

Thursday, 18 July 2024

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga*  
**Hastings District Council**  
**Hearings Committee Meeting**

*Kaupapataka*

# Agenda (Part 1)

**(Oderings Nurseries CHCH Limited - 55 and 57 Brookvale Road, H Nth)**

*Te Rā Hui:*  
Meeting date: **Thursday, 18 July 2024**

*Te Wā:*  
Time: **9.30am**

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

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

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

## Hearings Committee – Terms of Reference

### Fields of Activity

The Hearings Committee is established to assist the Council by hearing and determining matters where a formal hearing is required in respect of a planning or regulatory function of the Council, including under the provisions of the:

- Resource Management Act 1991
- Building Act 2004
- Health Act 1956
- Dog Control Act 1996
- Litter Act 1979
- Hastings District Council Bylaws
- Local Government Act 1974
- Local Government Act 2002; and
- Hastings District Council Class 4 Gambling Venue Policy.

### Membership - Up to 10 Hearings Commissioners (comprising up to 7 elected members of Council and at least 3 external appointed Independent Hearings Commissioners)

- Chair appointed by Council from the membership including external appointed members.
- Deputy Chair appointed by the Council from the membership including external appointed members.
- Under s. 39B of the Resource Management Act, the Chair must be accredited, and unless there are exceptional circumstances, appointees on hearings panels must have accreditation to make decisions on;
  - Applications for Resource Consents.
  - Notice of Requirements given under s. 168 or 189 of the Resource Management Act.
  - Requests under clause 21(1) of Schedule 1 of the Resource Management Act for a change to be made to a Plan.
  - Reviews of Resource Consents.
  - Applications to change or cancel Resource Consent Conditions.
  - Proposed Policy Statements and plans that have been notified.
  - Any hearing of an objection under s. 357C of the Resource Management Act.

### Quorum

- a) For Hearings other than Council Initiated Plan Change hearings, a maximum of three members including the Chair (or Deputy Chair, in the Chair's absence) to meet for any one hearing, with the exception of b) below.
- b) That on a one-off basis, up to a maximum of five accredited members to meet to consider and decide on the Oderings Nurseries CHCH Limited resource consent application for medium density housing at 55-57 Brookvale Road, with this specific hearing composition being:
  - Two external Independent Commissioners (with one acting as the Chair for this hearing – being Mr Bill Wasley)
  - 3 accredited members of the Hearings Committee.
- c) For Council Initiated Plan Change hearings, all members may attend and take part in the decision-making process unless the Chair exercises the power of delegation to assign any function, power or duty of the Hearings Panel to any one or more Commissioners.
- d) For Hearings other than Council Initiated Plan Change hearings the quorum shall be two members.
- e) For Council Initiated Plan Change Hearings, the quorum shall be three members.

- f) Members to sit on any hearing other than a Council Initiated Plan Change Hearing shall be selected by agreement between the Chair (or Deputy Chair, in the Chair's absence) and the Group Manager: Planning and Regulatory Services.
- g) For the purpose of hearing any objection in respect of the matters detailed under the Dog Control Act 1996 the Hearings Committee will consist of any three members selected by the Chair.

## *Kaupapataka*

# Agenda

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*Ngā mema o te Komiti*

**Committee Members:**

**Hearing Panel Members:**

Chair: Bill Wasley (Commissioner Chair - External appointee)

George Lyons (Commissioner - External appointee)

Councillors Marcus Buddo, Alwyn Corban and Wendy Schollum

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*Apiha Matua*

**Officer Responsible:**

Group Manager: Planning and Regulatory Services - John O'Shaughnessy

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**Reporting Planner**

Consultant Planner – Rowena Macdonald

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*Te Rōpū Manapori me te*

*Kāwanatanga*

**Democracy**

**Governance Services**

Christine Hilton (Ext 5633)

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## *Te Rārangi Take*

# Order of Business

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### 1.0 Apologies & Leave of Absence – *Ngā Whakapāhatanga me te Wehenga ā-Hui*

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### 2.0 **Oderings Nurseries CHCH Limited - Resource Consent application for residential development of 55 and 57 Brookvale Road, Havelock North (RMA20230145)**

#### **DOCUMENTS CIRCULATED FOR HEARING - COMPRISING A NUMBER OF SEPARATE VOLUMES**

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

**Attachment A**      Section 42A Reporting Officer's report      **Pg 3**

The Application, Submissions and other documents can be viewed on the Council website.

Thursday, 18 July 2024

*Te Hui o Te Kaunihera ā-Rohe o Heretaunga***Hastings District Council: Hearings Committee Meeting***Te Rārangi Take*

# Report to Hearings Committee

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

**Te Take:** Oderings Nurseries CHCH Limited - Resource Consent application  
**Subject:** for residential development of 55 and 57 Brookvale Road,  
Havelock North (RMA20230145)

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

- 1.1 This is a covering report relating to a resource consent application made by Oderings Nurseries CHCH Limited for residential development of 55 and 57 Brookvale Road, Havelock North (RMA20230145).
- 1.2 The reporting planner's report is attached to this covering report and contains the details regarding this application.

## 2.0 Recommendations - *Ngā Tūtohunga*

That the covering report titled Oderings Nurseries CHCH Limited - Resource Consent application for residential development of 55 and 57 Brookvale Road, Havelock North (RMA20230145), the hearings report and associated attachments, dated 18 July 2024, be received.

### Attachments:

<a href="#">A↓</a>	Section 42A Reporting Officer's report	RMA20230145#0228	
<a href="#">B⇒</a>	Application & Assessment of Environmental Effects	RMA20230145#0016	Volume 1
<a href="#">C⇒</a>	Record of Title	RMA20230145#0004	Volume 1
<a href="#">D⇒</a>	Scheme Plan	RMA20230145#0005	Volume 1
<a href="#">E⇒</a>	Infrastructure Report	RMA20230145#0006	Volume 1
<a href="#">F⇒</a>	Landscape & Visual Assessment	RMA20230145#0007	Volume 1
<a href="#">G⇒</a>	Traffic Assessment	RMA20230145#0008	Volume 1

H Contaminated Land Assessment

RMA20230145#0009

A separate  
document on  
Council's website

RMA20230145



**REPORT ON PUBLICLY NOTIFIED APPLICATION FOR RESOURCE CONSENT  
UNDER THE RESOURCE MANAGEMENT ACT 1991 (RMA)**

**REPORT TO:** APPOINTED HEARINGS PANEL

**HEARING DATE:** 18 & 19 July 2024

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

**SUBJECT:** A PUBLICLY NOTIFIED APPLICATION FOR LAND USE AND SUBDIVISION CONSENT TO  
ESTABLISH 35 RESIDENTIAL DWELLINGS (EACH ON A SEPARATE FREEHOLD  
RESIDENTIAL LOT); A PROPOSED NEW CARPARK TO SERVICE THE EXISTING GARDEN  
CENTRE AND CONSENTED CAFÉ ON THE BALANCE LOT; CONSTRUCTION OF AN  
ACCESS ROAD TO VEST FROM BROOKVALE ROAD, AND PRIVATE ACCESS ROADS  
THROUGH THE DEVELOPMENT (COMMONLY OWNED ACCESS LOTS); A LOCAL  
PURPOSE (DRAINAGE RESERVE) TO VEST; AND ALL ASSOCIATED EARTHWORKS  
(@2,312M<sup>3</sup>)

**NOTE:** This report is not the decision on the application. This report sets out the advice  
and recommendation of the reporting planner. This report has yet to be  
considered by the hearing panel delegated by Hastings District Council to decide  
this resource consent application. The decision will be made by the hearing panel  
only after they have considered the application and heard from the applicant,  
submitters, and Council officers.

**1.0 APPLICATION DESCRIPTION**

**1.1 Application and Property Details**

Application Number: RMA20230145

Applicant's Name: Oderings Nurseries ChCh Limited

Site Address: 55 & 57 Brookvale Road, Havelock North

Legal Description: Lot 2 DP311724 and Lot 1 DP8274, subject to easements (Record  
of Title 46325, owned by Oderings Nurseries ChCh Limited and  
referred to in this report as 'Oderings')<sup>1</sup>

Total Site Area: 2.0270 hectares

Lodgement Date: 31 May 2023

Notification Date: 21 October 2023

Submission Period Closed: 20 November 2023

Number of Submissions Received: Total of 49 submissions, comprising:  
2 in support; 36 in opposition; 3 in conditional support; 7 seek  
changes or confirmation about aspects of the development and  
do not state whether they seek the consent be declined or  
granted; and

<sup>1</sup> Note that the AEE accompanying the application incorrectly refers to Section 10 SO 330242 being part of the legal description of the site subject to this application – this was confirmed as in error in an email response from the applicant's agent (Joe Gray) dated 8 June 2023.

**RMA20230145**

1 late submission that is neutral, but generally supportive subject to confirming the development does not give rise to adverse cumulative effects.

**1.2 Application Documents**

The list of application documents and plans are set out in the recommendation forming part of this report.

**1.3 Adequacy of Information**

The information submitted with the application (following several further information requests) is now sufficiently comprehensive to enable the consideration of the following matters on an informed basis:

- The nature and scope of the proposed activity for which resource consent is sought;
- The extent and scale of the actual and potential effects on the environment;
- Those persons and/or customary rights holders who may be adversely affected; and
- The requirements of the relevant legislation.

Several requests for further information under section 92 of the Resource Management Act 1991 (RMA) were made in relation to this application for resource consent on the following date:

<b>Date s92 Requests Made by Council</b>	<b>Date Responses Received from Applicant</b>
8 June 2023 (email requesting confirmation of legal description)	Email response received 8 June 2023
27 June 2023 (email requesting confirmation of earthworks volume to be removed off-site and whether excavation in vicinity of surcharge loads)	Email response received 28 June 2023
22 June 2023 (comprehensive s92 request)	Initial response received 31 July 2023 Complete response received 4 October 2023 – outstanding carpark plans were supplied 12 October 2023
30 November 2023 (email requesting confirmation of use of new carpark)	Email response received 30 November 2023
6 December 2023 (email requesting confirmation of applicant's acceptance of DSI report recommendations)	Email response received 6 December 2023
21 December 2023 (email requesting confirmation whether any planting proposed in Guthrie Park)	Email response received 21 December 2023
9 January 2024 (email requesting copy of desktop review of archaeological sites and an update on applicant's engagement with mana whenua)	Email response received 9 January 2024
4 March 2024 (email forwarding Council's engineering comments and urban design review following applicant's s92 response)	Email response received 16 March 2024

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1.4    Report and Assessment Methodology

I have undertaken a separate and independent assessment of the proposal, avoiding undue repetition of descriptions or assessments from the application where appropriate, with technical aspects having been reviewed by independent experts (internal and external) engaged by the Council as needed. Where there is agreement on any descriptions or assessments in the application material, this is identified in this report.

Where professional opinions differ, or additional assessment and/or consideration is needed for any reason, the relevant points of difference of approach, assessment or conclusions are detailed. Also, the implications of any professional difference in findings in the overall recommendation is provided.

This report is prepared by:

Rowena Macdonald  
Consultant Planner

Signed:

Date:

10 April 2024

Reviewed and approved for release by:

Caleb Sutton  
Environmental Consents Manager

Signed:

Date:

11 April 2024

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## 2.0 EXECUTIVE SUMMARY

Oderings Nurseries ChCh Limited (the Applicant) is proposing to continue to operate its garden centre at 55 Brookvale Road, Havelock North, but to redevelop the balance of the site (which historically operated as the Applicant's plant nursery) for medium density residential housing, including the various building and site development components set out as follows (and illustrated in Figures 1 – 4 in this report):

- i) construction of 35 residential dwellings, including:
  - a. 5 x two-storey fully detached dwellings;
  - b. 3 x two-storey terrace style dwellings;
  - c. 4 x two-storey dwellings in two duplex structures;
  - d. 18 x two-storey zero-lot dwellings;
  - e. 4 x single-storey zero-lot dwellings; and
  - f. 1 x single-storey bespoke dwelling (facing Brookvale Road);
- ii) construction of a replacement carpark (40 parks including 2 accessible parks) to service the existing garden centre and consented café;
- iii) approx. 2,312m<sup>3</sup> of earthworks to facilitate the development, including public road access and private accessways, and work (approx. 160m<sup>3</sup> of which is to be removed off-site);
- iv) associated landscaping;
- v) to subdivide around the proposed residential dwellings creating:
  - a. 35 x freehold residential lots;
  - b. a balance commercial lot (containing the existing garden centre and consented café in the south-eastern corner of the site, and the proposed carpark);
  - c. road to vest (access from Brookvale Road, branching off at a roundabout to the garden centre/café, with on-street carparking provided along the short stretch of new public road);
  - d. 3 x commonly-owned access lots (including provision for 8 on-street carparks);
  - e. associated easements (including to allow public pedestrian access to the adjoining reserve (Guthrie Park)); and
  - f. a local purpose (drainage) reserve to vest (with easements for right of way and right to drain water to the Karituwhenua Stream).

The application was publicly notified under section 95A of the RMA on 21 October 2023.

A total of 48 submissions were received on or before 20 November 2023. Of these, 36 are opposed; 2 are in support; 3 are in conditional support; and 7 seek changes or confirmation about aspects of the development and do not state whether they seek the consent be declined or granted.

There was also one submission received late on 23 November 2023, that is neutral subject to confirming that the development will not generate any upstream effects in terms of stormwater, nor take up existing or proposed capacity relied on by development currently underway or in the future within an adopted Structure Plan (water, wastewater, stormwater, roading). I understand the Chair of the Hearings Panel granted a waiver in respect of this late submission and it is included in my assessment.

I have assessed that, subject to imposing suitable conditions of consent, most adverse effects of the proposed activity on the environment can be appropriately avoided, remedied, or mitigated to be no more than minor, however, the following matters remain unresolved in terms of their adverse environmental effects, which I consider have the potential to be more than minor:

- adverse effects on the privacy, amenity and visual amenity for 53 Brookvale Road;
- unresolved matters in relation to integration of the proposed development with the public realm e.g. consideration of alternative edge lane layout and, if the current layout is retained, whether all issues with the current built form and design quality, as well as fencing and landscaping,

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identified in the Urban Design Review have been sufficiently addressed to balance 'public' and 'private' amenity objectives, and maintain and enhance the quality, safety, and visual amenity of surrounding public spaces;

- consideration of the installation of a kea crossing on Brookvale Road, installation of a concrete footpath along the full frontage of the development, and other measures addressing tree planting in proximity to streetlights, to ensure traffic generated by the proposed development can be safely absorbed and to mitigate any adverse effects of the proposed development on traffic and pedestrian safety;
- unresolved matters in relation to the proposed stormwater management strategy to confirm that stormwater is able to be suitably and appropriately managed on-site without downstream effects on neighbouring land;
- unresolved matters in relation to the lack of consideration of downstream boundary conditions in culvert calculations, the upstream catchment and overland flow path from Woodlands Drive and subsequent effects on Guthrie Park, in developing the flood model used for the Karituwhenua Stream, as well as internal overland flow paths and any retaining required in determining appropriate finished floor levels.

I also note the Council's preference regarding avoiding the location of public infrastructure in private roads, in terms of ensuring ongoing accessibility for Council for maintenance and servicing purposes. This is a matter that would also benefit from further consideration prior to the hearing, as it may have implications for other matters above.

There would be some positive social and economic benefits associated with the proposed development in terms of a visual improvement on the current state of the site, and in terms of provision of additional housing.

I have concluded that the proposal is contrary to the relevant objectives and policies of the Hastings District Plan. The proposal therefore may not be able to pass either of the 'gateway' tests under section 104D of the RMA and therefore may not be able to be considered for granting.

After considering the requirements of sections 104, 104B, & 104D of the RMA, given the potential for adverse effects to be more than minor, I reserve making a recommendation until I have heard evidence that the Applicant and submitters may wish to present at the hearing in relation to the above unresolved matters.

I note however, that if the adverse effects of the activity on the environment are able to be addressed such that they are no more than minor and the hearing panel is of a mind to grant consent, based on my assessment in relation to precedent effects and plan integrity I am satisfied that the site singly and uniquely differs from any other site in the Plains Production Zone and therefore, the proposal would not have the potential to set a precedent, and granting consent would not directly challenge the integrity of the District Plan nor undermine public confidence in its consistent administration.

### 3.0 REPORTING PLANNER

#### 3.1 Qualifications and Experience

My full name is Rowena Clare Macdonald. I am a Principal Planner and Director of Sage Planning (HB) Limited, a planning consultancy comprising four Directors established in 2015. I hold a Bachelor of Resource and Environmental Planning (with Honours) from Massey University, and am a full member of the New Zealand Planning Institute. I have been a practicing planner for 29 years. Prior to establishing Sage Planning, I was a Principal Planner for Opus International Consultants Limited.

My experience as a Planner includes resource consent preparation, and resource consent processing and decision making on resource consents under delegated authority. I also have experience in district plan preparation and general policy work. I have also prepared and presented evidence to council and Environment Court hearings for councils and other clients.



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### 3.2 Code of Conduct

I confirm that I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023 around requirements and duties and expectations in relation to expert evidence, and that I have complied with it when preparing this report. Other than when I state that I am relying on the advice of another person, this evidence is within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## 4.0 THE PROPOSAL

### 4.1 Background

The background to this application is outlined on pg 6 of the Assessment of Environmental Effects (AEE) accompanying the application, as detailed below:

*'In 2022 Oderings Nurseries ChCh Limited ('the applicant') sought to advance a resource consent application for a residential development at 55 & 57 Brookvale Road, Havelock North ('the site') via the Covid-19 fast track consenting pathway. The Ministry for the Environment declined to process the application, preferring for the application to pass through the normal resource consent process. Due to the anomalous rural zoning of the site, a plan change application was then considered, however to progress the development in a timely manner, the applicant decided to lodge a resource consent application while potentially lodging a 'clean up' plan change application in the future.*

*The applicant seeks resource consent to establish 35 dwellings at the site as well as undertake the necessary enabling works to undertake this development. Resource consent is also sought to subdivide around these dwellings creating 35 freehold lots as well as commonly owned access lots.'*

### 4.2 Proposal

Oderings Nurseries ChCh Limited (the Applicant) is proposing to redevelop the site at 55 Brookvale Road, Havelock North, as outlined on pgs 12 & 13 of the AEE accompanying the application as detailed below:

*'The part of the site that is proposed to be redeveloped was formerly occupied by a plant nursey which has been relocated to a site at Gimblett Road, Hastings. As such most of the site is currently unoccupied and the applicant proposes to redevelop the available land with 35 new residential dwellings in a range of typologies including:*

- *Five two-storey fully detached dwellings;*
- *Three two-storey terrace style dwellings;*
- *Four two-storey dwellings in two duplex structures;*
- *Eighteen two-storey zero-lot dwellings;*
- *Four single-storey zero-lot dwellings; and,*
- *One bespoke solution (single storey facing Brookvale Drive).*

*After construction, it is proposed to subdivide around these dwellings creating 35 residential lots, as well as commonly owned access lots and a separate lot for the garden centre and car park.*

*The balance of the site will be retained for the continued operation of the existing garden centre and a new café. This garden centre and café do not form part of the proposal (other than the car park) and consent for garden centre has been obtained separately, with the garden centre having existing use rights. However, the new carpark that will be constructed to service the garden centre and new café is proposed to be used as after-hours carparking for visitors to the proposed residential development. As such, this additional use is considered part of the proposal.'*

I note that in the Applicant's response (dated 4 October 2023) to matter 2(d) in Council's request for further information, the Applicant has advised that the need for over-flow parking from the proposed residential development is no longer considered necessary, and *'Therefore, it is not necessary that the*

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*garden centre/café parking be available to residents and their visitors*’. The Applicant has since confirmed that this aspect no longer forms part of their proposal<sup>2</sup>.

From a review of the application documentation, the various building and site development components are set out as follows, and illustrated in Figures 1 – 4 below:

- i) construction of 35 residential dwellings, comprising four housing typologies – Type A, B & C are two storey dwellings, and Type D are single storey dwellings;
- ii) construction of a replacement carpark (40 parks including 2 accessible parks) to service the existing garden centre and consented café;
- iii) approx. 2,312m<sup>3</sup> of earthworks to facilitate the development, including construction of public road access and private accessways (approx. 160m<sup>3</sup> of which is to be removed off-site);
- iv) associated landscaping;
- v) subdivision around the proposed residential dwellings creating:
  - a. 35 freehold residential lots;
  - b. a balance commercial lot (containing the existing garden centre and consented café in the south-eastern corner of the site, and the proposed carpark);
  - c. road to vest (access from Brookvale Road, branching off at a roundabout to the garden centre/café, with on-street carparking provided along the short stretch of new public road);
  - d. three commonly-owned access lots (including provision for 8 on-street carparks);
  - e. associated easements (including to allow public pedestrian access to the adjoining reserve (Guthrie Park)); and
  - f. a local purpose (drainage) reserve to vest (with easements for right of way and right to drain water to the Karituwheua Stream).

**Figure 1 – Proposed Landscape Masterplan and Housing Typology**



<sup>2</sup> Email confirmation received from Joe Gray, Saddleback Planning (the Applicant's agent) dated 30 November 2023.

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Figure 2 – Scheme Plan of Proposed Subdivision – Overall Layout

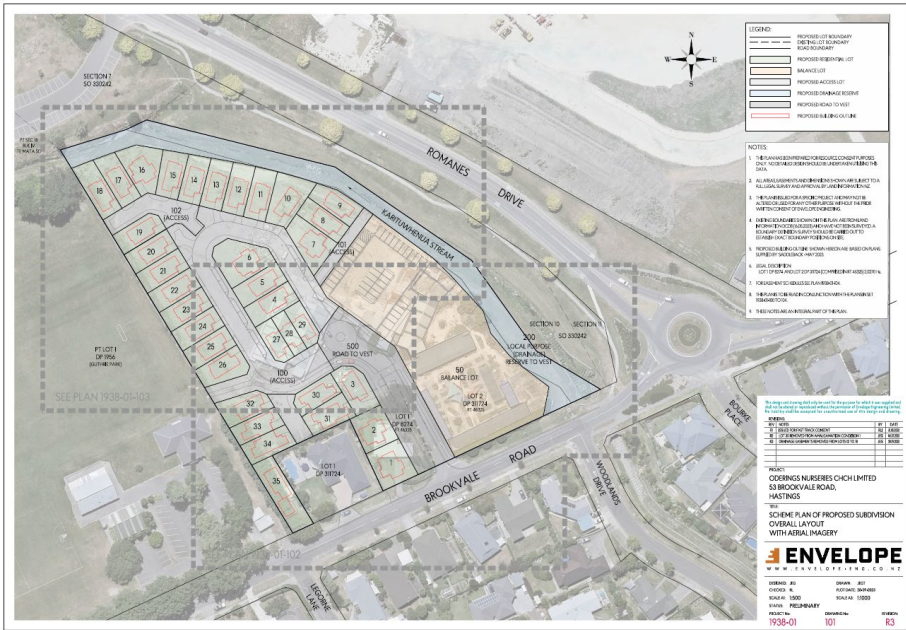


Figure 3 – Renders of the Proposed Development (views to & from proposed pedestrian access to Guthrie Park)





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Figure 4 – 3D Perspectives of Proposed Development



4.2.1 Access, Parking & Manoeuvring

Access (vehicular and pedestrian) and parking for the proposed development is outlined in the Transportation Assessment Report (attached in the AEE accompanying the application) as detailed below, and as illustrated in Figures 5 & 6 below:

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*'Access and Parking*

Two lots (Lot 1 and Lot 35) are proposed to have direct property access to Brookvale Road. All other lots and the existing garden centre will be accessed via the existing entry road which will be reconfigured.

The garden centre will have a central parking area with 40 parking spaces, including two accessible spaces. This carpark and the residential lots will be accessed via the existing access road, which is proposed to have a roundabout at the carpark access. The loop road beyond the roundabout is proposed to be private and provide access to housing only.

Walking routes are provided throughout the site to provide access to the individual lots and the garden centre, and link with the existing paths on Romanes Drive and in Guthrie Park. The planned routes and path types are shown as Figure 12. The paths shown in dark green are intended to be public whilst the shared space generally north of the roundabout is proposed to be private.



Figure 12 – Walking Routes (Prepared by Saddleback)

A footpath is also proposed along half of the site frontage, from the western boundary to the access road.

*Road Cross Sections*

The existing access is proposed to be formed as an 18m wide corridor, with a 7m wide carriageway and paths on both sides.

The private loop road is proposed to operate as a shared space with a single carriageway width of 6m. Additional width is provided in some areas to provide a total of eight parallel indented on-street parking spaces around the loop.

A 4.5m and 7m wide shared access driveway typology is proposed to serve lots 14-19 and lots 30-34 respectively. This cross-section will accommodate vehicle, pedestrian and cycle access, it also provides for vehicle manoeuvring space in a shared environment.

A similar cross-section with 3m wide accessway, widening to 5m where to allow for passing manoeuvres, is proposed to serve the three lots (Lots 7-9) near the garden centre car park.

*Loading and Servicing*

The site has been designed to accommodate:

- An 11.5m large rigid truck circulating around the residential area. This represents a furniture removal/delivery truck, which will occasionally visit the site. It is noted that a rubbish collection vehicle, which will regularly visit the site, is typically smaller;
- An 8m medium rigid truck, 11.5m large rigid truck and B-train have all been tracked entering and exiting the garden centre loading area;

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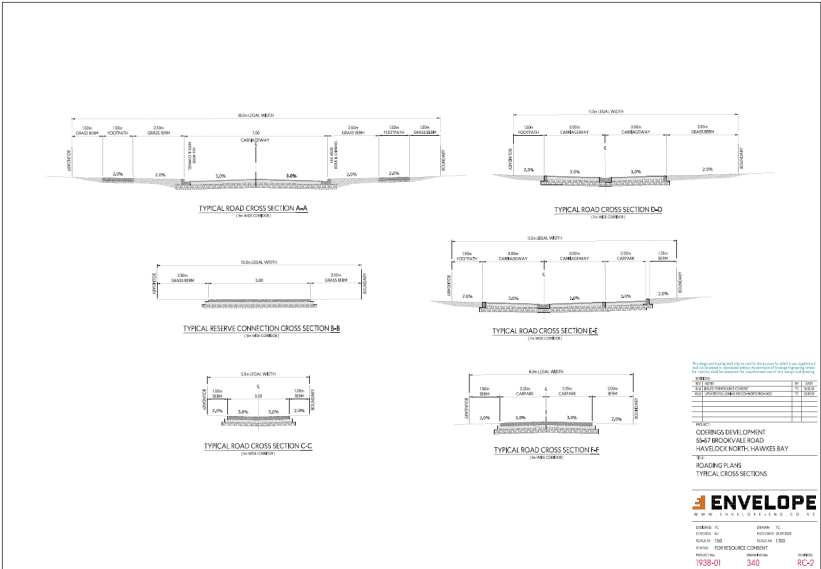
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# Attachment A

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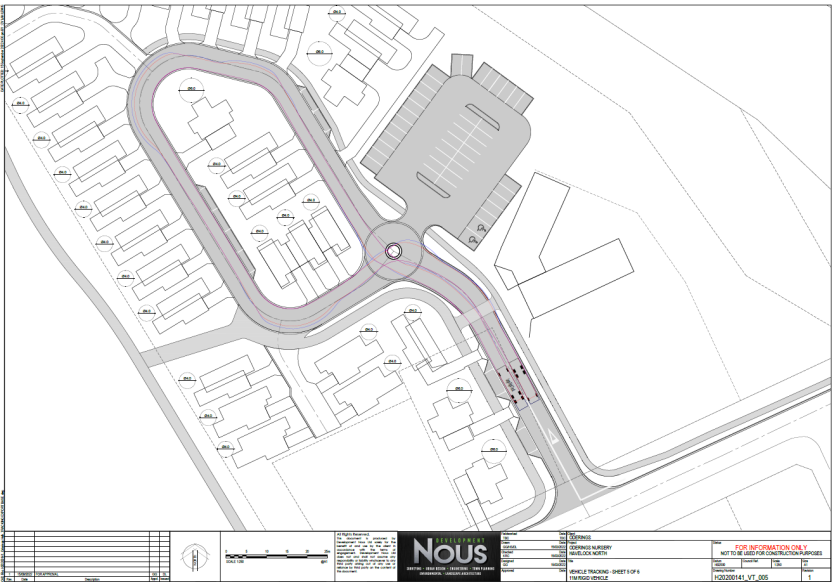
Figure 6 – Typical Cross Sections



In the Applicant’s response to matter 4(d) & (h) in Council’s request for further information, the Applicant has provided updated tracking curves for vehicles accessing the development that ‘...demonstrate that the access arrangement can support vehicle tracking from a large rigid truck (11.5m long). This is more than enough for pumping appliances (8m long) and aerial appliances (12.6m long) as they have rear steering’ and ‘demonstrate that Council rubbish trucks can also service the site if agreement can be reached’.

The largest heavy vehicles accessing the development is anticipated to be a standard 11m Rigid vehicle, with a standard 8m Rigid vehicle accessing the proposed garden centre carpark. The tracking curves for these are shown in Figure 7.

Figure 7 – Heavy Vehicle Tracking Curves



**FOR INFORMATION ONLY**  
NOT TO BE USED FOR CONSTRUCTION PURPOSES

DATE: 10/1/2011  
PROJECT: ROUTE 100 INTERSECTION IMPROVEMENTS  
SHEET: 10000045\_VT\_001

In the Applicant's response (dated 4 October 2023) to matter 4(f) in Council's request for further information, the Applicant has provided a Stormwater Management Report by Envelope Engineering (date issued, 29 September 2023) to be read in conjunction with the revised Civil Design Infrastructure Report (date issued, 29 September 2023).

## 'STORMWATER TREATMENT

*New raingardens are proposed in landscaping areas for stormwater treatment of the northern access lot as well as the new 43-lot carpark at the eastern side of the development. The rain gardens will capture and treat runoff generated using an engineered filter media. Overflows will be provided for stormwater discharge during heavy rainfall events.*

*A new underground proprietary device is proposed at the northern end of the looped shared accessway. The intention of the device is to treat the stormwater that is collected from new hardstand areas within the development such as roads, paths, driveways etc. A device such as a Hynds Up-Flo Filter (or similar approved) is proposed. Refer to Appendix 3 of the AEE for details of the Hynds Up-Flo Filter.*

*All new dwellings shall have non-contaminant yielding roofing to prevent any pollutants from new roofing to entering the new stormwater network.*

*The proposed rain gardens and underground proprietary devices have been indicatively sized at this stage based on Hawkes Bay Regional design guidance and detailed drawings and specifications of the proposed stormwater treatment devices will be provided at the detailed design stage.*



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## PROPOSED INFRASTRUCTURE

*Roof run-off from each new dwelling will connect into a new stormwater network which runs through the central accessways of the site. The proposed stormwater is a mixture of private and public stormwater. The proposed stormwater outlet will be in the HDC park (Guthrie Park) and will discharge out to a new outlet to the existing Karituwheua stream. The new outlet will be designed with suitable erosion protection measures which will include reno mattress/gabion baskets and a headwall structure.*

Further details of the proposed networks inverts, sizes, grades, materials etc. will be provided during the detailed design stage of the proposed development. The invert of the existing stream at the proposed outlet is approximately RL 6.00m, the new outlet structure will have an invert of approximately RL 7.50m allowing it to be built above the existing water level, significantly above the existing outlet invert at RL 6.44m.

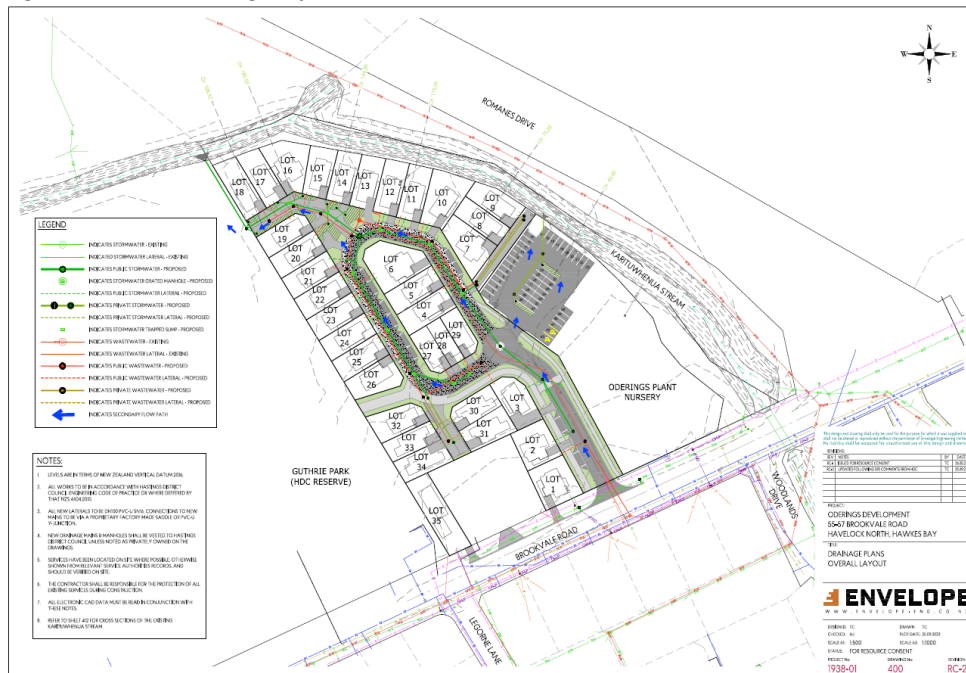
*Each lot will have a 100mm uPVC SN16 lateral connection to the proposed stormwater network.*

*The existing two laterals from the site will be abandoned and capped off at the connection to the existing stormwater culvert.*

*Existing outlets to the Karituwhenua stream will be removed and/or abandoned.'*

The Applicant's response to Council's further information request has also advised that '*The new underground proprietary device shown on the drawings will become a public asset upon completion of the works*'.

### Figure 8 – Overall Drainage Layout Plan



Flood mitigation is outlined on pg 14 of the AEE accompanying the application as detailed below:

*The HBRC Hazard maps indicate that there is a risk of inundation within the 1 in 50-year event and raising levels of the site has the potential to reduce the flood storage capacity of the Karituwheua Stream. Despite this being a negligible effect, to ensure that the Karituwheua Stream maintains its current flood storage capacity, it is proposed to cut existing ground material from the southern bank of the stream at the northern boundary.*

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*To further ensure any flood risks are avoided, dwellings 10-18 will also have a minimum floor level of 200mm above the identified flood level. All the remaining dwellings will be outside of the identified flood risk area.'*

The Stormwater Management Report provided in response to the further information request also outlines further investigative works undertaken and the following implementation:

*'From the investigative works undertaken, it has been determined that the Karituwhenua Stream does not breach its banks in the event of a 1 in 100-year flood event with climate change adjustment. This has been calculated using the maximum flow rates of the Karituwhenua and Crombie Streams provided by HDC along with topographical survey data of the stream and Brookvale Culvert. Supporting calculations are shown in Appendix 1 of the AEE.*

*The following implementation will be made:*

- Minimum floor levels for new dwelling within the new development will be in accordance with the New Zealand Building Code, Clause E1 but no lower than stated on our design plans.*
- A secondary overland flow path will be provided through the development to convey stormwater in excess of the primary (piped) system capacity.*
- All new works will be above the top of bank of the Karituwhenua Stream*
- The existing stream corridor will not be altered, or earth worked.'*

#### 4.2.3 Wastewater and Water Servicing

The Applicant has provided a revised Civil Design Infrastructure Report with its response to Council's further information request (dated 4 October 2023).

##### Wastewater

The revised Civil Infrastructure Report (date issued 29 September 2023) outlines the proposed wastewater infrastructure for the proposed development as follows, and as illustrated in Figure 9 below:

##### EXISTING INFRASTRUCTURE

*There is an existing DN150mm uPVC wastewater main which runs along Brookvale Road and has existing lateral connections to the development site including the existing dwelling and the garden centre. A larger DN375mm wastewater main runs along Romanes Drive on the other side of the Karituwhenua Stream.*

##### PROPOSED INFRASTRUCTURE

*The existing wastewater laterals coming from Brookvale Road will be retained and continue to service the existing dwelling and garden centre. A new short public network at the entrance to the development will provide gravity connections to new Lot 2.*

*The rest of the proposed lots will be serviced through a new gravity network that runs to the low point of the development at the north-western corner. A new pump chamber is to be installed near the low point within the proposed accessway, and a new rising main installed through the HDC Reserve land (Guthrie Park). The new rising main will follow the western site boundary and connect into a new manhole where the reserve land meets Brookvale Road and convert back to a gravity connection, which then flows to the existing DN150mm public main.*

*The development proposes to vest the majority of the new wastewater to HDC upon completion of the development. All works will be designed in accordance with the HDC ECoP and NZS 4404:2010. Each lot will have a 100mm uPVC SN16 lateral connection to the proposed public gravity wastewater network that runs through the site.*

*The existing DN375mm public is not considered as a potential connection point as it would require crossing, and hence excavating the Karituwhenua Stream.'*

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*'HDC CONSULTATION*

*Previous consultation has been undertaken at a previous stage which concluded that HDC have recognised surcharge issues in the receiving wastewater network. HDC is currently undertaking an investigative report into this issue and will advise on the requirements for this development.*

*Should wastewater mitigation be required following the outcome of the investigative report, we offer the provision of wastewater mitigation as a condition of consent and will allow to provide mitigation design and supporting calculations at the detailed design stage. Mitigation measures, if required, can be incorporated within the proposed pump design.*

*HDC have previously accepted that the new rising main can be installed within Guthrie Park along the western boundary of the development site. We are now proposing a different alignment through the development as this will reduce the effects of the development on the users of Guthrie Park. Should HDC prefer to revert to the Guthrie Park, this request can be accommodated upon discussion.'*

In the Applicant's response (dated 4 October 2023) to matter 4(g) in Council's request for further information, the Applicant has advised that 'The wastewater pump station has been moved to a more suitable location, following discussions with Council engineering staff'.

Water Supply

The revised Civil Infrastructure Report (date issued 29 September 2023) outlines the proposed water supply infrastructure for the proposed development as follows, and as illustrated in Figure 9 below:

*'EXISTING INFRASTRUCTURE*

*There is an existing reticulated water supply in the vicinity of the site via a DN100mm asbestos cement (AC) water main running along Brookvale Road. The existing garden centre and existing dwelling along the western boundary have individual tobies and connections to the existing DN100 AC main. There is an existing fire hydrant along the DN100 AC main opposite the existing garden centre. An existing water connection is present at the south-western corner of the site.*

*There is also an existing DN375mm AC bulk water supply main along Brookvale Road. The bulk water supply main shall not be used for any water supply to the new development.*

*At the time of publishing this report, HDC is currently finalising a water supply report of surrounding area which may impact the servicing of potable water to the new development. Previous consultation with HDC by previous consultants has indicated that water supply for the proposed development will not be an issue, and we have proceeded on this basis. Should the HDC water report indicate that water supply may be an issue, we recommend detailed modelling of the new water network to confirm if there will be sufficient pressure to service the development and water flow rate for firefighting as required in SNZ/PAS 4509.*

*It is proposed to retain the existing water connection to the existing garden centre and to keep this water supply separate from the new development.*

*A new reticulated water main is proposed to connect to the existing DN100 AC water main at two points along Brookvale Road. The new reticulated main will service all new lots with both public and private manifolds coming from the new mains. New lot 35 will be serviced by the existing water connection at the south-western corner of the site. The new reticulated water layout is shown on our engineering drawings in Appendix 3.*

*Two new fire hydrants will be installed to meet the minimum spacing requirements as per SNZ/PAS 4509. The provision of a firefighting water supply to a reasonable level for the application area has been limited to the fire building classification FW2 non-sprinkled structures; (Housing includes single family dwellings, and multi-unit dwellings, but excludes multi-storey apartment blocks).*

*A classification FW2 water scheme is required to provide 750 litres/minute from a maximum of two hydrants with flows and distances within 135 metres and 270 metres respectively. The expected water flow rate must be provided with a minimum residual water pressure of no less than 100kPa.*

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### 6.3 PROPOSED WATER DEMAND

The HDC Engineering Code of Practice (ECOP) specifies an average annual daily demand (AADD) of 400 litres per person per day and an equivalent population (EP) of 3.5 per dwelling unit. The HDC ECOP also specifies a Peak Daily Demand factor of 2.0 and a Peak Hourly Demand Factor of 5.0.

The existing garden centre has been excluded from this calculation as this area of the site will retain the existing water supply arrangement.

Water Demand = 400 L/p/day x 3.5 EP x 35 units = 49 kl/day (AADD)

Peak Daily Demand = 98 kL/day (49 x 2)

Peak Hourly Demand = 20,420 L/hour (98 x 5 x 1000 / 24)

Peak Demand in L/s = 5.67 L/s (20,420 / 60 / 60)

Figure 9 – Overall Full Services Layout Plan



### 4.2.4 Earthworks

Earthworks associated with the construction of the proposed development, new carpark, and new access road and private accessways are described on pg 15 of the AEE, and illustrated in Figure 10 below:

*'Due to the relatively flat topography earthworks will be generally limited to:*

- Cuts of up to 1.3m and fill of up to 1.0m*
- A total cut volume of 1,236m<sup>2</sup> and a total fill volume of 1,076m<sup>2</sup> (subject to the volume of unsuitable material discovered); and*
- A total earthworks footprint of 1.44ha.*

*The proposed earthworks include establishment of infrastructure within Guthrie Park and stormwater outfalls to the Karitua Stream. Typical designs of the outfalls are provided within the infrastructure report attached as Appendix C.*

*The earthworks will be carried out in accordance with a management plan and erosion and sediment control plan that will be prepared following engagement of a civil contractor.'*

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The Applicant's response (dated 4 October 2023), addressing matter 4(f) in Council's request for further information in relation to stormwater design, advises the following:

*'The existing bank will no longer be re-shaped, additional cross sections have been added to show the stream shape with RL's.'*

Figure 10 – Earthworks Cut & Fill Plan



#### 4.2.5 Landscaping

The Landscape and Visual Effects Assessment (provided in the AEE accompanying the application) references landscaping plans for the proposed development as follows (pg 6):

*'Landscaping Plans for the entire development (Ref: Oderings Landscape Drawing Package);*

- Detailed planting plans and plant schedule (mix of native and exotic plants)
- Feature Trees throughout the development
- Varied fence typologies'

The landscaping plans (Landscape Concept Plans, Planting Plans and Plant Lists, along with a Fencing Plan) are provided in Appendix L of the AEE accompanying the application. As part of the Applicant's response (dated 4 October 2023) to matter 3 in Council's request for further information, the Applicant has supplied a revised set of these plans, as illustrated in Figures 11 & 12 below.



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Figure 11 – Proposed Landscape Master Plan



Figure 12 – Fencing Plan



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Interface with Guthrie Park

The Applicant has provided an Urban Design RFI Response (by Saddleback Planning, dated 27 July 2023) (in Volume 5 of the Agenda Documents) to their response (dated 4 October 2023), addressing matter 3(b) in Council’s request for further information, and outlines the following treatment of the Guthrie Park boundary:

*‘The proposed treatment of the Guthrie Park Boundary is identified on drawings LFP01 (Rev C) prepared by Oderings Landscaping, dated 30th January 2023 and included with the application. This treatment includes:*

- a. To the rear yards of Lots 19-26, Lots 32-35
    - i. 1.2m high visually permeable fencing to the shared boundary (aluminium pool-style fencing with 100x100mm posts (gates to match), and;
    - ii. The front ~7m of lot 18 (approximately 130m cumulative length).
  - b. Lot 35 (approximately 25m), overlooking the carpark within Guthrie Park.
    - i. 1.8m solid fencing with top 300mm visually permeable
  - c. To the side of Lot 18 (approximately 15m in length). i. 1.8m solid fencing
- In addition, low planting and specimen trees are proposed within the rear gardens of the lots bordering the parks which will contribute to the overall amenity value of the park and will represent a significant improvement to what is currently experienced.’*

5.0 THE SITE AND SURROUNDING ENVIRONMENT

A site visit was undertaken by the Reporting Officer at 4.30pm on Saturday afternoon, 17 June 2023. Football was being played on Guthrie Park and the clubrooms were in use at the time of my visit (see photographs below, taken during the site visit, showing proximity of Park assets to the site).



Views towards Football Club building (left), football goal (right)



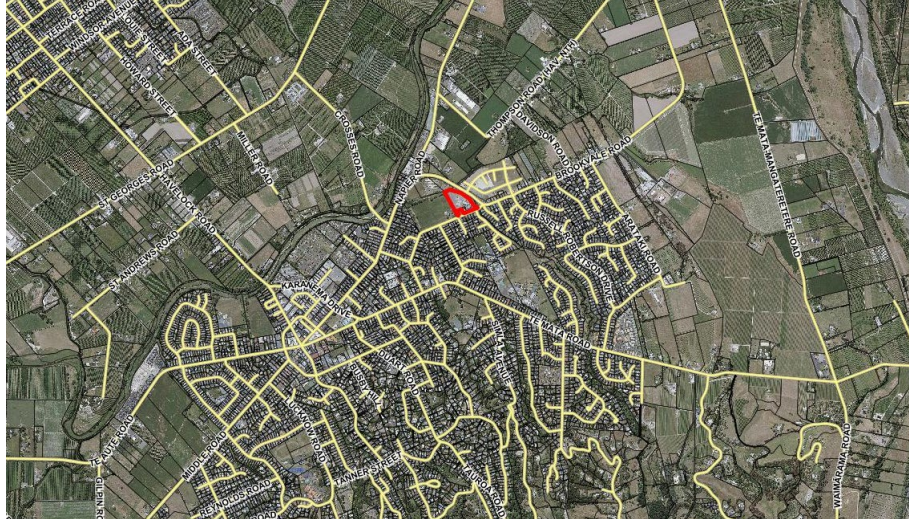


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View within Guthrie Park along boundary with Bridge Club building and goal in distance (left), and View from Brookvale Road into Guthrie Park carpark with Bridge Club building and existing cypress hedge row along site boundary (right)

The site at 55 Brookvale Road is located on the northern outskirts of Havelock North, approximately 1.6km from the Havelock North village centre, as shown in Figure 13 below.

Figure 13 – Location Map (Source: HDC Intramaps)



The Landscape and Visual Effects Assessment prepared by Narrative Landscape (dated 25 May 2023) accompanying the application provides a comprehensive description of the site and surrounding environment, which I adopt, as follows:

#### 'Context

*Havelock North is an isolated residential suburb of the Hastings District, nestled into the foothills of the iconic Te Mata Peak at the south-eastern border of the Heretaunga Plains. The surrounding landscape of rolling hills and horticultural farmland (orchard/vineyards) contributes to the general pleasantness of the wider setting. The fertile farmland to the northwest of the village, in conjunction with Te Karamū Stream, has protected the identity of the village area from blending with other residential suburbs.*

*The distinctive residential character of Havelock North includes an extensively vegetated natural environment (e.g. tree lined streets, landscaped gardens and an extensive public recreation network) and is recognised by the District Plan with two residential sub-zones. The 'Havelock North Character Residential Zone' consists of the more elevated and undulating areas, being generally south-east of the Middle Road – Te Mata Road divide, while the 'Havelock North General Residential Zone' represents the flatter land to the north-west of the Middle Road – Te Mata Road divide. These sub-zones have been created in response to the existing topography, architectural style, landscaping and subdivision patterns.*

*The area around the application site has seen continued demand for residential development over the past few decades, with a brief account included in the Planning Framework section above. This northward progression of the urban extent is an important aspect of the existing landscape setting, as the current zoning of the OUV site is essentially at odds to the surrounding development pattern.*

#### Site Description

*The application site itself has been operated a garden centre retail site (which will remain) and a commercial nursery since its purchase in 1997. The plant propagation component of the operation*



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is now located at the Applicant's Allen Rd property in Pakowhai. Until a few years ago there were extensive buildings/glasshouses located at the Brookvale road property, however these have now been cleared as they became surplus to requirements (Figure 11). A map of the site and surrounding area is included within the Viewpoint Location Document.



Figure 11: Aerial Image Comparison (Glass Houses Removed)

Guthrie Park is located adjacent to the western boundary of the application site and includes the clubrooms of both the Havelock North Football Club and the Havelock North Bridge Club, along with a purpose built BMX track and a series of sports fields used for cricket/football (summer/winter).

The park (Figure 12) is a well-used recreational space that offers public amenities (e.g. playground, toilets, and chlorine removed water station), and has extensive boundary/stream planting (primarily established exotic trees) on what is generally flat topography (the exception being stream corridors). The Napier Rd and Romanes Dr roundabout, which is adjacent to Guthrie Park, currently acts as the gateway to Havelock North when coming from the north (Clive/Napier).



Figure 12: View across Guthrie Park from Napier Road (Viewpoint A of Attachment 1)

The Karituwhenua Stream is located along the length of the north-eastern site boundary and provides separation between the site and Romanes Drive. This stream is joined by the Crombie Drain at the northern tip of the site and then passes through the middle of Guthrie Park, where it joins the Tekahika Stream at the western edge of Guthrie Park before entering Te Karamū Stream just beyond Napier Road.

Further to the north-east (Refer to Figure 6 & Figure 7 above) is the Brooklands Estate residential development which is currently under construction, while south of Brookvale Road is an typical example of the Havelock North general residential zone housing typology. A row of Plane trees (*Platanus spp.*) dominates the Brookvale Rd edge of Guthrie Park, while an avenue of Linden (*Tilia spp.*) trees welcomes people along Romanes Dr (Figure 13). It is also noted that the site and surrounding environment is reasonably well lit at night time (i.e. toilets in the park, bridge club security lights, Oderings building lights, street lights, and occasionally flood lights for sports trainings).



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Figure 13: View of application site from the Romanes Dr and Brookvale Rd Roundabout (Viewpoint G)

In addition to the panoramic images above, a set of photographic images of the site taken from various viewpoints along Napier Road, Brookvale Road, and Romanes Drive, and from different locations within Guthrie Park (including Romanes Drive Park) are provided as Attachment 1 to the Landscape and Visual Effects Assessment. Those images accurately reflect my observations during my site visit.

The subject site is located within the wider Heretaunga Tamatea Area of Interest (OTS 110-01) in the Heretaunga Claims Settlement Act 2018 and is within the Statutory Acknowledgement Area of the Karamu Stream & Tributaries (OTS 110-11). The Karituwhenua Stream along the length of the north-eastern site boundary, between the site and Romanes Drive, is a tributary of the Karamu Stream.

## 6.0 REASONS FOR CONSENT AND ACTIVITY STATUS

### 6.1 National Environmental Standards

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

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

Regulation 5 of the NESC outlines that the NESC applies when a person wants to (among other things) disturb the soil of the piece of land or change the use of the piece of land, where land covered includes:

##### *Land Covered*

- (7) *The piece of land is a piece of land that is described by 1 of the following:*
- (a) *an activity or industry described in the HAIL is being undertaken on it;*
  - (b) *an activity or industry described in the HAIL has been undertaken on it;*
  - (c) *it is more likely than not that an activity or industry described in the HAIL is being or has been undertaken on it.*

The HAIL List (Hazardous Activities and Industries) outlines seven categories of activities:

- A. *Chemical manufacture, application and bulk storage;*
- B. *Electrical and electronic works, power generation and transmission;*
- C. *Explosives and ordnance production, storage and use;*
- D. *Metal extraction, refining and processing, storage and use;*
- E. *Mineral Extraction, refining and processing, storage and use;*
- F. *Vehicle refueling, service and repair; and*
- G. *Cemeteries and waste recycling, treatment and disposal.*

Regulation 6(1) Methods, prescribes the only two methods that may be used for establishing whether an area is 'a piece of land' that is subject to the NESC:

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

A Detailed Site Investigation (DSI), prepared by Geosciences Ltd, was submitted with the application. The report involved:

- *An historic appraisal of the property by a study of historical aerial photographs;*

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- A review of the current and historic records of titles of the property;
- A review of the property files held by Hastings District Council;
- A review of the hazard register information held by Hawkes Bay Regional Council;
- A review of geotechnical investigation undertaken on the piece of land;
- A site visit and walkover of the properties;
- The collection of twelve discrete soil samples and their analysis for the contaminants of concern identified in the conceptual site model; and
- The preparation of one inclusive report in accordance with CLMG No.1 Reporting on Contaminated Sites in New Zealand (MfE, 2011) detailing the findings of this investigation and the recommendations, if any, for further work.

The summary of aerial imagery on pages 6 & 7 of the report states:

*'Available historically aerial imagery has shown that the piece of land under investigation was initially under pastoral landuses at the time of the earliest available aerial imagery before it was developed into a small orchard and market garden site in the 1960's. Between 1969 and 1972 the site was subject to significant redevelopment with a number of glass and shade houses structures constructed around an apparent central packhouse / workstation. Between 1972 and 1994, coverage of the site within shadehouses continued to expand before the site was redeveloped into a garden centre by the time of the 1999 aerial image. Between 1999 and 2004, the shade house coverage was expanded to cover the full extent of the site. No significant changes to the site occurred between 2009 and 2018.*

*GSL notes that the bulk storage and use of persistent pesticides is included under item A.10 of the HAIL as a potentially contaminating activity. Aerial imagery confirms it is more likely than not the piece of land has been subject to such activities.*

*With respect to potential use of lead based paint, GSL notes that the residential dwelling was constructed between 1950 and 1964 during a time where lead concentrations were being rapidly lowered, until ultimately being phased out by the early 1970's. While lead based paint use could have occurred, it is considered low risk on account of the timing of building construction.'*

The report also summarised (on pgs 7-16) a review of the property file held by Hastings District Council, the geotechnical assessment of the piece of land by Initia Ltd in February 2021, site inspection and walkover of the site with the landowner (a current director of Oderings Nurseries ChCh Ltd) which identified the historical presence of a diesel tank in the eastern extent of the site next to Brookvale Road and the primary location and store of agrichemical sprays used on the site, and the existence of a small volume of asbestos sheets removed from the site not long after ownership of the site, and a visual inspection of the site and soil sampling, and outlined on pg 11 a Conceptual Model of Potential Contamination as follows:

*'Based on the findings of the above desktop investigation and site inspection, GSL considers that the following matters relating to potential contamination within the piece of land under development:*

- *Historical use of persistent pesticides (HAIL Item A.10).*
  - *Contaminants of concern: Arsenic, copper, lead, and organochlorine pesticides (OCPs)*
- *Unverified fill material underlying the concrete slab (encompasses by HAIL Item I only where a risk to human or environmental health is present):*
  - *Contaminants of concern: depending on the source of the fill, heavy metals, OCPs polycyclic aromatic hydrocarbons (PAHs), and asbestos used as the standard analytical suite for the classification of fill;*
- *Discharges from the degradation of exterior building materials, specifically lead based paints and asbestos containing materials (ACM) (HAIL Item E.1 where ACM is in broken or degraded condition only, while potential impacts of lead-based paints are encompassed by Item I where risk to human or environmental health is present only)*
  - *Contaminants of concern: asbestos fibres and lead'*

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The site has therefore been identified as having contained a HAIL activity, and as such, the site is a 'piece of land' under Reg 5(7) and is subject to consideration under the NESCS.

Investigations Undertaken

As outlined above, the applicant has supplied a Detailed Site Investigation (DSI) with the application, completed 28 June 2021. The DSI report concludes (on pgs 15/16) as follows:

*'GSL has conducted a desktop study and intrusive investigation of the site in accordance with the MfE Contaminated Land Management Guidelines to determine the location and extent of current and / or former HAIL Activities on site and the potential for soil contamination, and the associated risk to human health and the environment, as a result.*

*The desktop study identified that the site was historically the location of an orchard and market garden prior to being developed into glasshouses, shadehouses, and a packhouse in the 1970s, which were then later developed into a plant nursery and garden centre. The desktop study did identify the potential presence of asbestos containing materials within the glasshouses construction, however no evidence was encountered during the site inspection and soil sampling. In addition, the presence of a small fuel tank utilised to fuel glasshouse heating, and potential uncertified fill material were also noted within the site history.*

*Based on the findings of the desktop study, GSL developed a conceptual site model and judgment soil sampling regime to assess the potential soil contamination at the site. The results of the intrusive investigation identified that soil onsite has been impacted by low concentrations of organic compounds as a result of site activities, however not to a degree which would pose a risk to human health or the receiving environment.'*

Applicable Rules

The proposed activity involves 'disturbing soil', 'changing use' and 'subdividing land'. Reg 8(3) sets out criteria under which disturbing soil is a permitted activity. Reg 8(4) sets out criteria under which changing use or subdividing land is a permitted activity.

Activity Status

Disturbing Soil Reg 8(3):

The proposal will not comply with the permitted status tests for 'disturbing soil' on a 'piece of land' in Reg 8(3), in that:

- (c) The anticipated 'volume of the disturbance of the soil of the piece of land' is 2,312m<sup>3</sup> and therefore exceeds 25m<sup>3</sup> per 500m<sup>2</sup> (having a site area of 20,270m<sup>2</sup>, the permitted volume of disturbance is 1,013.5m<sup>3</sup>).
- (f) The duration of the activity may exceed 2 months.

The proposal will comply with the controlled status tests for 'disturbing soil' on a 'piece of land' in Reg 9(1), in that:

- (a) A DSI of the 'piece of land' exists;
- (b) The DSI states that the soil contamination does not exceed the applicable standard in Reg 7;
- (c) The DSI report has been supplied with the application; and
- (d) The DSI report requires as a condition that a site management plan be developed and implemented as part of any soil disturbance and development of the site, and the Applicant has advised (in an email dated 6 December 2023) that this will be complied with.

Therefore, the disturbance of soil associated with the proposal is a 'Controlled Activity' pursuant to Regulation 9 of the NESCS.

Subdividing or Changing Use Reg 8(4):

The proposal will not comply with the permitted status tests for 'subdividing or changing use' of a 'piece of land' in Reg 8(4), in that:



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- (a) a preliminary site investigation does not exist.

The proposal will comply with the controlled status tests for 'subdividing or changing use' of a 'piece of land' in Reg 9(3), in that:

- (a) A DSI of the 'piece of land' exists;
- (b) The DSI states that the soil contamination does not exceed the applicable standard in Reg 7;
- (c) The DSI report has been supplied with the application; and
- (d) The DSI report requires as a condition that a site management plan be developed and implemented as part of any soil disturbance and development of the site, and the Applicant has advised this will be complied with.

Therefore, the subdividing and changing use associated with the proposal is a 'Controlled Activity' pursuant to Regulation 9 of the NESCS.

#### Overall Status

Given the above, both the disturbance of soils and the subdivision and change in use of this piece of land has the overall status of a **Controlled Activity**.

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

The NES Sources of Human Drinking Water only applies to an activity that has the potential to affect a registered drinking-water supply that provides no fewer than 501 people with drinking water for not less than 60 days each calendar year. The regulations relate to regional council not granting water permits and discharge permits for activities upstream of an abstraction point for drinking water where it may adversely affect the ability to meet guideline values for that drinking water.

This application is not for a water permit or discharge consent. As such, the NES for Sources of Human Drinking Water is not considered relevant in terms of land use application to Hastings District Council. It is noted that a discharge consent is being applied for separately from HBRC.

#### 6.2 **Hastings District Plan**

This resource consent application was lodged on 31 May 2023. All parts of the Hastings District Plan that are relevant to this application were declared operative on 15 March 2020, so the following assesses the proposal solely against the Hastings District Plan (partially operative as at 15 March 2020).

The site is zoned 'Plains Production' – below.

**Figure 14 – District Plan Maps (Source: Hastings District Plan (ePlan))**



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There are no additional features or overlays present on the site.

6.2.1 Plains Production Zone

*Proposed Residential Dwellings*

The proposed residential development component of the proposed development meets the following definition of 'residential activity':

*'means the use of land and buildings by people for the purpose of permanent living accommodation, and includes, residential buildings, residential unit buildings, supplementary residential buildings and associated accessory buildings and for Residential Zones it includes seasonal workers accommodation for a maximum of 10 persons per site'*

And comprises construction of residential dwellings that meet the following definition of 'residential building':

*'means a building, a room, or a group of rooms, used or intended to be used exclusively by one or more persons as a single, independent and separate household unit'*

The following rules in Table 6.2.4 are relevant to the proposed activity:

RULE	ACTIVITIES	ACTIVITY STATUS
PP2	One Residential Building per site	P
PP24	Any Permitted or Controlled activity not meeting one or more of the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in Section 6.2.6C(b) and 6.2.6C(d), 6.2.6D(2), 6.2.6H, 6.2.6I (excluding 'Winemaking and associated bottling, storage and packaging'), 6.2.6J, 6.2.6K, 6.2.6L and 6.2.6P.	RD
PP29	Any new residential building or building being part of a marae, place of assembly, commercial activity or industrial activity erected on another site within 400 metres of an intensive rural production activity involving buildings housing animals reared intensively and yards accommodating animals reared intensively.	D
PP30	Any new residential building or building being part of a marae, place of assembly, commercial activity or industrial activity erected on another site within 150 metres of an intensive rural production activity involving organic matter and effluent storage, treatment and utilisation	D
PP38	Residential buildings not complying with Specific Performance Standard 6.2.6B.	NC
PP39	Any activity which is not provided for as a Permitted, Controlled, Restricted Discretionary or Discretionary activity shall be a Non-complying activity. To avoid any doubt this includes activities not provided for above that do not comply with the following Specific Performance Standards: 6.2.6C(a) and (c), 6.2.6D(1), 6.2.6E(1) and 6.2.6(F).	NC

Within the Plains Production Zone, one residential building per site is permitted under Rule PP2, subject to the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in Section 6.2.6.

The proposed development results in the construction of 35 residential buildings on the site, which is 34 residential buildings more than permitted<sup>4</sup>.

<sup>4</sup> Noting that, if the proposed subdivision was to be approved, the proposed development would ultimately result in one residential building per site.

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Further, an assessment of the proposal against the relevant General and Specific Performance Standards for the Plains Production Zone in the District Plan (including the related General and Specific Performance Standards of Section 26.1 Traffic Sightlines, Parking, Access and Loading, and Section 25.1 Noise) is included as **Appendix E** to this report.

That assessment concludes that the proposed activity is unable to comply with the following General and Specific Performance Standards:

- 6.2.5B Yards (many of the proposed dwellings do not meet the front or other boundary setbacks).
- 6.2.5F Traffic Sightlines, Parking, Access and Loading (the proposed access does not meet the minimum legal access width).
- 6.2.5J Total Building Coverage (the total building coverage for the developed site will exceed 1,500m<sup>2</sup>).
- 6.2.6B Residential Buildings (the proposed development exceeds one residential building for the site, and does not meet the required minimum area of 2,500m<sup>2</sup> per residential building).

Given the above, the proposed development does not comply with Rule PP2 or Rule PP24.

The proposed new residential buildings are more than 400 metres away from any intensive rural production activity involving buildings housing animals reared intensively and yards accommodating animals reared intensively, and are more than 150 metres away from any intensive rural production activity involving organic matter and effluent storage, treatment and utilisation. Therefore, Rules PP29 and PP30 do not apply.

Under Rule PP38, residential buildings not complying with Specific Performance Standard 6.2.6B, are a 'Non-Complying Activity'. Under Rule PP39, any activity which is not provided for as a Permitted, Controlled, Restricted Discretionary, or Discretionary activity is a 'Non-Complying Activity'.

Therefore, given the non-compliance with Rule PP2 and Specific Performance Standard 6.2.6B, the proposed residential development must be assessed as a **Non-Complying Activity** pursuant to Rules PP38 and PP39.

*Proposed Carpark*

The proposed carpark component of the proposed development is ancillary to the existing garden centre and consented café that collectively meet the following definition of a 'commercial activity':

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

The following rules in Table 6.2.4 are relevant to the proposed activity:

RULE	ACTIVITIES	ACTIVITY STATUS
PP5	Commercial Activities within specified limits	P
PP24	Any Permitted or Controlled activity not meeting one or more of the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in Section 6.2.6C(b) and 6.2.6C(d), 6.2.6D(2), 6.2.6H, 6.2.6I (excluding 'Winemaking and associated bottling, storage and packaging'), 6.2.6J, 6.2.6K, 6.2.6L and 6.2.6P.	RD
PP39	Any activity which is not provided for as a Permitted, Controlled, Restricted Discretionary or Discretionary activity shall be a Non-complying activity. To avoid any doubt this includes activities not provided for above that do not comply with the following Specific Performance Standards: 6.2.6C(a) and (c), 6.2.6D(1), 6.2.6E(1) and 6.2.6(F).	NC

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Within the Plains Production Zone, commercial Activities are permitted under Rule PP5 within specified limits, which are set out in Specific Performance Standard 6.2.6D Commercial Activities, and subject to the General Performance Standards and Terms in Section 6.2.5 and Specific Performance Standards and Terms in Section 6.2.6.

The proposed new carpark provides 40 car parks (including 2 accessibility parks) and will replace the existing 35 car parks serving the garden centre and consented café, in a new location within the site. The proposed carpark does not however, add additional 'gross floor area', and therefore does not further add to existing non-compliance of the commercial activity thresholds in Specific Performance Standard 6.2.6D.

However, the assessment in **Volume 5 of the Agenda Documents** to this report concludes that the commercial carpark component of the proposed development is unable to comply with the following Specific Performance Standard:

- 6.2.5J Total Building Coverage (total building coverage for the site already exceeds 1,500m<sup>2</sup>, and the addition of the proposed sealed carpark will further add to that non-compliance).

Given the non-compliance with General Performance Standard 6.2.5J, the proposed carpark must be assessed as a **Restricted Discretionary Activity** pursuant to Rule PP24.

6.2.2 Earthworks District Wide Activity

The application includes earthworks, which are addressed as 'District Wide Activities' in the District Plan, where 'earthworks' is defined in the District Plan as:

*'... the disturbance of land by moving, placing or replacing earth, or by excavation or cutting; filling or backfilling and the removal or importation of earth (including topsoil) to or from any site...'*

The definition of earthworks in the District Plan goes on to state that *'the volume of earthworks is the sum of both cut and fill operations'*.

It is proposed that there will be approximately 2,312m<sup>3</sup> of earthworks associated with site preparation works for the proposed development, comprising 1,236m<sup>3</sup> cut volume and 1,076m<sup>3</sup> fill volume – approximately 160m<sup>3</sup> of earth will be removed offsite (being the difference between the cut and fill volumes detailed on the Earthworks Plan submitted with the application).

The following rules in Table 27.1.5 are relevant to the proposed activity:

RULE	ACTIVITIES	ACTIVITY STATUS
EM1	Earthworks	P
EM3	The removal offsite of less than 25m <sup>3</sup> of topsoil, sand, gravel, metal, and earth in the Plains Production Zone and less than 100m <sup>3</sup> per site per year from sites in all other zones.	P
EM6	Permitted Activities not meeting the General Performance Standards and Terms in Section 27.1.6	RD
EM11	The removal offsite of more than 25m <sup>3</sup> topsoil, sand, gravel, metal or earth from any site in the Plains Production Zone.	D

An assessment of the proposal against the relevant General and Specific Performance Standards Section 27.1 of the District Plan is provided in **Volume 5 of the Agenda Documents** to this report. That assessment concludes that the proposed earthworks is unable to comply with the following General Performance Standard:

- 27.1.6A Extent of Earthworks (the volume of earthworks associated with the proposed development exceeds the permitted volume for the Plains Production Zone).



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Given the non-compliance with General Performance Standard 27.1.6A, the proposed earthworks must be assessed as a **Restricted Discretionary Activity** pursuant to Rule EM6.

Further, the removal offsite of more than 25m<sup>3</sup> of earth in the Plains Production Zone is a **Discretionary Activity** pursuant to Rule EM11.

6.2.3 Subdivision

Subdivision is proposed around the proposed development creating 35 freehold residential lots, a balance commercial lot, road to vest, three commonly-owned access lots, associated easements, and a local purpose (drainage) reserve to vest.

The following rules in Table 27.1.5 are relevant to the proposed subdivision:

RULE	ACTIVITIES	ACTIVITY STATUS
<b>SLD1</b>	All SMA and Zones Subdivisions which comply with the relevant zone Subdivision Site Standards and Terms in section 30.1.6 and all relevant General Site Performance Standards and Terms specified in section 30.1.7 (except for those subdivisions specifically listed under Rule SLD8, through to and including Rule SD24a below).	C
<b>SLD25</b>	Non-Complying Subdivision Any subdivision (unless specifically provided for under Rules SLD1 through to and including SLD24a above) which is unable to comply with one or more of the relevant Subdivision Site Standards and Terms in section 30.1.6, including any unzoned land.	NC

An assessment of the proposal against the relevant Subdivision Site Standards and Terms in Section 30.1.6 and General Site Performance Standards and Terms in Section 30.1.7 of the District Plan is provided in **Volume 5 of the Agenda Documents** to this report. That assessment concludes that the proposed subdivision is unable to comply with the following Subdivision Site Standards and General Site Performance Standards:

- 30.1.6A General Site Standards (the proposed lots are below the 12ha minimum site area for the Plains Production Zone).
- 30.1.7A Building Platforms (the proposed lots are not capable of containing a 30m x 30m building platform that is capable of containing a dwelling etc that meets the setbacks applying in the Plains Production Zone).
- 30.1.7E Property Access (the proposed development is unable to comply with the minimum legal widths for private access).

Given the non-compliances above, the proposed subdivision must be assessed as a **Non-Complying Activity** pursuant to Rule SLD25.

6.3 Overall Activity Status

Overall, the proposal will be considered as a **Non-Complying Activity** being the most stringent status for all the activities being bundled above. This is consistent with the overall status arrived at in Section 6.1 of the AEE accompanying the application.

7.0 NOTIFICATION AND SUBMISSIONS

7.1 Notification

The application was publicly notified on 21 October 2023 at the request of the applicant.

The submission period closed on 20 November 2023.

7.2 Submissions

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**7.2.1 Summary of Submissions**

A total of 48 submissions were received on or before 20 November 2023. Of these, 2 are in support; 36 oppose; 3 offer conditional support; and 7 seek changes or confirmation about aspects of the development but do not state whether they seek the consent be declined or granted.

In four instances, there are two submissions from different occupants of the same property (22 Brookvale Road, 52 Brookvale Road, 53 Brookvale Road, 1 Fairview Place).

In addition, there is one submission that was received 23 November 2023 – 3 days after the close of the submission period. This late submission is neutral but is generally supportive, subject to confirming certain matters. I understand the Chair of the Hearings Panel granted a waiver in respect of this late submission and it is included in my assessment.

The following table lists the submitters and the decisions they seek in relation to the application.

A copy of the submissions are on the Council's website.

Submission Number	Name of Submitter(s)	Preferred Decision by HDC
1.	Grant Miller (12 Muritai Cres, HNth)	Decline
2.	Hemi Matenga (23 Brooklands Dr, HNth)	Decline
3.	Brendan O'Connor (37 Russell Robertson Dr, HNth)	Seeks confirmation of aspects of the development (unknown if the preferred decision is to grant or decline)
4.	Forest & Bird – Hastings Havelock Nth Branch (Contact: Greg Donnison)	Seeks confirmation of aspects of the development (unknown if the preferred decision is to grant or decline)
5.	Te Mata School Board of Trustees (Contact: Patrice O'Connor)	Conditional support
6.	Belinda Maclaurin (48 Guthrie Rd, HNth)	Decline
7.	Walter Breustedt (23A Brookvale Rd, HNth)	Seeks changes to aspects of the development (unknown if the preferred decision is to grant or decline)
8.	Emily Eldridge (53 Brookvale Rd, HNth)	Decline
9.	Kim Surman (52 Brookvale Rd, HNth)	Decline
10.	Lee Olsen (52 Brookvale Rd, HNth)	Decline
11.	Janine McLay (1 Fairview Pl, HNth)	Decline
12.	Kristen Poulton (1 Fairview Pl, HNth)	Decline
13.	Morag Paterson (14 Whakatomo Pl, HNth)	Decline
14.	Sharon Williams (32 Sandown Ln, HNth)	Decline
15.	Susan West (Te Aute Rd, HNth)	Seeks changes to aspects of the development (unknown if the preferred decision is to grant or decline)
16.	Jason Whitaker (14 Whittaker Pl, HNth)	Decline

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<b>Submission Number</b>	<b>Name of Submitter(s)</b>	<b>Preferred Decision by HDC</b>
17.	Brian & Belinda Barnhill (1 Redwood Cl, HNth)	Decline
18.	Alison Louise Hussey (24 Rochfort Rd, HNth)	Decline
19.	Ross Derbidge (36 Guthrie Rd, HNth)	Decline
20.	Julie Haines (98 Thompson Rd, HNth)	Decline
21.	Rachael Plummer (47 Margaret Ave, HNth)	Decline
22.	Taryn Elliott (178 Te Mata-Mangateretere Rd, HNth)	Decline
23.	Cameron Jones (28A Selwyn Rd, HNth)	Conditional support
24.	Jemma Robyns (24 Woodlands Dr, HNth)	Decline
25.	Carol Chen (1/57 Joll Rd, HNth)	Decline
26.	Bevan Jenkins (61 Greenwood Rd, HNth)	Grant
27.	Richard Butler (17 Puflett Rd, HNth)	Grant
28.	Lesley Wait (3 Penlington Pl, HNth)	Decline
29.	Allan Edward Solly & Catherine Ruth Walker (48 Brookvale Rd, HNth)	Decline
30.	Jane Howie (9 Tokomaru Dr, HNth)	Decline
31.	Pamela Anne O'Sullivan (60 Brookvale Rd, HNth)	Decline
32.	Daniel Mark Still & Tracey Lee Still (58 Brookvale Rd, HNth)	Decline
33.	Jacqueline Harrison (52 Guthrie Rd, HNth)	Decline
34.	Catherine Mueller (24 Tauroa Valley, HNth)	Seeks confirmation of aspects of the development (unknown if the preferred decision is to grant or decline)
35.	Rob Brady (54 Brookvale Rd, HNth)	Decline
36.	Aliesha Gordon (214 Napier Rd, RD10, Hastings)	Seeks changes to aspects of the development (unknown if the preferred decision is to grant or decline)
37.	Lynda Beatrice Renner & Graham Evan Renner (46 Brookvale Rd, HNth)	Decline
38.	Penelope Coull & Timothy Coull (14 Legorne Ln, HNth)	Decline
39.	Steve McNamara (107 Brookvale Rd, HNth)	Decline
40.	Tracey Layton (Brookvale Rd, HNth)	Decline
41.	Lisa Wong (22 Brookvale Rd, HNth)	Seeks confirmation of aspects of the development (unknown if the preferred decision is to grant or decline)
42.	Phil Wong (22 Brookvale Rd, HNth)	Conditional support

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Submission Number	Name of Submitter(s)	Preferred Decision by HDC
43.	Shannon Hillard (4 Nimon St, HNth)	Decline
44.	Jamie Heywood (10 Nimon St, HNth)	Decline
45.	Anita Tracey Wolfe (44 Brookvale Rd, HNth)	Decline
46.	Christopher Peter Eldridge & Kathryn Louise Eldridge (53 Brookvale Rd, HNth)	Decline
47.	John James Lightfoot (19 Bourke Pl, HNth)	Decline
48.	Mollie Elaine Wilson (59 Guthrie Rd, HNth)	Decline
49.	Landsdale Development Limited c/- Development Nous (Contact: Matt Holder) [LATE SUBMISSION]	Neutral

The following gives a summary of the various issues raised in the submissions. Please note that the matters listed below are only a summary of the key matters raised. Please refer to the full submissions as required.

#### Submissions in Support

The following summarises the reasons given in submissions supporting the application and requesting that consent be granted:

- Hawke's Bay & Havelock North need more housing, ideally without encroaching on productive land surrounding current urban areas. This looks like a good addition.
- Support for developments of this kind providing affordable housing, as long as infrastructure is put in place to support it.

#### Submissions Suggesting Conditions / Changes

The following summarises suggestions raised in submissions, for conditions or changes to the proposal should consent be granted:

- Extend the path to link the development to the existing pathway on Romanes Drive for safe walking ways on Brookvale Road to Romanes Drive.
- Require carpark to be constructed with water permeable surface.
- Plant more shading trees on the replacement carpark.
- Construct the private driveways with a 60cm middle grass strip to allow rainwater to infiltrate into the soil.
- Increase lot sizes to be comparable with surrounding properties and set minimum home sizes again to compare with nearby properties.
- Reduce number of houses (to at least half of what is proposed / to a maximum of 20 lots).
- Single storey houses only, with garages / with more variation in cladding and style and landscaped sections.
- Add garaging facilities for Type C units (enlarge the storage room to make it a full garage like that of Type B units).
- Relocate the entrance/exit/driveway to Romanes Drive. No vehicle access to the residences from Brookvale Road (save those with direct driveway access).
- Road access 'entry only' from Brookvale Road, and 'exit' onto Romanes Drive.
- Better provision for parking spaces for residents and their visitors within the development.

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- Consider a pedestrian crossing and speed hump to slow the traffic down Brookvale Road past Legorne Lane.
- Make the football club carpark (on Guthrie Park) bigger and develop road side on the park for more car parking. Put posts up on the grass on the side of the road to stop dangerous parking.
- Trim the park trees, and collect leaves regularly.
- Development of the Oderings site must adequately demonstrate that its urbanisation will not generate any upstream effects in terms of stormwater, nor take up existing or proposed capacity relied on by development currently underway or in the future within an adopted Structure Plan (water, wastewater, stormwater, roading).
- Development on the Oderings site to accommodate minimum 80% reduction of 100 year ARI flood event (pre development vs post development) – having factored in required allowance for climate change.

**Submissions Opposing**

The following summarises the issues raised in submissions opposing the application and/or requesting that consent be declined.

*Residential Character / Density*

Twenty-two (22) submitters raise concerns about the impact of the proposed development on the special character of Havelock North, as follows:

- Creating a potential ghetto in a nice residential area.
- Over development of Havelock North has ruined the village feel of Havelock North and further development will continue to ruin Havelock North.
- Density does not fit with the character of already well established neighbourhood which is characterized by single storey detached dwellings on landscaped lots. Two-storey dwellings is not in keeping with the design of the neighbouring streets. Visually, it is not compliant with the character of the surrounding neighbourhood.
- Lot sizes are considerably smaller than other lots in the area and this will mean smaller homes with significantly less living spaces in comparison with other properties in the area.
- Lack of personal space in these areas only further contributes to the lack of quality of living when building without personal green spaces & lack of sufficient parking.
- Will completely alter the landscape of the area, creating higher traffic flow, wall to wall housing which is often unsightly due to lack of space to develop gardens etc.
- Proposed development resembles a retirement village in density – already have such developments in Havelock North and they do not fit well in residential locations.
- Should be low density similar to that of surrounding developments currently under development.
- These two storey mono-styled dwellings packed in together can be viewed from all around Guthrie Park.

*Social Housing*

Eight (8) submitters raise concerns about the potential for the proposed development to be used for social housing, as follows:

- Concern if type of housing is directed at social housing, which in turn will bring the value of my property down, especially when for so many properties in one area.
- If there were an absolute guarantee that this development could not at any stage become Kainga Ora housing, the community would be much more open to considering supporting development of the site.

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- Ruined Hastings by dropping pockets of State Housing all through Hastings and attempting to do the same in Havelock North.
- If private owners have these properties, more likely to care for their properties and the surrounding area. Concern that in a very short time, the development may become overgrown and rough looking.

*Property Values*

Nine (9) submitters raise concerns about the potential for the proposed development to negatively impact on property values, as follows:

- Will have negative impact on values of homes surrounding this subdivision which effects the livelihoods of those that have purchased in the area prior to this development being proposed.
- The materials appear to be low cost value and not up to standard of current dwellings in the area – concern that values of existing properties in areas will decline.
- One of two things will happen – either these properties will be very expensive in comparison to similar properties in other areas nearby (ie Hastings, Napier and CHB) or they will lower the values of the properties in the area as they will have to sell at lower prices.

*Privacy, Visual Effects, Sunlight*

Submitters at 53 Brookvale Road raise specific concerns about the potential for the proposed development to directly overlook their property, reduce their privacy, and that proposed two-storey dwellings in Lots 1, 2, 3 and 32 will visually dominate over their property and significantly reduce sunlight.

*Construction Effects*

Two (2) submitters raise concerns about noise, visual, and dust effects during construction, and a concern that these matters have not been considered.

*Traffic Effects, and Traffic & Pedestrian Safety*

Eighteen (18) submitters raise concerns about the capacity of Brookvale Road and adjoining roads to cater for the additional traffic, traffic congestion issues, parking issues, traffic safety, and pedestrian safety (particularly for local school children and around Guthrie Park), as follows:

- Brookvale Rd is a busy road, especially during school drop-offs, school pick ups, and during football seasons – already under strain dealing with traffic and parking issues due to schools, sports events at the soccer club rooms, bridge club and Kas Care.
- Football club is a very large club and grows each year. Over 600 kids attend, most get driven to practices and games at Guthrie Park. Lots of senior teams too & summer football as well. Cars park all along the street, wrecking the grass, pulling out while kids cross the road.
- Extra traffic once completed brings safety issues with parents dropping off school-aged children morning and afternoon – the road being so narrow means these parents/caregivers parking on the green verges – child ran straight across the road in front of my car – increased foot and road traffic the situation is only going to get worse.
- Legorne Lane not mentioned as main pick up/drop off point for Te Mata School – with increased traffic on Brookvale Road due to this submission, perhaps speed humps, definitely zebra crossings should be installed. Kids also get dropped down at Woodlands Drive too, either side of the development entrance.
- Traffic congestion on Brookvale Rd and at St Hill intersection. Congestion on Brookvale, Legorne, and Guthrie Rds. Surrounding roads do not have the capacity to absorb the traffic that this housing density would cause.
- Noise, safety issues and change in amenity from increased traffic cannot be avoided, remedied or mitigated – development will place significant pressure on the route, transport and parking

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choices available and may result in parking demands being met along Brookvale Rd outside the submitters property.

- There are already two existing roundabouts on Brookvale Rd, adding another will increase traffic and many make school drop off/pick up take even longer.
- The footpath outside 46 and 48 Brookvale Rd floods during winter, causing people (children, elderly people, mobility scooters and wheel chairs) to walk on the road, negotiating traffic for approximately 25-30 metres, again major health and safety issue.
- Proposed road is directly opposite our dwelling which is going to affect the safety of our family and friends entering and exiting our driveway.
- No public transport.
- Traffic report appears inadequate, narrowly focused on this development.
  - Survey PM Peak of 4pm to 5.30pm is incorrect for Brookvale Rd. Peak starts @2.45pm for school pickup and continues onwards.
  - Says bus stops are 10mins walk away on Te Mata Rd when the included walking diagram suggests they are 15mins away.
  - Suggests there will be minimal impact on traffic flows – in broader context of this development and further development in area this is unlikely to be true.
  - Road Safety section makes no mention of impact on safety on Brookvale Rd particularly at school times and on weekends when pedestrian activity high and parking at a premium.
  - Too many houses to add to Brookvale Road – used as a rat run to the Village for much of the Brookvale area.
  - Often difficult to leave my driveway at various times of the day due to traffic and visibility issues caused by parked cars doing school drop off or attending Guthrie Park on weekends.
  - Safety of pedestrians also further at risk with increased traffic flows.
- In autumn, many leaves make the road and footpath slippery, and blocks the drains. Have to walk on the road to avoid them, as well as the footpath flooding.

*Parking / On-site Parking*

Six (6) submitters raise concerns about a lack of parking provision, as follows:

- There is not sufficient parking in the area as it is. What measures are put into place for parking to accommodate these extra houses?
- Application also does not take into consideration weekend traffic when most business for a garden centre and café will be higher. This, along with the growing Soccer Club, means traffic and parking is a major issue in the weekend as well.
- Dwellings only have one garage and limited parking which means any extra cars may need to find space.
- All garages appear to be single – what do two car households do? Do the plans even allow for dwellings to have two parking spaces or one and a half?
- Type C dwellings have no garages, dwellings do not have pads or space for caravans, boats or trailers, 8 on-street spaces not adequate.

*Infrastructure Capacity*

Ten (10) submitters raise concerns about infrastructure capacity and provision, as follows:

- How is our infrastructure meant to cope with this on top of what's already going over the road for freehold section housing.
- Already struggling infrastructure system in the Hawke's Bay area – communications network, sewerage, electricity supplies, roading and education system already at capacity as it is without 35 high density boxes jammed in on top.

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- Already burdened with drinking water supply and stormwater/wastewater, lack of infrastructure with regard roads.
- Seeking confirmation that the development will not generate any upstream effects in terms of stormwater, nor take up existing or proposed capacity relied on by development currently underway or in the future within an adopted Structure Plan (water, wastewater, stormwater, roading), e.g. the Brookvale Romanes Drive Structure Plan.

*Flood Mitigation*

Two (2) submitters raise concerns about flood mitigation solutions, and Forest & Bird suggest overlaying a biodiversity objective into the proposed flood mitigation solutions, as follows:

- Limitation of flood impact assumptions. Potential flood impact given recent weather changes. Have we not learnt anything from Cyclone Gabrielle?
- Oppose the right to drain water to the Karituwhenua Stream without any form of retaining water on site in a manner that during heavy rainfall more water will be drained to the stream than the current situation.
- During Feb 2023 flooding, the banks of the Karituwhenua Stream, and consequently, the banks of the Karamu [sic] Stream were significantly damaged – recent repairwork of the banks of the Karamu Stream (near Crosses Rd) may have to be repeated.
- Fortunately Guthrie Park was only partially flooded – if more water allowed to be drained into the Karituwhenua Stream more damage will occur and Guthrie Park may be totally flooded and not to be used for a long time.
- Forest & Bird (HB Branch):
  - Site borders the Karituwhenua Stream and understand that flood mitigation solutions includes cutting further into the southern bank of the stream to increase capacity in a flood event.
  - With a significant berm of Council land on the northern bank we suggest a stepped cut into BOTH sides of the stream starting at Brookvale Rd and finishing at the BMX Park (150-200m in total).
  - This would further increase the capacity of the stream in flood events and also provide opportunity to plant out the newly cut higher level to provide shade to help foster biodiversity along this stretch of the stream (hand drawn picture of proposed approach attached to submission).

*Capacity of Social Infrastructure (including schools)*

Nine (9) submitters raise concerns about the capacity of social infrastructure, with 8 of these specifically referencing the impact on local schools in the area, as follows:

- Schools already at capacity. Havelock North is in need of another school already – in addition, the Middle Rd/Iona Rd development will further put more drain on resources and infrastructure such as roading, sewerage, stormwater etc.
- How will the proposed development impact existing infrastructure and services – in particular, the potential for 70+ children needing places in pre-schools and schools, and potentially 140-175 people needing enrolment in health services.
- Increasing number of residential dwellings as part of this development and the additional housing going in further along Brookvale Rd, and the impact on local schools/ supermarkets/ parking/ traffic congestion/ the commercial aspects of the Havelock North CBD.
- Single supermarket in the middle of the village seems inadequate – parking and traffic congestion will become significant problem in the CBD with new location of the New World supermarket? Another supermarket would be helpful to ease traffic congestion in the town centre and provide much needed additional amenities in an area of high population density.



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- There is no availability in Havelock North services meaning new residents will have to travel, more pressure on roading.

*Community Recreation Effects, and Impacts on Guthrie Park*

Three (3) submitters raise concerns about the impact of the development on recreational facilities in the area, as follows:

- The nature of the site is surrounded by recreational facilities – new development will make this area too crowded and cause traffic issues in the winter sports season.
- Will have negative effect on the neighbourhood/community, local school, facilities (eg BMX track).
- Trees along the park are too big and were damaged in the cyclone and loose branches still hang and fall down, which is dangerous.

*Rural Zoning, Productive Soils, and Plan Integrity*

Five (5) submitters raise concerns about the impact of the development on recreational facilities in the area, as follows:

- Land is not zoned residential and goes against the district plan. Even if it was rezoned residential which it shouldn't, then the size of sections should be that all have to adhere under the district plan such as the development across the road on Romane's Dr/Brookvale Rd.
- Goes against our district plan which is there for a reason and something that can evolve/change over time by public choice – district plan sets the rules and it makes a mockery of the district plan if you can contract out of it – makes it worthless.
- Oppose allowing a non-complying application when it doesn't meet grounds for allowing intensive residential development on productive land.
- Oppose rezoning to residential from rural/plains land. A lot of land currently zoned residential waiting for development as well as other land nearby as future residential.
- Hastings Residential Guidelines 2020 promote housing intensification at CBD Havelock North, Hastings Railway Station & Flaxmere, ideally close to transport and shopping facilities.
- Applicant is using RMA incorrectly. A land use application is more apt in this case. Land is currently notified as Plains Zone.
- Do not zone as residential and add to the current issues further. Will drive long-standing residents out of this part of Havelock North.

*Consultation / Notification*

Two (2) submitters raise concerns about the limited level of consultation with affected neighbours, and with the spatial extent of those directly notified of the application.

**7.3 Written Approvals**

No written approvals were provided with the application.

**8.0 STATUTORY CONSIDERATIONS**

Subject to Part 2 of the RMA, section 104(1) sets out those matters that the consent authority must have regard to, when considering any application for a Non-Complying Activity.

**Section 104 – Consideration of applications**

- (1) *When considering an application for a resource consent and any submissions received, the consent authority must, 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*

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- (b) any relevant provisions of-
    - (i) a national environmental standard;
    - (ii) other regulations;
    - (iii) a national policy statement;
    - (iv) a New Zealand coastal policy statement;
    - (v) a regional policy statement or proposed regional policy statement;
    - (vi) a plan or proposed plan; and
  - (c) any other matter the consent authority considers relevant and reasonably necessary to determine the application.
- [...]
- (2) When forming an opinion for the purposes of subsection (1)(a), a consent authority may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect.
  - (3) A consent authority must not, —
    - (a) When considering an application, have regard to—
      - (i) trade competition or the effects if trade competition; or
      - (ii) any effect on a person who has given written approval to the application;
    - (b) [repealed]
    - (c) grant a resource consent contrary to—
      - (i) section 107, 107A, or 217;
      - (ii) an Order in Council in force under section 152;
      - (iii) any regulations
      - (iv) wahi tapu conditions included in a customary marine title order or agreement;
      - (v) section 55(2) of the Marine and Coastal Area (Takutai Moana) Act 2011;
    - (d) grant a resource consent if the application should have been notified and was not.

As a Non-Complying Activity, the Council may grant or refuse consent under section 104B and may impose conditions under section 108.

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

- (1) After considering an application for a resource consent for a discretionary 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.

Under section 104D of the Act, a consent authority may only grant consent for a Non-Complying Activity if it is satisfied that either the adverse effects of the activity on the environment will be minor, or the activity is not contrary to the objectives and policies of the relevant plan or proposed plan.

**Section 104D – Particular restrictions for non-complying activities**

- (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.

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

### 9.1 Effects that must be disregarded

Any effect on a person who has given written approval to the application must be disregarded under section 104(3)(a)(i). No written approvals were provided by the applicant.

### 9.2 Assessment of Effects

The following assessment of environmental effects is prepared having:

- analysed the application (including any proposed mitigation measures and further information submitted by the Applicant in response to the Council's further information request under section 92 of the RMA);
- visited the site and surrounds. A site visit was conducted on Saturday, 17 June 2023; and
- reviewed the submissions received.

The following is an assessment of the adverse effects on the environment in relation to:

- Effects on Character and Amenity Values;
- Effects on the Amenity of the Public Realm;
- Earthworks and Construction Effects;
- Effects on the Transportation Network, Parking Capacity, and Traffic & Pedestrian Safety;
- Effects on Safety of Road Users, Cyclists and Pedestrians;
- Effects on Productive Land Resource;
- Reverse Sensitivity Effects and Conflicting Land Use Activities;
- Effects of Site Servicing;
- Effects on Capacity of Existing Social Infrastructure;
- Natural Hazards;
- Effects of Disturbance of Potentially Contaminated Land;
- Effects on Historic Heritage and Cultural Values;
- Positive Effects; and
- Other Matters Raised in Submissions

#### 9.2.1 Effects on Character and Amenity Values

Amenity values are defined in the RMA as:

*"meaning those natural and physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes".*

I note that the proposed development site is not identified in the District Plan as being located within an Outstanding Natural Landscape, an area of High or Outstanding Natural Character, a Significant Amenity Landscape or a Rural Landscape Character Area.

A considerable number of submitters (23) have raised residential character and amenity concerns, particularly around density and design not being in-keeping with the surrounding streets, established residential neighbourhood, or with the character/village feel of Havelock North. For adjacent land, submitter concerns also relate to privacy and visual effects.

Of these 23 submitters, the following adjoin or are directly opposite the site, on Brookvale Road:

- Kathryn & Christopher Eldridge (53 Brookvale Road)
- Emily Eldridge (53 Brookvale Road)
- Robert Brady (54 Brookvale Road)
- Daniel & Tracey Still (58 Brookvale Road)
- Pamela O'Sullivan (60 Brookvale Road)

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And the following are adjacent or opposite Guthrie Park:

- Lynda & Graham Renner (46 Brookvale Road)
- Allan Solly & Catherine Walker (48 Brookvale Road)
- Tracey Layton ([?]) Brookvale Road)
- Jacqueline Harrison (52 Guthrie Road)
- Mollie Wilson (59 Guthrie Road)

Submitters raising character and amenity concerns variously consider the lot sizes are too small and lack living space/room for gardens, that the two storey mono-styled dwellings are packed in together and wall-to-wall which is considered unsightly, that the development lacks quality, lacks sufficient parking, and risks becoming a potential 'ghetto'.

I address the issue of residential character and amenity can be assessed at different scales, grouped as follows:

- landscape and visual effects for the wider environment (local neighbourhood and urban environment beyond adjacent land);
- visual and amenity effects for adjacent Brookvale Road properties opposite the site;
- localised visual and amenity effects for adjoining land at 53 Brookvale Road; and
- internal amenity achieved within the proposed development.

9.2.1.1 Effects for the Wider Environment

The Landscape and Visual Effects Assessment (LVA) prepared by Narrative Landscape (attached in the AEE submitted with the application), assesses the overall landscape and visual effects of the proposal (termed 'Oderings Urban Village' (OUV)), and concludes as follows<sup>5</sup>:

*"The proposed Oderings Urban Village development will present as a high-quality medium density residential development. This proposal will complement the land existing land use pattern of the surrounding residential area, while also providing an excellent location for the inclusion of a higher density living environment, due to the proximity to the open space amenities associated with Guthrie Park.*

...

*The proposal will appear as a prominent change to the setting (e.g. it is a noticeable change), however the development will not degrade the existing landscape character value associated with the Havelock North residential character zone. The scale of built form is considered appropriate in this location and, in conjunction with the retained garden centre, will have an overall positive effect on the wider landscape setting (particularly when compared to the former commercial nursery activity). It is also considered to be generally in keeping with the key design elements of the Hastings Medium Density Residential Design Guide and the extensive planting associated with the development will further assist with anchoring the development to the site."*

The LVA 'Viewpoint Location Document' provides visualisations of the proposed development superimposed over photographs. These are offered as representative of the locations where the proposed development will likely be most visible – being from along Romanes Drive, and from within Guthrie Park and Romanes Drive Reserve.

In terms of the wider environment, the LVA ultimately assesses potential adverse landscape effects to be '**Very Low**' and potential adverse visual effects to be '**Very Low**' or '**Low**', with a limited area along Romanes Drive being a '**Low-Moderate**' effect (where 'Low-Moderate' equates to 'Minor' and 'Low' / 'Very Low' equate to 'Less than Minor' on the 'Effects Scale' attached as Appendix 1 to the LVA)<sup>6</sup>.

<sup>5</sup> Pages 16-17 of the LVA report.

<sup>6</sup> Page 22 of the LVA report.

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The AEE states the following with respect to landscape and visual effects of the proposal on the locality and concludes that any adverse landscape and visual effects are no more than minor<sup>7</sup>.

I concur that, overall, the scale of built form associated with the proposed development will be appropriate within the broader existing urban landscape and, with the retained Oderings Garden Centre and the onsite landscaping proposed, is able to be visually absorbed. I am satisfied that any adverse landscape and visual effects for the wider environment will be **less than minor**.

9.2.1.2 Amenity Effects for Residential Properties Opposite the Site

Amenity effects for residential properties opposite the site are in terms of visual effects, noise, traffic, and construction effects. Traffic and construction effects are addressed separately later in this report. In terms of noise, the proposed development is likely able to meet the noise limits in the District Plan at the boundary of these properties, and noise effects are therefore likely to be less than minor for these properties.

In terms of visual effects, the LVA report assesses potential visual effects on surrounding properties opposite the site (excluding 53 Brookvale Road, which is addressed separately) – particularly 56, 58 & 60 Brookvale Road – as follows:

*"The surrounding residential properties were also considered in relation to potential visual effects. In particular, the houses at 56, 58 and 60 Brookvale Rd (Figure 17) were identified due to the proximity (directly across the road) to the upgraded OUV and garden centre entrance. However, review of these properties reveals that there are very limited views from the dwellings toward the road. Essentially, an internal garage accounts for half of the dwelling frontage and then frontage planting assists in adding a degree of privacy. The outdoor living space for these dwellings is located around the back of the house (away from the road). The potential adverse effect on these properties is considered to be **Very Low**, with a negligible effect on other nearby properties."*



Figure 17: Road frontage of 60, 58 and 56 Brookvale Road

Given their orientation, the majority of the proposed development being physically distant, and only limited views of the development via the proposed access road, I am satisfied that adverse noise and visual effects for these properties will be **less than minor**.

9.2.1.3 Amenity Effects for 53 Brookvale Road

Amenity effects for 53 Brookvale Road are in terms of privacy and visual effects, noise, traffic, and construction effects. Traffic and construction effects are addressed separately later in this report. In terms of noise, the proposed development is likely able to meet the applicable noise limits in the District Plan at the boundary of this property (particularly given its current Plains Production zoning), and noise effects are therefore likely to be less than minor for this property.

Kathryn & Christopher Eldridge of 53 Brookvale Road have submitted that they are concerned about the impact of the proposed development on their privacy and sunlight, and in terms of visual effects for their property. Their submission is as follows:

<sup>7</sup> Pages 20-21 of the AEE report.



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- (a) *The impact on the submitters privacy by this intense residential subdivision cannot be avoided or mitigated.*
  - (i) *The proposed Lots 1, 2, 3, 30, 31, 32, 33, 34 and 35 surround the submitters property with Lots 1, 2, 31, 34 and 35 running directly along the submitters boundary.*
  - (ii) *Lots 1 and 2 are "Type A" two story dwellings. These properties will directly overlook into the submitters property. The proposed reduction of windows in these dwellings to reduce the appearance of overlooking "fails to prevent overlooking from occurring.*
  - (iii) *Lots 3 and 32 are "Type B" two story dwellings. While these do not border the submitters property, due to their height, there is a risk that these properties may overlook into the submitters property.*
  - (iv) *The removal of the existing cypress hedge will significantly reduce the submitters privacy.*
  - (v) *The privacy of the submitters whilst the works are being undertaken has not been considered.*
- (b) *The visual effects on the submitter's property cannot be avoided, remedied or mitigated.*
  - (i) *The proposed two story dwellings in Lots 1, 2, 3 and 32 will dominate over the submitters property and significantly reduce the sunlight.*
- (c) *The noise and visual effects on the submitter's whilst the works are being undertaken cannot be avoided, remedied or mitigated and have not been considered.*
- (d) *The impact on the special character of the local area cannot be avoided, remedied or mitigated. This higher density development does not fit the existing characteristic of the Havelock North residential area which is characterized by single storey detached dwellings on landscaped lots.*
- (e) *The noise, safety issues and change in amenity from increased traffic created by 35 new dwellings cannot be avoided, remedied or mitigated.*
  - (i) *This development will place significant pressure on the route, transport and parking choices available and may result in parking demands being met along Brookvale Road outside the submitters property.*

They seek the application be declined, but should consent be granted, their submission seeks that "Lots 32, 3, 1 and 2 are changed to "Type D" single story dwellings so that all of the properties surrounding the submitters are single story". They consider there is no other feasible way to reduce the impact on their privacy and sunlight.

The typologies of proposed dwellings<sup>8</sup> surrounding 53 Brookvale Road are as follows:



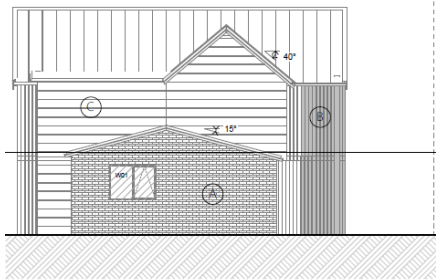
<sup>8</sup> Typology Plan - Drawing No A101 Rev A dated 11/07/2023, Saddleback Planning

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Type A are two-storey, 3.5 bedroom dwellings.

- **Lot 1** has a lot size of 300m<sup>2</sup> and outdoor living space of 78m<sup>2</sup> – the elevation facing 53 Brookvale Road is a side elevation – garage and laundry on the ground floor, and master bedroom (and walk-in wardrobe and ensuite) on the first floor.



E2    Side Elevation    1:100

- **Lot 2** has a lot size of 264m<sup>2</sup> and outdoor living space of 76m<sup>2</sup> – the elevation facing 53 Brookvale Road is the rear elevation – kitchen dining on the ground floor, and third bedroom and master ensuite on the first floor.

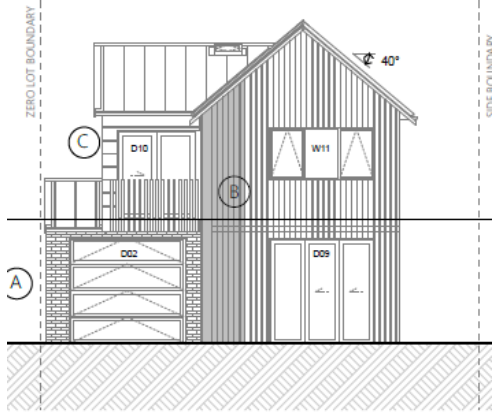


E3    Rear Elevation    1:100

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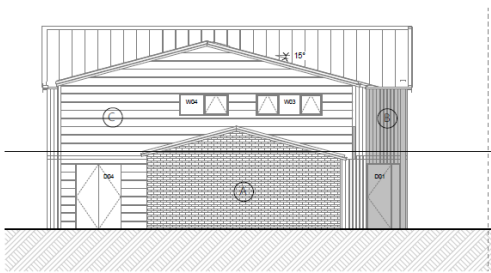
Type B are two-storey, 3 bedroom dwellings.

- **Lot 3** has a lot size of 261m<sup>2</sup> and outdoor living space of 45m<sup>2</sup> – the elevation facing 53 Brookvale Road is the front elevation – garage and entry on the ground floor, and master bedroom and second bedroom on the first floor.



E7                      Front Elevation                      1:100

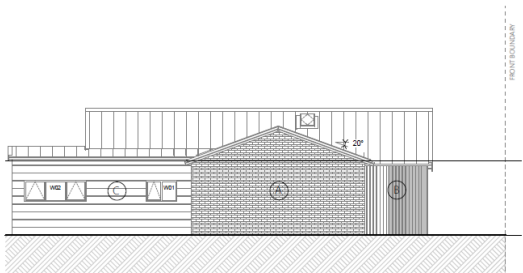
- **Lot 32** has a lot size of 244m<sup>2</sup> and outdoor living space of 90m<sup>2</sup> – the elevation facing towards 53 Brookvale Road is a side elevation – garage, laundry and storage on the ground floor, and master bedroom (with walk-in wardrobe and ensuite) on the first floor.



E8                      Side Elevation                      1:100

Type D (Reflected) are single storey, 2 bedroom dwellings.

- **Lot 31** has a lot size of 235m<sup>2</sup> and outdoor living space of 33m<sup>2</sup> – the elevation facing towards 53 Brookvale Road is a side elevation – garage, laundry, bathroom, and master bedroom.

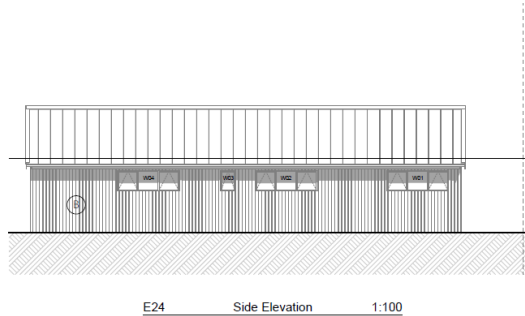


E16                      Side Elevation                      1:100

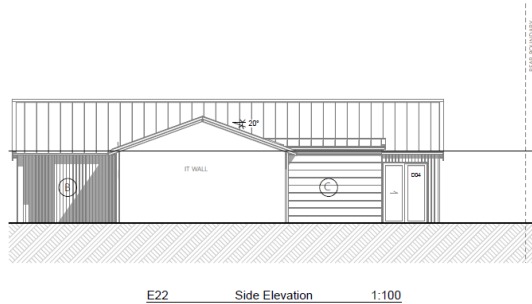
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Type D2 are single storey, 2 bedroom dwellings.

- **Lot 34** has a lot size of 221m<sup>2</sup> and outdoor living space of 40m<sup>2</sup> – the elevation facing towards 53 Brookvale Road is a side elevation – bedrooms 1 & 2, bathroom, and living dining.



- **Lot 35** has a lot size of 352m<sup>2</sup>, is a narrow lot (@10m wide at front boundary), and outdoor living space of 129m<sup>2</sup> – the elevation facing towards 53 Brookvale Road is a side elevation – garage, laundry, and kitchen.



I note that a viewpoint photograph was not collected from within the grounds of 53 Brookvale Road as this is a private residence, but the LVA identifies that this is the most affected location from a landscape and visual effects perspective, due to proximity (e.g. three internal boundaries are all adjacent to the proposed development<sup>9</sup>). I concur.

The LVA assesses the landscape effects of the proposal in relation to 53 Brookvale Road, as follows<sup>10</sup>:

*“The only exception to the above overall conclusion is 53 Brookvale Road, which is surrounded by the OUV application site (as historically it was part of the Oderings landholding). In relation to landscape effects, the proposed OUV has the potential to influence their existing level of amenity, as afforded to them by the Plains Production Zone (e.g. no residential neighbours present during evenings or public holidays and larger building setbacks than provided by the PPZ). The presence of additional residential occupation adjacent to the boundary of 53 Brookvale Rd is not considered unsuitable, however it is acknowledged that it is unexpected because of the existing zoning. Due to the framework provided by the existing zoning, the potential adverse landscape effect on 53 Brookvale Road is considered to be Low-Moderate.”*

<sup>9</sup> Page 20 of the LVA report.

<sup>10</sup> Pages 16-17 of the LVA report.

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The LVA provides the following assessment of visual effects in relation to 53 Brookvale Road<sup>11</sup>:

*"The character of the streetscape is not considered to alter significantly (Viewpoint D), as there is already an existing dwelling located to the east of this property (owned by Oderings), there will only be one additional section (to the west) adjacent to the Brookvale Rd frontage, and the Garden Centre will remain. The proposed OUV dwellings located adjacent to the northern boundary of this property are both single storey ('Type B' – Ref: Figure 2) and will have limited visibility behind the fence line. The 'Type A' dwellings located to the east of this site boundary are a two storey design, however the elevations facing 53 Brookvale Rd have intentionally limited windows on the First Floor to avoid the appearance of overlooking.*

*The initial concept had proposed a 'Bespoke' two storey dwelling on Lot 35 (located west of 53 Brookvale Rd). However, the potential height of a 2 storey building was identified by the client as being too dominant on the neighbours outdoor living space of the 53 Brookvale Road residence (e.g their lawn, pool and patio area - Figure 16). The final proposal has addressed this issue by including a single storey typology that matches the dwellings for proposed lots 31 and 34. The potential adverse visual effect on this property (53 Brookvale road) are considered to be Low-Moderate. One small potential benefit is that the existing cypress hedge row will need to be removed to enable the OUV and this will open up significantly more afternoon sunlight to 53 Brookvale Rd."*



Figure 16: Outdoor Living Space (53 Brookvale Road) and existing Cypress Hedgerow (to be removed).

Overall, the LVA does not assess the presence of additional residential occupation adjacent to the boundary of 53 Brookvale Rd as unsuitable, however acknowledges that it is unexpected because of the existing zoning, and for this reason deems the potential adverse visual effect on 53 Brookvale Road to be **Low-Moderate**, being 'no more than minor' effect in terms of the Effects Scale adopted in the LVA<sup>12</sup>.

The Urban Design Statement accompanying the application, prepared by Saddleback (dated 31 May 2023), addresses how the proposed development aligns with design guidance contained in the Hastings Residential Intensification Design Guide 2020 (on the basis that they consider the performance standards for the Havelock North General Residential Zone provide useful guidance as to the built form that might be anticipated in the area), and provides the following statement regarding building height, visual dominance and sunlight, with specific reference to 53 Brookvale Road<sup>13</sup>:

*"To maintain the character of the surrounding area and avoid any visual dominance effects, dwellings have been kept within the height limit relevant to the surrounding Havelock North General Residential Zone (8m) and within the scale anticipated in the zone (development up to two-storeys). Single Storey dwellings have been sited in locations around 53 Brookvale Road to minimise adverse shading effects and to help maintain the existing residential character of the street."*

<sup>11</sup> Pages 20-21 of the LVA report.

<sup>12</sup> refer 'Appendix 1: Effects Scale' in LVA report.

<sup>13</sup> Page 5 of Urban Design Statement.



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In my view, the Plains Production zoning is highly relevant to assessing the impact of the proposed development on the existing character and amenity values for the owners/occupiers of 53 Brookvale Road.

The property at 53 Brookvale Road is a 1,257m<sup>2</sup> property containing a single storey dwelling with outdoor living and pool area oriented to the west and, until recently, was surrounded by the Oderings nursery and garden centre site with a single story detached dwelling at 55 Brookvale Road (note: that dwelling has been recently demolished and the vacant residential site incorporated into the proposed development).

The proposed development is for a comprehensive medium-density residential development not contemplated in the Plains Production Zone by the District Plan.

Whilst the site has become somewhat divorced from the wider Plains Production Zone over time, the zoning is still in place and relevant to the assessment of the effects of the proposed development on this neighbour. Therefore, in my view, the difference in character and amenity for the owners/occupiers of 53 Brookvale Road needs to be considered in that light.

The amenity of the Plains Production Zone is described as comprising open character, land based primary production activities, and low scale of buildings (Anticipated Outcome PPAO6), with low scale commercial and industrial activities linked to produce grown and/or stock farmed on the site or nearby (Anticipated Outcome PPAO5), and the objectives and policies of the Plains Production Zone generally seek to enable land based primary production and associated residential dwellings and accessory buildings (Policies PPP4 and PPP5), and to prevent ad hoc urban development.

Under the current zoning applying to both the development site and 53 Brookvale Road, it is not unreasonable for the owners/occupiers of 53 Brookvale Road to rely on the provisions of the applicable zone as to what could eventuate on the neighbouring site. In that sense, their appreciation of their amenity is on the basis of existing and consented activities (including the garden centre and consented café) and future activities based on land based primary production and supporting activities within specified limits (Rules PP1-PP17A), including limited provision for residential activities to one residential building per site and one supplementary residential building (Rules PP2 & PP3), as well as yard setbacks of 15m from their side and rear boundaries (Standard 6.2.5B). The proposed development will be a significant change.

Whilst the property at 53 Brookvale Road presents as more of an urban residential property in nature, similar to residential properties opposite on Brookvale Road which are zoned 'Residential', they will experience a much higher density of development, and closer to the boundary, to what they would otherwise have anticipated, and this may impact on their feeling of privacy, admission of sunlight, and visual amenity, that warrants due consideration.

In my view, with 1.8m high solid boundary fencing, the single-storey dwellings proposed for Lots 31, 34 and 35 will have limited, if any, impact on privacy for 53 Brookvale Road. I also consider overlooking from the proposed two-storey dwelling on Lot 32 would be minimal, especially given the separation, intervening dwellings on Lots 33 and 34, and limited provision of first floor windows on that elevation.

The two-storey dwelling proposed for Lot 1 appears to have no windows on the first floor on the elevation facing the boundary with 53 Brookvale Road, and therefore limited potential for overlooking and privacy effects.

However, the adverse effects on privacy and amenity, and on visual effects, for 53 Brookvale Road could potentially be 'more than minor' when considering the impact of the visual dominance of two-storey dwellings on Lots 1, 2 & 3, potential overlooking from first-floor bedroom windows on Lots 2 & 3, particularly combined with the overall impression of density of residential development on all three internal boundaries of this property (with small lot sizes, minimum outdoor living area provided, and

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buildings as close as 1m from the boundary – some of which do not even meet the minimum standards for the Havelock North General Residential Zone in the Hastings District Plan<sup>14</sup>).

For this reason, I consider adverse effects on amenity values for 53 Brookvale Road **may be more than minor**. I consider altering the housing typology for Lots 1, 2 and 3 to single-storey dwellings could mitigate adverse effects on 53 Brookvale Road, such that the effects may be able to be reduced to a level of **'minor'**, particularly given a single-storey residential dwelling was, until recently, located on the adjoining site at 55 Brookvale Road. In that regard, the presence of three single-storey dwellings in that location would not present such a marked change from the historic residential use of that part of the Oderings site.

I reserve finalising my assessment of adverse effects on amenity for 53 Brookvale Road until I have had an opportunity to consider any response the Applicant and submitters may provide at the hearing.

9.2.1.4 Internal to the Proposed Development

An Urban Design Statement prepared by Saddleback Planning (dated 31 May 2023) is attached in the AEE submitted with the application. The UDS is based on the following position<sup>15</sup>:

*"Although the site is zoned Plains Production Zone, as the site is within the Havelock North urban boundary and is surrounded by residential development, the performance standards for the Havelock North General Residential Zone also provide useful guidance as to the built form that might be anticipated in the area."*

The Urban Design Statement therefore addresses how the proposed development aligns with design guidance contained in the *Hastings Residential Intensification Design Guide 2020* (which link to the District Plan assessment criteria).

On the whole, I am satisfied there is potential to create a high-quality living environment for future residents – with a good mix of typologies and potential to take advantage of the site's location and setting, adjoining Guthrie Park and the Karituwhenua Stream, and within close walking distance of schools and transportation links. In principle, I accept that the site has characteristics which make it potentially suitable for medium density housing.

A number of internal design matters were raised in the Council's further information request to the applicant. The Applicant has provided an Urban Design RFI Response prepared by Saddleback Planning (Attachment 3 to their response dated 4 October 2023), addressing fencing and landscaping, outdoor living space/service areas, and bin storage (as well as layout options investigated and materials relating more specifically to the public realm – addressed separately, later in this report).

Landscaped Area

The applicant's Urban Design RFI Response includes an assessment of the proposal against District Plan Performance Standard 8.2.6F(5) which anticipates that a minimum of 20% of the exclusive use area for each residential building be landscaped with mixed vegetation cover and specimen trees as follows<sup>16</sup>:

<sup>14</sup> Net Site Area – refer Standard 30.1.6A of the District Plan – adjoining proposed Lot 1 (300m<sup>2</sup>), Lot 2 (264m<sup>2</sup>), Lot 3 (261m<sup>2</sup>), Lot 31 (235m<sup>2</sup>), & Lot 34 (221m<sup>2</sup>) are less than the 350m<sup>2</sup> minimum net site area for the Havelock North General Residential Zone, and proposed Lots 31 & 34 are also less than the 250m<sup>2</sup> minimum net site area applying to comprehensive residential development in the Havelock North General Residential Zone.

Landscaped Area/Outdoor Living Area – refer also, Standards 8.2.6F(5) and 8.2.6F(4) & (7) of the District Plan – adjoining proposed lot 3 provides less landscaped area than the 20% minimum (17.9%), proposed lot 31 is not able to achieve the minimum 4m diameter circle for outdoor living space (3.9m), and proposed lot 34 provides less than the 30m<sup>2</sup> minimum outdoor living space (29.9m<sup>2</sup>) applying to comprehensive residential development in the Havelock North General Residential Zone.

<sup>15</sup> Pages 1 of the Urban Design Statement.

<sup>16</sup> Pgs 8-9 of UD RFI Response.

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*"Based on the landscaped plans prepared by Oderings, the following table represents the landscaped areas per lot. Plans have been provided separately for Council's review.*

Lot Number	Landscaped Area	Lot Number	Landscaped Area	Lot Number	Landscaped Area
Lot 1	25.6%	Lot 13	20.8%	Lot 25	20.1%
Lot 2	21.1%	Lot 14	18.2%	Lot 26	29.1%
Lot 3	17.9%	Lot 15	14.1%	Lot 27	23.5%
Lot 4	22.9%	Lot 16	32.2%	Lot 28	19.0%
Lot 5	20.5%	Lot 17	26.6%	Lot 29	22.5%
Lot 6	32.7%	Lot 18	36.0%	Lot 30	14.4%
Lot 7	26.1%	Lot 19	17.7%	Lot 31	20.7%
Lot 8	20.0%	Lot 20	20.1%	Lot 32	30.0%
Lot 9	27.1%	Lot 21	20.1%	Lot 33	14.1%
Lot 10	33.8%	Lot 22	20.1%	Lot 34	27.1%
Lot 11	23.2%	Lot 23	20.1%	Lot 35	43.4%
Lot 12	22.9%	Lot 24	20.1%		

*Lots 3, 14, 15, 19, 28, 30, and 33 have been identified to be an infringement under 8.2.6.F(5). The actual, measured infringement to the landscaped areas of the sites above is:*

- a. Lot 3 2.1% Infringement = 5.6 m<sup>2</sup>
- b. Lot 14 1.8% Infringement = 3.9 m<sup>2</sup>
- c. Lot 15 5.9% Infringement = 13.1 m<sup>2</sup>
- d. Lot 19 2.3% Infringement = 4.9 m<sup>2</sup>
- e. Lot 28 1.0% Infringement = 1.4 m<sup>2</sup>
- f. Lot 30 5.6% Infringement = 11.4 m<sup>2</sup>
- g. Lot 33 5.9% Infringement = 11.7 m<sup>2</sup>

*An assessment of the effects has been provided below, suggesting that the effects are less than minor:*

- a. *The cumulative effects of the landscape infringement will not be noticeable within the development due to:*
  - i. *The extensive streetscape landscaping proposed within the shared-space laneways and park connections.*
  - ii. *The sites immediate adjacency to Guthrie Park and Karituwhenua Stream which wrap around the site on three boundaries (west/north/east).*
  - iii. *The cumulative landscaping area across all residential sites is 24.4%, circa 360m<sup>2</sup> greater than the minimum sought.*
  - iv. *The impacted lots are within the development and are not immediately adjacent to the neighbouring residential property at 53 Brookvale Road.*
  - v. *A stormwater assessment has been undertaken to support the development, which demonstrates that stormwater from the site can be managed appropriately.*
- b. *Where individual lots do infringe the standards, the effects are managed as:*
  - i. *All sites have consistent and significant front yard landscaping, and provisions for specimen trees, to maintain the landscaped character of the streetscape and minimise the visual dominance of dwellings.*
  - ii. *Lots 33, 19, and 14, 15 have rear living courts which back onto Guthrie Park and Karituwhenua Stream respectively, minimising the visual effects and impact on the residential amenity of this infringement.*

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- iii. Lots 03, 30 are corner sites which results in more streetscape frontage, and greater separation from neighbouring dwellings. These are also supported by the extensive streetscape planting proposed which further offset the visual impact of the infringement.
- iv. Lot 28 is a terraced dwelling and does not have a side yard. This dwelling can reasonably be expected to have less landscaping, though landscaping is still provided within the front yard, and across the rear of the site. This balances the need for landscaping with the need to provide useable outdoor living spaces, which we feel is the appropriate balance to achieve good residential amenity."

On the basis of the above design elements, orientation, and landscape planting mitigation proposed, I am satisfied that the effects of reduced landscaped areas on residential amenity for Lots 3, 14, 15, 19, 28, 30 & 33 and on overall visual and residential amenity within the development will be **less than minor**.

#### Outdoor Living Space / Service Area

The applicant's Urban Design RFI Response includes an assessment of the amount of outdoor living space and service area provided for each individual lot against District Plan Performance Standards 8.2.6F(4) & (7) (which anticipate a minimum of 30m<sup>2</sup> of north facing private outdoor living space shall be provided for each residential unit with at least 20m<sup>2</sup> at ground level that is directly accessible from a principal living area, and 5m<sup>2</sup> of outdoor service space screened from the unit's outdoor living space, any adjoining unit or public open space), as follows<sup>17</sup>:

"Compliance to standards 8.2.6F(4) and 8.2.6F(7) have been provided separately and quantified below.

Lot Number	ODLS	Lot Number	ODLS	Lot Number	ODLS
Lot 1	125.7 m <sup>2</sup>	Lot 13	56.5 m <sup>2</sup>	Lot 25	58.5 m <sup>2</sup>
Lot 2	78.2 m <sup>2</sup>	Lot 14	50.2 m <sup>2</sup>	Lot 26	99.6 m <sup>2</sup>
Lot 3	64.1 m <sup>2</sup>	Lot 15	56.2 m <sup>2</sup>	Lot 27	48.2 m <sup>2</sup>
Lot 4	56.6 m <sup>2</sup>	Lot 16	132.3 m <sup>2</sup>	Lot 28	38.9 m <sup>2</sup>
Lot 5	66.4 m <sup>2</sup>	Lot 17	69.5 m <sup>2</sup>	Lot 29	48.6 m <sup>2</sup>
Lot 6	121.7 m <sup>2</sup>	Lot 18	101.6 m <sup>2</sup>	Lot 30	32.8 m <sup>2</sup>
Lot 7	89.6 m <sup>2</sup>	Lot 19	43.1 m <sup>2</sup>	Lot 31	35.3 m <sup>2</sup>
Lot 8	60.4 m <sup>2</sup>	Lot 20	58.5 m <sup>2</sup>	Lot 32	90.7 m <sup>2</sup>
Lot 9	91.9 m <sup>2</sup>	Lot 21	58.5 m <sup>2</sup>	Lot 33	31.6 m <sup>2</sup>
Lot 10	137.2 m <sup>2</sup>	Lot 22	58.5 m <sup>2</sup>	Lot 34	29.9 m <sup>2</sup>
Lot 11	61.8 m <sup>2</sup>	Lot 23	58.5 m <sup>2</sup>	Lot 35	123.9 m <sup>2</sup>
Lot 12	62.7 m <sup>2</sup>	Lot 24	58.5 m <sup>2</sup>		

Lot 34 infringes standard 8.2.6.F(4). The ODLS for this lot is 29.9m<sup>2</sup>, which is 0.1m<sup>2</sup> less than the rule requires. An assessment of the effects has been provided below:

- This infringement represents a technical infringement of the standard.
- The ODLS for this dwelling maintains good proportions and daylight access and is directly accessible from the living areas of the dwelling.
- The ODLS is immediately adjacent to Guthrie Park, with pedestrian access via a gate. This provides residents additional amenity through use of this public asset.

<sup>17</sup> Pgs 10-11 of UD RFI Response.

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d. The actual experienced area available for use for outdoor living for residents will be circa 55m<sup>2</sup>. The variation between these numbers is the available spaces that do not meet the either the minimum 2.5m dimension or shading rules. While excluded, these areas support outdoor living because they:

- i. Contribute to the lived experience/amenity of the dwelling,
- ii. Remain of a useful dimension for outdoor living (2.0m is accepted for balconies)
- iii. Remain useful beyond daylight hours, negating the shading effects.

Lot 31 infringe standard 8.2.6.F(4)(b) as a 4m diameter circle cannot be accommodated within the ODLS. As assessment of the effects has been provided below, which we suggest results in a less than minor effect:



- a. Lot 31 can support a 3.9m diameter circle within the ODLS. The ODLS circle infringes the standard by 0.1m, due to the corner of the living room.
- b. The onsite amenity for residents is not likely to be materially affected by this infringement because:
  - i. The ODLS is orientated to the north, maintaining sun access.
  - ii. The ODLS is directly accessible from the Living Room (north and east), and from the Master Bedroom.
  - iii. The dwelling to the north (Lot 30) is single level and won't result in any adverse shading or overlooking effects.
  - iv. The dwelling to the east (Lot 03) is two-levels but is appropriately set back from the common boundary to manage anticipated shading effects. Any overlooking effects are not likely to be significant as windows to the upper level are higher, and to the master bedroom/ W/R and Ensuite areas which is likely to be used at different times of the day than the ODLS.
  - v. The ODLS, while not supporting a 4m diameter circle, is at least 24m<sup>2</sup>, through an approximately rectangular form 3.0 – 4.1m x 5.6m. When combined with the secondary living court, the Lot achieves 35.3m<sup>2</sup> ODLS which is greater than the 30m<sup>2</sup> required by the standard.

All lots comply with the standard 8.2.6.F(7) for Services/ Utility Area/ Deliveries.”

I am satisfied that the effects on residential amenity for Lot 34 of a reduced outdoor living space by 0.1m<sup>2</sup> less than the District Plan standard, will be **less than minor**.

Similarly, I am also satisfied that the effects on residential amenity for Lot 31 of a reduced diameter circle of 3.9m, rather than the 4m diameter circle in the District Plan, will be **less than minor**.

The applicant's Urban Design RFI Response also addresses the location and appearance of proposed bin storage where located within the front yard (District Plan Performance Standard 8.2.6F(7)(b)), as follows<sup>18</sup>:

<sup>18</sup> Pgs 10-11 of UD RFI Response.



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*"All bin storage areas are proposed within bin enclosures and are will therefore be screened. In most instances (particularly when the bins are within the front yards of the proposed dwellings) additional screening is provided through on-lot planting. Providing bins in this location is convenient for servicing and enables rear yards to remain clear of servicing and be the primary living space.*

*Typical bin enclosures examples are shown below:*



*Accepting that Council's preference for service areas is not to be between the dwelling and road, Standard 8.2.6.7(b) does not include internal private roads and therefore does not apply to these identified sites. Nevertheless, the following assessment has been provided as to their suitability as proposed.*

*Lots 8 and 9 are rear lots and therefore the location of the bins within the front yards will not be visually dominant from the streetscape. The front yard locations identified are preferred as to not compromise the rear-yard amenity of these lots, while maximising the front yard courtyard spaces.*

*Lot 28 is a terraced lot (no side-yard) and it is therefore not possible to have the bins in a different location without requiring residents to bring it through the dwelling.*

*Due to the site design of Lots 27 and 29 the bin enclosures will be in visually prominent locations from the streetscape regardless of location (corner sites) or will compromise the rear-yard amenity (within outdoor living courts). The bin locations as illustrated are to the south of the dwellings, and are screened by both the enclosure, hedging, and low planting."*

I am satisfied that, with the screening of the enclosures, hedging and low planting as proposed, the effects on residential amenity within the development of locating enclosures (service areas) within the front yards of Lots 8 & 9, 27, 28 & 29, will be **less than minor**.

#### 9.2.1.5 Overall Assessment

On the basis of the above, I am satisfied that any adverse effects on residential character and amenity values from the proposed development on the wider environment and surrounding properties (with the exception of 53 Brookvale Road), as well as internally within the development, will be **less than minor**.

However, as outlined above, I consider adverse effects on character and amenity values specifically for 53 Brookvale Road **may be more than minor**, but that altering the housing typology for Lots 1, 2 and 3 to single-storey dwellings could mitigate adverse effects on 53 Brookvale Road such that the effects may be able to be reduced to a level of 'minor'. As stated, I reserve my opinion until I have had the opportunity to consider any response the Applicant and submitters may provide at the hearing on this matter.

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9.2.2 Effects on the Amenity of the Public Realm

The proposed development is largely surrounded by public space, including Guthrie Park (linking through to Romanes Drive Reserve), as well as the Karituwhenua Stream and drainage reserve. Therefore, the development of this site has the potential to affect the quality, safety, and visual amenity of these public spaces. Guthrie Park and Romanes Drive Reserve are identified in Appendix 63 of the Hastings District Plan as follows:

OS 1 (Sport and Recreation) Area	provides larger areas of open space which cater for organised sports and active recreation i.e. sports grounds, tennis courts, netball courts and bowling greens as well as a range of community activities. Although the Zone is designed to provide primarily for outdoor recreation and associated buildings such as clubhouses and other structures, it also permits indoor recreation and community facilities such as leisure centres and swimming pools.			
REFERENCE	RESERVE NAME	LOCATION	CATEGORY	RESERVE PLAN REF
OS1-08	Guthrie Park	Havelock North	Sport & Recreation	SR08
OS1-11	Romanes Drive Reserve	Havelock North	Sport & Recreation	SR11

Guthrie Park (and Romanes Drive Reserve) is typical of a public park catering for organised sports and active recreation and accommodates clubrooms and other indoor recreation and community facilities, serving an urban population.

Submitters have raised issues around the impact of the proposed development on surrounding recreational facilities, with concerns that the new development will make this area too crowded and cause traffic issues in the winter sports season. I do not consider that the proposed development will, of itself, cause further traffic issues in the winter sports season, given that residents from the development who participate in winter sports on Guthrie Park will likely access the park directly from the development, using the pathways provided internally. Traffic in and around the park, more generally, is addressed later in this report under ‘traffic effects’.

In terms of effects on the quality, safety, and visual amenity on public spaces, the Landscape and Visual Effects Assessment (LVA) accompanying the application provides a visualisation from a representative viewpoint within Guthrie Park looking back towards the development, below:

Figure 15 – Visualisation of the Proposed Development from within Guthrie Park (Viewpoint Q)



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The Urban Design Statement accompanying the application refers to the development's interface with public open space as follows<sup>19</sup>:

*"Connections to Open Space*

*The development has an internal pedestrian network which connects directly to public open space in Guthrie Park. The development utilises 1.2m permeable fencing, rear yard landscaping and glazed rear facades to create an active edge with this and other adjacent public open spaces such as to Karituhenua Stream to the east."*

*"Private and Safe Environments*

*A balance has been met between maintaining the privacy of outdoor living spaces and creating passive surveillance over both internal movement networks and adjacent public spaces. This has been achieved by providing 1.8m screening fences between adjacent rear yard living spaces while utilising low 1.2m permeable fencing along front yards and adjacent to public open spaces. Where 1.8m fences are utilised to internal public spaces a visually permeable treatment is used at the top of 1.8m fencing to balance the needs for overlook and privacy and minimise any visual dominance effects to the street edge.*

*Dwellings backing onto public open space also generally feature open plan ground floor living spaces that provide overlook into the backyard and out over public open spaces. Where possible, primary living spaces run the length of dwellings, also providing overlook into, and activation of the front yard. All dwellings feature some degree of front façade glazing to support overlook of the street and passive surveillance."*

The Applicant provided an Urban Design RFI Response (by Saddleback Planning, dated 27 July 2023) to Council's request for further information (Attachment 3 to their response dated 4 October 2023), addressing the proposed treatment of the Guthrie Park boundary, as follows<sup>20</sup>:

*"The proposed treatment of the Guthrie Park Boundary is identified on drawings LFP01 (Rev C) prepared by Oderings Landscaping, dated 30th January 2023 and included with the application. This treatment includes:*

- a. To the rear yards of Lots 19-26, Lots 32-35*
  - i. 1.2m high visually permeable fencing to the shared boundary (aluminium pool-style fencing with 100x100mm posts (gates to match), and;*
  - ii. The front ~7m of lot 18 (approximately 130m cumulative length).*
- b. Lot 35 (approximately 25m), overlooking the carpark within Guthrie Park.*
  - i. 1.8m solid fencing with top 300mm visually permeable*
- c. To the side of Lot 18 (approximately 15m in length).*
  - i. 1.8m solid fencing*

*In addition, low planting and specimen trees are proposed within the rear gardens of the lots bordering the parks which will contribute to the overall amenity value of the park and will represent a significant improvement to what is currently experienced.*

*Additional perspectives will be provided separately to demonstrate the pedestrian accessways between the reserve and the proposed development.*

<sup>19</sup> Pages 6 & 7 of the Urban Design Statement.

<sup>20</sup> Pages 3-4 of the Urban Design RFI Response.

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Figure 1: Render looking from Guthrie Park east through the pedestrian access link and roundabout beyond.



Figure 2: Render looking west from the roundabout towards the pedestrian link to Guthrie Park (Terraced Dwellings on the right).

Given the predominance of public space surrounding the site, Council commissioned Deyana Popova of Urban Perspectives Limited to carry out an independent urban design review (UDR) – attached in **Volume 5 of the Agenda Document** to this report. The UDR focused primarily on the potential impact of the proposed development on the surrounding public realm, and assessed it against the following urban design issues/matters:

- relationship of the proposal to adjacent open spaces including Guthrie Park to the west (the park) and Karituwhenua Stream Reserve to the north and east (the stream reserve), and to Brookvale Road to the south; and
- potential visual impact of the development on public views from the surrounding streets (Brookvale Road and Romanes Drive) and from within the park and the stream reserve respectively.

Ms Popova considers the extent to which the proposal integrates with and contributes to the quality, safety and visual amenity of surrounding public spaces (in terms of site layout, building form and landscape treatment) is a central assessment issue, and has used the District Plan design criteria for comprehensive residential development (Chapter 7.2.8F) along with the aligned matters in the Hastings Residential Intensification Design Guide 2020 (Design Guide) as the framework for her assessment. She notes that while the above provisions are relevant to the assessment, the proposal is to be assessed as a non-complying activity and accordingly a broad range of urban design matters may be considered.

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Ms Popova considers that, ‘as a comprehensive development, the proposal has taken an integrated approach to its planning and design and, as a result, it exhibits many positive urban design attributes. There are, however, particular design aspects and elements which require further design attention’.

9.2.2.1    Layout

Ms Popova discusses the layout of the proposed development as follows:

“The proposed internal loop-road layout with short cul-de-sac lanes and pedestrian links is, in principle, a valid and commonly used response to site development. However, in the context of the development site, it creates a layout where the two most prominent public frontages of the site (facing the park and the stream reserve respectively) are defined by dwellings presenting their ‘backs’ and associated rear private outdoor areas to the adjacent public spaces. Such an outcome is not preferred from an urban design ‘best practice’ perspective as it carries an inherent tension between:

- a. ‘privacy objectives’ aimed at maximising privacy of outdoor living areas; and
- b. ‘public realm objectives’ aimed at creating positive street/reserve frontages with buildings presenting their ‘public fronts’ to adjacent streets/public spaces and optimising passive surveillance at all times (i.e buildings with open front yards and main entrances oriented to and addressing the adjacent public environment).”

Ms Popova concludes that an edge lane along the primary park frontage will deliver a more appropriate public/private interface and a superior urban design outcome compared to that provided by the current layout – her reasons are given on page 6 of her report.

Figure 16 below is an indicative sketch of a proposed alternative roading layout for the development, incorporating an ‘edge lane’ along the park frontage, taken from her report<sup>21</sup>. She considers an edge lane layout would not significantly increase the amount of roading, compared to the current layout, and would not necessarily reduce the yield.

Figure 16 – Indicative Sketch Diagram of Roading Layout with an ‘edge lane’ along the Park frontage



<sup>21</sup> Pg 5 of the ‘Urban Design Review’ prepared by Urban Perspectives Ltd.

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In terms of the interface with the stream reserve, Ms Popova does not consider an edge lane scenario is necessary *'because of the location of that frontage and the different ways the stream reserve is used and experienced in public views relative to the park'*.

In terms of the interface with Brookvale Road, Ms Popova considers that the limited street frontage of the development along Brookvale Road means that the two new dwellings on either side of 53 Brookvale Road are not expected to create any significant streetscape issues, except for the front fence of the dwelling on Lot 35 which she considers will require further design attention.

Ms Popova states that, if a decision is made to retain the currently proposed layout (i.e. no edge lane is to be introduced), then the detailed landscaping treatment/fencing along both reserve frontages would need to be addressed to improve the outcome instead, in terms of variation in building form, landscape work and fencing in relation to the edge treatment along the reserves, and tree planting along the reserve frontages and differentiating hard surface treatment of footpaths/pedestrian links and roads within the development.

The Applicant's response to the Urban Design Review (in **Volume 5 of the Agenda Document** to this report) has since confirmed that they do not propose to alter the layout of the proposed development to incorporate an 'edge lane', on the basis that it would consume an inordinate amount of land for limited additional public benefit, and would encourage non-resident vehicle movement into the site, essentially degrading the potential beneficial impacts. The Applicant also questions the details which Ms Popova uses to support her assessment.

For clarification, it is my understanding based on an email response from Ms Popova dated 26 March 2024 (attached in **Volume 5 of the Agenda Document** to this report) that the Applicant has assumed that the proposed amended layout would become a public road with a greater width than that of the internal private lane, whereas Ms Popova's suggestion was to amend the layout of the internal private loop road and she did not envisage making the amended loop road a public road. Subject to approval by the Council traffic engineer, she confirmed that the recommended amendment to the loop road would not require a greater road width. This is a matter that could be further clarified at the hearing.

9.2.2.2 Building Form

Ms Popova discusses building form in relation to the proposed development as follows:

*"Both the park and the stream reserve frontages of the site are defined predominantly by the same two-storey stand-alone Type B dwellings within a 'zero lot boundary' arrangement. Using stand-alone dwellings accentuates the individual scale of each unit and helps to break up the collective building bulk. However, applying the same typology in relatively long rows, as proposed, can result in visual repetition/monotony, thereby affecting the character and visual experience of the development in views from the adjacent public spaces."*

The following are offered as possible ways to address the issue and achieve a sense of variation:

- mix Type B dwellings with another typology and/or apply Type B in a duplex arrangement to create variation in building frontage width and consequently vary the collective building form/silhouette in public view; and/or
- introduce an appropriate level of variation in detail, materials and colour to enhance the individual presence of each dwelling or group of dwellings to provide visual interest and diversity – achieving and appropriate design variation along the park and stream reserve frontages is important given their visual prominence.

Ms Popova notes the Applicant's intended approach to managing variation in building form but considers an effective and clearly defined strategy will be required to implement the Applicant's design intent, and offers an approach to achieve this, which she considers will help to simplify and facilitate the certification process. She considers this process and intended application should be marked on a plan included in the 'approved plans' set.



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It is noted that the applicant's Urban Design RFI Response (dated 4 October 2023) offers the following consent condition as a means of implementing the cladding design statement included in the masterplan document<sup>22</sup>:

*"Confirmation of Cladding Choices:*

*A Cladding Plan with supporting specifications should be prepared and submitted to Council for certification prior to construction commencing.*

*The Cladding Plan must contain:*

- *Reference and alignment with the design principles outlined in the Urban Design Statement and Masterplan Document.*
- *Selection and location of cladding choices per dwelling.*
- *Selection and location of paint choices per dwelling.*

*There plans must be supported by specifications that describe in a written form the more specific technical matters such as the quality of materials."*

The Applicant's response to the Urban Design Review (**Volume 5 of the Agenda Document**) is that, in their view, buildings plans (including cladding) will be required to be prepared in general accordance with the Hastings Medium Density Design Framework 2022, the Resource Consent plans, and conditions of consent, and that these checks should provide opportunity and scope for planners to ensure design alignment prior to Building Consent approval.

Ms Popova reiterates in her email (**Volume 5 of the Agenda Document**) that this does not address the key issue, which relates to the repetitive use of the same building form/design along the two reserve frontages with no certainty that some degree of variation between adjacent dwellings can be achieved through the application of materials/colour, and that this still requires a suitable condition of consent as per the suggestions included in her Urban Design Review. Again, this is a matter that could benefit from further clarification at the hearing.

9.2.2.3 Landscape Work and Fencing

Ms Popova notes that the fencing plan does not indicate whether the proposed timber fencing will be painted/stained finished or is to remain 'untreated'. In her view, given the visibility of most of the intended 1.8m timber fences, it is important to ensure that they are painted or stained to improve the quality of the outcome.

She also raises questions/issues around the proposed fencing associated with the private outdoor areas of the dwellings along the reserves' frontages – most of these issues arise primarily from the proposed site layout /building arrangement where private outdoor living areas back onto the adjacent open spaces, which would be eliminated through adopting an edge lane, as discussed above.

To improve the outcome for the dwellings located along both the park and stream reserve frontages, Ms Popova recommends the following:

- i. *lower the side fences between adjacent dwellings to 1.5m and soften their impact through planting. Alternatively, a 1.5m hedge could be used instead of side fencing;*
- ii. *minimise visibility of the washing lines in public views from the adjacent reserves (through relocation and/or appropriate screening);*
- iii. *ensure the height of the proposed hedge along the rear yard 1.2m permeable fences for all reserves-facing dwellings is kept to 1.5m maximum at all times;*
- iv. *re dwelling 35 - use 1.2m aluminum permeable pool style fence + planting along the road frontage of dwelling 35;*
- v. *re dwellings 18 and 35 - use 1.2m aluminum permeable pool style fence + planting for the park-facing side fences of dwellings 18 and 35 to achieve visually consistent treatment along the entire frontage of the park;*

<sup>22</sup> Pg 6 of UD RFI Response.

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- vi. re dwellings 19, 26 and 32 - use 1.5m permeable aluminum pool style fences + planting for the external side fences of dwellings 19, 26 and 32;
- vii. re external side fences for dwellings 26 and 32 - set back the external side fences for Lots 26 and 32 from the edges of the adjacent pedestrian pathway (intended as a public link to the park). This is to provide a wider area for planting and enhance the edge treatment of the proposed 'public' pedestrian link between dwellings 26 and 32; and
- viii. include a consent condition requiring that all timber fences are painted or stained finished.

The Applicant's response to these recommendations (**Volume 5 of the Agenda Document**) is to accept points (i), (ii), (iv), (v), (vi), and (viii), but not the other two points for the following reasons:

- point (iii) – as they consider it 'would require a covenant to place freehold titles and would ultimately be responsible for Council to actively monitor' which they consider would be onerous and unworkable.
- point (vii) – as they consider it 'would adversely impact the function and amenity of lots 26 and 32 (removing/limiting rear yard access via side yards) and would create maintenance uncertainties as public landscaping would be on private lots'.

Ms Popova offers in her email (**Volume 5 of the Agenda Document**) that if her recommendation in point (iii) is not to be accepted, then an alternative condition should be put in place to ensure the outcome sought by the recommendation is achieved i.e. that planting types/species used for the hedges along the permeable rear yard fences for all reserves-facing dwellings should have a maximum mature height of no more than 1.5m. Ms Popova also suggests that the Applicant may have misinterpreted the intention of the recommendation in point (vii). To clarify the intention, she offers an amended recommended condition of consent that the external side fences for Lots 26 and 32 be setback from the edges of the adjacent public pathway to align with the edges of the dwellings of these lots, to create wider pockets of planting along parts of the proposed 'public' pedestrian link to the park. Again, these are matters that could benefit from further discussion at the hearing.

#### 9.2.2.4 Tree Planting & Hard Surface Treatment

Ms Popova considers the use of trees is important as they provide a sense of spatial transition and 3D separation between the buildings and the adjacent open spaces and help to reduce the sense of density. To that end, so considered it important to ensure that the proposed tree species are sufficient in number, and are of appropriate scale/height to achieve that.

She also observes that the Applicant's Landscape Plan shows the same surface treatment for both streets and footpaths within the development, however their Design Statement and associated site plan included in the Architectural Drawings set indicate that the footpaths and pedestrian links are intended to have a different surface treatment to mark their different function and enhance their quality. She considers it is important that this design intent is implemented.

To address these issues, Ms Popova recommends the following:

- inclusion of a condition of consent specifying the minimum number of trees and associated tree species to ensure the proposed tree planting is implemented as intended (particularly important for the trees along the reserve frontages), and that the planting schedule is updated to include information on mature tree height at time of planting to facilitate implementation; and
- inclusion of a condition of consent requiring that the surface treatment of footpaths/pedestrian links within the development is different from that used for roading.

It is noted that the Applicant has not responded to these matters to-date.

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9.2.2.5 Summary

The Urban Design Review concludes that, subject to addressing the specific recommendations in the review, the proposal will create a positive public interface, enhance the visual amenity and safety of the adjacent open space reserves and achieve an appropriate level of integration with the surrounding public realm.

On that basis, in my view, if the alternative layout incorporating an edge lane is adopted, any adverse effects of the proposed development on the quality, safety, and visual amenity of surrounding public spaces will be **less than minor**.

However, if the current layout is retained and issues with the current built form and design quality, as well as fencing and landscaping, identified in the Urban Design Review are not sufficiently addressed, the balance between 'public' and 'private' amenity objectives is such that adverse effects of the proposed development on the quality, safety, and visual amenity of surrounding public spaces will be **minor, but potentially more than minor**, depending on the outcome of some of the matters raised above if they remain insufficiently resolved.

I reserve finalising my assessment of potential effects until I have had an opportunity to consider any response the Applicant and submitters may provide at the hearing.

9.2.3 Earthworks and Construction Effects

Submitters – Christopher & Kathryn Eldridge (53 Brookvale Road) and Pamela O'Sullivan (60 Brookvale Road) – have raised concerns about adverse effects during preparation of the site and construction works, such as noise and dust, on surrounding properties.

Construction works within the development site will consist of:

- Earthworks to establish building foundations, establish infrastructure within the site and stormwater outfalls to the Karituwhenua Stream, formation and construction of the garden centre carpark, as well as accessways, commonly owned access lots, and the public road;
- Residential building; and
- Landscaping.

There will be some effects resulting from the construction of the residential buildings in the various stages of development due to an increase in heavy vehicles delivering building materials to the site and other trade vehicles and some associated noise with this traffic and construction activities on site.

The AEE accompanying the application offers the following in relation to earthworks management:

*"Standard earthworks management methodologies will be implemented during the temporary works. These will relate to the management of noise, vibration, dust, and construction traffic to ensure any potential adverse effects are managed within the site and not displaced onto the surrounding environment. There will be ample space retained on the site to accommodate necessary construction vehicles and storage of materials.*

*Due to the flat topography and limit depth of cut and fill, earthworks will be completed over a relatively short period. Erosion and sediment controls will be in place to minimise sediment discharges to the Karituwhenua Stream.*

*An earthworks management plan (EMP) will be prepared and implemented prior to works commencing. The EMP will include:*

- *Earthworks traffic management plan.*
- *Final erosion and sediment control plan.*
- *Measures to ensure only clean fill is accepted onsite.*
- *Measures to manage noise.*
- *Measures to minimise dust onsite.*

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*For the reasons given above, any adverse effects associated with earthworks will be less than minor."*

In addition, construction noise on the development site is controlled by General Performance Standard 25.1.6I Construction Noise of the District Plan. This requires that noise from construction, maintenance and demolition work in any zone must comply with the noise limits in NZS6803:1999 Acoustics – Construction Noise (NZS6803). In addition, there is a general duty to avoid unreasonable noise under section 16 of the RMA.

Given earthworks and construction activities are temporary in nature, and with standard consent conditions imposed to control construction noise, and to control noise, dust, sediment, and traffic under an approved Earthworks Management Plan, I am satisfied that any adverse effects on neighbours and the wider environment during earthworks and construction will be **no more than minor**.

#### 9.2.4 Effects on the Transportation Network, Parking Capacity, and Traffic & Pedestrian Safety

Adverse effects on roading and traffic could include localised effects within the proposed development itself, on Brookvale Road and nearby roads, as well as on the wider transportation network – in terms of the level and type of traffic generated and its distribution, with potential implications for traffic and pedestrian safety, and parking capacity.

A Transportation Assessment Report (TAR) prepared by East Cape Consulting Limited (Appendix E to the AEE submitted with the application) assesses the transportation impacts of the proposal. In response to further information requested by the Council (pursuant to s92 of the RMA), additional information was provided by the applicant in their letter dated 4 October 2023 including a Lighting Concept Plan, provision of tracking curves for large rigid vehicles, and a revised set of roading plans.

East Cape Consulting determined the following characteristics in terms of trip generation and distribution<sup>23</sup>:

##### **"Trip Generation**

According to RR453, the 50th percentile trip generation rates for garden centres are:

- 14.1 vph/100m<sup>2</sup> of gross floor area (GFA) at peak times; and
- 82.2 vpd/100m<sup>2</sup> of GFA over the day.

The existing GFA of the garden centre (that is to be retained) is approximately 500m<sup>2</sup> and on this basis it is estimated to generate:

- 71 vph at peak times; and
- 411 vpd over the course of the day.

It is likely that the peak of the garden centre activity will occur at the weekend whereas residential activities typically peak on weekdays. Conservatively, these two peaks have been combined.

The residential lots have been assessed as generating 0.9 vph/household during the peak hours of the day and 8.2 vpd/household over the course of the day (the 85th percentile outer suburban residential rate from RR453). The resulting total trip generation from the proposed development is summarised in Table 1.

Land Use	Size	Units	Peak Hour		Daily	
			Rate	Trips (vph)	Rate	Trips (vpd)
Garden Centre	500	m <sup>2</sup> GFA	14.1	71	82.2	411
Residential	35	Lots	0.9	32	8.2	287
TOTAL	-	-	-	103	-	699

Table 1 – Traffic Generation Estimate

<sup>23</sup> Pages 13-17 in the TAR.

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In total, the proposed development is expected to generate 699 vpd (IN+OUT) including 103 vph (IN+OUT) during the peak hours of the day.

This analysis is particularly conservative in relation to the peak hour estimate. Residential activities typically peak during the morning and evening commuter peaks (around 8-9am and 4-5pm). At these times, the garden centre can reasonably be expected to be operating below its own peak, which is more likely to occur around the middle of the day.

The above trip generation assessment will produce a robust assessment of driveway and network effects.

**Trip Distribution**

...

New trips (generated by the residential lots) have been distributed to the surrounding network using the existing movement patterns in the area. The existing trip generation of Oderings (the garden centre and nursery functions) is already captured in the existing traffic surveys so no additional allowances are required. Conservatively, no reductions have been made for the parts of the Oderings activities that are being replaced by residential activities.

The expected distribution of new residential trips at the site driveway and through the Brookvale Road/Romanes Drive roundabout for the AM and PM weekday peaks are shown as Figure 14 and Figure 15."

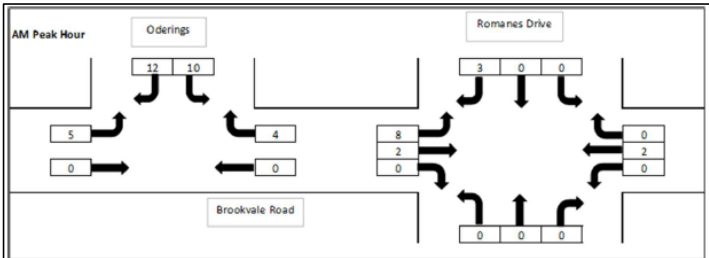


Figure 14 – Development Generated Intersection Movements (AM Peak)

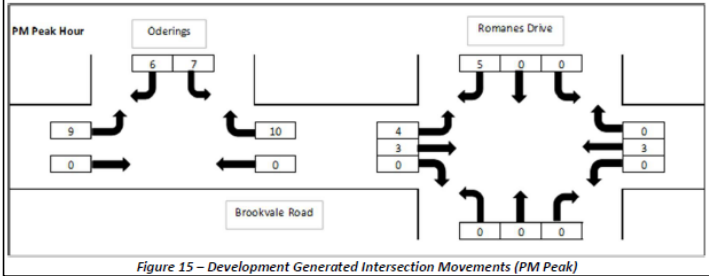


Figure 15 – Development Generated Intersection Movements (PM Peak)

The TAR assesses the effects of the proposed development on the network, on walking and cycling, parking, and road safety, as follows:

**“Network Effects**

The residential activities are expected to add an additional 35 vph to the network at peak times of the day. Approximately half of these are expected to travel to and from the east, using the Brookvale Road/Romanes Drive roundabout.

This roundabout was modelled in SIDRA intersection analysis software using the expected volumes post-development of the Brookvale Structure Plan (BSP) area as a starting point. These future base volumes were estimated by adding the ECC survey data from 2022 to the increments estimated in the BSP assessment. The addition volumes from the Oderings development were then added to these.

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*The SIDRA analysis, which is included at Attachment 2, shows that the roundabout operates with LOS A or B for all movements, and LOS A overall.*

*Beyond this intersection, and to the west on Brookvale Road the incremental volumes distribute to multiple routes and are unlikely to have any noticeable effect on the operation of the network.*

**Walking and Cycling Effects**

*The proposed site layout appropriately provides for walking and cycling with a combination of public dedicated paths and private shared spaces. Crossing treatments are provided near the garden centre entrance and across the carpark entry.*

*The shared space environment starts north and west of the internal roundabout so it will be important (as is proposed) to provide a clear visual distinction between these two environments.*

*The site layout provides a high degree of permeability, creating connections between the established garden centre, the future residential community, Guthrie Park and Brookvale Road. Externally, a footpath is proposed on the section of Brookvale Road between the western boundary and the site access road. It is recommended that this be extended east to complete a link to Romanes Drive (shown in Figure 4 and 5).*

*Overall, the proposed development layout appropriately provides for internal and external walking and cycling movement.*

**Parking**

*According to RR453, a garden centre with a GFA of 500m<sup>2</sup> would typically generate parking demand for between 16 and 30 vehicles at the 50th and 85th percentile levels. The proposed parking area includes 40 parking spaces and is therefore able to accommodate the expected level of demand.*

*Each of the residential lots is expected to have appropriate size to accommodate on site parking if desired, noting that there is no longer a minimum requirement in the ODP.*

*Eight on-street parking spaces are also proposed on the internal road network. This equates to a rate of one space per 4.4 dwellings, which is an appropriate level of parking supply for visitor parking in a residential setting.*

*Overall, the proposed development has an appropriate level of parking to support its likely parking demands on site, without potential reliance on off-site areas.*

**Road Safety**

*Other than two lots that front Brookvale Road, the proposed residential development will take access from a single established vehicle access to Brookvale Road. This access can provide appropriate sight distance in both directions and has no evident safety issues, based on its historic performance.*

*The internal transport network has been designed to create a low-speed environment for vehicles, with the minimum practical footprint provided for vehicle manoeuvring. Changes in surface treatments indicate an increasingly pedestrianised environment as users move further into the site and transition from the commercial garden centre environment to the residential and recreational environment at the rear and side of the site.*

*The horizontal alignment of the internal roads and use of a mini roundabout at the garden centre carpark also limit vehicle operating speeds.*

*Pedestrian crossings treatments are provided at two locations and a high degree of permeability for pedestrians and cyclists is provided throughout the site.*

*Overall, the design and its transport provisions are assessed as appropriately and safely accommodating the new residential demands."*



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The TAR also assesses the proposal against the relevant rules in the District Plan and concludes that the proposed development can comply, other than in relation to private access widths. In addressing this non-compliance, the TAR states<sup>24</sup>:

*"The proposal includes a range of road typologies including an 18m wide corridor for the main entry road, reducing to 11m on the loop road, and further reducing when serving only a limited number of lots.*

*The swept path analysis described at Section 6.4 confirms that the proposed layout is functional and can accommodate the needs of rubbish collection vehicles, occasional heavy vehicle demands such as removalists, and light vehicles moving around the site and to/from individual properties. The layout also provides for areas of on-street parking for visitors a ratio of 1 per 4.4 dwellings.*

*The site design includes a range of dedicated paths and shared spaces for walking and cycling and can appropriately accommodate the needs of these modes. Other road corridor functions including utility services are addressed in other parts of the Application.*

*Overall, it is concluded that whilst the proposed road cross-sections are a departure from the typical ODP standards, they can appropriately accommodate the needs of the new residential lots, combined with the established garden centre."*

The TAR concludes that *"Overall, it is assessed that the proposed development layout is appropriate for its traffic and parking needs, and it can be accommodated by the existing, and future planned, transport network in the area"*.

9.2.4.1 Issues Raised in Submissions

A considerable number of submitters (20) have raised traffic and pedestrian safety concerns, particularly around school times and on weekends when pedestrian activity is high and parking at a premium, and the lack of sufficient parking in the area.

Of these 20 submitters, the following adjoin or are directly opposite the site, on Brookvale Road:

- Kim Surman (52 Brookvale Road)
- Kathryn & Christopher Eldridge (53 Brookvale Road)
- Emily Eldridge (53 Brookvale Road)
- Robert Brady (54 Brookvale Road)
- Daniel & Tracey Still (58 Brookvale Road)
- Pamela O'Sullivan (60 Brookvale Road)

And the following are adjacent or opposite Guthrie Park:

- Anita Wolfe (44 Brookvale Road)
- Lynda & Graham Renner (46 Brookvale Road)
- Allan Solly & Catherine Walker (48 Brookvale Road)
- Tracey Layton ([??] Brookvale Road)??
- Jacqueline Harrison (52 Guthrie Road)
- Mollie Wilson (59 Guthrie Road)

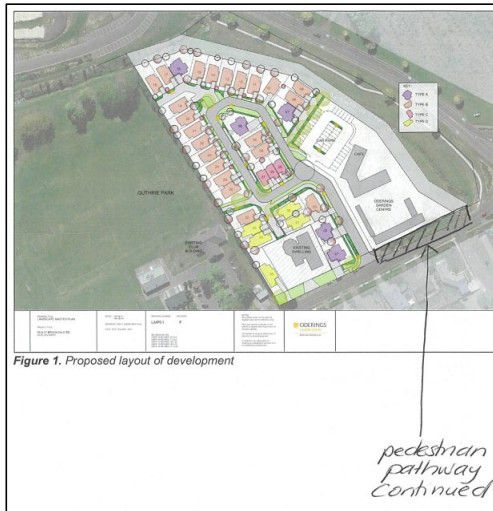
Submitters cite that Brookvale Road is a busy road particularly around school drop-offs and pick ups – there are three schools in the immediate vicinity (Legorne Lane is a main access route to Te Mata School and, according to one submitter, drop-offs also occur at Woodlands Drive near the entrance to the proposed development).

Te Mata School Board of Trustees indicate support for the application, however submit that more thought should be given to linking the pedestrian sidewalk in front of Oderings to the housing area – they consider that extending the path links the development to the existing pathway on Romanes Drive (refer image below).

<sup>24</sup> Page 20 of the TAR.

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Te Mata School Board of Trustees seeks the following decision – *“To extend the pedestrian easement for children and parents to fully access safe walking ways on Brookvale Road to Romaines [sic]”*.



A number of submitters contend that the road is also busy with people accessing Guthrie Park for football, significant sports club events, and other sports and recreational activities (Bridge Club and KAS Care). Tracey Layton refers to the Football Club as *“a very large club and grows each year. They have over junior 600 kids attend the club, and most of those get driven to practices & games at Guthrie [sic] park. Theres a lot of senior teams too, & summer football as well”*. Daniel & Tracey Still note that the club is growing.

Many of the submitters raising traffic concerns, are generally concerned that the proposed development will add additional pedestrian and road traffic, exacerbating already existing traffic and parking issues. The road is considered narrow and this leads to cars parking along the street on the grass verges, and cars purportedly race along Brookvale Road at high speeds, posing visibility issues and safety risks for children and users of Guthrie Park. Several submitters observe that children run across the road, and that cars parked on the park side cannot see children when reversing, and pull out and do u-turns. Robert Brady also identifies *“Brookvale Rd is used as a rat run to the Village for much of the Brookvale Area bounded by Brookvale Rd, Russell Robertson and Arataki Rd”*.

Catherine Mueller and Aliesha Gordon suggest speed humps and pedestrian crossings should be installed to slow the traffic down Brookvale Road.

Further, Tracey Layton (Brookvale Road) notes that in autumn, many leaves make the road and footpath slippery and blocks the drains, resulting in having to walk on the road to avoid them, as well as the footpath flooding. This is also raised by another submitter (Allan Solly & Catherine Walker of 48 Brookvale Road), regarding the footpath outside 46 and 48 Brookvale Rd (opposite the site) which is subject to flooding during winter causing people (children, elderly people, mobility scooters and wheelchairs) to walk on the road, negotiating traffic for approximately 25-30 metres, which they raise as a major health and safety issue.

In addition, there is concern that parking demands generated by the proposed development itself may result in parking demand being met along Brookvale Road – this is of particular concern for those submitters living on Brookvale Road, adjoining and opposite the site and in the immediate vicinity.

Kathryn & Christopher Eldrige, adjoining the site (53 Brookvale Road), consider that the proposed development *‘will place significant pressure on the route, transport and parking choices available and may result in parking demands being met along Brookvale Rd outside the submitters property’*. Robert

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Brady (54 Brookvale Road) states that it is often difficult to leave their driveway at various times of the day due to traffic and visibility issues caused by parked cars doing school drop off or attending Guthrie Park on weekends.

Daniel & Tracey Still, directly opposite the proposed access road (58 Brookvale Road), consider the access road will affect the safety of their family and friends entering and exiting their driveway.

In terms of the wider roading network, several submitters raise concerns about capacity and traffic congestion, e.g. at St Hill Lane intersection, and on Brookvale, Legorne, and Guthrie Rds (Kim Surman, Sharon Williams, Jemma Robyns, Lesley Wait, Jacqueline Harrison, Lynda & Graham Renner). Surrounding roads are not seen by numerous submitters as having the capacity to absorb the traffic that the proposed development would generate.

Emily Eldridge, adjoining the site (53 Brookvale Road), is concerned that there are already two existing roundabouts on Brookvale Rd, and adding another will increase traffic and may make school drop off/pick up take even longer.

Robert Brady (54 Brookvale Road) considers that the applicant's Transportation Assessment Report "appears inadequate as narrowly focused on this development", raising the following matters:

- *The survey P.M Peak of 4pm to 5.30PM is incorrect for Brookvale Rd. Peak starts at approximately 2.45pm for school pickup and continues onwards*
- *Says that bus stops are 10 minutes walk away on Te Mata Rd when the included walking diagram suggests they are 15 minutes away*
- *Suggests there will be minimal impact on traffic flows. In the broader context of this development and further Thompson/Brookvale/Napier Rd development this is unlikely to be true.*
- *The Road Safety section makes no mention of the impact on safety on Brookvale Rd particularly at school times and on weekends when pedestrian activity is high and parking is at a premium.*

9.2.4.2 Assessment

Council's Transportation Policy & Planning Manager, Bruce Conaghan, largely accepts the methodology and recommendations contained in the TAR accompanying the application but agrees there are some valid concerns raised by submitters.

In regard to the level of activity around school times, he sees this as being something that cannot be conditioned on the developer as their development would have minimal impact on these concerns. He notes that those concerns have already been raised with Council and that Council engineers are working with the schools in the area to look to provide a kea crossing this financial year near the intersection of Brookvale Road and Legorne Lane.

However, Mr Conaghan agrees with the submitters seeking provision of a footpath along the frontage of the development, as being consistent with Council's previous feedback to the applicant on this matter. Council has previously indicated support for the proposed development incorporating a new kerb and channel and new footpath along the northern boundary of Brookvale Road, connecting to the existing concrete footpath at Guthrie Park in the west, and to the existing concrete footpath at the Romanes Drive roundabout in the east.

However, in their response to further information requested by the Council (dated 4 October 2023), the applicant has clarified they do not intend to construct and establish a footpath along Brookvale Road, as follows:

*"At a meeting with Council staff on 10 July 2023 it was expressed that Council prefers that a footpath be established along the Brookvale Road frontage. One of the key drivers is to accommodate a pedestrian connection to a future pedestrian crossing of Brookvale Road (opposite Legorne Lane) that Council plans to establish.*

*Oderings do not wish to construct and establish a footpath along Brookvale Road because:*

- *pedestrian access has been provided for future residents travelling north or west via Guthrie Park*

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- *it is safe for pedestrians to cross Brookvale Road immediately opposite the entry for future residents travelling south or east*
- *the cost of the new footpath is not insignificant; and*
- *the footpath would accommodate a wide public catchment from beyond the site.*

*However, it is proposed to install a new kerb and channel between proposed Lot 35 and the main entrance to reduce stormwater runoff from Brookvale Road into the neighbouring property at number 53."*

With a kerb and channel being provided along the full frontage of the site, Mr Conaghan considers it would be appropriate that a footpath be provided as well – the key driver for this is to provide a safe public link from the new development to the existing pathway on Romanes Drive. He acknowledges that there would be a link through the private property for residents to head to the north or west via Guthrie Park but notes that there is nothing that would support walking to and from Romanes Drive to the east and especially for the Oderings Garden Centre. As a result, pedestrians from the site would need to cross Brookvale Road twice to get to the Romanes Drive pathway. The section of footpath would extend from the development entrance to the western side of the culvert as there is already a section of footpath that crosses the culvert.

It is noted that the TAR refers to *"Walking routes are provided throughout the site to provide access to the individual lots and the garden centre, and link with the existing paths on Romanes Drive and in Guthrie Park"* (Paragraph 6.2, pg 11 of the TAR), and shows a footpath linking from the access road to the driveway to Guthrie Park which was subsequently removed from later plans submitted by the applicant in response to Council's s92 request (refer Roading Plan 1938-01, Drawing No.301, Rev. RC-2 prepared by Envelope Engineering dated 25.09.2023). This was fully supported by Council.

In Mr Conaghan's view, should consent be granted, there should be a condition imposed that a concrete footpath be provided to provide a link from the Guthrie Park driveway to tie in with the existing footpath over the culvert located on the eastern boundary of the site – in essence, this would see a concrete footpath along the full frontage of the development. In Mr Conaghan's view, the s92 response from the applicant in this respect does not provide any real justification as to why such a footpath should not be provided as part of the proposed development.

In my view, should consent be granted, the imposition of such a condition would be reasonable and appropriate to address valid pedestrian safety concerns because of the additional traffic generated by the proposed development onto Brookvale Road in this location.

In terms of the lighting concept provided with the s92 response, Mr Conaghan considers the streetlighting design acceptable on its own, but has concerns when looking at the combined Landscape Master Plan (LMP01 Revision F dated 12/10/2023), in respect of proposed tree planting in proximity to the streetlights, raising the following concerns:

- 1. The proposed tree outside Lot 3 has the potential to impact on lighting to the roundabout and the curve leading into the roundabout. While this will be a low speed environment, any tree here will obscure the roundabout control. For that reason, it would be more appropriate that any landscaping provided be such that these concerns are addressed.*
- 2. The proposed trees at the rear of Lot 27 and the front of Lot 4 have the potential to impact on the lighting. Again, it would be more appropriate that any landscaping provided be such that this concern is addressed.*
- 3. The proposal to install trees on the landscape area between the Car Park and Lots 7 to 9 means that the lighting as proposed for the car park would not extend through to the frontage of Lots 7 to 9. It is noted that if the lighting in the car park is switched off at night time, then the area outside the frontage of Lots 7 to 9 will not be illuminated.*

These are details that can be addressed through standard consent conditions including requirements for engineering and landscape plan approvals at detailed design.

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Overall, with installation of a kea crossing on Brookvale Road, and measures in place to address the above matters, Mr Conaghan is satisfied that traffic generated by the proposed development can be safely absorbed by the local transportation network and that any traffic and pedestrian safety and wider transportation network effects can be adequately mitigated.

Given the above, with appropriate consent conditions in place, I consider that any adverse effects of the proposed development on traffic safety, access and parking will be mitigated to be **no more than minor**.

#### 9.2.5 Effects on Productive Land Resource

The site is located within the Plains Production Zone, which encompasses the versatile land resource of the Heretaunga Plains.

A Soils Assessment Report prepared by Landsystems, involving a desktop soil and Land Use Capability (LUC) classification assessment using available NZLRI soil and LUC map information, aerial photographs available on Google Earth, and geotechnical drilled bore logs provided by Initia Ltd as part of the Brookvale Residential Geotechnical Assessment Report (February 2021) – attached as Appendix H to the AEE submitted with the application.

The SAR notes the following<sup>25</sup>:

*“Aerial photographs*

*Aerial photography from 20199 indicated that the Brookvale Road site had been extensively modified with nursery buildings, a garden centre, carparks, landscaped areas, recontour areas, and other buildings and dwellings (Figure 3 (a)).*

*Recent aerial photography from 2023 indicates that in its current condition many of the buildings on the site have been removed and the site is predominantly cleared, with the exception of some remaining buildings and two dwellings and curtilage (Figure 3 (b)).*



**Figure 3.** Aerial photographs of the Brookvale Road site, (a) 2019, (b) 2023.

The SAR concludes that, considering the extent of development and building across the site, it is very unlikely that there is any original soil on the site, and that the site is appropriately classified as non-productive land, as follows<sup>26</sup>:

*“Revised LUC classification*

*The bore log core data and photo observations, in combination with the aerial photographs, confirms that the site has undergone modification of the original soil, including excavation of the soil, placement of fill, establishment of buildings and curtilage. The land in its current state cannot*

<sup>25</sup> Page 5 of the SAR report.

<sup>26</sup> Page 11 of the SAR report.



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*be assigned a LUC classification due to the degree of modification and is best considered non-productive land.*

*In my opinion, the entire site is most appropriately classified as non-productive land.*

*Conclusions*

*Pre-development the soil on the site were identified by NZLRI regional soil map information as well drained Havelock soils on slope class A (0-3°).*

*Based on the NZLRI LUC map information, the Havelock soils on the site were classified as LUC 3s6 and would be considered highly productive land as defined by the NPS-HPL.*

*Based on my interpretation of the geotechnical bore observations it is very unlikely there is any original soil on the site. Considering the extent of development and building across the site as shown by the aerial photography, the site is appropriately classified as non-productive land.*

*In my opinion, the entire site is not highly productive land as defined by the NPS-HPL, and as such the NPS-HPL does not apply."*

The AEE report accompanying the application addresses the effects of the proposed development on the productive capacity of the land as follows<sup>27</sup>:

*"As the underlying land of the site has been identified as LUC 2 land within the New Zealand Land Use Resource Inventory, the proposed use of the site has the potential to affect the productive capacity of the site's soils. However, the soil assessment provided within Appendix H has concluded that the site's soils have undergone significant modification and are no longer appropriate for productive use. As such, further modification of the site is not considered to have any impact on the productive capacity of the land. Furthermore, making the site available for urban development lessens the need for new greenfield land outside urban boundaries that can be turned to productive uses."*

In response to further information requested by the Council, additional information was provided by the applicant (received 4 October 2023) that determines there are permanent or long-term constraints on the land for land-based primary production (in assessing whether the land meets the exemption for highly productive land in clause 3.10 of the NPS-HPL – refer Section 11.4 of this report) as follows:

*"The site was previously fully comprised of buildings and hardstand areas that were associated with a wholesale nursey that was established on the site in the 1960s. The buildings have since been removed, along with some of the concrete building platforms and hardstand areas.*

*Dr Hills' assessment was based on previously completed geotechnical data that assessed core logs from three locations across the site. All three cores showed fill overlying fill material (anthropic soil) and possibly some excavation before placement. In Mr Hills opinion, the entire site is most appropriately classified as non-productive land.*

*Based on the above (and further points below), there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years."*

*"Based on Mr Hills advice, the proposal will not result in any loss (either individually or cumulatively) of productive capacity of highly productive land in the district.*

*There are no adjacent rural properties, therefore the proposal will not result in any fragmentation of highly productive land or reverse-sensitivity effects on surrounding land-based primary production."*

*"Permanent long-term constraints on economic viability cannot be addressed through any reasonably practicable options that would retain the productive capacity of the highly productive land. In particular:*

<sup>27</sup> Page 24 of the AEE report.



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- Because of the poor soils in-place and more sensitive residential land uses adjoining, there are no feasible alternate forms of land-based primary production.
- Any improved land-management or alternative production strategies would require removal of the remaining hardfill, significant rehabilitation of underlying soil and/or importing additional topsoil which is not practicable given the small size of the site and more sensitive residential land uses adjoining.
- There are no additional water efficiency or storage methods that could improve the productive capacity as water availability does not appear to be a limiting factor to the sites' productive capacity.
- There are no boundary adjustments or lease arrangements that could improve the productive capacity of the site as there is no adjoining rural land."

"While the site is small and therefore difficult to convert into an economically feasible productive unit, the lack of adjacent rural land, poor quality soils and sensitive residential uses are also critical constraints to current and future productive use."

I accept the assessments above, that the land concerned is more accurately described as 'non-productive' and has permanent long-term constraints that make the site difficult to convert to an economically feasible productive unit.

I also accept there is a lack of adjacent rural land that the site could be amalgamated with and that the site is increasingly surrounded by sensitive residential uses, which also impose critical constraints to current and future productive use of the subject land. In essence, I consider that, with the passage of time and rezonings and structure plans to facilitate greenfield growth in the Brookvale/Arataki area, that this site now effectively lies within Havelock North village.

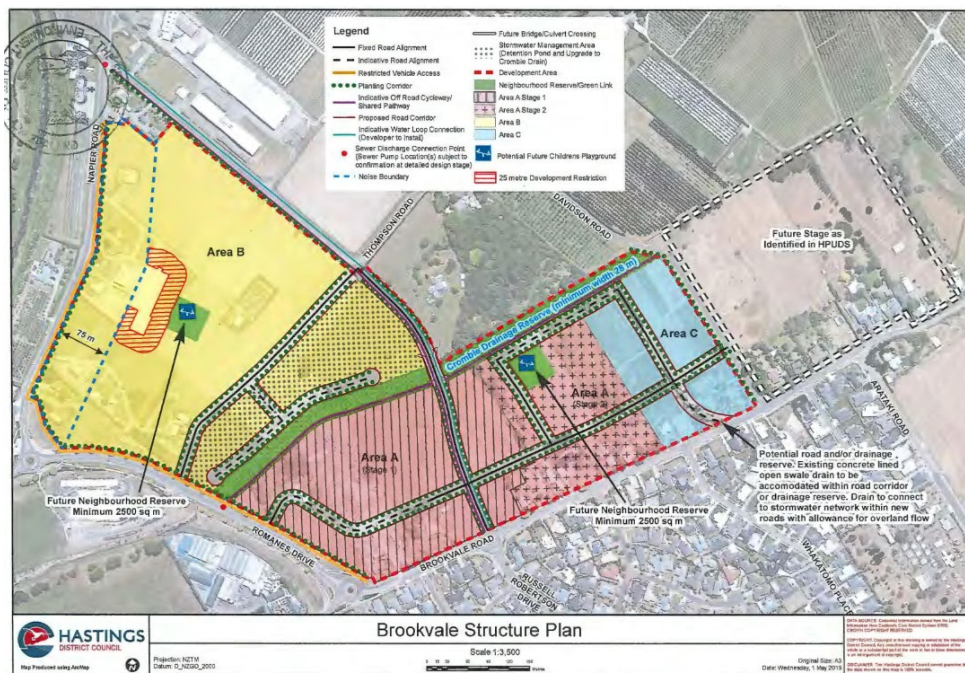
In my view, the subject site is an orphaned piece of 'Plains Production'-zoned land completely surrounded by 'Havelock North General Residential Zone' and 'Open Space Zone' sites – the nearest 'Plains Production Zone' site is now more than 250m to the north-west of the site – refer Figure 17 below.

Figure 17 – Surrounding Zoning and nearest Plains Production-zoned site



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Given the above, I consider that the proposed development will have **negligible** adverse effects on the productive capacity of the land itself or on the wider versatile land resource of the Heretaunga Plains.

#### 9.2.6 Reverse Sensitivity Effects and Conflicting Land Use Activities

Noise-related reverse sensitivity effects/conflicts typically arise when the noise effects (including level, character, timing, duration) of an established activity are incompatible with a new activity, and the new activity exerts pressure or initiates complaint designed to restrict the operations or otherwise mitigate the noise effects of the established land use activity.

Given the site is surrounded by established and new greenfield residential development and public reserves and open space, and is at least 250m from the nearest rural-zoned site, I consider there are no established activities in the vicinity of the site that are incompatible with residential development of this site. Therefore, in my view, reverse sensitivity effects and potential for conflicting land use activities as a result of the proposed development will be **negligible**.

#### 9.2.7 Effects of Site Servicing

The following submitters have raised issues/concerns around infrastructure capacity and its ability to cope with the number of additional dwellings proposed as part of this development:

- Belinda Maclaurin
- Janine McLay
- Kristen Poulton
- Morag Paterson
- Julie Haines
- Taryn Elliot
- Jemma Robins
- Jane Howie
- Shannon Hillard
- Landsdale Development Limited

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Submitters are concerned that the existing infrastructure in this area of Havelock North is struggling and will not cope with the number of additional dwellings proposed as part of this development.

Landsdale Development Ltd (late submitter) is generally supportive but seeks reassurances that development of the Oderings site will not generate upstream effects in terms of stormwater, nor take up existing or proposed capacity relied on by development currently underway or in the future within an adopted Structure Plan. They note that modelling in the Brookvale development area has not taken into account the development of the Oderings site for urban use. They seek that *"any favourable decision (and associated conditions) needs to ensure that in giving effect to a consent, that there will be no "backwater" effects on the upstream catchment and that development on the Oderings site can accommodating[sic] a minimum of an 80% reduction of the 100year ARI flood event (pre development vs post development) having factored in the required allowance for climate change"*.

The development is proposed to be fully serviced, connecting to Council reticulated water supply and wastewater infrastructure. Stormwater will continue to be discharged to the Karituwhenua Stream (which forms part of the Council stormwater drainage network) via two new stormwater outfalls. The applicant has advised that other telecommunications and power infrastructure are also expected to be able to connect to existing networks via new underground service connections to each lot.

A Civil Design Infrastructure Report prepared by Envelope Engineering Ltd (provided in the AEE submitted with the application), and a revised version of that report (V3, dated 29 May 2023) was supplied as Attachment 10 to the applicant's further information response (received 4 October 2023), along with a revised set of engineering drawings as Attachment 9, and a separate Stormwater Management Report (also prepared by Envelope Engineering, dated 29 September 2023) as Attachment 11. These reports are located in **Volume 3 of the Agenda Documents**.

The revised Infrastructure Report and revised engineering drawings reflect moving the wastewater pump station to a more suitable location, more clearly distinguishing between private and public ownership of new drainage and stormwater infrastructure proposed, and to provide a more detailed investigation of flood events and effects, and a revised stormwater management approach, in response to matters raised by Council engineers.

Council engineers made further comment in relation to the Applicant's further information response (attached in **Volume 5 of the Agenda Documents**), and the Applicant responded to those further comments (attached in **Volume 5 of the Agenda Documents**). Council engineers have advised they still have a number of unresolved aspects of concern around flood modelling and overland flow paths, accessibility of the proposed wastewater pump station located on private access road, lack of detail around the impact of earthworks and retaining walls on stability and overland flow and effects on the neighbouring land. In my view, these unresolved matters are not insignificant, and the applicant may wish to discuss these further with Council's engineers prior to the hearing.

#### 9.2.7.1 Wastewater

The revised Infrastructure Report refers to previous consultation with Council which concluded that HDC have recognised surcharge issues in the receiving wastewater network, and that Council is investigating this issue and was to advise on the requirements for this development. The Infrastructure Report states<sup>28</sup>:

*"Should wastewater mitigation be required following the outcome of the investigative report, we offer the provision of wastewater mitigation as a condition of consent and will allow to provide mitigation design and supporting calculations at the detailed design stage. Mitigation measures, if required, can be incorporated within the proposed pump design.*

*HDC have previously accepted that the new rising main can be installed within Guthrie Park along the western boundary of the development site. We are now proposing a different alignment through the development as this will reduce the effects of the development on the users of Guthrie Park.*

<sup>28</sup> pg 5 of revised Infrastructure Report.



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*Should HDC prefer to revert to the Guthrie Park, this request can be accommodated upon discussion."*

On this basis, with suitable conditions of consent in place, Council engineers have indicated they are generally comfortable that the proposed development can be serviced for wastewater.

The only unresolved matter in relation to wastewater relates to services including the proposed wastewater pump station that are to be vested to Council, in terms of ensuring ongoing accessibility for Council for maintenance and servicing purposes. Currently, these services and the pump station lie within the access road (Lot 100) which is identified as 'private'. Council engineers are not supportive of public infrastructure in private roads, and the preference would be for the road to be vested with Council. For Council to accept the vesting of the road however, it would need to comply with the Council's Engineering Code of Practice, which it currently does not.

#### 9.2.7.2 Water Supply

The revised Infrastructure Report refers to Council currently finalising a water supply report of the surrounding area which may impact the servicing of potable water to the new development, and that previous consultation with HDC (by previous consultants) indicated that water supply for the proposed development will not be an issue, and the applicant's engineers have proceeded on this basis. The Infrastructure Report states<sup>29</sup>:

*"Should the HDC water report indicate that water supply may be an issue, we recommend detailed modelling of the new water network to confirm if there will be sufficient pressure to service the development and water flow rate for firefighting as required in SNZ/PAS 4509."*

Council engineers have indicated they are generally comfortable with this approach, and confirm that the proposed development can be supplied with water supply from the Council network and that it can meet firefighting requirements (noting that the issue of public infrastructure in private roads also applies to water supply infrastructure).

#### 9.2.7.3 Stormwater

In response to further information requested by the Council (pursuant to s92 of the RMA), additional information was provided by the applicant (received 4 October 2023) in a Stormwater Management Report (SMR) prepared by Envelope Engineering (dated 29 September 2023).

The SMR outlines the stormwater management strategy for the proposed development, as follows:

*"As the proposed works are located within the vicinity of a HBRC drain, the development is to meet the peak flow requirements set out in HBRC's Hawkes Bay Waterway Guidelines – Stormwater Management. The following requirements are to be met:*

- Post-development discharge at the development boundary must be no greater than the predevelopment flow in a 1 in 2 year and 1 in 10-year ARI (annual Recurrence Interval).*
- Post development flows during a 1 in 100-year ARI must be no greater than 80% of the predevelopment 1 in 100-year ARI flows.*
- Mitigate adverse impacts to the 1 in 50-year and 1 in 100-year ARI rainfall events.*
- Piped networks must provide a conveyance for a 1 in 5-year ARI rain event.*
- Overland flows must provide conveyance for the 1 in 100-year ARI rain event at the minimum.*
- The system is to achieve the best practice to mitigate the impacts of urban development on stormwater quality."*<sup>30</sup>

The SMR bases achievement of stormwater neutrality on calculating pre-development impervious areas as being 1.877ha (92.6%) of the existing site, based on a significant coverage of hardstand areas from the previous greenhouses and paved areas (with the greenhouses previously removed as part of

<sup>29</sup> Pg 5 of revised Infrastructure Report.

<sup>30</sup> Pg 7 of Stormwater Management Report.

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early enabling works for the proposed development). The SMR calculates the proposed development will have a total impervious area of 1.570ha, which is less than pre-development. The SMR therefore concludes:

*"As the post-development hardstand area will be less than the pre-development, we have determined that the proposed development will generate lower rates of runoff under all assessed rain events."*<sup>31</sup>

The SMR states that roof run-off from each new dwelling will connect into a new stormwater network which runs through the central accessways of the site, being a mixture of private and public stormwater, with the proposed stormwater outlet being in Guthrie Park discharging to a new outlet to the Karituwhenua Stream (with an invert of approximately RL 7.50m) – further details to be provided at detail design stage. Existing laterals from the stie will be abandoned and capped off at the connection to the existing stormwater culvert, and existing outlets to the Karituwhenua Stream will be removed and/or abandoned.

Proposed stormwater treatment involves<sup>32</sup>:

- treatment of the runoff within Stormwater Management Devices to intercept and capture pollutants to ensure the development aligns with the requirements set out in the HBRC Waterway Guidelines and the Hastings District Plan;
- new raingardens in landscaping areas for stormwater treatment of the northern access lot as well as the new 43-lot carpark, using an engineered filter media;
- overflows will be provided for stormwater discharge during heavy rainfall events;
- a new underground proprietary device (such as a Hynds Up-Flo Filter or similar approved) at the northern end of the looped shared accessway, to treat the stormwater that is collected from new hardstand areas within the development such as roads, paths, driveways etc; and
- all new dwellings to have non-contaminant yielding roofing.

In addition, further information was provided by the applicant (received 4 October 2023) confirming that the rain gardens and stormwater on Lot 50 (carpark) are to be privately owned drainage, and confirming that the new underground proprietary device shown on the drawings will become a public asset upon completion of the works<sup>33</sup>.

The AEE accompanying the application (pgs 14 & 15) states that the maintenance obligations for the underground stormwater infrastructure within the proposed commercial carpark, and within the private jointly owned access lots, will be met by the owners and a Residents Association (or similar entity) (Note: maintenance of the sections of jointly owned road is also proposed to be met in this way).

Further information in the Urban Design RFI provided by the applicant (received 4 October 2023) offers the following consent condition<sup>34</sup>:

*"Assets owned by Incorporated Society*

*Lots 4-34 share common assets, which are located within Lots 100-103. To ensure that Lots 4-34 remain adequately serviced and connected, an Incorporated Society must be created by the consent holder to own, and be responsible and liable for the ongoing operation, maintenance and repair of the common assets within Lots 100-103.*

*The following requirements must be met in order to satisfy this condition:*

<sup>31</sup> Pg 8 of Stormwater Management Report.

<sup>32</sup> Pgs 8 & 9 of Stormwater Management Report.

<sup>33</sup> Pg 6 of Applicant's RFI, dated 4 Oct 2023.

<sup>34</sup> Pages 14-15 of UD RFI response (Attachment 3 of the Applicant's RFI, dated 4 Oct 2023).

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- a. *Ownership of the common assets must be transferred to the Incorporated Society before any Lots 100-103 are transferred to new owners. The assets are required to remain in the ownership of the Incorporated Society, except with the prior approval of the Council.*
- b. *The Incorporated Society must not be disestablished without the prior written consent of the Council.*
- c. *The structure, functions and rules of the Incorporated Society must include provision for the following items:*
  - *Requirements for all lot owners to automatically be and remain a member of the Incorporated Society for so long as they are a registered proprietor of a Lot;*
  - *Requirement that the Incorporated Society must not be disestablished without the prior written consent of the Council;*
  - *Requirements for all lot owners to fulfil the obligations of a member, as set out in the Rules of the Incorporated Society;*
  - *Details of how the common assets will be managed and maintained;*
  - *Ongoing compliance with the relevant resource consent, bylaw, or other requirements of Council;*
  - *An acceptable method of management of the Incorporated Societies future affairs, and for the raising of funds from members from time to time to adequately finance any future maintenance and renewal obligations. The Rules should identify a process for setting, collecting and enforcing the payment of levies;*
- d. *All costs associated with the establishment and maintenance of the Incorporated Society must be borne by the consent holder.*
- e. *A copy of the document(s) describing the functions, powers, duties and liabilities of the Incorporated Society must be provided to the Council for certification. The document(s) must evidence each of the requirements above and that the ongoing operation, maintenance and repair obligations of this condition will be adequately provided for.*

The applicant also offers a requirement for the following consent notice to be registered on the records of title to be issued for Lots 4-34, to ensure that future owners maintain membership of the Incorporated Society:

*"Lots 4-34 are served or serviced by common assets which are located within Lots 100-103. For so long as they are a registered proprietor of that Lot, the owners of Lots 4-34 must be members of the established Incorporated Society that jointly owns and is responsible and liable for the ongoing operation, maintenance and repair of the common assets located within Lots 100-103."*

Council engineers have indicated that unresolved matters remain in relation to the proposed stormwater management strategy. Due to the density of development, small lot sizes, and proximity of individual dwellings to each other, Council engineers need to have a full understanding of the impact of earthworks and the location of any retaining walls on overland flow paths and their stability (ability to support surcharge), and on finished floor levels. They also consider that, once the full impervious area of the lot is known, each individual lot will require an attenuation tank to comply with stormwater peak runoff expectations.

Council engineers advise they require this information at Resource Consent stage rather than leaving it to Engineering Plan Approval, so that they can be satisfied that stormwater is able to be suitably and appropriately managed on-site without downstream effects. This information is particularly important as the discharge point for the proposed development is beyond the subject site and runs through, and will require earthworks on, neighbouring land (Guthrie Park).

#### 9.2.7.4 Utilities

There is existing telecommunications and power infrastructure along Brookvale Road, and it is expected that the site can be serviced with minor upgrades to provide underground new service connections to each lot.

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In relation to rubbish collection from the private roads within the proposed development, further information was provided by the applicant (received 4 October 2023) attaching emails from both JJ's Waste and Recycling and Kerbside Services confirming that the site can be serviced by the two private waste companies if necessary<sup>35</sup>.

9.2.7.5 Summary

Subject to suitable conditions of consent, I am satisfied that the internal infrastructure proposed, and the calculated demand for the proposed development, can be accommodated within the public reticulated water supply and wastewater network. I am also satisfied that the proposed development can be adequately serviced for utilities.

However, there remains unresolved matters in relation to the proposed stormwater management strategy that require further evidence from the Applicant for me to be satisfied that stormwater is able to be suitably and appropriately managed on-site without downstream effects on neighbouring land etc, such that effects will be no more than minor. In my view, unless these unresolved matters are satisfactorily addressed, effects of stormwater internally within the proposed development and downstream on neighbouring land **may be more than minor**.

I also note the Council's preference regarding avoiding the location of public infrastructure in private roads, in terms of ensuring ongoing accessibility for Council for maintenance and servicing purposes.

I reserve finalising my assessment of potential effects until I have had an opportunity to consider any response the Applicant and submitters may provide at the hearing.

9.2.8 Effects on Capacity of Existing Social Infrastructure

The following submitters raised concern about the pressure the proposed residential development may impose on existing social infrastructure, particularly local schools that are already beyond capacity, but also local health providers, and supermarkets, fuel stations etc in Havelock North village:

- Morag Paterson
- Jason Whitaker
- Alison Hussey
- Julie Haines
- Rachael Plummer
- Jemma Robyns
- Catherine Mueller
- Shannon Hillard
- Jamie Heywood

I have not seen any evidence to suggest that the addition of 35 new residential dwellings would impose a significant burden on the capacity of existing schools, healthcare providers or commercial interests. Such facilities may even look to expand or new facilities open up with additional population/demand.

In my view, the number of additional people accommodated by this proposed development would likely be readily absorbed, particularly given the additional population from other larger approved greenfield residential developments in the vicinity, and any potential adverse effects on the social infrastructure of Havelock North will therefore be **no more than minor**.

9.2.9 Natural Hazards

The Hawke's Bay Hazard Portal Property Report for the site (attached in **Volume 5 of the Agenda Documents**) identifies that the site is subject to the following hazards:

- Liquefaction – Liquefaction damage is possible - Medium liquefaction vulnerability.
- Earthquake Amplification – Alluvial sand, silt, and gravel.

<sup>35</sup> Attachment 7 to the Applicant's RFI response, dated 4 October 2023.

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- Flood Risk – Flood risk along the northern edge of the site, where it adjoins the Karituwhenua Stream. Remainder of site is deemed Low risk.
- Flood Detention Dams Hazard Zone – along much of the northern edge of the site, where it adjoins the Karituwhenua Stream (dam is some distance upstream of the site).

The AEE report accompanying the application addresses natural hazard effects as follows<sup>36</sup>:

*"The HBRC Hazard maps indicate that there is a risk of inundation within the 1 in 50-year event and raising levels of the site has the potential to reduce the flood storage capacity of the Karituwhenua Stream. To ensure that the Karituwhenua Stream maintains its flood storage capacity, it is proposed to cut existing ground material from the southern bank of the stream at the northern boundary. To further ensure any flood risks are avoided, dwellings 10-18 will have a minimum floor level of 200mm above the identified flood level. All the remaining dwellings will be outside of the identified flood risk area.*

*A geotechnical investigation has also been provided which concludes that the risk of liquefaction and consolidated settlements from the likely building loads are low.*

*Any adverse effects associated with natural hazards can be appropriately mitigated and are less than minor."*

9.2.9.1 Submissions

Some submitters have raised concerns about potential flooding risk:

- Mollie Wilson is concerned about potential flood impacts given recent weather changes, and whether there is sufficient learning from Cyclone Gabrielle.
- Walter Breustedt opposes the right to drain water to the Karituwhenua Stream without any form of retaining water on site. He notes that during Cyclone Gabrielle, the banks of the Karituwhenua Stream, and consequently the banks of the Karamu Stream, were significantly damaged, and that recent repair work of the banks of the Karamu Stream (near Crosses Road), may have to be repeated. He notes that Guthrie Park was only partially flooded, but is concerned that if more water is allowed to be drained into the Karituwhenua Stream, more damage will occur and Guthrie Park may be totally flooded and become unusable for a long time. Mr Breustedt seeks that the Applicant provide water storage on-site to reduce the risk of damage for the Karituwhenua & Karamu Streams and Guthrie Park.
- Forest & Bird (HB Branch) refer to the proposal to cut into the southern bank of the Karituwhenua Stream to increase capacity in a flood event, and suggest a stepped cut into both sides of the stream starting at Brookvale Road and finishing at the BMX Park. They consider this would also provide an opportunity to plant out the newly cut higher level to provide shade to help foster biodiversity along this stretch of the stream.

9.2.9.2 Liquefaction and Earthquake Amplification Risk

The Geotechnical Report by Initia Limited, supplied as part of the Applicant's further information response, concludes<sup>37</sup>:

*"Liquefaction is not expected under Serviceability Limit State levels of shaking, however under Ultimate Limit State levels, non-continuous layers within the subsoil profile may liquefy;*

*The upper clayey silts are cohesive and considered not susceptible to liquefaction, and the underlying gravels are very dense, so liquefaction potential is low;*

*Consolidation settlements from the likely building loads are expected to be low (i.e. < 25 mm);"*

<sup>36</sup> Pages 23-24 of the AEE report.

<sup>37</sup> Pg 13 of Geotechnical Report (Attachment 5 to Applicant's RFI response, dated 4 Oct 2023).

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The following further work during design and construction of the proposed development is recommended<sup>38</sup>:

*"Detailed Design*

- *Following removal of the remaining buildings and floor slabs, further investigation comprising test pits and laboratory testing to further characterise the site subsoils, especially fill depths across the site;*
- *Monitoring of groundwater levels;*
- *Assessment of suitable deformations for site services;*

*Development of an earthworks specification.*

*Construction*

- *Observation of the site subgrade following removal of topsoil;*
- *Compaction testing and review of results;*
- *Settlement monitoring; and*
- *Observations of ground improvement work that may be required.*

*The observations will be required to certify the site suitable for construction of foundations."*

The Geotechnical Report also makes the following recommendations<sup>39</sup>:

*"Engineered raft type foundations are recommended for the residential dwellings. Raft foundations can be constructed directly on the existing ground once the concrete slabs and any uncontrolled fill has been removed.*

*Flexible services and service connections are recommended."*

9.2.9.3 Flood Risk

I note that the applicant proposes to vest a local purpose drainage reserve along the northern edge of the site with Council (Lot 200 on the scheme plan of proposed subdivision) to encompass the Karituwhenua Stream and its banks, with easements for right of way and right to drain water, and to surrender existing easements with the right to drain water.

In response to further information requested by the Council (pursuant to s92 of the RMA), additional information was provided by the applicant addressing flood risk (received 4 October 2023) in a Stormwater Management Report prepared by Envelope Engineering (dated 29 September 2023).

The additional information provided confirmed that the existing bank will no longer be re-shaped. The applicant has also included the 6m offset from the bank on sheet 302 of the engineering plans and confirmed that Lot 9 is the only lot with the proposed dwelling sitting within the 6m offset (the applicant intends to apply for a resource consent with HBRC at a later stage).

The Stormwater Report calculates the headwater flood RL for the Brookvale Culvert to be 11.46m, and that the lowest RL is at the existing sump which has a surveyed RL of 11.81m. From this, the SMR concludes that there is 350mm of spare capacity in the Karituwhenua Stream, upstream of the Brookvale Culvert. On that basis, the SMR concludes that the Culvert is adequately sized to handle the 1 in 100 yr stormwater event with climate change adjustment, and that no flood water overtops the culvert during this rainfall event<sup>40</sup>.

The Stormwater Report calculates the maximum flow rate of the Karituwhenua Stream to be 21.825 m<sup>3</sup>/s, and using the maximum flow rates provided by Council and open channel calculations in accordance with the NZ Building Code, confirms that the existing Karituwhenua Stream has sufficient capacity to facilitate a 1 in 100 yr storm event with climate change adjustment and has volume to spare.

<sup>38</sup> Pg 12 of Geotechnical Report.

<sup>39</sup> Pg 13 of Geotechnical Report.

<sup>40</sup> Pgs 6 & 7 of the Stormwater Management Report.

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The conclusion of the flooding assessment in the Stormwater Report is as follows<sup>41</sup>:

*"From the investigative works undertaken, it has been determined that the Karituwhenua Stream does not breach its banks in the event of a 1 in 100-year flood event with climate change adjustment. This has been calculated using the maximum flow rates of the Karituwhenua and Crombie Streams provided by HDC along with topographical survey data of the stream and Brookvale Culvert. Supporting calculations are shown in Appendix 1.*

*The following implementation will be made:*

- *Minimum floor levels for new dwelling within the new development will be in accordance with the New Zealand Building Code, Clause E1 but no lower than stated on our design plans.*
- *A secondary overland flow path will be provided through the development to convey stormwater in excess of the primary (piped) system capacity.*
- *All new works will be above the top of bank of the Karituwhenua Stream*
- *The existing stream corridor will not be altered, or earth worked."*

Council engineers made further comment in relation to the Applicant's further information response (attached in **Volume 5 of the Agenda Documents**), and the Applicant responded to those further comments (attached in **Volume 5 of the Agenda Documents**).

Council engineers have indicated that unresolved matters remain in relation to the culvert calculations' lack of consideration of downstream boundary conditions, the upstream catchment and overland flow path from Woodlands Drive, and subsequent effects on Guthrie Park. Council engineers therefore consider that the flood model used for the Karituwhenua Stream is not satisfactory, and the supplied flood estimate is not sufficient to determine the flood level of the Karituwhenua Stream and internal overland flow path and that the effects on the finished floor level cannot therefore be determined.

Council engineers advise that these matters need to be comprehensively addressed at Resource Consent stage, to be satisfied that flood risk is able to be sufficiently mitigated.

#### 9.2.9.4 Summary

I concur with the AEE that liquefaction and earthquake amplification hazards are not significant and, with conditions of consent imposed addressing the above recommendations from the Geotechnical Report, I am satisfied that risks from these natural hazards can be appropriately mitigated to be **no more than minor**.

However, further flood modelling work is considered necessary in order for Council to be satisfied that flood risk is able to be sufficiently mitigated, such that effects will be no more than minor. In my view, unless these unresolved matters are satisfactorily addressed, flood risk effects **may be more than minor**.

I reserve finalising my assessment of potential effects until I have had an opportunity to consider any response the Applicant and submitters may provide at the hearing.

#### 9.2.10 Effects of Disturbance of Potentially Contaminated Land

A Detailed Site Investigation (DSI) prepared by Geosciences, involving a desk top study and intrusive investigation in accordance with the Ministry for the Environment's Contaminated Land Management Guidelines, was submitted with the application (attached in the AEE). The DSI notes the following<sup>42</sup>:

*"Analytical results returned heavy metal concentrations which were consistent with the expected naturally occurring soil background range, however trace concentrations of organic compounds were detected within several samples. All analyte concentrations were assessed to not pose a risk to either human health or the receiving environment.*

<sup>41</sup> Pg 7 of the Stormwater Management Report.

<sup>42</sup> Executive Summary, Page 1 of the DSI report.

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*Due to the detection of organic compounds within the soil profile, the regulations of the MfE National Environment Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NES) will apply to the proposed subdivision and development. The proposed subdivision may be regarded as a permitted activity under NES Regulation 8(4). The regulatory status of any development will depend on the volume of soil disturbance and offsite removal, and would be regarded as either a permitted activity under NES Regulation 8(3) or controlled activity under NES Regulation 9. Under either activity status a site management plan commensurate to the risks posed onsite will be required to be prepared and implemented as part of any development or soil disturbance works.*

*As soil quality has been assessed as not posing a risk to the receiving environment, no further considerations pertaining to the contaminated land provisions of the Hawkes Bay Regional Resource Management Plan are necessary."*

The DSI makes the following recommendations<sup>43</sup>:

*"In order to satisfy the requirement of the NES Regulations, a site management plan will be required to be developed and implemented as part of any soil disturbance and development of the site. The site management plan should include:*

- Controls to protect site works from the potential mobilisation of soil contaminants;*
- Accidental discovery protocols for the asbestos containing materials which may be encountered during the removal of glasshouse structures onsite;*
- Accidental discovery protocols for potential hydrocarbon contamination within the footprint of former fuel storage locations."*

The AEE states the following with respect to the effects of the proposal on contaminated land<sup>44</sup>:

*"Historical orcharding and nursery activities on site involved: the use and storage of pesticides; the storage of hydrocarbons; and the potential use of asbestos in built structures. As such, the underlying soils of the site are potentially contaminated with harmful compounds. However, a Detailed Site Investigation report prepared by Environmental Solutions Limited (attached as Appendix F) has found that:*

- No asbestos was detected.*
- No polycyclic aromatic hydrocarbons were detected.*
- No heavy metals were detected in a concentration in excess of the acceptable standard for residential uses.*
- While organic compounds were detected, they were not detected at a level which could pose a risk to the health of future occupiers of the site.*

*For the reasons given above, the effects of establishing residential activities on contaminated land are considered less than minor."*

I consider that, with the imposition of the recommended conditions, potential adverse effects on the environment associated with the disturbance of contaminated soil within the site associated with the proposed development will be appropriately mitigated and **no more than minor**.

#### 9.2.11 Effects on Historic Heritage and Cultural Values

The AEE refers to consultation with mana whenua during the preparation of the application as follows<sup>45</sup>:

*"Marei Atapu [sic] of Te Taiwhenua o Heretaunga has facilitated a desktop review of archaeological sites within the area and has distributed details of the proposal to representatives of the local marae in the area, including:*

<sup>43</sup> Pages 16-17 of the DSI report.

<sup>44</sup> Pages 21-22 of the AEE report.

<sup>45</sup> Pages 16-17 of the AEE report.

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- Matahiwi marae
- Waipatu marae; and
- Ruahapia marae.

*A remote meeting was held with Mr Apatu [sic] and Waiariki Davis of Waipatu on 24 May 2023. At this stage, no changes have been requested by the parties, however it was agreed that an onsite meeting would be held in early-mid June. The applicant will continue to engage with Mr Apatu [sic] and the marae representatives."*

In an email response to a further information request (from Joe Gray, dated 9 January 2024) requesting an update on these matters, the applicant supplied email communications from Mr Apatu to the applicant on 4 May 2023 (attached in **Volume 5 of the Agenda Documents**). The response from Mr Apatu includes a response received from Gaylynnne Carter (archaeologist, Archaeology Hawke's Bay), stating that the nearest recorded archaeological sites are more than 2km away, and that she is not aware of any unrecorded sites in the vicinity.

Indications are from her high-level desktop assessment that the site has *"already heavily modified by the existing buildings so any near surface archaeology is likely to have already been destroyed – if it were present"*. She mentions potential for discovery of occupation horizons buried beneath flood silts from past events, and that these could be uncovered when digging service trenches and larger structures needing deeper foundations (>500mm). Ms Carter indicates in her email communications with Mr Apatu that *"the developer could go ahead at their own risk under ADP unless we come up with something to indicate a higher risk status"*.

Since then, it appears from the email documentation provided, that the applicant and Mr Apatu have been attempting to have an online hui, and that things have not been able to progress for various reasons. At the time of writing, I understand that the latest email communications with Mr Apatu was on 15 November 2023.

On the basis of the above, I am satisfied that, with the imposition of conditions of consent around accidental discovery protocols, any adverse effects on archaeology are likely to be **no more than minor**.

#### 9.2.12 Positive Effects

The AEE report accompanying the resource consent application advises that<sup>46</sup>:

*"Visual amenity*

*At present the site is largely undeveloped. Apart from the existing garden centre and café occupying the south-eastern corner, the site is mostly covered in a layer of concrete with no landscaping or built development. This represents a negative visual outcome in the context of Havelock North's urban landscape and the visual amenity values anticipated in the Plains Production Zone. As such, the proposed extensive landscaping around residential dwellings and throughout the commonly owned areas represents a significant improvement in terms of the visual amenity offered by the site.*

*Housing provision*

*The proposal will result in the construction of 35 new residential dwellings which will assist in addressing the shortfall of housing being experienced locally and nationwide."*

Some submitters (Cameron Jones, Bevan Jenkins, Richard Butler) were generally supportive of the proposed development in terms of the need for additional housing in Hawke's Bay and Havelock North, ideally not encroaching on productive land surrounding current urban areas, and provision of affordable housing, and that this proposal looked to be an appropriate development for the site.

I concur that there will be some positive social and economic benefits associated with the proposed development in terms of a visual improvement on the current state of the site, and in terms of provision of additional housing.

<sup>46</sup> Page 24 of the AEE report.



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9.2.13 Other Matters Raised in Submissions

9.2.13.1 *Consultation & Public Notification*

Two submitters raised concerns about the level of consultation with affected neighbours, and the extent of parties that were served notice of the application.

*Consultation*

Under section 36A of the Resource Management Act 1991 (RMA), applicants are not required to consult with anyone but may consult anyone if they wish. Whilst considered good practice, whether to undertake consultation, and the extent and nature of consultation, is entirely up to the applicant.

If consultation is undertaken however, pursuant to clause 6(f) of Schedule 4 to the RMA, applicants are required as part of an assessment of effects on the environment, to identify the persons affected by the activity, any consultation undertaken, and any response to the views of any person consulted.

The Applicant, in outlining consultation undertaken by them in Section 5 (pgs 16 & 17) of the AEE accompanying their application, has satisfied the Schedule 4 requirements in this respect.

*Notification*

The application was subject to full public notification at the request of the applicant. In full accordance with notification requirements under the RMA, a public notice was placed in the Hawke's Bay Today newspaper on Saturday 21 October 2023 and posted on the Hastings District Council website. The submission period closed on 20 November 2023, in accordance with notification timeframes required under the RMA.

The public notice made clear that the application and all accompanying documentation could be inspected at the Hastings District Council Customer Service Centre or on the Council's website [www.myvoicemychoice.co.nz](http://www.myvoicemychoice.co.nz). Copies of the application were also available at Hastings District Council Public Libraries.

In addition, clause 10 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003 requires that notice be individually served on:

- Affected persons under s95B of the RMA (clause 10(2)(a));
- Hawke's Bay Regional Council (clause 10(2)(c)); and
- Relevant iwi authorities, persons with a relevant statutory acknowledgement, and any other person or body considered affected (clause 10(2)(d)).

Determination of those persons deemed affected was made under s95B of the RMA, which lead to notice being served on approximately 45 owner/occupiers in the vicinity, Te Mata Primary School, the Havelock North Bridge Club, Wanderers Football Club, Havelock North Cricket Club, Hawke's Bay BMX Club, Hawke's Bay Regional Council, and relevant iwi authorities and mana whenua representatives.

I am satisfied that public notification has been carried out in accordance with the requirements of the RMA.

9.2.13.2 *Potential for Social Housing*

A number of submitters (6) raised concerns that the proposed development might be utilised for social housing, with some concerned that this would impact on the look of the area and potentially lower property values.

My understanding is that the Applicant has confirmed that the proposed development is not proposed to be for social housing.

In any case, I consider the status of future occupiers of a residential development is not a resource management issue to be addressed in assessing this application.

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9.2.13.3 Impacts on Property Values

A number of submitters (9) raised concerns about the impact the proposed development might have on property values, in terms of devaluing surrounding properties or that they may be very expensive in comparison to similar properties in other areas nearby or have to sell at lower prices.

The Courts have specifically considered whether effects on property values are relevant when considering a resource consent application. The Courts have determined that such effects are not a separate relevant matter when assessing a resource consent application, as any decrease in property value is generally a reflection of an adverse effect on amenity values, which will already have been taken into account (e.g adverse effects on views are relevant as an adverse amenity effect, but would also result in a reduction in property values).

Decreases in property values reflect the effects of an activity on the environment and it is preferable to consider the effects directly, rather than the market's response to them which can be an imperfect measure of environmental effects.

I therefore consider such matters are considered as part of my assessment of amenity effects and I have not separately considered effects on property values.

9.3 Summary

From the above assessment of environmental effects, I have assessed that:

- overall, the scale of built form associated with the proposed development will be appropriate within the surrounding existing urban landscape and, with the retained Oderings Garden Centre and the onsite landscaping proposed, is able to be visually absorbed;
- any adverse effects on residential character and amenity values from the proposed development on the wider environment and surrounding properties (with the exception of 53 Brookvale Road), as well as internally within the development, will be less than minor;
- given the site's rural zoning (Plains Production Zone), adverse effects of a medium density residential development surrounding 53 Brookvale Road on three sides, will impact on the reasonably expected level of privacy, character, and visual amenity for 53 Brookvale Road which may be more than minor;
- subject to addressing specific issues around layout, built form and design quality, and fencing and landscaping, the proposal will create a positive public interface, enhance the visual amenity and safety of the adjacent open space reserves and achieve an appropriate level of integration with the surrounding public realm, such that adverse effects on the public realm will be minor, but may be more than minor depending on the outcome if some matters remain insufficiently resolved;
- with standard consent conditions imposed, any adverse effects on neighbours and the wider environment during earthworks and construction will be no more than minor;
- the land concerned is 'non-productive' and has permanent long-term constraints that make the site difficult to convert to an economically feasible productive unit, and the subject site is an orphaned piece of 'Plains Production'-zoned land completely surrounded by 'Havelock North General Residential Zone' and 'Open Space Zone' sites – the nearest 'Plains Production Zone' site is now more than 250m to the north-west of the site;
- subject to suitable conditions of consent, the internal infrastructure proposed, and the calculated demand for the proposed development, can be accommodated within the public reticulated water supply and wastewater network, and the proposed development can be adequately serviced for utilities;

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- there are no established activities in the vicinity of the site that are incompatible with residential development of this site, therefore reverse sensitivity effects and potential for conflicting land use activities as a result of the proposed development are negligible;
- any potential adverse effects on the social infrastructure of Havelock North will be no more than minor;
- liquefaction and earthquake amplification hazards are not significant and, with conditions of consent imposed addressing the above recommendations from the Geotechnical Report, risks from these natural hazards can be appropriately mitigated to be no more than minor;
- with the imposition of recommended conditions requiring a site management plan, potential adverse effects on the environment associated with the disturbance of contaminated soil within the site will be appropriately mitigated and no more than minor;
- with the imposition of conditions of consent around accidental discovery protocols, any adverse effects on archaeology are likely to be no more than minor; and
- there would be some positive social and economic benefits associated with the proposed development in terms of a visual improvement on the current state of the site, and in terms of provision of additional housing.

The following matters remain unresolved in relation to potential environmental effects:

- adverse effects on the privacy, amenity and visual amenity for 53 Brookvale Road;
- unresolved matters in relation to integration of the proposed development with the public realm e.g. consideration of alternative edge lane layout and, if the current layout is retained, whether all issues with the current built form and design quality, as well as fencing and landscaping, identified in the Urban Design Review have been sufficiently addressed to balance 'public' and 'private' amenity objectives, and maintain and enhance the quality, safety, and visual amenity of surrounding public spaces;
- consideration of the installation of a kea crossing on Brookvale Road, installation of a concrete footpath along the full frontage of the development, and other measures addressing tree planting in proximity to streetlights, to ensure traffic generated by the proposed development can be safely absorbed and to mitigate any adverse effects of the proposed development on traffic and pedestrian safety;
- unresolved matters in relation to the proposed stormwater management strategy to confirm that stormwater can be suitably and appropriately managed on-site without downstream effects on neighbouring land; and
- unresolved matters in relation to the lack of consideration of downstream boundary conditions in culvert calculations, the upstream catchment and overland flow path from Woodlands Drive and subsequent effects on Guthrie Park, in the flood model used for the Karituwhenua Stream, as well as internal overland flow paths and any retaining required in determining appropriate finished floor levels.

I also note the Council's preference regarding avoiding the location of public infrastructure in private roads, in terms of ensuring ongoing accessibility for Council for maintenance and servicing purposes. This is a matter that would also benefit from further consideration prior to the hearing, as it may have implications for other matters above.

**10.0 MEASURES TO OFFSET OR COMPENSATE FOR ANY ADVERSE EFFECTS ON THE ENVIRONMENT – s104(1)(ab)**

The Applicant has not proposed any measures to offset or compensate for any adverse effects on the environment.

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

An assessment of the proposal against the relevant objectives and policies of the relevant statutory documents is provided below.

**11.1 National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health (NESCS) – s104(1)(b)(i)**

As outlined above, the proposal is subject to the requirements of the NESCS in relation to historical orcharding and nursery activities, involving the use and storage of pesticides, the storage of hydrocarbons, and the potential use of asbestos in built structures which may be disturbed during establishment earthworks.

As I have assessed above, I consider that with the imposition of the recommended conditions, potential adverse effects on the environment associated with the disturbance of contaminated soil within the site will be appropriately mitigated.

**11.2 Other National Environment Standards – s104(1)(b)(i)**

The other National Environmental Standards do not raise any matters that are relevant to consideration of this application.

**11.3 National Policy Statement for Urban Development 2020 (NPS-UD) – s104(1)(b)(iii)**

The NPS-UD 2020 seeks to increase development capacity to enable more homes to be built in response to demand whilst ensuring the delivery of well-functioning urban environments. The policies seek to improve land-use flexibility in the areas that have the greatest demand.

Hastings District Council is a Tier 2 authority and has certain obligations under the NPS-UD, specifically to provide at least sufficient development capacity to meet expected demand for housing. A table included in Section 2.4 of the Hastings District Plan reflects housing bottom lines as required by Policy 7, indicating a need for 5,190 dwellings for the Hastings District in the short to medium term and an additional 7,640 in the long term (2031-2050). A Housing Development Capacity Assessment undertaken by Market Economics for Napier City, Hastings District and Hawke's Bay Regional Councils in 2021 identified that:

- There is sufficient capacity for the short to medium term, but the medium-term margin is small and sensitive to the assumptions made; and
- There is a deficiency for the long-term housing capacity, even when capacity that has unconfirmed infrastructure is included.

The processing of this proposed development through a resource consent rather than a plan change means that some provisions of the NPS-UD do not apply directly. For instance, it does not meet the requirement to be 'plan enabled' which requires that land be zoned for housing, or proposed to be so zoned in a proposed plan change (cl 3.4). The provisions around 'unanticipated out-of-sequence developments' also only applies to a plan change, and not a resource consent.

However, I consider that this proposed development, which is held in single ownership, responds positively to the NPS-UD, as it will contribute to the much-needed housing capacity for the Hastings District in delivering an additional 35 dwellings within an established and well-connected area of Havelock North, and its layout is anticipated to perform as a well-functioning residential environment, and is **not inconsistent with** the objectives and policies of the NPS-UD.

**11.4 National Policy Statement for Highly Productive Land (NPS-HPL) – s104(1)(b)(iii)**

The NPS-HPL came into effect in October 2022. Highly Productive Land is required to be mapped by regional councils and in the meantime is classified as land that is zoned general rural or rural production, and is LUC 1, 2 or 3.

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The subject site is zoned 'Plains Production' and has been identified as LUC 2 land within the New Zealand Land Use Resource Inventory. Therefore, the subject site is 'highly productive land' under the NPS-HPL until such time as land has been mapped in accordance with clause 3.4 of the NPS and is included in an operative regional policy statement as required by clause 3.5. The objectives and policies of the NPS-HPL therefore apply.

The NPS-HPL has the following objective:

*Objective: Highly productive land is protected for use in land-based primary production, both now and for further generations.*

To achieve the objective, the following policies are relevant:

*Policy 1: Highly productive land is recognised as a resource with finite characteristics and long-term values for land-based primary production.*

*Policy 4: The use of highly productive land for land-based primary production is prioritised and supported.*

*Policy 7: The subdivision of highly productive land is avoided, except as provided in this National Policy Statement.*

*Policy 8: Highly productive land is protected from inappropriate use and development.*

*Policy 9: Reverse sensitivity effects are managed so as not to constrain land-based primary production activities on highly productive land.*

Part 3 of the NPS-HPL sets out what Territorial Authorities must do to give effect to the objectives and policies of the NPS but also requires that effect be given to the NPS despite certain actions required of Regional Councils and Territorial Authorities not yet being undertaken.

Of relevance to Policies 7 and 9 is clause 3.8(1), which specifies that territorial authorities must avoid the subdivision of highly productive land unless one of the following exemptions applies to the subdivision and the measures in 3.8(2) are applied:

- (1) *Territorial authorities must avoid the subdivision of highly productive land unless one of the following applies to the subdivision, and the measures in subclause (2) are applied:*
  - (a) *the applicant demonstrates that the proposed lots will retain the overall productive capacity of the subject land over the long term;*
  - (b) *the subdivision is on specified Māori land;*
  - (c) *the subdivision is for specified infrastructure, or for defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990, and there is a functional or operational need for the subdivision.*
- (2) *Territorial authorities must take measures to ensure that any subdivision of highly productive land:*
  - (a) *avoids if possible, or otherwise mitigates, any potential cumulative loss of the availability and productive capacity of highly productive land in their district; and*
  - (b) *avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on surrounding land-based primary production activities.*

Of relevance to Policies 8 and 9 is clause 3.9(1), which specifies that territorial authorities must avoid inappropriate use or development of highly productive land that is not land-based primary production. Clause 3.9(2) specifies that a use or development of highly productive land is inappropriate except where at least one of the following applies and the measures in subclause 3.9(3) are applied, as set out below.

- (2) *A use or development of highly productive land is inappropriate except where at least one of the following applies to the use or development, and the measures in subclause (3) are applied:*
  - (a) *it provides for supporting activities on the land:*

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- (b) it addresses a high risk to public health and safety;
  - (c) it is, or is for a purpose associated with, a matter of national importance under section 6 of the Act;
  - (d) it is on specified Māori land;
  - (e) it is for the purpose of protecting, maintaining, restoring, or enhancing indigenous biodiversity;
  - (f) it provides for the retirement of land from land-based primary production for the purpose of improving water quality;
  - (g) it is a small-scale or temporary land-use activity that has no impact on the productive capacity of the land;
  - (h) it is for an activity by a requiring authority in relation to a designation or notice of requirement under the Act;
  - (i) it provides for public access;
  - (j) it is associated with one of the following, and there is a functional or operational need for the use or development to be on the highly productive land:
    - (i) the maintenance, operation, upgrade, or expansion of specified infrastructure;
    - (ii) the maintenance, operation, upgrade, or expansion of defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990;
    - (iii) mineral extraction that provides significant national public benefit that could not otherwise be achieved using resources within New Zealand;
    - (iv) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved using resources within New Zealand.
- (3) Territorial authorities must take measures to ensure that any use or development on highly productive land:
- (a) minimises or mitigates any actual loss or potential cumulative loss of the availability and productive capacity of highly productive land in their district; and
  - (b) avoids if possible, or otherwise mitigates, any actual or potential reverse sensitivity effects on land-based primary production activities from the use or development.

Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.8 or 3.9 if it meets the exemption under clause 3.10(1), as set out below.

- (1) Territorial authorities may only allow highly productive land to be subdivided, used, or developed for activities not otherwise enabled under clauses 3.7, 3.8, or 3.9 if satisfied that:
- (a) there are permanent or long-term constraints on the land that mean the use of the highly productive land for land-based primary production is not able to be economically viable for at least 30 years; and
  - (b) the subdivision, use, or development:
    - (i) avoids any significant loss (either individually or cumulatively) of productive capacity of highly productive land in the district; and
    - (ii) avoids the fragmentation of large and geographically cohesive areas of highly productive land; and
    - (iii) avoids if possible, or otherwise mitigates, any potential reverse sensitivity effects on surrounding land-based primary production from the subdivision, use, or development; and
  - (c) the environmental, social, cultural and economic benefits of the subdivision, use, or development outweigh the long-term environmental, social, cultural and economic costs associated with the loss of highly productive land for land-based primary production, taking into account both tangible and intangible values.

As stated earlier in my assessment of effects on productive land, the applicant has provided a soil assessment and additional information (received 4 October 2023) that concludes that the site's soils

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have undergone significant modification and have permanent long-term constraints on economic viability that cannot be addressed through any reasonably practicable options.

I accept that the lack of adjacent rural land, poor quality soils, and sensitive residential uses, are also critical constraints that make the site difficult to convert to an economically feasible productive unit.

Therefore, I am satisfied that the subject site meets the exemption under clause 3.10(1) of the NPS-HPL, and that subdivision, use, or development of this land for activities not otherwise enabled under clauses 3.8 and 3.9 is not necessarily inappropriate and is not required to be avoided.

On the basis of the above, I conclude that the proposed subdivision and development is **not inconsistent with** the objectives and policies of the NPS-HPL.

**11.5 New Zealand Coastal Policy Statement (NZCPS) – s104(1)(b)(iv)**

The site of the proposed activity is not located within the coastal environment, therefore the NZCPS is **not relevant** to this application.

**11.6 Hawke's Bay Regional Resource Management Plan – s104(1)(b)(v)**

The Hawke's Bay Regional Resource Management Plan 2006 (RMMP) includes the Regional Policy Statement for the Hawke's Bay Region (RPS).

I consider that the following objectives and policies in the RPS are relevant to the subject application:

**PLAN OBJECTIVES**

**OBJ 1** *To achieve the integrated sustainable management of the natural and physical resources of the Hawke's Bay region, while recognising the importance of resource use activity in Hawke's Bay, and its contribution to the development and prosperity of the region.*

**MANAGING THE BUILT ENVIRONMENT**

**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 hazard.*

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

**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.*

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**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.

**POL UD4.2** In determining future Residential Greenfield Growth Areas, not already identified within Policy UD4.3, for inclusion within urban limits in the Heretaunga Plains sub-region, the following general criteria shall apply:

- a) Must form an extension contiguous with existing urban areas and settlements.
- b) Land is identified as having low versatility, and/or productive capacity has been compromised by:
  - i. Size and shape of land parcels that mitigates against productive use;
  - ii. Surrounding land uses and reverse sensitivity;
  - iii. Lack of water and/or poor drainage.
- c) Clear natural boundaries exist, or logical greenbelts could be created to establish a defined urban edge.
- d) Supports compact urban form.
- e) Can be serviced at reasonable cost.
- f) Can be integrated with existing development.
- g) Can be integrated with the provision of strategic and other infrastructure (particularly strategic transport networks in order to limit network congestion, reduce dependency on private motor vehicles and promote the use of active transport modes).
- h) An appropriate separation distance from electricity transmission infrastructure should be maintained in order to ensure the continued safe and efficient operation and development of the electricity transmission network.
- i) Promotes, and does not compromise, social infrastructure including community, education, sport and recreation facilities and public open space.
- j) 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 on-site wastewater systems or stormwater discharges
  - viii. no current wastewater reticulation and the land is poor draining
  - ix. identified water short areas with the potential to affect the provision of an adequate water supply.

**POL UD8** In the Heretaunga Plains sub-region, residential subdivision and development shall seek to achieve the following minimum net densities, where appropriate, within greenfield growth or intensification development areas, to be achieved in a staged manner by 2045:

- a) an average yield of 15 lots or dwellings per hectare in each greenfield growth area developed post 31 December 2015;
- b) an average yield of 20 lots or dwellings per hectare within each intensification development area.

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

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

**NATURAL HAZARDS**

**OBJ 31** *The avoidance or mitigation of the adverse effects of natural hazards on people's safety, property, and economic livelihood.*

In relation to achieving compact urban form and quality-built environments, my assessment of environmental effects in Section 9 concludes that, with the imposition of suitable conditions of consent, the proposed development demonstrates reasonable consideration of urban design principles, and that any adverse effects on residential character and neighbouring residential land in the wider environment can be adequately avoided, remedied or mitigated. My assessment also concludes that the proposal does not trigger reverse sensitivity effects, avoids encroachment on the versatile land of the Heretaunga Plains and, subject to unresolved matters around flood modelling and finished floor levels being comprehensively addressed, is anticipated to be able to sufficiently mitigate identified flooding risk. Therefore, I consider the proposal is not inconsistent with Objective OBJ UD1 and Objective OBJ 31.

My assessment of environmental effects also concludes that, with the imposition of the recommended conditions of consent, the proposed development is likely able to be efficiently serviced in a timely manner through connecting to existing and planned infrastructure serving the surrounding residential area of Havelock North, and will ensure any services are designed, built and managed for ongoing effectiveness, and is therefore not inconsistent with Policies POL UD1 and POL UD13.

With regard to higher density development in suitable locations, and achieving net density targets, the proposed development site is surrounded by urban residential development and urban open space and achieves a yield of 17.5 dwellings per hectare, which is in line with the intensification target to be achieved by 2045 for greenfield growth and intensification areas across the Heretaunga Plains sub-region, and is therefore not inconsistent with Objective OBJ UD2 and Policy POL UD8.

Although the proposed development is not within an area identified as appropriate for new residential greenfield growth for the 2015-2045 period, listed in POL UD4.3, it:

- forms an extension contiguous with the existing urban area of Havelock North,
- has been assessed as having low productive capacity,
- is bounded by clear, logical natural boundaries with Guthrie Park and the Karituwhenua Stream,
- is anticipated to be able to be serviced and integrated with existing development, and with the provision of infrastructure in the wider Brookvale area,
- does not compromise social infrastructure such as local schools and public open space,
- does not have high liquefaction potential, and
- subject to unresolved matters relating to stormwater management being comprehensively addressed, is anticipated to be able to sufficiently mitigate identified flooding risk.

Therefore, the proposed development is not inconsistent with Policy UD4.2.

However, the proposed development does represent unanticipated, out-of-sequence, residential development on rural-zoned land, contrary to Objective OBJ UD4. For this reason, I conclude that the proposed subdivision and development is ***somewhat inconsistent with*** the objectives and policies of the Regional Policy Statement, overall.

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#### 11.7 Hastings District Plan – s104(1)(b)(vi)

In response to request for further information, the applicant has provided a further assessment of the proposal against the objectives and policies in the District Plan they consider relevant, relating to the Plains Production Zone and Subdivision chapters only.

I concur with the applicant's further information assessment that Plains Production Zone Objectives PPO5, PPO6, PPO8 & PPO9[sic] and Policies PPP9, PPP10, PPP12, PPP17, PPP18, PPP20, PPP21, PPP23, PPP24 & PPP25 are not applicable to the application.

The applicant's further information assessment refers to the following policies however, that do not appear anywhere in the Hastings District Plan, and do not match the wording of subdivision policies in the Hastings District Plan – Policies SDP9, SDP10, SDP12, SDP14, SDP15, SDP18 & SDP25. I can only surmise that these are referred to in error.

I do note that the AEE accompanying the initial application does refer to the following objectives and policies – Objective SLDO1, SLDO2, SLDO3 & SLDO4 and Policies SLDP4, SLDP5, SLDP7, SLDP8, SLDP9, SLDP10, SLDP11, SLDP14 & SLDP15. I concur that those objectives and policies are relevant (with the exception of Policy SLDP9 which I do not consider to be relevant as it specifically relates to sites not connected to a public water supply, wastewater disposal or stormwater disposal system).

There are also various other objectives and policies, particularly in other strategic and district wide activity sections of the District Plan, that I consider are also directly relevant, that have not been addressed by the applicant.

The subject site is located within the Plains Production Zone (PPZ), which sits within the Plains Strategic Management Area, which is itself covered by the Rural Resource Strategy. Further, in acknowledging that the site has also been leap-frogged by the greenfield residential growth of Havelock North in recent times, I also consider strategic objectives and policies in the Urban Strategy and Medium Density Housing Strategy of the District Plan to also be somewhat relevant.

Given the flooding risk associated with the Karitūwhenua Stream in this locality, connection to the transportation network, proposed earthworks as part of the development, and subsequent subdivision, I also consider a number of objectives and policies in the Natural Hazards, Transport & Parking, and Earthworks chapters of the District Plan to be relevant.

I have provided a comprehensive assessment of the proposal against each of the objectives and policies in the District Plan that I consider relevant to the application (attached in **Volume 5 of the Agenda Documents**) and provide a summary assessment below.

##### 11.7.1 Overarching Policy Framework

There is a consistent theme in the District Plan of promoting the maintenance of the life-supporting capacity of the Hastings District's rural resources at sustainable levels (OBJ RRSO1), retaining the land-based productive potential of the Plains environment (Overarching Objective PSMO1, Objective UDO4, Policy PPP5, Objective PPO4, Policy PPP16) and ensuring the versatile land of the Plains Production Zone is not fragmented or compromised by building and development (Objective PPO1, Policy UDP3, Policy UDP9, Policy UDP12, Objective PPO1, Policy PPP1, Policy PPP3, Policy PPP6, Policy PPP7, Objective PPO2, Policy PPP8, Policy PPP11).

In the case of the Plains Production Zone, the higher order objectives and policies are implemented through a range of policies and rules intended to retain the PPZ primarily for land-based primary production activities and supporting activities. This includes controlling urban development pressures onto rural land close to urban areas and/or on arterial routes. Accordingly, the rules of the Plan do not provide for conversion of rural land. The minimum lot size for the PPZ is 12 hectares (with minimal exceptions) and subdivision below that is a non-complying activity. Residential and ancillary activities are similarly constrained. For this reason, the principal mechanism for the control of urban peripheral expansion and development is typically through the re-zoning of land via a plan change of land

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identified as suitable for greenfields development through HPUDS, with the full assessment process that is required for a plan change. It is an unavoidable conclusion that the proposal to develop the subject site for medium density residential is not envisaged by the planning provisions that currently attach to the site.

In that overall context, medium density residential development and urban-style subdivision of the nature proposed is not consistent with the objectives and policies of the PPZ and, in my view, is clearly contrary to this strong overarching policy direction.

Having said that, the site has been leap-frogged by urban growth in this part of Havelock North in recent times, to the point that the site clearly no longer exhibits the usual qualities and characteristics of the PPZ, and singly and uniquely differs from almost every other site in the PPZ, in that:

- the soils of the site are now deemed unlikely to ever be able to be used productively;
- it has become surrounded by urban zoning; and
- it is an orphaned rural site with no physical connection to any other rural site (the closest rural site is 250m distant).

Therefore, in my view, whilst the proposed development does not assist the achievement of the District Plan's objectives and policies relating to the protection of the life-supporting capacity of the versatile land of the PPZ and can be considered contrary, the site's uniqueness (for the reasons outlined above) means the proposed development is not repugnant to the overarching policy direction.

Further, the Urban and Medium Density Residential Strategies seek to encourage residential intensification and medium density housing in suitable locations of Hastings and Havelock North contained within existing urban boundaries (Policies UDP1 & UPD2, Objective MDO1), in a planned way (Objective UDO1, Policy UDP1, Objective UDO2), and to identify distinct and clear boundaries between the urban area and the Plains Production Zone (Policy UDP10), and to avoid unnecessary expansion of urban activity onto the versatile land of the Heretaunga Plains (Policy UDP9).

The subject site is not zoned for urban development, is not within the residential greenfield growth areas identified as appropriate in HPUDS, nor has it been identified in the District Plan as a suitable location for residential intensification in the form of comprehensive residential development in Havelock North. Therefore, I consider the proposal is inconsistent, if not contrary, to the urban and medium density residential strategies for greenfield growth and residential intensification within and adjoining urban Havelock North. However, as urban growth of Havelock North has leapfrogged this site and it no longer exhibits the qualities and characteristics of the Plains Production Zone within which it sits, I consider medium density residential development and urban-style subdivision of the nature proposed is not entirely repugnant to the overarching urban policy direction.

11.7.2 Plains Production Zone – Effects on Rural Character and Amenity Values

In addition to the higher order objectives and policies of the Plains Production Zone aimed at retaining the Zone primarily for land-based primary production activities and supporting activities, Objective PPO3 and Policies PPP13, PPP14 & PPP15 seek to retain the rural character and amenity values of the Plains Production Zone and that any new development and associated level of adverse effects is consistent with that character and amenity and with existing lawfully established land uses.

In my view, the proposed development is contrary to Policies PPP5, PPP7 & PPP13 as it is clearly not in support of primary production land use, exceeds the number and size of buildings anticipated in the Plains Production Zone, is ad hoc urban development, and is inconsistent with the open and low scale nature that comprises the rural character and amenity of the Plains Production Zone.

In addition, I consider the proposal is inconsistent with Policies PPP3 & PPP6 around limiting of the number and scale of buildings and an expectation that subdivision of an additional residential site is accompanied by amalgamation with adjoining sites in the Plains Production Zone, and is also somewhat inconsistent with Objective PPO1 (fragmentation of the Plains Production Zone), Objective

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PPO3 (retaining rural character and amenity values) and Policy PPP8 (link to the productive use of the land).

However, given the site has been leapfrogged by the urban development of Havelock North in recent years and effectively orphaned from other rural sites, and is now encircled by urban area zoned for residential and open space, and that the soils are no longer representative of the wider versatile land resource, the site is no longer reflective of its Plains Production zoning. Therefore, I consider the proposed development is not repugnant to the policy direction for the Plains Production Zone.

11.7.3 Subdivision Policy Framework

In support of the strategic and zone policy framework outlined above, the subdivision policy framework seeks to ensure the subdivision is consistent with objectives and policies of the zone within which the activity is located (Objective SLDP01), and that sites are suitable for the types of land use activities provided for in that zone (Objective SLDO2).

Given the above assessment against the overarching policy framework including the objectives and policies of the PPZ, I am of the view that the proposed subdivision is not consistent with the objectives and policies of the PPZ and is therefore contrary to Objective SLDP01. Further, the proposed sites are not suitable, nor of sufficient size, to support the primary production and related types of land use activities provided for in the PPZ, and the proposed subdivision is therefore also contrary to Objective SLDO2.

The subdivision policy framework also seeks that sites can be appropriately serviced (Objective SLDO4, Policy SLDP15), and that the subdivision avoids or mitigates the creation of reverse sensitivity effects (Objective SLDO5, Policy SLDP16). My assessment in Section 9 of this report has been unable to conclude that the proposed development can be appropriately serviced in respect of stormwater management, therefore I am unable to conclude that the proposed development is consistent with Objective SLDO4 at this point in time. I also note that provision of reticulated services to this proposed development has not been proposed and identified as works in Council's Long Term Plan or Annual Plan – therefore, the proposed subdivision is somewhat inconsistent with Policy SLDP8.

11.7.4 Other Relevant Objectives & Policies

*Natural Hazards*

With regard to natural hazards, relevant objectives and policies in the District Plan seek to avoid subdivision and development in localities where there is a significant risk from natural hazards (Objective SLDO3, Policy NHP2, Policy NHP4, Policy NHP5), ensure land being developed is not subject to material damage by the effects of natural hazards and avoid the need for further natural hazard mitigation activities (Objective NHO2, Policy NHP2, Policy NHP6), and that any measures taken to manage the risks of natural hazards do not have significant adverse effects on the environment (Objective NHO1, Policy SLDP4, Policy SLDP5).

Flood risk associated with the Karitūwhenua Stream (part of the Karamu catchment) is deemed 'Low' in terms of the Hawke's Bay Hazards Portal, and the proposed development includes measures to mitigate flood risk (e.g. raised floor levels, stormwater management). However, on the information supplied to-date, I have been unable to confirm in my assessment in Section 9 of this report, that the mitigation proposed for the proposed development is sufficient to adequately manage the flood hazard risk. Therefore, I am unable to conclude that the proposed development is consistent with these particular objectives and policies at this point in time.

*Earthworks*

Relevant objectives and policies in the District Plan are enabling of earthworks while ensuring the life-supporting capacity of soils and ecosystems are safeguarded (Objective EMO1) and adverse effects on landscapes and human health and safety are avoided, remedied or mitigated (Policy EMP3, Policy



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EMP4, Policy EMP5, Policy SLDP14) and productive soils are protected (Policy EM3), and require re-pasture or re-vegetation where vegetation is cleared in association with earthworks (Policy EMP1).

My assessment in Section 9 of this report concludes that, with standard conditions of consent imposed, the adverse effects of the proposed earthworks associated with the proposed development on soils, ecosystems, the landscape, and on human health and safety will be avoided, remedied or mitigated. Therefore, the proposed development is not inconsistent with these objectives and policies.

*Transport and Parking*

Relevant objectives and policies in the District Plan seek to ensure that developments 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 (Objective TPO1), provide safe and practicable access for pedestrians and vehicle traffic from a public road to each site that is suitable for the activities proposed and compatible with the design and construction standards of roads in the District Transport Network (Policy SLDP10, Policy SLP11), and that traffic effects are mitigated, including through the use of sustainable transport modes (Policy TPP1).

My assessment in Section 9 of this report concludes that, with standard engineering conditions of consent imposed, safe and practicable pedestrian and vehicular access will be provided to (and, in the case of pedestrian access, through) the proposed development, and any adverse effects on the wider transportation network will be adequately avoided, remedied, or mitigated. Therefore, the proposed development is not inconsistent with these objectives and policies.

**11.8 Summary and Conclusion**

The weighing up of a proposal's consistency with the objectives and policies requires that an overall assessment is made of how the proposal 'sits' within the policy framework of the District Plan as a whole, rather than whether each objective and policy is individually satisfied. As such, it is the overall intent of the above objectives and policies that has been assessed in this case.

Overall, I consider medium density residential development and urban-style subdivision of the nature proposed is contrary to Objectives RRSO1, UDO1, SLDO1 & SLDO2 and Policies RRSP2, PSMP1, PSMP2, PPP5, PPP7, PPP13, UDP1 & UDP2, and is inconsistent with Objective UDO2 & MDO1 and Policies PPP3, PPP6, UDP10 & UDP11, as well as somewhat inconsistent with Objectives PPO1, PPO3 & UDO4 and Policies RRSP4, PSMP4, PSMP5, PPP6, PPP8 & UDP9.

I have assessed the proposal to be largely consistent with the remaining objectives and policies that I have deemed relevant, although I am also unable to conclude whether the proposed development is consistent with the objectives and policies pertaining to risk from natural hazards at this point in time.

On this basis, I conclude that the proposal to develop the subject site for medium density residential is not envisaged by the planning provisions that currently attach to the site, and I conclude that the proposed development is **contrary to the objectives and policies of the District Plan as a whole**.

Although I have reached the conclusion that the proposed development is contrary to the objectives and policies of the District Plan, I am of the view that the fact that it is an isolated and orphaned site and no longer exhibits the typical qualities and characteristics of the Plains Production Zone means the proposed development is not wholly repugnant to the District Plan. Had the proposal been progressed as a plan change, rather than proposing medium density residential development within the Plains Production Zone, I consider there would have been merit in a change of zoning. However, as a resource consent application, the proposal needs to be assessed against the relevant district plan zoning and not what might be considered the 'most appropriate' zoning, and in that context, the proposal contradicts what the Plan envisages for this site.

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## 12.0 OTHER MATTERS – s104(1)(c)

Section 104(1)(c) makes provision for regard to be had to 'any other matters the consent authority considers relevant and reasonably necessary to determine the application'.

I consider that there are other matters to be considered in relation to the subject application – being matters of adverse precedent effects and plan integrity, as set out below.

### 12.1 Adverse Precedent Effects

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

The potential precedent relevant in this application relates to the potential for other landowners within the Plains Production Zone to seek to establish urban residential development that significantly exceeds the required one residential building per site in Standard 6.2.6B, or does not meet the minimum site area requirement in Subdivision Standard 30.1.6A, using a similar planning argument to this application. This would be of significant concern if replicated over a number of sites. I consider that the impact on the rural resource and its availability for productive purposes should this precedent be made would be significant.

It is considered that the proposed application does not have the potential to create a precedent on the following grounds:

- There are particular unique features of this site that, in combination, differentiate it from others within the Plains Production Zone, being:
  - the soils of the site are deemed unlikely to ever be able to be used productively again;
  - the site is an orphaned rural site with no physical connection to any other rural site (the closest rural site is 250m distant);
  - the site no longer exhibits the typical qualities and characteristics of the Plains Production Zone;
  - the site is already compromised for productive usage because of its proximity to established and developing urban residential areas within Havelock North; and
  - the site has been effectively engulfed within the Havelock North urban area.
- From a perusal of the District Plan maps, focusing on the urban areas within the Heretaunga Plains, I have not been able to find an equivalent site – there are no other similarly isolated, orphaned sites with these (or similar) characteristics in the Plains Production Zone within the Havelock North, Hastings or Flaxmere urban areas.

I note that any one of those factors, or a lesser combination of them, would not be sufficient for me to consider the site unique. Rather, it is the combination of all of those factors which, in combination, lead me to the view that this site is able to be differentiated from others that may seek to follow. I am satisfied that the site singly and uniquely differs from any other site in the Plains Production Zone.

For the above reasons, I am of the opinion that it is highly unlikely that this proposal could be replicated elsewhere within the same zone, therefore, granting consent will not lead to any precedent effects.

### 12.2 Integrity of the Proposed District Plan

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

As the proposal is sufficiently unique, being effectively an orphaned Plains Production-zoned site surrounded by residential and open space zoning on all sides, effectively engulfed within an urban area, and more than 250m away from the next nearest rural-zoned site, I am of the opinion that it does

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not directly challenge the integrity of the District Plan, and granting consent will not undermine public confidence in its consistent administration.

**13.0 PERMITTED BASELINE – s104(2)**

As the proposed activity is a non-complying activity in terms of both subdivision and land use and is clearly not anticipated in the Plains Production Zone, I have not applied a permitted baseline.

**14.0 TRADE COMPETITION – s104(3)**

I have not had regard to trade competition or the effects of trade competition, or any effect on a person who has given written approval to the application.

Granting resource consent would not be contrary to any of the matters listed at s104(3)(c).

**15.0 PART 2 OF THE RESOURCE MANAGEMENT ACT – s104(1)**

It is noted that recent case law in the Court of Appeal decision in RJ Davidson Family Trust v Marlborough District Council CA97/2017 (2018) NZCA 316 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 Part 2 can be considered when assessing a resource consent, but that it will only add value in some cases. In this instance, given national direction in the form of the NPS-UD and NPS-HPL has come into effect since the Hastings District Plan was prepared and largely operative, an assessment of the application against Part 2 is considered appropriate, and is provided as follows.

**15.1 Section 5**

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

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

The proposal is consistent with the sustainable management purpose of section 5 insofar as, with suitable conditions of consent imposed, the proposed development will contribute to the much-needed housing capacity for the Hastings District in delivering an additional 35 dwellings within an established and well-connected area of Havelock North, and its layout is anticipated to perform as a well-functioning residential environment, whilst avoiding, remedying, or mitigating any adverse effects on the environment.

**15.2 Section 6**

Section 6 sets out the matters of national importance that must be recognised and provided for. Of relevance to the proposal is:

- (h) the management of significant risks from natural hazards.*

My assessment in Section 9 of this report concludes that, with appropriate conditions of consent imposed (if granted), liquefaction and earthquake amplification hazard risks are not significant. Whilst

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considerable unresolved matters remain in relation to the management of flood hazard risks for this proposal, I do not consider risks from natural hazards to be 'significant' overall.

**15.3 Section 7**

Section 7 of the RMA identifies a number of "other matters" to be given particular regard by the Council in the consideration of any assessment for resource consent. Of relevance to the proposal are:

*(b) The efficient use and development of natural and physical resources;*

*(c) The maintenance and enhancement of amenity values;*

*(f) Maintenance and enhancement of the quality of the environment;*

In terms of section 7(b) the proposal will be an efficient use and development of the existing physical resources on the subject site for the provision of additional much-needed housing capacity.

With respect to sections 7(c) and 7(f), given unresolved matters in relation to adverse effects on character and amenity values for the adjoining residential property at 53 Brookvale Road, achieving an appropriate level of integration with the surrounding public realm, and ensuring flood risk is suitably modelled and mitigated, there remains some potential that the proposed subdivision and development may adversely affect the maintenance and enhancement of amenity values and the quality of the environment.

**15.4 Section 8**

Section 8 of the RMA states that Council must take into account the Principles of the Treaty of Waitangi in relation to managing the use, development and protection of natural and physical resources. I am not aware of any Treaty of Waitangi principles triggered by the proposal.

**15.5 Part 2 Conclusion**

Whilst unresolved matters warrant further consideration to confirm the degree to which the proposal maintains and enhances amenity values and the quality of the environment (sections 7(c) and (f)), I am of the view that this application largely achieves the purpose of the RMA, being 'the sustainable management of natural and physical resources'.

**16.0 PARTICULAR RESTRICTIONS FOR NON-COMPLYING ACTIVITIES - s104D**

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

Assessment against the relevant provisions within this report concludes that the proposal is contrary to the objectives and policies of the District Plan as a whole. Further, the assessment of effects on the environment within this report concludes that the adverse effects of the activity on the environment may be more than minor.

Therefore, I am unable to conclude at this point in time, whether the proposal is able to satisfy one of the section 104D 'gateway' tests for a non-complying activity. Therefore, in my opinion, unless the Hearings Panel can be satisfied that adverse effects for 53 Brookvale Road, and unresolved matters in relation to integration of the proposed development with the public realm and engineering issues relating to stormwater management and flood risk, as outlined in the assessment of effects in Section 9 of this report, can be suitably addressed such that adverse effects on the environment can be deemed no more than minor, then resource consent cannot be granted.

**17.0 REFUSAL OF SUBDIVISION CONSENT IN CERTAIN CIRCUMSTANCES - s106**

Council may refuse to grant subdivision consent or may grant consent, subject to conditions, if it considers that there is a significant risk from natural hazards or sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.

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Section 106 requires a combined assessment of:

- a) The likelihood of natural hazard occurring (whether individually or in combination); and
- b) The material damage to land in respect of which the consent is sought, other land or structures that would result from natural hazards; and
- c) Any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen or result in material damage of the kind referred to in paragraph (b).

The site is identified by Council as being prone to flooding, and identified on the HB Hazards Portal as being located in an area of 'Low Risk' for flooding. As assessed in Section 9 of this report, the applicant has provided technical assessments from Envelope Engineering<sup>47</sup> assessing flood levels and flood modelling in the Karituwhenua Stream, confirming that the Karituwhenua Stream does not breach its banks in the event of a 1 in 100-year flood event with climate change adjustment, and offering the following:

- the vesting of a local purpose drainage reserve encompassing the Karituwhenua Stream and its banks;
- minimum floor levels for new dwellings;
- provision of a secondary overland flow path through the development; and
- keeping all new works above the top of the bank of the Karituwhenua Stream and not altering or earthworking the stream corridor.

However, unresolved matters do remain in relation to the lack of consideration of downstream boundary conditions in culvert calculations, the upstream catchment and overland flow path from Woodlands Drive and subsequent effects on Guthrie Park, in developing the flood model used for the Karituwhenua Stream, as well as internal overland flow paths and any retaining required in determining appropriate finished floor levels.

Overall, however, with appropriate measures in place and conditions of consent imposed (if granted), I consider there will be no 'significant' risk from natural hazards. I am also satisfied that sufficient provision has been made for legal and physical access to each allotment within the proposed subdivision from Brookvale Road.

## 18.0 CONCLUSION

I have assessed that, subject to imposing suitable conditions of consent, most adverse effects of the proposed activity on the environment can be appropriately avoided, remedied, or mitigated to be no more than minor, however, the following matters remain unresolved in terms of their potential environmental effects, which I consider have the potential to be more than minor:

- adverse effects on the privacy, amenity and visual amenity for 53 Brookvale Road;
- unresolved matters in relation to integration of the proposed development with the public realm e.g. consideration of an alternative edge lane layout and, if the current layout is retained, whether issues with the current built form and design quality, as well as fencing and landscaping, identified in the Urban Design Review can all be sufficiently addressed to balance 'public' and 'private' amenity objectives, and maintain and enhance the quality, safety, and visual amenity of surrounding public spaces;
- consideration of the installation of a kea crossing on Brookvale Road, installation of a concrete footpath along the full frontage of the development, and other measures addressing tree planting in proximity to streetlights, to ensure traffic generated by the proposed development can be safely absorbed and to mitigate any adverse effects of the proposed development on traffic and pedestrian safety;

<sup>47</sup> Pgs 5-7 of Stormwater Management Report (Envelope Engineering, dated 29 September 2023)

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- unresolved matters in relation to the proposed stormwater management strategy to confirm that stormwater is able to be suitably and appropriately managed on-site without downstream effects on neighbouring land; and
- unresolved matters in relation to the lack of consideration of downstream boundary conditions in culvert calculations, the upstream catchment and overland flow path from Woodlands Drive and subsequent effects on Guthrie Park, in developing the flood model used for the Karituwhenua Stream, as well as internal overland flow paths and any retaining required in determining appropriate finished floor levels.

I also note the Council's preference regarding avoiding the location of public infrastructure in private roads, in terms of ensuring ongoing accessibility for Council for maintenance and servicing purposes. This is a matter that would also benefit from further consideration prior to the hearing, as it may have implications for other matters above.

There would be some positive social and economic benefits associated with the proposed development in terms of a visual improvement on the current state of the site, and in terms of provision of additional housing.

I have concluded that the proposal is contrary to the relevant objectives and policies of the Hastings District Plan.

On the basis of the above assessment, I have concluded that the overall adverse effects of this proposal on the wider environment and on adjacent land and persons **may be more than minor**, and that the proposal is **contrary to** the relevant objectives and policies of the District Plan as a whole.

The proposal therefore may not be able to pass either of the 'gateway' tests under section 104D of the RMA and therefore may not be able to be considered for granting.

I note however, that if the adverse effects of the activity on the environment are able to be addressed such that they are no more than minor and the hearing panel is of a mind to grant consent, based on my assessment in Section 12 of this report in relation to precedent effects and plan integrity, I am satisfied that the site singly and uniquely differs from any other site in the Plains Production Zone and therefore, the proposal would not have the potential to set a precedent, and that granting consent would not directly challenge the integrity of the District Plan nor undermine public confidence in its consistent administration.

#### 19.0 RECOMMENDATION

Given the potential for adverse effects on the environment to be more than minor, I reserve making a recommendation on whether I consider consent should be granted or declined until I have heard evidence the Applicant and submitters may present at the hearing in relation to the unresolved matters.

Recommended by:



Rowena Macdonald  
Consultant Planner  
10 April 2024

Approved for release to the Hearings panel by:



Caleb Sutton  
Environmental Consents Manager  
11 April 2024