 DP 515835 (RT 816011)
Hastings District Council	Esplanade Reserve to north of Irongate Stream adjacent to southern boundary of 59 York Road	Lot 7 DP 515835 (RT 816012)
Heretaunga Tamatea Settlement Trust	960 Omaha Road, Frimley, Hastings. Attention Liz Munro	

I do not consider any other parties to be adversely affected by the proposal.

**Step 4: Further Notification in Special Circumstances**

There are no special circumstances that exist in relation to the application that would warrant notification of the application to any other persons not considered earlier in this report. All relevant matters can reasonably be considered under the non-complying activity status of the application.

Thus, no limited notification to any other affected persons is deemed necessary in accordance with section 95B(10).

**Section 95B Limited Notification Conclusion**

The application does warrant limited notification to the parties in **Table A** earlier in this report including Heretaunga Tamatea Settlement Trust.

**Notification Decision:**

I am satisfied the application can be considered without public notification under section 95A but on a limited notified basis to the parties listed in **Table A** above including the Heretaunga Tamatea Settlement Trust.

**Notification Decision made under delegated authority by:**



Rebecca Jarman  
Environmental Planner (Consents)  
Dated 1 November 2019

Reviewed and Approved for release by:



Murray Arnold  
Environmental Consents Manager  
Dated 7 November 2019