

Thursday, 23 June 2022

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council**

**Commissioner Hearing Meeting**

*Kaupapataka*

# Agenda

## Drainways Contracting Ltd

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*Te Rā Hui:*  
Meeting date: **Thursday, 23 June 2022**

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*Te Wā:*  
Time: **9.30am**

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

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*Te Hoapā:*  
Contact: **Democracy and Governance Services  
P: 06 871 5000 | E: [democracy@hdc.govt.nz](mailto:democracy@hdc.govt.nz)**

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*Te Āpiha Matua:*  
Responsible  
Officer: **Group Manager: Planning & Regulatory Services - John  
O'Shaughnessy**

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**TE KAUNIHERA Ā-ROHE O HERETAUNGA**

## *Kaupapataka*

# Agenda

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*Te Komihana Whakahoahoa:*  
**Hearing Commissioner:**

*Heamana*  
**Chair:** Commissioner Bill Wasley

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*Apiha Matua:*  
**Officer Responsible:**

Group Manager: Planning & Regulatory Services – John O'Shaughnessy

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*Mahere Maarama:*  
**Reporting Planner:**

Senior Environmental Planner (Consents) - Liam Wang

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*Te Rōpū Manapori me te  
Kāwanatanga:*  
**Democracy & Governance  
Services:**

Christine Hilton (Extn 5633)

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# Te Rārangi Take

## Order of Business

### 1.0 Apologies

### 2.0 Section 357 Objection to Decision to Refuse Consent for an Industrial Activity in the Plains Production Zone at 2570 Omaha Road, Hastings - Drainways Contracting Ltd (RMA20220082)

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

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

#### **Attachments:**

1	Attachment 1 - Planner's Section 357 Objection report	CG-16-28-00019	Pg 3
2	Attachment 2 - Description of Proposal and Assessment of Environmental Effects	25080#0038	Pg 15
3	Attachment 3 - Development Plans	25080#0037	Pg 99
4	Attachment 4 - RMA20220082 PLANNING REPORT - Industrial and educational activities in Plains Production zone	25080#0051	Pg 103
5	Attachment 5 - RMA20220082 - DECISION - Industrial and educational activities in Plains Production zone	25080#0053	Pg 137
6	Attachment 6 - RMA20220082 - Section 357 Objection Letter	25080#0065	Pg 141

Thursday, 23 June 2022

Item 2

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*

**Hastings District Council: Commissioner Hearing**

*Te Rārangi Take*

# Report to Commissioner Hearing

**Nā:**  
**From:** Christine Hilton, Democracy and Governance Advisor

**Te Take:**  
**Subject:** Section 357 Objection to Decision to Refuse Consent for an Industrial Activity in the Plains Production Zone at 2570 Omaha Road, Hastings - Drainways Contracting Ltd (RMA20220082)

## 1.0 Purpose and summary - *Te Kaupapa Me Te Whakarāpopototanga*

- 1.1 This is a covering report relating to a S357 Objection by Drainways Contracting Ltd to a Decision to Refuse Consent for an Industrial Activity in the Plains Production Zone at 2570 Omaha Road, Hastings – Drainways Contracting Ltd (RMA20220082).
- 1.2 The reporting planner's report is attached to this covering report and contains the details regarding this objection and the planner's recommendations.
- 1.3 The other attachments included as part of the agenda documentation for this hearing are contained in a separate attachment document and are listed below.

## 2.0 Recommendations - *Ngā Tūtohunga*

The recommendations relating to this hearing are contained in the planner's agenda report.

### Attachments:

 1 Planner's Section 357 Objection report CG-16-28-00019

<a href="#">↓2</a>	Description of Proposal and Assessment of Environmental Effects	25080#0038
<a href="#">↓3</a>	Development Plans	25080#0037
<a href="#">↓4</a>	RMA20220082 PLANNING REPORT - Industrial and educational activities in Plains Production zone	25080#0051
<a href="#">↓5</a>	RMA20220082 - DECISION - Industrial and educational activities in Plains Production zone	25080#0053
<a href="#">↓6</a>	RMA20220082 - Section 357 Objection Letter	25080#0065

RMA20220082



**REPORT ON OBJECTION TO A NON-NOTIFIED DECISION – SECTION 357A OF THE RESOURCE MANAGEMENT ACT 1991 (RMA)**

**REPORT TO:** BILL WASLEY - INDEPENDENT COMMISSIONER

**HEARING DATE:** 23 June 2022

**FROM:** LIAM WANG  
SENIOR ENVIRONMENTAL PLANNER – CONSENTS

**SUBJECT:** SECTION 357A (1) (G) AND (2) RMA – OBJECTION TO DECISION ON RESOURCE CONSENT RMA20220082, 2570 OMAHU ROAD, HASTINGS (DRAINWAYS CONTRACTING LIMITED)

**1.0 REPORTING PLANNER**

- 1.1 I, Liam Wang, am employed by the Hastings District Council as a Senior Environmental Planner – Consents. I have held the position for one year. I have had over 7 years of experience as a consents planner, primarily in territorial authorities, with over three years of experience at the Hastings District Council.
- 1.2 I was the processing planner for the application subject to this objection. I am therefore familiar with the application and its background.
- 1.3 I have read the Code of Conduct for Expert Witnesses as outlined in Environment Court's Consolidated Practice Note (2014). I agree to comply with it as if this hearing were before the Environment Court.

**2.0 APPLICATION**

**Attachments**

- 2.1 The attachments to this report are as follows.

Attachment 2	Applicant's assessment of effects on the environment (HDC Reference: 25080#0038)
Attachment 3	The proposed development plans (HDC Reference: 25080#0037)
Attachment 4	Planning report (Notification and substantive assessment) (HDC Reference: 25080#0051)
Attachment 5	Decision on the resource consent application (HDC Reference: 25080#0053)

RMA20220082

Attachment 6	Applicant's notice of objection (HDC Reference: 25080#0065)
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## 2.2 The Application

- 2.2.1 Drainways Contracting Ltd made an application to establish an industrial activity (drainage contractor's depot) and associated educational activities at 2570 Omahu Road, Hastings on 1 March 2022. The applicant's Assessment of Effects on the Environment (**AEE**) is included as **Attachment 2** of this report.
- 2.2.2 The proposal included construction of an approximately 1,500 m<sup>2</sup> industrial building and associated access points and hardstand area.
- 2.2.3 Approximately 1.1 ha of land, located immediately to the back of the proposed development, was proposed to be used as a training ground for drain laying operation of diggers.
- 2.2.4 The development plans are included as **Attachment 3**.

## 2.3 Reasons for consent

- 2.3.1 The subject site is zoned "Plains Production" under the Hastings District Plan (Operative in Part) (the **District Plan**).
- 2.3.2 The proposal required consent as the proposed industrial and education activities exceed the maximum scale permitted under the District Plan. Furthermore the combined total building coverage and hardstand area will exceed the maximum 1,500 m<sup>2</sup> permitted under Rule 6.2.6F (1) of the District Plan.
- 2.3.3 The proposal was assessed as a Non-Complying Activity under Rule PP39. The specific rules at issue are set out at Section 3.2.2 of the Planning Report (**Attachment 4**).
- 2.3.4 The proposal also required a Discretionary Activity consent under the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (the **NESCS**). This is due to the land being identified as a HAIL site, and no Detailed Site Investigation has been undertaken (see Section 3.1.1, Planning Report)
- 2.3.5 No other matters required resource consent from the Hastings District Council.

## 2.4 Decision

- 2.4.1 A non-notified decision to refuse consent was issued under delegated authority on 14 April 2022 (**Attachment 5**). The decision follows analysis in the planning report and sets out the detailed reasons for the decision to decline consent. In

RMA20220082

summary, it records that while the proposal is considered to have no more than minor effects on the environment, it is contrary to important objectives and policies in the District Plan. It was also considered that the proposal lacked any differentiating qualities that warranted making an exception to the expectations set out in the District Plan, and that the grant of consent would set an adverse precedent and undermine the Plan's integrity.

### **3.0 OBJECTION**

3.1.1 The Applicant lodged a notice of Objection, which was received by Council on 8 May 2022 (**Attachment 6**)

3.1.2 The reasons for the objection are set out below:

- That the application should be granted as it achieves the purpose of the Resource Management Act of sustainable management of natural and physical resources.
- That there are no effects on the environment that are more than minor.
- That the activity for which resource consents were sought are not contrary to the relevant objectives, policies and provisions of the Hastings District Plan and Regional Resource Management Plan.
- The site is not suitable for activities usually associated with Plains Production zone.
- That the proposed activities and educational activities are unique and represent a sustainable use of a compromised resource in a manner that does not give rise to precedent or the expectation that such activities would be replicated throughout the zone.

3.1.3 At this stage, no further information has been provided to support the grounds of objection beyond what was considered as part of the application. All matters were considered as part of the planning report and decision and therefore my report primarily directs the reader to the relevant part of the report and decision that addresses each ground, and makes further comment where appropriate.

### **4.0 STATUTORY CONTEXT**

#### **4.1 Section 357A – Right of Objection**

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

RMA20220082

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

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

...

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

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

(2) *Subsection (1)(f) and (g) apply to an application made under section 88 for a resource consent. However, they do not apply if the consent authority refuses to grant the resource consent under sections 104B and 104C. They do apply if an officer of the consent authority exercising delegated authority under section 34A refuses to grant the resource consent under sections 104B and 104C.*

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

**4.2 Section 357C – Procedure for Hearing Objections**

4.2.1 Section 357C sets out the procedures for making and hearing objections under 357A and 357B. In the case of an objection under section 357A the Council must consider the objection within 20 working days.

4.2.2 If the objection has not been resolved, the Council must give at least 5 working days written notice to the objector of the date, time and place for a hearing of the objection.

**4.3 Section 357D – Decision on Objections**

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

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

(1) *The person or body to which an objection is made under sections 357 to 357B may—*

(a) *dismiss the objection; or*

(b) *uphold the objection in whole or in part; or*

(c) *....*

RMA20220082

- (2) *The person or body to which the objection is made must, within 15 working days after making its decision on the objection, give to the objector, and to every person whom the person or body considers appropriate, notice in writing of its decision on the objection and the reasons for it.*

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

## 5.0 **CONSIDERATION OF THE OBJECTION**

As noted above, the issues raised in the objection were generally considered as part of the planning report, and I adopt the reasoning in that report in full. I also make the following additional comments in response to specific issues raised in the objection.

### 5.1 **Objection Ground 1 - Application should be granted as it achieves the purpose of the Resource Management Act**

5.1.1 This matter was covered in Section 11 of the Planning Report. In summary, it was concluded that an assessment against Part 2 of the RMA was considered unnecessary due to the District Plan being recently made operative and has been confirmed as having coherent provisions in recent Environmental Court judgments.<sup>1</sup>

5.1.2 Furthermore, I note that the planning report did not identify any potentially conflicting or incoherent provisions either within the District Plan, or between the District Plan and other planning documents.

5.1.3 In particular, assessment against the Regional Resource Management Plan 2006 and the District Plan (Section 8.4 and 8.5 of the Planning Report) has identified clear and consistent themes which are reflected in the overall objectives of the Plains Production zone.

5.1.4 For example, an overall theme is to avoid ad-hoc industrial development within the Plains Production zone. The Regional Resource Management Plan **Objective UD1** specifically seeks to avoid “*unnecessary encroachment of urban activities on the versatile land of Heretaunga Plains*”. **Objective UD4** seeks to avoid “*... other inappropriate urban development in rural parts of the Heretaunga Plains subregion*”.

5.1.5 This has been given effect to through a number of District Plan objectives and policies. For example, **Objective ISO2** seeks to protect the finite soil resource of the Heretaunga Plains for “ad hoc development” by strategically locating

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<sup>1</sup> *Endsleigh Cottages v Hastings District Council* [2020] NZEnvC 64; *Stone v Hastings District Council* [2019] NZEnvC 101 at 127.



RMA20220082

areas appropriate for industrial development. Similarly, **Policy PPP7** seeks to “prevent ad hoc urban development into the Plains Production Zone”.

5.1.6 As discussed further below, the Planning Report concluded that the proposal is contrary to a number of key objectives and policies. Given the District Plan has been competently prepared and the relevant objectives, policies and rules are coherent, no assessment against Part 2 was considered necessary. This is consistent with the requirements set out by the Supreme Court in *King Salmon* and the Court of Appeal in *RJ Davidson v Marlborough District Council*, which importantly notes that reference to Part 2 cannot justify an outcome contrary to the thrust of the objectives and policies of a coherent planning document (at [74]).

**5.2 Objection Point 2 - There are no effects on the environment that are more than minor**

5.2.1 Section 4 (Notification Assessment) and 6 (Assessment of Effects) of the Planning Report had concluded that the effects of the proposal will be no more than minor.

5.2.2 This matter is therefore not in contention. However the report also noted that the factor alone does not necessarily warrant approval of the application. For example, the two Environment Court cases referred to above both involved agreement that effects of the proposal on the environment were no more than minor, but that the grant of consent was nevertheless held to be inappropriate on the basis of their inconsistency with the outcomes sought by the District Plan.

**5.3 Objection Point 3 - The activity is not contrary to the relevant objectives, policies and provisions of the Hastings District Plan and Regional Resource Management Plan.**

5.3.1 Assessment against relevant objectives and policies of the District Plan and the Regional Resource Management Plan is set out in Section 8 of the Planning Report.

5.3.2 In summary, the assessment concluded that the proposal is in direct conflict with a number of key objectives and policies for the following reasons:

- The proposal represents an unnecessary encroachment of urban activities into the Plains Production zone, which is something the Regional Policy Statement requires be ‘avoided’ (OBJ-UD1(d), POL UD2(e)). The applicant has explained why construction on the Plains Production Zone is desirable for them, but not why it is ‘necessary’ particularly where there are existing Industrial Zone areas that would appear appropriate to accommodate the proposal.

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RMA20220082

- The proposal represents an ad-hoc development in the Plains Production zone which is something the Regional Policy Statement (OBJ UD4) and the District Plan (ISO2, PPP7) requires be 'avoided'<sup>2</sup>.
- The activities have no direct relationship with rural production activities, and will undermine the life-supporting capacity of the rural resources.

5.3.3 I note here that the Regional Policy Statement and the district Plan use the directive term 'avoid', rather than the alternative of remedying or mitigation. The Supreme Court in *King Salmon* held that the word 'avoid' was a directive term, generally meaning to 'not allow' or 'prevent the occurrence of' something.<sup>3</sup>

5.3.4 The above is only a brief summary of the assessment against a wide range of relevant planning provisions set out in the planning report, and I rely on that in its entirety. I adopt conclusion of the planning report that the proposal is contrary to a number of key objectives and policies of the District Plan and the Regional Resource Management Plan.

**5.4 Objection Point 4 - The site is not suitable for activities usually associated with Plains Production zone**

5.4.1 This reason for objection is related to the potential use of the land. The application noted a number of factors which were relied on to make the site unsuitable for primary production activities. Those included:

- Soil contamination resulting from the previous land use (timber yard)
- Top soils have been largely modified or replaced from previous land use activity;
- No water source nearby. Regional Management Plan places a significant limit on ground water takes so hydroponics are not possible.

5.4.2 I note that the Plains Production zone is largely based on the versatility of the land, which contributes towards the productivity of the zone. However, land-based primary production activities are not the only activities anticipated within the Zone.

5.4.3 Section 6.2.1 of the District Plan states that "*While land based primary production is the primary focus of the Plains Production Zone it is recognised*

<sup>2</sup> I note the applicant's planner accepts the development is 'ad hoc' because it is located outside the Industrial Zone.

<sup>3</sup> *Environmental Defence Society Inc v New Zealand King Salmon Company Ltd*, [2014] NZSC 38 at [96].

RMA20220082

*that other rural production activities that do not rely on the soil resource may also be appropriate in certain circumstances."*

- 5.4.4 The District Plan anticipates a range of activities that do not rely on the quality of the soil. Those include commercial and industrial activities that support primary production activities at an appropriate scale, and intensive rural production activities.
- 5.4.5 The relevance of this particular site not comprising 'versatile land' is considered in detail in Section 4.2 of the Planning Report (Public Notification Assessment) and in summary records that:
- The versatility of the land, as defined by the District Plan, is based on the overall characteristics of the Plains land as a whole, not on an individual site basis.
  - Versatility of the land is more than just soil quality alone.
  - Lack of one or two factors alone does not necessarily render the land not versatile.
- 5.4.6 The report then concluded that the applicant had not sufficiently demonstrated that the land is not versatile. Specifically, the applicant had not considered activities that may be appropriate for the zone, but do not rely on the quality of the soil. The applicant may wish to call further evidence on this matter at the objection hearing.
- 5.4.7 The planning report further noted that it was unnecessary to determine whether the site is versatile, with the reasons summarised as below:
- The planning framework gave a strong indication that ad-hoc development within the Plains Production zone should be avoided.
  - The overall planning theme sought to limit activities within the zone that have a direct relationship with the primary production activities within the Plains Environment.
- 5.4.8 This objection point essentially suggests that the site is incorrectly zoned. I do not consider there is jurisdiction to make such a finding in the context of an application for resource consent. The most appropriate zoning for a site is determined through the plan preparation or change process, which considers a range of matters such as whether effect is given to higher order planning documents, alternatives, and costs and benefits of the possible zonings. I do not consider it appropriate for the Commissioner to be invited to conclude that the subject site is not suitable for Plains Production zoning and that the objectives and policies which require avoidance of this type of development should therefore be disregarded.

RMA20220082

**5.5 Objection Point 5 - The proposed activities and educational activities are unique and represent a sustainable use of a compromised resource in a manner that does not give rise to precedent or the expectation that such activities would be replicated throughout the zone**

5.5.1 The question of whether the proposal would likely create an adverse precedent is discussed in Section 9.1 of the Planning Report. I adopt that section for the purpose of this report.

5.5.2 I note that consideration of whether an adverse precedent will be created only arises if the Commissioner concludes that the proposal is inconsistent with the relevant objectives and policies of the District Plan. If the Commissioner considers the proposal accords with the Plan, then the concern about creation of a precedent does not arise. As discussed above, I remain of the view that the proposal is contrary to important provisions of the District Plan, and therefore the grant of consent in circumstances where a precedent would be created is of concern.

5.5.3 In summary, the original planning report was found that there are no unusual or exceptional qualities that would differentiate the proposal from other potential applications, meaning an adverse precedent may be created. In particular:

- While the site is located between established industrial uses, the factor alone is not exceptional in the Plains Production Zone. The report identifies a number of locations with similar existing land use patterns within the vicinity.
- The District Plan does not envisage that all sites within the Plains Production zone will be individually 'versatile'. There will always be pockets of land that do not strictly meet the definition. Relying on this factor would encourage ad-hoc development throughout the Plains Production zone on the basis of poor soil quality alone. This is consistent with the Court's finding in *Endsleigh Cottages* that:<sup>4</sup>

*"...even if we had found the appellants' land not versatile, we would have been unable to rely on that alone to support a grant of consent. We would have thought, at best, that it could give rise to further investigation of the zoning of the land as opposed to being a means of obtaining resource consent - given the risk of ad hoc development occurring across the zone."*

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<sup>4</sup> *Endsleigh Cottages Ltd v Hastings District Council*, [2020] NZEnvC 64 at [236].

RMA20220082

- Access to water is a region wide issue and not unique to this site.
- Land affordability or the economics of a proposal are not a relevant consideration under the RMA.<sup>5</sup> The relative affordability of this site for the applicant versus industrially zoned land was raised as a differentiating feature in the AEE, however the explanation to key objectives and policies specially identifies cheaper land in the rural area as a risk factor in undermining the outcomes sought for both the Industrial and Plains Production zones.

5.5.4 I also note that had the application been for the educational aspect alone, without the large industrial building, I consider the proposal may have been more consistent with the District Plan, as it is more closely (though not wholly) related to the primary production purpose of the zone, and it would not permanently remove the area used for training from the potential productive resource.

5.5.5 However, the educational aspect is a relatively minor component of the overall proposal, which is primarily for a 1,500m<sup>2</sup> industrial building and activity where the permitted level is 100m<sup>2</sup>. I do not consider the educational aspect is sufficient to justify a significant departure from what the District Plan anticipates for this area.

5.5.6 I note that the current and correct approach to assessing whether a precedent might be created is usefully discussed in the Environment Court decision in *Stone v Hastings District Council*. While that case concerned an application for subdivision in the Rural Zone, the approach to precedent is the same. There the Environment Court assessed the issue as follows:<sup>6</sup>

*"Counsel [for Hastings District Council] also submits that the PDP has only recently been prepared and should be seen as reflecting the community's aspirations for the rural resources of the district. He argues that the Court should be reluctant to authorise a subdivision which undermines the integrity of the PDP and acts counter to the community's expectations.*

*We agree. The PDP has recently been prepared and should be respected as containing the most recent statement of the community's aspirations for its district. To grant consent may give rise to concerns about public confidence in the consistent application of the rules in the PDP.*

<sup>5</sup> For instance, see *Adcock v Marlborough District Council*, [2010] NZEnvC 305 at [39] where the appellant argued that an application for non-complying subdivision was warranted by a desire for "financial independence". The Court held that "...every would-be subdivider could say that, and (as Mr Williams agreed at the hearing) that cannot be a relevant planning issue. Indeed, the Council had said as much in its decision, so we were surprised to have irrelevant material being put before us. If it was relevant, the Court would spend large amounts of time hearing evidence about the relative merits of applicants' personal circumstances". It is considered that the ability of the applicant to afford appropriately zoned land falls into the same category of being irrelevant.

<sup>6</sup> *Stone v Hastings District Council*, [2019] NZEnvC 101 at [121] – [123].

RMA20220082

*For completeness, we observe that we do not consider the matters raised by Mr Lawson set this proposal apart from others that may follow or are sufficiently distinctive to place this proposal into the category of unique or distinguishable. We consider the proposal is contrary to the objectives and policies. We consider that in a rural environment, it is likely that other proposals could be located on sites of challenging topography, have less than minor adverse effects, obtain consents from neighbours and would allow the owners to stay in their communities.*

5.5.7 The Commissioner will also be assisted by considering the approach taken in *Endsleigh Cottages* (a Plains Production Zone non-complying subdivision case) where the Court found, among other factors that:<sup>7</sup>

- *The appellants' properties and circumstances are not so unusual as to ensure that granting consent to the proposals would not challenge the integrity of the Proposed Plan.*
- *If the applications were granted, it would create an expectation for other properties in both the Raymond Road area and wider area to be able to subdivide their land without complying with the Proposed Plan's site size controls. Further, it could give rise to expectations that subdivision for lifestyle sites could occur without an associated amalgamation of land where some part of the site did not meet the definition of "versatile land" at a site specific level.*

5.5.8 Based on the discussion above and the original planning report, it remains my view that the proposed activity does not have unique or unusual qualities that would set it apart from other similar activities that could seek to establish industrial activities within the Plains Production Zone. Given the relative cost of Plains Production zoned land compared to Industrial land, I consider this would be an attractive option for many industrial activities and there would be a number of sites that could point to similar features as the current one. In my opinion, to allow this proposal to proceed would cut across the community's expectation that Industrial activities will be located within Industrial zones, and the Plains Production Zone reserved primarily for productive activities, as reflected in the recently operative District Plan.

## 6.0 Conclusion

6.1.1 For the reasons discussed above and in the report and decision, I remain of the view that the proposed activity is contrary to the relevant provisions of the Hastings District Plan. The application has not sufficiently demonstrated that the proposal is unique or unusual in a way that would not resulting it becoming

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<sup>7</sup> *Endsleigh Cottages v Hastings District Council [2020] NZEnvC 64 at [237]*

RMA20220082

an adverse precedent for similar ad hoc industrial development in the Plains Production zone.

- 6.1.2 The application will therefore undermine the integrity of the District Plan and should be declined.



**Liam Wang**  
**SENIOR ENVIRONMENTAL PLANNER – CONSENTS**  
**HASTINGS DISTRICT COUNCIL**

**Approved by:**



**Caleb Sutton**  
**ENVIRONMENTAL CONSENTS MANAGER**  
**HASTINGS DISTRICT COUNCIL**

## Appendix 5

### Assessment of Hastings District Plan Standards

Table 1: Assessment of the activity against the standards within Section 6.2 Plains Production Zone

Standard	Compliance comments
<b>6.2.5</b> <b>GENERAL PERFORMANCE STANDARDS AND TERMS</b>	
<b>6.2.5A Building Height</b> 2. All other buildings or structures Maximum height 10 metres.	The building height will be double story and no higher than 10m. Will <b>Comply</b> .
<b>6.2.5B Yards</b> The following setback distances are required: 3. Industrial, Commercial and Winery Buildings and Structures, Frost Fans and Seasonal Workers Accommodation Front yard 15 metres All other boundaries 15 metres	The yard setbacks will be adhered to by this proposal and the 15m setback achieved in relation to both the front and side boundaries. <b>Will Comply</b> .
<b>6.2.5D SCREENING</b> a. Outdoor storage areas of commercial, industrial, and winery activities shall be fully screened by fencing and/or planting from adjacent or opposite commercial and residential activities and motorists using public roads. b. Outdoor display areas and parking areas of commercial, industrial, and winery activities shall have landscaping which consists of a mixture of ground cover and specimen trees with a minimum width of 2.5 metres.	The proposal includes extensive landscaping screening at the front of the site. The outdoor storage areas will be at the rear of the site and the adjacent activities are industrial. The only visible parking is at front of the site and the landscaping will screen this as required. <b>Will Comply</b> .
<b>6.2.5E LIGHT AND GLARE</b> All external lighting shall be shaded or directed away from any residential buildings or roads, and shall be less than 8 lux spill measured at a height of 1.5 metres above the ground at the boundary of the site.	The proposal will be designed to comply with meet this standard on an ongoing basis. Will <b>Comply</b> .
<b>6.2.5F TRAFFIC SIGHTLINES, PARKING, ACCESS AND LOADING</b> Activities shall comply with the provisions of Section 26.1 of the District Plan on Transport and Parking.	Assessment against these standards is provided in table 2 below. <b>Complies</b> .
<b>6.2.5G Noise</b> Activities shall comply with the provisions of Section 25.1 of the District Plan on Noise.	Assessment against these standards is provided in table 3 below. <b>Complies</b>



Standard	Compliance comments
<p><b>6.2.5H SHADING OF LAND, BUILDINGS AND ROADS</b></p> <p>1. <i>Trees on Boundaries</i></p> <p><i>Trees forming a shelterbelt for a distance of more than 20 metres on a side or rear boundary of a property under separate ownership:</i></p> <p>i. <i>shall be planted a minimum distance of 5m from an adjoining property boundary and be maintained so that the branches do not extend over that boundary; and</i></p> <p>ii. <i>where planted between 5m and 10m from an adjoining property boundary shall be maintained at a height of no more than their distance from the boundary +4m (e.g. at a distance of 5m from the boundary, the height limit is 9m; at a distance of 9m from the boundary, the height limit is 13).</i></p> <p>2. <i>Trees Adjoining Public Roads</i></p> <p><i>Trees forming a shelterbelt for a distance of more than 20 metres within 5 metres of a public road shall be maintained at a height of less than 9 metres.</i></p>	<p>Compliance with this standard is proposed with only amenity plantings within the front yard are. There is currently no proposal for a shelter belt on the side boundaries but if required in due course either the 5m setback will be complied with or separate resource consent will be sought at the time.</p> <p><b>Will comply.</b></p>
<p><b>6.2.5J TOTAL BUILDING COVERAGE (INCLUDING HARDSTAND AND SEALED AREAS)</b></p> <p><i>The maximum building coverage (including hardstand and sealed areas) shall not exceed 35% of the net site area or 1500m<sup>2</sup>, whichever is the lesser. With the exception of Processing Industries and Wineries where the maximum building coverage is 35% of the net site area or 2500m<sup>2</sup> whichever is the lesser.</i></p> <p><i>Netting, structures, and greenhouses where crops grown under or within those structures are grown directly in the soil of the site are excluded from total building coverage calculations.</i></p>	<p>The proposal will not meet this standard as the building and sealed areas will total approximately 7,120m<sup>2</sup> based on the nominal site plans in Appendix 2 and including the hard stand truck path and staff parking.</p> <p><b>Will not comply.</b></p>
<p><b>6.2.6F INDUSTRIAL ACTIVITIES</b></p> <p>1. <i>Industrial Activities Threshold Limits</i></p> <p><i>The following activity threshold limits shall apply.</i></p> <p>...</p> <p><i>Table 6.2.6F(1) Industrial Activity Threshold Limits:</i></p> <p><i>Maximum limits per site:</i></p> <p><i>Gross Floor Area - 100m<sup>2</sup></i></p> <p><i>Personnel Limits - At least one person resident on the site shall carry out the activity. Maximum number of additional employees (to those resident on the site) shall be the three persons.</i></p> <p><i>Outdoor storage/use or display land area – 100m<sup>2</sup></i></p>	<p>The proposal will not meet this standard as:</p> <ul style="list-style-type: none"> <li>The building area will be 1,500m<sup>2</sup> Gross floor area,</li> <li>More than 3 people will be employed at the site (up to Approximately 60), and the site will have no residential accommodation.</li> <li>The outdoor storage and use areas will exceed 100m<sup>2</sup>.</li> </ul> <p><b>Will not comply.</b></p>

Standard	Compliance comments
<p><b>6.2.6G SITE AREA THRESHOLDS</b></p> <p><i>The activity thresholds for Rules, 6.2.6D, and 6.2.6F apply to an individual site. The activities under these Rules can therefore be carried out singly on a site up to the 100m<sup>2</sup> threshold or 50m<sup>2</sup> in the case of the Roys Hill Winegrowing District, or in combination, until the cumulative limit of 100m<sup>2</sup> or 50m<sup>2</sup> (Roys Hill Winegrowing District) gross floor area per site is reached.</i></p>	<p>As per the above assessment the building gross floor area threshold for an industrial activity will be exceeded.</p> <p><b>Will not comply.</b></p>

Table 2: Noise

Standard	Compliance comments										
<p><b>25.1.6D RURAL ZONES</b></p> <p><i>(The following noise conditions shall apply to all land uses within all Rural Zones, other than those exempted in Rule 25.1.6B and 25.1.7E (Wind Farm Noise):</i></p> <p><i>(a) The following noise limits shall not be exceeded at any point within the notional boundary of any noise sensitive activity on any other site within a Rural Zone, or at any point within the boundary of any site, in any Zone other than an Industrial Zone:</i></p> <table> <tr> <th>Control Hours</th><th>Noise Level</th></tr> <tr> <td>0700 to 1900 hours</td><td>55dB LAeq (15 min)</td></tr> <tr> <td>1900 to 2200 hours</td><td>50 dB LAeq (15 min)</td></tr> <tr> <td>2200 to 0700 hours the following day</td><td>45 dB LAeq (15 min)</td></tr> <tr> <td>2200 to 0700 hours the following day</td><td>75 dB LAFmax</td></tr> </table>	Control Hours	Noise Level	0700 to 1900 hours	55dB LAeq (15 min)	1900 to 2200 hours	50 dB LAeq (15 min)	2200 to 0700 hours the following day	45 dB LAeq (15 min)	2200 to 0700 hours the following day	75 dB LAFmax	<p>There are no close noise sensitive activities, and the closest dwelling is located on the opposite side of the road to the NW corner of the site. Any noise received by the dwelling from the activity will likely be less than, and indiscernible from traffic noise from Omahu Road and from the immediately adjacent industrial activities. There are no other notional boundaries with in vicinity of the proposed activity.</p> <p><b>Will comply</b></p>
Control Hours	Noise Level										
0700 to 1900 hours	55dB LAeq (15 min)										
1900 to 2200 hours	50 dB LAeq (15 min)										
2200 to 0700 hours the following day	45 dB LAeq (15 min)										
2200 to 0700 hours the following day	75 dB LAFmax										
<p><b>25.1.6I CONSTRUCTION NOISE</b></p> <p><i>(a) Any noise arising from construction, maintenance and demolition work in any Zone shall comply with NZS6803:1999 Acoustics - Construction Noise.</i></p> <p><i>(b) Construction noise shall be measured and assessed in accordance with NZS6803:1999 Acoustics - Construction Noise.</i></p> <p><i>(c) To avoid doubt, Standards 25.1.6C to 25.1.6H above shall not apply to construction noise.</i></p>	<p>The proposal will meet the relevant construction noise standards, which are less restrictive than the above standard.</p> <p><b>Will comply</b></p>										

Table 3: Assessment of the activity against the relevant standards within Section 26.1 Parking and Transport

Standard	Compliance comments
<b>26.1.6A Access</b> (1) Access to Property (a) Every owner or occupier shall provide a legal, safe and effective vehicular access to any activity undertaken on a site, and required parking or loading areas from an existing, formed legal road, to enable vehicles to enter the site....	As per the WSP TIA and site entrance diagram <b>Will comply</b>
<b>26.1.6A Access</b> (2) Distance of Vehicle Accesses from Road Intersections (b) Rural Residential, Rural, Plains Production and Special Character Zones Vehicle access to any property shall be sited a minimum of 100 metres from an intersection of a State Highway.	The proposal entrance is located approximately 200m from the nearest state Highway. <b>Will comply</b>
<b>26.1.6B SAFE SIGHTLINE DISTANCES</b> 1. Intersections shall be located to ensure that Safe Sightline Distances are maintained. Note: For vehicle accesses fronting an Access, Collector or Arterial Route (as defined in the Roading Hierarchy in (Link,19890, Appendix 69)) compliance with Austroads Standards is deemed an acceptable means of compliance.	The proposed site entrance is on a straight section of road with a posted 100kph speed limit. The WSP TIA verifies that sufficient sight lines are available. <b>Will comply</b>
<b>26.1.6C LOADING</b> 1. All activities except residential activities (a) provision of loading spaces (i) Every owner or occupier who proposes to construct or substantially alter, reconstruct or add to a building on any site, or change the activity carried out on the site shall provide a Loading Space. The Loading Space shall provide for the suitable or efficient accommodation of any loading or fuelling of vehicles which are likely to arise from the use of any building or activity carried out on the site, except where a service lane is designated or provided, or where the site has Designated Retail Frontage (see Appendix 30). Separate Loading Spaces shall be provided for each occupier of the site if there are more	The proposal includes ample loading spaces that are suitable for the vehicles to be used. <b>Will comply</b>

Standard	Compliance comments
<p>than one. The Loading Space shall be additional to the parking required in Table 26.1.6.1-4.</p> <p>(ii) Every Loading Space, together with access, shall be designed so that it is not necessary to reverse vehicles either on to or off the street. The Loading Space shall not be stacked or located within vehicle manoeuvring areas.</p> <p>(iii) The provision of a Loading Space in respect of any site may be made as part of the side and/or rear yard space, but not as part of the front yard space of that site.</p> <p>(iv) The method of loading shall ensure that the footpath or access to adjacent properties shall remain clear at all times and ensure traffic safety is maintained on the roads.</p> <p>(b) Design of Loading Spaces</p> <p>The design of Loading Spaces and the layout adopted will depend on the area and shape of the land available, the purpose for which loading is required, and the functional design of the building. The layout shall be of sufficient size to accommodate the following design vehicles:</p> <p>(i) Activities requiring loading facilities or servicing from heavy vehicles: A "Single Unit Bus / Truck" as defined in the "Austroads Design Vehicles and Turning Path Templates Guide" AP-G34-13, Austroads, 2013 - refer to Appendix 73 for the dimensions of this vehicle.</p> <p>(ii) Where articulated vehicles or trucks and trailers are anticipated: A "Prime Mover and Semi-Trailer" as defined in the "Austroads Design Vehicles and Turning Path Templates Guide" AP-G34-13, Austroads, 2013 - refer to Appendix 73 for the dimensions of this vehicle.</p> <p>(iii) The following minimum dimensions are provided as a means of compliance:</p> <p>Warehouses, Transport depots, bulk stores and similar must have a minimum length of 20 metres and a minimum width of 3 metres</p>	
<p><b>26.1.6D PARKING</b></p> <p>1. Provision of On-Site Parking</p> <p>Every owner or occupier who proposes to construct or substantially reconstruct, alter or</p>	<p>The number of parks required under the Hastings District Plan is 33 in total. The area available for car parking can accommodate more than 33 car parks. See WSP TIA.. <b>Will Comply</b></p>

Standard	Compliance comments
<p><i>add to a building on any site, or change the activity carried out on any land or in any building, shall provide suitable areas on the site for parking in accordance with the requirements listed in Table 26.1.6.1-4 below.</i></p> <p><i>In assessing the number of parking spaces to be provided with respect to the floor area of any building, vehicle access and parking spaces contained within the building shall not be included in the area. Where the number of spaces is based on the person capacity or other factor not directly related to floor area, such spaces shall be assessed following receipt of a written statement from the owner, lessee or proprietor of the premises stating the number of persons which the activity or proposed activity will accommodate.</i></p> <p><i>Industrial Activities:</i>  <i>1 space per 2 persons usually employed on the site at any one time.</i></p> <p>3. <i>Parking Spaces for People with Disabilities</i>  <i>Developers, owners or occupiers when constructing car parks shall make provision for disabled car parks in compliance with Appendix 71 and they shall be clearly marked or signposted as such.</i></p> <p>5. <i>Design and Construction of Parking Areas</i></p> <p>(a) <i>Vehicle Dimensions</i>  <i>All parking spaces and access and manoeuvring areas, including ramps shall be of a sufficient size and suitable layout to accommodate a passenger vehicle" as defined in the "Austroads Design Vehicles and Turning Path Templates Guide" AP-G34-13, Austroads, 2013 - refer to Appendix 72 for the dimensions of this vehicle.</i></p> <p>(c) <i>General Design and Construction Details</i>  <i>All public and required parking areas, and any outdoor display areas (such as car, caravan or boat sales yards) shall comply with the following general requirements:</i>  <i>...</i></p> <p>(ii) <i>Parking areas shall be designed and constructed to ensure that stormwater runoff from the parking area does not adversely affect adjoining properties.</i></p> <p>(iii) <i>Parking areas, together with access and turning space, shall be designed to ensure that vehicles negotiate the parking area at a safe speed and are</i></p>	<p>Three (3) mobility parks are required.</p> <p><b>Will comply</b></p> <p>Parks will be 2.6m wide and 5.0m long, with a minimum manoeuvring width of 7.0m.</p> <p><b>Will comply.</b></p> <p>The parking area will be designed to meet all relevant requirements in terms of (c).</p> <p><b>Will comply.</b></p>

Standard	Compliance comments
<p><i>not required to reverse either on to or off a street, provided that this requirement shall not apply in any Residential Zone where a single accessway serves not more than two residential buildings. Vehicles using the parking area shall only enter or leave the site by the accessway.</i></p> <p>...</p> <p>(v) <i>A reservoir space shall be provided within public carparks to prevent vehicles queuing on the street.</i></p> <p>(vi) <i>Provision shall be made for the illumination of access drives and pedestrian areas within public carparks. Such illumination is to be directed away from adjoining residentially zoned sites.</i></p>	
<p><b>26.1.7B Infrastructure to Support Alternative Transport Modes</b></p> <p><b>1. Bicycle Spaces</b></p> <p><i>Where on-site car parking is required provision shall also be made for purpose built bicycle stands on site. These shall be provided at a rate of 1 bicycle stand per 5 carpark spaces that are required except for supermarket where the ratio shall be 1 bicycle stand per 20 carpark spaces that are required.</i></p> <p><i>The bicycle stands shall meet the following requirements:</i></p> <p>(a) <i>They shall be securely attached to a wall or the ground and shall support the bicycle frame.</i></p> <p>(b) <i>Each cycle stand shall be adequately spaced to allow a cyclist to manoeuvre and attach a bicycle to the stand.</i></p> <p>(c) <i>They shall allow the bicycle to be secured.</i></p> <p>(d) <i>They shall be visible and signposted.</i></p> <p><b>2. Bicycle End of Journey Facilities</b></p> <p><i>Commercial or Industrial Activities which employ more than 15 FTE staff members shall provide one male and one female shower and changing facilities for staff to encourage the use of alternative transport modes.</i></p>	<p>33 / 5 = 6.6 equates to a requirement for 7 bicycle stands.</p> <p>See comment on page 14 of the WSP TIA.</p> <p>There will be plenty of space onsite for bicycle storage regardless of the provision of bicycle stands, the stands will however be provided if required.</p> <p>The proposed staff amenities will provide for end of journey facilities.</p> <p><b>Can Comply.</b></p>

**Table 4: Assessment of the activity against the relevant standards within Section 27.1 Earthworks**

<b>Standard</b>	<b>Compliance comments</b>
<b>27.1.6A</b> <b>EXTENT OF EARTHWORKS</b>	<p>The Plains Production Zone allows 100m<sup>3</sup> of earthworks per hectare of site so 404m<sup>3</sup> is allowed by this standard. At a rough estimate approximately 2,500m<sup>2</sup> of earthworks will be required, based on an approximation of the following components:</p> <p>Foundations for building and concrete aprons  2,460m<sup>2</sup> x 0.3 = 738m<sup>3</sup></p> <p>Customer parking 1,580m<sup>2</sup> x 0.2 = 316m<sup>3</sup></p> <p>Landscaping 1,397m<sup>2</sup> x 0.2 = 279m<sup>3</sup></p> <p>Permeable hardstand 12,249m<sup>2</sup> x 0.1 = 1,225m<sup>3</sup></p>
<b>27.1.6B VEGETATION</b> 1. <i>Where vegetation clearance occurs .... disturbed areas shall be repastured or revegetated as soon as practicable within 18 months of the activity ceasing.</i>	<p>The proposal will include clearance of minor vegetation to enable construction. Any area which will not be sealed or built on will be revegetated within 18months of construction finishing.</p> <p><b>Will Comply.</b></p>
<b>27.1.6C SLOPE</b> <i>Rural SMA: Earthworks shall not. Be undertaken on land at a slope greater than 45 degrees above horizontal</i>	<p>The proposal site is relatively flat.</p> <p><b>Will Comply.</b></p>
<b>7.1.6D EXCAVATION</b> 1. <i>No earthworks shall have a cut/fill face (see Appendix 68) of overall vertical extent greater than:</i> ... (ii) <i>2.5 metres in all other Zones.</i> ... 2. <i>No excavations shall be of greater than 1 metre vertical extent of cut/fill face, where the top of the excavation is within 10 metres of buildings or surcharge loads.</i>	<p>Due to the flat nature of the site, cuts greater than 2.5m will not be required.</p> <p><b>Will Comply.</b></p>
<b>7.1.6E NOISE</b> <i>Activities shall comply with the provisions of Section 25.1 of the District Plan on Noise.</i>	<p>The proposal will comply with the noise limits within Section 25.1 of the District Plan.</p> <p><b>Will Comply.</b></p>
<b>27.1.6G LOCATION OF FILL</b> <i>Except when associated with fill faces on rural farm tracks, any fill of over:</i> (a) <i>100m<sup>3</sup> volume; or</i> (b) <i>0.5 metres total depth</i>	<p>Any areas of fill required for building and site works will be identified on the detailed building consent plans.</p> <p><b>Will comply.</b></p>

Standard	Compliance comments
<i>Shall only be permitted if a site plan is provided to Hastings District Council showing the location and extent of the fill.</i>	
<b>27.1.6H SEDIMENT CONTROL</b> <i>Sediment run-off into a Council reticulated network shall not cause any conspicuous change in colour or visual clarity of water after reasonable mixing.</i>	The activity is being carried out in an area of relatively flat and permeable land far from any water course so will not result in such effects.  <b>Will Comply.</b>





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Drainways Contracting Limited

**TO ESTABLISH AND OPERATE  
A DRAINAGE CONTRACTORS  
DEPOT AND ASSOCIATED  
EDUCATION TRAINING  
FACILITY AT 2570 OMAHU  
ROAD, HASTINGS**

Resource Consent Application and  
Assessment of Environmental Effects

28 February 2022

## **TABLE OF CONTENTS**

### **Part A: Form 9 Application for Resource Consent**

### **Part B: Assessment of Environmental Effects**

<b>1.</b>	<b>Introduction</b>	<b>1</b>
1.1	Summary	1
1.2	Background	2
1.3	Site Description	2
1.4	Surrounding area	6
1.5	Proposed Activities	10
<b>2.</b>	<b>Planning Assessment</b>	<b>13</b>
2.1	National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCSC)	13
2.2	Relevant District Plan	13
2.3	Definitions	13
2.4	Zoning and Activity Status	14
2.5	Statutory Considerations	16
2.6	Section 104D of the RMA	17
<b>3.</b>	<b>RMA Schedule 4 – Information Required in Application for Resource Consent</b>	<b>18</b>
3.1	Clause 2 – Information Required in all Applications	18
<b>4.</b>	<b>Assessment of Effects on the Environment Section 104(1)(a)</b>	<b>19</b>
4.1	Visual, landscape, and Amenity effects	19
4.2	Ecology and habitat	19
4.3	Transport	19
4.4	Cultural Effects and Mana Whenua	19
4.5	Dust	20
4.6	Noise	20
4.7	Hazardous Substances	20
4.8	Contaminated Land	21
4.9	Natural Hazards	22
4.10	Reverse Sensitivity	22
4.11	Versatile Land Resource	22
4.12	Positive effects	23
4.13	Effects Assessment Conclusion	24
<b>5.</b>	<b>Assessment Against Documents Referred to In Section 104(1)(b)</b>	<b>25</b>
5.1	Regional Policy Statement (section 104(1)(b)(v))	25



5.2	National Environmental Standard for Assessing and Managing Contaminants in Soil and Protect Human Health (NESCS)	29
5.3	Other Documents Referenced in Section 104(1)(b)	29
5.4	Hastings District Plan	29
<b>6.</b>	<b>Remaining Assessment of Effects on the Environment</b>	<b>46</b>
6.1	Information Required in Assessment of Environmental Effects (Clause 6)	47
<b>7.</b>	<b>Other Matters</b>	<b>53</b>
<b>8.</b>	<b>Assessment Against Part 2</b>	<b>56</b>
<b>9.</b>	<b>Conclusion</b>	<b>57</b>

## LIST OF FIGURES

Figure 1 - Concept Image of Proposed Site Layout	1
Figure 2 - Site location outlined in black and white border.	2
Figure 3 – From existing entrance looking south west down boundary fence	3
Figure 4 - Trench Showing soil, waste materials and powerlines crossing site	4
Figure 5 – Beehives and vegetation cover near south eastern boundary	4
Figure 6 – View northwest towards substation showing waste material and access track through site	5
Figure 7 – 2003 Aerial Photograph extracted from Lattey Group Report	6
Figure 8 – From front of site looking over south-eastern boundary – Tasman Harvesters to Right, Hill Road Coolstores to left.	7
Figure 9 – SWD Wastewater and Drainage Systems opposite proposed entrance (on Crab Ventures Ltd property)	8
Figure 10 – Roofing Trust Yard opposite site	8
Figure 11 – JCR Engineering opposite site (on W White property)	9
Figure 12 – Dwelling opposite existing entrance, JCR Engineering to right (both on W White property)	9
Figure 13 – White trucks opposite and to northwest of existing entrance (on W White property)	10
Figure 14 – Concept building appearance	12



Figure 15 - Site location and zoning.	14
Figure 16 – Map of Potentially Affected Parties to the Proposed Activity	50
Figure 17 – Map of Wider Surrounds in Consideration of Potential Precedent	53

## **LIST OF TABLES**

Table 1: Proposed Mitigation Measures	48
Table 2: Assessment of Potential Effects on Neighbours	51

## **LIST OF APPENDICES**

- Appendix 1:** Record of Title
- Appendix 2:** Site Plans and Floor Areas
- Appendix 3:** Land Production Value Report
- Appendix 4:** Regional Hazard Report
- Appendix 5:** District Plan Performance Standard Assessments
- Appendix 6:** Written Approvals
- Appendix 7:** Traffic Assessment Report
- Appendix 8:** Correspondence in Support of Proposal
- Appendix 9:** NESCS PSI Report



## REPORT INFORMATION

<b>Report Status</b>	Final
<b>Our Reference</b>	MDL001880
<b>File Location</b>	Drainways Contracting Ltd / MDL001880 2570 Omaha Road / 03 Application
<b>Author</b>	Phil Petersen
<b>Review By</b>	Philip McKay

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**PART A**

Form 9 Application for Resource  
Consent

## FORM 9

### **APPLICATION FOR RESOURCE CONSENT**

Sections 88 and 145, Resource Management Act 1991

To: Hastings District Council

1. **Drainways Contracting Limited** applies for the following type(s) of resource consent under the Hastings District Plan:  
  
Land use consent for a non-complying activity under Rule PP39.
2. The activities to which the application relates (the 'proposed activity') are as follows:  
  
To establish, operate, and maintain a Drainage Contractors Depot, and associated education training facility within the Plains Production Zone, including:
  - A 1,500m<sup>2</sup> building, associated outdoor storage, parking and landscaping, and
  - Practical infrastructure training associated with the EIT School of Trades and Technology. This will include training room space in the proposed building and an area of unsealed yard in which machinery operation and pipelaying skills will be practiced.
3. The site at which the proposed land use activity is to occur, is as follows:
  - a) The physical address is at 2570 Omaha Road, Hastings 4120;
  - b) The site area is within the boundaries of the parcel of land legally described as Lot 1 Deposited Plan 11200 and within Record of Title HBB4/587;
  - c) The Hastings District Council property number is 25080;
  - d) The site has an estimated area of approximately 4.0469ha; and
  - e) The site is currently vegetated in rank grass and shrubs and is located on the southwestern side of Omaha Road. This is a relatively flat area of land but contains some hummocky features as it has had use in the past for gravel mining, filling, and timber storage. The site is located adjoining a timber processing factory on the north-western boundary.
4. The site is owned by Aesan Holdings Limited,  
  
Owner address for service: Mitre 10, 3 Takapau Road, Waipukurau 4200

The site is currently unoccupied.

The site will be occupied by the applicant, Drainways Contracting Limited, should this proposal be approved.

5. There are no other activities that are part of the proposal to which this application relates.
6. The following additional resource consents are needed for the proposal for which this application relates and have not yet been applied for:
  - a) Controlled activity resource consent for the drilling and construction of a bore under the Hawke's Bay Regional Resource Management Plan rule 1 to take less than 5 cubic metres of water per day for staff amenities and machine and equipment washing.
  - b) An onsite wastewater disposal system will be required the details of which will be provided at the time of building consent. It is assumed that the conditions of Hawke's Bay Regional Resource Management Plan permitted activity rule 37 will not be met due to location over the Heretaunga Plains Unconfined Aquifer and that discretionary activity resource consent will be required under rule 38.
7. I attach an assessment of the proposed activities effects on the environment that –
  - a) Includes the information required by Clause 6 of Schedule 4 of the Resource Management Act 1991 (the RMA); and
  - b) Addresses the matters specified in Clause 7 of Schedule 4 of the RMA; and
  - c) Includes such detail as corresponds with the scale and significance of the effects that the activities may have on the environment.
8. I attach an assessment of the proposed activities against the matters set out in Part 2 of the Resource Management Act 1991.
9. I attach an assessment of the proposed activities against any relevant provisions of a document referred to in section 104(1)(b) of the Resource Management Act 1991, including the information required by clause 2(2) of Schedule 4 of that Act.

Documents attached:

Assessment of Environmental Effects

**Appendix 1:** Record of Title

**Appendix 2:** Site Plans and Floor Areas



**Appendix 3:** Land Production Value Report

**Appendix 4:** Regional Hazard Report

**Appendix 5:** District Plan Performance Standard Assessments

**Appendix 6:** Written Approvals

**Appendix 7:** Traffic Assessment Report

**Appendix 8:** Correspondence in Support of Proposal

**Appendix 9:** NESCS PSI Report

Date: 28 February 2022



Person authorised to sign on behalf of applicant.

Address for Service of Applicant:

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NAPIER 4140

Attention: Philip McKay

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1416 Omahu Road  
Hastings 4175

E-mail: brendan@drainways.co.nz



**PART B**

Assessment of Environmental  
Effects

## 1. INTRODUCTION

### 1.1 SUMMARY

Drainways Contracting Limited ("the Applicant") seek land use consent for a drainage contractors depot and training facility at 2570 Omaha Road in the Plains Production Zone. The site location is illustrated in Figure 2 below. The site has not been in any significant land based productive rural use during the last 60 years and there is a low likelihood this land will be utilised for rural productive purposes in the future. The proposal is considered to be an appropriate land use activity given that the site does not comprise versatile soil, the current and historical use of the site, and the surrounding industrial land uses.

A land use consent is required from the Hastings District Council ("HDC") to authorise the establishment and operation of the proposal under the Plains Production rules of the Hastings District Plan.

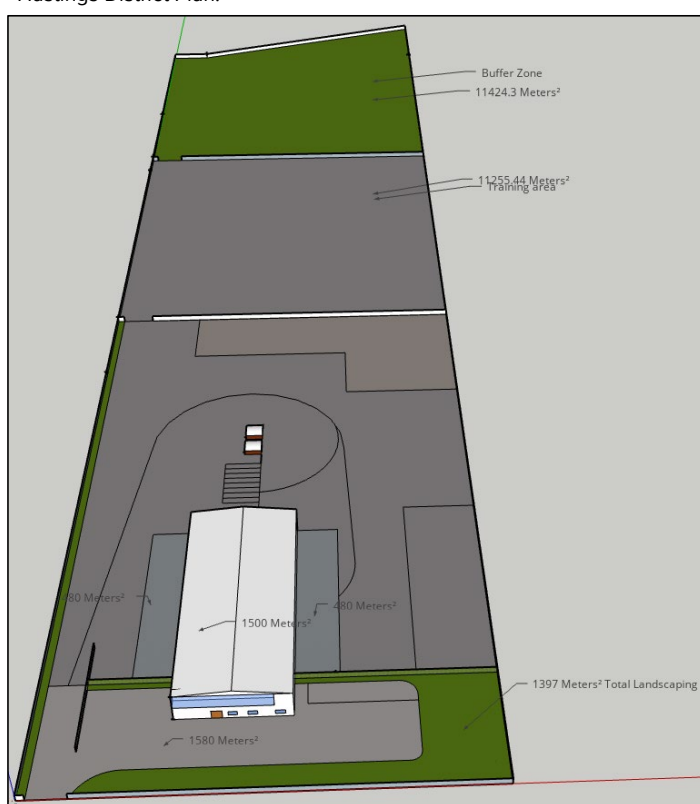


Figure 1 - Concept Image of Proposed Site Layout

## 1.2 BACKGROUND

An inspection and report on the rural production value of the site has been commissioned from Land Vision Limited. This report is attached as **Appendix 3**. Apart from some likely extensive grazing, the land has not been subject to rural productive land uses for the last 60 years and has been subject to several activities which have resulted in the site being unsuitable for rural production activities. The past activities at the site have included earthworks from gravel removal, dumping of waste, importing of fill, and the storage of timber and/or logs from the adjoining mill (as evidenced from historic aerial photographs).

The pre-existing low moisture-holding-capacity of the soil and no existing irrigation water take<sup>1</sup> also contributes to the site having low utility for rural production.

There is an identified lack of a trade training facility for service infrastructure installation in the region. Accordingly, the establishment of a training facility as part of this proposal as described below in 1.4 will provide a social and economic well-being benefit to the wider community and is supported by the Eastern Institute of Technology in the attached letter within **Appendix 8**.

## 1.3 SITE DESCRIPTION

The site is located on the south-western side of Omahu Road, and approximately 200m southeast of the SH50 / Omahu Road intersection. The site is approximately 4.0469Ha in area and generally flat, with several mounds and undulations from previous filling/excavation activities. The land is generally unused and is therefore covered in rank grass, weeds, and shrubs, with dumped timber and other waste materials, including green waste, at the rear of the site where overhead powerlines also pass overhead, orientated

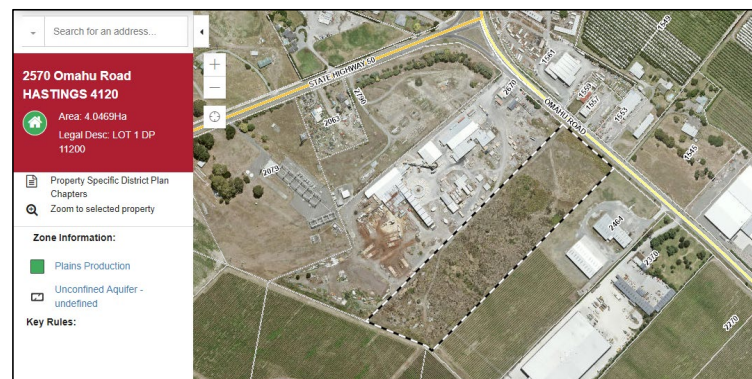


Figure 2 - Site location outlined in black and white border.

<sup>1</sup> The Hawke's Bay Regional Resource Management Plan TANK Plan Change also prevents the ability to apply for a ground water take from the Heretaung Plans Aquifer for a volume greater than the 5m<sup>3</sup> per day permitted activity limit.

NE-SW. The vegetation, generally grass, on the front portion of the site is noticeably shorter and sparser than on the remainder of the site.

A cluster of beehives is set approximately 150m back from the road frontage. Farm-grade vehicle tracks extend through the site to the beehives, and separately to the rear of the property along the north-western boundary to the area of dumped/stored materials between the powerlines and the rear (south-western) boundary as illustrated in the following photographs taken on a visit to the site on 21 February 2022.









As can be seen from comparing Figures 3 and 8, photographs from the site frontage, with Figures 4 – 6 from various positions on the remainder of the site, the vegetation is noticeably sparser on the front portion of the site. A probable explanation as to the reason for this is provided in the Lattey Group PSI report (attached in **Appendix 9**). In referring to the 2003 aerial photograph extracted as Figure 7 below, the Lattey Report states:

*The image ... shows the property in 2003. The land was used to store timber products and sawdust from the adjacent timber mill. Disturbance of the land was site wide, however at the time the image was taken, timber was stored on areas to the north and south of the site. Sawdust was stored between the timber storage area to the south and the timber storage area to the north. There was a difference in colour between the timber stored at the northern end of the site (close to Omahu Road) and the timber stored at the southern end of the site. The timber stored in the northern area was darker in colour than that stored in the southern area. It is assumed that that the darker coloured timber is treated, and the lighter coloured timber is not treated. It is noted that the shape of the storage area of the darker timber generally matches the less vegetated area close to Omahu Road seen during the site visit, suggesting that there may be higher levels of CCA contamination in this area that has inhibited growth.*

FIGURE 4: 2570 OMAHU ROAD IN 2003



Figure 7 – 2003 Aerial Photograph extracted from Lattey Group Report

The approximate site boundary of 2570 Omaha Road is overlaid on the above aerial photograph with red dashed lines.

#### 1.4 SURROUNDING AREA

The surrounding land is a mix of industrial activities, and viticulture. The site adjoining the north-west boundary contains scheduled activity (S23) in the Hastings District Plan, Appendix 26 and specifically *Timber Milling, Treatment, Storage and Sales (S23)*. There are Unison and Transpower substations on the opposite side of the timber processing site to the north west.

The site adjoining the south-eastern boundary contains large depot buildings utilised by Tasman Harvester Contractors, and to the rear of that an area planted in grapes. The rear boundary adjoins viticulture activities.

The opposite (North-eastern) side of Omaha Road contains an engineering depot, and a transport depot or similar, with associated buildings, and extensive parking and outdoor storage/yard areas. The opposite and adjoining sites all have an industrial appearance despite the underlying Plains Production Zoning. These activities collectively form an industrial enclave to the south east of the Omaha Road intersection with SH50. This



enclave is then physically separated from industrial zoned activities on Omaha Road by the vineyards.

Omaha Road is an Arterial Road in the Hastings District Plan Roadierarchy and connects Hastings to SH50 (Approximately 200m to the northwest of the subject site). Omaha Road has approximately 6,000 Estimated Traffic Volume AADT according to the Waka Kotahi One Network Road Classification.<sup>2</sup>

The following photographs illustrate the land uses present on the adjoining and opposite sites.



**Figure 8 – From front of site looking over south-eastern boundary – Tasman Harvesters to Right, Hill Road Coolstores to left.**

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<sup>2</sup> <https://nzta.maps.arcgis.com/apps/webappviewer/index.html?id=95fad5204ad243c39d84c37701f614b0>  
accessed 11 Feb 2022.



Figure 9 – SWD Wastewater and Drainage Systems opposite proposed entrance (on Crab Ventures Ltd property)



Figure 10 – Roofing Trust Yard opposite site





Figure 11 – JCR Engineering opposite site (on W White property)



Figure 12 – Dwelling opposite existing entrance, JCR Engineering to right (both on W White property)



Figure 13 – White trucks opposite and to northwest of existing entrance (on W White property)

## 1.5 PROPOSED ACTIVITIES

This application is seeking the establishment, operation, and maintenance of a drainage contractors depot, and an educational training facility for infrastructure construction training operated by the Eastern Institute of Technology. The development will be in general accordance with the site layout in Figure 1 and will include the following:

- A depot building with a nominal floor area<sup>3</sup> of 1,500m<sup>2</sup>, and associated staff and visitor parking, material storage & truck path areas. It is noted that a building of approximately 1,100m<sup>2</sup> (being 44m x 25m) may be established initially with an extension of approximately 400m to follow at a later date:
  - Drainways administration office and staff facilities anticipated to occupy approximately 250 – 300m<sup>2</sup> over two levels.
  - EIT training classroom space approximately 100 – 120m<sup>2</sup>.
  - Equipment and vehicle storage depot approximately 1,000 – 1,200m<sup>2</sup> (depending on the final floor area of the building).

<sup>3</sup> Given the uncertainty of the required non-complying activity resource consent application, detailed building design plans are still to be completed, however 1,500m<sup>2</sup> is anticipated to be the maximum likely building floor area, with a lesser area also being possible.



- An outdoor EIT School of Trades practical infrastructure training area to the rear of approximately 11,250m<sup>2</sup>;
- A customer parking area to the front of the depot of approximately 1,580m<sup>2</sup>;
- Landscaping at the front of the site of approximately 1,400m<sup>2</sup>.

The proposal will require approximately 2,500m<sup>3</sup> of earthworks. This will establish appropriate site levels for the building, carparking and yard areas and the proposed site frontage landscaping. In addition to that estimated volume of earthworks for the site development, there will also be an ongoing requirement for earthmoving as part of the EIT training facility. The training is proposed to involve the digging of trenches and laying of pipes. The pipes would then be removed, and site reinstated prior to the next section of training which will involve earthmoving and pipe laying in the same area. It is difficult to estimate the exact quantities of earthworks required by the training facility on an ongoing basis, however for the purposes of this application resource consent is requested to cover both the site development earthworks and the ongoing earthworks that will be undertaken as part of the trade training activity.

The building will have a maximum height of 8m above ground level and will contain garaging and workshops for the contracting business, administrative offices space, education training space, and staff facilities. The building will approximately resemble the indicative photograph depicted in Figure 14 below.

The proposal will leave an 11,424m<sup>2</sup> buffer area undeveloped at the rear of the site. This area will remain as is. It cannot be used as part of the training facility yard due to the safety hazard that the overhead powerlines would pose.

The training area will be between the contractor's depot area and the buffer area at the rear of the property. This area will be used to train students in civil construction, machine operation, and health and safety requirements as part of Eastern Institute of Technology activities through the School of Trades and Technology. The training/education on site will include some disturbance of soil as part of training course on safe and effective machinery use in construction activities.





Figure 14 – Concept building appearance

At least 35 Drainways Contracting staff will be based out of the depot site, and this is expected to increase over several years to approximately 60 staff. The Eastern Institute of Technology will have approximately 2 tutors on site once per month on average and class sizes at these times will typically comprise approximately 14-16 students.

The proposed activities do not have any water requirements beyond servicing staff amenities and equipment and machinery wash down by water blaster and have no requirement for trade waste sewer discharges.

Three waters servicing will be by onsite means as reticulated services are unavailable. Give the large size of the site and the free draining soil, onsite wastewater and stormwater disposal are considered to be practicable with the design details to be assessed through the building consent process. Stormwater drainage swales are however envisaged to be used as green strips extending down the side(s) of the site.

Water supply for staff amenities is proposed to be by a permitted activity ground water take. The Regional Resource Management Plan, Change 9, permits a maximum take of 5m<sup>3</sup> per day) and the Applicant advises that this quantity will be more than enough in providing for their anticipated water needs.



In terms of the landscaping areas identified on the site plan, the Applicant envisages the planting of amenity trees between the site frontage and car park. A hedge may also be established adjacent the north-western boundary with Napier Pine, however details of such planting are still to be worked through and it is assumed for the purposes of this application that the 5m setback required for shelterbelts by standard 6.2.5H(1) will be complied with.

## 2. PLANNING ASSESSMENT

### 2.1 NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL TO PROTECT HUMAN HEALTH (NESCS)

Regarding the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) the proposed activity will involve soil disturbance and a change of land use.

The Ministry for the Environment Hazardous Activities and Industries List (HAIL) includes bulk storage of timber. The proposal site is also likely to have received fill materials that may not have met clean fill guidelines. A Preliminary Site Investigation (PSI) report has been produced by Lattey Group and is attached to this application as **Appendix 9**. It is noted that although that report is titled as a PSI it includes some soil testing results and analysis typical of what would be provided in a Detailed Site Investigation (DSI). Those results confirm levels of contaminants above background levels but within the commercial / industrial outdoor worker thresholds. The report however also states that there is uncertainty regarding the contents, chemical concentrations, and size of the two landfill pits on the site and that there may be undiscovered pits on the site and therefore recommends more investigations to define the extent and contents of the pits.

As such and given a full Detailed Site Investigation has not been completed, this activity is regulated by this NES as a **Discretionary Activity** pursuant to Regulation 11.

### 2.2 RELEVANT DISTRICT PLAN

This application is subject to the Hastings District Plan ("the District Plan") which became partially operative on 11 March 2020. The only provisions of the District Plan which are not operative are those relating to Section 16.1 Wāhi Toanga District Wide Activity. Those provisions are not relevant to this application; therefore, reference need only be given to the operative District Plan in the assessment of this application.

### 2.3 DEFINITIONS

The Hastings District Plan includes a definition for industrial activity:

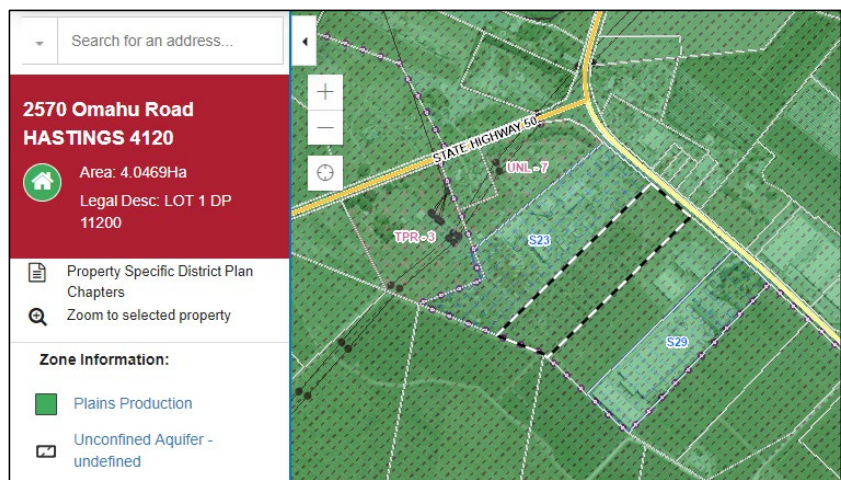
*Industrial Activity: means the use of land or buildings for the manufacturing, fabricating, processing, packing or storage of substances, into new products and*

*the servicing and repair of goods and vehicles, whether by machinery or hand and includes transport depots and the production of energy but excludes helicopter depots and renewable electricity generation activities.*

The activity includes a drainage contracting depot. This will include a depot for the repair and construction of utility services. The Drainways component of the activity is therefore considered to meet the definition of industrial activity.

## 2.4 ZONING AND ACTIVITY STATUS

Under the Hastings District Plan the subject site is located within the ‘Plains Production Zone’ as identified in **Figure 15** below (green shading). The purple, diagonal dashes represent the extent of the Heretaunga Plains Unconfined Aquifer.



**Figure 15 - Site location and zoning.**

The Plains Production Zone provides for industrial activities via Rule PP6 (Permitted), Rule PP18 (Restricted Discretionary, Non-Notified), and Rule PP32 (Discretionary). The proposal is not able to meet these rules.

The proposed activity is a non-complying under rule PP39 as it not otherwise provided for under the Plains Production zone rules.

The proposed educational trade training facility is not provided for by the Plains Production Zone rules and would therefore also be a non-complying activity under rule PP39.

Assessment of the activity against the relevant District Plan performance standards is provided in **Appendix 5**. As that assessment sets out that the activity meets most relevant standards but cannot meet the following:



- 6.2.5J Total Building Coverage (Including Hardstand and Sealed Areas)
- 6.2.6F Industrial Activities
- 6.2.6G Site Area Thresholds

In regard to District Plan overlays, the Heretaunga Plains Unconfined Aquifer Overlay, requires consideration of Rule Table 6.2.4A. The provisions in Table 6.2.4A relate to the 'Storage, Handling or Use' of Hazardous Substances within the Heretaunga Plains Unconfined Aquifer Overlay. Machinery will be operated on the site powered by petroleum products. The District Plan definition of Use is stated as follows meaning that the operation and refuelling of petroleum powered machinery is not considered to be the 'use of a hazardous substance':.

*"when referred to in Section 29.1 of the District Plan shall mean the manufacturing, processing or handling of a substance or mixture of substances for a particular activity without necessarily changing the physical state or chemical structure of the substance involved. This includes mixing, blending and packaging operations, but does not include the filling or drawing of substances from bulk storage tanks unless the processing is permanently connected to the bulk storage, and does not include loading out and dispensing of petroleum products, and the application of agrichemicals and fertilisers for Land Based Primary Production activities."*

However, the Plans Production Zone Standard 6.2.6N for the storage, handling or use of hazardous substances within the Heretaunga plains unconfined aquifer overlay Appendix 59 states:

*All hazardous substances shall be stored and/or handled on areas which have impervious surfaces and where facilities are provided to prevent contaminants from being washed or spilled into natural ground or entering any piped stormwater systems or stormwater ground soakage, such as bunds, filters, separators or settling areas. In Industrial Zones, this impervious surface requirement also applies to fuel operated machinery and vehicles.*

*Note 1: Underground tanks and pipelines meeting HSNO Codes of Practice 44 and 45 are considered to contain hazardous substances within an impervious surface.*

*Note 2 : For the avoidance of doubt this rule is not intended to capture the incidental handling or transport of organic matter or fertilisers across a site for the purpose of their application.*

Given the above, the site is not in an Industrial Zone. The storage and use of fuel and oil will take place on site within approved and complying containment areas, which will capture and prevent fuel or oil from entering the onsite stormwater system prior to appropriate treatment. The proposal will is therefore a Permitted Activity pursuant to Rule PP41 of the Heretaunga Plains Unconfined Aquifer provisions of the Hastings District Plan.

The proposal has been assessed against the earthworks rules and standards in Section 27.1 of the Hastings District Plan (Table 4 in **Appendix 5**). The proposal will not comply with

the requirements of permitted activity Rule EM1 as more than the permitted threshold of 404m<sup>3</sup> of earthworks is anticipated to be required for the development of the site (at a rough order estimate approximately 2,500m<sup>2</sup> will be required to form building and sealed area foundations, and unsealed accessways, yard areas and landscape development. Further to this, ongoing earthworks will be required as part of the proposed EIT practical skills training facility. Accordingly, Restricted Discretionary Activity resource consent is required under rule EM6 for exceedance of the thresholds in standard 27.1.6A 'Extent of Earthworks'.

The overall status of the application is therefore a **Non-Complying Activity**.

## 2.5 STATUTORY CONSIDERATIONS

In regard to the consideration of resource consent applications, section 104 of the RMA states:

### **104 Consideration of applications**

*When considering an application for a resource consent and any submissions received, the consent authority must under section 104(1), subject to Part 2, have regard to—*

- (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) 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...*

For determining applications for a discretionary activity section 104B of the RMA also applies:

### **104B Determination of applications for discretionary or non-complying activities**

*After considering an application for a resource consent for a discretionary activity or non-complying activity, a consent authority—*

- (a) may grant or refuse the application; and*
- (b) if it grants the application, may impose conditions under section 108.*

## 2.6    SECTION 104D OF THE RMA

Section 104D of the RMA establishes restrictions on the ability of a consent authority to grant resource consents for non-complying activities. It states:

- (1) Despite any decision made for the purpose of notification 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.*



### 3. RMA SCHEDULE 4 – INFORMATION REQUIRED IN APPLICATION FOR RESOURCE CONSENT

#### 3.1 CLAUSE 2 – INFORMATION REQUIRED IN ALL APPLICATIONS

The requirements of Clause 2 of Schedule 4 of the RMA are set out in italic font below with a comment regarding the proposed activity in plain font under each sub clause.

1. *A description of the activity.*

This is provided in section '1.4 Proposed Activities' above.

2. *A description of the site at which the activity is to occur.*

This is provided in section '1.3 Site Description' above.

3. *The full name and address of each owner or occupier of the site.*

The owners and occupiers of the site are outlined in (Part A) Form 9 above, Section 4.

4. *A description of any other activities that are part of the proposal to which the application relates.*

There are no other activities proposed on the site.

5. *A description of any other resource consents required for the proposal to which the application relates.*

No other resource consents are required as part of this proposal.

6. *An assessment of the activity against the matters set out in Part 2.*

This assessment is made under the corresponding subheading below.

7. *An assessment of the activity against any relevant provisions of a document referred to in section 104(1)(b).*

This assessment is made under the corresponding subheadings below.



**4. ASSESSMENT OF EFFECTS ON THE ENVIRONMENT SECTION 104(1)(a)**

**4.1 VISUAL, LANDSCAPE, AND AMENITY EFFECTS**

The site has been subject to previous gravel removal, timber storage and earthworks, and is currently overgrown with rank grass and weeds. It also contains areas of waste materials to the rear. Further to this the site is adjoined on either side by industrial activities containing large buildings and yard areas and is located opposite a cluster of industrial activities. Given this the site is not in an area of particularly high visual amenity or landscape values it is considered that the proposed site development and activities will improve the visual appearance of the site in a manner that is consistent with the character of the adjoining and opposite industrial land use.

Therefore, any adverse visual, landscape or natural character effects will be no more than minor.

**4.2 ECOLOGY AND HABITAT**

The proposal will have no more than minor adverse effects on ecosystems and habitats as it does not contain any notable vegetation beyond weedy pasture. Therefore, the site is unlikely to support any significant terrestrial ecology values. The proposal will therefore have no more than minor adverse effects on ecology and habitat values.

**4.3 TRANSPORT**

The existing land transport network accessed via Omaha Road is a physical resource. A Traffic Impact Assessment ("TIA") has been prepared by WSP and is attached as Appendix 3. The assessment in that report concludes that with minor mitigation measures *"the Drainways facility can be accommodated on the site with a less than minor adverse effect on the surrounding roading network."*

The mitigation measures recommended include a 0.5m wide by 50m long widening of the road seal and the removal of a tree and road sign from road reserve to mitigate effects on visibility from the site entrance. These mitigation measures are volunteered by the Applicant as part of the proposal and subject to the Council's agreement as the road authority.

Given the above, the effects of the proposal on transportation matters are considered to be no more than minor.

**4.4 CULTURAL EFFECTS AND MANA WHENUA**

The location of the proposal in the Heretaunga Tamatea Area of interest within the statutory acknowledgements is away from surface water bodies and is within a wider area that is already subject to similar developments of an industrial nature. The proposal does

not coincide with any object or site of cultural significance, wahi taonga or archaeological site identified in the District Plan.

It is acknowledged that the Trust will be provided with a copy of the application once it has been lodged in accordance with Statutory Acknowledgment requirements. The nature of the proposal indicates that mana whenua concerns are not likely, and on this basis, it is considered that the effects are likely to be less than minor.

#### **4.5     DUST**

The proposal will generate some dust emissions to air from vehicle movements and the operation of the machinery during site development and construction.

The physical separation of the proposed earthworks from dust sensitive activities and the temporary duration of site development activities, along with appropriate site management, will likely result in no more than minor adverse effects due to dust.

There is however also potential for ongoing earthworks with the practical machinery and pipe laying training to produce dust effects. Such effects are proposed to be mitigated by a 15m separation distance from the side boundaries for any earthworks as part of the practical training and dust suppression measures, including watering as required. It is noted that the practical training will involve best practice environmental management and health and safety, which necessitate the mitigation of adverse effects from dust and sediment. Such mitigation will ensure that any dust effects will be no more than minor.

#### **4.6     NOISE**

The proposed activity will generate some noise which is likely to be an effect that is no more than minor as:

- No relevant receptor is expected to receive noise emissions from the activity that would exceed the permitted noise limits of the Hastings District Plan.
- Those neighbours located on the opposite side of Omahu Road will likely currently receive higher levels of noise from existing traffic than what they are expected to receive from the proposal.
- Notwithstanding the above, the applicant will take all necessary measures to ensure that noise from the proposal complies with the requirements of s16 of the RMA and will ensure that machinery is operated and maintained to limit noise emissions to a reasonable level.

Accordingly, the noise effects of the proposal will be appropriately managed so that these effects are no more than minor.

#### **4.7     HAZARDOUS SUBSTANCES**

The storage and use of hazardous substances in the form of fuel and oil is considered relevant to this assessment is as far as their potential effects relate to the Heretaunga Plains Unconfined Aquifer mapped in this location. These activities which will take place

on sealed and bunded areas and in compliance with relevant Health and Safety at Work regulations will meet permitted activity Rule PP41 and the effects are therefore considered no more than minor.

#### 4.8      CONTAMINATED LAND

The PSI Report prepared by Lattey Group and attached as Appendix 9 assessed the risk of soil contaminants to human health by researching previous uses of the site and soil sampling and analysis. The conclusions of that report are extracted as follows:

- *Development is planned on 2570 Omahu Road. This will include the construction of an office and warehouse, with gravel car parking area in the northern end of the site. A section of the site between the middle and the south-western end will be used as an excavator training area.*
- *Ten test pits were excavated across the site. These pits confirmed that the site soil was generally a sandy silt overlying a sandy gravel (Omahu stony gravel).*
- *Review of site history identified that treated timber was stored on the site. Review of historical imagery showed darker timber stored in the north-western end of the site. There is less vegetated area in the north-western end of the site adjacent to Omahu Road.*
- *Preliminary systematic sampling was undertaken testing for CCA across the site. This showed that concentrations of arsenic exceed maximum background levels in the northern half of the site and are below maximum background levels in the southern half of the site. Copper and chromium are also elevated in the northern half of the site compared with the southern half of the site. Concentrations in all samples were below the SCS for Commercial Industrial land use.*
- *Concentrations of arsenic, copper and chromium are generally below background levels in the south-western half of the site. The risk of harm to human health resulting from CCA contamination of soils in this area, for the proposed land use of excavator training is considered low.*
- *Review of historical imagery showed that there were two pits approximately 100m into the site from Omahu Road. Soil sampling showed that there are elevated heavy metal concentrations in this area. There is still some uncertainty regarding the extent and contents of these pits. It is considered prudent that some more investigation defining the extent of the pits and their contents be made. As site management plan is recommended to manage any undiscovered contaminants. Based on this, the activity is not considered to be a permitted activity.*

In summary the Lattey Group PSI considers that the proposed Drainways depot is able to take place in compliance with the SCS for Commercial Industrial land use, but that there is some human health risk for the practical training activities. That risk is due to uncertainty around the extent of the fill pits and the contents of those pits.

As per the recommendation in the final of the above bullet points, conditions are offered on this consent for further sampling and assessment to be completed to establish the extent and contents of the fill pits; and that a site management plan (or remediation action plan if deemed necessary from the assessment of the further sampling) be provided and certified by Council prior to the proposed activities commencing on the site.

#### 4.9 NATURAL HAZARDS

The Hawke's Bay Hazards Portal Property Report is attached as Appendix 4. As set out in that report the subject site is:

- not within an identified flood risk area;
- in an area where liquefaction damage is unlikely; and
- is within a medium earthquake amplification risk area of alluvial sand, silt and gravel.

It is considered that any earthquake amplification risks will be appropriately addressed through the building consent process as will the geotechnical stability of the ground for building construction.

Given the above, the site is not subject to any natural hazard risks that cannot be appropriately avoided, remedied or mitigated.

#### 4.10 REVERSE SENSITIVITY

The site bounds vineyards to its rear and also for the rear section of its south-eastern boundary. The proposed activities however only involve occupation of the site during normal working hours and are not sensitive to noise or other effects from the operation of the vineyard.

As mentioned above, the potential for direct effects on the vineyard from dust generated from the practical infrastructure training area will be mitigated by a 15m setback for such activities from the boundary and by dust suppression measures, including watering.

The proposed activity give rise to any reverse sensitivity effects on other neighbouring land use activities, which are of a similar industrial character.

#### 4.11 VERSATILE LAND RESOURCE

Plains Production Zoned land is typically located on versatile soil. The report assessing the agricultural potential of the site from Ian Milner attached as Appendix 3, makes the following conclusions:

*In summary, the site is modified beyond what could be considered minor or within standard practice. This is supported by the presence of modified soil profiles to depth which is generally indicative of infill. The soil surface has foreign material (organic and inorganic) within it again in a manner that is more than minor.*

*Both of these aspects significantly reduce the utility of the site for rural production as they form barriers to or limitations to use and performance.*



*Significantly, the presence of hydrocarbons, organochlorines and metals within the soil profile may be very limiting from a human health perspective further limiting the value of the site for rural production.*

*The wider area (locality) has very limited value for rural production. the area is notable for being classified as LUC 7 despite being flat. This is because of its gravelly nature and low soil moisture holding capacity. The development of viticulture in the region changed the productive potential of this ground with previously unwanted or low value land being considered highly valuable for grape production. the fact that this site has never been converted to viticulture is perhaps indicative of the sites limited value (perceived or actual) for this activity.*

*This site does not appear to have been used for agricultural production for approximately 60 years.*

In seeking support for the use of the Plains Production Zoned site for the proposed activities the Applicant approached the Save the Plains Group. A letter of support has been provided on behalf of that group from Mike Donnelly and is attached in Appendix 8. That letter acknowledges that in the opinion of the Save the Plains Group, the proposed development is an appropriate use of the site.

Given the findings of Mr Milner's assessment the site has little versatility for agriculture and horticulture and its suitability for viticulture is likely compromised by the soil modifications and debris remaining from previous activities on the site. Contamination of the soil from previous activities associated with the adjoining timber treatment plant to the north-west is confirmed in the Lattey Group PSI Report attached in Appendix 9. As set out in that report the lack of vegetation growth on the front portion of the site can likely be attributed to the storage of treated timber in that area.

Land versatility however is more than just soil quality. The subject site does benefit from being flat and in close proximity to a labour supply and the arterial transportation network. These attributes could for example make greenhouse, hydroponic based horticulture viable. Such an operation would however be dependent on a sufficient water supply for irrigation and no such supply is available. Plan Change 9 to the Regional Resource Management Plan limits permitted activity ground water takes to a maximum of 5 cubic metres per day under rule TANK 8, while the remaining provisions do not provide for new groundwater takes exceeding that volume.

Given the above, the subject site cannot be considered typical Plains Production Zone versatile land and is realistically only suitable for activities that are not dependent on the soil resource or a water supply exceeding 5m<sup>3</sup> per day. It is therefore considered that the proposed activity will have no more than a minor effect on the Plains Production Zone versatile soil resource.

#### 4.12 POSITIVE EFFECTS

The proposal will provide for a drainage contracting business providing economic well-being for to up to 60 staff.

The proposed infrastructure practical training and education activities are not currently provided for in Hawke's Bay and is supported by the EIT School of Trades as per the letter of support in Appendix 8. As set out in that letter, the proposed training facility will provide

the opportunity to deliver New Zealand Qualifications and industry based courses for the benefit of the Hawke's Bay community.

The proposed activity will also provide for an efficient use of a site which is currently vacant and overgrown in appearance. The proposed new building and site frontage landscaping will also enhance the visual amenity of the site as viewed from Omaha Road and neighbouring properties.

#### **4.13     EFFECTS ASSESSMENT CONCLUSION**

Given the above assessment, any adverse effects of the proposed activities will be able to be appropriately avoided, remedied or mitigated so that such effects will be no more than minor. This means that the 'gateway' under section 104D(1)(a) of the RMA is met and the application is able to be assessed on its merits under section 104 of the RMA.

**5. ASSESSMENT AGAINST DOCUMENTS REFERRED TO IN SECTION 104(1)(b)**

As required by Schedule 4, Clause 2(1)(g) of the Act, the following is an assessment against any relevant provisions of a document referred to in section 104(1)(b). Section 104 (1)(b) is set out under section 2.5 above.

**5.1 REGIONAL POLICY STATEMENT (SECTION 104(1)(b)(v))**

The Hawke's Bay Regional Resource Management Plan 2006 ("RRMP") includes the regional policy statement ("RPS") for the Hawke's Bay Region, which contains the following relevant objectives set out in italic font with the assessment of the proposed activity against it in plain font below.

**OBJ UD1** – *Establish compact, and strongly connected urban form throughout the Region, that:*

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

The above objective is the overarching objective for the 'Managing the Built Environment' section of the RRMP. Although this objective is more relevant to development within the zoned urban area, which the subject site is not, aspects of the objective are relevant to consider. Further to that the definition of 'urban activity' in the RRMP includes "...b) commercial and industrial business, retailing and other commercial activities;...".

Clause a) appears focused on residential development, however the proposed industrial and educational activities are consistent with the industrial built form character of the area (in terms of (ii)), as illustrated by the above photographs of the adjoining and opposite sites. Further to this the proposed activity would be functionally efficient on the subject site in terms of (iv) as the activity requires a substantial land area and suitable road access for heavy vehicles.

The application will be consistent with clause b) requiring activities to avoid reverse sensitivity effects as it will not result in the creation of any additional residential buildings or sensitive activities to those which currently exist around the site, which are also industrial in nature. The only land based primary production activities are the vineyards to

the rear of the site and on the rear portion of the south-eastern boundary. The proposed activity will not however be sensitive to noise or spraying activities on the vineyard and therefore will not give rise to reverse sensitivity effects.

The proposal will avoid reverse sensitivity effects on strategic infrastructure (clause c) as it will not be sensitive to the effects of the nearby substation or transmission lines crossing the site. The proposed use of the site seeks to avoid any effects on the transmission lines by confining all the industrial and training activities to the Omahu Road side of the transmission lines to avoid any risks of machinery moving under and touching the lines.

The proposal will also avoid unnecessary encroachment of the Heretaunga Plains versatile land resource (clause d) insofar as the land to be subdivided is not versatile land as per the agricultural assessment prepared by Ian Milner and attached as **Appendix 3**.

Objective UD4 and policies UD2 and UD4.5 are specifically relevant to business and industrial activities and are set out and assessed below.

*OBJ UD4 PLANNED PROVISION FOR URBAN DEVELOPMENT (HERETAUNGA PLAINS SUB-REGION)*

*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*

It is noted that Objective UD4 refers to the need to avoid inappropriate urban activities in rural areas. The subject site is beyond the zoned urban limits of Hastings and the Plains Production Zone is a rural zoning. As demonstrated throughout this application however the proposed activities are not considered inappropriate on this particular site which is adjoining and opposite a cluster of industrial activities on Plains Production Zone land. Further to this the site is considered unsuitable for horticultural or viticultural activities.

*POL UD2 PROVISION FOR BUSINESS ACTIVITIES (HERETAUNGA PLAINS SUB-REGION)*

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

- a) Reinforces the role of Napier and Hastings cities as the commercial and business core of the Heretaunga Plains, whilst supporting adequate capacity in defined rural towns and settlements for a range of day-to-day services and activities;*
- b) Promotes the utilisation, redevelopment and intensification of existing commercial land;*
- c) Promotes the utilisation, redevelopment and intensification of existing industrial land, and provides sufficient additional greenfields industrial land to ensure demand for new land can be met by supply;*
- d) Promotes the utilisation of existing infrastructure availability, capacity and quality as far as reasonably practicable;*
- e) Avoids unnecessary encroachment onto the versatile land of the Heretaunga Plains;*
- f) Avoids, remedies or mitigates reverse sensitivity effects in accordance with Objectives and Policies in Chapters 3.5 and 3.13 of the plan;*

*g) Ensures close proximity to, major transport hubs and multi-modal transport networks.*

*h) promotes close proximity to labour supply.*

*i) Avoids or mitigates the following locational constraints: i. projected sea level rise as a result of climatic changes ii. active coastal erosion and inundation iii. stormwater infrastructure that is unable to mitigate identified flooding risk iv. flood control and drainage schemes that are at or over capacity v. active earthquake faults vi. high liquefaction potential vii. nearby sensitive waterbodies that are susceptible to potential contamination from runoff, stormwater discharges, or wastewater treatment and disposal. viii. no current wastewater reticulation and the land is poor draining ix. water short areas affecting the provision of adequate water supply*

It is acknowledged that this policy is more relevant to guiding district plan changes for rezoning appropriate land for industrial activities rather than for the assessment of resource consent applications. Nevertheless, it is noted that the subject site is not inconsistent with clause a) in locating in proximity to the Hastings urban area amongst a cluster of existing industrial activities on Plains Production Zone land.

Clause b) is only relevant to commercial activities.

The proposed activity is not consistent with clause c) or d) as it does not utilise existing industrial zoned land or reticulated utility infrastructure. Although in regard to transportation infrastructure Omaha Road is designed to accommodate significant volumes of traffic, including heavy traffic.

As discussed above the proposed activity will avoid encroachment onto versatile land (clause e) and reverse sensitivity effects (clause f).

The proposed activity is served by an arterial road connecting SH2 and SH50 and is therefore in close proximity to the major road transport hubs (clause g) and is in reasonable proximity to the Hastings labour supply (clause h).

In regard to the matters listed under i) it is only subclause vii in being over the Heretaunga Plains Unconfined Aquifer; and viii with no wastewater connection that are relevant to the site. As discussed above any use of fuel and oils is proposed to be in sealed and bunded areas to protect the aquifer. The soil comprises of gravels and is free draining accordingly, an onsite wastewater discharge from the staff amenities will be practicable. In this regard it is significant that the proposed activities do not have any water and wastewater requirements additional to that required for staff amenity purposes.

**POL UD4.5 APPROPRIATE INDUSTRIAL GREENFIELD GROWTH AREAS (HERETAUNGA PLAINS SUB-REGION)**

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

*a) Irongate industrial area*

*b) Omaha industrial area*

*c) Whakatu industrial area*

*d) Tomoana industrial area*

*e) Awatoto industrial area*

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

Although located on Omaha Road, the subject site is beyond the north western extent of the area identified in Schedule XIVb, and cannot therefore be considered consistent with this policy.

*POL UD5 CONTAINING URBAN ACTIVITIES WITHIN URBAN LIMITS (HERETAUNGA PLAINS SUB-REGION)*

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

This policy is directive to district plan preparation rather than resource consent. The proposed industrial and educational activities are located beyond the Hastings urban zones but is not considered to be inappropriate for the site.

Given the above, the proposed application can be considered generally consistent with those objectives and policies of the RPS seeking to avoid urban activities: locating on versatile land, creating reverse sensitivity issues, and site servicing issues. It is acknowledged that there is inconsistency with those objectives and policies seeking the location of urban activities on land zoned for such activities, however given the nature of the site and surrounding land uses, the proposed activities are not considered inappropriate.

Section 3.5 of the RPS contains provisions relating to the effects of conflicting land use activities.

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

The proposal is not such that it would create offsite or nuisance impacts in the existing environment. This is due to the relevant effects of the activity being limited to the site, and the compatible nature of the adjacent land uses. The proposal also includes a generous buffer zone at the rear so that viticulture activities remain physically separated from the training/education activities, and any potential reverse sensitivity issues or direct effects created by the proposal are avoided. There will however be a portion of the south-eastern boundary where the EIT practical training activities will be occurring adjacent the vineyard behind the Tasman Harvesters buildings. As set out later in this application mitigation measures such as a 15m boundary setback for training activities and dust suppression are offered to avoid any potential adverse effects on that adjoining vineyard.

Consistency with OBJ 16 will therefore be achieved by the proposed activity.

Section 3.14 is 'Recognition of Matters of Significance to Iwi / Hapu' with the most relevant objective and policy to this application being:

*OBJ 34 To recognise tikanga Maori values and the contribution they make to sustainable development and the fulfilment of HBRC's role as guardians, as*



*established under the RMA, and tangata whenua roles as kaitiaki, in keeping with Maori culture and traditions.*

This application acknowledges the importance of whenua to Māori. The site is not however adjacent to or traversed by any surface water bodies but is located over the Heretaunga Plains Unconfined Aquifer. The location of the proposal within a Statutory Acknowledgement area of interest is discussed below.

Accordingly, the proposal will be generally consistent with the relevant objectives and policies of the RPS section of the RRMP.

## **5.2    NATIONAL ENVIRONMENTAL STANDARD FOR ASSESSING AND MANAGING CONTAMINANTS IN SOIL AND PROTECT HUMAN HEALTH (NESCS)**

Regarding the NESCS the proposed activity will involve soil disturbance and a change in land use. As outlined in section 2.1 of this application, the Detailed Site Investigation report attached at **Appendix 9**, demonstrates that the activity requires Discretionary Activity resource consent under the NESCS.

The PSI concludes that the site is suitable for the proposed Drainways Depot as the contaminants in the soil sampled do not exceed the Commercial / Industrial SCS thresholds. It however recommends further sampling and a site management plan be prepared prior to the practical training facility establishing. These recommendations are requested to be set as conditions on this consent to ensure that the potential for contaminated soil to adversely effect human health is mitigated.

## **5.3    OTHER DOCUMENTS REFERENCED IN SECTION 104(1)(b)**

The various other National Policy Statements and National Environmental Standards are not considered relevant to this application. Regarding the New Zealand Coastal Policy Statement, the subject site is not within the area identified as 'coastal environment' by the Regional Coastal Environment Plan, or the Hastings District Plan.

The following assessment is therefore focused on the relevant provisions of the Hastings District Plan.

## **5.4    HASTINGS DISTRICT PLAN**

It is considered the following sections of the District Plan are relevant to the assessment of this application:

- Section 2.8 Rural Resource Strategy;
- Section 2.9 Industrial Strategy
- Section 6.1 Plains Strategic Management Area;
- Section 6.2 Plains Production Zone;
- Section 15.1 Natural Hazards;

- Section 26.1 Transport and Parking; and
- Section 27.1 Earthworks, Mineral, Aggregate and Hydrocarbon Extraction

Accordingly, the provisions in these sections are assessed below.

As required by Schedule 4, Clause 2(2) the following assessment is against the objectives and policies of the District Plan and the relevant rules. The relevant objectives and policies and where appropriate, rules, are assessed in the numerical order of plan section as follows, with the provisions listed in italic font and the assessment of them in plain font.

#### 5.4.1 Rural Resource Strategy (Section 2.8)

It is considered that the following objectives and policies of the Rural Resource Strategy are most relevant to the activity for which resource consent is sought.

##### *OBJECTIVE RRSO1*

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

##### *POLICY RRSP2*

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

*Explanation: The District Plan will enable a wide range of activities both within and beyond the traditional agricultural field to be established throughout the rural areas. However, their establishment and the scale of them, will not be allowed to occur in a manner that threatens the long term sustainable and economic use or enjoyment of the Hastings District's natural and physical resources, including the versatile land of the Heretaunga Plains. 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.*

As outlined in the Land Production Value report within **Appendix 3**, the proposed activity is on land with existing low levels of life supporting capacity, specifically regarding its potential for land based primary production activities, when compared to the remainder of the generally versatile land in the Plains Production Zone. Mr Milner's assessment is that the presence of modified soil profiles, indicative of fill, and foreign materials on the soil surface significantly reduce the utility of the site for rural production. The proposal will therefore have little adverse effect on the versatile land resource and life-supporting capacity of the Heretaunga Plains.

Further to this, the potential versatility of the land is also constrained by a lack of available water supply for irrigation. Plan Change 9 (TANK) to the RRMP only provides for a maximum ground water take of 5m<sup>3</sup> per day from the Heretaunga Plains aquifer, which would be sufficient to provide for domestic needs but not for crop irrigation.





The proposal will not adversely affect the life-supporting capacity of rural water resources as the site is approximately 1km from the nearest water channel of the Ngaruroro River, and the proposal does not include discharges of contaminants to land (aside from an onsite wastewater field to service staff amenities)..

The proposed drainage contractor's depot and education training facility is considered to be generally consistent with Policy RRSP2. The activity will safeguard the relevant land and water resources. The activity will complement the resources of the rural land resource in that drainage contractors are required in the rural context, although it is acknowledged that Drainways also provide services for the urban environment. The proposed activity is considered to be consistent with safeguarding the natural and physical resources of the area as it avoids locating on productive land and will avoid or mitigate effects on natural and physical resources. The proposal will not have an adverse effect on the sustainability of the Commercial or Industrial Zones in the district as the land area required for this proposal, including the practical training facility yard, makes it uneconomic to establish in more expensive industrial or commercially zoned land and sites of the size required are not readily available in those zones. As is discussed further below, the proposed site and activity are sufficiently unique to ensure that there will be no adverse precedent created affecting the sustainability of the industrial zones by other industrial activities locating in the Plains Production Zone.

**OBJECTIVE 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.*

**POLICY 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.*

*Explanation: 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.*

The proposal will avoid adverse effects, while enabling the efficient and innovative use of otherwise unutilised rural land. The proposal will be efficient as it avoids location on versatile land for primary production and is an appropriate use of the modified soil resources and land area available at the site.

As will be covered below, the activity is proposed in a manner that seeks to avoid and mitigate any reverse sensitivity and direct effects on existing rural land uses in the vicinity. The proposed drainage contracting depot and infrastructure training facility are in themselves noise producing activities and so will not be sensitive to noise produced by nearby viticultural activities. Other potential effects on the adjacent viticultural activities will be mitigated by incorporating a buffer zone at the rear of the property and including boundary setbacks for the infrastructure training facility practical works in association with dust suppression of exposed areas of earth.

*POLICY RRSP4*

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

*Explanation: There is significant pressure from urban activities to expand onto rural land close to the present urban areas because of marketing or other financial advantages. The District Plan does not provide for the uncontrolled conversion of rural land to a range of residential, commercial or industrial activities. Such activities can adversely affect the sustainable use of rural resources by: amenity conflict, where new activities (particularly residential) anticipate and desire a higher level of amenity than neighbouring rural productive activities can provide; reducing the life supporting capacity of the soil resource and its availability to future generations through impervious ground coverage; and reducing the safety and efficiency of national, arterial or primary collector traffic routes through an increased number and use of road accessways. They can also negatively affect the viability of the existing Commercial and Industrial Zones. The District Plan will encourage the development of these activities in urban areas, to ensure the controlled development of urban activities at the interface with the rural area (see Section 2.4 Urban Strategy).*

The subject site is rural land that is close to urban areas and located on an arterial traffic route in terms of Omahu Road, however as discussed above the proposed activity will not adversely affect the sustainability of the rural resource base given the compromised nature of the site. Further to this the WSP Traffic Impact Assessment attached as **Appendix 7** concludes that the Drainways facility can be accommodated on the site with no more than minor effects on the transportation network. As is discussed further below this conclusion is enabled by the Applicant adopting the recommended 0.5m wide 50m long seal widening as a mitigation measure.

It is not considered that the proposed activity individually or via cumulative effects resulting from an adverse precedent, will affect the viability of existing Industrial Zones due to the uniqueness of the proposal as expanded on under the 'Other Matters' heading below.

Given the above, the proposal is generally consistent with the relevant objective and policy of the Rural Resource Strategy which have a theme of protecting the life supporting capacity and sustainability of the rural land resource and of protecting rural activities from reverse sensitivity.



#### 5.4.2 Industrial Strategy (Section 2.9)

The focus of the Industrial Strategy is more relevant to guiding district plan changes for the rezoning of industrial land than for the assessment of resource consent applications. For completeness however, those objectives and policies that have some relevance to resource consent applications are assessed below.

*POLICY 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.*

*Explanation: Providing sufficient land for industrial activities within the nominated Industrial Zones will reduce the likelihood of ad hoc development on the precious Plains Production Zone soil resource. Containing the majority of industrial development to the specific Industrial Zones will also ensure the efficient use of the physical infrastructure that has been constructed and will justify this investment. Opportunities will be provided to establish industrial activities within the Deferred Industrial Zone via the Resource Consent process provided that adequate infrastructure services are available (or can be constructed) and adverse environmental effects on any adjacent sensitive land uses can be avoided, remedied or mitigated.*

The proposed activity is not within a nominated industrial area of deferred industrial area and to that extent could be considered ad hoc. As established above however, this application will not adversely affect the Plains Production Zone soil resource.

*OBJECTIVE ISO2 To protect the finite soil resource of the Heretaunga Plains from ad hoc development through the strategic location of future industrial areas.*

*POLICY ISP6 Restrict the scale of industrial activity within the Plains Production Zone to limit the effect on the versatile land resource.*

*Explanation: Industrial activities are permitted within the Plains Production Zone with strict controls on the floor area of the buildings and hard stand areas associated with such activities. The provisions are designed to allow for small home occupation type industries and once the business grows beyond this scale the expectation would be that the business would re-locate to a property with an appropriate industrial zoning.*

The proposed activity does not comply with the District Plan standards relating to industrial activities in the Plains Production Zone, significantly exceeding the floor area threshold for 'other industrial' activities. Given the nature of the site however this will not adversely affect the finite and versatile land resource of the Heretaunga Plains.

*OBJECTIVE ISO3 To ensure the efficient use of existing and planned infrastructure in nominated industrial areas.*

*POLICY ISP8 New industrial development and uses will be encouraged to locate in the nominated industrial areas which are most appropriate to their specific infrastructural and profile requirements.*

*Explanation: As detailed in Section 2.9.2, the HPUDS strategy has detailed nominated industrial land throughout the District which provides for different forms of Industrial Activity. Industrial development will be encouraged to locate in the industrial area which most suits their needs, so as to ensure the efficient uptake of future industrial land.*

The proposed development will not be located within a nominated industrial area. It will however be appropriate for the site given the 'dry industrial' nature of the activities proposed with their large land area requirements and access to an arterial road designed for industrial traffic.

As the Industrial Strategy section of the District Plan directs industrial development to 'nominated industrial area' the proposed activity is generally inconsistent with the above objectives and policies. It is not however considered contrary to those objectives and policies as it will not result in the Plains Production Zone versatile land resource being compromised and it can be appropriately serviced, these being key themes of the Industrial Strategy.

#### 5.4.3 Plains Strategic Management Area (Section 6.1)

It is considered that the following objectives and policies of the Plains SMA are relevant to the activity for which resource consent is sought.

*OVER ARCHING OBJECTIVE PSMO1*

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

The proposed activity will not change the productive potential of land in the area as it does not take place on versatile land, as per the findings of Mr Milner's report (Appendix 3). Further to this, its location between and opposite existing industrially developed sites ensures that the proposed activity is consistent with the character of surrounding activities. As can be seen in the photographs in Figures 8 – 13 above, the opposite and surrounding sites are not typical of the Plains environment. Further to this the proposed site plan (Figure 1) enables a relatively open nature to be retained as viewed from Omahu Road, with the building being approximately 25m wide compared to the 100m width of the site.

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

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

As established above, the proposal is not located over the versatile soil resource. The proposed activities are not however directly linked to land-based production albeit that



Drainways provides services in both urban and rural environments. Further to this the proposed activity is compatible with the surrounding environment which is atypical of the Plains Production Zone in accommodating a cluster of industrial activities.

It is acknowledged that industrial activities located within the Plains Production Zone have the potential to undermine the District's Industrial Zones, however this site is considered unique such that it will not give rise to adverse precedent effects on the industrial land resource.

Given the above, the proposed activity is not consistent with Policy PSMP2 but nor is it considered contrary to this policy due to the location atypical of the character of the Plains Zone on land of compromised versatility.

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

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

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

As set out above the proposed activity will not compromise the open nature of the Plains environment due to the more industrial appearance of the surrounding sites and as the proposed building will only occupy 25% of the sites width therefore maintaining open views through the site as viewed from Omahu Road. Further the this the proposed activity is not sensitive to land based production activities and mitigation measures are proposed to ensure that there will be no conflict with or adverse effects on the vineyards adjoining the rear portion of the south-eastern boundary and the rear of the site. General consistency is therefore achieved with Policy PSM3.

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

*Explanation: The Objectives of the Plains Production Zone are clearly linked to that part of the Council's Vision which is for the Hastings District to be the primary production area for the southern hemisphere. In order to achieve this, the versatile soils of the District must be preserved. Because of the proximity of the versatile soils to the urban centres it is attractive for commercial or industrial activities to establish within the Plains Production Zone. It is therefore intended that the provision for commercial or industrial uses is directly related to the use of the land. The justification for this is two-fold, with the first being that activities that bear no*



*relationship to the primary land based use should not impact on the potential of the land to be used for that purpose, and the second being that such activities have an impact on the existing parts of the District that are specifically zoned for commercial or industrial purposes. The integrity and viability of the commercial and industrial areas of the district can be negatively eroded by activities establishing out of zone.*

As already discussed, the proposed activity will not occupy versatile soil, however the activity does not have a direct relationship to crops grown or livestock farming within the Plains environment. For the reasons set out under the 'Other Matters' heading below it is not considered that granting consent to this application would undermine the integrity and viability of the industrial areas of the District.

Given the above, the proposed activity is generally consistent with those relevant objectives and policies of the Plains Strategic Management Area seeking to protect the versatile land resource, the open nature of the zone, and land based production activities from reverse sensitivity. It is not however consistent with those objectives and policies seeking to limit the establishment of industrial activities not directly related to horticulture and agriculture within the Plains Production Zone.

#### **5.4.4 Plains Production Zone (Section 6.2)**

##### **5.4.4.1 Objectives and Policies**

The following objectives and policies are considered relevant to the activity for which resource consent is sought.

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

In terms of Objective PPO1 the activity proposed does not involve any development of land which has versatile characteristics. The productive potential and versatility of the land at the site is considered to be compromised by soil type with lack of water holding capacity, and past land uses involving filling, soil disturbance and the storage of contaminants (as per Mr Milner's report in Appendix 3). Accordingly, the proposed activity can be considered consistent with this objective.

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

*Explanation: There have been a number of instances where buildings have impacted on the versatile land of the Plains Production Zone as a result of their scale. Some of these buildings are still associated with food production such as those used for intensive rural production activities. These are subject to resource consent with assessment of the effects on the soil resource. While it is beneficial to allow for industrial or commercial activities, 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.*

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



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

The proposed development will involve a building with an approximate floor area of 1,500m<sup>2</sup>. It is however considered that neither that building, nor the associated sealed access and parking areas will impact on the versatile soils of the District, as has been demonstrated above, the site is not comprised of versatile soil.

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

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

The proposed industrial and educational training activities are not located within existing urban zoned land. The proposal however does not involve the 'creep of activities onto the versatile soils' due to the compromised nature of the subject land.

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

*POLICY 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.*

*Explanation: The ability to establish industrial and commercial activities within the Zone as Permitted Activities is for the purpose of allowing primary producers to add value to produce that has been grown on the site. It is not intended that the Plains Production Zone should provide commercial or retail opportunities for owners who may wish to take advantage of a high profile location or area of high amenity. Any commercial or industrial activity should be directly linked to the use that is undertaken on the site.*

*The scale of commercial and industrial development is an important consideration as it should not be such as to adversely impact on the versatile land on which the activity is sited, and to ensure that adverse effects on neighbouring properties, such as noise or traffic generation, are not experienced. Furthermore there are specific Zones within the District that provide for both commercial and industrial activity, and limits on the scale and intensity of these activities within the Plains Production Zone will assist in maintaining the efficiency and effectiveness of the Commercial and Industrial Zones. The limits on scale will also ensure that the character of the Zone is protected. It is also recognised that the use of existing buildings to accommodate industrial or commercial activities may be an efficient use of resources.*

This objective and policy seek to protect versatile land while providing opportunities for alternative and appropriate uses of versatile land. The policy also seeks to protect rural character and sets out what is appropriate to take place in the Plains Production Zone in regard to industrial and commercial activities. The proposed drainage contractor's depot



and training facility will not occupy versatile land, nor will it compromise rural character given the semi-industrial appearance of the surrounding land.

In terms of the explanation to policy PPP8, the proposed activity is not directly linked to use of the land. The Applicant is not however seeking to take advantage of a high-profile location (although this is provided via the Omahu Road frontage to an extent) or area of high amenity. To the contrary, the applicant is seeking to utilise land of negligible land-based production versatility in an area of low amenity with a sufficiently sized land resource for the drainage depot and EIT infrastructure training facility. Neither the Drainways depot nor the training facility is dependent on a high-profile location.

The scale and intensity of the proposal is consistent with existing built development in the receiving environment as the adjoining properties on the side boundaries and opposite road frontage contain buildings and associated yard areas of an industrial character. Therefore, the activity will have little effect on rural character of the surrounding areas. Further to this the assessment of effects on the environment demonstrates that adverse effects on neighbouring properties will be able to be avoided or mitigated.

As is already acknowledged industrial activities located within the Plains Production Zone have the potential to undermine the District's Industrial Zones, however this site is considered unique such that it will not give rise to adverse precedent effects on the industrial land resource.

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

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

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

As explained under PSMO1, PSMP1 and PSMP3 above, the proposed activity will not compromise the open nature of the Plains environment due to the existing industrial character of the surrounding sites and as the proposed building will only occupy 25% of the sites width maintaining open views through the site.

*POLICY PPP14*

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



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

**POLICY 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, 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.*

Policies PPP14 and PPP15 acknowledge that activities in the Plains Production Zone may produce minor adverse effects, including noise, but that adjoining properties, activities, and residents and their health should be protected. This proposal is to locate in between an existing timber processing factory and a harvesting contractors depot. The buffer at the rear of the site, and the proposed boundary setbacks of the practical training area will provide setback from the adjoining grape-growing activities. Accordingly, the operation of the proposed activities will be consistent with Policies PPP14 and PPP15.

Given the above assessment, the proposal can be considered generally consistent with the objectives and policies of the Plains Production Zone.

Given the above, the same summary applies as for the Plains Strategic Management Area. That is, the proposed activity is generally consistent with those objectives and policies seeking to protect the versatile land resource, the open nature of the zone, and land-based production activities from reverse sensitivity. It is not however consistent with those objectives and policies seeking to limit the establishment of industrial activities within the Plains Production Zone.

**5.4.4.2 Stated Outcomes of Performance Standards**

Although the proposed activity is non-complying, it is still useful to consider the District Plan outcomes of those performance standards that will not be complied with. An assessment against these outcomes is provided as follows.

*Outcome (for standard 6.2.5J Total Building Coverage (including hardstand and sealed areas)*  
*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.*

Due to the reasons explained above the life supporting capacity of the soil resource on this site is already compromised, therefore the proposed building and hard stand coverage is not significant. In regard to amenity, the character of the immediate area is dominated by industrial activities, accordingly the proposed building and yard areas will be in keeping with the existing amenity of the Zone in this area.

Due to the large size of the site ample areas of natural ground cover remain available for ground soakage of stormwater. The details of the proposed stormwater discharge will be worked through in association with the building consent process.

*Outcome (for standard 6.2.6F Industrial Activities)*

*Industrial Activities which have a relationship to crops produced in the Zone will have the opportunity to establish. The life-supporting capacity of the plains production soil resource will be safeguarded by limiting the size of Industrial Activities to a size and scale that have a potential for minor adverse Effects and is compatible with the Character of the Plains Production Zone.*

*Industrial Activities which have a relationship to crops produced in the Zone will have the opportunity to establish. The life-supporting capacity of the plains production soil resource will be safeguarded by limiting the size of Industrial Activities to a size and scale that have a potential for minor adverse Effects and is compatible with the Character of the Plains Production Zone.*

As discussed above, the proposed activities do not have a direct relationship to crops produced in the Zone. The subject site however has a compromised life supporting capacity and the proposed industrial activities will be compatible with the character of the Plains Production Zone in this particular area which is dominated by industrial activities.

*Outcome (for standard 6.2.6 Site Area Thresholds)*

*The life supporting capacity of the Plains VERSATILE LAND resource will be safeguarded by limiting the range and size of Commercial and Industrial Activities in the Plains Production Zone. The cumulative Effects of a number of activities can impact on the value of the versatile soils and the sustainable management of the property. The total number of non-soil based activities will be such that they have a potential for only minor adverse Effects on the VERSATILE LAND and are compatible with the Character of the Plains and do not have adverse Effects on the vibrancy of the established Commercial and Industrial Zones.*

As discussed above the subject site is not considered to be versatile land, therefore the versatile land of the Plains Production Zone is not under threat from the proposed activity. As is discussed further below, this application is unique given the nature of the site and combination of activities proposed and is therefore unlikely to give rise to any adverse precedent effects on the District's Industrial Zones.

#### **5.4.5 Transport and Parking (Section 26.1)**

The following provisions are considered relevant:

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



*POLICY TPP1 Ensure that subdivision and land use are integrated with the transport network and that the traffic effects are mitigated, including through the use of sustainable transport modes.*

*POLICY TPP4 Protect the strategic transport networks from inappropriate development.*

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

The WSP Traffic Impact Assessment ('TIA') attached as Appendix 7 concludes that with some minor road widening (0.5m for a length of 50m) that the proposed development will appropriately integrate with the transportation network with less than minor adverse effects. Accordingly, the proposal will be consistent with, and not contrary to the above provisions.

*POLICY TPP8*

*Require land owners and occupiers to provide off-street parking, access and loading facilities which are appropriate to the demands of the activities carried out on their sites and which do not negatively impact on the amenity of the streetscape.*

*Explanation: Almost all activities generate vehicle trips and, therefore, parking in close proximity to their sites is required to provide accessibility for people and goods. Generally, different activities generate different parking and loading demands. If provision is not made by the developer or owner for off-street parking and loading, then the only alternative available is to carry out these manoeuvres on the street. On-street parking and loading can adversely affect the efficiency and safety of roads, particularly on Arterial or Collector Roads where vehicle speeds and volumes are typically higher than for other roads in the Roading Hierarchy. Extensive parking of vehicles on residential streets can also detract from the amenity of those streets and adjoining residential areas*

The proposal includes ample and compliant vehicle parking, access and loading space and will have provide appropriate sight distances as is acknowledged in the WSP TIA.

Accordingly, the proposal will be consistent with, and not contrary to the relevant objectives and policies of the Transport and Parking section.

#### **5.4.6 Earthworks, Minerals, Aggregate and Mining (Section 27.1)**

The following objective and policies are considered relevant:

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

*POLICY EMP3 Protection of productive soils within the District from large-scale stripping, stockpiling, alteration and removal to ensure the land can still support a range of productive land uses.*

*Explanation: Areas in Hastings District are widely regarded for having highly productive soils. Where possible such soils, particularly topsoils, should be protected from stripping, stockpile and removal off-site. Any alteration to such soils will generally decrease the productivity of fertile soils. Where alterations to productive soils occur, all efforts should be undertaken to rehabilitate the land to a productive state.*

*POLICY EMP4 Allow earthworks and the prospecting of minerals where the adverse effects on the environment will be minor.*

*Explanation: District Plan Rules and Standards are incorporated to control the scale, operation and location of earthworks and prospecting activities to ensure that any potential adverse effects are avoided, remedied or mitigated.*

*POLICY EMP5 Control earthworks, exploration and mining activities to ensure that any adverse effects on the natural and physical environment, and the amenity of the community, adjoining land uses and culturally sensitive sites are avoided, remedied and mitigated.*

*Explanation: Large scale earthworks, exploration and mining activities are recognised as having the potential to cause significant adverse effects on the environment, including the safety of people and property, and on the visual amenity and character of the area where it occurs.*

The above objectives and policies are effectively enabling, in providing for earthworks activities to occur where adverse effects are at an acceptable level. The building construction and ongoing training activities will occur with a need for earthworks, but on a large flat site away from any surface water bodies, where standard earthworks management practices will avoid and mitigate adverse effects.

*OBJECTIVE EMO3 The water quality and life supporting capacity of the Heretaunga Plains Unconfined Aquifer Water Resource is not compromised by the effects of land use activities occurring over it, including activities associated with the extraction of oil and gas.*

The proposal will entail the creation of impervious areas for the building, yard, outdoor storage and parking areas and bunded areas for the storage of fuel and oils. The proposal will appropriately manage the activities to ensure site stormwater is of an appropriate quality to discharge to land in this area of unconfined aquifer. Accordingly, the proposal is consistent with the above objective.

The assessment criteria of the section 27.1 are referred to for a specific assessment of the potential effects of the earthworks components of the proposed activity. These assessment criteria are set out and assessed as follows:

#### **21.1.7A LAND DISTURBANCE AND VEGETATION CLEARANCE**

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



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

Although there will be a reasonably significant volume of earthworks in the site preparation for the building, accessway, parking, loading and yard areas, the earth to be disturbed is of low life supporting capacity as established above (criteria (a)(i)).

The flat site and stony nature of the soil will reduce the potential for soil erosion, runoff and sedimentation (criteria (a)(ii)-(iii)).

Regarding the matters in criteria (a)(iv)-(vi), the natural landform of the site has already been compromised by previous excavation and filling activities, which also mean there is no significant flora and fauna on the site. Further to this the site is not identified in the District Plan as containing any significant cultural, ecological or archaeological features.

Aside from aggregate for building foundations no additional fill will need to be imported to the site, however the composition of previous fill has been assessed in the PSI report

attached as Appendix 9 as including contaminants. It is therefore recommended that additional sampling and a site management plan (or remediation action plan if required) be required as conditions of consent to mitigate any potential adverse effects from works or activities involving contaminated soil.

#### 27.1.7B VISUAL IMPACT

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

The purpose of the proposed earthworks activity is for site development and construction will be relatively shallow and on flat or lightly undulating ground. The visual effects of such earthworks will be temporary in nature and will generally result in a 'tidying up' of the existing site overgrown with weeds and rank grass.

In terms of ongoing earthworks however, there will be intermittent disturbance of the site within the EIT practical infrastructure training area. Such earthworks will be associated with the use of machinery and equipment for the laying of underground pipes. This will be of a relatively small scale and managed so that visual effects in this training area are not visible from the road or any residential dwellings. Further to this a minimum setback for such earthworks of 15 from the side boundaries of the site is proposed.

Given the semi-industrial nature of the locality the proposed level of earthworks will not result in any adverse visual effects. Further to this, the site is not within or near to any outstanding or significant landscape area.

#### 27.1.7C EFFECTS ON OTHER LAND USES AND ADJOINING PROPERTIES

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

The site and building development earthworks will not adversely affect other land uses or adjoining properties, given their temporary nature and the site characteristics. There is potential that earthworks involved in the ongoing training activities could affect the adjoining land uses from dust if not managed correctly. It is therefore proposed that any earthworks involved with the training activities will be setback a minimum of 15m from the site boundaries and that best practice dust suppression techniques will be used, including watering where necessary and the appropriate placement and management of any stockpiles.

#### 27.1.7D NOISE

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

The activity will be undertaken in accordance with the relevant noise performance standards of the district plan when measured at the notional boundaries of relevant receptor sites. There are few if any relevant sensitive receptors in the area and but there are other noise producers amongst the cluster of existing industrial activities. Also, the principal source of noise is likely to be the road traffic from Omahu Road. Accordingly, there is unlikely to be any issue with the proposed activities complying with the District Plan noise limits.

#### 27.1.7E EFFECTS ON SPECIFIC DISTRICT WIDE ACTIVITIES AND LOCATIONS

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

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

There are no waterbodies within the site so the earthworks development will not impede access to and along watercourses and waterbodies.

There are no conservation or significant natural areas adjoining the site.



Given the above assessment, the proposed earthworks will be able to be undertaken in a manner that appropriately avoids, remedies, and mitigates potential adverse effects on the environment.

#### **5.4.7 Conclusion of District Plan Assessment**

As demonstrated in the above assessment the focus of the relevant objectives and policies (aside from those relating specifically to Transportation (section 26.1) and Earthworks (section 27.1) can be summarised into five general themes, these being:

- Protecting the Plains Production Zone finite and versatile land resource from being compromised by buildings and non-land-based production activities.
- Avoiding, remedying, and mitigating adverse effects.
- Avoiding reverse sensitivity effects on land based primary production activities.
- Protecting the open and low scale nature character and amenity of the Plains Production Zone.
- Limiting Commercial and Industrial development in the Plains Production Zone to activities related to land-based production activities and the protection of the sustainability of the District's industrial and commercial zones.

Given the above assessment, the proposed activity can be considered to be generally consistent with four of those general themes due to the site not comprising versatile land and the cluster of industrial activities surrounding the site. As the proposed activities are not directly related to land based primary production, consistency with the fifth of the above themes cannot be achieved.

While inconsistency with those objectives and policies seeking to protect the sustainability of the District's industrial zones by not providing for general industrial development in the Plains Production Zone is acknowledged, the proposal generally achieves consistency achieved in regard to the other relevant District Plan objectives and policies however, the application is not considered to be contrary to the District Plan objectives and policies in an overall sense.

If the Council assessment of this application concludes that the application is contrary to the objectives and policies of the District Plan, the application will still be able to be considered on its merits under section 104D of the RMA as the effects gateway is able to be met (see section 4.12 above).

## **6. REMAINING ASSESSMENT OF EFFECTS ON THE ENVIRONMENT**

As required by Schedule 4, Clause 2(3) the following is an assessment of the effects on the environment of the proposed activity. Firstly Clause 2(3)(a) requires that this assessment



includes the information required by Clause 6, which is responded to under the following subheadings.

**6.1 INFORMATION REQUIRED IN ASSESSMENT OF ENVIRONMENTAL EFFECTS (CLAUSE 6)**

Clause 6(1)(a) is:

*“if it is likely that the activity will result in any significant adverse effects on the environment, a description of possible alternative locations or methods for undertaking the activity.”*

As this assessment has demonstrated above, the proposed activity will not result in any significant adverse effects on the environment. This is due in summary to the activity proposed:

- Being consistent with the character and nature of adjoining activities surrounding the site,
- Being located on a site with little potential value for land based primary production due to the compromised soils and lack of water availability for irrigation, and
- Being able to operate in a manner such that any adverse effects will be no more than minor.

As there are no significant adverse effects on the environment, it is not necessary to consider alternative locations or methods.

Clause 6(1)(b) is:

*“an assessment of the actual or potential effects on the environment of the activity.”*

Such an assessment is set out in section 4 above.

Clause 6(1)(c) is:

*“if the activity includes the use of hazardous substances and installations, an assessment of any risks to the environment that are likely to arise from such use:”*

The proposed activities do not involve the use of hazardous installations. The proposal is a permitted activity in terms of its use of hazardous substances (fuel for vehicles and oil), and accordingly is assessed to pose little risk to the environment.

Clause 6(1)(d) is:

*“if the activity includes the discharge of any contaminant, a description of—*  
*i. the nature of the discharge and the sensitivity of the receiving environment to adverse effects; and*

- ii. any possible alternative methods of discharge, including discharge into any other receiving environment.’

There will be no discharge of contaminants from the proposed activity except for a wastewater discharge via an onsite treatment system. This is the only practicable wastewater option for this site due to there being no public, reticulated wastewater system on Omahu Road. The onsite system will be designed and assessed at the time of seeking building consent and is likely to require resource consent from the Hawke’s Bay Regional Council.

Clause 6(1)(e) requires:

*“a description of the mitigation measures (including safeguards and contingency plans where relevant) to be undertaken to help prevent or reduce the actual or potential effect.”*

A summary of these measures is provided in Table 1 below.

Table 1: Proposed Mitigation Measures

Effect	Mitigation Measure	Comment
Noise	None required as the activity will meet the permitted activity standards of the District Plan and the requirement under the RMA to avoid unreasonable noise. Compliance will be required on an ongoing basis.	Compliance with the District Plan noise standards ensures that any noise is of an appropriate level for the Plains Production Zone.
Visual effects of the activity	The proposed landscaping at the front of the site will appropriately soften the front parking area from the road and will comprise of areas of lawn and specimen amenity trees.	The site is surrounded by industrial activities and associated buildings and yards. The proposed activities are consistent with that character but will result in the subject site having a more positive visual amenity value than currently exists.
Transport	The WSP Traffic effects report recommends an accessway layout designed to safely accommodate an 11.5m long truck and a gate position setback 20m from the road centreline. Additional recommendations include that a tree on the road frontage is removed, and that a road sign is relocated (both actions to	WSP has reviewed the details of the proposed activity and are comfortable that the effects on the safe and effective operation of Omahu Road will be no more than minor with the recommended mitigation carried out



Effect	Mitigation Measure	Comment
	improve visibility from the site access) as well as widening the Omahu Road seal width by 0.5m for a length of 50m. The applicant offers to undertake these works subject to the approval of the Council as roading authority.	
Dust	Standard earthworks management conditions are anticipated for the construction phase of the proposed activity. In regard to the ongoing minor earthworks associated with the training facility, a minimum setback of 15m from the site boundaries is proposed along with dust management and suppression measures such as watering. The training students will be taught Health and Safety and environmental management requirements, including dust suppression, as part of the training.	With the mitigation measures proposed there are not anticipated to be any discharges of dust beyond the site boundaries.
Site soil contaminants	Conditions are offered on this consent (based on the recommendations of the Lattey Group Report) for further sampling and assessment to be completed to establish the extent and contents of the fill pits; and that a site management plan (or remediation action plan if deemed necessary from the assessment of the further sampling) be provided and certified by Council prior to the proposed activities commencing on the site.	The PSI Report completed by Lattey Group provides certainty that development of the site can occur in compliance with the SCS thresholds for Commercial / Industrial use. In adopting a precautionary approach however further sampling and evaluation is recommended to ensure the ongoing earthworks for the practical infrastructure training course can be undertaken safely and avoid any areas of contaminated fill.

Clause 6(1)(f) requires: *Identification of the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted.*



The applicant has consulted with the relevant adjoining and opposite neighbours in preparing this application. As a result of this application the following written approval have been provided to the proposal (attached in **Appendix 6**):

- Napier Pine Ltd, 2670 Omahu Road, (Adjoining land to the northwest);
- Gary Cutts for Tasman Harvester Contractors, 2464 Omahu Road (Adjoining land to the southeast)
- White Trucks, 1561 Omahu Road, 1559 Omahu Road, and 1557 Omahu Road, (Opposite side of road, directly opposite and to the north-west);
- Wayne Harvey for Roofing Trust, 1553 Omahu Road (directly opposite the site towards the south-eastern end of the frontage), and
- Bryce Osborne for Crab Ventures Limited, 1549 Omahu Road (Opposite proposed site entrance at south-eastern end of frontage).

The location of the land owned by these parties is illustrated in Figure 16 below by the blue outlines. The references relate to Table 2 below.

It is considered that any effects on any remaining neighbouring landowners and occupiers will be less than minor in the context of section 95E of the RMA. This conclusion is based on the assessment of effects on neighbours who have not provided written approval in Table 2 below, and the following **Figure 16** depicting the locations of these parties.



Figure 16 – Map of Potentially Affected Parties to the Proposed Activity

Figure 16 identifies the subject site in red outline and those properties whose owners have provided written approvals in blue outline. The map references correspond to Table 2 below.

**Table 2: Assessment of Potential Effects on Neighbours**

Map reference and Property Address	Comment
'A', 2464 Omahu Road	Tasman Harvester Contractors – Affected Persons Consent provided in Appendix 6.
'B', 2670 Omahu Road	Napier Pine Limited – Affected Persons Consent provided in Appendix 6.
'C', 1561 Omahu Road	William White (White Trucks) – Affected Persons Consent provided in Appendix 6. Also the owner of the dwelling at 1559 Omahu Road, and the land on which JCR Engineering is currently located at 1557 Omahu Road.
'D', 1553 Omahu Road	Wayne Harvey for Roofing Trust – Affected Persons Consent provided in Appendix 6.
'E', 1549 Omahu Road	Bryce Osborne for Crab Ventures Ltd – Affected Persons Consent provided in Appendix 6. There are business tenants occupying shed space on this property near the Omahu Road frontage including SWD Drainage.
'F', 1545 Omahu Road	This 1.75ha site is diagonally opposite the proposal entrance. The potential traffic safety and transport effects of the activity are demonstrated to be less than minor with the adoption of the recommendations in the WSP TIA. Given that the residential building on this site are setback from the Omahu frontage by some 120m and the natural orientation of outdoor living space to the north in the opposite direction to the site, any effects from the proposed activity on the owners and occupiers of this property will be less than that from the existing adjacent industrial activities to the west and the traffic noise from Omahu Road. It is therefore considered that any adverse effects on the owners and occupiers of 1545 Omahu Road from the proposed activity will be less than minor in the context of section 95E of the RMA.
'G', 1740 Omahu Road	This vineyard to the rear of the subject site comprises part of a 69ha property. As set out above, the rear portion of the subject site is proposed to remain unused for the industrial and educational activities to create a buffer separation of approximately 100m. Given this separation, the proposed dust suppression of the ongoing earthworks involved with the practical infrastructure training activities, and the nature of the proposed activities not being sensitive to production activities, and adverse effects on the owners and occupiers of the vineyard at 1740 Omahu Road will be less than minor in the context of section 95E of the RMA.

Given the above assessment, no persons, additional to those who have provided written approval, are adversely affected by the application in any way that is minor or more than minor.

As mentioned above consultation has also occurred with The Save the Plains Group and EIT School of Trades and Technology and their respective letters of support for the proposal are attached in **Appendix 8**.





## 7. OTHER MATTERS

As a non-complying activity, consideration must be given to the issues of precedence and District Plan integrity. Given the inconsistency with those District Plan objectives and policies seeking the location of industrial activities within industrial zones, it is important to establish the unique features of this application which justify the use of a Plains Production Zoned site.



Figure 17 – Map of Wider Surrounds in Consideration of Potential Precedent

As can be seen on the map in Figure 17 above the subject site fronts Omahu Road with the industrial activities Napier Pine and Tasman Harvester Contractors located either side, and Apatu Farms further to the southeast. The remainder of the south-western side of Omahu Road is fronted by vineyards through to Kirkwood Road which forms the boundary of the General Industrial Zone. On the opposite side of the road there is a cluster of industrial activities from the White Trucks site on the corner of SH 50 to the other smaller businesses opposite the subject site, there is then a gap in industrial activity (occupied by 1545 Omahu Road) to Hill Road Coolstores and then another gap occupied by vineyards and a lifestyle site through to the north-western extent of the General Industrial Zone.

There are no other properties between the subject site and the General Industrial Zone that share the same characteristics. The property at 1545 Omahu Road is similarly flanked and opposite industrial activities, however that property has not had its soil compromised by previous use as part of a timber treatment facility. It is currently utilised as a lifestyle site with a dwelling and shed towards its rear and the balance of the site being in grazing pasture divided into paddocks.



The remaining land area between the cluster of industrial activities adjacent the subject site and the Omahu Road General Industrial Zone is currently being used for productive purposes in the form of vineyards.

On that basis it is considered that the subject site has unique characteristics that are unlikely to be able to be replicated in creating an adverse precedent, particularly those contaminated and compromised soil characteristics resulting from previous use in association with the adjoining timber treatment facility. These characteristics are summarised as follows:

- *The site is within a cluster of existing industrial activities; such activities adjoin either side boundary and are located opposite the site frontage.*
- *The report from agricultural scientist Ian Milner demonstrates that the site does not comprise of versatile land and includes modified soil profiles to depth indicative of fill and the soil surface has organic and inorganic foreign material significantly reducing the utility of the site for rural production.*
- *The site does not appear to have been used for agricultural production for 60 years.<sup>4</sup>*
- *The site does not have any sufficient water supply available for horticultural activities requiring irrigation water such as greenhouse production not utilising the soil resource.*
- *The PSI / DSI report from Lattey confirms that the site was previously utilised as part of the adjoining timber processing facility and portions of the site have been contaminated with chromated copper arsenate from the storage of treated timber and from areas of landfilling.*
- *Any potential reverse sensitivity effects or direct effects on adjoining vineyards are mitigated by a 100m buffer to the rear of the site and proposed 15m setbacks and dust suppression of training earthworks mitigating any effects on the Tasman Harvester Vineyard (who have also provided written approval to the proposal).*
- *The proposed activities will be consistent in character and visual amenity with the adjoining and opposite land uses.*
- *The owners of the opposite and adjoining properties have all provided their written approval to the proposal.*
- *The proposed industrial land use involving building over and sealing large areas of the contaminated portions of the site is an appropriate activity according to the Lattey report, and with conditions requiring further testing and a management plan, the training activities will be appropriate for the rear of the site.*

A distinguishing feature of the proposed activity is the proposed establishment of the infrastructure training facility in association with the EIT School of Trades. This component of the activity has a need for vacant land and space which cannot be economically provided in an industrial zone where land prices dictate that land is used as efficiently as

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<sup>4</sup> Ian Milner Report



possible by business activities. The subject site is of sufficient size to enable the training activity in conjunction with the operation of the Drainways business.

Although it may be possible for other businesses to partner with EIT in the provision of Trade Training it is a relatively unique component to this application and would be the first training facility of its kind in Hawke's Bay. Further to this, the practical training requirement is for approximately 1ha of land in which the laying of utility services can be practiced. This application provides the opportunity for such training to be offered on the same site as a utility construction firm.

Accordingly, the proposed land use consent is unlikely to give rise to any adverse precedent effects. Further to this, the application demonstrates that any adverse effects on the environment will be no more than minor, and consistency with most relevant District Plan objectives and policies. There is however inconsistency with those objectives and policies seeking the location of general industrial activities within industrial zones and not on the Plains Production Zone. In this case the compromised nature of the soil resource, the industrial character of the locality and the land requirements of the EIT School of Trades training component of the activity, create unique circumstances, such that granting resource consent will not compromise the integrity of the District Plan.



## 8. ASSESSMENT AGAINST PART 2

It is noted that in the Court of Appeal decision on *RJ Davidson Family Trust v Marlborough District Council CA97/2017 (2018) NZCA 316* the Court determined that:

*"If a plan that has been competently prepared under the Act it may be that in many cases the consent authority will feel assured in taking the view that there is no need to refer to pt 2 because doing so would not add anything to the evaluative exercise. Absent such assurance, or if in doubt, it will be appropriate and necessary to do so. That is the implication of the words "subject to Part 2" in s 104(1), the statement of the Act's purpose in s 5, and the mandatory, albeit general, language of ss 6, 7 and 8."*

This decision confirms that it can be appropriate to consider Part 2 when assessing a resource consent in specific circumstances. In this case, it is relevant that the District Plan is a relatively new plan that has been prepared having regard to Part 2 and has been accepted as a coherent plan by the Environment Court. In this circumstance then, it is considered that an assessment against Part 2 would 'not add anything to the evaluative exercise' and is not therefore necessary.

For completeness however, the conclusion of this assessment will comment on whether the proposed activity will achieve the sustainable management purpose of the RMA.



## **9. CONCLUSION**

The proposed activity is consistent with sustainable management in terms of Part 2 of the RMA in being an efficient use and development of natural and physical resources in an appropriate location on a currently underutilised site. The proposal will provide for the social and economic wellbeing of those who require access to training for infrastructure construction, and for the wider Hastings and Hawke's Bay communities, who will benefit from the provision of Drainways services.

The proposed development is also considered generally consistent with, and not contrary in an overall sense to the objectives and policies of the Hastings District Plan. And is also generally consistent with the Hawke's Bay Regional Resource Management Plan (and the RPS provisions within the RRMP).

The potential adverse effects on the environment are assessed as being no more than minor, therefore meeting that gateway under section 104D, and enabling the application to be processed on a non-notified basis. Further to this the written approval of all potentially affected persons has been provided.

It is considered that the above assessment demonstrates that consent is able to be granted under section 104B of the RMA.



**APPENDIX 1**

Record of Title



**APPENDIX 2**  
Site Plans and Floor Areas



## APPENDIX 3

Land Production Value Report



## APPENDIX 4

Regional Hazard Portal Report



## APPENDIX 5

District Plan Performance Standards Assessments





## APPENDIX 6

Written Approvals



## APPENDIX 7

Traffic Assessment Report

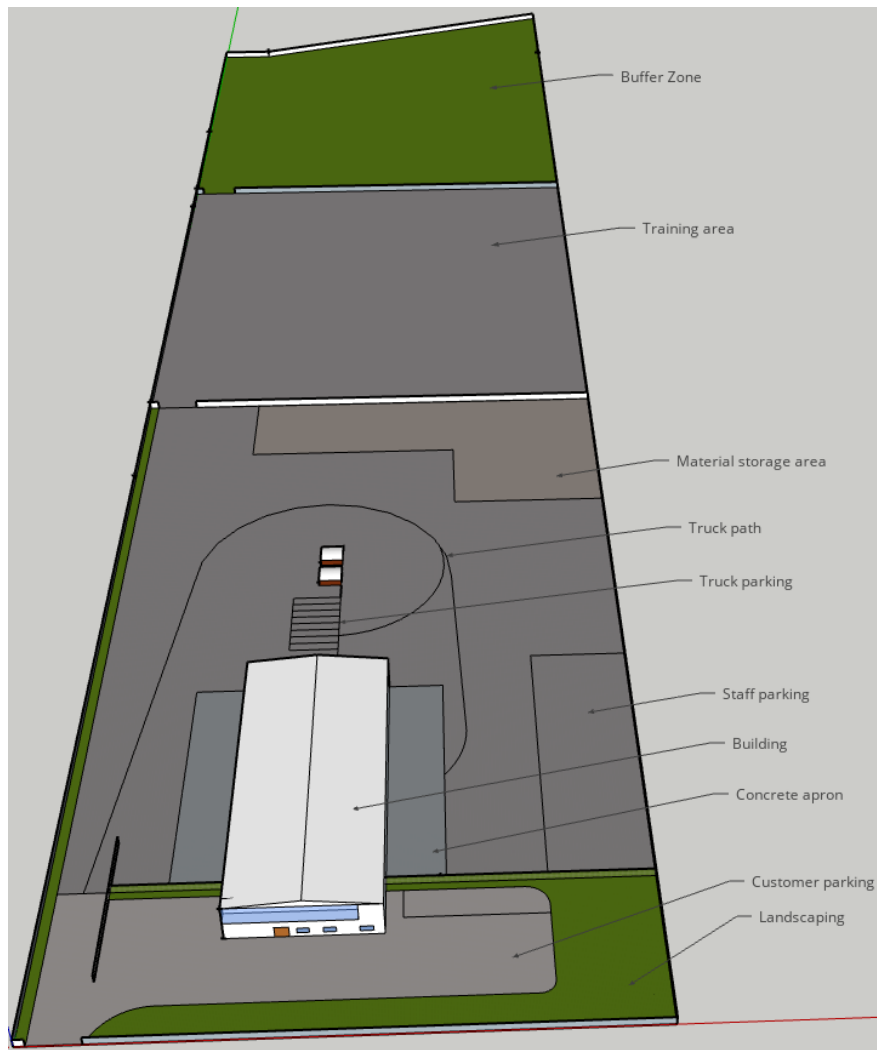


## APPENDIX 8

Correspondence in Support of  
Proposal

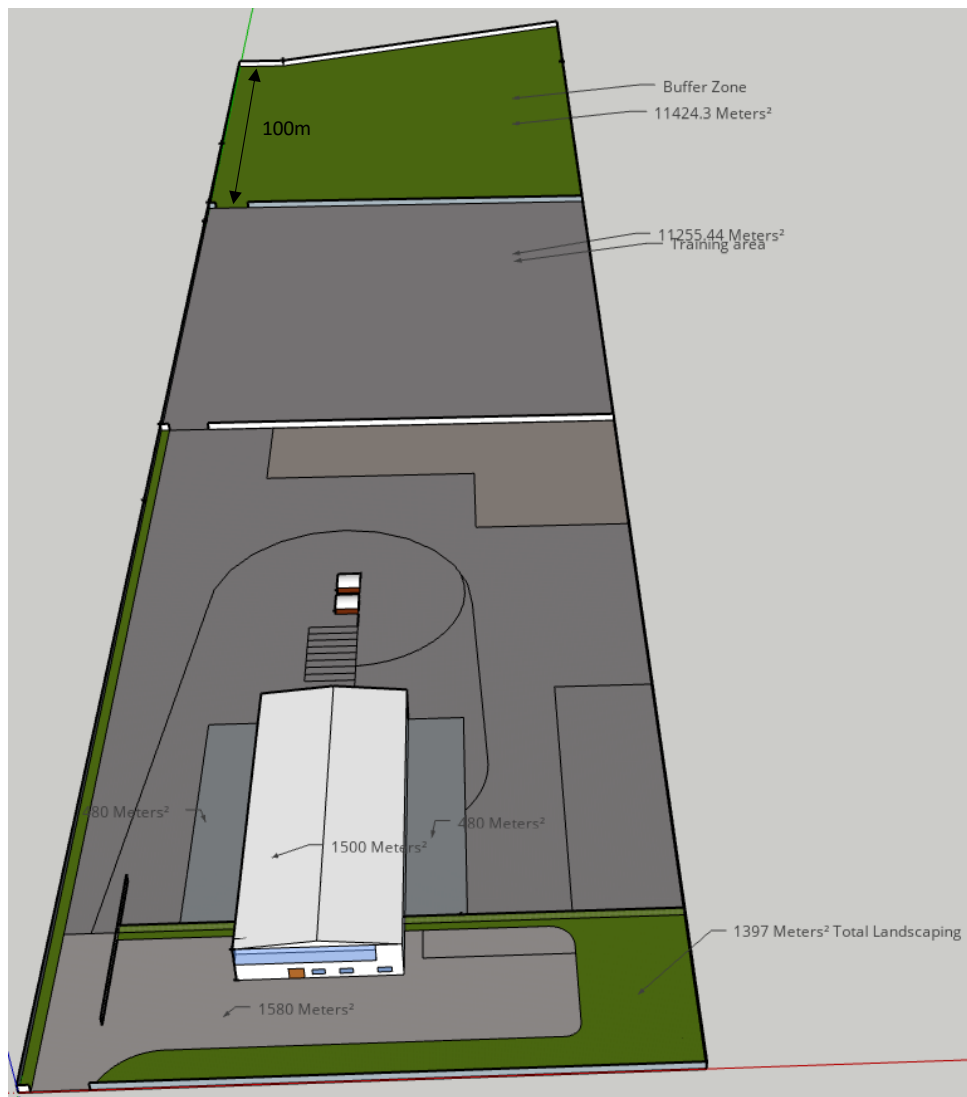
## 2570 Omahu Road Proposed Yard and training facility.

### Overview with labels



## 2570 Omahu Road Proposed Yard and training facility.

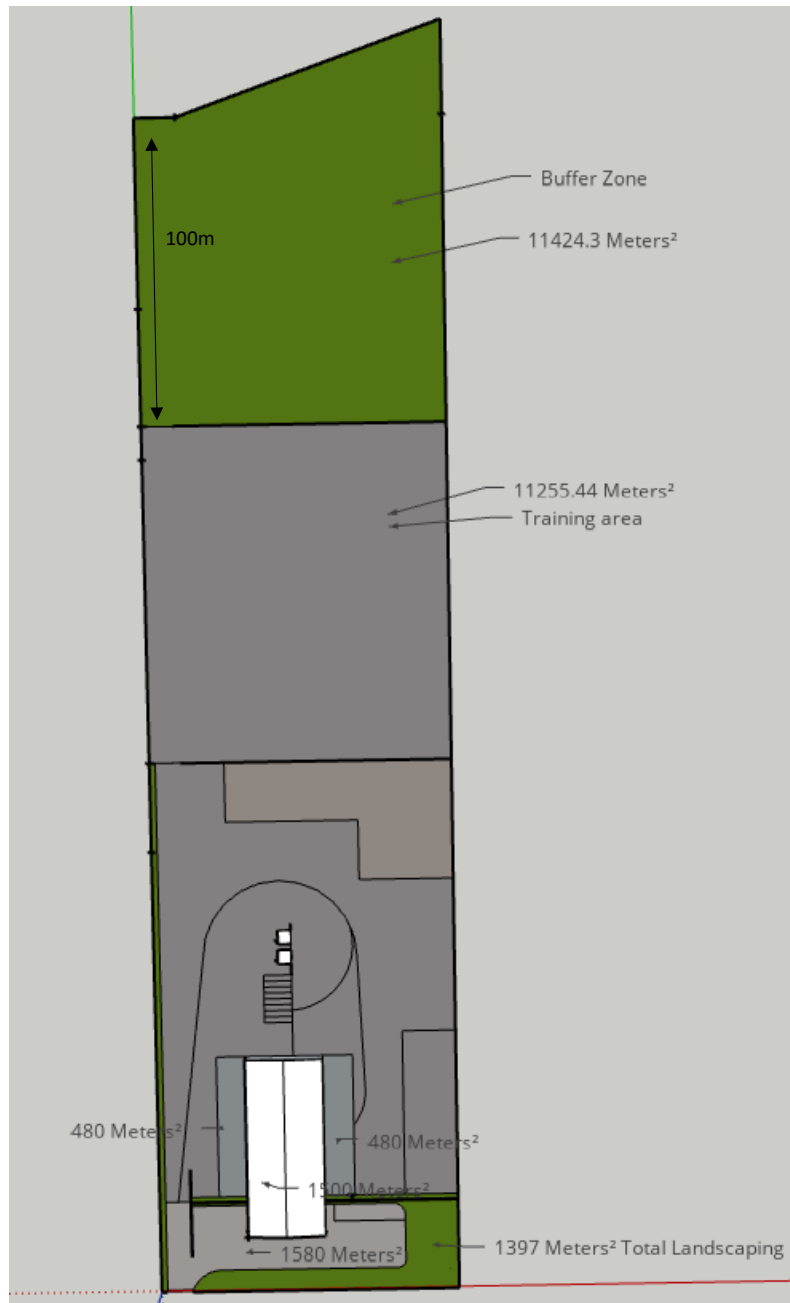
### Overview with square meters



**DRAINWAYS**  
A FUTURE IN THE PIPELINE

**2570 Omaha Road Proposed Yard and training facility.**

**Plan view with square meters**





**DRAINWAYS**  
A FUTURE IN THE PIPELINE

The below table and attached sketches are approximate only and subject to final design.

Proposed area:	Proposed size	Permeable/Impermeable
Building	1500m <sup>2</sup>	Impermeable
Concrete apron	480m <sup>2</sup> x2	Impermeable
Driveway & Customer parking	1580m <sup>2</sup>	Impermeable
Staff parking, Material storage & Truck path	12249m <sup>2</sup>	Permeable
Training area	11255m <sup>2</sup>	Permeable
Landscaping	1397m <sup>2</sup>	Permeable
Buffer zone	11424m <sup>2</sup>	Permeable
TOTAL Impermeable		7120m <sup>2</sup>
TOTAL Permeable		36325m <sup>2</sup>

**SECTION 95A AND 95B NOTIFICATION REPORT &  
SECTION 104 ASSESSMENT REPORT**

Application Received:1 March 2022	PID: 25080	RMA20220082
Applicant:	Drainways Contracting Limited	
Address of Site:	2570 Omaha Road, Hastings	
Legal Description:	Lot 1 DP 11200 (RT HBB4/587)	
Area:	4.0469 ha	
Zoning:	Plains Production Zone – Hastings District Plan (Operative in Part) (the <b>District Plan</b> )	
Overlays:	Unconfined Aquifer	
Proposal:	Contractor's depot (drainage services) and educational training facility (Eastern Institute of Technology)	
Planning Provisions:	<b>Rule EM6</b> and <b>PP39</b> of the District Plan  <b>Regulation 11</b> of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)	
Assessment of Status:	Non-Complying Activity	
Report Prepared By:	Liam Wang	

**1.0 THE SITE AND SURROUNDING ENVIRONMENT**

Section 1.3 and 1.4 of the applicant's assessment of environmental effects (AEE) has provided a description of the site and its surrounding area. Relevant parts of the description are reproduced below:

*The site is located on the south-western side of Omaha Road, and approximately 200m southeast of the SH50 / Omaha Road intersection. The site is approximately 4.0469Ha in area and generally flat, with several mounds and undulations from previous filling/excavation activities. The land is generally unused and is therefore covered in rank grass, weeds, and shrubs, with dumped timber and other waste materials, including green waste, at the rear of the site where overhead powerlines also pass overhead, orientated NE-SW. The vegetation, generally grass, on the front portion of the site is noticeably shorter and sparser than on the remainder of the site.*

*A cluster of beehives is set approximately 150m back from the road frontage. Farm-grade vehicle tracks extend through the site to the beehives, and separately to the rear of the property along the north-western boundary to the area of dumped/stored materials between the powerlines and the rear (south-western) boundary.*



A probable explanation as to why the vegetation is noticeably sparser on the front portion of the site is provided in the Lattey Group PSI report (attached in Appendix 9). In referring to the 2003 aerial photograph, the Lattey Report states:

*"The image ... shows the property in 2003. The land was used to store timber products and sawdust from the adjacent timber mill. Disturbance of the land was site wide, however at the time the image was taken, timber was stored on areas to the north and south of the site. Sawdust was stored between the timber storage area to the south and the timber storage area to the north. There was a difference in colour between the timber stored at the northern end of the site (close to Omahu Road) and the timber stored at the southern end of the site. The timber stored in the northern area was darker in colour than that stored in the southern area. It is assumed that the darker coloured timber is treated, and the lighter coloured timber is not treated. It is noted that the shape of the storage area of the darker timber generally matches the less vegetated area close to Omahu Road seen during the site visit, suggesting that there may be higher levels of CCA contamination in this area that has inhibited growth."*

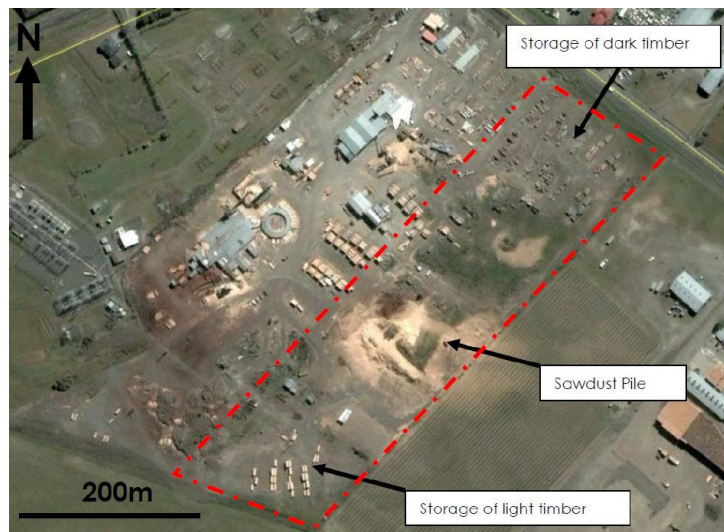


Figure 1 2003 aerial photo showing the site being used as a timber yard

The surrounding land is a mix of industrial activities, and viticulture. The site adjoining the north-west boundary contains scheduled activity (S23) in the Hastings District Plan, Appendix 26 and specifically Timber Milling, Treatment, Storage and Sales (S23). There are Unison and Transpower substations on the opposite side of the timber processing site to the north west.

The site adjoining the south-eastern boundary contains large depot buildings utilised by Tasman Harvester Contractors, and to the rear of that an area planted in grapes. The rear boundary adjoins viticulture activities.

The opposite (North-eastern) side of Omahu Road contains an engineering depot, and a transport depot or similar, with associated buildings, and extensive parking and outdoor storage/yard areas. The opposite and adjoining sites all have an industrial appearance despite the underlying Plains Production Zoning. These activities collectively form an industrial enclave to the south east of the Omahu Road intersection with SH50. This enclave is then physically separated from industrial zoned activities on Omahu Road by the vineyards.

Omahu Road is an Arterial Road in the Hastings District Plan Roadierarchy and connects Hastings to SH50 (Approximately 200m to the northwest of the subject site). Omahu Road has approximately 6,000 Estimated Traffic Volume AADT according to the Waka Kotahi One Network Road Classification.

I concur with the applicant's description of the site as reproduced above. Photos of the site and its surrounding area can be found in section 1.3 and 1.4 of the applicant's AEE. I accept that those photos accurately represents the land uses of the subject site and its surrounding environment at the time of this report.



Figure 2 Aerial photo showing the subject site (outlined by red lines) and its surrounding area.

## 2.0 THE PROPOSAL

The applicant is seeking to establish a contractor's depot and educational training facility on site.

Section 1.5 of the applicant's assessment of environmental effects (AEE) has provided a description of the proposed activity. Relevant parts of the description are reproduced below:

*This application is seeking the establishment, operation, and maintenance of a drainage contractors depot, and an educational training facility for infrastructure construction training operated by the Eastern Institute of Technology. The development will include the following:*

- A depot building with a nominal floor area of 1,500m<sup>2</sup>, and associated staff and visitor parking, material storage & truck path areas. It is noted that a building of approximately 1,100m<sup>2</sup> (being 44m x 25m) may be established initially with an extension of approximately 400m to follow at a later date:
  - Drainways administration office and staff facilities anticipated to occupy approximately 250 – 300m<sup>2</sup> over two levels.
  - EIT training classroom space approximately 100 – 120m<sup>2</sup>.
  - Equipment and vehicle storage depot approximately 1,000 – 1,200m<sup>2</sup> (depending on the final floor area of the building).
- An outdoor EIT School of Trades practical infrastructure training area to the rear of approximately 11,250m<sup>2</sup>;
- A customer parking area to the front of the depot of approximately 1,580m<sup>2</sup>;
- Landscaping at the front of the site of approximately 1,400m<sup>2</sup>.

*The proposal will require approximately 2,500m<sup>3</sup> of earthworks. This will establish appropriate site levels for the building, carparking and yard areas and the proposed site frontage landscaping. In addition to that estimated volume of earthworks for the site development, there will also be an ongoing requirement for earthmoving as part of the EIT training facility. The training is proposed to involve the digging of trenches and laying of pipes. The pipes would then be removed, and site reinstated prior to the next section of training which will involve earthmoving and pipe laying in the same area. It is difficult to estimate the exact quantities of earthworks required by the training*



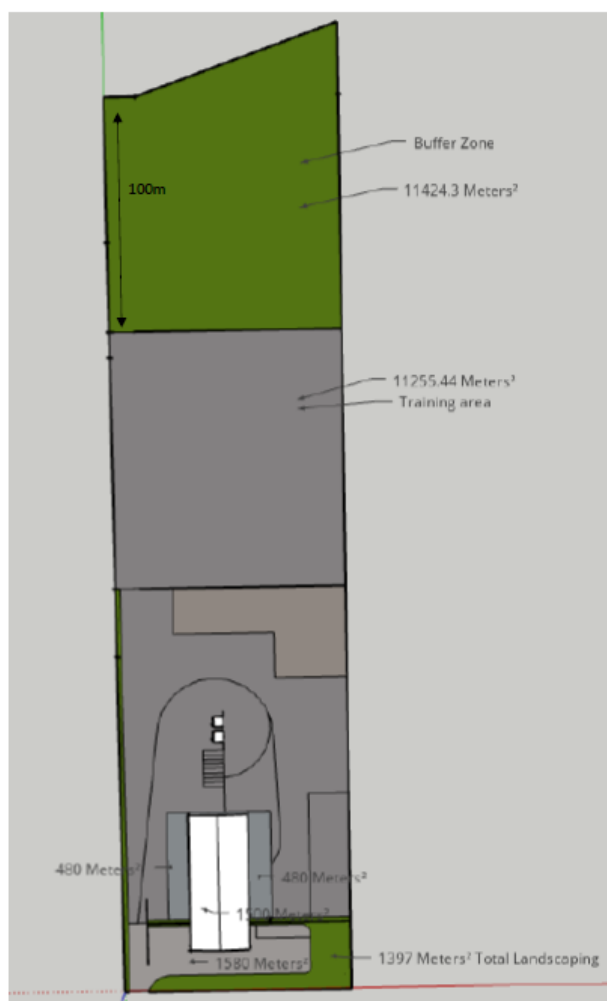


Figure 3 Preliminary Site Plan showing the location of proposed buildings, hardstand and training areas.

## 2.1 Record of Title

I have reviewed the following Record of Title:

- Lot 1 DP 11200 (RT HBB4/587)

I am satisfied that none of existing interests registered on the titles will be relevant to the Council's consideration of the proposed activity.

## 3.0 **REASONS FOR CONSENT AND ACTIVITY STATUS**

### 3.1 National Environmental Standards

#### 3.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS)

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

The NESCS is triggered as the proposal involves disturbance of soil and change of land use.

**Regulation 8(3)** states that disturbing the soil of the piece of land is a permitted activity while the following requirements are met:

- (a) controls to minimise the exposure of humans to mobilised contaminants must—
  - (i) be in place when the activity begins:
  - (ii) be effective while the activity is done:
  - (iii) be effective until the soil is reinstated to an erosion-resistant state:
- (b) the soil must be reinstated to an erosion-resistant state within 1 month after the serving of the purpose for which the activity was done:
- (c) the volume of the disturbance of the soil of the piece of land must be no more than 25 m<sup>3</sup> per 500 m<sup>2</sup>:
- (d) soil must not be taken away in the course of the activity, except that,—
  - (i) for the purpose of laboratory analysis, any amount of soil may be taken away as samples:
  - (ii) for all other purposes combined, a maximum of 5 m<sup>3</sup> per 500 m<sup>2</sup> of soil may be taken away per year:
- (e) soil taken away in the course of the activity must be disposed of at a facility authorised to receive soil of that kind:
- (f) the duration of the activity must be no longer than 2 months:
- (g) the integrity of a structure designed to contain contaminated soil or other contaminated materials must not be compromised.

**Regulation 8(4)** states that changing the use of the piece of land is a Permitted activity while the following requirements are met:

- (a) a preliminary site investigation of the land or piece of land must exist;
- (b) the report on the preliminary site investigation must state that it is highly unlikely that there will be a risk to human health if the activity is done to the piece of land:
- (c) the report must be accompanied by a relevant site plan to which the report is referenced:
- (d) the consent authority must have the report and the plan.

Sites which do not meet the permitted standards above, become a **Controlled Activity** pursuant to either Regulation 9(1) or 9(3), provided that they meet the following Regulations:

- (9)(1) If a requirement described in any of [regulation 8\(1\) to \(3\)](#) is not met, the activity is a controlled activity while the following requirements are met:
  - (a) a detailed site investigation of the piece of land must exist:
  - (b) the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in [regulation 7](#);
  - (c) the consent authority must have the report:
  - (d) conditions arising from the application of subclause (2), if there are any, must be complied with
- (9)(3) If a requirement described in regulation 8(4) is not met, the activity is a controlled activity while the following requirements are met:
  - (a) a detailed site investigation of the piece of land must exist:
  - (b) the report on the detailed site investigation must state that the soil contamination does not exceed the applicable standard in regulation 7:

- (c) the consent authority must have the report:
- (d) conditions arising from the application of subclause (4), if there are any, must be complied with.

Sites where a Detailed Site Investigation exists stating that the contaminants **exceed** the applicable standard in Regulation 7 are required to be considered as a **Restricted Discretionary Activity** pursuant to Regulation 10.

Where no Detailed Site Investigation exists the proposal is a **Discretionary Activity** pursuant to Regulation 11(2) of the NESCS.

Due to the site's historical use as an outdoor timber storage yard, it falls under category A18 of the HAIL list. It is therefore considered a "piece of land" under the NESCS and subject to its requirements. Earthworks required for the proposed activity will exceed the maximum limit of 25 m<sup>3</sup> per 500m<sup>2</sup>; (Regulation 8(3)(c)). The activity therefore cannot be considered as a permitted activity.

As no Detailed Site Investigation has been provided for the site, the proposal is considered as a **Discretionary Activity** pursuant to Regulation 11(2) of the NESCS.

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

There are no registered sources of human drinking water located within the 500 metres radius from the subject site. The proposed activities are also unlikely to affect any nearby human drinking water sources in other ways.

For the reasons identified above, it is concluded that the NES: Sources of Human Drinking Water is not relevant for this application.

### 3.2 Hastings District Plan (2020) – Operative in Part

The site is zoned **Plains Production** under the District Plan.



Figure 4 District Plan Map showing the subject site (outlined by red lines) and its surrounding area.

The land is subject to the following overlays:

- Unconfined aquifer
- Storage, handling or use of hazardous substances is restricted on land with the unconfined aquifer overlay in order to protect the underground aquifer from contamination. Rule Table 6.2.4A outlines the activity status for such activities on land with this overlay.



The proposal does not involve any storage, handling or use of hazardous substances. Accordingly, the overlay is not relevant to the assessment of the application.

3.2.1 District Wide Activity

**Earthworks**

As discussed in Section 2 of this report, the proposal will require temporary earthworks for approximately 2,500 m<sup>3</sup> for the construction of the buildings, services and hardstand area.

Consent is also required to authorise on-going earthworks relating to the training activities on site. Those works will be ongoing, and the maximum volume and extent of earthworks have not been identified at this stage.

Table 27.1.6A of the District Plan provides for maximum of 100 m<sup>3</sup> per year per ha of site of earthworks as a permitted activity. Both components of the proposed earthworks will exceed this limit.

Given the land is generally flat, it is expected that the works are likely to comply with all other performance standards listed under Section 27.1.6 of the District Plan.

Earthworks associated with the proposal is therefore considered a **Restricted Discretion Activity** pursuant Rule EM6 of the District Plan.

No other District Wide Activity rules are considered relevant.

3.2.2 Land Use

The proposed activity will require a land use consent for the following reasons:

- **Rule PP39 – Non-Complying Activity** – activities not provided for by the District Plan

The proposed land uses comprises two main parts – a depot for drainage contractors, and an educational facility providing hands-on training opportunities on drainage installation.

The contractor's depot is considered a type of industrial activity. Rule PP6 of the District Plan provides for industrial activities as permitted activities, subject to compliance with relevant performance standards. The proposal would not comply with the following standards:

- 6.2.6F (1) (Industrial activities) – the proposed overall gross floor area (approximately 1,500 m<sup>2</sup>) will exceed the maximum 100 m<sup>2</sup> permitted under this rule. Maximum number of employees on site will exceed 3. Outdoor storage area will also exceed 100 m<sup>2</sup>.

New educational facilities are not provided for in the Plains Production zone.

In addition, the proposed development would not comply with the following general performance standards:

- 6.2.5J (Building Coverage and Hardstand area) – the proposed development would result in approximately 7,120 m<sup>2</sup> of hardstand area on site. This exceeds the maximum 1,500 m<sup>2</sup> permitted by this rule.

Assessed together, the proposed activities are not specifically provided for by the District Plan. It therefore falls under the "catch-all" clause and shall be assessed as a Non-Complying Activity.

3.3 Overall Status

Overall, the proposal will be considered as a **Non-Complying Activity** being the most stringent status for all the activities being bundled above.

4.0 **NOTIFICATION ASSESSMENT (SECTIONS 95A and 95B)**

4.1 Public Notification

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

The applicant has not requested the application be publicly notified (S95A(3)(a)); nor has any further information been requested that the applicant has refused to provide to the Council (S95A(3)(b)).

The application stands alone i.e. it has not been made jointly with an application to exchange reserve land (S95A(3)(c)).

As the proposed activity does not meet any of the criteria listed in Section 95A(3), it therefore concluded that mandatory public notification is not required (S95A(2)(b)).

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

In respect of section 95A(5)(a) the proposal is not subject to a rule or a National Environmental Standard that precludes notification.

In terms of Section 95A(5)(b) the application is seeking to establish a contractor's depot and educational facility. The proposal has a Non-Complying activity status and is not for a boundary activity.

The proposal does not meet any of the criteria listed under the section. Therefore, public notification is not precluded under S95A(5)(a) or S95A(5)(b).

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

In terms of S95A(8)(a) the proposal is not subject to a rule or national environmental standard that requires public notification.

In terms of S95A(8)(b) an assessment of whether the effects of the proposal will be more than minor is discussed below.

As provided in S95D, a consent authority that is deciding, for the purpose of [section 95A\(8\)\(b\)](#), whether an activity will have or is likely to have adverse effects on the environment that are more than minor—

***(a) must disregard any effects on persons who own or occupy—***

***(i) the land in, on, or over which the activity will occur; or***

***(ii) any land adjacent to that land; and***

***(b) may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and***

***(c) in the case of a restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard restricts discretion; and***

***(d) must disregard trade competition and the effects of trade competition; and***

***(e) must disregard any effect on a person who has given written approval to the relevant application.***

In accordance with Section 95D(a), I have disregarded effects on persons who own or occupy the properties identified by star symbols in the following plan (being the adjacent land):



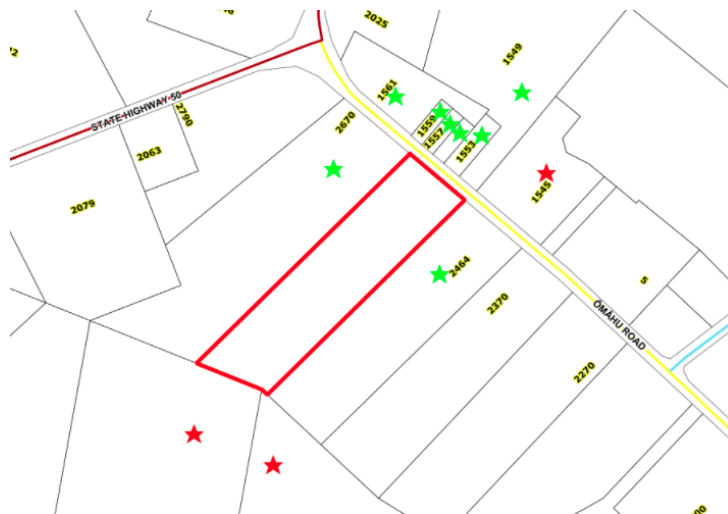


Figure 5 maps showing the subject site (outlined by red lines) and adjacent sites (indicated by red stars, or green stars if written approvals have been obtained from the owners and occupiers of the property.)

In relation to Section 95D(e), I have disregarded the effects on the following persons who have provided their written approval.

Affected Persons	Address / Legal Description	Council PID
B R Osborne on behalf of Crab Ventures Limited	1549 Omahu Road, Hastings	99542
W A Harvey	1553 Omahu Road, Hastings	99541
W J White	1557, 1559 and 1561 Omahu Road, Hastings	54847
G A Cutts on behalf of Tasman Harvester Contractors Limited	2464 Omahu Road, Hastings	25081
A C Hawke & M Mukti on behalf of Napier Pine Limited	2670 Omahu Road, Hastings	25079

In relation to Section 95D(b), I have not disregarded any effects on the basis that a rule permits an activity with that effect, except to the extent that where the activity complies with District Plan rules, I have taken that into account in my assessment of effects below.

As the proposal is overall being considered a Non-Complying Activity, there is no restriction on the effects that can be assessed. My assessment of whether there are adverse effects on the environment that are more than minor is as follows:

#### Visual and landscape amenity effects

While the site and its surrounding area are zoned Plains Production under the District Plan, the physical environment it is situated within is atypical of what would normally be expected in a Plains Production environment.

As described in Section 2 of this report, the surrounding sites form a small cluster of industrial activities. The existing buildings and outdoor storage yards on those sites are generally located close to the Omahu Road frontage. Visually, the area is more akin to an industrial environment. Within this context, the scale of the proposed buildings and hardstand area are not considered unusual or out of character.

I also note that while the proposed land uses are not expected by the District Plan, the overall building design and site layout is not dissimilar to activities such as pack houses, which are permitted up to a total building coverage of 2,500 m<sup>2</sup> in the zone.

The training area for the educational facility will be located to the rear of the depot. Given the land is generally flat, the training area will not be highly visible from the wider environment. Potential visual effects associated with this area will therefore be limited to its immediate surrounding environment.

For those reasons, I have concluded that in terms of the wider environment, potential visual effects associated with the proposed environment will be less than minor.

#### Effect on versatile land

The applicant argues that the subject site is not “versatile land” due to a number of factors, namely:

- Soil contamination resulting from previous land use (timber yard)
- Top soils have been largely modified or replaced from previous land use activity;
- No water source nearby. Regional Management Plan places a significant limit on ground water takes so hydroponics are not possible.

The applicant has provided a ‘Land Production Values Report’ prepared by Ian Millner of LandVision. The author has undertaken a desktop review of the site’s land use history, national soil database and on-site sampling and investigation. The conclusion of the report is summarised as below:

- The site is classified as LUC 7 due to its gravelly nature and low moisture holding capacity. Aerial photos indicate the site has not been used for agricultural production for 60 years;
- While LUC 7 land is suitable for grape production, the site’s land use history indicate that the site has never been converted to viticulture. The report, however, could not identify whether this is due to perceived or actual limiting factors of the site.
- The site’s historical HAIL land use has further degraded its productive potential.

For the purpose of assessing this application, I have determined that it is unnecessary to address the question on whether the subject site is “versatile land”. The reasons for this view will be further outlined in Section 8.2 of this report (Assessment against relevant objectives and policies of the District Plan). However, in summary:

- The Plains Production zone is based on the versatility of the Heretaunga Plains as a whole, not necessarily on individual sites or parts of a site.
- The purpose and objectives of the Plains Production zone is more than just protecting the land versatility.

However, for completeness, I also record that it is in my view that the application has not sufficiently demonstrated that the land is not versatile. Reasons are outlined below.

The term “versatile land” is defined by the District Plan as:

*Versatile Land: 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 regional (and nationally) significant primary production and associated secondary services on the Heretaunga Plains, based around:*

- (a) An exceptionally high proportion of versatile Class 1-3 soils (comprising almost 90%); or
- (b) Class 7 soils that are internationally recognised as having a 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 definition is based on a whole sub-region “... that **acts collectively** to support regional (and nationally) significant primary production and **associated secondary services** on the Heretaunga Plains”. The use of the

term “acts collectively” indicate that a region-wide, broader approach should be taken when considering the versatility of the land, and how such site may fit within the wider context of the Heretaunga Plains.

As indicated by the term “*based around*”, this definition is inclusive of the four factors listed above and does not rely on any single point alone. Failure to meet any of the four factors do not necessarily mean that the land is not versatile.

The definition anticipates that not all of the land within the Heretaunga Plains will contain class 1-3 or 7 soils. Analysed on a finer grained level, there will always be pockets of land within the Plains Production zone that falls outside of the expected soil classes.

While it is recognised that the site contains a number of limiting factors relating to the historical modification and contamination of soils on site, the application has not considered whether any practicable remediation method exists. It is not unusual for production land to require some level of remediation before it can be used for such purpose.

The application has also noted the difficulties in obtaining ground water take permit as a reason that the land is not ‘versatile’. While access to water is one of the factors that made the Plains ‘versatile’, it is not the sole deciding factor. Water take is a region-wide issue, and the new rules introduced by TANK plan change apply equally to all Plains Production land that does not have an existing permit. The site’s access to ground water is not different from other similar land within the Plains Production zone. This also does not necessarily exclude the site form being used for all other primary production and secondary support activities anticipated in the zone.

The District Plan also anticipates, and accepts the need for “*associated secondary services*” at an appropriate scale to be located within the Plains Production zone. Services that have a direct relationship with primary production activities can benefit from being located close to each other and achieving more efficient use of land. These activities, along with intensive rural production activities, generally do not rely on the quality of the soil.

While it is recognised that the site has not been used for primary production activities for an extended period, the applicant has not established that the site is unsuitable for secondary services or other activities with a closer link to the productive purpose of the zone.

The subject site directly adjoins an arterial route (Omahu Road), and is located on the outskirts of Omaha Industrial area, where the bulk of Hastings’ industrial activities on located. The location of the subject site is therefore ideal for accessing services and transport goods and services in between different site.

For those reasons above, I have concluded that while it is not necessary to determine whether the subject site is versatile land as defined under the District Plan, the information provided by the applicant alone has not sufficiently demonstrated that the site is not versatile.

I have therefore concluded that the proposed development will therefore adversely affect the versatility of the land. The proposed building development will remove the area covered by buildings / hardstand area from potential future primary production use. While the proposed training activity will not result in any permanent change to existing soils on site, once the land use is established, it will be likely to significantly reduce the potential of the land to be used for any other activity anticipated by the District Plan.

Having said that, I acknowledge that the small size of the site relative to the Plains Production zone as a whole means removal of this site from the pool of versatile or Plains Production zoned land would not, of itself, have more than a minor effect on the environment.

#### Noise

The proposal is likely to generate noise from the daily operation of the depot and outdoor training activities. Those activities will generally involve movement of cars and trucks, and operation of diggers. However, it is considered that:

- The activities will likely be limited during day time, normal working hours;
- There are no residential buildings within the immediate neighbourhood; and
- This section of Omaha Road is identified as an arterial road under the District Plan. The road experiences greater traffic and generates considerable level of noise.

It is therefore expected that the proposed activities are likely to comply with the noise standards listed under **25.1.6D** of the District Plan. As such, I have concluded that potential noise effects, in relation to both the wider environment and immediately adjoining sites will be less than minor.

Furthermore, the applicant has confirmed, in Section 4.6 of their AEE, all necessary steps will be taken to avoid unreasonable noise, therefore ensure compliance with Section 16 of the RMA. This can be enforced through the routine compliance monitoring process.

#### Transport effects

The subject site is located next to an arterial road (Omahu Road). The road is one of the main thoroughfares connecting Hastings to the western part of the District, and generally experiences high traffic volume and has a higher speed limit.

The applicant has submitted a Transport Impact Assessment prepared by WSP for the proposed development (HDC Reference: 25080#0049). In summary, the TIA has concluded that the proposed activity is likely to have less than minor effects on the safe operation of the road network, and is unlikely to pose any traffic risks, subject to the following recommendations:

- A sign on the right-hand side of the accessway will need to be relocated and a tree on the left-hand side will need to be removed. (Section 5.5.1 of the report);
- A 50 metres section of the road adjoining the site needs to be widened by 0.5 metres to provide for sufficient space for right turn manoeuvring (Section 5.5 of the report).

Council's Transport Engineer, Peter Scott has reviewed the TIA and is generally supportive of the conclusion of the report. However, Mr Scott noted that it is possibly not necessary to remove the tree as identified in the report. He noted that the TIA did not undertake an assessment of sight lines in accordance with Road Traffic Standards 06. Council's Landscape Officer, Bart Leslie has confirmed that the tree can be replaced at a nearby location, if its removal is necessary to achieve the required sight line distance.

As such, it is recommended that a condition be imposed to require an assessment of the sight line distance be provided prior to any development on site, but after the exact location of the crossing has been determined. If the tree needs to be removed, the condition would also require that a replacement tree be planted with its location, species and minimum height approved by Council's Transport Department.

In relation to parking, the TIA was prepared prior to the minimum parking space standards being removed from the District Plan. However the report does indicate that sufficient number of parking spaces can be provided on site to accommodate for up to 60 staff, 2 tutors and 16 students.

While no detailed design of the parking spaces is available at this stage, given the size of the site and relatively minimal scale of building footprint, it is expected that all demand on parking spaces, and associated requirements on the minimum number of bicycle parking stands can be accommodated on site.

For those reasons, I have concluded that potential transport and parking effects associated with the proposal will be less than minor.

#### Earthworks effects

As the land is generally flat, the scale of earthworks required for the construction of buildings and hardstand area on site will be limited, and is consistent with what has been proposed by the applicant. Given the flat nature of the land, subject to standard conditions controlling effects such as sediment runoff, dust and noise, potential effects associated with the works will likely be minimal and can be contained on site.

Hawke's Bay Natural Hazard Register indicates that the site is not subject to any liquefaction risks. As such it is likely that the development can be contained on site. It is therefore reasonable to defer any geotechnical investigation until the building consent stage.

In relation to the on-going earthworks associated with training activities on site, the applicant has advised that the training activities will likely occur 1 – 2 times per month, for 1 – 2 days at a time. The proposal has designated approximately 1 ha of land for the activity, however it is expected that only a maximum 30% of the designated area (3,000 m<sup>2</sup>) will be used at any given one time.

Such scale of works is not unusual within the Plains production environment, and sufficient buffer zone will be provided to separate the work area from the adjoining vineyard. Furthermore, as set out in the

It is therefore concluded that potential effects associated with earthworks activity can be mitigated to a less than minor level. Given the on-going nature of the on-site training activities, I recommend that a monitoring condition is imposed to ensure that any unanticipated effect that may arise from the proposal can be managed appropriately.

A Preliminary Site Investigation prepared by Alasdair Park of Lattey Group was provided to the Council as part of the application (HDC Reference: 25080#0048). The report undertook a desktop study of the site, and preliminary soil samples were taken and tested for potential contaminants, in summary:

- Based on those findings, the report recommended that a Detailed Site Investigation be undertaken on site, particularly in relation to the extent of the pits and their contents. A Site Management Plan is also recommended to mitigate the risk of any potentially undiscovered pits.

I am satisfied that the report was prepared by a suitably qualified and experienced practitioner (SQEP), and the laboratory which provided the test results are suitably accredited. The report has adequately considered the historical land uses of the site and assessed the potential risks accordingly. As such, I adopt the conclusions of the report as summarised above.

Future actions recommended by the report appears reasonable and can be successfully implemented. There are no obvious issues that may fundamentally affect the viability of the proposed activities. The nature of the industrial means that the sealed hardstand area will sufficiently avoid any pathway from contaminated soils to future occupiers on site. While further investigation may identify additional contaminated area within the designated training area, the risk can be mitigated through on-site management plans.

Those recommendations on Detailed Site Investigations and Site Management Plan can be enforced through consent conditions, and will be subject to Council approval prior to any work being carried out on site.

As such, I have concluded that subject to those conditions, any potential risk to human health that may arise from earthworks associated with building activities and on-going training activities can be managed to a less than minor level.

I concur with the applicant's assessment in Section 4.2 of their AEE, which is reproduced below:

*The proposal will have no more than minor adverse effects on ecosystems and habitats as it does not contain any notable vegetation beyond weedy pasture. Therefore, the site is unlikely to support any significant terrestrial ecology values. The proposal will therefore have no more than minor adverse effects on ecology and habitat values.*

I also note that similarly, there are no areas of notable vegetation nor sites with significant ecological values within the vicinity of the site.

#### Cultural Effects

There are no statutory acknowledgement areas, any area of known cultural significance or archaeological site either on site or within the vicinity of the site. The site and its surrounding environment are already highly modified through industrial and viticulture activities, and there is no record of similar discoveries made in the past.

As such, the potential cultural effects associated with the proposal is assessed as less than minor.

#### Hazardous Substances

The proposed depot may involve storage of fuel and oil on site. The applicant has confirmed, in Section 4.7 of their AEE, that such activity will be able to comply with activity specific standard 6.2.6N, which states:

*All hazardous substances shall be stored and/or handled on areas which have impervious surfaces and where facilities are provided to prevent contaminants from being washed or spilled into natural ground or entering any piped stormwater systems or stormwater ground soakage, such as bunds, filters, separators or settling areas. In Industrial Zones, this impervious surface requirement also applies to fuel operated machinery and vehicles.*

While details on the handling of hazardous substances on-site have not been provided, the proposal has provided ample hardstand area to ensure compliance.

On this basis, it is concluded that this portion of the proposed activity will likely comply with all relevant performance standards, and can therefore be considered as a permitted activity under Rule PP41. Given no details are available at this stage, it is recommended that a condition be imposed to require on-going compliance with the performance standards.

#### **Conclusion**

On the basis of the assessment above, I have concluded the proposal is likely to create a **minor** effect on the wider environment.

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

I have considered whether there are special circumstances which exist in relation to the application which would warrant the application being publicly notified. I do not consider there are any such special circumstances for the following reasons:

- As stated above, the effects on the environment are likely to be no more than minor;
- The proposed activity does not contain any feature or character that is unusual or special that would warrant public notification by special circumstances.

#### **Decision:**

I am satisfied that the application can be considered without full notification to the public in accordance with S95A(9)(b).

#### **4.2 Limited Notification Assessment Section 95B**

##### **Step 1: certain affected groups and affected persons must be notified**

No protected customary rights groups or affected customary marine title groups are involved in this proposal nor is the proposed activity on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement. Therefore, limited notification is not required to any such groups under S95B(4).

##### **Step 2: if not required by step 1, 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 proposal is not subject to a rule or a National Environmental Standard that precludes limited notification.

In terms of section 95B(6)(b) the application is for a land use resource consent that has a Non-Complying activity status.

Therefore, the application is not precluded from limited notification under section 95B(6).

**Step 3: if not precluded by step 2, certain other affected persons must be notified**

Under Section 95E, a consent authority must decide that a person is an affected person if the activity's effects on them are minor or more than minor (but are not less than minor), subject to the limitations in Section 95E(2). Where written consent is obtained Council must disregard any effect on a person who has given written approval to the relevant application (Section 95E(3)).

In relation to section 95E(2) and (3), I note:

- I have not disregarded effects on the environment on the basis that a rule permits an activity with that effect.
- The activity is not for a controlled or a restricted discretionary activity. The Council can consider all relevant effects for the purpose of notification assessment.
- A list of written approvals received by the Council for this application has been outlined in Section 4.1 (step 3) of this report.

Some of the potential effects that may arise from the proposal have been discussed in the public notification assessment contained in Section 4.1 of this report. It was concluded in terms of the wider environment, the level of potential effects will be **no more than minor**.

For the same reasons, I consider that for the purpose of determining limited notification, the adverse effects on the environment are the same as adverse effects on a person, and the level of the potential adverse effects as discussed in Section 4.1 will also be less than minor on a person.

In addition to the reasons previously discussed, I have also considered the following potential effects:

Visual and landscape amenity effects

In addition to the public notification assessment, I note that the applicant has obtained written approval from most of the directly adjoining parties, with the only exception being the vineyard at the back (1740 Omaha Road, PID 25073) and 1545 Omaha Road. Consideration of potential visual effects to the surrounding environment will therefore only be limited to those two properties.

In relation to 1740 Omaha Road, the proposed outdoor training area will be at least 100 metres away from the closest shared boundary, with the building development at least 50 metres further way. As noted in the public notification assessment, against the backdrop of other adjoining industrial activities within the vicinity, the proposed development is unlikely to change the physical landscape in a more than minor way, when viewed from the wider environment, including from the vineyard.

It is also noted that the vineyard does not contain any existing dwellings within the vicinity of the subject site. It is a rural working environment that does not have any long term or permanent residents.

1540 Omaha Road is located diagonally opposite to the subject site. As assessed in the public notification report, the surrounding area, despite its Plains production zoning, is mostly industrial in nature. The visual and landscape amenities of the area is already atypical for a Plains production environment.

The existing dwelling is located more than 150 metres away from the site boundary, with vegetation dotted in between. The site is surrounded by other established industrial activities on all other side with the exception of the northern rear boundary. All these existing activities are located closer to the site and have a greater visual effect.

For those reasons, I have concluded that the potential visual amenity effects, in relation to all adjoining properties will be less than minor.

Reverse sensitivity effects

The subject site adjoins established industrial activities of similar nature to its western and eastern side boundaries (2464 and 2670 Omaha Road). Only the rear portion of the site directly adjoins existing, established vineyards.

I consider there is a risk of reverse sensitivity from students and workers on the subject site to activities on the vineyard, however I consider the effects to be mitigated by the following features of the proposal:

- The bulk of the proposed development is located towards the front the site. The building will comply with all boundary setback requirements and will be at least 30 metres away from the closest vineyard.
- The outdoor training area located to the back of the proposed building. However given the nature of this activity it will be less likely to be affected by any effect generated by primary production activities.
- The subject site is located within a high-noise environment. Omaha Road is an arterial road with high traffic volume and noise. The site also adjoins existing industrial activities (which have provided written approval) except the rear of the property. Users of the subject site are therefore unlikely to be sensitive from noise from the vineyard.

For those reasons, I have concluded that any reverse sensitivity effects generated by the proposal will be less than minor.

#### Dust effects

As the applicant has obtained written approvals from most of the adjoining properties, any potential dust effect to those properties must be excluded from further consideration. The two remaining adjoining properties are:

- 1545 Omaha Road
- 1740 Omaha Road

As set out in the public notification assessment on earthworks effects, the site is generally flat, and does not have any unusual characteristics that may lead to increased temporary effects. It was therefore concluded that subject to standard conditions on dust suppression, potential dust effects associated with the construction works can be managed to a less than minor level.

In relation to potential effects associated with on-going training activities, the applicant has noted that one of the purposes of the training is to demonstrate and practice best health and safety and environmental management practices. Dust suppression, sediment controls and other environmental management measures would therefore form part of any training activity on site.

Additionally, further information provided by the applicant indicates that the frequency of training activities on site will be fairly limited to no more than 2 times a month, no more than 2 days for each session. Additionally, such activity will occupy no more than 30% of the designated training area. The likely scale of such works is not considered unusual for the Plains Production environment, and potential dust effects will therefore be further limited to the duration of those activities, until the work area is restored for the next training session.

The proposal has also provided a minimum 100m buffer zone between the work area and the adjoining vineyard at 1740 Omaha Road. Within the context of assessment above, the buffer zone will likely further reduce the potential of dust effects affecting the grapes on site. 1545 Omaha Road is located further away (approximately 200 metres) and will unlikely be affected by dusts generated through the training activities.

Given the on-going nature of the training activities, it is recommended that a monitoring and review condition be imposed to ensure that works are carried out within the parameters described by the application, and no unanticipated effects arise from the works. Particularly, the condition will need to be designed to ensure that the site is promptly restored and stabilised after each training session.

Subject to those conditions, I have concluded that the potential dusts effects associated with both the construction and on-going training activities on persons on the above sites will be less than minor.

#### Conclusion

For the reasons discussed above, I am satisfied that effects of the proposal on any person will be less than minor. I have therefore concluded that in terms of Section 95B(8) of the RMA, no persons will be adversely affected as a result of this proposal

#### **Step 4: further notification in special circumstances**





## 5.0 STATUTORY CONSIDERATIONS

In considering any application for resource consent, the council must have regard to the following requirements under s104(1) - which are subject to Part II (the purpose and principles):

- (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 Operative Plan; and**
- (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.**

As a Non-Complying Activity, Section 104B of the Resource Management Act 1991 states that Council may grant or refuse the application. If it grants the application, it may impose conditions under s108. In considering the application, the Council can take any effect that may arise from the proposed activities into account.

Section 104D of the Act states that a consent authority shall not grant resource consent for a Non-Complying Activity unless it is satisfied that:

- (a) The adverse effects of the activity on the environment will be minor; or**
- (b) The application is for an activity which 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**

If the Council is satisfied that the proposal satisfies either of the limbs of the test then the application can then be considered for approval, subject to consideration under s104. If the proposal does not satisfy either limb, the application cannot be granted consent.

Section 108 provides for consent to be granted subject to conditions and sets out the kind of conditions that may be imposed.

## 6.0 ACTUAL AND POTENTIAL EFFECTS ON THE ENVIRONMENT - s104(1)(a)

### 6.1 Effects that must be disregarded

#### 6.1.1 Any effect on a person who has given written approval to the application - s104(3)(a)(ii)

The following written approval(s) have been obtained by the applicant:

Affected Persons	Address / Legal Description	Council PID
B R Osborne on behalf of Crab Ventures Limited	1549 Omahu Road, Hastings	99542

W A Harvey	1553 Omaha Road, Hastings	99541
W J White	1557, 1559 and 1561 Omaha Road, Hastings	54847
G A Cutts on behalf of Tasman Harvester Contractors Limited	2464 Omaha Road, Hastings	25081
A C Hawke & M Mukti on behalf of Napier Pine Limited	2670 Omaha Road, Hastings	25079

**6.1.2 Effects that may be disregarded - Permitted baseline assessment - s104(2)**

When considering any actual or potential effects, the council (as consent authority) may disregard an adverse effect on the environment if a national environment standard or the plan permits an activity with that effect (the permitted baseline). The Council has discretion whether to apply this permitted baseline.

In this particular case, no permitted baseline has been considered relevant to the proposal.

**6.2 Assessment of Effects**

Section 4 of this report has considered a number of effects that may result from the proposed activities. It was considered that for the purpose of notification assessment, these effects will be less than minor. I adopt the section for this assessment of effects.

No other effects not covered by section 4 of this report are considered relevant to the assessment of effects.

Accordingly, it is considered that the proposal will have no more than minor effects on the environment.

**7.0 ANY MEASURE PROPOSED OR AGREED TO BY THE APPLICANT FOR THE PURPOSE OF ENSURING POSITIVE EFFECTS ON THE ENVIRONMENT - S104(1)(ab)**

No specific measures are proposed or have been agreed to by the applicant.

**8.0 RELEVANT STATUTORY DOCUMENTS - s104(1)(b)**

**8.1 National Environmental Standards - s104(1)(b)(i)**

**8.1.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS)**

As discussed in Section 3.1.1 of this report, the proposal is considered a Discretionary Activity due to the site being a HAIL site, and that no Detailed Site Investigation is provided. The assessment has concluded that subject to conditions requiring further investigation and site management plan, potential risks to human health can be controlled to a less than minor level.

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

There are no registered sources of human drinking water located within the 500 metres radius from the subject site. The proposed activities are also unlikely to affect any nearby human drinking water sources in other ways.

For the reasons identified above, it is concluded that the NES: Sources of Human Drinking Water is not relevant for this application.

**8.2 National Policy Statements - s104(1)(b)(iii)**

There are no National Policy Statements relevant to this proposal.

**8.3 New Zealand Coastal Policy Statement - s104(1)(b)(iv)**

The purpose of the New Zealand Coastal Policy Statement (NZCPS) is to state policies in order to achieve the purpose of the RMA in relation to the coastal environment of New Zealand. In this instance, the site does not directly connect to the coast, therefore the NZCPS is not relevant.

**8.4 Hawke's Bay Regional Policy Statement – s104(1)(b)(v)**

The Hawke's Bay Regional Resource Management Plan 2006 (RRMP) includes the regional policy statement (RPS) for the Hawke's Bay Region. The following objectives and policies are considered relevant to the proposal:

**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.*

Comment:

Clause b, c and d are considered particularly to the application. Clause b) relates to reverse sensitivity effects to other legally established existing activities within the vicinity. As assessed by this report, such effect has been considered as less than minor. The proposal is also unlikely to result in any significant adverse effect on the operation of Omaha Road.

In relation clause d), as discussed in the Section 6.2 of this report, I have concluded that the information provided by the applicant alone has not sufficiently demonstrated that the site is not versatile. Further building development of site will therefore compromise the versatility of the land.

Additionally, there does not appear to be any compelling reason for the proposed activities to be located within the Plains Production zone. The proposed activities do not have any unusual features or characters that would result in any reverse sensitivity effect, or make it incompatible with other industrial activities within the industrial zones.

As such, it is likely that the proposed development would represent an unnecessary encroachment of urban activities. As such it is considered contrary to **OBJ UD1**.

**OBJ UD3** *Identify and provide for the land requirements for the growth of business activities in the Heretaunga Plains sub-region in a manner that supports the settlement pattern promoted in OBJ UD1.*

Comment:

This objective is achieved through implementation of the Heretaunga Plains Urban Development Strategy (HPUDS) and relevant District Plans. In relation to Hastings, HPUDS has identified a limited number of areas for future industrial growth. These additional areas are expected to be sufficient to accommodate for future growth and demand until 2045.

Omahu Road North and Irongate Road East are two of such area that have been recently rezoned Industrial. Apart from economic reasons, the application has not provided any assessment on why the proposed activity cannot be accommodated within those areas. However from experience both areas have a substantial number of vacant sections suitable for the proposed activities.

It is therefore concluded that the proposal is **contrary to** OBJ UD3.

*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.*

Comment:

This objective relates to OBJ UD3, which seeks to accommodate future demand on commercial and industrial land through locations identified by HPUDS. OBJ4 requires provision of infrastructure for those identified areas in a timely manner.

In comparison, the subject site is located outside of the identified industrial areas, with no immediate plan to provide for necessary services to the area. As discussed in Section 8.5 of the report, the proposal represents an ad hoc development in the Heretaunga Plains region, and should be avoided.

It is therefore concluded that the proposal is **contrary to** OBJ UD4.

*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.*

Comment:

This policy relates to OBJ1 and 3. As discussed in assessment against OBJ1, the application has not demonstrated the necessity to locate the proposed activities within the Plains Production zone. It has also not sufficiently demonstrated that the subject site is not versatile land.

Clause b) and c) are generally implemented by territorial authorities through zoning and funding of additional infrastructure for future areas of growth. As the subject site is located outside of the urban area or future area of growth, no further investment in infrastructure is expected in the near future. Demand on three waters will therefore need to be achieved through on-site means. While this assessment has not fully assessed this demand (given it is being out of scope), it is expected that the activities can be sufficiently serviced through on-site means.

The proposal is therefore considered **contrary to** POL UD1 due to being inconsistent with clause a).

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

- a) Reinforces the role of Napier and Hastings cities as the commercial and business core of the Heretaunga Plains, whilst supporting adequate capacity in defined rural towns and settlements for a range of day-to-day services and activities;*
- b) Promotes the utilisation, redevelopment and intensification of existing commercial land;*
- c) Promotes the utilisation, redevelopment and intensification of existing industrial land, and provides sufficient additional greenfields industrial land to ensure demand for new land can be met by supply;*
- d) Promotes the utilisation of existing infrastructure availability, capacity and quality as far as reasonably practicable;*
- e) Avoids unnecessary encroachment onto the versatile land of the Heretaunga Plains;*
- f) Avoids, remedies or mitigates reverse sensitivity effects in accordance with Objectives and Policies in Chapters 3.5 and 3.13 of the plan; g) Ensures close proximity to, major transport hubs and multi-modal transport networks.*

h) promotes close proximity to labour supply.

i) Avoids or mitigates the following locational constraints:

- i. projected sea level rise as a result of climatic changes
- ii. active coastal erosion and inundation
- iii. stormwater infrastructure that is unable to mitigate identified flooding risk
- iv. flood control and drainage schemes that are at or over capacity
- v. active earthquake faults
- vi. high liquefaction potential
- vii. nearby sensitive waterbodies that are susceptible to potential contamination from runoff, stormwater discharges, or wastewater treatment and disposal.
- viii. no current wastewater reticulation and the land is poor draining
- ix. water short areas affecting the provision of adequate water supply.

Comment:

This policy relates to OBJ1 and 3. Clause e) has been discussed previously, and it was concluded that the proposal represents an unnecessary encroachment into the versatile land of the Heretaunga Plains. For the same reasons, the proposal cannot be considered as consistent with Clause b) to d), which seek to promote utilisation of existing land resources and infrastructure services.

The proposal is therefore considered **contrary to** POL UD2.

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

- a) Irongate industrial area
- b) Omaha industrial area
- c) Whakatu industrial area
- d) Tomoana industrial area
- e) Awatoto industrial area

Comment:

As previously discussed, both Irongate and Omaha Road industrial area have recently been rezoned. The application has not provided any compelling evidence to demonstrate why the proposed activities cannot be located within those areas. Additionally both areas have not yet been fully developed, and vacant sections of similar size are still available.

As the proposal is seeking to undertake an ad-hoc industrial activity outside of identified industrial zones and future growth area, and does not have any unusual or unique character, it is therefore considered **contrary to** Policy UD4.5.

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

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

Comment:

Containment of urban activities is achieved through zoning under the District Plan. Assessment against relevant objectives and policies of the District Plan will be carried out in Section 8.5.1 of this report. In summary, the proposal is considered an ad-hoc urban activity that is inappropriate for the Plains Production zone.

The proposal is therefore considered **contrary to** POL UD4.1 and UD5.

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

Comment:

While the proposal is seeking to establish an industrial activity within the Plains Production environment, the applicant has obtained written approvals from all of the adjoining properties with the exception of the vineyard at the rear of the property, and a small lifestyle site located on the opposite side of the road. This report has concluded that potential reverse sensitivity and nuisance effects, particular in relation to dust, to those properties will be less than minor.

The proposal is therefore considered **consistent with** OBJ 16.

**8.5 Operative Hastings District Plan- s104(1)(b)(vi)**

**8.5.1 Assessment Criteria**

The proposed activity is overall considered a Non-Complying activity. In assessing the application, the Council is not limited to any assessment criteria and can consider the full range of effects associated with the proposed activity.

These matters have been discussed in Section 4 and 6 of this report. It has been concluded the proposal will likely result in adverse effects to the versatility of the land on site. All other effects have been considered as less than minor.

No other potential effects are considered relevant.

**8.5.2 Relevant Objectives and Policies**

**Chapter 2.8 Rural Resource Strategy**

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

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

***POLICY 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.*

Comment:

Policy RRSO1 sets out the overall theme on how different rural zonings have applied to the Hastings' rural area.

I note that the objective does not refer to protection of "versatile land" as being the main aim of this objective. Instead it used the term "life-supporting capacity", which originated from Section 5 (Purpose) of the RMA. *Bunnings Ltd v Hastings District Council [2011] NZEnvC 330* identified that term covers more than the versatility of soil, but also include matters such as history of land use, climate, access to water, contour, proximity to labour and services.

The proposed building development will result in approximately half (2 ha) of the site being covered by building and sealed area, making it more difficult to return to the original state. I disagree with the applicant's assessment that the proposal is generally consistent with Policy RRSP2. While the primary activity (Drainage contractor) provides a service to many rural customers, the activity itself is not directly related to land based production activities, and there is likely an equal demand on drainage services in the urban area. The activity therefore does not have a functional need to be located along with production land, and does not complement, nor have any direct relationship with the rural resources. It represents a departure from the

overall intent of the Plains Production zone and cannot be considered as promoting the maintenance of the life-supporting capacity.

The proposal is therefore considered **contrary to** Objective RRSO1 and its associated policies.

**OBJECTIVE 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.*

**POLICY 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.*

Comment:

Both the contractor's depot and training facility are activities not anticipated by the District Plan. This report has concluded that except for the versatility of the land, all other effects have been considered as less than minor. The effect on the versatility of land has been assessed as minor.

The proposal is therefore **not contrary to** Objective RRSO2 and its associated policy.

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

**POLICY RRSP4** *Rural land close to urban areas or on primary collector, 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.*

Comment:

I consider the Explanation to this objective and policy to be particularly relevant:

*Explanation*

*There is significant pressure from urban activities to expand onto rural land close to the present urban areas because of marketing or other financial advantages. The District Plan does not provide for the uncontrolled conversion of rural land to a range of residential, commercial or industrial activities. Such activities can ... negatively affect the viability of the existing Commercial and Industrial Zones. The District Plan will encourage the development of these activities in urban areas, to ensure the controlled development of urban activities at the interface with the rural area (see Section 2.4 Urban Strategy).*

The proposal involves establishing an industrial activity on Plains Production land accessed via an arterial road, and is located within proximity of Hastings' urban area. The activity is therefore contrary to Policy RRSP4, which specifically seeks to avoid this type of development at such locations.

I note the application refers to the cost of establishing in the Industrial zone as a main reason why an industrial site has not been identified. Such consideration is not relevant to the considerations under the RMA. There does not appear to be a shortage of industrial land currently.

The proposal is therefore considered **contrary to** Objective RRSO3 and its associated policy.

**2.9 Industrial Strategy**

**OBJECTIVE ISO2** *To protect the finite soil resource of the Heretaunga Plains from ad hoc development through the strategic location of future industrial areas.*

**POLICY ISP3** *Future growth areas shall be consistent with Heretaunga Plains Urban Development Strategy (HPUDS).*

**POLICY ISP6** *Restrict the scale of industrial activity within the Plains Production Zone to limit the effect on the versatile land resource.*

Comment:

The subject site is within the Plains Production zone and sits outside of the future growth areas as identified in the HPUDS. The application is seeking to undertake a non-complying development and establish activities not anticipated by the District Plan. The applicant is essentially seeking to undertake an ad hoc development



based on a number of site characteristics that may set it apart from other Plains Production land. Some of the factors have been discussed in the previous sections, and I have generally concluded those factors are not unexpected for Plains Production land.

However, regardless of whether those factors are unique to the subject site, the development itself is still considered 'ad hoc' as it is inconsistent with the objectives and intent of the Plains Production and Industrial zones. The Applicant acknowledges this, but states the proposal is not contrary because it will not compromise the versatile land resource. As discussed in the assessment against the Regional Resource Management Plan objectives, there is a clear intent that urban and industrial activities should be contained within the respective zones. In particular, HPUDS has specifically considered demand on industrial land until 2045, and the District Plan has given effect to it by rezoning the identified area to industrial. There is no evidence to suggest that there is a shortage of industrial land that would meet the requirement of the proposed activity.

The application has also cited cheaper land cost as a reason for the proposal. Economic factors are not relevant to the consideration under the RMA. However, it does further indicate that the proposal is a type of ad hoc development based on non-planning factors.

The proposal therefore is considered contrary to Policy ISP3.

The applicant has obtained written approvals from all of the adjoining parties with the exception of the vineyard at the back of the property. This report has concluded that in relation to potential reverse sensitivity effects, the level of effects will likely be less than minor.

In terms of the scale of industrial activity, the proposed building development is significantly larger than that anticipated for industrial activity within the Zone.

For those reasons, I have concluded that the proposal is **contrary to** Objective ISO2 and its associated policies.

***OBJECTIVE ISO1** 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.*

***POLICY 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.*

***POLICY ISP2** Continually review and monitor (on a 5 yearly basis) the uptake of industrial land and the predicted demand to ensure there is a sufficient and sustainable supply of land available for industry.*

Comment:

While this objective and the associated policies are not directly relevant to the proposal, when read in conjunction with Objective ISO2, this objective indicates a clear intent that the District Plan is seeking to accommodate industrial activities within the industrial zones and sufficient land has been zoned to meet this demand. This intent is also reflected in the relevant Regional Resource Management Plan objectives, as discussed in above sections.

Except economic reasons, the applicant has not provided any evidence / justification on why the proposed activities need to be located within the Plains Production zone. At the time of this report there does not appear to be any shortage of industrial land supply in Hastings. Two most recent rezoned industrial area – Omahu Road North and Irongate Road East, both have ample vacant or undeveloped sections of 1 ha or more. The application is upfront about these sites being uneconomic for the proposed activity. This reinforces the assessment on Objective ISO2 that the development is an ad-hoc development, which is inconsistent with the Industrial Strategy for the District.

The proposal is therefore considered **contrary to** Objective ISO1 and its associated policies.

**Chapter 6.1 Plains Strategic Management Area**

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

**POLICY 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.*

Comment:

None of the proposed activities are directly linked to land based primary production activities, or primary production activities in general. Furthermore the proposed industrial activity is in a scale not anticipated by the District Plan.

The applicant noted that the drainage contractor will provide services to both urban and rural customers. However this is not a direct link to land-based production activities.

The proposal is therefore **contrary to** Policy RSMP2.

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

Comment:

As assessed in Section 4 of this report, the subject site is located within a cluster of existing industrial activities. It is in an atypical Plains environment that does not have the open environment generally expected. The physical development required for the proposal will not change the existing environment to more than minor degree.

The proposal is therefore **not contrary to** Policy PSMP3.

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

Comment:

Both activities are not directly related to crops growing / stock farming activities within the Plains environment.

The proposal is therefore **contrary to** Policy RSMP4.

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

Comment:

As discussed in previous assessment, particularly in relation to OBJ UD1, OBJ UD3 (Regional Resource Management Plan), POLICY RRSP4 and OBJECTIVE ISO2 (Hastings District Plan), there is a clear theme that urban activities and those not related to primary production activities should be controlled and confined with the area identified through HPUDS and the urban boundaries.

Policy PSMP5 follows on from this theme and requires prevention of the "incremental creep" of such activities into the Plains zone. The proposal would represent such an incremental creep in an area with established industrial activities in the Plains Production zone, and will undermine the purpose of the urban /rural boundary and the industrial zones.

The proposal is therefore **contrary to** Policy RSMP5.

#### **Chapter 6.2 Plains Production Zone**

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

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

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

Comment:

The proposed development is at a scale not anticipated by the District Plan. As discussed in this report, it is also a type of ad hoc development within the Plains Production zone that the District Plan is specifically seeking to avoid.

The proposal is therefore **contrary to** objective PPO1 and its associated policies.

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

**POLICY 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.*

Comment:

While the proposed activity represents a flexible use of versatile land, it is not directly linked to the productive use of the land, and is at a scale not anticipated by the District Plan. As assessed, the proposal is unlikely to result in significant adverse effects on the rural characters. However the land versatility of the site will likely be further compromised by the proposal.

The proposal is **contrary to** objective PPO2 and its associated policies.

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

**POLICY 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.*

Comment:

As assessed in Section 4 of this report, the subject site, despite its Plains Production zoning, is located within an atypical rural environment, being largely surrounded by other industrial activities. The bulk of the proposed development will be adjoining the site's Omahu Road frontage, clustered with other existing activities with a similar scale. While it is not an activity anticipated by the District Plan, the potential visual effects will likely be mitigated through the existing environment.

The proposal is therefore considered **not contrary to** Objective PPO3 and its associated policies.

**Chapter 27.1 Earthworks Mineral Aggregate and Hydrocarbon Extraction**

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

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

**POLICY EMP3** *Protection of productive soils within the District from large-scale stripping, stockpiling, alteration and removal to ensure the land can still support a range of productive land uses.*

**POLICY EMP4** *Allow earthworks and the prospecting of minerals where the adverse effects on the environment will be minor.*

Comment:

Given the flat nature of the land, it was concluded that the subject site will likely be able to contain the proposed development, and any risk associated with natural hazard risk can be assessed and considered at the building consent stage. Any temporary effects such as noise, dust and sediment runoff can be managed through standard conditions mitigating those effects.

In relation to the on-going earthworks associated with the training activities on site, it will operate fairly infrequently and is of a scale not unusual in the Plains Production environment. Due to the nature of training activities, best site practices, including dust suppression, will be implemented throughout the training sessions. The site will also be restored and stabilised after each training session. Those matters will be enforced through conditions.

The proposal is therefore considered **consistent with** Objective EMO1 and its associated policies.

Conclusion

Based on the assessment above, it is concluded that the proposal is contrary to a number of key objectives and conditions relating to the preservation of versatile land and avoidance of ad hoc development in the Plains Production zone.

**9.0 SECTION 104(1)(C) ANY OTHER RELEVANT MATTERS**

**9.1 Precedent and Integrity of the Plan**

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

The potential for the grant of consent to a proposal to create an adverse precedent or to impact on the integrity and consistent administration of the District Plan are 'other matters' that may be considered under section 104(1)(c). The approach to such matters is summarized by the High Court in *Rodney District Council v Gould* [2006] NZRMA 217 at paragraph [102]:

*'It is to be observed that on this approach, it is where the circumstances of a particular case lack any evident unusual quality that granting consent may give rise to concerns about public confidence in the consistent application of the rules in the District Plan. Conversely, where the circumstances of a particular case can be seen as having some unusual quality, the constraints of what is now s 105(2A)(b) may be overcome. In an appropriate case the Environment Court can decide that there are aspects of a proposal which take it outside the generality of cases, so that the case may be seen as exceptional, and if it can be said that the proposal is not contrary to the objectives and policies of the plan, it will not be necessary also to consider and make findings, on the issues of public confidence in the administration of the District Plan and District Plan integrity. Concerns about precedent, about coherence, about like cases being treated alike are all legitimate matters able to be taken into account, as the recent discussion of Baragwanath J in *Murphy v Rodney District Council* [2004] 3 NZLR 421 again emphasises. But if a case is truly exceptional, and can properly be said to be not contrary to the objectives and policies of a District Plan, such concerns may be mitigated, may not even exist.'*

The application acknowledges that the proposal is inconsistent with some objectives and policies of the District Plan, and my assessment above is that the proposal is contrary to important provisions. It is therefore necessary to consider whether the grant of consent to this proposal would create an adverse precedent. Having reached the view above that the proposal is not consistent with the objectives and policies applying to development within the Plains Production Zone, it is important to consider whether there are any "unusual" or "exceptional" qualities which would differentiate this proposal from other cases that might seek to subdivide an undersized Plains zoned site.

The AEE contains a detailed assessment in relation to District Plan Integrity and Precedent Effects. The applicant has further provided an assessment of sites with similarities to the subject site in order to establish if the subject site can be distinguished from them. Mr McKay's assessment is contained on pages 53-55 of the AEE and are summarised on page 54 as follows:

- The site is within a cluster of existing industrial activities; such activities adjoin either side boundary and are located opposite the site frontage.
- The report from agricultural scientist Ian Milner demonstrates that the site does not comprise of versatile land and includes modified soil profiles to depth indicative of fill and the soil surface has organic and inorganic foreign material significantly reducing the utility of the site for rural production.
- The site does not appear to have been used for agricultural production for 60 years.
- The site does not have any sufficient water supply available for horticultural activities requiring irrigation water such as greenhouse production not utilising the soil resource.
- The PSI / DSI report from Lattey confirms that the site was previously utilised as part of the adjoining timber processing facility and portions of the site have been contaminated with chromated copper arsenate from the storage of treated timber and from areas of landfilling.
- Any potential reverse sensitivity effects or direct effects on adjoining vineyards are mitigated by a 100m buffer to the rear of the site and proposed 15m setbacks and dust suppression of training earthworks mitigating any effects on the Tasman Harvester Vineyard (who have also provided written approval to the proposal).

- The proposed activities will be consistent in character and visual amenity with the adjoining and opposite land uses.
- The owners of the opposite and adjoining properties have all provided their written approval to the proposal.
- The proposed industrial land use involving building over and sealing large areas of the contaminated portions of the site is an appropriate activity according to the Lattey report, and with conditions requiring further testing and a management plan, the training activities will be appropriate for the rear of the site.

The AEE also refers to the proposal being for an infrastructure training facility in association with the EIT School of Trades, which requires space which “cannot be economically provided in an industrial zone where land prices dictate that land is used as efficiently as possible by business activities”. As such, the application relies on the educational aspect of the proposal as a differentiating feature.

In terms of the above features, I have commented on many of them above. While I acknowledge the site is located between established industrial uses, I do not consider this to be exceptional in the Plains Production Zone. There are numerous locations within the vicinity of the subject site that are zoned for Plains Production and are surrounded by non-farming uses. Some of the examples below (Blue – General Industrial Zone, Green – Plains Production zone).



Figure 6 Kirkwood Road, Flaxmere, South of the Omaha Road intersection.



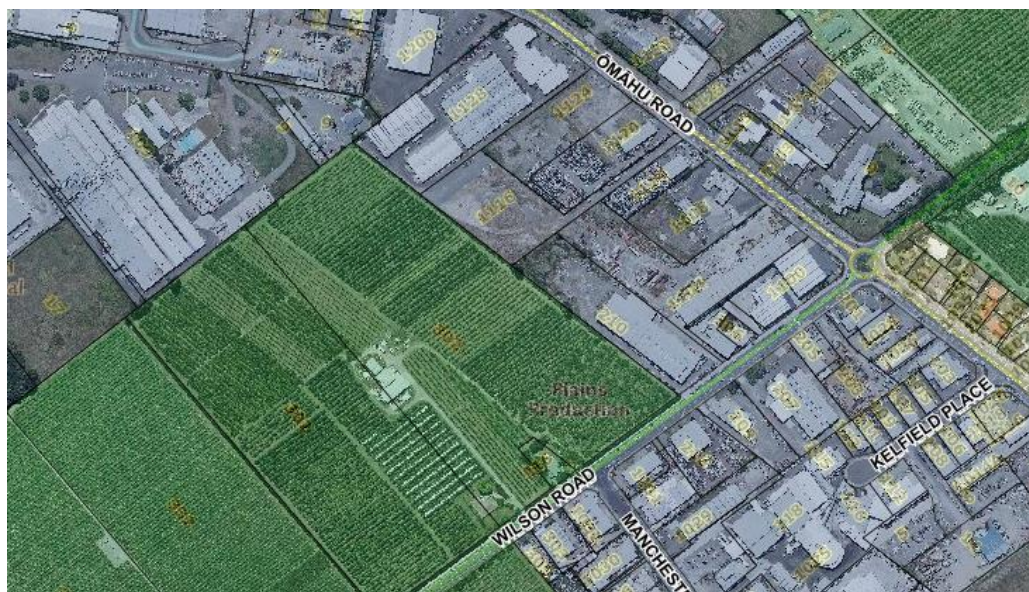


Figure 7 Area between Omaha Road and Wilson Road



Figure 8 Richmond Road / Coventry Road intersection, west of the Tomoana Industrial area.

Placing too much emphasis on that feature would encourage consolidation of industrial activity outside of the Industrial Zone which is in direct conflict with the Industrial Strategy and Rural Resource Strategy of the Plan.

As noted above, I acknowledge that the quality of the land imposes some constraints on its productive use, however again, I do not consider that to be exceptional within the Plains Production Zone. I particularly note that, as discussed in this report, the definition of 'versatile land' does not envisage that all land within the

zone would fall under certain land classification categories. There will always be pockets of land that require further investigation and remediation, but still form part of the wider Heretaunga Plains. Placing too much weight on soil quality alone would encourage similar pockets of land being developed in an ad-hoc manner, and undermine and significantly challenge the integrity of the District plan.

Water supply restrictions and contaminated or less productive soil are not unique to this site and do not set it apart from other Plains productions land.

Water restrictions area region-wide issue and all land without an existing allocation will be facing similar issues. While the site is only entitled to 5 m<sup>3</sup> of ground water take as a permitted activity, Rule TANK 11 of the Regional Management Plan permits additional water take as a discretion activity, provided that additional allocation does not result in the over-allocation in the relevant management unit. While it is outside of the District Council's jurisdiction to assess the matter in any detail, it does demonstrate that access to water is not impossible, and all plains land with no existing allocation are subject to the same restriction.

Regardless of the whether soil on site can be considered versatile, when considered within the wider definition of life-supporting capacity, the subject site is not significantly different from any other land within the Plains Production zone, has the same level of access to water, climate, transport network, labour market and flat contour that is easy to work on.

The bullet point list of factors in the application essentially relate to the general lack of more than minor adverse effects on the environment. It is acknowledged that effects from this proposal of itself will be minor on the environment. However it is not uncommon for individual applications to have minor effects, and I do not consider this to be a feature which makes this proposal out of the ordinary.

The final features relied upon by the applicant are the unaffordability of industrial land for this type of activity, and the educational aspects of it.

I do not consider the fact that establishing in an appropriately zoned area would be more expensive is a factor which differentiates this proposal from others that might follow. The economics of a proposal are not relevant to its assessment under the RMA, and the Explanation to the objectives and policies specifically identifies the fact that rural land is cheaper to be a risk factor in undermining the outcomes sought for the Industrial and Plains Production Zones. Any proposal could claim that it is uneconomic for them to purchase Industrial land and that it is cheaper to establish within the Plains Production Zone. I do not consider this aspect to be relevant in deciding whether an exception to the District Plan should be approved.

The application also refers to the educational aspects of the proposal. While I acknowledge the activity has some particular attributes it requires for the site, I do not consider these are critical enough to warrant a departure from the objectives and policies of the District Plan. This argument is closely tied to the economics of the proposal being able to develop within the Industrial Zone, which I have noted above to be irrelevant, and not to differentiate this proposal from others who could raise the same issue.

Based on the reasons discussed above, while I have carefully considered the factors said by the applicant to differentiate this proposal, I am of the view that the proposal involves an industrial activity to establish on an ad hoc basis within the Plains Production Zone in a way that is likely to create an adverse precedent which would undermine the integrity of the District Plan.

#### **10.0 PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES - s104D**

Under s104D a non-complying activity must pass at least one of the 'gateway' tests of either s104D(1)(a) or s104D(1)(b) before a decision can be made on whether to grant a resource consent application under s104B.

If an application fails to pass both tests of s104D(1) then it must be declined.

The proposal satisfies the test in s104D(1)(a) because the adverse effects on the environment (identified in section 6 above) will be no more than minor.

The application therefore meets the test of s104D(1)(a) and the application can be assessed against the provisions of s104 and a substantive decision made.

#### **11.0 PART II OF THE RESOURCE MANAGEMENT ACT 1991**

Part 2 sets out the purposes and principles of the RMA, with the purpose being the sustainable management of natural and physical resources.

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.*

The District Plan was only recently made operative (being made partially operative March 2020) and has in recent Environment Court cases<sup>[1]</sup> been accepted as having coherent provisions with no need for a Part 2 analysis. Further to this, assessments the RPS have been made above, which like the District Plan are also required to give effect to Part 2.

Accordingly, in my opinion this is a situation where assessment against Part 2 would not add anything more to the assessment of the application and is therefore not required.

#### **12.0 CONCLUSION**

It is agreed that the proposal will have no more than minor adverse effects on the environment. However the proposal has been assessed as being contrary to many of the relevant objective and policies of the District Plan. It will also likely to set an adverse precedent and challenge the integrity of the plan through potentially enabling similar ad-hoc industrial activities within the Plains Production zone.

For those reasons, it is recommended that the application **be declined**.

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<sup>[1]</sup> *Endsleigh Cottages v Hastings District Council* [2020] NZEnvC 064 (paragraph 272) and *Stone v Hastings District Council* [2019] NZEnvC 101 (paragraph 127).



RMA20220082

**Decision:**

Pursuant to Rule EM6 and PP39 of the Hastings District Plan (Partially Operative with the exception of section 16.1 and appendix 50) 11<sup>th</sup> of March 2020, Regulation 11 of the National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health 2011 (NESCS), and Sections 104, 104B and 104D of the Resource Management Act 1991, the resource consent application seeking to establish industrial and training activities at 2570 Omahu Road, Hastings (LOT 1 DP 11200, RT HBB4/587) as a Non-Complying Activity is **REFUSED**.

**With the Reasons for this Decision Being:**

1. There are no adversely affected persons in terms of Section 95E of the Resource Management Act 1991.
2. The proposal is unlikely to result in any more than minor adverse effects on the environment. The reasons are discussed in Section 4 of the Sections 95 and 104 Planning Report, and are summarised as below:
  - While the Council does not agree with the applicant's assessment that the subject site is not versatile, it was concluded that the effect on versatile land, in relation to the site itself, is no more than minor.
  - The site is located within an atypical Plains Production environment that contains existing industrial activities. Visually, the proposed development will not adversely affect the existing visual and landscape amenity values of the area.
  - The Council generally accepts the recommendations and conclusions of the Transport Impact Assessment provided by the applicant, in that safe access to the site can be provided subject to conditions and controls.
  - Subject to standard controls and practices, and on-going monitoring of training activities on site, earthworks effects associated with the proposal can be controlled to a less than minor level.
  - In addition to the reasons discussed in the bullet point above, additional measures such as buffer zones and implementation of best practices will minimise potential dust effects to less than minor.
  - Subject to a Detailed Site Investigation, it is expected any soil contamination will be mitigated to a level appropriate for the proposed land uses.
3. The proposal has been assessed as contrary to relevant objectives, policies and other provisions of the Hastings District Plan and the Regional Resource Management Plan. The reasons are discussed in Section 8 of the Sections 95 and 104 Planning Report, and are summarised as below:
  - The industrial component of the proposal is an ad-hoc industrial development in the Plains Production zone. Objective and policies for both the Industrial and Plains Production zones specifically seek to avoid such developments.
  - The proposal is also inconsistent with the overall intent of spatial planning through the Heretaunga Plains Urban Development Strategy, as the land sits outside of areas anticipated for future growth. Other than economic reasons, which are not considered relevant to consideration of the proposal, the applicant has not identified any other planning reasons why the subject site is an appropriate location for the proposed activities.
  - The proposed activities have no direct relationship to the primary production activities within the Plains Production zone. The scale of those activities is not anticipated by the District Plan.

TRIM Ref: 25080#0053

Page 1 of 3

- The applicant has not established that the land is not versatile, but in any event, the relevant objectives and policies tell against this type of industrial development within the Plains Production zone regardless of the characteristics of the specific site.

For completeness, the Council also notes the associated earthworks activities are considered to be consistent with relevant objectives and policies.

4. The proposal will create an adverse precedent and directly challenge the integrity of the District Plan. Reasons for this conclusion are discussed in Section 10 of the Sections 95 and 104 Planning Report, and are summarised as below:
- The site's location and being surrounded by existing, legally established industrial activities are not unique, as there are many similar locations within the vicinity.
  - While there are a number of factors limiting the productive potential of the site, those factors, including access to water, soil quality and contamination are not unique to this site nor unusual in the Plains Production zone.
  - While effects on the environment from this proposal will be minor, this is not considered to be a feature which differentiates the proposal from other potential industrial uses within the Plains Production Zone.
  - Land price, and the economics of establishing a training facility in the Industrial Zone, is not considered as a differentiating factor as it is not relevant consideration under the RMA. The Explanation to the objectives and policies specifically identifies the fact that rural land is cheaper to be a risk factor in undermining the outcomes sought for the Industrial and Plains Production Zones.
  - The fact that the proposal involves an educational aspect is not considered to be a relevant differentiating factors.

In the absence of any factor which differentiates this proposal from other potential activities which could seek to establish in the Plains Production Zone on similar grounds, it is considered that granting consent to this proposal would set an adverse precedent, and would undermine the integrity of the District Plan.

Advice Notes

1. A right of Objection for this decision exists under Section 357 of the Resource Management Act 1991. If you wish to object this decision, the request must be made by notice in writing no later than 15 working days after the date of this decision.

**Recommended by:**

**Liam Wang**  
**SENIOR ENVIRONMENTAL PLANNER (CONSENTS)**

Decision issued under Delegated Authority by:



Caleb Sutton  
ENVIRONMENTAL CONSENTS MANAGER  
PLANNING AND REGULATORY SERVICES

Date:

14 April 2022



8 May 2022

Environmental Consents Manager  
Hastings District Council  
Private Bag 9002  
Hastings

**Attention:** Caleb Sutton

**Email:**

**Email:** calebs@hdc.govt.nz

Dear Sir

**RMA 20220082- APPLICATION BY DRAINWAYS CONTRACTING LTD**

We have been instructed by Drainways Contracting Ltd in respect of the decision of Council dated 14 April 2022 declining the company's application for resource consents.

Drainways Contracting Ltd hereby objects to the decision pursuant to section 357A of the Resource Management Act 1991.

The reasons for the objection are:

- (a) That the application should be granted as it achieves the purpose of the Resource Management Act of sustainable management of natural and physical resources.
- (b) That there are no effects on the environment that are more than minor.
- (c) That the activities for which resource consents were sought are not contrary to the relevant objectives, policies and provisions of the Hastings District Plan and Regional Resource Management Plan.
- (d) The site is not suitable for activities usually associated with the Plains production zone.
- (e) That the proposed activities and educational activities are unique and represent a sustainable use of a compromised resource in a manner that does not give rise to precedent or the expectation that such activities would be replicated throughout the zone.

Please acknowledge receipt of this objection.

Yours faithfully

**LAWSON ROBINSON LIMITED**

A handwritten signature in blue ink, appearing to read "M. Lawson", followed by a large, stylized flourish.

**Matthew Lawson**  
Director

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Drainways