



**CENTRAL HAWKE'S BAY DISTRICT COUNCIL**

**Notification report pursuant to sections 95A – 95G of the Resource Management Act 1991 for:**

|                           |   |
|---------------------------|---|
| <b>RC Type:</b>           | Subdivision Consent RM210103  |
| <b>Applicants:</b>        | Springhill Farm Holdings  |
| <b>Valuation Number:</b>  | 1077009300 and 1077009203   |
| <b>Legal Description:</b> | Part Section 2 Block IV Ruataniwha BG1/1065; Section 10 Block IV Ruataniwha HBA2/1134; Lot 2 DP 395788 RT 382377. |
| <b>Location:</b>          | 1080, 1152 and 1200 State Highway 50 and 604 and 612 Wakarara Road, Ongaonga                                      |
| <b>Zone:</b>              | Rural (Central Hawke's Bay Operative Plan); Rural Production (Central Hawke's Bay Proposed Plan)                  |
| <b>Activity Status:</b>   | Controlled Activity   |

## **1.0 DESCRIPTION**

### **1.1 Introduction and Overview**

- 1.1.1 In April 2021, Springhill Farm Holdings ("the Applicant") applied for resource consent under the Resource Management Act 1991 ("RMA").<sup>1</sup> The application seeks resource consent to subdivide the subject property to create 312 separate lots for lifestyle residential purposes, with each lot to exceed the minimum lot size requirement in the Operative District Plan of 4,000m<sup>2</sup> ("the application"). The subject property is located at 1080, 1152 and 1200 State Highway 50 and 604 and 612 Wakarara Road, Ongaonga, being that land legally described as; Part Section 2 Block IV Ruataniwha Survey District held on Record of Title HBG1/1065 comprising an area of 176.1732ha; Section 10 Block IV Ruataniwha Survey District held on Record of Title HBA2/1134 comprising an area of 2,023m<sup>2</sup>; Lot 2 DP 395788 held on Record of Title 382377 comprising an area of 44.3915ha ("the subject property"). The parent properties therefore have a combined total area of 220.77ha.
- 1.1.2 This application seeks consent to subdivide the subject property to create 312 lots. The application also seeks an extended lapse period of 15 years to give effect to the consent (as opposed to the default 5 year lapse period), and proposes that subdivision occur over some 16 stages. The proposed lot sizes are set out in Table 1 below.
- 1.1.3 The application also seeks landuse consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("NESCS"). A Detailed Site Investigation ("DSI") has been completed<sup>2</sup> and has identified soils impacted by residual contamination from historic farm activities in the vicinity of proposed Lots 198 – 201 (Stage 14) and Lots 176 – 179 (Stage 15). These lots are in the

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<sup>1</sup> The application was lodged by Development Nous Ltd on behalf of the Applicant.

<sup>2</sup> *Detailed Site Investigation – Springhill Farm Lifestyle Development, State Highway 50, Ongaonga*, Geosciences Limited, 9 April 2021.



vicinity of a former sheep dip and farm sheds, and the application proposes the removal of the contaminated soils. This aspect of the application is subject to Regulation 10 of the NESCS and requires Restricted Discretionary Activity resource consent for both 'soil disturbance' and 'subdivision' of a piece of land subject to the NESCS.

**Table 1: schedule of proposed lots – As updated by the further information response of 5 August 2021**

| Lot    | Area (ha) | Lot     | Area (ha) | Lot     | Area (ha) | Lot     | Area (ha) |
|--------|-----------|---------|-----------|---------|-----------|---------|-----------|
| Lot 1  | 0.593     | Lot 157 | 0.584     | Lot 79  | 0.44      | Lot 235 | 0.658     |
| Lot 2  | 1         | Lot 158 | 0.619     | Lot 80  | 0.427     | Lot 236 | 0.655     |
| Lot 3  | 1         | Lot 159 | 0.745     | Lot 81  | 0.464     | Lot 237 | 0.643     |
| Lot 4  | 1         | Lot 160 | 0.712     | Lot 82  | 0.579     | Lot 238 | 0.475     |
| Lot 5  | 1         | Lot 161 | 0.859     | Lot 83  | 0.697     | Lot 239 | 0.404     |
| Lot 6  | 1         | Lot 162 | 0.864     | Lot 84  | 0.406     | Lot 240 | 0.447     |
| Lot 7  | 1         | Lot 163 | 0.675     | Lot 85  | 0.446     | Lot 241 | 0.526     |
| Lot 8  | 1         | Lot 164 | 0.612     | Lot 86  | 0.697     | Lot 242 | 0.48      |
| Lot 9  | 1         | Lot 165 | 0.795     | Lot 87  | 0.697     | Lot 243 | 0.482     |
| Lot 10 | 1         | Lot 166 | 1.1       | Lot 88  | 0.695     | Lot 244 | 0.482     |
| Lot 11 | 1         | Lot 167 | 0.717     | Lot 89  | 0.668     | Lot 245 | 0.482     |
| Lot 12 | 1.2       | Lot 168 | 1.5       | Lot 90  | 0.504     | Lot 246 | 0.477     |
| Lot 13 | 0.827     | Lot 169 | 1.1       | Lot 91  | 0.524     | Lot 247 | 0.467     |
| Lot 14 | 0.716     | Lot 170 | 1.3       | Lot 92  | 0.778     | Lot 248 | 0.461     |
| Lot 15 | 0.633     | Lot 171 | 1.2       | Lot 93  | 0.754     | Lot 249 | 0.461     |
| Lot 16 | 0.618     | Lot 172 | 0.526     | Lot 94  | 0.793     | Lot 250 | 0.46      |
| Lot 17 | 0.631     | Lot 173 | 0.461     | Lot 95  | 0.77      | Lot 251 | 0.569     |
| Lot 18 | 0.618     | Lot 174 | 0.52      | Lot 96  | 0.728     | Lot 252 | 0.63      |
| Lot 19 | 0.885     | Lot 175 | 0.555     | Lot 97  | 0.736     | Lot 253 | 0.814     |
| Lot 20 | 0.843     | Lot 176 | 0.593     | Lot 98  | 0.491     | Lot 254 | 0.81      |
| Lot 21 | 0.71      | Lot 177 | 0.568     | Lot 99  | 0.506     | Lot 255 | 0.663     |
| Lot 22 | 0.71      | Lot 178 | 0.582     | Lot 100 | 0.519     | Lot 256 | 0.569     |
| Lot 23 | 0.712     | Lot 179 | 0.619     | Lot 101 | 0.541     | Lot 257 | 0.577     |
| Lot 24 | 0.704     | Lot 180 | 0.639     | Lot 102 | 0.694     | Lot 258 | 0.575     |
| Lot 25 | 0.401     | Lot 181 | 0.636     | Lot 103 | 0.705     | Lot 259 | 0.436     |
| Lot 26 | 1.4       | Lot 182 | 0.73      | Lot 104 | 0.718     | Lot 260 | 0.428     |
| Lot 27 | 0.644     | Lot 183 | 0.463     | Lot 105 | 0.721     | Lot 261 | 0.411     |
| Lot 28 | 0.534     | Lot 184 | 0.435     | Lot 106 | 0.736     | Lot 262 | 0.447     |
| Lot 29 | 0.514     | Lot 185 | 0.444     | Lot 107 | 0.529     | Lot 263 | 0.58      |



|        |       |         |       |         |       |         |       |
|--------|-------|---------|-------|---------|-------|---------|-------|
| Lot 30 | 0.543 | Lot 186 | 0.443 | Lot 108 | 0.528 | Lot 264 | 0.569 |
| Lot 31 | 0.612 | Lot 187 | 0.482 | Lot 109 | 0.514 | Lot 265 | 0.526 |
| Lot 32 | 0.604 | Lot 188 | 0.432 | Lot 110 | 0.467 | Lot 266 | 0.526 |
| Lot 33 | 0.604 | Lot 189 | 0.438 | Lot 111 | 0.735 | Lot 267 | 0.516 |
| Lot 34 | 0.584 | Lot 190 | 0.434 | Lot 112 | 0.746 | Lot 268 | 0.517 |
| Lot 35 | 0.634 | Lot 191 | 0.447 | Lot 113 | 0.801 | Lot 269 | 0.517 |
| Lot 36 | 0.628 | Lot 192 | 0.416 | Lot 114 | 0.802 | Lot 270 | 0.517 |
| Lot 37 | 0.594 | Lot 193 | 0.449 | Lot 115 | 0.802 | Lot 271 | 0.454 |
| Lot 38 | 0.598 | Lot 194 | 0.474 | Lot 116 | 0.988 | Lot 272 | 0.453 |
| Lot 39 | 0.823 | Lot 195 | 0.57  | Lot 117 | 0.967 | Lot 273 | 0.473 |
| Lot 40 | 0.66  | Lot 196 | 0.544 | Lot 118 | 1     | Lot 274 | 0.698 |
| Lot 41 | 0.628 | Lot 197 | 0.6   | Lot 119 | 0.547 | Lot 275 | 0.533 |
| Lot 42 | 0.504 | Lot 198 | 0.863 | Lot 120 | 0.546 | Lot 276 | 0.569 |
| Lot 43 | 0.61  | Lot 199 | 0.627 | Lot 121 | 0.547 | Lot 277 | 0.51  |
| Lot 44 | 0.505 | Lot 200 | 0.628 | Lot 122 | 0.547 | Lot 278 | 0.453 |
| Lot 45 | 0.469 | Lot 201 | 0.598 | Lot 123 | 0.645 | Lot 279 | 0.708 |
| Lot 46 | 0.627 | Lot 202 | 0.593 | Lot 124 | 0.645 | Lot 280 | 0.688 |
| Lot 47 | 0.590 | Lot 203 | 0.636 | Lot 125 | 0.627 | Lot 281 | 0.519 |
| Lot 48 | 0.508 | Lot 204 | 0.445 | Lot 126 | 0.732 | Lot 282 | 0.487 |
| Lot 49 | 0.486 | Lot 205 | 0.408 | Lot 127 | 1     | Lot 283 | 0.528 |
| Lot 50 | 0.626 | Lot 206 | 0.418 | Lot 128 | 1.1   | Lot 284 | 0.462 |
| Lot 51 | 1     | Lot 207 | 0.46  | Lot 129 | 0.831 | Lot 285 | 0.414 |
| Lot 52 | 0.797 | Lot 208 | 0.454 | Lot 130 | 0.8   | Lot 286 | 0.515 |
| Lot 53 | 0.748 | Lot 209 | 0.541 | Lot 131 | 0.985 | Lot 287 | 0.517 |
| Lot 54 | 0.663 | Lot 210 | 0.55  | Lot 132 | 1.3   | Lot 288 | 0.53  |
| Lot 55 | 0.753 | Lot 211 | 0.54  | Lot 133 | 0.665 | Lot 289 | 0.556 |
| Lot 56 | 0.898 | Lot 212 | 0.506 | Lot 134 | 0.85  | Lot 290 | 0.464 |
| Lot 57 | 0.622 | Lot 213 | 0.459 | Lot 135 | 0.931 | Lot 291 | 0.457 |
| Lot 58 | 0.581 | Lot 214 | 0.424 | Lot 136 | 0.763 | Lot 292 | 0.492 |
| Lot 59 | 0.541 | Lot 215 | 0.51  | Lot 137 | 0.683 | Lot 293 | 0.554 |
| Lot 60 | 0.67  | Lot 216 | 0.553 | Lot 138 | 0.972 | Lot 294 | 0.58  |
| Lot 61 | 0.677 | Lot 217 | 0.439 | Lot 139 | 0.98  | Lot 295 | 0.5   |
| Lot 62 | 0.559 | Lot 218 | 0.483 | Lot 140 | 0.946 | Lot 296 | 0.443 |
| Lot 63 | 0.616 | Lot 219 | 0.505 | Lot 141 | 0.698 | Lot 297 | 0.537 |



|        |       |         |       |         |       |         |       |
|--------|-------|---------|-------|---------|-------|---------|-------|
| Lot 64 | 0.605 | Lot 220 | 0.492 | Lot 142 | 0.81  | Lot 298 | 0.462 |
| Lot 65 | 0.607 | Lot 221 | 0.463 | Lot 143 | 0.422 | Lot 299 | 0.464 |
| Lot 66 | 0.667 | Lot 222 | 0.414 | Lot 144 | 0.574 | Lot 300 | 0.411 |
| Lot 67 | 0.767 | Lot 223 | 0.492 | Lot 145 | 1.2   | Lot 301 | 0.453 |
| Lot 68 | 0.74  | Lot 224 | 0.443 | Lot 146 | 0.516 | Lot 302 | 0.544 |
| Lot 69 | 0.767 | Lot 225 | 0.453 | Lot 147 | 0.715 | Lot 303 | 0.479 |
| Lot 70 | 0.677 | Lot 226 | 0.583 | Lot 148 | 0.639 | Lot 304 | 0.504 |
| Lot 71 | 0.641 | Lot 227 | 0.639 | Lot 149 | 0.68  | Lot 305 | 0.537 |
| Lot 72 | 0.779 | Lot 228 | 0.451 | Lot 150 | 1     | Lot 306 | 0.47  |
| Lot 73 | 0.999 | Lot 229 | 0.439 | Lot 151 | 1.3   | Lot 307 | 0.493 |
| Lot 74 | 0.805 | Lot 230 | 0.704 | Lot 152 | 0.744 | Lot 308 | 0.511 |
| Lot 75 | 0.802 | Lot 231 | 0.483 | Lot 153 | 0.818 | Lot 309 | 0.593 |
| Lot 76 | 0.802 | Lot 232 | 0.491 | Lot 154 | 0.648 | Lot 310 | 0.53  |
| Lot 77 | 0.51  | Lot 233 | 0.717 | Lot 155 | 0.589 | Lot 311 | 0.522 |
| Lot 78 | 0.493 | Lot 234 | 0.759 | Lot 156 | 0.597 | Lot 312 | 0.408 |

- 1.1.4 The site description included in the supporting Assessment of Environmental Effects ("AEE")<sup>3</sup> is adopted and, for convenience, is summarised as follows. The site occupies the northwestern area of the junction of Wakarara Road and State Highway 50 ("SH50"), Ongaonga. The site presents a frontage of approximately 1.9km to SH50 and 1.08km to Wakarara Road. Two of the existing lots form a roughly rectangular area, and the third lot extends westward from the main lot set back approximately 240m from the Wakarara Road frontage and is accessed by an access leg.
- 1.1.5 The site is currently used for pastoral farming, including sheep and beef grazing. Two existing dwellings with associated curtilage are contained within the large title area of HBG1/1065, each positioned in proximity of the state highway frontage. A cluster of rural buildings are located adjacent to the northwestern boundary of the property also separately accessed from SH50. See Figure 1 below for an outline of the site and surrounding area.
- 1.1.6 The comparatively small area of HBA2/1134 is held as pasture as part of the larger holding. The western lot, held in 382377, is productively utilised as pasture and divided into paddocks. Assorted rural buildings are located at the southern end of the main body of that property. Land in the wider surrounding area is utilised for rural purposes. While this is predominantly for pastoral sheep and beef farming, orchard and cropped areas with associated irrigation systems are also scattered throughout the area.

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<sup>3</sup> AEE at pages 3 and 4.



**Figure 1: Site and surrounding area. Source Central Hawkes Bay GIS Rural Imagery 2015.**

- 1.1.7 Consistent with the wider pattern, a variety of rural uses surround the site, including an apple orchard that occupies land on the eastern side of SH50, cropping land to the west and a piggery fronting Wakarara Road to the west.
- 1.1.8 From the junction with SH50, Wakarara Road extends approximately 27km westward accessing a catchment of rural land spreading to the base of the Ruahine Forest Park. Wakarara Road extends 4.7km eastward from SH50, to Ongaonga Road, providing an east-west connection to Waipawa and State Highway 2. The intersection of the east and west lengths of Wakarara Road and SH50 are offset by 40m. SH50 provides an alternative route from State Highway 2 at Takapau through to Hastings and Napier, passing through Ashley Clinton, Ongaonga, Tikokino and Maraekakaho. As shown in Figure 2 below, the site is located between the rural settlements of Ongaonga (4.7km from the existing house at 1200 SH50) and Tikokino (6.9km from the existing house at 1200 SH50). Beyond these immediate townships, the site is located in proximity of the larger rural service centres of Waipukurau and Waipawa being 20.4km and 19km from the property at 1200 SH50 respectively.





Figure 2: Larger surrounding area. Source: CHBDC Intramaps.

## 2.0 FURTHER INFORMATION – SECTION 92

### Further information request of 3 June 2021

2.1 On 3 June 2021, the Council requested further information from the Applicant in respect of the subdivision application. The request specifically sought further information on eight (8) matters:

#### 2.1.1 *Application Details*

- a. The relationship of the Applicant to the owners registered on the respective records of title.
- b. Confirmation of additional resource consents required under the Hawke's Bay Regional Resource Management Plan or any national environmental standard.
- c. Confirmation of the sizes of Lots 101 – 110.

#### 2.1.2 *Geotechnical Information*

Either an annotated subdivision scheme plan and relevant staging plan(s) identifying any area where farm dumping has been identified so that a consent notice condition can be applied to the relevant lots identifying the hazard, or detail how the farm dump(s) is to be remediated with the removal of un-engineered fill and replacement with engineered fill.

#### 2.1.3 *Transportation*

- a. The written approval of Waka Kotahi.
- b. An assessment of the appropriateness of street lighting in providing for the safety of the future transportation network.
- c. An assessment of whether jointly owned access lanes ("JOAL") 426 and 427, 416 and 417, and 405 and 407 would be more appropriately connected with each other as local roads.



**2.1.4 Subdivision Design**

Provide an assessment against Subdivision Assessment Matters 14.6(2) Subdivision Design and 14.6(6) Stormwater Disposal, with consideration of the two ephemeral watercourses and whether the subdivision design should be changed to better meet these criteria, including an opportunity to provide a local purpose reserve.

**2.1.5 Natural Hazard Flooding Effects**

With consideration to a 1:100 year storm event, provide an assessment of:

- a. The potential wider overland flood plain and streams through the site to understand the flood extents, erosion hazards/stability, appropriate buffers or margins to the existing watercourses along with any stream diversions that are required, and any on-going access for maintenance that should be included. Consideration should be given to climate change and potential future for more frequent storm events and potential for increasing erosion and movement of the stream.
- b. Proposed post-development flow paths through the development.

**2.1.6 Stormwater Effects**

Provide:

- a. The proposed design standard for the design of on-site soakage/storage systems for individual lots, private access ways and proposed public roads with typical example sizing for on-site storage/soakage approach based on conservative soakage rates. This is expected to be a minimum volume/area required for storage/soakage from say a 100m<sup>2</sup> of impervious surfaces (roofs, hardstand, roads).
- b. The maintenance provisions for private access swales and soakage systems, along with on-site stormwater storage/soakage systems.

**2.1.7 Wastewater Effects**

Due to the scale of the development and the rapid permeability of some sub-soils, especially for the northern half of the development area, provide:

- a. A simple 3D model for the groundwater at the site considering any stream interfaces or downgradient groundwater abstractions. The assessments are required to determine the minimum level of treatment to be provided from on-site systems prior to discharge to land, to mitigate potential impacts on groundwater from pathogens or nutrients.
- b. Example site layouts for the smaller lots with watercourses through them to demonstrate that the various on-site services can be accommodated within the proposed lots, providing for separation from boundaries, water courses, buildings and stormwater soakage areas.

**2.1.8 Reverse Sensitivity Effects**

Provide an explanation of how potential reverse sensitivity effects are to be mitigated.

**2.2 Further information response of 5 August 2021**

**2.2.1** This further information response consisted of several documents sent via email from Development Nous on behalf for the applicant and is summarised as follows:

- a. Cover letter providing a structured response to each item of information requested and referring to the other reports and documents provided below in b) – g) as necessary;
- b. Waka Kotahi NZTA noise exposure buffer zone, Drawing H20210003-C100 (setback plan);
- c. Waka Kotahi NZTA letter providing conditional approval for the proposal;



- d. Draft Contaminated Soils Remediation Action Plan (RAP) by Geosciences Limited<sup>4</sup>;
- e. Engineering Services Master Plan (July2021 \_V2) by Development Nous;
- f. Overland Flow Path Diversion Plan/Southern Drain Diversion and Lot Development Plan (19 July) by Development Nous; and
- g. Staged Scheme Plan Set (revised 21.07.21) by Development Nous.

2.2.2 Further supporting information was also received from Development Nous in the form of a letter dated 26 August 2021. This letter covered a range of matters, including matters arising at a public meeting.

2.2.3 The further information response cover letter dated 5 August 2021 provided the information summarised below:

*Application Details*

- a. "... the registered owners of the respective lots are:
- Record of Title HBG1/1065 Sandra Ellmers Family Trustee Limited
  - Record of Title HBA2/1134 Ellmers Family Trustee Limited
  - Record of Title 382377 Ellmers Family Trustee Limited
- ... The application is submitted in the name of Springhill Farm Holdings, which is the Ellmers' entity that will be utilised to implement the development."

b. "...the stormwater discharge from the development to be classified as a permitted activity, subject to detailing of flow rates. The realignment (diversion) now proposed to the southern overland flow path will require resource consent triggered due to the related catchment area. The bridging of the main drain will also require consent triggered due to the catchment area. The road crossings are expected to qualify for the specified infrastructure exclusion of the NES FW and the JOAL crossings should meet the permitted activity requirements of the NES FW."

c. "As detailed on the submitted staged scheme plans, the size of the lots omitted from the table are:

| Lot 101 | Lot 102 | Lot 103 | Lot 104 | Lot 105 | Lot 106 | Lot 107 | Lot 108 | Lot 109 | Lot 110 |
|---------|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| 0.541ha | 0.694ha | 0.705ha | 0.718ha | 0.721ha | 0.736ha | 0.529ha | 0.528ha | 0.514ha | 0.467ha |

The revised lot sizes of the amended lots referenced in the introduction to this letter are: Lot 44 –5050m<sup>2</sup>, Lot 45 –4690m<sup>2</sup>, Lot 46 –6270m<sup>2</sup>, Lot 47 –5900m<sup>2</sup>, Lot 48 –5080m<sup>2</sup>, Lot 49 –4860m<sup>2</sup> and Lot 50 –6260m<sup>2</sup>".

*Geotechnical Information*

The fill content of the farm dump will be excavated and exported to a suitable accredited receiving facility. The resulting void will be backfilled with engineered fill. This reinstatement will be certified by both contamination and engineering professionals."

*Transportation*

- a. Waka Kotahi

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<sup>4</sup> This RAP was not a matter covered in the section 92 letter, but provision of a RAP was separately requested.





A letter dated 8th July 2021 from Waka Kotahi NZTA to the Applicant was provided as part of the response to the section 92 request. This letter states that the effects of the proposal on SH50 can be adequately managed subject to ten (10) conditions and that written approval is provided on the basis of these conditions, as well as three advice notes volunteered by the Applicant as part of the application.

Associated with the conditional written approval letter above is plan 20210003-NZTA-C100, which is submitted to form part of the application and outlines development setbacks adjacent to the highway as a noise buffer for future occupiers.

The Development Noun section 92 response cover letter dated 5 August 2021 confirms that: The conditions and advice notes included in the letter from Waka Kotahi NZTA dated 8<sup>th</sup> July are *"added to the scope of the application to address the above matters and to secure further NZTA safety and operational requirements"*<sup>5</sup>.

#### b. Street Lighting

The response states the absence of proposed street lighting is intentional and is to maintain rural character and to remain consistent with most rural areas across the district, and will not compromise safety given the lower speed environment within the subdivision (compared to most other roads in the district):

*"To address the specific concern regarding the illumination of road junctions, the detailed engineering design of the development will include street lighting to these points. This is a matter that could be readily secured by way of a planning condition, and we would welcome this approach."*<sup>6</sup>

#### c. Road Connection

The response states the use of multiple cul de sacs is desirable to promote the use of "the wider road circulation pattern in the interests of purposefully avoiding a more intensive residential grid road layout and creating a more rural character within the development. The road pattern is described as *"entirely consistent with the Central Hawke's Bay District Plan standards"*.

#### *Subdivision Design*

##### a. Ephemeral stream

The response states the proposed subdivision has been amended to better address the southern drain (ephemeral stream).<sup>7</sup> It also outlines that flow in this ephemeral stream will be intercepted where it enters the site from "Lot 1 DP 395788, and directed to the main drain by way of formed swales crossing lots (from west to east) 45 and 46, 50 and 38 and 39. The swale will benefit from necessary easements to CHBDC. Shown on plan H2021003 Springhill Overland Flow Path Diversion Plan.

##### b. Subdivision assessment matters under Rule 14.6

The response states that the:

*"Two drains are dry for the majority of the year and in the absence of continuous flow, do not form a traditional stream environment. They do not present an attractive environment or a natural appearance. Forming a walkway or cycleway over the lots adjoining the drains would be similar to forming this over general rural land of a lot."* The response also states

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<sup>5</sup> Development Noun section 92 response, Cover letter dated 5 August 2021, Page 3.

<sup>6</sup> Development Noun section 92 response, Cover dated 5 August 2021, Page 5.

<sup>7</sup> Development Noun section 92 response, Cover letter dated 5 August 2021, Page 6.



*"The general trigger for the formation of such a walkway is the esplanade provisions of the Act. These provisions are not triggered by this scheme. The Central Hawke's Bay District Plan Maps identify the waterways where esplanade reserves or esplanade strips will be sought by the Council. The drain passing through the site is not identified for esplanade provision."*

c. The provision for and practicality of using natural stormwater channels and wetland areas:

*"The development will utilise the natural stormwater channel of the principal drain and will retain an open swale form for the realigned minor drain. The site does not contain any wetland areas, and the prolonged dry season would compromise the ability to maintain the flora of a constructed wetland."*

#### *Stormwater Disposal*

d. The ability to retain open natural waterway systems for stormwater disposal in preference to piped or canal systems and any adverse impacts on existing waterways.

*"As above, the development retains open stormwater channels. ...Water will be collected from impervious roof areas for domestic use, and surplus and other controlled stormwater within lots will be directed to ground soakage."*

*"Appropriate easements are proposed for the drains."*

*"As set out in the accompanying revised Engineering Services Master Plan document, the impacts of increased impervious surface within the application site can be readily mitigated through onsite measures. Accordingly, a local purpose reserve is not necessary to be provided as a public utility for stormwater ponding or other stormwater mitigation."*

#### *Natural hazard flooding effects*

The response states the site *"is not known to be subject to a risk of flooding, is not known to have been affected by historic flooding events and does not exhibit signs of a risk of flooding."*

It also refers to the Engineering Services Master Plan document<sup>8</sup> which has been provided as part of the response to further information, and which calculates pre and post development stormwater. This is referred to for specific natural hazard flooding information requested:

a. Wider catchment

*"Section 3.3 of the Engineering Services Master Plan document provides an assessment of the stormwater potential of the wider catchment area."*<sup>9</sup>

b. Development flows

*"Post development run off flows are calculated in the Engineering Services Master Plan document and a proposed development surface and swale arrangement are also presented."*

#### *Stormwater*

The covering letter to the response addresses stormwater matters by primarily referring to the revised Engineering Services Master Plan document.

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<sup>8</sup> Document H20210003-ESMPR, July 2021\_V2 by Developments Nous

<sup>9</sup> Development Nous section 92 response, Cover letter dated 5 August 2021, Page 7.



a(i) On-site soakage design standard

*"Section 3.1.2.7 of the revised Engineering Services Master Plan document provides a typical sizing calculation for soakage/storage design. The large rural size of the proposed lots ensures that such storage can be readily accommodated on the sites."*<sup>10</sup>

a(ii) Swale maintenance

*"Section 3.2 and Appendix E of the revised Engineering Services Master Plan provide standard swale maintenance guidance. These are commonly utilised stormwater controls and no specific problems or system vulnerabilities are evident."*

*Wastewater*

*"A simplified 3d model for the catchment would be of negligible value for assessment given the inherent coarse spatial and temporal discretisation. The engineering review has described the waterway through the site as a stream, and suggests the requirement for further assessment of groundwater impacts on the basis of concern of groundwater feeding the waterway. As the drain is shallow and the flow is dependent on seasonal events, groundwater interaction is unlikely."*

*The individual domestic discharges will be subject to the detailed and specific discharge requirements of the Hawke's Bay Regional Resource Management Plan (HBRRMP), which is the correct assessment forum for consideration of wastewater discharge. While the interrogation of cumulative effects is understood, the HBRRMP provides a discharge to area limitation to consider the impacts of cumulative discharge. The specified area to discharge volume ratio provides for the secondary treated domestic discharge of up to 13 persons on even the smallest lot of the subdivision, providing an indication of the regulated capacity of the land to accommodate the required domestic discharge. The total domestic discharge from the site is obviously minor in relation to discharges arising from an alternative dairy farming use of the property."*

A subsequent letter was received from Development Nous on 26 August 2021 providing further supporting information including offering the following condition:

*"Details of on-site wastewater treatment to a tertiary level, achieved through UV or similar means of disinfectant, shall be provided with any application for building consent for a habitable building on the Lot. The tertiary treatment system shall be installed in accordance with the submitted details and maintained in good working order thereafter."*

*"Sample layouts of development and related infrastructure on lots within proximity of the southern drains is provided on the southern drain realignment plan. This plan details the lots readily accommodating large houses of 300m<sup>2</sup> with associated 72m<sup>2</sup> garages and two 4m diameter water tanks. The rural sites offer significant flexibility to accommodate built development and required effluent fields."*

*Reverse Sensitivity*

The response states *"no complaints covenants can be imposed on the lots backing onto the western and northern site boundaries, adjoining rural activities. Such a covenant would apply to lots 1, 45 – 47, 132 – 136, 138 – 142, 144 – 148, 150, 151, 153 – 166, 168 – 170 and 312."*

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<sup>10</sup> Development Nous section 92 response, Cover letter dated 5 August 2021, Page 8.



The following additional comments were added in the further response dated 26 August 2021: *"The s92 request from the Council raised the issue of reverse sensitivity and the Applicant has confirmed the acceptance of the imposition of a no complaints covenant on the lots backing onto the western and northern site boundaries, adjoining rural activities. Given the size of the lots backing onto the boundary, it is unlikely that the covenant would need to be applied to any further lots."*

Further response in the matter of reverse sensitivity is included in an e-mail from Development Nous dated 24 November 2021. This response refers to ongoing discussions with the orchard property on the opposite side of SH50 in regard to a frost fan with the intention of offering restrictions on house placement and design to limit the potential for future occupiers to experience adverse noise effects. The e-mail advises that *"it is likely that the existing Waka Kotahi derived noise attenuation condition (requiring 40 dB L Aeq (24) internal environment within 70m of edge of state highway seal) will provide suitable mitigation to protect living standards."*

2.3 Request to commission report on potential cumulative effects of wastewater disposal and for additional information

Following review of this further information, the council sent a letter to the Applicant's agent on 16 September 2021 advising of its intention pursuant to section 92(2)(b) to commission a report from Pattle Delamore Partners ("PDP") on the potential cumulative effects of the required on-site wastewater systems. The letter also requested additional further information from the Applicant regarding the matters listed above. This additional request arose out of a meeting of concerned residents and peer review comments on the 5 August 2021 response. A response to these matters was received by e-mail from the Applicant's Agent on 7 October 2021, and the relevant aspects of the response are summarised under each heading below in italics.

2.3.1 *Demand on Aquifer*

The applicant was asked whether they would agree to offer a condition for a consent notice to be applied to each of the proposed lifestyle residential lots preventing any water supply from ground water extraction from that lot.

7 October response: The response stated as roof water supply is required most new owners are unlikely to also pay for the installation of a bore and compare likely domestic takes against the volumes permitted by surrounding bores. The following conclusion is made: *"On the basis of the insignificance of the volume of potential groundwater extraction of the development against the existing consented (and permitted activity status) groundwater extraction, and the fall back restriction of Condition c of Rule 53 of the Regional Resource Management Plan, we do not propose the imposition of a consent notice restriction preventing groundwater extraction."*

2.3.2 *Firefighting Water Supply*

The Council requested that the Applicant provide advice from FENZ as to whether any additional facilities are required for firefighting purposes, over and above the standard individual requirements at the time of individual building consents.

7 October response: The response attached correspondence with Bob Palmer of Fire and Emergency Management New Zealand and provided the following conclusion: *"As shared firefighting water storage is not an effective solution for the large lots of the development, we will*



*continue with the firmer requirement for 4509:2008 compliance. Mr Palmer has not stated the requirement for any further firefighting infrastructure to be provided within the development."*

#### 2.3.3 *Street Lighting and Footpath Provision*

The Council explained that its engineering peer reviewers disagreed with the proposal to only provide streetlighting at intersections and to provide no footpaths and further comment was invited on these matters.

7 October response regarding street lighting: *"As previously set out, we welcome a condition requiring the provision of street lighting to road intersections within the development. We have considered this matter and our position is based on the balance between road safety and the creation of a suburban glow within a rural setting. If additional lighting is proposed, we would require further justification of this from Council's engineering consultant..."*

7 October response regarding footpaths: *"I can confirm that the development does not propose the inclusion of lime sand footpaths, consistent with the amended plan submitted 09 September 2021."*

#### 2.3.4 *Draft Remediation Action Plan*

The comments of the Council's peer reviewer were attached for the Applicant's information. The letter to the Applicant also communicated the expectations regarding a final Remediation Action Plan following additional testing.

### 2.4 Reports on the potential cumulative effects of wastewater disposal

#### 2.4.1 *Freeman Cook Report*

Rather than agree to the commissioning of a report on the potential cumulative effects of the onsite wastewater discharges from 312 lots, the Applicant provided its own report on this matter from Professor Freeman Cook, titled: *'Loading from On-Site Wastewater Management and Cumulative Effects Springhill Subdivision Evaluation Report'*, dated 24 September 2021. The conclusions of this report are set out as follows:

*"This report considers the hydraulic, nutrient and bacteriological loading to the Springhill development. The results suggest that:*

- 1. There is unlikely to be any impact of the onsite wastewater disposal to surface or groundwater by subsurface drip irrigation (SDI), beds or trenches.*
- 2. The nutrient loading indicates that phosphorus would accumulate in the disposal areas where beds and trenches were used but SDI would not cause an increase in nutrient loading compared to the present landuse.*
- 3. The bacteriological loading showed that the total load to the site would be greatly reduced by the change from cattle grazing to housing but the intensity of loading in the wastewater SDI areas would be double that of the present land use. Thus, tertiary treatment (disinfection) to decrease any risk is considered worthwhile.*
- 4. It is recommended that subsurface drip irrigation be used and that the wastewater be filtered and disinfected before discharge. This will result in no cumulative impacts to the land and is likely to improve the groundwater compared to the present land use of cattle grazing."*

#### 2.4.2 *PDP Peer Review Report*

On behalf of the Council, PDP provided a peer review of the Freeman Cook Report dated 11 November 2021. The PDP report draws the conclusions set out as follows:





*"Overall, based on the information provided and acknowledging that there will be nitrogen leaching occurring from the current agricultural land use, we consider that, provided the discharges occur as described, the cumulative effects of nitrogen leaching from the wastewater discharges on the existing groundwater and surface water environment are likely to be less than minor. However, there is uncertainty in the current leaching from the site and we have some concerns on whether the systems will be maintained and operated as proposed (with regular mowing and removal of grass, which is a "cut-and-carry" system). Therefore, there is potential for the effects to be greater (minor or more than minor).*

*Provided the systems are installed as proposed with secondary treatment and UV treatment discharging to drip-line irrigation with regular maintenance, we consider that the cumulative effects of microbial leaching from the wastewater discharges on the existing groundwater and surface water environment would be less than minor.*

*In the short-term, phosphorus losses are unlikely to be a significant issue based on the wastewater systems and cut-and-carry operation proposed, although there is greater potential for run-off or lateral flow on the Mangatawai soils, which could have the potential to result in more than minor adverse effects. Over time, there is the potential for phosphorus levels to increase in the soils for all three soil types due to the relatively high loading rate compared to plant uptake, which could lead to more than minor adverse cumulative effects."*

- 2.4.3 In its report, PDP then goes on to set out a series of measures that could be undertaken to mitigate the potential adverse cumulative effects of wastewater discharges so ensure that they are no more than minor. As a territorial authority, it is not within the jurisdiction of the Central Hawke's Bay District Council to manage the effects of discharges. Rather, under section 30(1)(f) of the RMA, this is a function of regional councils.

2.4.4 *Freeman Cook Reply*

A response to the PDP report was received from Development Nours on 24 November 2021. The response, that was ultimately prepared by Professor Freeman Cook, sets out the following conclusions:

*"Even with assumptions that decrease nutrient losses, the conclusion is that the wastewater disposal for the Springhill Development will be less polluting than the present land use.*

*The suggestions that the Springhill Development could have an effect on groundwater quality are only arrived at by making some dubious assumptions that no attenuation in the vadose zone and aquifer of nutrients occurs.*

*The suggestions that the Springhill Development could have an effect on surface water quality require an assumption that the groundwater during low flows will enter the Kahahakuri stream and/or the groundwater will flow back from the Waipawa River. Neither of these assumptions hold weight as the Waipawa River loses water to the groundwater a distance downstream from the Springhill Development and attenuation of the nutrients will occur in transit through the groundwater.*

*The recommendation to lower the application rate on the Mangatawai soils is without merit and should not be implemented.*

*I agree with the conclusion that bacteriological risk is less than minor.*

*The report by Cook (2021) was at the level of the whole Development and recommendation of individual systems is not appropriate. However, some of the systems will have lower nutrient concentrations in the wastewater which mean the both the reports of Boam (2021) and Cook (2021) will overestimate offsite effects of the Springhill Development for such systems.*



## 2.5 Amended Subdivision Scheme Plan

The following plan is the latest version of the subdivision scheme plan provided by Development Nous on 9 November 2021.

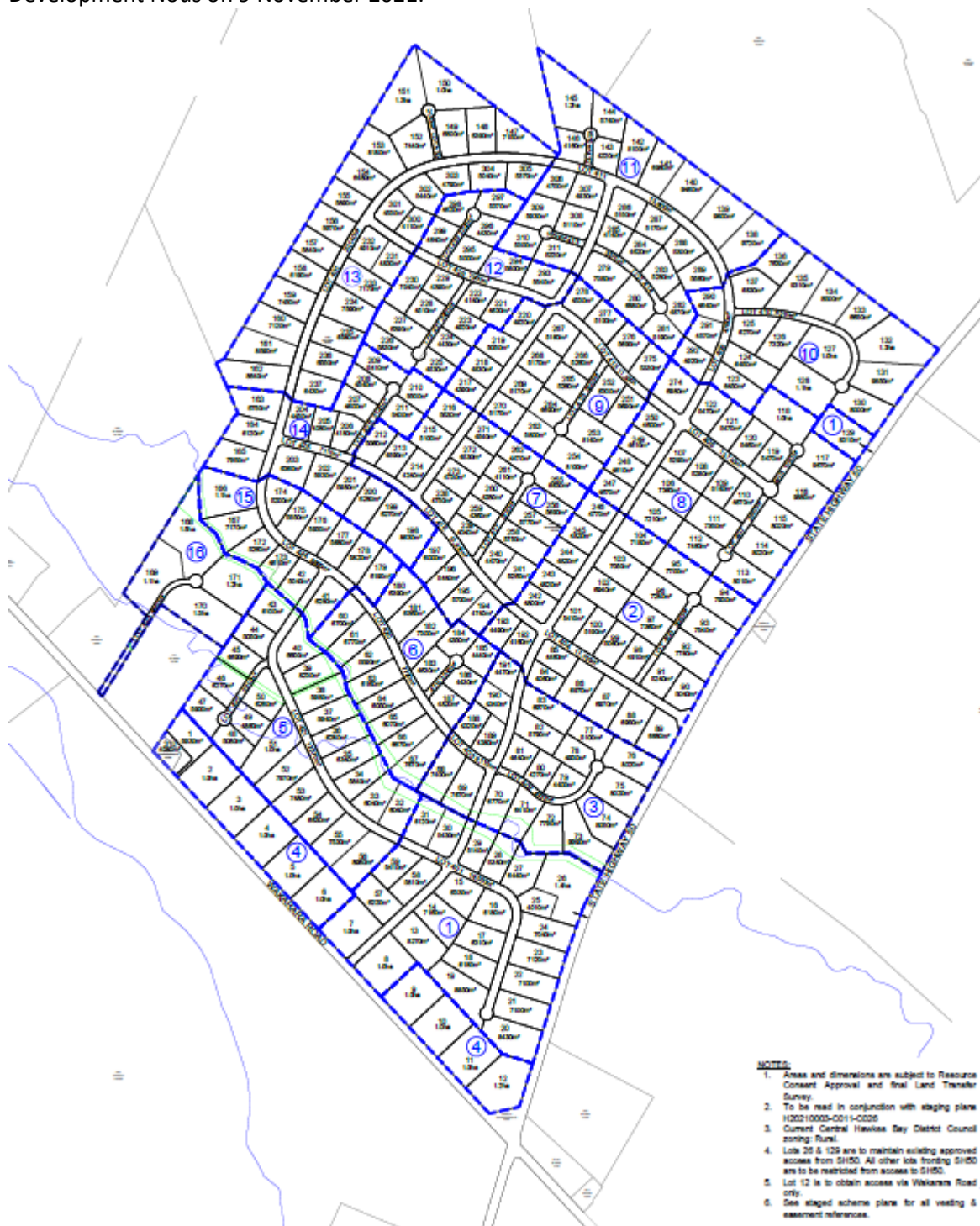


Figure 3: Subdivision Scheme and Staging Plan – Source: Development Nous 9 November 2021

## 3.0 DISTRICT PLAN STATUS

3.1 The relevant District Plan is the Central Hawke's Bay District Plan ("ODP" or "District Plan") which



became operative on 27 July 2000. The subject site is in the Rural Zone. The Central Hawke's Bay Proposed District Plan ("PDP") was notified on 28 May 2021 (i.e. after the application was lodged on 19 April 2021, and subsequently accepted for processing) and is therefore not relevant to the determination of the activity status of this application.<sup>11</sup>

- 3.2 Rule 9.9.3(a) of the ODP provides for subdivision as a Controlled Activity in all zones, provided compliance with all Subdivision Performance Standards is achieved. The relevant standards are set out and assessed in Tables 2 (Subdivision Chapter) and 3 (Transport Chapter) below.

**Table 2 – District Plan Subdivision Performance Standard Assessment**

| Standard 9.10               | Standard   | Comment  |
|-----------------------------|--|--|
| a. Lot Size                 | No lots created by subdivision consent, including balance titles shall be less than the minimum specified in the table – Rural Zone 4,000m <sup>2</sup><br><br><u>Access, Utilities, Roads and Reserves</u><br>Notwithstanding the above, there shall be no specified minimum lot sizes for lots for access, utilities, reserves and roads | As per Table 1 above, all proposed lots are greater than 4,000m <sup>2</sup> , with the smallest being Lot 25 at 4,010m <sup>2</sup> .<br><br>The joint access ways are not subject to the minimum lot sizes.<br><br><b>Complies</b> |
| b. Road Widening            | Where the existing frontage road is subject to a road widening designation, provision shall be made to enable the Council to acquire such land...  | The site is not identified with a road widening designation.<br><br><b>N/A</b>   |
| c. Water Supply             | All new lots, other than lots for access, roads, utilities and reserves, shall be provided with a connection to a Council reticulated water supply (where available) and shall be laid to the boundary of the net area of the lot.   | No Council reticulated water supply is available.<br><br>Water supply is proposed by roof water collection and storage.<br><br><b>Complies</b>   |
| d. Sanitary Sewage          | All lots in the Residential and Business Zones other than lots for access, roads, utilities and reserves, shall be provided with a piped sewage outfall ... This rule shall also apply to Township Zones which have an existing reticulated disposal system.   | This standard does not apply to the Rural Zone.<br><br>Individual onsite wastewater disposal systems are proposed to service each lot.<br><br><b>N/A</b>   |
| e. Protection of Vegetation | Any notable trees, listed in Appendix B, shall be preserved and a Consent Notice shall be registered requiring continual preservation as an ongoing condition for approval to the lot containing such trees.   | There are no notable trees listed in Appendix B on the subject site.<br><br><b>N/A</b>   |
| f. Lot                      | Lot minimum dimensions shall be such that  | The size of each lot is such   |

<sup>11</sup> RMA Section 88A.



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| Dimensions         | <p>they can accommodate a 15x17m rectangle.</p> <p>Lot minimum dimensions shall not apply in any zone for lots for access, utilities, reserves and roads.</p>  | <p>that these minimum dimensions are easily accommodated.</p> <p><b>Complies</b></p>  |
| g. Property Access | <p>i. Every lot shall have a frontage to an existing road or to a new road to be provided by the owner which will give vehicular access to that lot from a road.</p> <p>ii. This access may be directly to a road, or to a road by way of a Vehicle Access Lot.</p> <p>iii. Where a lot has direct vehicle access to a road then vehicle access shall be subject to the vehicle access provisions set out in Chapter 8:Transport Rules, as they apply.</p> <p>iv. Where a lot does not have direct vehicle access onto a road and the subdivision is creating only one new lot, the following shall apply:...</p> <p>a vehicle access leg with a minimum legal width of 4.0m and a minimum formed width of 3.5m shall be provided which ensures that the site has direct vehicle access to a road,...</p>  | <p>The subdivision scheme plan proposes that every lot either has direct frontage and access to an existing road (Wakarara Road or SH50) or to the proposed new internal road network either directly or via an access lot.</p> <p>Only 1 access leg is proposed, to Lot 136 and it has a minimum width of 5m.</p> <p><b>Complies</b></p> |
|                    | <p>v. If the subdivision is creating more than one lot, the following shall apply</p> <p>c. If the subdivision is in the Rural Zone and if the subdivision is for residential activities then:</p> <p>1. If the vehicle access to the road has to serve 2 to 4 residential units each lot shall have direct vehicle access to a vehicle access lot with a minimum legal width of 6.0m and a minimum formed width of 3.5m. A turning area is required.</p> <p>2. If the vehicle access to the road has to serve 5 to 10 residential units each lot shall have direct vehicle access to a vehicle access lot with a minimum legal width of 6.0m and a minimum formed width of 5.0m. A turning area is required.</p> <p>3. If the vehicle access to the road has to serve more than 10 residential units, direct vehicle access for each allotment shall be</p> | <p>The proposed vehicle access lots have a width of 15m and a turning area; except for Lot 423 serving Lots 168 – 171 which has a width of 12m and a turning area.</p> <p>The maximum number of lots served by a vehicle access lot is 10 (Lot 402).</p> <p><b>Complies</b></p>   |



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|  | directly to a road.   |  |
| h. Construction Standards for Private Vehicle Access | <p>All private vehicular access, access legs and access lots to fee simple title lots, cross leases, unit titles or leased premises shall be in accordance with the following standards:</p> <p>i. Vehicle Crossings to all lots and to all vehicle access lots shall be provided in terms of the Transport Rule 8.5.2(a) and (b).</p> <p>ii. All formed and drivable surfaces on a lot with direct access to a sealed road and any vehicle crossing shall be provided in terms of the Transport Rule 8.5.2(c).</p> <p>iii. Where a private vehicular access serves lot(s) within a Residential, Township or Business Zone, the vehicle access a...</p> <p>iv. Where a private vehicular access serves lot(s) within the Rural Zone and has access onto a metalled road, the vehicle access ...</p> <p>v. Where a private vehicular access serves lot(s) within the Rural Zone and has access onto a sealed road, the vehicle access and its carriageway shall be:</p> <p>a. formed to an all weather surface, and;</p> <p>b. the first 5.0m along the access into the site shall be formed and finished with an all weather dust free surface, and;</p> <p>c. they both shall be drained to the satisfaction of the Council.</p> | <p>Assessment against the standards in the Transportation Rules is provided in Table 3 below.</p> <p>The formation of the vehicle accesses as referred to in this standard will be able to be conditioned to ensure compliance with the standard.</p> <p><b>Will comply</b></p>  |
| i. Construction Standards for Roads                  | <p>All new roads, required to be provided under rule 9.10 (g) above, shall be:</p> <p>i. laid out and vested in the Council; and,</p> <p>ii. formed and sealed; and,</p> <p>iii. be in accordance with the standards set out in the following road construction standard table (<i>as abbreviated</i>)</p> <p>ALL ROADS AND PRIVATE ROADS EXCEPT FOR STATE HIGHWAYS</p> <p>Fronting Rural Zones:</p> <p>Road Width: 15 – 20m</p> <p>Carriageway Width: 6.2 – 7.5m</p> <p>Kerb and Channel: Nil</p>  | <p>The proposed roads all have a legal width of 20m and 6.5m carrigaeway width in compliance with the Rural Zone standards.</p> <p>Footpaths were proposed in the application as lodged but have subsequently been withdrawn with the revised plans in the further information response. Footpaths are not required in Rural Zones to achieve compliance with this standard.</p> |





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|  | <p>Footpaths: Nil</p> <p>iv. Footpaths shall be ...</p> <p>v. Cul-de-sacs in the Residential, Rural and Township Zones shall be constructed with 18m turning head diameters, measured kerb face to kerb face, where there is provision for on-street parking.</p> <p>vi. If a corner lot is included in any subdivision, the corner at the road intersection shall be splayed with a diagonal line reducing each boundary by at least 6m from the corner in a Rural, Township, or Residential Zones ... The corner rounding or splay shall be vested in the Council.</p> <p>vii. All new roads vested upon subdivision of land shall be given distinctive names not already in use with the area covered by the District Council. The name shall be agreed to by the Council.</p> <p>viii. Where any new road or road extension is to be vested in the Council or a named private access is provided, the applicant shall pay to the Council a financial contribution for the manufacture and erection of all necessary name plates which must be displayed at the intersections of all other roads. The financial contribution shall be the actual cost of the name plate and the cost of its installation.</p> | <p>Given the proposed 20m wide road width and 15m wide access lot width the proposed turning heads all meet the requirement for a minimum diameter of 18m.</p> <p>The proposed subdivision design includes corner lot splays in compliance with standard vi.</p> <p>Road naming is appropriately addressed at the time of section 223 certification.</p> <p><b>Complies</b> (subject to meeting the relevant provisions of Chapter 8 Transportation).</p> |
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**Table 3 – District Plan Relevant Transportation Performance Standard Assessment**

| Standard 9.10                         | Standard  | Comment  |
|---------------------------------------|---|--|
| 8.5.2 a Vehicle Access to be Provided | <p>In all zones:</p> <p>i. Every lot with direct vehicle access to a road or to a vehicle access lot, shall be provided with a complying vehicle crossing.</p> <p>ii. Every vehicle access lot shall be provided with a complying vehicle crossing.</p> <p>iii. Every activity requiring access to a road shall have access to that/those road(s) only by way of a complying vehicle crossing.</p> <p>iv. A complying vehicle crossing shall meet</p> | <p>Many lots within the proposed subdivision will have direct access to Wakarara Road or to proposed new public roads. The Application AEE states it is proposed to defer construction of the crossings until the time of building development or use of the lots take place and that a consent notice condition</p> |



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|  |   | <p>the following requirements:</p> <p>a. Where a lot has direct vehicle access to a road: a formed and drivable surface shall be provided between the carriageway of the road and the road boundary of the lot.</p> <p>b. Where a vehicle access lot meets the road: a formed surface and drivable surface shall be provided between the carriageway of the road and the road boundary of the vehicle access lot .</p> <p>c. Where the lot has direct vehicle access to a vehicle access lot: a formed and drivable surface shall be provided between the carriageway of the vehicle access lot and the boundary of the lot.</p> <p>d. An access space shall be established on the lot. This shall comprise an area of land within the lot 3.5m wide by 5.0m long, formed and set aside and useable by a motor car and accessible from the vehicle crossing.</p> | <p>could achieve that.</p> <p>Conditions of consent will ensure that compliance with this standard is achieved.</p> <p>Given the relatively large size of each lot compliance with standard iii d in providing a 3.5m x 5m space accessed from the vehicle crossing can be assumed.</p> <p><b>Will comply.</b></p>                     |
| 8.5.2 Formation and Sealing of Vehicle Crossings | b | <p>i. All vehicle crossings shall be formed with an all weather surface and shall be drained to the satisfaction of the Council.</p> <p>ii. Where the road carriageway adjacent to the vehicle crossing is sealed, then the vehicle crossing shall be sealed.</p> <ul style="list-style-type: none"> <li>- Rule 8.5.2 (b) (i) and (ii) does not apply where the vehicle crossing gives access to paddocks which do not contain any buildings...</li> </ul> <p>iii. Minimum height clearance for vehicle crossings and common vehicle manoeuvring areas on-site, shall be 3.5 metres for residential units and 4.5 metres for all other activities.</p> <p>iv. Vehicle crossing gradients be designed in accordance with the New Zealand Building Code approved document D1: Access Routes.</p>   | <p>The Application AEE states all vehicle crossings will be sealed when formed and will have no vertical clearance restriction and will be of generally level gradient between the site and road.</p> <p>Again, conditions of consent can ensure appropriate formation in compliance with this standard.</p> <p><b>Will comply</b></p> |
| 8.5.2 Migration                                  | c | <p>i. All formed and driveable surfaces on any lot with direct access to a sealed road, and</p>  | <p>The Application AEE states that the first 5m of driveways</p>   |



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| Gravel onto Sealed Roads   | any vehicle crossing, shall be designed and constructed and maintained in such a way that gravel and/or stones and/or silt shall not migrate on to any formed public footpath or on to the sealed carriageway."   | <p>within the lots will be sealed to prevent the migration of unsealed material onto the road or access lot.</p> <p>Again, a consent notice condition related to the provision of vehicle crossings can be applied to new lots to achieve this outcome.</p> <p><b>Will comply</b></p>   |
| 8.5.2 d Location of Vehicle Crossings with Frontage in relation to Intersections | <p>i. The following standard applies to sites that have frontage to State Highway 2 and 50 in the Rural Zone:</p> <p>a. Where the road frontage of the site lies entirely within 212m of an intersection, the vehicle crossing to the site shall be located on the access frontage within 12 metres of the side boundary of the site which is farthest from the intersection.</p> <p>b. Where the road frontage of the site is greater than 212m in length, the vehicle crossing to the site shall be located on the access frontage at least 200 metres from the intersection.</p> <p>ii. The following standards apply to all other sites in the Rural Zone:</p> <p>a. Where the road frontage of the site lies entirely within 80 metres of an intersection, the vehicle crossing to the site shall be located on the access frontage within 12 metres of the side boundary of the site which is farthest from the intersection.</p> <p>b. Where the road frontage of the site is greater than 80 metres in length, the vehicle crossing to the site shall be located on the allowed access frontage at least 68.0 metres from the intersection.</p> | <p>The existing dwellings with access directly to SH50 are proposed to be retained, the closest of these is setback approximately 500m from the Wakarara Road intersection. Aside from the lots containing the two existing dwellings, no new lots will have direct access to SH50.</p> <p>Lot 12 is the closest lot to the intersection of Wakarara Road and SH50 and has direct access to Wakarara Road. The Application AEE states that the required 68m from the intersection can be achieved. It is noted that this lot has approximately 80m of frontage to Wakarara Road. A consent notice condition can achieve compliance with this standard.</p> <p>The Application AEE notes that Lots 7 and 8 are accessed from Wakarara Road and adjacent the intersection with the proposed new internal road, but that the 84m frontage of these lots enables a 68m separation from the intersection to be achieved.</p> <p>Standard ii.b. will apply to lots adjacent the proposed new internal roads and consent notice conditions can ensure compliance with this</p> |



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|   |  | standard.<br><b>Will comply</b>   |
| e. Widths of Vehicle Crossings                                  | Other: 6.0 – 9.0m  | The Application AEE states vehicle crossings will be formed to the 6m minimum width and that this will be addressed in the detailed design.<br><b>Will comply</b>   |
| f. Sight Distance from Vehicle Crossings and Road Intersections | Unobstructed sight distances, in accordance with the minimum sight distances specified in Table 3, shall be available from all vehicle crossings and road intersections. <i>(Abbreviated)</i><br><br>100km/hr speed limit (local roads) – minimum sight distance 170m.<br><br>100km/hr speed limit (State Highways) – minimum sight distance 250m. | The Application AEE states the existing vehicle crossings to SH50 and Wakarara junction benefit from sight distances exceeding 250m.<br><br>The proposed new road into the development will benefit from a 250m sight distance.<br><br>The alignment of Wakarara Road will provide 170m sight distances for new vehicle crossings and the new road into the development.<br><br><b>Complies</b> |

3.3 The above assessment demonstrates that compliance is, or will be achieved, with all of the relevant ODP performance standards. Accordingly, the proposed subdivision requires assessment as a **Controlled Activity** under Rule 9.9.3(a) of the ODP.

3.4 The proposed activity is also subject to Regulation 10 of the NESCS, being subdivision, and a soil disturbance activity within a 'piece of land' as defined in the NESCS. Accordingly, the proposal also requires consent for a **Restricted Discretionary Activity** under the NESCS.

*Appropriateness of bundling*

3.5 It is generally appropriate to bundle separate resource consents comprising an application and assess them together under the most stringent activity status. In this case, that would be as a restricted discretionary activity. However, exceptions to the general bundling principle are appropriate where separate, but concurrent, consents have been sought, and

(a) One of the consents sought is a controlled or restricted discretionary activity; and

(b) The scope of the council's control or discretion in respect of one of the consents is relatively confined; and

(c) The effects of exercising the two consents would not overlap, impact or have flow-on effects on each other.<sup>12</sup>

<sup>12</sup> <https://www.qualityplanning.org.nz/sites/default/files/2018-11/To%20Notify%20or%20Not%202018.pdf>



- 3.6 In this case one of the required consents is for a controlled subdivision activity, with the ODP confining control to specific matters. Although the subdivision consent triggers the need for resource consent under the NESCS, the effects of exercising that consent are confined to completing soil remediation over an area covering eight (8) lots within two (2) separate stages of the subdivision. It is also noted that the applicant could have separated those 8 lots from the initial subdivision application and applied for NESCS consent separately, in order to maintain the controlled activity status for the subdivision. For these reasons, I am satisfied that bundling is not appropriate in this instance, and that the subdivision consent and NESCS consent should be separately assessed under sections 95A and 95B of the RMA. Accordingly, separate subheadings are provided in the notification assessment below to assess the two consents required as part of the application. These are titled "NESCS Resource Consent" and "Subdivision Consent."

*Additional regional resource consents required*

- 3.7 It is also noted that separate resource consents will be required from the Hawke's Bay Regional Council ("HBRC") under the Regional Resource Management Plan ("RRMP") as is set out in the further information response summarised in paragraph 2.2.3(b) above. These relate to the diversion of the southern most branch of the ephemeral stream as part of the overland flow design for Stage 5 of the proposed subdivision, which will require discretionary activity resource consent under Rule 59 of the RRMP. Two bridge crossings are proposed over the main ephemeral stream channel as part of the subdivision, and both will require discretionary activity resource consent under Rule 69 of the RRMP. These bridges would be required to enable stages 3 and 15 of the proposed subdivision to be completed, respectively. The further information response states that the stormwater discharge from the subdivision is expected to meet the permitted activity conditions of the RRMP. If it did not comply with these conditions, resource consent for a controlled activity would be required under Rule 43 of the RRMP.
- 3.8 The resource consents required under the RRMP relate to specific components of the subdivision application and I therefore do not consider that it would be appropriate to defer the processing of this subdivision consent application under section 91 of the RMA pending application for the resource consents required from HBRC.

#### **4.0 NOTIFICATION ASSESSMENT**

- 4.1 Section 95A and 95B of the RMA specifies the steps that the Council is to follow to determine whether an application is to be publicly notified or limited notified. These steps are addressed in the statutory order below.

#### **PUBLIC NOTIFICATION ASSESSMENT: SECTIONS 95A AND 95D**

##### Step 1 Mandatory public notification in certain circumstances

Mandatory public notification is not required as:

- The applicant has not requested that the application is publicly notified (section 95A(3)(a));
- There are no outstanding or refused requests for further information (sections 95C and section 95A(3)(b)); and
- The application does not involve any exchange of recreation reserve land under 15AA of the Reserves Act 1977 (section 95A(3)(c)).

##### Step 2 Public notification precluded in certain circumstances





Public notification of a resource consent application is precluded where:

- The application is for a resource consent for one or more activities, and each activity is subject to a rule or national environmental standard that precludes public notification;
- The application is for one or more of the following but no other activities:
  - A controlled activity; or
  - A restricted discretionary, discretionary or non-complying boundary activity.

#### *NESCS Resource Consent*

*The resource consent required under the NESCS is not subject to a rule in the NES that precludes public notification, and is a restricted discretionary activity that is not a boundary activity. Accordingly, the NESCS is not precluded from being publicly notified.*

#### *Subdivision Consent*

*The subdivision consent required under the ODP is not subject to a rule in the ODP that precludes notification, but is a controlled activity and is therefore precluded from being publicly notified (subject to whether Special Circumstances at Step 4 applies).*

#### Step 3 Public notification required in certain circumstances

*As the subdivision consent is precluded from notification at Step 2, this assessment goes on to assess only the NESCS Resource Consent under Step 3.*

#### *NESCS Resource Consent*

The application is not subject to a national environmental standard that requires public notification.

An assessment is therefore required under section 95D to determine whether the activity will have, or is likely to have, adverse effects on the environment that are more than minor.

### **SECTION 95D – CONSENT AUTHORITY DECIDES IF ADVERSE EFFECTS LIKELY TO BE MORE THAN MINOR**

4.2 Section 95D establishes a number of matters that a consent authority either must or may disregard when deciding whether an activity will have or is likely to have adverse effects on the environment that are more than minor. In particular, the consent authority:

- (a) *must disregard any effects on persons who own or occupy—
  - i) the land in, on, or over which the activity will occur; or
  - ii) any land adjacent to that land; and*
- (b) *may disregard an adverse effect of the activity if a rule or national environmental standard permits an activity with that effect; and*
- (c) *in the case of a ...restricted discretionary activity, must disregard an adverse effect of the activity that does not relate to a matter for which a rule or national environmental standard reserves control or restricts discretion; and*
- (d) *must disregard trade competition and the effects of trade competition; and*
- (e) *must disregard any effect on a person who has given written approval to the relevant application.*

4.3 Section 95D(a)(ii) requires that, in assessing whether the effects of the proposed activity will be more than minor (for the purpose of public notification), the consent authority must disregard any effects on persons who own or occupy 'adjacent land'. The reason for this is that effects (if any) on those persons are to be assessed under sections 95B and 95E, for the purpose of limited



notification, and the effects relevant to the public notification decision are focused on the wider environment. The term 'adjacent' applies to properties nearby the land subject to the application, and any effects on the owners and occupiers of these properties must therefore be disregarded in the public notification assessment. Figure 4 below identifies the land that is considered to be adjacent to the proposed subdivision as the adjoining or directly opposite properties highlighted in blue shading.

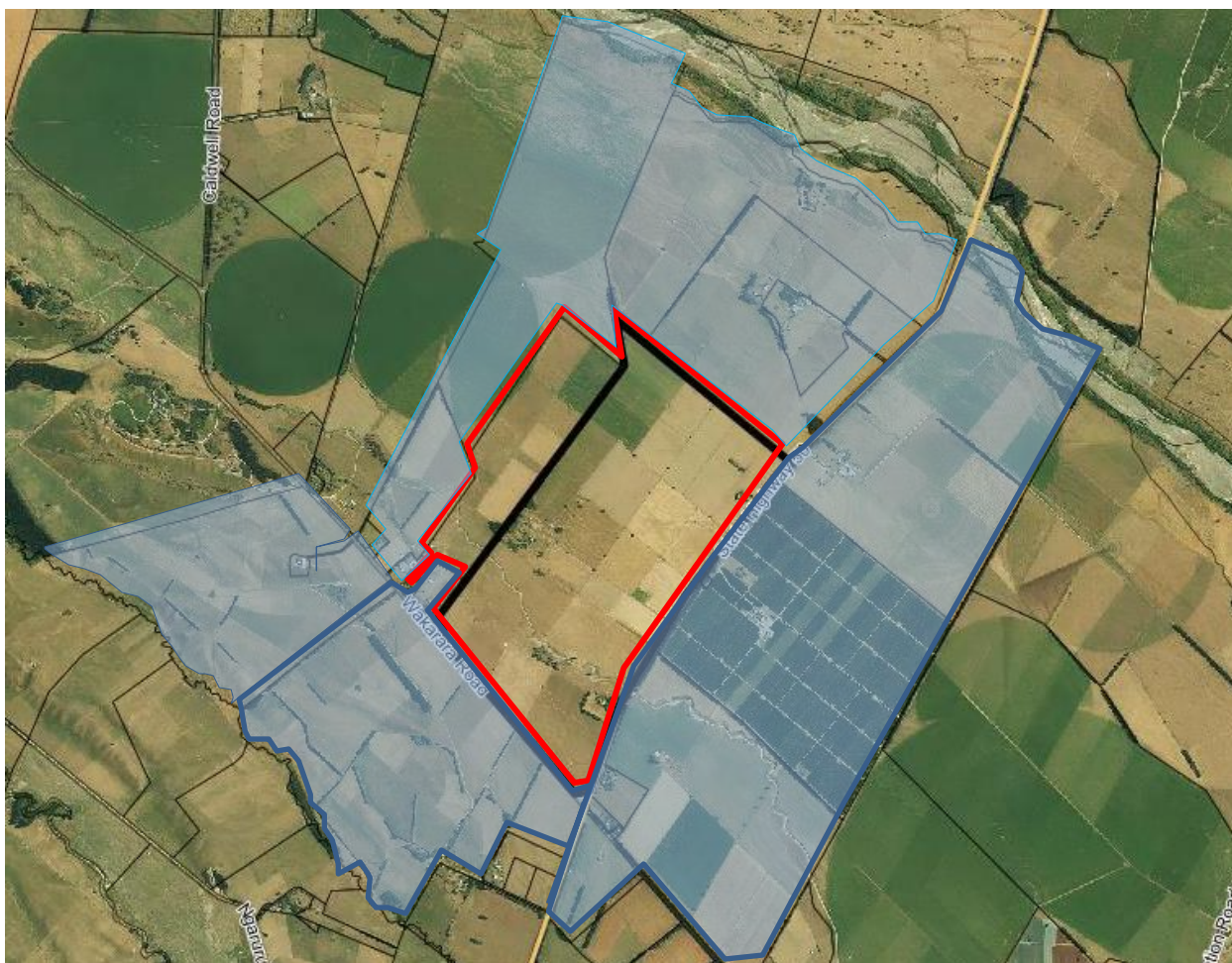


Figure 4 – Identification of subject site (red outline) and adjacent land (blue shading)

- 4.4 Section 95D(b) allows adverse effects of permitted activities to be disregarded. This is known as the permitted baseline. I do not consider the permitted baseline to be relevant to the assessment of the effects of the NESCS application.
- 4.5 Section 95D(c) is relevant as the overall status of the application is a restricted discretionary activity under the NESCS, and discretion is restricted pursuant to Regulation 10(3) to the following matters:

*The matters over which discretion is restricted are as follows:*

*(a) the adequacy of the detailed site investigation, including—*

- (i) site sampling:*
- (ii) laboratory analysis:*
- (iii) risk assessment:*



- (b) the suitability of the piece of land for the proposed activity, given the amount and kind of soil contamination:*
  - (c) the approach to the remediation or ongoing management of the piece of land, including—*
    - (i) the remediation or management methods to address the risk posed by the contaminants to human health:*
    - (ii) the timing of the remediation:*
    - (iii) the standard of the remediation on completion:*
    - (iv) the mitigation methods to address the risk posed by the contaminants to human health:*
    - (v) the mitigation measures for the piece of land, including the frequency and location of monitoring of specified contaminants:*
  - (d) the adequacy of the site management plan or the site validation report or both, as applicable:*
  - (e) the transport, disposal, and tracking of soil and other materials taken away in the course of the activity:*
  - (f) the requirement for and conditions of a financial bond:*
  - (g) the timing and nature of the review of the conditions in the resource consent:*
  - (h) the duration of the resource consent.*
- 4.6 A Detailed Site Investigation (“DSI”) report is included as Appendix 3 of the Application<sup>13</sup> and sets out the geography and land use history of the site, stating that activities on the Hazardous Activities and Industries List (“HAIL”) have been identified within discrete portions of the site including:
- (a) Operation of a sheep dip / spray race;
  - (b) Potential use of lead based paints;
  - (c) Farm dump;
  - (d) Storage drums for fuel; and
  - (e) Onsite wastewater discharges to land.
- 4.7 The DSI notes that these sources of contamination were largely confined to the farm building yard areas, which comprise approximately 4ha of the subject property. The DSI sets out the methodology for the soil sampling undertaken and an analysis of the results which confirm arsenic concentrations in excess of the NESCS rural residential landuse soil contamination standards (“SCS”) surrounding the sheep dip, and concentrations of lead and zinc in excess of the SCS in portions of the farm shed yard area.
- 4.8 On the basis of the identified soil contamination and the confirmed presence of a farm dum, the DSI recommends remedial actions of additional sampling to inform a final Remediation Action Plan (“RAP”), the removal of contaminated soil in accordance with that action plan, and site validation inspections and sampling to confirm that the remediated land is fit for purpose.
- 4.9 The DSI was peer reviewed by Stantec on behalf of the Council. That peer review, dated 10 May 2021, concludes that the DSI has been carried out in accordance with industry best practice and that the conclusions in the report are appropriate. It did, however, note that a draft RAP was referenced but not provided. This was therefore requested from the Applicant as part of the 3 June 2021 section 92 request, and provided to the Council on 26 August 2021.

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<sup>13</sup> ‘Detailed Site Investigation (DSI) – Springhill Dark Kifstyle Development, State Highway 50, Ongaonga’, Geosciences Limited, 9 April 2021.



- 4.10 The draft RAP dated 9 April 2021 has been peer reviewed by Stantec, who have recommended, in a memorandum dated 31 August 2021, a number of additions and clarifications to be incorporated into the Final RAP following the completion of additional testing. These matters can appropriately be set as conditions on the NESCS consent. Stantec also concluded that the draft RAP is largely suitable such that it can be used to complete the next phase of the investigations that will inform the final remediation of the site, provided the identified matters are addressed in the final RAP.
- 4.11 On the basis of the DSI, the draft RAP and the Stantec peer review of both documents, it is my opinion that, with the recommended amendments to the RAP and subsequent actions to verify site remediation as conditions of consent, any adverse effects associated with the contaminated soils will be remedied and mitigated such that any effects on human health and the wider environment will be no more than minor. Any adverse health and safety effects during earthworks will be localised to the subject property and, as confirmed by the peer review, the draft RAP sets out appropriate procedures to protect the health and safety of the workers involved.
- 4.12 For these reasons, I conclude that the adverse effects arising from contaminated soils associated with the NESCS consent are likely to be avoided, remedied or mitigated such that they are no more than minor. Accordingly, public notification is not required by Step 3 of section 95A(8)(b).

#### Step 4 Public notification in special circumstances

- 4.13 If the application has not been publicly notified as a result of any of the previous steps, the Council is required to determine whether special circumstances exist that warrant it being publicly notified.
- 4.14 Special circumstances are those that:
- (a) Are exceptional or unusual, but something less than extraordinary;
  - (b) Are outside of the common run of applications of this nature; and/or
  - (c) Make notification desirable, notwithstanding the conclusion that the adverse effects will be no more than minor.

#### *NESCS Resource Consent*

- 4.15 In my opinion, there are no special circumstances that warrant public notification in regard to the NESCS aspect of the application as it is not unusual or unique for contaminated soil to be identified and remediated on a farm property in association with a subdivision consent application.

#### *Subdivision Consent*

- 4.16 In responding to comments arising from a public meeting in respect of the application, the Council received a letter on behalf of the Applicant dated 26 August 2021 which made the following statement in relation to public notification:

*"We do not consider that public notification would be beneficial to the application and accordingly the Applicant does not request public notification. The additional time and costs incurred through notification would be detrimental to the progression of the development and the limitation to consideration of conditions would provide limited benefits. We welcome detailed discussion of conditions and expect that we can collaboratively generate a suitable suite of conditions that addresses relevant scheme*





*externalities.”*

- 4.17 The letter did not comment on whether special circumstances exist or not. However, the statement that any input resulting from public notification would be limited to the consideration of conditions is relevant, given the controlled activity status of the subdivision. This matter is discussed further below.
- 4.18 The subdivision itself can, in my opinion, be considered exceptional or unusual given its scale (being a 312 lot subdivision) and its location away from any urban areas. While there has been an increase in the volume of Rural Zone subdivision applications in Central Hawke's Bay in recent years, and more so this year with the notification of the PDP, this application is clearly 'outside of the common run of applications of this nature due to the large number of lots involved. By comparison, the next largest application for subdivision in the Rural Zone (in terms of lot numbers) that has been received by the Council is on a site adjoining the boundary of the Residential Zone in Waipukurau off Mt Herbert Road, which sought consent for some 87 lots (ref: RM190126).
- 4.19 In saying that, a key consideration of whether special circumstances exist is whether there are circumstances that make public notification desirable. As under section 104A of the RMA, consent must be granted to a controlled activity, any matters raised in submissions could only be addressed by way of conditions. Any relief seeking that consent be refused could not be granted.
- 4.20 While submissions could still be of assistance in identifying conditions within the matters of control limited by the ODP to help mitigate any adverse effects affecting adjacent land, this is a matter for consideration as part of the limited notification assessment. By allocating a controlled activity status to rural subdivisions achieving the 4,000m<sup>2</sup> minimum lot size and other relevant standards, the ODP has created an expectation that the effects of such subdivisions on the wider environment are acceptable.
- 4.21 As a controlled activity, public notification is specifically precluded by Step 3 of section 95A of the RMA and, as such, no assessment of the effects on the wider environment of the subdivision is required under Step 3 and section 95D. In my opinion, however, the most tangible effect on the wider environment, beyond the adjacent land, would be traffic effects, including on the safety and efficiency of SH 50. As the written approval of Waka Kotahi has been provided, and the Applicant has incorporated all the conditions of that approval as part of the application, any effects on Waka Kotahi as the authority responsible for SH50 are required to be disregarded. The intersection between SH50 and Wakarara Road is required to be upgraded as part of the works conditional to the Waka Kotahi approval. Further to this, the new intersection into the subdivision from Wakarara Road is proposed to comply with the relevant District Plan standards. Therefore, the potential adverse effects on Wakarara Road are also likely to be no more than minor beyond adjacent land.
- 4.22 Another potential adverse effect on the wider environment that requires consideration is the potential for adverse cumulative effects from the location of 312 wastewater systems on the subject property. This matter has been investigated through the further information and peer review process as is set out under paragraphs 2.4.1 – 2.4.3 above. In summary, the expert advice provided to the Council by PDP is that if the discharges occur as described (in accordance with the conditions offered by the Applicant including UV treatment and drip-line irrigation with regular maintenance), and considering the existing agricultural land use, the cumulative effects of nitrogen and microbial leaching from wastewater disposal fields will be no more than minor. PDP has noted, however, that if regular mowing and removal of grass from the wastewater fields does not occur there is potential for the effects of nitrogen leaching to be greater. There is also potential for phosphorous levels to increase in the soils over time, which could lead to more than minor adverse effects on connected ground and surface water, due to the high loading rate





compared to plant uptake. As noted above, the Applicant provided a response from Professor Cook on 24 November 2021 challenging those findings, with his conclusion being that the cumulative effects of the onsite waste water discharges will be less than from pastoral farming activities.

- 4.23 Accordingly, PDP has recommended mitigation measures to ensure that the wastewater systems are operated such that the potential adverse cumulative effects of discharges will be no more than minor. While the integrated management of effects is a function of territorial authorities, the Council does not have jurisdiction to impose conditions to manage the effects of discharges as this is a regional council function, nor does it have the expertise and systems in place to enforce such conditions should they be offered as consent notice conditions on each lot by the Applicant. Further to this, HBRC has advised that each individual on-site wastewater system is likely to be able to comply with the RRMP conditions to be a permitted activity. This means that there is also unlikely to be any scope for HBRC to impose conditions on the individual on-site wastewater systems in order to implement the PDP recommendations.
- 4.24 PDP has advised that there is a potential for adverse effects of cumulative wastewater discharges to be more than minor due to the leaching of phosphorus to connected ground and surface water, acknowledging that this has conclusion is not accepted by the Applicant's wastewater expert. If the PDP conclusion is accepted, however, the application remains a controlled activity and could not be refused consent for this reason. This potential issue does not therefore make public notification desirable.
- 4.25 Given all of the above, I consider that this application is exceptional in the large number of lots that it is proposing and that it is outside of the common run of Rural Zone subdivisions of this nature. I do not, however, consider that there are circumstances that make public notification desirable, due to the controlled activity status of the subdivision and the limited effects on the wider environment within the scope of the matters of control in the ODP.
- 4.26 Accordingly, I conclude that while special circumstances do exist in regard to the scale of this subdivision, they do not warrant the application being publicly notified under section 95A of the RMA.

#### **LIMITED NOTIFICATION ASSESSMENT: SECTIONS 95B AND 95E**

- 4.27 Section 95B of the RMA specifies the steps that a consent authority is required to follow to determine whether an application is to be limited notified.

##### Step 1: Certain affected groups and affected persons must be notified

A consent authority must determine whether there are any affected customary rights groups, or affected customary marine title groups, and whether the activity is on or adjacent to, or may affect, land that is subject of a statutory acknowledgement.

In terms of the present applications (being both the NESCS and Subdivision Consents):

- There are no customary rights groups or affected customary marine title groups affected by the proposed subdivision.
- The proposed activity is within a Statutory Acknowledgement Area (being the Tukituki River & Tributaries OTS110-30) and contains a channel of the Kahahakuri Stream, which is a Tributary of the Tukituki River.
- The adverse effects of the proposed subdivision on Heretaunga – Tamatea, the holders of the



Statutory Acknowledgement Area, are therefore considered as part of the section 95E assessment below (as required under section 95B(3)(b) of the RMA).

Step 2: Limited notification precluded in certain circumstances

A consent authority must determine whether circumstances apply that would preclude limited notification.

In terms of the present applications (being both the NESCS and Subdivision Consents):

- The activities are not subject to a rule or national environmental standard that precludes limited notification. For completeness, it is noted that Rule 9.9.3 of the ODP references an outdated provision of the RMA stating "*A subdivision consent need not be notified in accordance with section 103 of the Act, if the subdivision is a controlled activity.*" Section 103 of the RMA currently relates to combined hearings rather than notification or limited notification. There are no other rules in the ODP that preclude limited notification.
- The NESCS Consent is a restricted discretionary activity (not a controlled activity).

The Subdivision Consent is a controlled activity, but relates to the subdivision of land. Accordingly, limited notification of either application is not precluded by Step 2.

Step 3: Certain other affected persons must be notified

A person is affected if the consent authority decides under section 95E of the RMA that the activity's adverse effects on the person are minor or more than minor.

**SECTION 95E – CONSENT AUTHORITY DECIDES IF PERSON IS AFFECTED PERSON**

- 4.28 Section 95E states that a person is an affected person if the adverse effects of the activity on the person are minor or more than minor (but not less than minor).

Effects to be disregarded

- 4.29 Pursuant to section 95E(2)(a), the consent authority may disregard an adverse effect of the activity on persons if a rule or NES permits an activity with that effect. As discussed above, there is no permitted baseline for subdivision under the ODP, however where there is a permitted baseline for a potential effect this will be considered in the assessment.
- 4.30 Under section 95E(2)(b), the consent authority must, if the application is a controlled activity or a restricted discretionary activity, disregard an adverse effect of the activity on the person if the effect does not relate to a matter for which a rule or a NES reserves control or restricts discretion. This section is relevant to both components of this application, which are individually discussed under the corresponding subheadings below.

*NESCS Resource Consent*

- 4.31 The matters to which the NESCS restricts discretion are listed under paragraph 4.5 above. Any consideration of effects on adjacent landowners and occupiers are therefore restricted to these matters.

*Subdivision Consent*

- 4.32 The matters that the ODP reserves control over for the assessment of controlled activity



subdivision consent applications under Rule 9.9.3, relevant to the Rural Zone, are set out as follows:

*a. Lot Size*

- *Lot size of subdivisions for access, utilities, reserves and roads.*

*b. Lot Dimension*

- *Lot dimension of subdivisions for access, utilities, reserves and roads.*

*c. Subdivision Design*

- *Relationship and orientation of lots.*
- *The location of walkways and cycleways.*
- *The provision and/or use of roads, open stormwater channels and wetland areas.*
- *The environmental effects as a result of earthworks and the rehabilitation of the area.*
- *The location and relationship to areas of significant nature conservation value as identified on the planning maps.*

*d. Property Access*

- *The location, alignment and pattern of roading or service lanes.*
- *The location and provision of access to lots for vehicles, cycles and pedestrians.*
- *Any financial contributions to be made by the applicant.*
- *Road reserves and provision for future subdivision on adjoining land.*
- *The standard of construction required for property access, other than as required by Rule 9.10 (h).*
- *Street lighting.*
- *Naming of private vehicular access.*

*e. Natural Hazards*

*Provision of works, the location and type of services, building location, and location, degree of compaction, type and quantity of filling and earthworks that could be affected by the following natural hazards or which could affect the impact of those natural hazards on the site or other land in the vicinity:*

- i) Coastal Erosion*
- ii) Flooding*
- iii) Erosion\Land Instability (including rockfall, alluvion and avulsion)*
- iv) Storm Surges*
- v) Tsunamis*
- vi) Vulcanism*
- vii) Seismic Activity (Earthquakes)*
- viii) Wind*
- ix) Wild Fire*

*f. Water Supply*

- *The supply of water, other than from a Council reticulated system.*
- *Water supplies for fire fighting purposes.*
- *The standard of water supply infrastructure installed in subdivisions, and the adequacy of existing supply systems outside the subdivision.*
- *Any financial contributions required in respect of water supply.*

*g. Stormwater Disposal*

- *The capacity of existing and proposed stormwater infrastructure and disposal systems.*
- *The effectiveness and environmental impacts of any measures proposed for mitigating the effects of stormwater run-off, including the control of water-borne contaminants, litter, debris and sediments.*
- *The location, scale and construction of stormwater infrastructure.*
- *Any financial contributions required in respect of stormwater disposal.*



*h. Sanitary Sewage Disposal*

- *The method of sewage disposal where a public reticulation and treatment system is not available.*
- *The capacity of, and impacts on, the existing reticulated sewage disposal system.*
- *The location and environmental effects of the proposed sanitary sewage system.*
- *Any financial contributions that may be required in respect of sanitary sewage provision.*

*i. Trade Waste Disposal ...*

*j. Vegetation and Landscape*

- *The protection of significant indigenous vegetation, habitat and landscape.*

*k. Easements*

- *The need to create easements for any purpose.*

*l. Building Location*

- *The location of buildings.*

- 4.33 In addition to the matters of control listed above, the ODP also includes assessment matters which double as additional matters of control for controlled activities under Rule 14 of the ODP which states: *"The following Assessment Matters apply to both the ZONE RULES (Parts 4-7), and the DISTRICT-WIDE RULES (Parts 3.6, 3.7, 8-13). These assessment matters relate to the performance standards and activities listed controlled or discretionary activities."* These matters therefore apply to Part 9 Subdivision. There is a specific set of subdivision assessment matters at Rule 14.6, and these are listed as follows (with matters clearly intend for only urban subdivision abbreviated):

**14.6 SUBDIVISION ASSESSMENT MATTERS**

**1. Lot Size and Dimensions**

**Note:** *There are no specified minimum lot sizes in the Business or Township Zones, or for access, utilities, reserves and roads lots in the Residential Zone. A minimum lot dimension is required for all zones but again does not apply to access, utilities, reserves and roads lots in any zone.*

*Subdivision in the Business and Township Zones is a Controlled Activity in respect of lot size and dimension. Minimum lot size in the Residential Zone is 350m<sup>2</sup> and in the Rural Zone is 4,000m<sup>2</sup>. The following assessment matters apply below.*

- Whether the lot is of sufficient area and dimensions to effectively fulfil the intended purpose or land use, having regard to the rules for the relevant zone.*
- Whether the proposed lot sizes and dimensions are sufficient for operational and maintenance requirements and in particular the disposal of effluent on the site, where necessary.*
- The relationship of the proposed lots and their compatibility with the pattern of the adjoining subdivision and land use activities, and access arrangements.*
- The effects of the subdivision on the amenity of the area, in particular the cumulative increase in the density of residential dwellings, the loss of rural outlook and the increase of traffic.*

**2. Subdivision Design**

- The relationship and size of the lots in terms of their solar advantage including the alignment and layout of the lot, the location of building platform, relationship to adjoining lots.*
- The provision for and practicality of walkways and cycleways, and the relationship of these to reserves (existing or proposed), access to the waterways, etc.*
- The provision for and practicality of using natural stormwater channels and wetland areas.*



### **3. Property Access**

- a. *Whether the frontage road is of sufficient width to cater for the expected traffic generated by the possible land uses that will be established on the lots being created, and whether there is any need to widen and/or upgrade the frontage road.*
- b. *Where any proposed subdivision in any zone has frontage to any existing road(s) that is/are not constructed to the standards set out in Rule 9.10 (h) and/or where road widening is required; whether the land uses that will be established on the proposed lots will increase the use of that road(s) to the degree that forming or upgrading the existing road(s) is required and, therefore, whether there is any need for the applicant to pay to the Council a financial contribution towards the forming or upgrading of the road(s). Such financial contribution shall not exceed the degree to which the road(s) serves or is intended to serve the subdivision and, where the road(s) is/are adjacent to the subdivision, shall not exceed half the cost of the formation or upgrading works.*
- c. *The costs of providing carriageway formation and widening, berm formation, footpaths, kerb and channel, as the case may be, shall be negotiated by the developer and the Council. An estimation of the contribution may be obtained from Council staff.*
- d. *Any impact of roading and access on waterways, ecosystems, drainage patterns or the amenities of adjoining properties; and the need for tree planting in the open space of the road to enhance the character and identity of the neighbourhood.*
- e. *The effect of any new intersections or accesses created by the subdivision on traffic safety and efficiency, including the availability of adequate, unobstructed sight distances from intersections and adequate spacing between intersections.*
- f. *The provisions of the Code of Practice for Urban Land (NZS 4404 1981).*
- g. *The application of the requirements of Section 321, Local Government Act, 1974, to any subdivided lot.*
- h. *The need for and practicality of providing vehicular access to all lots, and the practicality of providing access elsewhere for vehicles.*
- i. *The account taken of pedestrian movement.*
- j. *The degree to which proposed new roads make adequate provision for vehicle movements, car-parking, property access and cyclists.*
- k. *The need to provide alternative access for car-parking and vehicle loading in Business Zones ...*
- l. *Where in the course of a subdivision a new road is to be constructed and vested that will, or could, provide frontage to other land, the need for the Council to enter into an agreement with the subdivider that permits the creation of a point strip that separates that other land from the new road, and ensures that the benefiting owner pays a fair share towards the costs of providing the frontage road. ...*
- m. *Any need to require provision be made in a subdivision for the vesting of road reserves for the purpose of facilitating connections to future roading extensions to serve surrounding land, or planned road links that may need to pass through the subdivision and the practicality of creating such easements at the time of subdivision application in order to facilitate later development.*
- n. *Any need to require subdividers to enter into agreements that will enable the Council to require the future owners to form and vest roads when other land becomes available.*
- o. *The need for construction standards and on-going maintenance for private vehicular access, including access to individual lots, whilst ensuring that access is practical, convenient and safe.*
- p. *The need to provide for appropriate standards of street lighting or private vehicular access lighting.*
- q. *The need to provide distinctive names for private vehicular accesses. The name to be agreed to by the Council.*
- r. *The need for and degree of any financial contribution to achieve the above matters.*

### **4. Natural Hazards**

- a. *Any information held on the Council's Natural Hazard registers.*
- b. *Information obtained by suitably qualified experts, whose investigations are supplied for subdivision applications.*
- c. *The applicant's or their Consultant's report, detailing the measures that have been or will be taken to avoid, remedy, or mitigate any hazard that may occur on the property.*





- d. Potential adverse effects on other land that may be caused by the subdivision or anticipated land use activities.*
- e. In relation to inundation from any source, the:*
  - i. effects of any proposed filling being undertaken to avoid inundation and the consequential effects on the natural drainage pattern and adjoining land;*
  - ii. erection of stopbanks and their environmental effects;*
  - iii. need for boundary drainage to protect surrounding properties;*
  - iv. adequacy of existing outfalls and any need for upgrading;*
  - v. need for retention basins to regulate the rate and volume of surface run-off.*
- f. In relation to erosion, falling debris or slippage, the need for ongoing conditions aimed at avoiding, remedying or mitigating future potential adverse effects, and any need for registration of consent notices on the lot's Certificate of Title.*
- g. In relation to subsidence, the provision of suitability certificates, such as NZS 4431, or if not appropriate, the setting of ongoing conditions, with consent notices registered on the Certificates of Title.*
- h. In relation to contaminated site, any soil tests, establishing suitability, and methods to avoid mitigate or remedy the effects, including removal to approved disposal points.*
- i. In relation to land filling and excavation operations, the following factors:*
  - i. effects on surrounding properties;*
  - ii. natural pattern of surface drainage;*
  - iii. type of and placement of fill material;*
  - iv. mitigation, or avoidance, of adverse effects caused by dust or siltation affecting neighbouring properties;*
  - v. remedies necessary during emergencies.*
- j. The likelihood of the proposed subdivision, including the establishment of potential assets such as residential units, being threatened by inundation or coastal erosion.*
- k. The ability of any buildings on the land being subdivided to be relocated, the estimated cost of the relocation, and the possible destination of a relocated building.*

## **5. Water Supply**

- a. The suitability of the proposed water supply for fire fighting purposes; (The Council may obtain a report from the Chief Fire Officer).*
- b. The provisions of the Code of Practice in respect to installation of all necessary water supply pipe lines, and ancillary equipment necessary for the subdivision, including extensions to existing supply systems, and including mains, sub-mains, service mains and fire hydrants and water storage tanks.*
- c. The need to install isolating valves ... at the street boundary ....*
- d. Whether the existing water supply systems, to which the connection will be made, ...*
- e. Whether it may be necessary to provide new reservoirs, ...*
- f. Where it is necessary to upgrade the reticulated water supply system ...*
- g. Whether, because of increased demand ..., an upgrading contribution...*
- h. The need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility.*
- i. The need for and degree of any financial contribution to achieve the above matters.*

## **6. Stormwater Disposal**

- a. The provisions of the Code of Practice for Urban Land (NZS 4404: 1981).*
- b. The adequacy of any proposed means of disposing of collected stormwater from the roofs of all buildings and impermeable surfaces.*
- c. The adequacy of any proposed means for screening out litter, the capture of chemical spillages, the containment of contamination from roads and paved areas and of siltation.*
- d. The ability to retain open natural waterway systems for stormwater disposal in preference to piped or canal systems and any adverse impacts on existing waterways.*
- e. The availability of an approved outfall where stormwater can be directed, whether such an outfall is capable of absorbing increased run-off and the need for and desirability of requiring a connection to such an outfall.*
- f. Whether the existing stormwater disposal systems, to which any connection will be made, ....*



- g. Where an existing outfall is not capable of accepting increased run-off, the adequacy of proposals and solutions for disposing of run-off.*
- h. Any necessity to provide on-site retention basin to contain surface run-off where the capacity of the outfall is incapable of accepting flows, and where the outfall has limited capacity, any need to restrict the rate of discharge from the subdivision to the same rate of discharge that existed on the land before subdivision takes place.*
- i. Any adverse effects of the proposed subdivision on drainage on, or from, adjoining properties and mitigation measures proposed to control any adverse affects.*
- j. For stormwater pipes and open waterway systems, the provision of appropriate easements in favour of either the registered user or in the case of the Council, easements in gross, to be shown on the survey plan for the subdivision, including private connections passing over other land protected by easements in favour of the user.*
- k. Where it is not possible to dispose of stormwater by way of gravity pipelines, due to topography, the adequacy of alternative pumping systems.*
- l. Where stormwater disposal cannot be obtained by gravity outfall, the necessity for land to be filled against the fall of the country, solely to obtain such an outfall, and whether it is practical to provide easements through adjoining owners' land to other frontage outfall systems.*
- m. The need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility for stormwater disposal purposes.*
- n. The need for and degree of any financial contribution to achieve the above matters.*

#### **7. Sanitary Sewage Disposal**

- a. The capacity, availability, and accessibility of the reticulated system ...*
- b. Whether the existing sanitary sewage disposal systems ...have sufficient capacity...*
- c. Where it is not possible to provide a... gravity outfall, the feasibility of individual pump connections ...*
- d. The relevance of any existing cost sharing... proposed reticulation ....*
- e. Where a reticulated system is not available, or a connection is impractical, provision of on-site effluent disposal systems in accordance with either District Plan Rules or by a discharge permit issued by the Hawke's Bay Regional Council.*
- f. Where a reticulated system is ...likely to be in the near future....*
- g. Provision made by the applicant for monitoring mechanisms to ensure contaminants are not discharged into the environment from on-site effluent disposal systems, together with any consent notices to ensure compliance.*
- h. The need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility for sanitary sewage disposal purposes.*
- i. The need for and degree of any financial contribution to achieve the above matters.*

#### **8. Trade Waste Disposal**

- a. Whether any proposal to create lots for any business activity or other activity generating trade wastes ...*

#### **9. Vegetation Protection**

- a. Whether any significant landscape or natural features, indigenous vegetation, or habitat on the site have been identified in the Plan as having conservation value or amenity value that they should be retained.*
- b. Whether any means of protecting significant natural features, indigenous vegetation, or habitat in perpetuity such as a QEII National Trust covenant or other similar instruments are proposed.*
- c. Whether a local purpose reserve should be set aside and vested in the Council to preserve any natural feature, vegetation or conservation value on the site.*

#### **10. Easements**

- a. Whether there is a need for easements:*
  - i. where a service or access is required by the Council;*
  - ii. for stormwater passing through esplanade reserves where drainage will be to the river;*
  - iii. to meet network operator requirements;*



- iv. *in respect of other parties in favour of nominated lots or adjoining Certificates of Title;*
- v. *for private ways;*
- vi. *for stormwater, sanitary sewer, water supply, electric power, gas reticulation, telecommunications;*
- vii. *party walls and floors/ceilings;*
- viii. *for servicing with sufficient width to permit maintenance, repair or replacement.*

**11. Building Location**

- a. *The local ground conditions or the situation applying to the lot and the suitability of the site of the building.*
- b. *Whether or not a lot should be restricted from development on parts of the site.*
- c. *The minimum floor height for buildings in situations where inundation is likely and damage to structures could occur, but the land may not necessarily be filled.*

Assessment of adversely affected persons under section 95E

*NESCS Resource Consent*

- 4.34 The public notification assessment in paragraphs 4.5 – 4.12 above is repeated. Various conditions are suggested in that assessment relating to remediation of the contaminated soils on the site and subsequent site validation. The procedures that will be required to be followed for contaminated soils management under the relevant Ministry for the Environment guidelines as recommended in the draft RAP and endorsed by Stantec (the Council's expert) will also ensure that there is no migration of dust or sediment across property boundaries. For this reason, it is considered that any adverse effects on neighbouring landowners are likely to be less than minor from this component of the activity.

*Subdivision Consent*

- 4.35 The effects of the activity on the owners/occupiers of sites adjacent to the subject site identified in Figure 4 above must be assessed in order to determine whether there are affected persons in terms of section 95E.
- 4.36 In terms of the relevant matters of control set out above, those matters set out under Rule 9.9.3 primarily relate to the servicing of the subdivision and matters of design internal to the subdivision, and do not provide the scope to consider potential adverse effects on neighbouring landowners and occupiers. This is not, however, the case for the assessment matters listed in Rule 14.6. In my opinion, the matters listed in 14.6(1)(c) and (d) are particularly relevant to consider in assessing the effects on adjacent land. The reference in 14.6(1)(c) to "*compatibility with the pattern of the adjoining subdivision and land use activities*", in my opinion, enables the consideration of reverse sensitivity effects on neighbouring rural production activities as there is a potential incompatibility of such activities with lifestyle residential activities at the significant scale proposed.
- 4.37 The reference in 14.6(1)(d) to "*the effects of the subdivision on the amenity of the area, in particular the cumulative increase in density of residential dwellings, the loss of rural outlook*" is also an important consideration in assessing the effects on adjacent land, given the scale and nature of the proposed subdivision. Accordingly, the potential reverse sensitivity effects and amenity effects on adjacent land are assessed under the corresponding subheadings below.

**Reverse sensitivity effects (Compatibility with adjoining land use activities)**



- 4.38 Information relating to the mitigation of reverse sensitivity effects was sought in the further information request and the response on behalf of the Applicant is set out in section 2.2.9 above. The proposed mitigation is to offer 'no-complaints covenants' on the lots backing onto the western and northern site boundaries. This would result in those allotments highlighted with yellow shading in Figure 5 below having a no-complaints covenant applied to them.

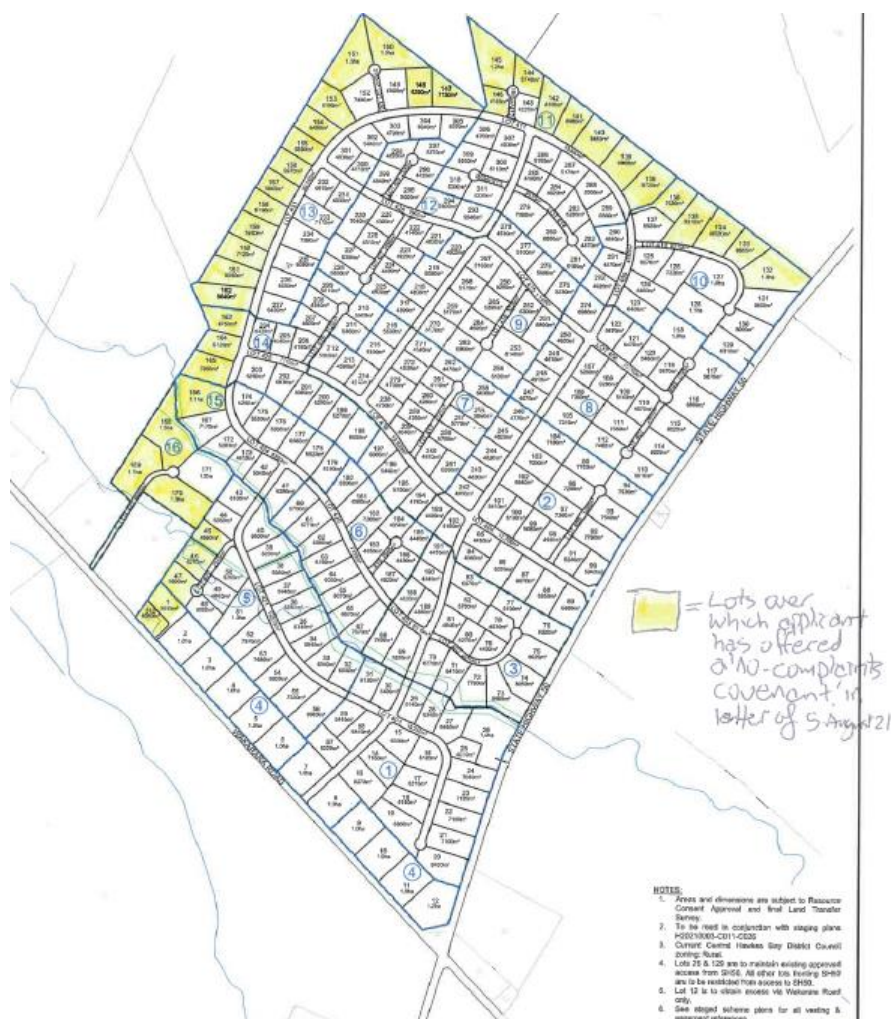


Figure 5 – Allotments over which the Applicant has proposed a no-complaints covenant for reverse sensitivity mitigation

- 4.39 For context, I note the allotments along the northern and western boundaries are generally over 100m deep, allowing future dwellings to be setback significantly from the boundary with the neighbouring farmland.
- 4.40 No-complaints covenants have not been offered on those allotments fronting Wakarara Road or SH50. The allotments fronting Wakarara Road are larger in size, each being 1ha or more in area, except for Lots 1 and 312 at the western end which are half that size. The 1ha lots are approximately 110m deep from Wakarara Road. The lots fronting SH50 are generally greater than 7,000m<sup>2</sup> in area with a few exceptions and are generally over 100m deep, again with a few exceptions. One of the Waka Kotahi conditions requires dwellings within the 'effects buffer' to be designed and constructed with acoustic insulation to achieve a design level of 40 dB L<sub>Aeq</sub>(24hr) within habitable spaces. The effects buffer on the Waka Kotahi plan is approximately 60m deep from SH50. Benefits of increased noise insulation on dwellings within that buffer to mitigate the





effects of traffic noise would also be of benefit in mitigating potential noise effects from production activities on the opposite side of SH50 while residents are indoors.

- 4.41 The relatively large size of the proposed lifestyle allotments, the proposed no-complaints covenants on the allotments on the northern and western boundaries, and the Waka Kotahi acoustic insulation requirement will all contribute to some mitigation of the potential for reverse sensitivity effect on adjacent production land. It is, however, difficult to conclude that these measures would ensure that reverse sensitivity effects will be mitigated on adjacent land to the extent of being less than minor under section 95E of the RMA. There are likely to be higher amenity expectations in the large lifestyle residential community that this subdivision will create, in comparison to such expectations with single, or smaller clusters of, lifestyle sites. With this change in the character of the environment, I consider that there is at least the potential for minor reverse sensitivity effects on the neighbouring farming and horticultural operations, given that the noise and odour effects from some production activities can be difficult to control.

#### **Amenity Effects**

- 4.42 The assessment matter 14.6(1)(d) relates to the effects of the subdivision on the amenity of the area, the increase in density of residential dwellings, and the loss of rural outlook. Considering these matters, it is my opinion that there will be a significant change in the amenity of the area resulting from the proposed subdivision. This is due to the character of some 220ha of Rural Zone land being changed from farm land to a 312 lot lifestyle residential subdivision. This has the potential for minor or more than minor effects on the owners and occupiers of the adjacent land identified in Figure 4 above as the amenity of the area that they live and farm in will be changed.

#### **Other Effects on Adjacent Land**

- 4.43 In considering the relevant matters in Rules 9.9.3 and 14.6, most of the matters relate to the adequate servicing and internal design of the subdivision and are not necessarily relevant to the consideration of effects on adjacent land.

#### **Effects on Statutory Acknowledgement**

- 4.44 The subdivision site is identified in the PDP as being on land that is subject to the Tukituki River & Tributaries OTS110-30 Statutory Acknowledgement held by Heretaunga – Tamatea. If there is the potential for the Kahahakuri Stream (the ephemeral stream bisecting the site), which is a Tributary of the Tukituki River, to be adversely affected by the subdivision in regard to a relevant matter of control under the ODP, Heretaunga – Tamatea would be an affected person.
- 4.45 Assessment matters under Rule 14.6 relating to stormwater (6)(d) (open and natural systems) and sewage (7)(g) (ensure contaminants are not discharged into the environment from onsite wastewater systems), are potentially relevant to effects on the Kahahakuri Stream. Wastewater disposal from the subdivision is a relevant matter in regard to the integrated management of effects enabling the ODP to have matters of control and assessment matters relating to wastewater disposal. Notwithstanding this, the Council does not have jurisdiction under the RMA to specifically control discharges to the environment via conditions on resource consent as that function lies with regional councils.
- 4.46 Given the threshold for an 'affected person' is a minor adverse effect, I consider that with the information available, there is the potential for the subdivision to result in minor adverse effects on the Kahahakuri Stream. Accordingly, the Heretaunga-Tamatea Trust should be considered an affected person under section 95B.





Step 4: Special Circumstances

- 4.47 As it has been determined under Step 3 that there are affected persons, limited notification is required and there is no need to consider special circumstances under Step 4.

**Conclusion**

- 4.48 Given the above assessment, I consider that the land owners and occupiers of the adjacent land identified in Figure 4 above and the Heretaunga-Tamatea Trust are affected persons pursuant to section 95E of the RMA. Accordingly, each of these affected persons shall be notified of the application pursuant to section 95B(9).

**5.0 RECOMMENDATION**

Pursuant to section 95B of the Resource Management Act 1991, I recommend that the application be processed on a limited-notified basis, in accordance with the conclusions in this report, and that limited notification be served on the owners and occupiers of the adjacent land identified in Figure 4 above and on the Heretaunga-Tamatea Trust.

Recommended by:

**Philip McKay**

**Associate, Mitchell Daysh Ltd**

**Consultant for Central Hawke's Bay District Council**

Decision made under delegated authority by:

**Robyn Burns**

**Customer and Consents Manager**

**Central Hawke's Bay District Council**

Dated: 2 December 2021