



CENTRAL HAWKE'S BAY DISTRICT COUNCIL

Report pursuant to section 42A of the Resource Management Act 1991 for the hearing of the following Limited Notified Resource Consent scheduled for 17 May 2022:

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

REPORTING PLANNER STATEMENT OF QUALIFICATIONS

1. I, Philip McKay, reside in Hastings and am employed by Mitchell Daysh Limited as an Associate Planner. I hold a Bachelor of Regional Planning with Honours from Massey University and am a Full Member of the New Zealand Planning Institute and secretary of the Central North Island Branch of the Institute. I have had some 29 years' experience as a practising planner, 22 of these being in local government. My experience includes resource consent preparation, resource consent processing and decision making on resource consents under delegated authority, as well as district plan preparation and general policy planning work.
2. My experience as a consultant planner includes preparing and presenting evidence to council and Environment Court hearings for both council and private clients. I was employed by the Hastings District Council as Environmental Policy Manager from 2010 – 2015 where I was responsible for the team preparing, and reporting on submissions to, the Proposed Hastings District Plan. I am a certified commissioner under the Ministry for the Environment 'Making Good Decisions' programme with a Charing Endorsement.
3. I have read the Code of Conduct for Expert Witnesses as contained in the Environment Court's Consolidated Practice Note (2014), and I agree to comply with it as if this hearing were before the Environment Court. I confirm that the issues addressed in this hearing report are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.



INTRODUCTION AND OVERVIEW

4. This report is prepared pursuant to section 42A of the Resource Management Act 1991 ("RMA") for the hearing of submissions on a limited notified application for resource consent.
5. In April 2021, Springhill Farm Holdings ("the Applicant") applied to Central Hawke's Bay District Council ("Council" or "CHBDC") for resource consent under the RMA.¹ The application seeks resource consent to subdivide the subject property to create 312 separate lots for lifestyle residential purposes, with each lot complying with the minimum lot size requirement in the Operative District Plan of 4,000m². The subject property is located at 1080, 1152 and 1200 State Highway 50 and 604 and 612 Wakarara Road, Ongaonga. The land is held over three separate Records of Title, 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 2,023m²; 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.
6. 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.
7. The application also seeks land use consent under the Resource Management (National Environmental Standard for Assessing and Managing Contaminants in Soil to Protect Human Health) Regulations 2011 ("NESC"). A Detailed Site Investigation ("DSI") has been completed² 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 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 NESC and requires Restricted Discretionary Activity resource consent for both 'soil disturbance' and 'subdivision' of a piece of land subject to the NESC.

PROPOSAL

8. Table 1 below provides a schedule of the proposed lot numbers and land areas. The lot numbers are as referenced on the subdivision scheme plan attached as Figure 3 below. It is important to note that Figure 3 includes the latest version of the scheme plan following the provision of further information, as opposed to the scheme plan as originally lodged. There have been no changes to the total number of lots, but some amendments have been made to the proposed staging. The lots range in size from 4,010m² (Lot 25) to 1.5ha (Lot 168), resulting in an average size of 6,387m².³

¹ The application was lodged by Development Nous Ltd on behalf of the Applicant.

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

³ Assessment of Environmental Effects page 10.



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

9. The application and associated Assessment of Effects on the Environment ("AEE") was prepared on behalf of the Applicant by Development Nous Ltd and is supported by the following technical reports:

- Staged Scheme Plans
- Topographic Survey
- Detailed Site Investigation (of soil contaminants)
- Preliminary Geotechnical Assessment
- Transport Assessment Report
- Engineering Services Report
- Preliminary On-site Wastewater Assessment.

10. An overview of the proposal is provided below. Specific passages are also quoted or summarised throughout this report as required.

Road Layout

- *A network of roads would be formed within the development and these will be vested in Council. The form of these roads has sought to avoid a formal suburban grid pattern through the use of curved alignments where possible and the use of a series of jointly owned access lots extending from the road network to reduce grid connection.*
- *Access will be from a new external road connection to Wakarara Road and a new road connection to SH50. In general, these external road connections lead to the formation of a principal east west road from the State Highway 50 access and a principal north south road*



from the Wakarara Road access, which loops around the northern end of the site to access the western part of the development.

- A further private Jointly Owned Access Lot ("JOAL") access from Wakarara Road will utilise the existing access leg of parent title 382377 to form access to lots 168 – 171.*
- The existing houses on the site (within the parent HBG1/1065 title area) are contained within Proposed Lots 25 (southern house) and 129 (northern house). Proposed Lot 25 will be accessed from the internal road network, and Proposed Lot 26 will utilise the existing state highway access of this southern house. Proposed Lot 129 would continue the existing direct access to the state highway for the house. All other lots fronting onto the state highway will be subject to a consent notice requiring them to be accessed from the subdivision roads rather than the state highway.*
- Thirteen lots with road frontage to Wakarara Road will be accessed directly from this road frontage.*
- Road lots 401, 403, 404, 406, 409, 411, 415, 418, 420, 421, 424, 425, 428 and 431 will be vested in Council as road and JOAL lots 402, 405, 407, 408, 410, 412, 413, 414, 416, 417, 419, 422, 423, 426, 427, 429 and 430 will be retained in private shared ownership by the relevant users (with associated service easements).*
- Vested roads will have a 20m legal width and JOALs will have a 15m legal width. The exception to this is the 12m width of JOAL lot 423, which provides access to the four lots 168 – 171.*
- The road network will include the formation of two crossings of the ephemeral drain.*
- Design of these structures (bridges or culvert crossings) will be undertaken at detailed design stage.*
- Telecommunication and power designs are being undertaken at the time of submission of the application to detail and understand the related servicing requirements.*

Development Servicing

- Three waters servicing requirements will be met on site.*
- Roof surface rainwater collection and storage will be utilised for potable domestic water supply.*
- The underlying gravels offer soak away opportunity for the discharge of any concentrated domestic structure stormwater or overflow from rainwater storage tanks. Existing overland flow across the site will continue to flow with the grade to the road side drain of the state highway.*
- Concentrated stormwater from the roads and JOALs will drain to a network of swales that discharge to the existing ephemeral drain at the southern end of the site and a schedule of easements in gross to Council over the drain is proposed to address the stormwater function.*
- There is no obstacle to the satisfactory achievement of on-site domestic wastewater treatment and discharge to ground through dispersal fields.*
- Individual fire fighting water supply arrangements will be required for each lot, either in the form of a secondary storage tank and coupling or a domestic sprinkler system and tank.*

State Highway Upgrading

- The improvements to the road environment for the State Highway 50 site access are a right turn bay into the development for southbound State Highway 50 traffic and auxiliary left turn*



treatment into the development for northbound State Highway 50 traffic.⁴

- *The improvements to the road environment for the State Highway 50 junction with Wakarara Road are a right turn bay for southbound State Highway 50 traffic turning into Wakarara Road and an auxiliary south bound left turn treatment at the ten year horizon.⁵*

Geotechnical Stability and Earthworks

- *Appendix D provides a Geotechnical Report detailing specialist subsurface investigations and conclusions of liquefaction vulnerability. The report concludes that the site is unlikely to liquefy during a design seismic event and that suitable foundations for future houses can be readily formed through shallow excavation of topsoil.*
- *Earthworks activities will be required for the isolated areas of site remediation, formation of the internal roads and related infrastructure and shared driveways. As the site is generally flat, no cut/fill earthworks are required for the formation of the lots and building platforms.*
- *The ground conditions and absence of liquefaction risk enable future buildings to be constructed on shallow foundations, avoiding excavation for the formation of subsurface foundation structures.*

Contaminated Soil Site Remediation

- *The site investigation summarised within the DSI provided at Appendix C has identified discrete areas of soils impacted by residual contamination from historic farm activities, with contaminant concentrations exceeding the applicable rural residential soil contaminant standards.*
- *A remediation action plan will be developed, and the remediation completed prior to commencement of the relevant stages of development (Stage 14 lots 198, 199, 200, 201 and Stage 15 lots 176 – 179).*
- *While there is potential for remediation by way of soil mixing, the export of contaminated soils to an appropriately accredited receiving facility is also expected to be required to complete the soil remediation.*
- *Validation reporting will be presented to Council confirming that all identified areas of impacted soils have been remediated to a standard that is compliant with the soil contaminant standards for rural residential use to enable future development of the rural lots.*

SITE DESCRIPTION

11. The site description included in the AEE⁶ is adopted and, for convenience, is summarised as follows. The site occupies the north-western 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

⁴ The August 2021 further information response now states that this will likely be a NZTA Type D left taper (or similar design).

⁵ The timing of these upgrades is subject to the conditions on the written approval from Waka Kotahi accepted by the Applicant to form the application and included with the further information response of 5 August 2021.

⁶ AEE at pages 3 and 4.



Road frontage and is accessed by an access leg.

12. 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 SH50 frontage. A cluster of rural buildings are located adjacent to the north-western boundary of the property also separately accessed from SH50. See Figure 1 below for an outline of the site and surrounding area.
13. 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.



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

14. 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.
15. 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.

FURTHER INFORMATION – SECTION 92

16. On 3 June 2021, the Council requested further information from the Applicant in respect of the subdivision application. The request sought further information on the following eight (8) matters (and is appended as Attachment 1):
- Application details;
 - Location and mitigation of farm dump;
 - Transportation effects;
 - Subdivision design;
 - Natural hazard flooding effects;
 - Stormwater effects;
 - Wastewater effects; and
 - Reverse sensitivity effects.
17. In gaining an understanding of this application and the matters at issue, including technical issues raised by the Council's peer reviewers, it is helpful to have an overview of the various responses provided to the above further information request and subsequent requests for additional clarification. Accordingly, the following paragraphs provide an overview of the correspondence between the Council and the Applicant between August 2021 (when the initial response was



received) and November 2021.

18. An initial response to Council's June 2021 request for further information was received in an e-mail dated 5 August 2021 from Development Nous on behalf of the Applicant and is summarised as follows:
- Cover letter providing a structured response to each item of information requested and referring to the other reports and documents provided, which included:
 - Waka Kotahi NZ Transport Agency ("Waka Kotahi") noise exposure buffer zone, Drawing H20210003-C100 (setback plan);
 - Waka Kotahi letter providing conditional approval for the proposal;
 - Draft Contaminated Soils Remediation Action Plan (RAP) by Geosciences Limited⁷;
 - Engineering Services Master Plan (July2021 _V2) by Development Nous;
 - Overland Flow Path Diversion Plan/Southern Drain Diversion and Lot Development Plan (19 July) by Development Nous; and
 - Staged Scheme Plan Set (revised 21.07.21) by Development Nous.
19. 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 involving neighbours and Council representatives.
20. Key items of information provided in the initial further information response cover letter dated 5 August 2021 are summarised below:
- a. The stormwater discharge from the development is 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 due to the related catchment area. The bridging of the main drain will also require consent due to the catchment area. The road crossings are expected to qualify for the specified infrastructure exclusion of the Resource Management (National Environmental Standards for Freshwater) Regulations 2020 ("NESFW") and the JOAL crossings should meet the permitted activity requirements of the NESFW.
 - b. 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.
 - c. A letter dated 8 July 2021 from Waka Kotahi 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. This includes plan 20210003-NZTA-C100, which

⁷ This RAP was not a matter covered in the section 92 letter, but provision of a RAP was separately requested.



is submitted to form part of the application and outlines development setbacks adjacent to the highway as a noise buffer for future occupiers.

- d. The absence of street lighting is intentional, and is to maintain rural character and to remain consistent with most rural areas across the district. This is not considered to compromise safety given the lower speed environment within the subdivision (compared to most other roads in the district).
- e. 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 the Applicant would welcome this approach.⁸
- f. The use of multiple cul de sacs is considered 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”.
- g. The response states the proposed subdivision has been amended to better provide for the southern drain (ephemeral stream).⁹ 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 easements to the Council and is shown on plan H2021003 Springhill Overland Flow Path Diversion Plan.
- h. In regard to the use of the stream margins for public access the response states: *“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 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.”*
- i. 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.
- j. Rain 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. The impacts

⁸ Development Nous section 92 response, cover letter dated 5 August 2021, Page 5.

⁹ Development Nous section 92 response, cover letter dated 5 August 2021, Page 6.



of increased impervious surface within the application site can be readily mitigated through on-site measures. A local purpose reserve is not necessary to be provided as a public utility for stormwater ponding or other stormwater mitigation.

- k. 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. The response refers to the Engineering Services Master Plan document¹⁰ which calculates pre and post development stormwater. This is referred to for specific natural hazard flooding information requested.
 - l. In providing an assessment of the cumulative wastewater effects the response stated:
"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."
21. The letter from Development Nous dated 26 August 2021 provided further supporting information on wastewater 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."*
22. Example plans were provided demonstrating the space typically available for on-site effluent fields with the following comment: *"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 300m² with associated 72m² garages and two 4m diameter water tanks. The rural sites offer significant flexibility to accommodate built development and required effluent fields."*
23. In regard to reverse sensitivity effects, the 5 August 2021 response letter 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,*

¹⁰ Document H20210003-ESMPR, July 2021_V2 by Developments Nous.



144 – 148, 150, 151, 153 – 166, 168 – 170 and 312.”

24. The following additional comments were added in the letter 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.”*
25. Further response on 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.”*
26. Following review of this further information, a letter was sent to the Applicant’s agent on 16 September 2021 advising of Council’s intention pursuant to section 92(2)(b) to commission a report from Pattle Delamore Partners Limited (“PDP”) on the potential cumulative effects of the required on-site wastewater systems. The letter also requested additional further information from the Applicant on several matters not considered to have been adequately covered in the previous responses. 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 discussed in the following paragraphs.
27. 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. The response stated as roof water supply is required most new owners are unlikely to also pay for the installation of a bore and compares likely domestic takes against the volumes permitted by surrounding bores and concludes as follows: *“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.”*
28. The Council requested that the Applicant provide advice from Fire and Emergency Management New Zealand (FENZ) as to whether any additional requirements at the time of individual building consents. The 7 October 2021 response attached correspondence with Bob Palmer of FENZ and stated: *“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.”*
29. The Council’s letter set out concerns with the proposal to only provide streetlighting at intersections and to provide no footpaths and further comment was invited on these matters. The response stated: *“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..." Regarding the issue of not providing footpaths the response stated: *"I can confirm that the development does not propose the inclusion of lime sand footpaths, consistent with the amended plan submitted 09 September 2021."*

30. Rather than agree to the commissioning of a report on the potential cumulative effects of the on-site wastewater discharges from 312 lots (as requested in the Council letter of 16 September 2021), 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 land use.*
- 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."*

31. On behalf of the Council, Pattle Delamore Partners provided a peer review of the Freeman Cook Report dated 11 November 2021 (see Attachment 2). In its report, Pattle Delamore Partners conclude that:

"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."

32. It then goes on to set out a series of measures that could be undertaken to mitigate the potential adverse cumulative effects of wastewater discharges to ensure that they are no more than minor. As a territorial authority, it is not within the jurisdiction of the Council to manage the effects of discharges. Rather, under section 30(1)(f) of the RMA, this is a function of regional councils and, in this case, the Hawke's Bay Regional Council ("HBRC").

33. A response to the Pattle Delamore Partners' report was received on 24 November 2021, in which Professor Freeman Cook concludes:

"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.

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

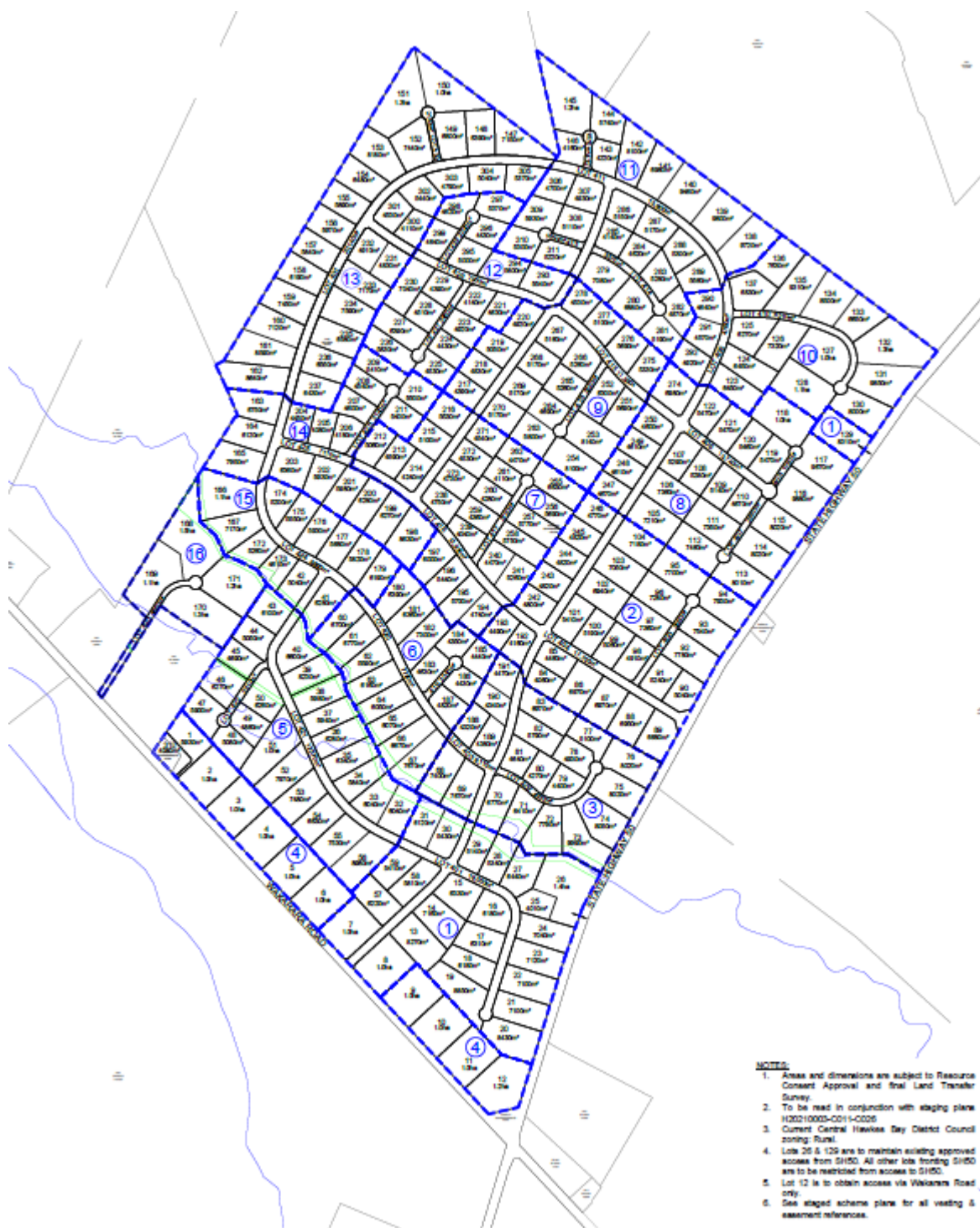


Figure 3: Subdivision Scheme and Staging Plan. Source: Development Nous 9 November 2021.



DISTRICT PLAN ACTIVITY STATUS

35. The relevant District Plan for the purposes of determining activity status is the Central Hawke's Bay District Plan ("ODP" or "District Plan") which became operative on 27 July 2000.
36. The subject site is in the Rural Zone. The Proposed Central Hawke's Bay District Plan ("Proposed District Plan") 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 activity status of this application.¹¹
37. 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 to the application 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 ² . <u>Access, Utilities, Roads and Reserves</u> 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 ² , with the smallest being Lot 25 at 4,010m ² . The joint access ways are not subject to the minimum lot sizes. Complies
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. N/A
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. Water supply is proposed by roof water collection and storage. N/A
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	This standard does not apply to the Rural Zone. Individual on-site wastewater

¹¹ RMA, section 88A.



	shall also apply to Township Zones which have an existing reticulated disposal system.	disposal systems are proposed to service each lot. N/A
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. N/A
f. Lot Dimensions	Lot minimum dimensions shall be such that they can accommodate a 15x17m rectangle. Lot minimum dimensions shall not apply in any zone for lots for access, utilities, reserves and roads.	The size of each lot is such that these minimum dimensions are easily accommodated. Complies
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. 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>Complies</p> <p>Only 1 access leg is proposed, to Lot 136 and it has a minimum width of 5m.</p> <p>Complies</p>
g. Property Access (continued)	<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</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>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 directly to a road.</p>	Complies
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>Will comply</p>
i. Construction Standards for	All new roads, required to be provided under rule 9.10 (g) above, shall be:	The proposed roads all have a legal width of 20m and 6.5m



<p>Roads</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>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>carriageway 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 Zone to achieve compliance with this standard.</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>Complies (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> <ul style="list-style-type: none"> i. Every lot with direct vehicle access to a road or to a vehicle access lot, shall be provided with a complying vehicle crossing. ii. Every vehicle access lot shall be provided with a complying vehicle crossing. iii. Every activity requiring access to a road shall have access to that/those road(s) only by way of a complying vehicle crossing. iv. A complying vehicle crossing shall meet the following requirements: <ul style="list-style-type: none"> 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. 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 . 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. 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>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 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 iv.d. in providing a 3.5m x 5m space accessed from the vehicle crossing can be assumed.</p> <p>Will comply</p>
8.5.2 b Formation and Sealing of Vehicle Crossings	<ul style="list-style-type: none"> i. All vehicle crossings shall be formed with an all weather surface and shall be drained to the satisfaction of the Council. ii. Where the road carriageway adjacent to the vehicle crossing is sealed, then the vehicle crossing shall be sealed. <ul style="list-style-type: none"> - Rule 8.5.2 (b) (i) and (ii) does not apply where the vehicle crossing gives access to paddocks which do 	<p>The AEE states that all vehicle crossings will be sealed when formed, 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</p>



	<p>not contain any buildings...</p> <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>this standard.</p> <p>Will comply</p>
8.5.2 c Migration of Gravel onto Sealed Roads	<p>i. All formed and driveable surfaces on any lot with direct access to a sealed road, and 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>	<p>The AEE states that the first 5m of driveways 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>Will comply</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</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>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 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 standard.</p> <p>Will comply</p>
e. Widths of Vehicle Crossings	Other: 6.0 – 9.0m	<p>The AEE states vehicle crossings will be formed to the 6m minimum width and that this will be addressed in the detailed design.</p> <p>Will comply</p>
f. Sight Distance from Vehicle Crossings and Road Intersections	<p>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></p> <p>100km/hr speed limit (local roads) – minimum sight distance 170m.</p> <p>100km/hr speed limit (State Highways) – minimum sight distance 250m.</p>	<p>The AEE states the existing vehicle crossings to SH50 and Wakarara junction benefit from sight distances exceeding 250m.</p> <p>The proposed new road into the development will benefit from a 250m sight distance.</p> <p>The alignment of Wakarara Road will provide 170m sight distances for new vehicle crossings and the new road into the development.</p> <p>Complies</p>

38. 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.
39. 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

40. 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.¹²
41. 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 NESSC consent should be separately assessed under sections 104A and 104C of the RMA. Accordingly, the following assessment is undertaken on that basis.

Additional regional resource consents required

42. 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 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.
43. In terms of other potential consents required under the RRMP, the further information response from the applicant states that the stormwater discharge from the subdivision is expected to meet the permitted activity standards of the RRMP. However, if it did not comply with these standards, resource consent for a controlled activity would be required under Rule 43 of the RRMP.
44. The resource consents required under the RRMP relate to specific components of the subdivision application and I therefore do not consider it appropriate to defer the processing of this subdivision consent application under section 91 of the RMA pending application for the resource

¹² Quality Planning, "Consent Steps: To Notify or Not to Notify."

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



consents required from HBRC.

LIMITED NOTIFICATION AND SUBMISSIONS

45. A notification assessment pursuant to sections 95A and 95B of the RMA was undertaken and is documented in the Notification Report (see Attachment 3). By way of summary, the Council determined under section 95E of the RMA that the adjacent landowners and occupiers and the Heretaunga Tamatea Settlement Trust are affected persons. As such, the Notification Report, which I prepared on behalf of the Council, recommended that the application be processed on a limited notified basis under section 95B of the RMA and recommended that the adjacent landowners and the Trust be notified of the application.
46. Before concluding that limited notification was required, the Notification Report determined that public notification was not required under section 95A of the RMA. As a controlled activity, public notification is specifically precluded (section 95A(5)(b)(i) of the RMA). Nevertheless, consideration was given to whether special circumstances exist that warrant the application being publicly notified under Step 4 of section 95A of the RMA. In doing so, the application was considered exceptional with the large number of lots proposed and to be outside of the common run of Rural Zone subdivisions of this nature. It was, however, determined that public notification would not be desirable, due to the controlled activity status of the subdivision and the limited effects on the wider environment that are within the Council's jurisdiction.
47. The application was limited notified on 3 December 2021 in accordance with section 95B of the RMA and with clause 10 of the Resource Management (Forms, Fees, and Procedure) Regulations 2003 and the recommendations in the Notification Report.
48. Submissions closed on 26 January 2022, and a total of seven submissions were received as set out in the following table.

Table 4 – Summary of Submissions Received

Name & address	Summary of submission	Relief sought	Wishes to be heard
AS Alder, 622 Wakarara Road Map Ref (in Figure 4 below: 1)	Opposes application. Impact on community resource. Need to protect character and quality of area. Complaints about noise and farming activity. Wandering dogs and people. Area is a farming community not a lifestyle housing area.	Opposes the application. Do not extend lapse date beyond 5 years. Do not let subdivision start.	Yes.
K Bell,	Access to Lot 171 passes submitters house.	Wants Lot 171 included in no complaints covenant.	Does not specify



<p>598 Wakarara Road</p> <p>Map Ref (in Figure 4 below: 2)</p>	<p>Frost fan noise can be clearly heard from submitters house which is a greater distance than proposed lots.</p> <p>Spray drift from surrounding activities gets in roof water so new residents likely to put down bores.</p> <p>It is unreliable to rely on individual water tanks for firefighting supply in summer.</p> <p>A lack of green space and footpaths will force people to walk on unlit roads or neighbouring farmland for exercise and dog walking.</p> <p>The lifestyle sites created will in addition to wastewater have livestock pressure as people will want animals and will not be cutting and carrying their grass away from the site.</p> <p>Native plantings on boundary and through the development to help with phosphorous uptake as well as providing green space for recreation.</p> <p>Due to the drastic change to the surrounding environment it would not be appropriate for people to be able to build more than one dwelling on each site.</p> <p>The development will place pressure on existing services including the rural nature of Ongaonga and Tikokino Schools.</p> <p>There is no accommodation in the development for services like shops and fuel.</p> <p>Wanted to live in the country and feel safe. Development will prevent rural feel and safety, devalue home and affect lifestyle.</p>	<p>More noise mitigation to be required from frost fans.</p> <p>Require that future residents cannot rely on either roof water or unconsented ground water.</p> <p>Require that there is a communal holding tank for fire fighting.</p> <p>Require that there is a safe public walking space or green space made available for residents that is well lit and away from motor vehicles.</p> <p>The presence of livestock needs to be factored into the potential effects on waterways.</p> <p>Ensure that there are green spaces in significant quantities so that the environmental factors and being a good neighbour are met.</p> <p>Ensure that there are no more dwellings than there are sections (limit of one dwelling per section).</p> <p>Consideration of extra classrooms and consultation with schools is required</p> <p>There should be a space set aside in the development for a shop and / or fuel.</p>	<p>whether wishes to be heard.</p>
<p>R & H Ellis, 1031 SH50</p>	<p>Opposes application.</p> <p>Concerns with the size and scope of the</p>	<p>Conditions to address the issues of concern:</p>	<p>Yes.</p>



<p>Map Ref (in Figure 4 below: 3)</p>	<p>proposed subdivision in a rural zone including: quality of housing; effect on rural roads; pressure on health services; pressure on CHBDC water supply; upgrade required to Ongaonga substation; increase of E Coli in the environment from sewage disposal; limitation on access for kids and people with no footpaths or recreational areas.</p> <p>Right to farm and rural character – the need to go about daily farming activities unaffected by the subdivision, including during harvesting and stock truck movements, noise from livestock and farm dogs, pesticide spraying and fertilizer application, dust and odour.</p> <p>A 15 year window for the subdivision over 16 stages will mean putting up with 15 years of earthworks, building and general disruption.</p> <p>Concerns that bringing in gravel and earth moving machinery will spread noxious weeds.</p> <p>Effects from new neighbours in terms of traffic, dogs worrying livestock, potential trespassing on neighbouring property, sewage disposal causing contamination, effect on ground water availability.</p> <p>Applying non-complaints covenant to new lots on external boundaries is not enough as there will still be potential for complaint from other properties.</p>	<p>Lapse date of 5 years (not 15).</p> <p>Address risk of weed spread during earthworks.</p> <p>Ensure water servicing does not affect existing water supplies.</p> <p>Sewage disposal does not increase E Coli, nitrogen or phosphorous.</p> <p>No complaints covenant over all lots in the subdivision.</p> <p>Education to future residents to not enter surrounding private property and controlling pets and animals.</p> <p>High standard of housing with natural colours.</p> <p>Limit of 12 months for temporary homes like caravans.</p> <p>No fireworks.</p> <p>Restriction on number of animals, due to concern regarding wandering dogs.</p> <p>No drones.</p>	
<p>WJ & LF Hutt, 958 SH50</p> <p>Map Ref (in Figure 4 below: 4)</p>	<p>Opposes application.</p> <p>Subdivision will have major effects on submitters rural farming property, both directly and reverse effects.</p> <p>Concerns that farm livestock will be affected and safety concerns for residents in the subdivision.</p>	<p>Would like to discuss:</p> <ul style="list-style-type: none"> • Covenants across whole subdivision. • The timeframe for the proposal. • How to protect the character and quality of the rural area. 	<p>Yes.</p>



<p>Mr Apple NZ Limited, Te Papa Orchard, 1115 SH50</p> <p>Map Ref (in Figure 4 below: 5)</p>	<p>Opposes application in its present form.</p> <p>Owens orchard directly opposite the site on SH50. Need to protect the ability to continue to operate the frost fans established on the site – with four of these fans located near the SH50 road boundary and therefore close to the proposed new lots. Acoustic advice is that noise from the frost fans will impact on all proposed allotments within 500m of the Te Papa Orchard farms.</p> <p>Opposes due to the significant reverse sensitivity effects on the operation of the orchard.</p> <p>There are likely to be higher amenity expectations from the large lifestyle sites created by the subdivision. The allotments over which no-complaints covenants have been offered do not include all the allotments within 500m of the frost fans.</p> <p>The proposed setbacks to mitigate State Highway noise are insufficient to avoid the risk of reverse sensitivity from the Te Papa Orchard operation.</p>	<p>That the Council impose such conditions as may be required to avoid reverse sensitivity effects on the Te Papa Orchard operation.</p>	<p>Yes.</p>
<p>Plantation Road Dairies Ltd (K Davidson), 313 Wakarara Road</p> <p>Map Ref (in Figure 4 below: 6)</p>	<p>Opposes application.</p> <p>Insists that any purchaser realises they are buying in a country area subject to noise 24/7 from machinery, smoke from fires, and smells. Farming operations were there first.</p> <p>Houses need to be built new and not relocated and not rented.</p>	<p>Not able to complain about noise from farming operation.</p> <p>Not able to complain about smoke drift from fires.</p> <p>Not able to complain about farm smells, such as from stock and effluent.</p> <p>Form needs to be signed to prevent complaints.</p> <p>Houses to be built to high standard and not rented – owner occupier.</p>	<p>Yes.</p>



<p>KB Sloane, 646 Wakarara Road</p> <p>Map Ref (in Figure 4 below: 7)</p>	<p>Opposes application.</p> <p>The subdivision will spoil the ambience of the area. Submitter bought property to be away from towns and built-up areas. Does not want to be within a kilometre of a major town which the subdivision will be.</p> <p>Concerns regarding traffic safety and increase in vehicle use on local roads, including the intersection of SH50 and Wakarara Road.</p> <p>The small town created will have no amenities. Local health practices will not be able to cope with another 600+ people and it will be a burden to the local ambulance service and volunteer fire service, with concern about water availability. Concern for the ability of the two local schools to cope.</p> <p>There should be a total restriction on using water from the aquifer as already a big demand from agriculture / horticulture and local rivers are extremely low in summer. If properties are to collect rainwater from roofs there could be contamination of their water from sprays used in orchards.</p> <p>The subdivision will impinge on submitters health and wellbeing.</p>	<p>Decline the application.</p>	<p>Yes.</p>
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49. All of the submissions received were from adjacent land owners and occupiers as identified in Figure 4 according to the map reference number in the table above.

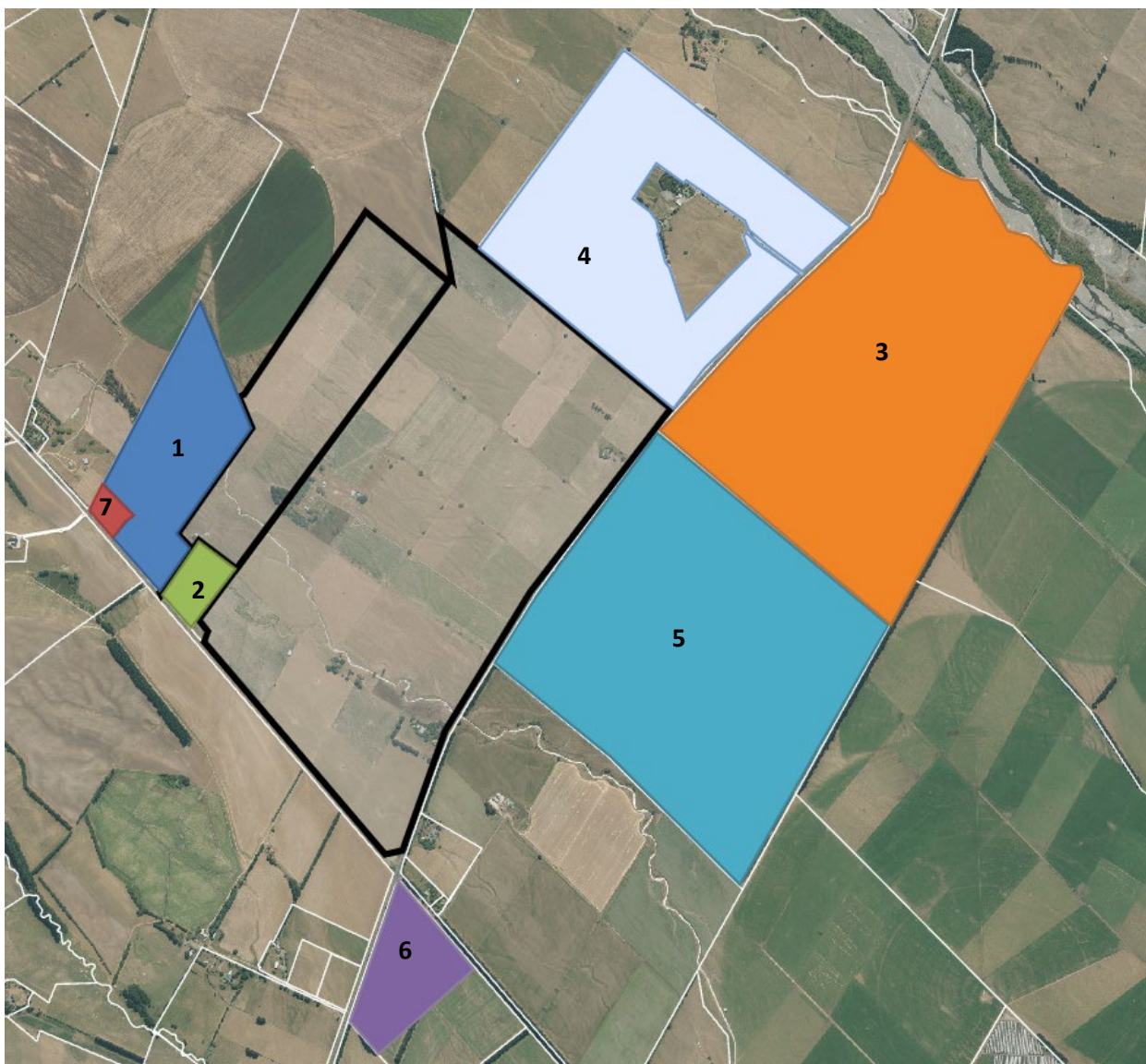


Figure 4: Map of Properties Owned by Submitters (Reference Numbers correspond to Table 4)¹³

50. The Heretaunga Tamatea Settlement Trust was notified of the application, but did not lodge a submission.

STATUTORY CONSIDERATIONS

51. Section 104(1) RMA sets out those matters that the Council must have regard to, subject to Part 2, when considering an application for resource consent and any submissions received, namely:

(a) *Any actual and potential effects on the environment of allowing the activity; and*

¹³ It is noted that some submitters may own more land in the vicinity than that identified in Figure 4, which is the land holding that triggered limited notification.



- (ab) *any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity; and*
 - (b) *Any relevant provisions of:*
 - (i) *a national environmental standard:*
 - (ii) *other regulations:*
 - (iii) *a national policy statement:*
 - (iv) *a New Zealand coastal policy statement:*
 - (v) *a regional policy statement or proposed regional policy statement:*
 - (vi) *a plan or proposed plan; and]*
 - (c) *Any other matter the consent authority considers relevant and reasonably necessary to determine the application.*
52. For the reasons explained above, it is not considered appropriate to bundle together the controlled activity subdivision consent under the ODP and the restricted discretionary activity land use consent under the NESCS. Accordingly, the subdivision consent is to be assessed as a controlled activity subject to section 104A of the RMA, which provides as follows:

104A Determination of applications for controlled activities

After considering an application for a resource consent for a controlled activity, a consent authority—

- (a) *must grant the resource consent, unless it has insufficient information to determine whether or not the activity is a controlled activity; and*
 - (b) *may impose conditions on the consent under section 108 only for those matters—*
 - (i) *over which control is reserved in national environmental standards or other regulations; or*
 - (ii) *over which it has reserved its control in its plan or proposed plan.*
53. Section 104A(a) is important as it requires consent for this aspect of the application (i.e. the subdivision consent) to be granted, unless the consent authority has insufficient information to determine that the activity is in fact a controlled activity (which, for the reasons outlined in Tables 2 and 3 above, is not the case here). Accordingly, the focus of the following assessment is therefore to determine appropriate conditions to set on the subdivision, which must relate to matters to which control is reserved under the District Plan (as per section 104A(b)(i) of the RMA).
54. The restricted discretionary activity resource consent required for soil disturbance and subdivision within the area of contaminated soil under the NESCS is subject to section 104C of the RMA:

104C Determination of applications for restricted discretionary activities

(1) When considering an application for a resource consent for a restricted discretionary activity, a consent authority must consider only those matters over which—

- (a) *a discretion is restricted in national environmental standards or other regulations:*
 - (b) *it has restricted the exercise of its discretion in its plan or proposed plan.*
- (2) The consent authority may grant or refuse the application.*
- (3) However, if it grants the application, the consent authority may impose conditions under section 108 only for those matters over which—*



- (a) a discretion is restricted in national environmental standards or other regulations;*
(b) it has restricted the exercise of its discretion in its plan or proposed plan.

55. Accordingly, the application must be assessed, and any conditions imposed with consideration of only those matters to which the NESCS restricts discretion.

SECTION 104(1)(a) – ASSESSMENT OF ENVIRONMENTAL EFFECTS – ACTUAL AND POTENTIAL EFFECTS

Controlled Activity Subdivision Assessment

56. This report will now assess the actual and potential effects on the environment from the proposed subdivision consent under the following headings. These headings are based on the matters which the District Plan reserves control over for the assessment of controlled activities:

- Lot Size and Dimensions;
- Subdivision Design;
- Property Access;
- Natural Hazards;
- Water Supply;
- Stormwater Disposal;
- Sanitary Sewage Disposal;
- Trade Waste Disposal;
- Vegetation and Landscape;
- Easements; and
- Building Location.

57. An assessment of the actual and potential effects on the environment relating to contaminated soil identified on the site under the NESCS will then be undertaken in accordance with the matters of discretion specified in the NESCS.

58. The approach undertaken in the following assessment is to:

- Set out the relevant matters of control in the District Plan;
- Summarise the assessment made by the applicant in the AEE;
- Summarise relevant issues raised by submitters;
- Assess the effects (where appropriate, in consideration of expert opinions); and
- Recommend potential conditions to be applied to mitigate or avoid any adverse effects.

59. In regard to contaminated soils, a similar approach will be taken with reference to the matters of discretion in the NESCS and the requirements of section 104C of the RMA.

60. The matters that the District Plan reserves control over for the assessment of controlled activity subdivision consent applications are set out under Rule 9.9.3. The District Plan also includes assessment matters under Part 14 which double as additional matters of control for controlled activities:



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 as controlled or discretionary activities.

61. There is also a specific set of subdivision assessment matters at Rule 14.6 (Assessment Matters). Accordingly, in this report, the relevant matters from both Rules 9.9.3 and 14.6 are set out in a table form under each effects subheading, to guide the scope of the assessment.

Permitted Baseline

62. Section 104(2) states that in the assessment of effects under section 104(1), the Council may disregard an adverse effect of the activity on the environment if a national environmental standard or the plan permits an activity with that effect. In my opinion, the permitted baseline is not particularly useful for considering the effects of the proposed subdivision because the District Plan does not provide for subdivision as a permitted activity.
63. In some instances, however, there may be a relevant permitted baseline for a specific effect of the proposed activity and, where that is the case, it will be noted in the assessment of the particular effect.

Trade Competition and Affected Persons Consent

64. Section 104(3) states that the consent authority must not have regard to either trade competition (104(3)(a)(i)), or any effect on a person who has given their written approval to the application (104(3)(a)(ii)).
65. In undertaking this assessment, I have not had regard to trade competition or the effects of trade competition. In any case, given that the nature of the proposed subdivision, there are unlikely to be any matters of trade competition arising.
66. Further, no written approvals were provided with the application when it was originally lodged. The written approval of Waka Kotahi was, however, subsequently provided as part of the further information provided on 5 August 2021. Accordingly, any adverse effects on Waka Kotahi as the road authority responsible for the management and operation of SH50 must be disregarded. It is noted that the written approval of Waka Kotahi is conditional on various upgrading works and mitigation measures which have been adopted by the Applicant in the application. These upgrading measures and mitigation works will need to be set as conditions on the consent and are discussed under the 'Property Access' section below.

Lot Size and Dimensions

District Plan Matters of Control

67. The relevant matters from both Rules 9.9.3 and 14.6 relating to lot size and dimension are set out in Table 5 below. Due to the subdivision assessment matters listed under Rule 14.6, this section also includes amenity and reverse sensitivity effects.



Table 5 – District Plan Matters of Control Reserved for 'Lot Size and Dimension'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>a. Lot Size</p> <ul style="list-style-type: none"> • Lot size of subdivisions in the Business and Township Zones. • Lot size of subdivisions for access, utilities, reserves and roads. <p>b. Lot Dimension</p> <ul style="list-style-type: none"> • Lot dimension of subdivisions for access, utilities, reserves and roads. 	<p>1. Lot Size and Dimensions</p> <p>Note:... A minimum lot dimension is required for all zones but again does not apply to access, utilities, reserves and roads lots in any zone.</p> <p>Minimum lot size in the ...Rural Zone is 4,000m². The following assessment matters apply below.</p> <ul style="list-style-type: none"> a. 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. b. 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. c. The relationship of the proposed lots and their compatibility with the pattern of the adjoining subdivision and land use activities, and access arrangements. d. 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.

Applicant's AEE Summary

68. The AEE is structured to first provide comments on the matters of control set out under Rule 9.9.3 and then to assess each matter under topic subheadings.
69. In relation to lot site and dimension, the AEE provides as follows:
- a) Lot size
- The District Plan has not reserved Council's control over the lot size of subdivision in the Rural Zone (reserving this for subdivision in the Business and Township Zones and subdivisions for access, utilities, reserves and roads only). Therefore, assessment of the size of the proposed lots is not required.*



b) Lot dimension, subdivision design and building location

The District Plan has reserved Council's control over lot dimension for subdivisions for access, utilities, reserves and roads only. The road and JOAL access lots throughout the scheme are all designed to accommodate required formed roads or driveways and ancillary infrastructure, and accord with the Council's standards.

70. Under the sub-heading 'Effect on the Amenity of the Surrounding Area', the AEE includes the following comments that I consider relevant to the subdivision assessment matters 14.6(1)c and 14.6(1)d:

While the application proposes a relatively large scale of subdivision development, the lots are all compliant with the minimum lot size of the Central Hawke's Bay Operative District Plan for rural activities, and the development is therefore of a form that is envisaged and provided for by the applicable planning rules and standards.

Lots fronting Wakarara Road are predominately 1ha in area and lots backing onto State Highway 50 are typically around 8,000m². The large area of these lots provides ample opportunity for future development to be accommodated comfortably within the lots and the open rural character of the wider area to be retained. It is expected however, that individual landscaping of lots will provide further visual recession of the development form within the productive rural landscape.

From a macro perspective, State Highway 50 and the wider Central Hawke's Bay district are characterised by small settlements of clustered activities. Forming a small and defined community, this development will be consistent with this historic character of the wider area.

While the subdivision and resulting lot development will inevitably result in a change to the appearance of the area, this visual change will be limited in relation to the wide ranging views and open rural character of the area.

71. The further information provided on the issue of reverse sensitivity (summarised in paragraphs 23 – 25 above) is also relevant.

Issues Raised by Submitters

72. As seen in Table 4 above, the submitters raised concerns relevant to assessment matters 14.6(1)c and 14.6(1)d, which respectively enable consideration of the relationship of the proposed lots and compatibility with adjoining land use activities (including potential reverse sensitivity effects) and effects on the amenity of the area (including the loss of rural outlook and the increase of traffic).
73. Table 6 below lists those submitters raising concerns relevant to these matters, and provides a bullet point summary of the concerns raised. All seven of the submitters raised concerns on both of these issues.

Table 6 – Submission Points Relevant to 'Lot Size and Dimension'

Submitters	Summary of Relevant Points Raised
<i>Compatibility with Adjoining Land Uses – Reverse Sensitivity</i>	
AS Alder, K Bell, R & H Ellis,	Complaints about noise and farming activity. Effects from new neighbours in terms of traffic, dogs worrying livestock,



<p>WJ & LF Hutt, Mr Apple NZ Limited, Plantation Road Dairies Ltd, KB Sloane.</p>	<p>potential trespassing on neighbouring property.</p> <p>Area is a farming community not a lifestyle housing area.</p> <p>Frost fan noise can be clearly heard from submitters house (598 Wakarara Road) which is a greater distance than proposed lots.</p> <p>The need to go about daily farming activities unaffected by the subdivision, including during harvesting and stock truck movements, noise from livestock and farm dogs, pesticide spraying and fertilizer application, dust and odour.</p> <p>Applying non-complaints covenant to new lots on external boundaries is not enough as there will still be potential for complaint from other properties. Covenants should be applied across whole subdivision.</p> <p>Education to future residents to not enter surrounding private property and controlling pets and animals.</p> <p>Restriction on number of animals, due to concern regarding wandering dogs.</p> <p>Concerns that farm livestock will be affected and safety concerns for residents in the subdivision.</p> <p>Need to protect the ability to continue to operate frost fans. Noise from the frost fans will impact on all proposed allotments within 500m of the Te Papa Orchard farms.</p> <p>The proposed setbacks to mitigate State Highway noise are insufficient to avoid the risk of reverse sensitivity from the Te Papa Orchard operation.</p> <p>Insists that any purchaser realises they are buying in a country area subject to noise 24/7 from machinery, smoke from fires, and smells. Farming operations were there first.</p> <p>Not able to complain about: noise from farming operation; smoke drift from fires; farm smells, such as from stock and effluent.</p> <p>If properties are to collect rainwater from roofs there could be contamination of their water from sprays used in orchards.</p>
<p><i>Effects on Amenity of Area, including Loss of Rural Outlook and increase in traffic</i></p>	
<p>AS Alder; K Bell, R & H Ellis, WJ & LF Hutt, Mr Apple NZ Limited, Plantation Road Dairies Ltd, KB Sloane</p>	<p>Need to protect character and quality of the rural area.</p> <p>Due to the drastic change to the surrounding environment it would not be appropriate for people to be able to build more than one dwelling on each site – apply limit of one dwelling per section.</p> <p>Wanted to live in the country and feel safe. Development will prevent rural feel and safety, devalue home and affect lifestyle.</p> <p>Concerns with the size and scope of the proposed subdivision in a rural zone including: quality of housing – require high standard of housing with natural colours.</p> <p>Houses need to be built new and to high standard, not relocated and not rented.</p> <p>The subdivision will spoil the ambiance of the area. Does not want to be within</p>



a kilometre of a major town which the subdivision will be.

Assessment of Effects - Compatibility with Adjoining Land Uses – Reverse Sensitivity

74. Concerns regarding the potential for the proposed subdivision to create reverse sensitivity effects on the neighbouring activities was the most commonly raised issue in the submissions received. The Applicant's proposed mitigation measure to address this issue was initially (in the application as lodged) to offer 'no complaints covenants' on the lots backing onto the western and northern site boundaries. This would result a no-complaints covenant being registered against the records of title for those allotments shown in yellow in Figure 6 below.

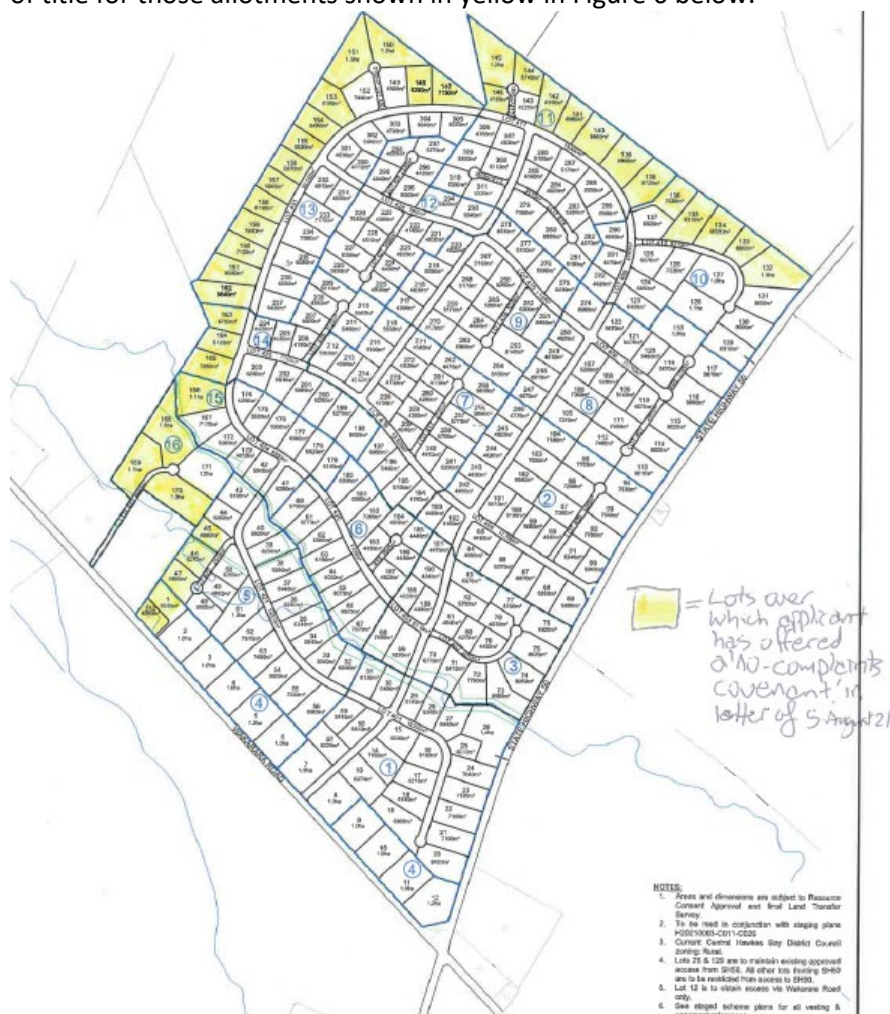


Figure 5 – Allotments over which the Applicant has proposed a no complaints covenant for reverse sensitivity mitigation

However, the Applicant has since confirmed in an email dated 7 April 2022 that, having reviewed the submissions received, it now proposes that no complaints covenants be registered against the records of title for all lots created by the subdivision. Although the exact placement of future dwellings within each lot will be at the discretion of the future owner(s) of that lot (provided that the setback requirements in the District Plan are met), it is my view that the no complaints covenants, together with the lot size, and the mitigation measures sought by Waka Kotahi, will provide some mitigation against reverse sensitivity effects, and indeed significantly greater mitigation than if the 'no-complaints covenant' was limited to the lots identified in Figure 5 above. In my opinion however, these measures will not avoid the potential for reverse sensitivity effects.



In practical terms the proposed 'no complaints covenant' is helpful for informing future owners of the potential adverse effects of living in a rural environment but cannot stop complaints being made to establish whether an activity is being undertaken in compliance with the relevant provisions of the district or regional plan.

75. Initially, it was not clear whether the Applicant was volunteering a covenant in favour of the adjoining properties, or a consent notice against the records of title warning future owners of the potential nuisance effects from accepted agricultural practices that they will be subject to from residing in the Rural Zone.¹⁴ However, in an email dated 7 April 2022, the Applicant confirmed that the offer is for conditions requiring the registration of consent notices.
76. Given the controlled activity status of the subdivision, any conditions must be within the matters of control that have been reserved in the District Plan. Although the assessment matters in Rule 14.6 enables the consideration of reverse sensitivity in a general sense, the actual matters of control are over lot size and dimensions. As the District Plan minimum lot size is complied with, there is no ability to alter the proposed lot sizes by conditions. Further, the proposed lot dimensions are such that the future landowners will have the option of providing significant setbacks for their dwellings from adjoining productive land uses. I do not therefore consider there to be any merit in changing the dimensions of any lot by conditions on consent. I do not consider that there are any other options available within the reserved matters of control to further mitigate potential reverse sensitivity effects.

Assessment of Effects – Amenity of Surrounding Area

77. The submissions raise concerns about the effect of the subdivision on the character and quality of the rural area. Again, as the subdivision is a controlled activity, and the matters of control relating to amenity are limited to lot size and dimensions, there would not appear to be any way to mitigate the potential effects of the 312 lifestyle residential sites on rural character and amenity.
78. Requested conditions in the submission include a limit of one dwelling per section. While it is possible that restriction will be imposed via the Proposed District Plan, as this is a complying subdivision under the Operative District Plan, conditions cannot not be set limiting future development that would otherwise be permitted unless such restrictions are volunteered by the applicant.
79. Other conditions requested by submitters include a requirement for high quality housing with colour controls and no relocated buildings or rental accommodation. Such conditions are not provided for by the matters that the District Plan reserves control over for complying subdivisions and could not therefore be imposed as conditions of consent. Regardless of this, controls on house quality in new subdivisions are generally imposed by developer covenants and not as conditions on consent by the Council.

¹⁴ This consent notice approach is common practice in the Hastings District where reverse sensitivity is likely to be an issue.



80. In a letter dated 26 August 2021, the Applicant's agent states that they have not yet considered the detail of developer covenants controlling house design and landscaping and that this is not a matter that would be incorporated into the resource consent application. The letter goes on to state that: *"It is expected that development across the subdivision will follow contemporary standards of finish and appearance, as commonly seen throughout new development."*

Assessment of Effects – Other Matters Relating to Lot Size and Dimensions

81. The only additional allotments proposed to be created to the 312 lifestyle residential lots are the Jointly Owned Access Lots ("JOALS"). As set out in Table 2 above, the proposed JOALS are all in excess of the minimum width required by the District Plan for the number of Lots being served, so there is no need or justification to require the dimensions of these access lots to be altered.

Summary and Conclusion

82. In my opinion there is potential for this subdivision, due to its scale in the number of new lifestyle sites created, to create reverse sensitivity effects on surrounding land uses, and to adversely affect the rural character and amenity of the surrounding area. As the subdivision complies with the District Plan as a controlled activity and given the limited matters of control reserved, there are no conditions available to mitigate such potential effects, beyond those offered by the applicant.

Recommended Conditions

83. To address concerns relating to reverse sensitivity, I recommend that the 'no complaints covenant' condition of consent offered by the Applicant on 7 April 2022, be imposed requiring the developer to register consent notices against the records of title for all the lifestyle residential lots created by the subdivision.

Subdivision Design

District Plan Matters of Control

84. The relevant matters from both Rules 9.9.3 and 14.6 to Subdivision Design are set out in Table 7 below.

Table 7 – District Plan Matters of Control Reserved for 'Subdivision Design'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
c. Subdivision Design <ul style="list-style-type: none">Relationship and orientation of lots.The location of walkways and cycleways.The provision and/or use of roads, open stormwater channels and wetland areas.	2. Subdivision Design <ul style="list-style-type: none">a. 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.



<ul style="list-style-type: none"> • 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. 	<p>b. The provision for and practicality of walkways and cycleways, and the relationship of these to reserves (existing or proposed), access to the waterways, etc.</p> <p>c. The provision for and practicality of using natural stormwater channels and wetland areas.</p>
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Applicant's AEE Summary

85. In the AEE, the Applicant makes the following comments in relation to subdivision design and the controls in Rule 9.9.3:

The subdivision layout provides versatile sized lots with flexible available building platforms. The large size of the lots ensures that future development can be oriented to maximise solar exposure and views without compromising the conditions of neighbouring lots. The wide vested road corridors allow for the formation of footpaths, providing a walking route through the site. Open swale drains will be utilised throughout the development, consistent with the rural location and character. The site is not within proximity of an area of significant nature conservation, with no related earthworks effects. In general, earthworks will be managed in accordance with industry best practice measures to minimise any adverse effects on the environment. Overall, the subdivision provides a coordinated division of the site that will create an interesting future environment for rural occupiers with ample flexibility for future development.

86. Although the above comments refer to the formation of footpaths providing a walking route through the site, the Applicant subsequently confirmed via the further information response referred to in paragraph 29 above that the originally proposed lime sand footpaths will not be constructed.

Issues Raised by Submitters

87. Table 8 below lists those submitters raising concerns relevant to matters of subdivision design and provides a summary of the concerns raised.

Table 8 – Submission Points Relevant to 'Subdivision Design'

Submitters	Summary of Relevant Points Raised
K Bell, R & H Ellis.	<p>A lack of green space and footpaths will force people to walk on unlit roads or neighbouring farmland for exercise and dog walking.</p> <p>Limitation on access for kids and people with no footpaths or recreational areas.</p> <p>Require that there is a safe public walking space or green space made available for residents that is well lit and away from motor vehicles.</p>



	<p>Native plantings on boundary and through the development to help with phosphorous uptake as well as providing green space for recreation.</p> <p>Ensure that there are green spaces in significant quantities so that the environmental factors and being a good neighbour are met.</p>
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Assessment of Effects – Subdivision Design

88. In regard to the orientation of lots and solar advantage, I agree with the Applicant that the relatively large size of each lot will ensure that dwellings are able to be orientated to maximise solar access.
89. There are now no proposed walkways or cycleways within the proposed subdivision. The Council engaged Stantec to undertake a peer review of transportation matters, and this found that: *“There is also, except for the existing stream going through the subdivision at the back of some 38 sections, an absence of greenfield or reserve areas for public amenity.”* This is consistent with the concern raised by several submitters regarding a lack of green space and recreational areas.
90. As set out in Table 2 above, the District Plan does not require footpaths with roads in the Rural Zone as a District Plan standard. Location of walkways and cycleways is, however, a matter of control in Rule 9.9.3 and the assessment matters in Rule 14.6 enable consideration of the practicality of walkways and cycleways, and the relationship of these to reserves (existing or proposed).
91. In the further information response dated 5 August 2021 the Applicant’s agent responded to the request for consideration of use of the ephemeral stream course for a reserve, including a walkway/cycleway, as follows:

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.

In the absence of reserve areas, walkways or cycleways alongside these drains would not reach any defined destination. There is also potential for the encouragement of car parking on the side of the State Highway by users of such walkways.

Given the rural development character, large size of the individual lots and the internal road environment, recreational walking needs of the future occupiers can be met through the existing proposed public environment.

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.

92. The above statement is correct that the water courses passing through the site are not subject to the District Plan’s esplanade reserve provisions. Although I do note that, if volunteered by the Applicant, a local purpose reserve would be an option to have the water course vested in the Council as Open Space. There is no requirement in the District Plan to do so however, and I agree



with the Applicant a walkway / cycleway along the water course would not reach any defined destination.

93. The concerns raised by the submitters are that there are no safe walking or green spaces for recreation proposed. The above response refers to the recreational walking needs of future occupiers being met through the existing proposed public environment. At the time of that statement (August 2021), lime sand footpaths were proposed adjacent to the internal roads within the subdivision. That proposal was, however, subsequently withdrawn¹⁵, and the proposed 'public environment' would now only comprise the formed road carriageways and the unformed grass berms between the formed road and private properties. This is typical of the Rural Zone where footpaths, particularly away from urban areas, are generally absent from road berms.
94. While the proposed subdivision is within the Rural Zone and each future property owner will have a substantial area of private green space in their ownership, it will result in a substantial density of new non-farming residents who will have recreational needs. In my opinion, the proposed internal roading network would provide the opportunity to provide for the previously offered lime sand footpaths at least on one side of the road to help provide for these needs. As this is a matter within the control reserved by the District Plan, I recommend that a condition be set to this effect.
95. Of the remaining matters of control under 'Subdivision Design', the District Plan does not identify any areas of significant conservation value within the subject property. In terms of the environmental effects of earthworks, and the rehabilitation of the area, earthworks will be required for the formation of both the proposed roads to vest and the JOALs. It is anticipated that standard subdivision conditions to mitigate the potential adverse effects of dust and silt runoff from such earthworks will be appropriate. Such a suite of conditions has been recommended by Stantec in their peer review of roading matters and are therefore addressed under the 'Property Access' heading below. There will also be some earthworks involved in the remediation of the identified areas of soil contamination, which are addressed in a later section of this report.

Summary and Conclusion

96. There is no requirement in the District Plan for public reserves to be vested as part of this subdivision. However, due to the density of the proposed subdivision, it is my opinion that it would be appropriate to provide for the recreational needs of the future residents within the public space that will be formed by the roads to vest. Accordingly, I recommend that footpaths be formed on at least one side of the formed roads that are to be vested in the Council.

Recommended Conditions

97. That a footpath be formed on at least one side of the roads to be vested within Lots 401, 403, 404, 406, 409, 411, 415, 418, 420, 421, 424, 425, 428 and 431, in accordance with the dimensions shown in 'Figure 9: Proposed Vested Road Cross Section' of the Application AEE and Appendix D

¹⁵ E-Mail from J Kaye of Development Nous dated 7 October 2021.



Concept Civil Plans.

Property Access

District Plan Matters of Control

98. The relevant matters from both rules 9.9.3 and 14.6 to Property Access are set out in Table 9 below.

Table 9 – District Plan Matters of Control Reserved for 'Property Access'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>d. Property Access</p> <ul style="list-style-type: none"> • 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. 	<p>3. Property Access</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>



	<p>f. The provisions of the Code of Practice for Urban Land (NZS 4404 1981).</p> <p>g. The application of the requirements of Section 321, Local Government Act, 1974, to any subdivided lot.</p> <p>h. The need for and practicality of providing vehicular access to all lots, and the practicality of providing access elsewhere for vehicles.</p> <p>i. The account taken of pedestrian movement.</p> <p>j. The degree to which proposed new roads make adequate provision for vehicle movements, car-parking, property access and cyclists.</p> <p>k. The need to provide alternative access for car-parking and vehicle loading in Business Zones ...</p> <p>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. ...</p> <p>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.</p> <p>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.</p> <p>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> <p>p. The need to provide for appropriate standards of street lighting or private vehicular access lighting.</p> <p>q. The need to provide distinctive names for private vehicular accesses. The name to be agreed to by the Council.</p> <p>r. The need for and degree of any financial contribution to achieve the above matters.</p>
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Applicant's AEE Summary

99. In the AEE, the Applicant makes the following comments in relation to property access:

The road network throughout the subdivision has been designed to incorporate curved alignments where possible to provide visual interest and to avoid the formation of a



suburban grid pattern. The 20m legal road corridors provide ample opportunity for the incorporation of pedestrian and cycle users along with motor (and electric) vehicles.

The roads will be formed by the Applicant to Council's design and construction satisfaction prior to vesting in Council.

Street lighting and other urban features are not proposed for the rural roads. The roads and private JOALs will be subject to future naming processes.

100. The Applicant then goes on in the 'Traffic Generation and Road Safety' section of the AEE to state that:

As set out in the Traffic Assessment Report provided at Appendix E and discussed at Section 3 of this report, the traffic generation arising from the development can be readily accommodated within the vacant capacity of the surrounding road network. With the benefit of minor improvements that are proposed to the state highway, the formation of new vehicle crossings and site accesses can be achieved within a safe road environment for future users.

Within the development, a network of vested roads and JOALS are proposed within 20m and 15m legal widths, respectively. The wide corridors of these roads and driveways will provide flexibility at detailed design stage to ensure suitable safe and effective road ways can be formed.

On the basis of the specialist assessment and flexibility of future detailed design, there are not considered to be adverse traffic generation and road safety effects arising from the development.

101. Additional information in relation to property access was also provided by the Applicant via the further information process, and this is summarised at paragraphs 20 and 29 above.

Issues Raised by Submitters

102. Table 10 below lists those submitters raising concerns relevant to matters of property access and provides a bullet point summary of the concerns raised.

Table 10 – Submission Points Relevant to 'Property Access'

Submitters	Summary of Relevant Points Raised
R & H Ellis, KB Sloane.	<p>Concerns with the size and scope of the proposed subdivision in a rural zone including: ... effect on rural roads...</p> <p>Concerns that bringing in gravel and earth moving machinery will spread noxious weeds during earthworks.</p> <p>Concerns regarding traffic safety and increase in vehicle use on local roads, including the intersection of SH50 and Wakarara Road.</p>

Assessment of Effects – Property Access General

103. As noted above, the Council engaged Stantec to undertake a peer review of the property access / traffic aspects of the application (appended as Attachment 4). These comments include a suite of recommended conditions relating to both earthworks and road access, design and construction that are typical for a subdivision creating private access ways and roads to vest. In addition, Stantec also made the following comments:



While not a criticism a couple of thoughts on the overall design.

The number of cul-de-sacs in this subdivision – 18 in total. While these are to remain in private ownership general guidelines for connectivity and movement networks is to avoid them, but where they are unavoidable, minimise their length and consider pedestrian/cyclist linkages to the surrounding movement or open space network (to provide shortcuts and a choice of routes)

There is also, except for the existing stream going through the subdivision at the back of some 38 sections, an absence of greenfield or reserve areas for public amenity.

And for what is essentially a small township of 312 sections of between 0.5Ha to 1.0Ha each there is no streetlighting proposed which is of concern for safety and security for the subdivision as well as the transportation network.

104. Responses to Stantec's comments were sought from the Applicant by way of a further information request. The response to that request dated 5 August 2021 made the following points on the issue of cul-de-sacs and connectivity:
- The overall road pattern follows a curved horizontal alignment to best support the proposed rural character.
 - JOALS through the centre of the site intentionally prevent connection of adjacent accesses to enforce vehicle use of the proposed roads and to avoid a residential grid road layout.
 - The proposed JOALS are consistent with the District Plan standard.
 - Connectivity for suburban accessibility and community inclusion is not applicable to this rural scale subdivision.
 - Connecting JOALS (for through access) would provide minimal reductions in the distance to Wakarara Road or SH50 while compromising the rural character of the development.
105. Although connectivity between subdivisions (relevant to greenfield residential areas) is addressed in the assessment matters in Rule 14.6, there are no matters listed to promote connectivity and restrict the use of cul-de-sacs within subdivisions. Accordingly, I do not consider that the District Plan provides scope to require such changes to the proposed subdivision.
106. Stantec's peer review comments regarding the absence of greenfield or reserve areas for public amenity have been addressed in the subdivision design section of this report, and again I do not consider that the District Plan provides the scope to make any changes on that matter.
107. In terms of street lighting, the Applicant agreed in its 5 August 2021 response to the illumination of road junctions through street lighting. That response, however, stated that wider street lighting is not proposed to retain a rural character, consistent with the rural lot sizes proposed. In Stantec's view, not having street lighting is a concern for traffic safety and security for the subdivision as well as the transportation network.
108. Given that street lighting is within the District Plan matters of control and assessment matters set out above, it is, in my opinion, open to the commissioners to impose conditions of consent requiring street lighting throughout the full extent of the subdivision. Although I acknowledge that street lighting beyond the road intersections could be seen as inconsistent with rural character, I rely on Stantec's expert opinion that a lack of street lighting raises traffic safety



concerns, and recommend that conditions be set requiring street lighting throughout the subdivision. However, if the Applicant's traffic experts are able to verify that only lighting the road intersections, rather than the whole subdivision, would not give rise to traffic safety concerns then I would reconsider this recommendation so that a more consistent rural character is able to be achieved.

109. The matters raised by submitters relating to effects on traffic safety and the roading network are based on the scale of the subdivision and its traffic generation. Again, as the subdivision complies as a controlled activity under the District Plan there is no discretion available to refuse consent due to these potential effects. Further to this with the imposition of the proposed conditions relating to the proposed new roads and intersections and the upgrading of SH50, the roading network will be of an appropriate design to accommodate the increased traffic.
110. The issue of weeds being introduced with gravel brought onto the site for subdivision construction is not a matter that the District Plan reserves control over and therefore there is no ability to address this matter through conditions on the subdivision. The effects of earthworks generally are, however, a matter of control under the 'subdivision design heading'. Any noxious weeds brought onto the site would be subject to HBRC's Pest Control plans and programmes.

Assessment of Effects – Property Access State Highway

111. As the written approval of Waka Kotahi has been provided, and the Applicant has agreed to incorporate 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. It is not necessary therefore to have any discussion regarding the potential effects of increased traffic on the safety and efficiency of SH50, including its intersection with Wakarara Road. It is necessary, however, for the conditions sought by Waka Kotahi in its written approval to be imposed as conditions of consent. I note however that there appears to be a contradiction between the Waka Kotahi requested conditions 1) and 4) as listed under the 'Recommended Conditions' heading below. Condition 1 requires stages 1 -4 to be completed in numerical order, while condition 4, would allow stages 3 & 4 to be completed prior to stages 1 & 2. It would be helpful if the Applicant could clarify with Waka Kotahi the intent of these two conditions prior to the hearing and if necessary, provide a clearer wording.
112. I note that proposed Condition 9 by Waka Kotahi relates to mitigating reverse sensitivity effects on the operation of SH50 by requiring noise insulation within an 'effects buffer' area shown on the plan referenced which extends for approximately 50m into the site from the road boundary. As this condition has been volunteered by the Applicant to secure the written approval of Waka Kotahi, it is not necessary for it to relate to the matters of control reserved by the District Plan.

Summary and Conclusion

113. Stantec has provided recommended conditions for earthworks, road and access design and construction. Additional issues raised in the comments included concerns about the cul-de-sac design and lack of connectivity in the road network proposed and the lack of streetlighting. The matters that the District Plan reserves control over do not provide the scope to prevent the use of cul-de-sacs but do provide scope to require street lighting. As the recommendation for street lighting is based on traffic safety concerns, I recommend conditions requiring street lighting below, although do acknowledge the potential impact that this could have on rural character and suggest that this matter be considered further by the Applicant.



114. Mitigation measures to address the effects on SH50 are set out in the conditions of the Waka Kotahi written approval.
115. I consider that potential traffic safety and efficiency effects will be mitigated to the extent possible under the District Plan by the following conditions.

Recommended Conditions

116. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report.

Earthworks

- *All earthworks shall be undertaken in accordance with NZS 4404:2010 Land Development and Subdivision Infrastructure and NZS 4431, 1989 "Earth Fill for Residential Development" (incorporating all amendments), or an alternative standard approved by the Customer and Consent Manager. Where land filling is to be undertaken, the areas affected, together with dimensions relative to the new property boundaries, shall be shown on 'As Built' plans to be supplied to Council prior to the issue of a Certificate pursuant to Section 224(c) of the Resource Management Act 1991.*
- *That as part of the earthworks, no filling shall take place that will obstruct overland flow (unless an alternative solution is approved by the Council).*
- *The applicant shall submit a sediment control plan by an appropriately qualified person to Council for approval prior to the commencement of any work on the site. The plan shall detail how sediment and erosion controls will be carried out at the site in accordance with current engineering best practise. A statement shall be included with the plan stating the author's qualification and experience in this area.*
- *The applicant shall install sediment and erosion controls in accordance with the approved plan prior to the commencement of the earthworks and that these controls shall be maintained throughout the period of the works.*
- *That a suitability qualified Chartered Professional Engineer or other appropriately qualified person shall certify that the sediment works have been constructed in accordance with the approved plans.*
- *That only clean fill as defined in NZS 4431, 1989 "Earth Fill for Residential Development" shall be used as fill.*
- *That all area of earthworks shall be re-grassed following construction prior to application of 224c.*
- *That there shall be no off-site despot deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus into any watercourse or stormwater drain.*

Roading

A full detailed roading design will need to be undertaken by a suitably qualified and registered chartered engineer and be provided to council prior to construction starting. Council will assess approval of the design and documentation against the Central Hawkes Bay District Plan, NZS4404: Code of Practice for Urban Land Subdivision and the Hastings



District Council Code of Practice for Subdivisions. Guidance to some of the issues that need to be considered in the design are as follows:

- *Prior to the commencement of construction works, the applicant shall submit a Construction Management Plan (CMP), for approval to the Customer and Consents Manager (or nominee), detailing the ways in which the proposed construction will occur, how construction effects will be mitigated (noise, dust, traffic etc.) for that stage.*
- *That all construction works carried out on the site shall be in accordance with the CMP.*
- *All engineering design and construction must conform to the information as supplied with the approved site plan. The pavement design (depth and type) being confirmed with existing subgrade material being fully tested to confirm CBR and a full pavement design being carried out by the Engineer with calculations being presented.*
- *No work shall commence on site until engineering plans and documentation have been approved in writing by Council. All work must be carried out in accordance with the documents approved by Council and in accordance with sound civil engineering practices. This shall include standard hold points for inspection prior to further works being undertaken.*
- *Upon completion of the works the subdivider must provide to Council a Certificate of Assurance from the registered chartered engineer, that all works have been constructed to the plans, specifications and standards approved by Council. These must accompany a marked up As Built set of drawings confirming these works.*
- *During the construction period the subdivider shall take all measures including the control of any contractors to ensure that:*
 - *No dust or noise nuisance is created that would be detrimental to the adjacent neighbourhood.*
 - *No siltation or significant discolouration occurs in the stream or drainage channels.*
 - *No construction work is undertaken on Sundays or outside the hours between 7am and 7pm on other days.*
- *Any damage to Council's existing infrastructure caused by the development during construction will be repaired under the direction of Council at the Developer expense.*
- *A traffic management plan will be required in regard to construction traffic entering and leaving the site*
- *A plan will be required showing detail of the proposed accessways onto Wakarara Road. A vehicle crossing application will be required to be submitted to and approved by the Council's Land Transport Department to authorise the detail of this vehicle crossing work.*
- *Council will require a copy of the Site Safety plan which must be approved by Council prior to work starting on any public land in Wakarara Road.*

Street Lighting

That the full detailed roading design required by the above condition shall incorporate street lighting design of the proposed internal road network sufficient to ensure the safety of road intersections and the wider street network within the subdivision.



State Highway 50

1. Stages 1 to 4 of the development, excluding associated infrastructure, shall proceed in numerical order in accordance with the stages identified in Plan H20210003-C010 (Revision 1). Only Stages 1 and 2 may be developed until such time as the formation of a new intersection with State Highway 50, between Lots 89 and 90 has been completed and is operational.
2. Prior to works occurring within the road reserve for the relevant stage, including formation and improvements of intersections and accesses, the consent holder shall submit to Council a copy of the NZ Transport Agency's approval to undertake works on the State Highway (as detailed in advice notes a - c).
3. Prior to the issuing of certificates pursuant to Section 224(c) of the Resource Management Act 1991 for stages 2 and 4 of the subdivision, the consent holder shall provide to Council, written approval from the NZ Transport Agency confirming that the relevant intersections with State Highway 50, have been constructed to the NZ Transport Agency standards.
4. Preceding the development of Stages 1 and 2, only Stages 3 and 4 may be developed until such a time that improvements to the intersection of State Highway 50 and Wakarara Road have been completed. Upon completion of the intersection improvements, the other stages of the development can be undertaken.
5. The existing vehicle crossings to proposed Lot 26 (CP711) and Lot 129 (CP 708) shall be upgraded in accordance with the NZ Transport Agency's Diagram C standard as outlined in the Planning Policy Manual (2007) and to the satisfaction of the NZ Transport Agency Network Manager.
6. Prior to the issuing of certificates for Lot 26 and Lot 129, pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall provide to Council, correspondence from the NZ Transport Agency confirming that works in the State Highway, including the upgrading of the existing vehicle crossings, have been constructed to the NZ Transport Agency standards.
7. Prior to the issuing of certificates for Lots 26 and Lots 129 pursuant to Section 224(c) of the Resource Management Act 1991, the consent holder shall provide to Council confirmation that NZ Transport Agency has been advised of the new Records of Title to issue and received the approved survey plan, to facilitate the registration of any new Crossing Place (CP) Notices against those new titles, under Section 91 of the Government Rounding Powers Act 1989.
8. Prior to the issuing of certificates pursuant to Section 224(c) of the Resource Management Act 1991 for Stage 1 of the subdivision, the consent holder shall provide to Council, written approval from the NZ Transport Agency confirming that the existing vehicle crossing (farm gate - CP712) located opposite the access for the property at 1231 State Highway 50, has been permanently closed, including reinstatement of any fence line, grassed areas, berm, highway drainage or kerb. Reinstatement works shall be consistent with the adjacent road reserve treatment, to the satisfaction of the NZ Transport Agency Network Manager.
9. Pursuant to Section 221 of the RMA, a consent notice shall be registered on the titles of all new lots located within the effects buffer identified on Plan H20210003-C100 (Revision 1). The consent notice shall state that any new dwellings constructed on these lots and within the effects buffer area must be designed, constructed and maintained to achieve a design noise level of 40 dB L Aeq(24h) inside all habitable spaces within the effects buffer area.
10. Pursuant to Section 221 of the RMA, a consent notice shall be registered on the titles of the following lots which states that direct access to State Highway 50 is prohibited: Stage 1:



20, 21, 22, 23, 24; Stage 2: 89, 90, 92, 93, 94; Stage 3: 73, 74, 75, 76; Stage 4: 12; Stage 8: 113, 114, 115, 116, 117; Stage 10: 130, 131, 132.

(Associated Advice Notes are not attached but are included in the full recommended set of conditions set out at the conclusion of this report).

Technical Conditions

To implement the JOALs amalgamation conditions are proposed ensuring that each Lot served by a JOAL owns a share of that JOAL Lot and has easements over it for access, electricity and telecommunications.

Natural Hazards

District Plan Matters of Control

117. The relevant matters from both rules 9.9.3 and 14.6 to Natural Hazards are set out in Table 11 below.

Table 11 – District Plan Matters of Control Reserved for ‘Natural Hazards’

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>e. Property Access</p> <p>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:</p> <ul style="list-style-type: none"> 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 	<p>4. Natural Hazards</p> <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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.



	<p>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.</p> <p>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.</p> <p>i. In relation to land filling and excavation operations, the following factors:</p> <ul style="list-style-type: none"> 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. <p>j. The likelihood of the proposed subdivision, including the establishment of potential assets such as residential units, being threatened by inundation or coastal erosion.</p> <p>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.</p>
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Applicant's AEE Summary

118. In the AEE, the Applicant makes the following comments in relation to natural hazards:

The site is not exposed to known land hazards, and the geotechnical assessment of the subsurface conditions has concluded that the site is not at risk of earthquake induced liquefaction.

119. In the section headed 'Effects of Natural Hazards on Future Development', the AEE goes on to state that:

While the wider Central Hawke's Bay area is exposed to a range of hazards, and seismic hazards in particular, the application site is not exposed to any known hazards and geotechnical assessment has confirmed that the site is not exposed to a risk of earthquake induced liquefaction.

There are therefore no adverse effects in relation to exposure to natural hazards, and the development will provide a resource of small lots free of underlying complications.

120. The Applicant also provided additional information in relation to flooding via the further information process. This is summarised in paragraph 20(k) above.

Issues Raised by Submitters

121. None of the submitters raised concerns relevant to natural hazards.



Assessment of Effects – Natural Hazards

122. In a memorandum dated 1 September 2021, Stantec, having undertaken a peer review of the natural hazard aspects of the application, made the following comments (see Attachment 5):

Development Nous has provided information on the existing upstream overland flow paths and catchment areas that drain into the proposed development site. Runoff from the catchments for various return period events are presented, but combined flows at specific points are not clear from the report. The report notes that the 100-year event would be contained within the watercourse banks and overtopping is not expected. There are some errors in the report referring to the catchment Ext-W which is on the northern side on the drawing C503 but is noted as the overland flow path to be directed to a formed swale through the southern side. This is potentially just an error in the catchment numbering on drawing C503.

The modelling outputs provided in Appendix D of the main watercourse are not readily interpreted for reviewing, but the assumptions noted, and basis of approach is likely to be conservative in estimating flow rates. However, due to the nature of the wide overland flows and large upstream catchments there is potential for specific flow paths to change in the future with erosion of channels or the surface over time or during a flood event with scour occurring and debris directing flows in different directions. As such there remains a flood hazard to the proposed development from the large upstream catchment.

It is recommended that further engineering consideration should be given at the design stage to mitigating potential flood hazard where practical and incorporate resilience into the development to accommodate flood events by considering flow path linkages through the proposed lots where appropriate and identifying the recommended minimum floor levels for each property.

The main watercourse through the site appears to have eroding banks and have the potential to change course/alignment across the plain. There is a concrete weir on the stream, upstream of the SH50 road bridge, but it is not clear if this is for erosion control or another purpose. It is recommended that further consideration is given to appropriate buffers between the stream and the proposed lots with the proposed stream easement.

123. Subsequent correspondence with Stantec has confirmed that the matters raised above are able to be addressed by consent conditions, and are not matters relevant to section 106 of the RMA.¹⁶ It is therefore my opinion that any potential adverse effects of flooding hazards are able to be appropriately addressed through conditions of consent.
124. Based on the information I have sighted, I understand that the site is not subject to any other natural hazards that cannot be appropriately avoided or mitigated. This includes the risk of earthquake ground shaking, which is mitigated to an acceptable level by future buildings being subject to the requirements of the Building Act 2004 and New Zealand Building Code. Further, I note that a geotechnical report has been submitted with the application, with geotechnical issues being addressed below under the heading 'Building Location'.

¹⁶ A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that there is a significant risk from natural hazards.



Summary and Conclusion

125. Stantec identified that the site is subject to a flood hazard that will require mitigation, and the Applicant's engineers have provided an assessment of the stormwater potential of the wider catchment in the revised Engineering Services Master Plan. Stantec has considered this and advised that the response is sufficient to enable mitigation of the flood hazard to be appropriately addressed through conditions of consent requiring further work through the section 224 process. Such conditions are set out below.
126. In my opinion, the site is not subject to any other natural hazards that pose a significant risk or are not able to be mitigated to an acceptable level.

Recommended Conditions

127. Based on Stantec's advice that the flood hazard is able to be addressed through conditions of consent, the following conditions are recommended (noting that this may require further refinement prior to inclusion in the full set of recommended conditions):

That an engineering assessment be provided with the detailed engineering design submitted for section 224 certification and that this, among other things:

- *Incorporates mitigation measures to adequately address the potential flood hazard and incorporate resilience into the development to accommodate flood events by providing flow path linkages through the proposed lots where appropriate and identifying the recommended minimum floor levels for each property if development on that property may be compromised by the flow paths.*
- *Setting appropriate buffers from the main watercourse incorporated within the easements over the relevant properties. This design consideration should be addressed for the whole development at the time of submitting designs for the first stage of the development.*

That the above conditions be supplemented with consent notice conditions as appropriate.

Water Supply

District Plan Matters of Control

128. The matters relating to water supply in Rules 9.9.3 and 14.6 are set out in Table 12 below.

Table 12 – District Plan Matters of Control Reserved for 'Water Supply'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>f. Water Supply</p> <ul style="list-style-type: none"> • The supply of water, other than from a Council reticulated system. • Water supplies for fire fighting purposes. 	<p>5. Water Supply</p> <p>a. The suitability of the proposed water supply for fire fighting purposes; (The Council may obtain a report from the Chief Fire Officer).</p> <p>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,</p>



<ul style="list-style-type: none">• 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.	<p>sub-mains, service mains and fire hydrants and water storage tanks.</p> <p>c. The need to install isolating valves ... at the street boundary</p> <p>d. Whether the existing water supply systems, to which the connection will be made, ...</p> <p>e. Whether it may be necessary to provide new reservoirs, ...</p> <p>f. Where it is necessary to upgrade the reticulated water supply system ...</p> <p>g. Whether, because of increased demand ..., an upgrading contribution...</p> <p>h. The need for a local purpose reserve to be set aside and vested in the Council as a site for a public utility.</p> <p>i. The need for and degree of any financial contribution to achieve the above matters.</p>
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Applicant's AEE Summary

129. In the AEE, the Applicant makes the following comments in relation to water supply:
- The relevant matters Council has reserved control over are: the supply of water (other than from a Council reticulated system), and water supply for firefighting purposes.*
- In the absence of an available reticulated supply, any future development of the lots would be required to be serviced by onsite means and roof surface rainwater collection and storage will be principally utilised for potable domestic water supply.*
- Centralised firefighting water supply is not proposed, and dedicated water storage tanks or sprinklers systems and pumped tanks will be required to accompany any future buildings constructed on the lots in accordance with the relevant standard.*
130. In the 'Social and Physical Infrastructure Servicing' section of the AEE, the Applicant then goes on to state that:
- The created lots will be self serviced for water supply, wastewater treatment and disposal and discharge of stormwater thereby avoiding any impact on Council's three waters servicing infrastructure.*
131. The further information process did not initially request any additional information relating to water supply issues. Water supply was, however, raised as a concern in the public meeting referred to in paragraph 19 above. This was primarily around concerns about potential effects on existing water takes in the area, if the subdivision was to give rise to a number of property owners establishing ground water supply bores in compliance with the RRMP rules for a permitted water take. In response, the Applicant (via its agent) stated the following in a letter dated 26 August 2021:
- In response to the concerns of Ongaonga residents regarding increased demand on aquifer water supplies effectively competing with their existing extraction, the Applicant proposes the imposition of the requirement for all homes to include provision of roof water collection tanks for the supply of water and for any new bores on the created lots, additional to the*



roof water storage tanks, to meet the Regional Resource Management Plan definition of an efficient groundwater take including the use of a submersible pump.

For clarity the Regional Resource Management Plan definition of efficient groundwater take is:

Abstraction by a bore which penetrates the aquifer from which water is being drawn at a depth sufficient to enable water to be drawn all year (i.e. the bore depth is below the range of seasonable fluctuations in groundwater level), with the bore being adequately maintained, of sufficient diameter and screened to minimise drawdown, with a pump capable of drawing water from the base of the bore to the land surface.

The two offered requirements can be readily secured through imposition of suitably worded conditions requiring related consent notices to be registered on the record of title of the created lots. The following wording is offered in that respect, and we again welcome discussion of wording refinement:

Potable Water Storage Tank

The following consent notice shall be registered on the record of title of all lots other than road, access or reserve lots:

Any application for building consent for a habitable building shall include provision of roof water collection tanks for the supply of potable water. The rainwater tank storage system shall be installed in accordance with the submitted details and maintained in good working order thereafter. For clarity, this requirement does not preclude the installation of an alternative bore water supply.

Water Bores

The following consent notice shall be registered on the record of title of all lots other than road, access or reserve lots:

Any new water bore formed on the Lot shall be of sufficient depth to meet the Regional Resource Management Plan definition of an "efficient groundwater take" enabling continued supply of water through dry months and shall incorporate a submersible pump.

Issues Raised by Submitters

132. Table 13 below lists those submitters raising concerns relevant to matters of water supply and provides a bullet point summary of the concerns raised.

Table 13 – Submission Points Relevant to 'Water Supply'

Submitters	Summary of Relevant Points Raised
K Bell, R & H Ellis, KB Sloane.	Spray drift from surrounding activities gets in roof water so new residents likely to put down bores. It is unreliable to rely on individual water tanks for firefighting supply in summer. Require that future residents cannot rely on either roof water or unconsented ground water. Concerns with the size and scope of the proposed subdivision in a rural zone



	<p>including:... pressure on CHBDC water supply;...</p> <p>Effects from new neighbours in terms of ... effect on ground water availability.</p> <p>Ensure water servicing does not affect existing water supplies.</p> <p>The small town created will have no amenities... with concern about water availability.</p> <p>There should be a total restriction on using water from the aquifer as already a big demand from agriculture / horticulture and local rivers are extremely low in summer. If properties are to collect rainwater from roofs there could be contamination of their water from sprays used in orchards.</p>
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Assessment of Effects – Water Supply

133. In a memorandum dated 1 September 2021 (see Attachment 5), Stantec (the Council's peer reviewer) made the following comments in respect of water supply:

Development Nous have noted that Firefighting water supply requirements would be addressed at the time of building consent for individual sites. However, it is recommended, especially if the application is processed as non-notified, that prior to issuing consent that CHBDC consults with Fire and Emergency New Zealand (FENZ) on the scale of the development and arrangements for firefighting and any specific arrangements or considerations that should be made as part of design. This is recommended to capture any specific arrangements for additional facilities that may be appropriate, over and above relying purely on individual on-site storage tanks and connections in accordance with SNZ PAS 4509:2008.

134. Based on the above advice the Applicant was requested to undertake consultation with FENZ. Such consultation was undertaken and summarised in an e-mail from Development Nous dated 7 October as follows:

Attached are pdf copies of correspondence sent to Bob Palmer, FENZ Fire Risk Management Officer, explaining the development and seeking direction on requirements.

Mr Palmer advises that FENZ are somewhat watering down the requirements of 4509:2008 due to compliance difficulties, and will accept shared 30m³ tanks with a 100mm coupling, provided that all homes are within 90m of a shared storage tank.

We have applied this approach in other subdivisions, positioning communal storage tanks adjacent to the road boundary of lots and covered by easements for access and use.

The proposed large lot sizes and absence of restriction on building platform location of this development is such that very few lots could practicably share a road side firefighting water supply located within 90m of houses on adjoining lots. Such a supply arrangement would inevitably require location of buildings to be fixed prior to 224 certification and shared water storage tanks located on side boundaries with requirement for access formation.

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.

135. An e-mail from the Applicant's agent dated 27 August 2021 states that the requirements of 4509:2008 involve either storage provision of 7,000 litres for houses with sprinkler systems or 45,000 litres for non-sprinklered houses. As no joint water storage is being proposed, which FENZ



suggest as an alternative option for having lesser on site storage, it would be appropriate in my opinion to set as a consent notice condition a requirement for the on-site water storage requirements of 4509:2008 to be met. I understand that this is consistent with the above response from the Applicant's agent.

136. Concerns are raised in submissions about the potential for rain water supplies to become contaminated with agricultural or horticultural sprays. While this may be a possibility, rain water supply tanks are accepted as an appropriate method of water supply to rural dwellings. I also note that the provisions of the RRMP under Rule 10(e) require that when agrichemicals are applied:

The discharge shall not result in any agrichemical being deposited on any roof or other structure used as a catchment for water supply...

137. Regarding the potential for bore supplies to place pressure on the aquifer, as set out in paragraph 27 above, the Applicant declined to volunteer any consent notice conditions preventing the use of ground water bores on the new lots. Accordingly, I consider that it would be appropriate to set as a consent notice condition requiring potable water storage tanks on each lot as offered by the Applicant (see paragraph 131 above). I do not consider it appropriate or necessary to set the consent notice condition referred to in paragraph 131 applying to ground water bores, as that would involve the Council being responsible for a matter under regional council jurisdiction.

Summary and Conclusion

138. Water supply is to be the responsibility of the future owners of each lot by on-site means. In this regard it is noted that the Central Hawke's Bay District Council Water Supply Bylaw 2021 require new homes not connected to a Council reticulated supply to have potable water storage tanks with a minimum capacity of 30,000 litres. It is recommended that conditions be imposed requiring both a rain water supply and sufficient storage on each lot for fire fighting purposes.
139. The taking of ground water is regulated by the RRMP and is not a matter that the Council is able to control or limit, given that there are no matters of control reserved relating to mitigating effects on groundwater. The condition requiring a rainwater supply tank will provide less incentive for future owners to also install a ground water bore.

Recommended Conditions

140. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report:

The following consent notices shall be registered on the record of title of all lots other than road, access or reserve lots:

- *Any application for building consent for a habitable building shall include provision of roof water collection tanks for the supply of potable water. The rainwater tank storage system shall be installed and maintained in good working order thereafter. For clarity, this requirement does not preclude the installation of an alternative bore water supply.*
- *Any application for building consent for a habitable building shall include provision for fire fighting water storage meeting the requirements of SNZ PAS*



4509:2008 including either storage provision of 7,000 litres for houses with sprinkler systems or 45,000 litres for non-sprinklered houses.

Stormwater Disposal

District Plan Matters of Control

141. The relevant matters from Rules 9.9.3 and 14.6 to Stormwater Disposal are set out in Table 14 below.

Table 14 – District Plan Matters of Control Reserved for ‘Stormwater Disposal’

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>g. Stormwater Disposal</p> <ul style="list-style-type: none"> • 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. 	<p>6. Stormwater Disposal</p> <p>a. The provisions of the Code of Practice for Urban Land (NZS 4404: 1981).</p> <p>b. The adequacy of any proposed means of disposing of collected stormwater from the roofs of all buildings and impermeable surfaces.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>f. Whether the existing stormwater disposal systems, to which any connection will be made,</p> <p>g. Where an existing outfall is not capable of accepting increased run-off, the adequacy of proposals and solutions for disposing of run-off.</p> <p>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.</p> <p>i. Any adverse effects of the proposed subdivision on drainage on, or from, adjoining properties and mitigation measures proposed to control any adverse affects.</p> <p>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,</p>



	<p>including private connections passing over other land protected by easements in favour of the user.</p> <p>k. Where it is not possible to dispose of stormwater by way of gravity pipelines, due to topography, the adequacy of alternative pumping systems.</p> <p>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.</p> <p>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.</p> <p>n. The need for and degree of any financial contribution to achieve the above matters.</p>
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Applicant's AEE Summary

In the AEE, the Applicant makes the following comments in relation to stormwater disposal:
Excess roof water that overflows from full water storage tanks and other concentrated flows generated from impervious surfaces within lots will be discharged to ground through on site soakage.

Concentrated stormwater from the formed roads and JOALs will be directed to swales that will flow to discharge to the ephemeral channel that crosses the southern end of the site.

142. In the Assessment of Environmental Effects section of the Application AEE the following comments are provided on 'Social and Physical Infrastructure Servicing'.

The created lots will be self serviced for water supply, wastewater treatment and disposal and discharge of stormwater thereby avoiding any impact on Council's three waters servicing infrastructure.

143. Additional information on stormwater was provided in the 5 August 2021 further information response as summarised in paragraph 20a, g, h, l, and j above.

Issues Raised by Submitters

144. None of the submitters have raised concerns relevant to stormwater disposal.

Assessment of Effects – Stormwater Disposal

145. A significant amount of further information was provided in regard to stormwater and flooding matters.

146. Peer review comments on the stormwater disposal aspects of the application and further information is provided by Stantec in a memorandum dated 1 September 2021 (see Attachment 5) as follows.

Development Nous has provided further information in a revised engineering services report. This includes:



- *Recommendations for maintenance provisions for the swales to be in accordance with Auckland Council guidelines. Maintenance would be carried out by CHBDC for vested roads and individual owners for private systems, however no mechanism for this is noted. It is recommended that maintenance requirements are assigned against individual titles as ineffective maintenance of on-site stormwater systems will be potentially detrimental to the overall development and wider environment.*
- *Indicative sizing for infiltration systems has been provided based on an assumed infiltration rate of around 40mm/hour (1m/day) based on guidance from Minnesota. It is not clear what rainfall or design storm has been assumed in these calculations and whether these infiltration devices would be sized for mitigating runoff to pre-development rates or to take the full areas of hardstand and overflow from roof tanks.*

It is noted that HBRC has guidance on infiltration rates in their Waterway Guidelines, Table 5-1 for different soil types, and design guidance for designing infiltration practices.

Whilst Development Nours has provided some additional information this has not answered the main queries raised previously around design standards and mitigating to predevelopment runoff for the existing flow paths. Due to the uncertainty in the design basis proposed, the various flow paths for runoff from the sites matching predevelopment and erosion effects, it is recommended that individual lots are designed to provide infiltration systems sized for the full lot runoff up to the 100-year event.

It is recommended that all the infiltration systems for the development are designed in accordance with the HBRC Waterway Guidelines 2009, using a 100-year event design storm with rainfall from Hirds V4 with climate change allowance of RCP 6.0 2081-100.

147. In light of that, Stantec has recommended the following conditions be applied in relation to stormwater: :

a) It is recommended that all the infiltration systems for the development are designed in accordance with the HBRC Waterway Guidelines 2009, using a 100-year event design storm with rainfall from Hirds V4 with climate change allowance of RCP 6.0 2081-100. Individual lots to manage runoff from impervious areas on the site to on-site infiltration and storage systems designed to cater for the 100-year event.

148. That condition would need to be split into two with the infiltration systems associated with road and JOALs requiring approval as part of section 224 certification, while the on-site infiltration condition will need to be a consent notice to apply at the time development occurs on each lot.
149. Stantec also recommends a condition be applied in regard to engineering design approval. This would be applicable to all three waters and flooding related conditions, as set out under the 'Recommended Conditions' heading below.

Summary and Conclusion

150. Stormwater disposal is required from both the proposed roads and JOALs as part of the subdivision works and then from each lot as it is developed. The proposed stormwater design for the subdivision, including further information provided, has been peer reviewed by Stantec as being appropriate subject to conditions.
151. Given the expert engineering advice and recommendations from Stantec, I consider that potential



adverse effects of stormwater disposal from the subdivision are able to be appropriately addressed in accordance with the matters of control reserved by the District Plan.

Recommended Conditions

152. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report.

All the infiltration systems for the development are designed in accordance with the HBRC Waterway Guidelines 2009, using a 100-year event design storm with rainfall from Hirds V4 with climate change allowance of RCP 6.0 2081-100.

Designs are submitted to CHBDC for peer review as part of engineering design approvals, and that consideration is given to this review memo as part of that peer review. The design consideration should be addressed for the whole development at the time of submitting designs for the first stage of the development.

The following consent notices shall be registered on the record of title of all lots other than road, access or reserve lots:

- *Any application for building consent for a habitable building shall include stormwater mitigation to manage runoff from impervious areas on the site to on-site infiltration and storage systems designed to cater for the 100-year event.*
- *On-site stormwater systems shall be maintained on an ongoing basis.*

Sanitary Sewage Disposal

District Plan Matters of Control

153. The matters from Rules 9.9.3 and 14.6 that relate to sanitary sewage disposal are set out in Table 15 below.

Table 15 – District Plan Matters of Control Reserved for ‘Sanitary Sewage Disposal’

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>h. Sanitary Sewage Disposal</p> <ul style="list-style-type: none"> • 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 	<p>7. Sanitary Sewage Disposal</p> <p>a. The capacity, availability, and accessibility of the reticulated system ...</p> <p>b. Whether the existing sanitary sewage disposal systems ...have sufficient capacity...</p> <p>c. Where it is not possible to provide a... gravity outfall, the feasibility of individual pump connections ...</p> <p>d. The relevance of any existing cost sharing... proposed reticulation</p> <p>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.</p>



<p>sanitary sewage system.</p> <ul style="list-style-type: none"> Any financial contributions that may be required in respect of sanitary sewage provision. 	<p>f. Where a reticulated system is ...likely to be in the near future....</p> <p>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.</p> <p>g. 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.</p> <p>h. The need for and degree of any financial contribution to achieve the above matters.</p>
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Applicant's AEE Summary

154. In the AEE, the Applicant makes the following comments in relation to sanitary sewage disposal:

The relevant matters Council has reserved control over are: the supply of water (other than from a Council reticulated system), and water supply for firefighting purposes.

In the absence of a reticulated system, future development of the lots will include provision for the treatment of wastewater and discharge to ground. The Preliminary On-site Wastewater Management Site Evaluation Report provided at Appendix H confirms that there is no obstacle to the satisfactory achievement of individual on-site domestic wastewater treatment and discharge.

155. In the section of the AEE headed 'Social and Physical Infrastructure Servicing', the Applicant then states:

The created lots will be self serviced for water supply, wastewater treatment and disposal and discharge of stormwater thereby avoiding any impact on Council's three waters servicing infrastructure.

156. The further information process regarding the potential cumulative effects of on-site wastewater systems is summarised in paragraphs 20(l), 21, 22, 26, and 30 – 33. This includes a summary of the conclusions of the Applicant's expert, Professor Freeman Cook and the peer review of that reporting by Pattle Delmore Partners ("PDP") on behalf of the Council.

Issues Raised by Submitters

157. Table 16 below lists those submitters raising concerns relevant to matters of Sanitary Sewage Disposal and provides a bullet point summary of the concerns raised.

Table 16 – Submission Points Relevant to 'Sanitary Sewage Disposal'

Submitters	Summary of Relevant Points Raised
K Bell, R & H Ellis.	<p>The lifestyle sites created will in addition to wastewater have livestock pressure as people will want animals and will not be cutting and carrying their grass away from the site.</p> <p>Native plantings on boundary and through the development to help with</p>



	<p>phosphorous uptake as well as providing green space for recreation.</p> <p>The presence of livestock needs to be factored into the potential effects on waterways.</p> <p>Concerns with the size and scope of the proposed subdivision in a rural zone including: ... increase of E Coli in the environment from sewage disposal; ...</p> <p>Ensure sewage disposal does not increase E Coli, nitrogen or phosphorous.</p> <p>Effects from new neighbours in terms of ... sewage disposal causing contamination...</p>
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Assessment of Effects – Sanitary Sewage Disposal

158. Stantec's peer review comments on the sanitary sewage disposal aspects of the application are set out in a memorandum dated 1 September 2021 (see Attachment 5) and are summarised as follows:

Development Nous has provided further explanation on the approach and potential effects from the proposed 312 lots and associated individual wastewater treatment and disposal systems. It is stated that nutrient loading would increase but be within the designed allowances of the Regional Resource Management Plan, however no details are provided to support that statement. Pathogen risks are noted as low, but the applicant has offered to include a consent notice requiring a tertiary level of treatment (UV disinfection) for any on-site wastewater systems installed.

Development Nous has not addressed the following key aspects raised in the May 2021 review:

- Sensitivity of the groundwater at the site and potential effects on the groundwater and existing users or on the adjacent watercourses as these appear to be fed from groundwater. There may not be a need for enhanced treatment (nutrient removal or disinfection) prior to disposal to land, however the applicant has not demonstrated this, only offered to include disinfection to address that risk.*
- Layouts for smaller lots to accommodate the various on-site services, especially those with overland flow paths or formed swales through them. The letter does not that a site layout is shown for a large dwelling and garage to indicate scale of the lots, but this is note included in the information received.*

It is recommended that the Hawke's Bay Regional Council are consulted on the proposed on-site wastewater arrangements and potential cumulative effects, along with any suggested assessment requirements or consent conditions.

159. Based on the above advice, HBRC was consulted, and recommended that a report on the potential adverse cumulative effects of 312 wastewater systems on the subject site be commissioned. Accordingly, the Council advised the Applicant of its intention to commission this report under section 92(2) of the RMA. The Applicant chose to instead engage a report from Professor Cook, which PDP then peer reviewed on behalf of the Council. That process is summarised in paragraphs 30 – 33 of this report above.
160. In summary, PDP's expert advice 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)¹⁷, 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 did, however, note 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. Accordingly, PDP recommended mitigation measures additional to those offered by the Applicant to ensure that the wastewater systems are operated such that the potential adverse cumulative effects of discharges will be no more than minor.

161. As noted above, the Applicant provided a response from Professor Cook on 24 November 2021, challenging those findings. Professor Cook's conclusion is that the cumulative effects of the on-site wastewater discharges will be less than from pastoral farming activities.
162. Even if the PDP conclusion is accepted, the application remains a controlled activity and could not be refused consent for this reason. Arguably, the integrated management of effects is a function of territorial authorities and the general matters of control, which include "the location and environmental effects of the proposed sanitary sewage system", may provide scope to address potential adverse effects of such systems through conditions of consent. The Council does not, however, have jurisdiction to impose conditions to manage the effects of discharges to the environment as this is a regional council function. Nor does the Council 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 individual on-site wastewater systems in order to implement the PDP recommendations.
163. In seeking to mitigate the potential adverse effects of cumulative wastewater discharges to the extent possible, it is recommended that, as offered by the Applicant, a consent notice condition be imposed requiring UV treatment and dripline irrigation to be incorporated into the systems provided on each lot. This condition could be monitored as part of Council's functions under the Building Act 2004 in ensuring any proposed plumbing services are connected to an appropriate effluent disposal system. It is not considered that the additional suggested conditions relating to the cutting and carrying of grass off the site to reduce nitrogen leaching are practicable or appropriate to enforce, although I do note that such a condition was offered by the Applicant.

Summary and Conclusion

164. It is proposed that individual on site wastewater systems will be provided on each lot at the time a residential dwelling is established. Given the relatively large size of each lot, such systems are likely to be able to comply with the RRMP rules for wastewater discharges as a permitted activity.
165. The potential for cumulative adverse effects on the environment to arise from the large concentration of on-site wastewater systems has been raised by submitters, Stantec in their engineering peer review for Council, and PDP in their specific review of Professor Cook's reports. The Applicant has volunteered consent notice conditions to be applied to each lot requiring UV

¹⁷ Based on the recommendations of Professor Cook in his report dated 24 September 2021.



treatment and drip-line irrigation with regular maintenance. The experts agree that such conditions will assist in mitigating the potential cumulative adverse effects of pathogens from wastewater discharges. Accordingly, such a condition is recommended. There is however disagreement from Council's wastewater expert PDP that the cumulative effects of nitrogen and phosphorous build up will be mitigated. Although conditions are suggested to reduce the potential for nitrogen leaching, including the cutting and carrying of grass off the site, such conditions are not practicable and would be difficult to enforce.

Recommended Conditions

166. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report:

The following consent notices shall be registered on the record of title of all lots other than road, access or reserve lots:

- *Any application for building consent for a habitable building shall include provision for an onsite wastewater treatment system that incorporates UV treatment and drip-line irrigation. Maintenance of the system and shall be carried out in accordance with the manufacturers specifications.*

Trade Waste Disposal

167. Trade Waste Disposal is only relevant to business activities and not to Rural Zone subdivisions of the nature proposed. Accordingly, it is not necessary to provide any further assessment on this matter.

Vegetation and Landscape

168. The matters from both 9.9.3 and 14.6 that relate to vegetation and landscape are set out in Table 17 below.

Table 17 – District Plan Matters of Control Reserved for 'Vegetation and Landscape'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
j. Vegetation and Landscape <ul style="list-style-type: none">• The protection of significant indigenous vegetation, habitat and landscape.	9. Vegetation Protection <ul style="list-style-type: none">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.



Applicant's AEE Summary

169. In the AEE, the Applicant makes the following comments in relation to vegetation and landscape:

The site does not contain any identified significant vegetation, habitat or landscape as defined by the District Plan.

170. The application and the AEE do not comment on this matter any further.

171. Additional information relating to the natural values of the ephemeral streams traversing the site (tributary of the Kahahakuri Stream) was provided with the 5 August 2021 further information response in relation to the matter of providing walkway access along the waterway:

- *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 natural appearance.*
- *The development will utilise the natural stormwater channel of the principle 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.*

Issues Raised by Submitters

172. None of the submitters raised concerns relevant to vegetation and landscape.

Assessment of Effects – Vegetation and Landscape

173. The site does not contain any areas of significant landscape or natural features, indigenous vegetation, or habitat identified in either the operative or proposed district plans. The tributaries to the Kahahakuri Stream are not associated with any significant riparian vegetation as can be seen in Figure 6 below. In addition to pasture and amenity plantings associated with the two dwellings, the only trees on the site are typical exotic shelter plantings.



Figure 6 – Photo into site taken from Chesterman's Bridge, SH50 on 29 September 2021.

174. Given the above, I am of the opinion that no further discussion or assessment is required on this matter.

Summary and Conclusion

175. There are no areas of significant indigenous vegetation, habitat or landscape within the subject site.

Easements

176. The matters from Rules 9.9.3 and 14.6 that relate to easements are set out in Table 18 below.

Table 18 – District Plan Matters of Control Reserved for 'Easements'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
<p>k. Easements</p> <ul style="list-style-type: none"> The need to create easements for any purpose. 	<p>10. Easements</p> <p>a. Whether there is a need for easements:</p> <ul style="list-style-type: none"> 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.
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Applicant's AEE Summary

177. In the AEE, the Applicant made the following comments in relation to the necessary easement:

Existing easements will be brought down to the relevant new titles and new easements formed for the passage of services over JOAL lots and easements in gross to Council to provide for access to the ephemeral channel given it's stormwater conveyance function.

178. The application and the AEE do not comment on this matter any further, although the further information response dated 5 August 2021 makes the following references to the proposed easements:

- *The proposed subdivision has been amended to better address the southern drain, which generally takes the form of a well-defined overland flowpath. To best manage this drain, it 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.¹⁸*
- *Appropriate easements are proposed for the drains.¹⁹*

179. Schedules of proposed easements are set out in the staged scheme plans. The latest version of those plans was provided in November 2021 (prepared by Development Nous and referenced as Drawing Number: H20210003-C010, Revision 3). In summary, those plans set out the following proposed easements:

- Stage 1 – Easement in Gross to CHBDC for Right to Drain Water over Lots 26 – 30 (to provide for, and access along the margins of, the ephemeral stream).
- Stage 2 – Easement in favour of Lots 92-97 over Lot 405 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 3 - Easement in Gross to CHBDC for Right to Drain Water over Lots 68 – 73²⁰ (to provide for, and access along the margins of, the ephemeral stream). Easement in favour of Lots 71-80 over Lot 402 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 4 – No easements proposed (all lots have frontage to Wakarara Road).
- Stage 5 - Easement in Gross to CHBDC for Right to Drain Water over Lots 32 – 40, 43, 45, 46, and 50 (to provide for, and access along the margins of, the ephemeral stream and for the

¹⁸ Further information response dated 5 August 2021, page 6.

¹⁹ Ibid, page 7.

²⁰ The Schedule of Proposed Easements In Gross on the scheme plan references Lots 29, 30 and 31 in error as the plan and labelled easements correspond to Lots 71, 72 and 73.



proposed diversion and drainage of the southern branch of the stream). Easement in favour of Lots 45-49 over Lot 422 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.

- Stage 6 - Easement in Gross to CHBDC for Right to Drain Water over Lots 60 – 67 (to provide for, and access along the margins of, the ephemeral stream). Easement in favour of Lots 184 - 186 over Lot 419 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 7 – Easement in favour of Lots 255 - 262 over Lot 417 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 8 – Easement in favour of Lots 111 - 115 over Lot 407 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications; and Easement in favour of Lots 117 & 118 over Lot 408 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 9 – Easement in favour of Lots 253 & 254 and 263 -265 over Lot 416 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 10 – Easement in favour of Lots 126 - 128 and 130 -135 over Lot 410 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 11 – Easement in favour of Lots 144 & 145 over Lot 412 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications; Easement in favour of Lots 309 & 310 over Lot 413 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications; and Easement in favour of Lots 280 – 284 over Lot 414 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications
- Stage 12 – Easement in favour of Lots 223 - 228 over Lot 427 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications; and Easement in favour of Lots 296 & 298 over Lot 429 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 13 - Easement in favour of Lots 150 & 151 over Lot 430 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 14 – Easement in favour of Lots 207 - 211 over Lot 426 (JOAL) for Right of Way, Right to Drain Water & Right to Convey Electricity & Telecommunications.
- Stage 15 – Easement in Gross to CHBDC for Right to Drain Water over Lots 41 & 42, and 166, 167, 172 & 173 (to provide for, and access along the margins of, the ephemeral stream).
- Stage 16 – Easement in Gross to CHBDC for Right to Drain Water over Lots 168 & 171 (to provide for, and access along the margins of, the ephemeral stream).

Issues Raised by Submitters

180. None of the submitters raised concerns relevant to the proposed easements.

Assessment of Effects – Easements

181. The District Plan matters of control enable easements to be provided for the matters listed including for private ways (Rule 14.6(10).v) and the proposed JOALs are a form of private way. They also provide for the right to drain water and to convey electricity and telecommunications which is covered by Rule 14.6(10).vi. The easements in gross for drainage water in the ephemeral stream is relevant to the matters in Rule 14.6(10).i, vi, and viii.
182. The easements listed above are required to enable the development of this subdivision and



should be appropriately referenced in consent conditions.

Recommended Conditions

183. That conditions be imposed on the subdivision consent requiring the above listed easements to be granted and reserved on the subdivision survey plan.

Building Location

District Plan Matters of Control

184. The matters from Rules 9.9.3 and 14.6 that are relevant to building location are set out in Table 19 below.

Table 19 – District Plan Matters of Control Reserved for 'Building Location'

Rule 9.9.3 Controlled Subdivision Activities	Rule 14.6 Subdivision Assessment Matters
I. Building Location <ul style="list-style-type: none">The location of buildings.	11. Building Location <ul style="list-style-type: none">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.

Applicant's AEE Summary

185. In the AEE, the Applicant makes the following comments in relation to building location:

Building platforms for the proposed lots (other than for the already developed lots 25 and 129) can be readily achieved in the absence of notable constraints on the large sites. There is ample space within the proposed lots for the future development of dwellings and accessory buildings which comply with the relevant performance standards for the Rural Zone.

186. Under the heading 'Foundation Geotechnical Requirements', the Applicant then goes on in the AEE to provide the following comments:

As noted within the Site Description, Appendix D provides a Geotechnical Report detailing specialist subsurface investigations and conclusions of liquefaction vulnerability. The report concludes that the site is unlikely to liquefy during a design seismic event and that suitable foundations for future houses can be readily formed through shallow excavation of topsoil.

187. No further information was requested regarding specific matters of 'Building Location', although of relevance is the 5 August 2021 response confirming that the fill content of the farm dump will be excavated, and the void will be backfilled with engineered fill to be certified by both



contamination and engineering professionals.

Issues Raised by Submitters

188. None of the submitters raised concerns relevant to building location specifically, acknowledging that the proximity of lots within 500m of the Mr Apple Orchard was raised as a reverse sensitivity issue by that submitter.

Assessment of Effects – Building Location

189. Stantec undertook peer review comments of the geotechnical aspects of the application, and provided the following comments to the Council on 12 May 2021 (see Attachment 6):

We have undertaken a review of the Initia Geotechnical Specialists Preliminary Geotechnical Report REF P-001061 REV 1, dated April 2021. – contained in Appendix D of the application

Our general review of this report follows:

- Although this is a “preliminary” report, with further requirements for site specific confirmation of ground conditions at Building Consent stage, we acknowledge that the testing undertaken has good coverage and depth sufficient to undertake the assessment for the proposed subdivision.*
- Although testing is limited to less than 4m depth below ground, there is well mapped geology indicating that sandy gravels are likely to persist below this.*
- The report acknowledges that “No deep investigation data is available for the site, however, based on the geomorphology of the site, the depth to rock is likely to be deep (>20 m).”*
- Variable ground water level is anticipated, with seasonal changes*
- The Initia assessment is that “the risk of surficial expression of liquefaction across the site is considered negligible, based on the information collected in the investigation”*

Our assessment is that the Initia report has been done in a professional manner and is suitable for the task of the consent application.

The Environmental Solutions, Detailed Site Investigations report Reference Number: REP-H0151/DSI/APR21, notes the presence of Farm refuse dumps. The ES report is primarily tasked with assessing the potential contamination issues associated with these sites. Notwithstanding this, there are potential geotechnical risks associated with building any foundations on ground affected by uncontrolled fill.

Advice

The site area is underlain by alluvial sandy gravels with cobbles and boulders which are variably capped by very stiff to hard silt.

Site specific investigations should be undertaken at building consent phase for development within the respective lots to confirm the underlying near surface materials.

Locations where farm-dumping has been identified should also be highlighted on title as posing a potential risk to foundations constructed in these areas.

Alternatively, the sites could be remediated with removal of un-engineered fill, and replacement with engineered fill.



190. The location of the farm dump is not specifically identified in the application with reference to the proposed lot numbers, although the AEE notes that the wider areas of contamination identified within the DSI report cover Stage 14 lots 198, 199, 200, 201 and Stage 15 lots 176 – 179. From comparing the 'Estimated Impacted Soil Areas' diagram in the DSI report with the subdivision scheme plan, the farm dump would appear to be within proposed Lot 178 or 179. It is requested that the applicant confirm on which Lot(s) the farm dump is located at the hearing as it would be appropriate for conditions to be applied in accordance with the Stantec recommendations set out above. This would include a consent notice condition identifying the location of the fill on that lot (or lots). As is mentioned in the assessment under the NESCS below there may also be other areas of fill resulting from the removal of contaminated soil from the site from the location of the former sheep dip and areas around farm sheds. Such a condition should therefore also cover these other potential areas of fill.
191. In my opinion, where other areas of contamination require the removal of soil and reinstatement with fill, it would also be appropriate for those areas to be identified to protect the geotechnical stability of future buildings.
192. Stantec has confirmed that the advice in the Initia Geotechnical Report submitted with the application is sound, but that it would still be appropriate for site specific geotechnical investigations to be undertaken at the time of building consent. It is therefore recommended that a consent notice condition to that effect be applied to each lot.

Summary and Conclusion

193. Due to the nature of the geology and soils and provided that development is undertaken in accordance with site specific engineering advice, development of the subject site does not pose any significant risks from geotechnical hazards.
194. A potential risk has been identified for the future development of the former farm dump site, however this risk is able to be mitigated by requiring the landfill material to be replaced with engineered fill in association with consent notice conditions identifying the location of that fill. Similar risks would apply to other areas where contaminated soil is removed and replaced with fill.
195. In my opinion, the conditions recommended below will appropriately, avoid, remedy or mitigate any risks to building location from unstable ground.

Recommended Conditions

196. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report.

The following consent notices shall be registered on the record of title of all lots other than road, access or reserve lots:

- *Site specific investigations shall be undertaken at the time of building consent to confirm the underlying near surface materials in accordance with the recommendations of the Initia Geotechnical Specialists Preliminary Geotechnical*



Report REF P-001061 REV 1, dated April 2021. – contained in Appendix D of resource consent application RM210103.

Locations where farm-dumping has occurred, or where soil has been removed and replaced with fill, shall be identified on the survey plan for Stage(s) [X and X] of the development and be annotated as posing a potential risk to foundations constructed in the identified areas from fill.

The following consent notices shall be registered on the record of title for Lots [x and x]:

- That no building shall take place on the area identified on the survey plan as being subject to fill unless supported by a site specific geotechnical report specifying the remedial actions and foundation design necessary to achieve a stable building platform.*

Or

The areas of identified as former farm dump sites, or where contaminated soil has been removed from and replaced with fill, shall be remediated with removal of un-engineered fill, and reinstated with engineered fill certified by a qualified and registered geotechnical engineer as being safe for building development.

NESCS Consent: Restricted Discretionary Activity

197. This report will now assess the actual and potential effects on the environment relating to contaminated soil identified on the site under the NESCS in accordance with the matters of discretion specified in the NES.

NESCS Matters of Discretion

198. The relevant matters from regulation 10(3) of the NESCS are set out in Table 20 below.

Table 20 – District Plan Matters of Control Reserved for 'Building Location'

Matters over which Discretion is Restricted
(a) the adequacy of the detailed site investigation, including— <ul style="list-style-type: none">(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— <ul style="list-style-type: none">(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.

Applicant's AEE Summary

199. The AEE includes a section titled 'NES Contaminated Soil Assessment'. Key points from that assessment are extracted in the following bullet points.
- *The preliminary investigation undertaken for the site has identified historic practices on the farm that involved storage and use of chemicals with an associated risk of residual contamination of specific site areas, resulting in classification as a HAIL site.*
 - *Targeted soil sampling of the specific areas of interest in the site has confirmed the presence of elevated soil contaminant concentrations at levels exceeding the relevant (rural residential land use scenario) soil contaminant standards.*
 - *Of note, the testing of the area of the former sheep dip that was used prior to the 1950's included an arsenic concentration of 901mg/kg (sample SS16) and combined lead and PAH results indicate that a probable fuel filling location has been correctly identified.*
 - *The results of further horizontal and vertical delineation testing will inform a site remediation action plan. While soil mixing presents a potential on-site remediation option for the lower level contaminated soils, the soils affected by higher contaminant concentrations are likely to be exported to an appropriately accredited receiving facility, such as the Omarunui land fill.*
 - *Validation reporting will be undertaken following the completion of remediation, including the results of soil sampling of the exposed faces and base of any excavated areas and soil sampling of the completed remediation to confirm compliance with relevant soil contaminant standards.*
 - *Where a detailed site investigation is undertaken and identifies soil contamination that exceeds soil contaminant standards, Regulation 10(2) of the 2011 NESCS classifies subdivision as a Restricted Discretionary Activity.*
 - *The site investigation provided at Appendix C confirms the presence of elevated soil contaminants exceeding the relevant soil contamination standards and the subdivision is therefore classified as a restricted discretionary activity pursuant to Regulation 10(2) of the 2011 NESCS.*
200. In the Application AEE under the heading 'Site Remediation' the following comments are provided.
- The site investigation summarised within the DSI provided at Appendix C has identified discrete areas of soils impacted by residual contamination from historic farm activities, with contaminant concentrations exceeding the applicable rural residential soil contaminant standards.*
- A remediation action plan will be developed, and the remediation completed prior to commencement of the relevant stages of development (Stage 14 lots 198, 199, 200, 201 and Stage 15 lots 176 – 179).*



While there is potential for remediation by way of soil mixing, the export of contaminated soils to an appropriately accredited receiving facility is also expected to be required to complete the soil remediation.

Validation reporting will be presented to Council confirming that all identified areas of impacted soils have been remediated to a standard that is compliant with the soil contaminant standards for rural residential use to enable future development of the rural lots.

Issues Raised by Submitters

201. None of the submitters raised concerns relevant to matters of soil contamination and the resource consent required under the NESCS.

Assessment of Effects – Contaminated Soil

202. A Detailed Site Investigation ("DSI") report is included as Appendix 3 of the Application²¹ 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) On-site wastewater discharges to land.
203. 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 land use 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.
204. On the basis of the identified soil contamination and the confirmed presence of a farm dump, 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.
205. The DSI was peer reviewed by Stantec on behalf of the Council. That peer review, dated 10 May 2021 (see Attachment 7), 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.

²¹ 'Detailed Site Investigation (DSI) – Springhill Dark Kifestyle Development, State Highway 50, Ongaonga', Geosciences Limited, 9 April 2021.



206. The draft RAP dated 9 April 2021 has been peer reviewed by Stantec, who have recommended, in a memorandum dated 31 August 2021 (see Attachment 8), 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. On that basis I am satisfied that the proposed activity and DSI reporting is appropriate having regard to assessment matters 10(3)(a) and (b) as set out in Table 20 above.
207. 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 appropriately avoided, remedied, or mitigated. It is also my opinion that the conditions recommended below will appropriately address the remaining assessment matters of NESCS Regulation 10(3).
208. I note that in regard to potential adverse effects on neighbouring land owners or occupiers, 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.

Summary and Conclusion

209. A portion of the site in stages 14 and 15 of the proposed subdivision, adjacent to the existing farm buildings and yards has been identified as containing contaminated soils exceeding the NESCS standards for rural residential land use. A DSI Report and draft RAP have been prepared for the Applicant by Geosciences Limited. That report and plan has been peer reviewed by Stantec, generally verifying the appropriateness of the Geosciences Limited's findings and recommendations, provided specified amendments are made to the RAP.
210. The following recommended conditions are therefore based on the conditions recommended by the Geosciences Limited DSI, with a requirement for the updated RAP to address the peer review matters raised by Stantec. A timebound condition is also recommended to ensure the required reporting and works take place prior to the subdivision being implemented over the subject piece of land or any other soil disturbance or change of use occurring in relation to that piece of land.

Recommended Conditions

211. The following are the recommended conditions referenced above, the details of which may be refined further prior to inclusion in the full set of recommended conditions at the conclusion of this report.
- *Delineation soil sampling be undertaken across the areas adversely impacted to determine the lateral and vertical extent of any impacted soils as follows:*
 - *Grid based soil sampling using cardinal delineation points around the areas of identified lead impacts in the central yard portion of the site;*



- *Expanding ring sampling to the south and east of the sheep dip to confirm the full extent of plume discharge beyond SS17 and SS11 alongside further depth soil sampling to confirm the extent;*
- *Submission of an updated Remediation Action Plan to Council for certification prior to any remedial works commencing on site;*
- *In the event of demolition and removal of the existing residences, commissioning of Hazardous building material surveys on the residential dwellings to identify the full extent of any asbestos containing materials present and allow for licensed removal where required prior to any demolition occurring in accordance with the Health and Safety at Work (Asbestos) Regulations 2016;*
- *Decommissioning and removal of onsite wastewater treatment systems in accordance with the recommendations of the Draft RAP where these are no longer required; and*
- *Site Validation inspections, sampling and reporting as necessary to confirm that impacted soils have been appropriately remediated and managed in accordance with the Council approved Remediation Action Plan and all residual soils are fit for the proposed end rural residential land use standard.*
- *That the updated Remediation Action Plan shall address those details outlined as requiring amendment or updating in the Memorandum prepared by Scott Fellers, Stantec, titled 'RM210103 – Draft Remedial Action Plan Springhill Farm Lifestyle Development, State Highway 50, Ongaonga, Central Hawke's Bay' and dated 31 August 2021.*
- *That the works and actions required by the above conditions shall be completed prior to a section 224 certificate being issued for Stages 14 and 15 of subdivision consent RM210103, or prior to any soil disturbance activities or change of use occurring on the 'piece of land'.*

Other Potential Effects on the Environment

212. This report will now briefly comment on matters raised by submitters that have not already been addressed above and matters raised in the Application AEE that have not been addressed above.

Impact on Community Services

213. Several submitters raised concerns about the increased population from the proposed subdivision putting pressure on existing community resources and services. Concern was also raised about there being no space for shops or services within the subdivision. Although this issue is not within the matters that the District Plan reserves control over, it was recognised as a relevant matter and commented on in the Application AEE.

Applicant's AEE Summary

214. In the Assessment of Environmental Effects section of the Application AEE the following comments are provided on 'Social and Physical Infrastructure Servicing':

The additional population of the local area arising from the development will assist in sustaining use and support for local services and facilities, of both commercial and community nature. The shops, hotels and community halls and clubs of Ongaonga and Tikokino will likely benefit from the local increased population within their serviced



catchment. This will provide positive economic and social effects for these commercial enterprises and community resources.

215. The further information letter from Development Nours on behalf of the Applicant dated 26 August 2021 including the following comments under the heading 'Communal Space':

No communal space is provided within the proposed scheme. While no such provision is required by the District Plan it is also hoped that future residents will better integrate with the existing communities of Ongaonga and Tikokino through support of existing facilities in these communities.

Issues Raised by Submitters

216. Table 21 below lists those submitters raising concerns relevant to matters of the impacts of the subdivision on community services and provides a bullet point summary of the concerns raised.

Table 21 – Submission Points Relevant to 'Impact on Community Services'

Submitters	Summary of Relevant Points Raised
AS Alder, K Bell R & H Ellis, KB Sloane	<p>Impact on community resource.</p> <p>The development will place pressure on existing services including the rural nature of Ongaonga and Tikokino Schools. Consideration of extra classrooms and consultation with schools is required.</p> <p>There is no accommodation in the development for services like shops and fuel. There should be a space set aside in the development for a shop and / or fuel.</p> <p>Concerns with the size and scope of the proposed subdivision in a rural zone including: ... pressure on health services; pressure on CHBDC water supply; upgrade required to Ongaonga substation.</p> <p>The small town created will have no amenities. Local health practices will not be able to cope with another 600+ people and it will be a burden to the local ambulance service and volunteer fire service, with concern about water availability. Concern for the ability of the two local schools to cope.</p>

Assessment of Effects – Impact on Community Services

217. This matter can be seen positively in terms of additional population supporting existing businesses in Tikokino and Ongaonga. Alternatively, as the submitters point, out the contrary view is that the increased population will place limited rural services (including healthcare and education) under increased pressure.
218. The Applicant's agent is correct to point out that there is no requirement in the District Plan for shops or communal spaces to be provided by the subdivision. There would also be less benefit to the existing businesses in Tikokino and Ongaonga if shops were to develop within the subdivision, albeit that this would be more convenient for future residents and reduce vehicle travel needs.
219. These matters, which include both positive and potential adverse effects, are not within the matters of control reserved by the District Plan so are not able to be addressed by conditions on the subdivision consent. Accordingly, there is no need to discuss these issues any further.



Archaeological, Cultural and Spiritual Effects

220. The above matters are recognised as a relevant matter and commented on in the Application AEE as follows:

The site is not known to contain any archaeological or other cultural heritage assets. While there are no known culturally significant sites within the development, should any remains or artefacts be discovered through development of the site, the established Accidental Discovery Protocol of Heritage New Zealand Pouhere Taonga will obviously be followed. Effects in this respect are therefore less than minor.

221. Regardless of these matters not being within the matters of control reserved by the District Plan, the provisions of the Heritage New Zealand Pouhere Toanga Act 2014 will apply and protect any archaeology that may be unearthed during earthworks. It would be appropriate to set an advisory note on the subdivision in this regard.

Assessment of Environmental Effects Conclusion

222. As a controlled activity, section 104A of the RMA requires that consent must be granted to the subdivision, and that conditions may be set for those matters over which control is reserved in the District Plan. The above assessment has therefore assessed the potential environmental effects of the subdivision relating to matters over which control is reserved, considered the submissions, and where appropriate recommended conditions to ensure that adverse effects are appropriately avoided, remedied or mitigated.

ASSESSMENT OF RELEVANT PROVISIONS OF STANDARDS, POLICY STATEMENTS OR PLANS (SECTION 104(1)(b))

223. As required by section 104(1)(b), the following assessment has regard to any relevant provisions of -

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

224. This assessment is however undertaken in the context that under section 104A, consent must be granted and any conditions must relate to matters over which the District Plan reserves control.

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

225. The application has been considered against the requirements of the NESCS above. Recommendations are made for the imposition of various conditions to require compliance with the recommendations of the DSI prepared by Geosciences Limited and the peer review recommendations of Stantec. These conditions require further testing, the finalisation of a RAP, remediation works, and site validation prior to subdivision or development of the affected land occurring.



226. Given the above, in my opinion the requirements of the NESCS have been satisfactorily addressed.

Other NES Documents

227. In my opinion there are no other relevant NES, or other regulations to consider in regard to this subdivision.

National Policy Statements (NPS) (Section 104(1)(b)(iii))

National Policy Statement on Urban Development 2020

228. This NPS sets out the objectives and policies for planning for well-functioning urban environments under the Resource Management Act 1991. Urban environments however, relate to settlements of over 10,000 people, and this NPS is intended to provide direction for district plan preparation rather than the assessment of resource consent applications. Accordingly, it is not necessary to give any regard to this NPS.

Other NPS Documents

229. The subject site is not within the coastal environment, so it is not necessary to have regard to the New Zealand Coastal Policy Statement. I do not consider that there are any other national policy statements that are relevant to have regard to in the assessment of this application.

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

230. The RPS is embedded in the Hawke's Bay Regional Resource Management Plan (RRMP).
231. Section 3.1B of the RPS is titled 'Managing the Built Environment' and includes objectives and policies directing the form of urban development primarily within the area of the Heretaunga Plains, but also includes some provisions that apply on a region wide basis. The definition of 'urban activities' in the RRMP is as follows:
- Urban Activities Includes any one or combination of the following:*
- a) residential activities at a density of more than one dwelling per 2500m² of site area;*
 - b) commercial and industrial business, retailing and other commercial activities;*
 - c) use of social infrastructure;*
 - d) papakainga or other marae-based housing;*
 - e) any other land use within urban limits*
232. The proposed sites are all well in excess of 2,500m² in area therefore I do not consider this section of the RPS to be generally applicable to this subdivision. The 'Managing the Built Environment' section of the RPS does include Policy UD3 to discourage or avoid lifestyle development outside existing rural residential zones. That policy, however, is specific to the Heretaunga Plains Sub-Region, which does not include the subject site.
233. Section 3.5 of the RPS, 'Effects of Conflicting Land Use Activities', includes the following relevant objective:
- OBJ 16 For future activities, the avoidance or mitigation of off site impacts or nuisance effects arising from the location of conflicting land use activities.*
234. This objective relates to reverse sensitivity and in the context of the proposed application, seeks



that effects arising from the location of incompatible residential lifestyles sites with neighbouring farming activities are avoided or mitigated. As has been set out in the assessment of effects above however, the relevant District Plan matters of control relating to lot size and dimension provide little ability to mitigate the adverse effects of reverse sensitivity. The 'no-complaints covenant' condition offered by the applicant achieves some consistency with this objective albeit that it could be applied to more lots..

235. Although it is not within Council's jurisdiction to regulate discharges that may enter ground water or surface water, the following objectives are noted for completeness. They are relevant to the potential cumulative effects of the proposed individual on-site wastewater disposal systems.

OBJ 22 The maintenance or enhancement of groundwater quality in aquifers in order that it is suitable for human consumption and irrigation without treatment, or after treatment where this is necessary because of the natural water quality.

OBJ 27 The water quality in rivers, lakes and wetlands is suitable for sustaining or improving aquatic ecosystems, and for other freshwater objectives identified in accordance with a catchment-based process set out in Policy LW1 and Policy LW2, including contact recreation purposes where appropriate.

236. Policy LW1 and LW2 are in the 'Integrated Land Use and Freshwater Management' section of the RPS. A catchment based plan change has occurred for the Tukituki Catchment, which includes the subject site. The specific rules of that plan change are focused on water abstraction and discharges from agriculture. They do not change the RRMP rules applying to on-site waste water discharges and which would potentially permit (subject to compliance with the performance standards) each of the proposed new lots to have an individual on-site wastewater system. As explained above, I do not consider that Council has any jurisdiction to regulate the discharge of contaminants from wastewater (aside from its functions under the Building Act in ensuring that plumbing services for any building are connected to an effluent disposal system).
237. In my opinion, it is not necessary to have regard to any other objectives and policies within the RPS in the assessment of this application.

Central Hawke's Bay District Plan (Section 104)(b)(vi))

238. The above assessment has considered the relevant matters of control from the District Plan, as well as setting out the relevant rules and standards. Accordingly, the following assessment is confined to the relevant objectives and policies of the District Plan. I consider that the relevant sections to this assessment are: Chapter 4 Rural Zone, Chapter 8 Transport, and Chapter 9 Subdivision. The following assessment sets out what I consider to be the relevant objectives and policies of these sections followed by my assessment of the relevance of those provisions to this application.

Rural Zone

4.2.1 Objective - Rural Amenity and Quality of the Environment

A level of rural amenity which is consistent with the range of activities anticipated in the rural areas, but which does not create unpleasant conditions for the District's rural residents; or adversely affect the quality of the rural environment.



4.2.2 Policies

- 1. To encourage a wide range of land uses and land management practices in the Rural Zone while maintaining rural amenity.*
- 2. To require some activities to be setback from property boundaries so as to reduce the probability of neighbouring dwellings being exposed to adverse effects.*
- 3. To maintain clear distinctions between the urban and rural areas through zoning and the provision of performance standards specific to the rural zone, to assist in protecting the character and quality of the surrounding rural areas...*

....

- 11. To control the installation of septic tanks and other waste water treatment and disposal systems in order to mitigate potential health nuisances, odour and contamination of water.*

239. Objective 4.2.1 and the associated policies in 4.2.2 seek to provide for a level of rural amenity consistent with existing land use activities, including not to adversely affect the quality of the rural environment. The explanation and reasons for this objective and policies are set out in section 4.2.4 and in regard to subdivision state:

The scale of development will be controlled in relation to the size of the site to ensure adequate land is available to provide a buffer between the business and neighbours. Subdivision controls are necessary, but only to ensure that all lots can be adequately serviced and to ensure the setback for residential dwellings is compatible with the rural environment.

240. The 4,000m² minimum site size, with no restriction on the number of new sites created in the Rural Zone, is reflective of this explanation, despite any potential inconsistency with Policy 4.2.2(3). As the proposed subdivision complies with the relevant Rural Zone subdivision rules it must be considered to be generally consistent with the above objective and policies. Given the concerns raised in the submissions on this application, I question whether the 5m setback required by the District Plan from boundaries for residential dwellings will achieve the intent of Policy 4.2.2(2) in regard to reverse sensitivity, however as the subdivision is a controlled activity and future dwellings with a 5m boundary setback would be a permitted activity (at least under the Operative District Plan)²², there is no ability to require any greater set back as conditions on this consent.

241. Policy 4.2.2(11) seeks to control on site wastewater systems with the explanation for this in section 4.2.4 stating:

Modern design is required for all new septic tanks in the District so that the potential for health nuisances from uncontrolled seepages is reduced. Large-scale developments will require a discharge permit from the Hawke's Bay Regional Council.

242. District Plan standard 4.9.6 Domestic Waste Water Disposal gives effect to this policy and states:

²² The boundary setback for residential buildings in the Proposed District Plan is 15m.



All buildings containing ablution facilities and which are not connected to a reticulated sewage system, shall have an on-site septic tank system, including an approved filter unit, or any equivalent system that complies with the Draft Australian\New Zealand Standard DR96034 or any subsequent final standard.

Please note that on-site waste water treatment and disposal will also need to comply with the relevant permitted activity rule in the Hawke's Bay Regional Council Proposed Regional Water Resources Plan. Any discharge unable to comply will need a discharge permit.

243. As previously outlined, the management of the discharge of contaminants from wastewater is not a function of a territorial local authority under section 31 of the RMA. I understand though that, provided a wastewater system complies with the relevant rules of the RRMP, it would be considered a permitted activity. Regardless of the existence of the above standard and associated policy in the District Plan, in my opinion there is still no ability for the Council to set conditions on this consent to mitigate the potential cumulative adverse effects of the discharges from individual on-site wastewater systems proposed for each lot, unless such conditions are volunteered by the applicant as is proposed in regard to UV treatment.

4.3.1 Objective - Soil Erosion

Land management practices within the District which minimise soil erosion.

4.3.2 Policies

- 1. To encourage liaison with other local authorities and organisations concerning research into land use and land management practices that sustain the District's soil resource...*

244. This objective and associated policies is concerned with erosion in hill country or wind erosion associated with agriculture and therefore, in my opinion has little relevance to this application. I note that conditions are recommended below to mitigate the potential effects of wind erosion and resulting dust during earthworks.

4.4.1 Objectives

- 1. Protection and enhancement of defined nature conservation areas, and outstanding landscapes views within the District.*
- 2. The margins of wetlands, rivers, lakes and the coast are managed in order to preserve the natural character of these environments and the margins of identified river catchments are managed to enhance water quality.*

245. As these objectives relate only to the protection of 'defined' natural areas and landscapes and there are no such areas identified in the District Plan on the subject site, I do not consider them, or the associated policies, to be relevant to the assessment of this application.

Transport

8.2.1 Objective

Efficient use of the District's existing and future transport system through the maintenance and improvement of access, ease and safety of pedestrian movement.

8.2.2 Policies

- 1. To require off-street parking and loading for most activities in order to limit congestion*



and loss of safety and efficiency of adjacent roads and to promote the maintenance of the amenity of those roads.

2. To control the design and construction of access onto the State Highway in order to assist in the safe use of these roads.

3. To ensure the construction of parking and access is of a standard that promotes both the safe and efficient use of vehicles.

4. To ensure adequate sight distances for vehicles from access crossings so as to mitigate the potential for accidents.

5. To provide for home occupations within residential areas to reduce travel time and costs between home and work.

246. As set out in Table 3 above, the proposed application complies with the relevant District Plan rules and standards relating to transportation and access and therefore the application is, in my opinion, generally consistent with the above Transport section objective and policies. I consider that providing pedestrian access and footpaths on at least one side of the new roads as set out in the recommended conditions is consistent with Objective 8.2.1 in providing for the ease and safety of pedestrian movement.

Subdivision

9.2.1 Objective

The provision of necessary services to subdivided lots, in anticipation of the likely effects of land use activities on those lots.

9.2.2 Policies

1. To integrate subdivision roading with the existing roading network in an efficient manner which reflects expected traffic levels and the safe and convenient management of vehicles and pedestrians.

2. To ensure safe and effective vehicular access (including lighting) to properties in subdivisional developments.

3. To encourage in the residential zone subdivision design that

4. To ensure that water supplies to subdivided lots are of a sufficient capacity and of a potable standard for the anticipated land uses on each lot or development, including fire fighting requirements.

5. To ensure that the provision of any necessary additional infrastructure for water supply, stormwater control or sewage treatment disposal infrastructure and the upgrading of existing infrastructure is undertaken by subdividers, in recognition of the scale and nature of the anticipated land uses.

6. To encourage the retention of natural open waterbodies for stormwater disposal, where safe and practical, and to ensure disposal in a manner which maintains or enhances the quality of surface and ground water, and avoids unplanned inundation of land within the subdivision, adjoining land, or downstream properties.

7. To ensure, upon subdivision or development, that anticipated land uses are provided with a means of disposing of sanitary sewage in a manner which is consistent with maintaining public health and which avoids, or mitigates contamination of surface, or groundwater and avoids land instability.

8. To ensure upon subdivision or development, that all new lots or buildings are provided with a connection to a reticulated water supply, reticulated public sewerage system, and a reticulated stormwater system, where such adequate reticulated systems are available.



247. As set out in Tables 2 and 3 above, the proposed roading and access design meet the requirements of the District Plan. Due to the unavailability of reticulated three waters infrastructure, such services are to be provided by on-site means upon development by the future owners.
248. In regard to the specific policies, again I consider Policy 9.2.2(1) to be supportive of the recommendation for footpaths to be provided with the proposed internal roads to vest. Policy 9.2.2(4) is in my opinion supportive of specific requirements for on-site fire fighting water storage. Policy 9.2.2(6) is supportive of the proposal to channel stormwater to the main branch of the natural water course and to leave that water course open and protected by easements in gross, and of the recommended stormwater conditions.
249. As discussed in paragraphs 158 - 165, there is disagreement between the Applicant's expert and PDP (the Council's peer reviewer), as to whether the proposed on-site wastewater disposal will cumulatively mitigate contamination of surface or groundwater in accordance with Policy 9.2.2(7). In my opinion, such disposal systems will likely be permitted by the RRMP and the Council's functional jurisdiction under the RMA is such that there is little ability to set conditions on this consent to mitigate the potential cumulative adverse effects of the discharges.

9.3.1 Objective

The costs of the provision of new services or the upgrading of existing services within subdivisions is to be met by the subdividers.

9.3.2 Policies

1. To require subdividers to meet the costs of upgrading services (including head works), which are attributable to the impacts of the subdivision, including where applicable: roading and access (vehicular, cyclist, pedestrian); ...

250. I consider that this objective and associated policies have now been superseded by the Council introducing a Development Contributions Policy under the Local Government Act in 2021. Accordingly, contributions to the roading network and other community services will be required in accordance with that policy and do not require further consideration in the assessment of this application.

9.4.1 Objective

The maintenance or enhancement of amenity, cultural and significant nature conservation values through the subdivision process.

9.4.2 Policies

- 1. To take the opportunity to protect significant natural features or trees, and indigenous vegetation and habitat through the subdivision process.*
- 2. To ensure that works associated with the land subdivision and development avoid or mitigate the adverse impacts on the natural qualities of the environment and on areas of significant nature conservation value.*
- 3. To encourage innovative subdivision design consistent with the maintenance of amenity values.*
- 4. To provide pedestrian and amenity linkages where useful linkages can be achieved or further developed.*
- 5. To avoid or mitigate any adverse visual and physical effects of subdivision and*



development on the environment, including the appropriate underground reticulation of energy and telecommunication lines in order to protect the visual amenities of the area.

6. To promote the protection of waahi tapu and waahi taonga during the subdivision process.

251. The site does not contain any significant conservation or cultural values identified within the District Plan or Proposed District Plan, therefore I do not consider Policies 9.4.1(1), (2), or (6) to be relevant. The ability to give effect to Policies 9.4.1(3) – (5) is limited by the matters of control available in placing conditions on a controlled activity subdivision. In my opinion Policy 9.4.1(4) is of relevance in justifying the recommended condition for footpaths to be provided with the roads to vest within the subdivision.

9.5.1 Objective

The avoidance of subdivision where there are significant natural hazards, unless these can be mitigated without significant adverse effects on the environment.

9.5.2 Policies

1. To ensure that subdivision is either restricted, subject to mitigation measures, or avoided in areas subject to risk from flooding, subsidence or slippage, earthquake liquefaction and faultline movement.

2. To ensure that mitigation measures do not give rise to unnecessary adverse impacts on the environment.

252. In my opinion, the relevant natural hazards to this subdivision are soil instability for building development and flooding from significant rainfall events, and both of these hazards are able to be mitigated by the geotechnical engineering and stormwater related conditions recommended below.

Summary and Conclusion

253. Given the controlled activity status of the proposed subdivision, I consider that it follows that it achieves general consistency with the objectives and policies of the District Plan. In my opinion, the above assessment of relevant District Plan objectives and policies is helpful in providing direction as to whether conditions that may be in contention should be applied to the subdivision consent. In that regard, I consider that the objectives and policies are supportive of the recommend condition for the provision of footpaths.

CHB Proposed District Plan (Section 104(1)(b)(vi))

254. This application was received in April 2021 prior to the Proposed District Plan being notified on 19 October 2021. Submissions on the Proposed District Plan are currently being heard²³, and decisions on submissions are still to be made. Accordingly, the Proposed District Plan does not impact the activity status of the proposal. However, as the Proposed District Plan has now been notified, it is necessary to have regard to its relevant objectives and policies under Section 104(1)(b)(vi).

255. Given the timing of the Proposed District Plan and that it can have no bearing on the controlled

²³ Submission hearings commenced in March 2021.



activity status and matters over which control are reserved for the setting of conditions on the application, I do not consider there to be any benefit in undertaking an extensive objective and policy assessment. However, I have had regard to these and also note that the request to extend the lapse date of the subdivision from 5 years to 15 years is still to be addressed, and I consider the objectives and policies relating to subdivision in the Rural Production Zone²⁴ to be relevant to that matter, as it is likely that the Proposed District Plan will become operative, or at least sections of the plan will be beyond the point of legal challenge, during the development of this subdivision (even if the 5 year lapse date were to remain).

256. What I consider to be the relevant objectives and policies of the Rural Production Zone are set out as follows:

RPROZ-O1 The Rural Production Zone is predominantly used for primary production activities and associated ancillary activities.

RPROZ-O2 The rural land resource is protected from fragmentation, and from being compromised by inappropriate building and development, including from ad hoc urban expansion.

RPROZ-O3 Activities do not reduce the potential for the highly productive land of the District to be used in a productive and sustainable manner.

RPROZ-O4 The predominant character of the Rural Production Zone is maintained, which includes:

- 1. low-density built form, with open space and few structures;*
- 2. a predominance of rural and land-based primary production activities and associated buildings such as barns and sheds, and artificial crop protection structures and crop support structures;*
- 3. sounds and smells associated with legitimate primary production activities;*
- 4. existing rural communities and community activities, such as rural halls, reserves and educational facilities;*
- 5. a landscape within which the natural environment (including farming and forest landscapes) predominates over the built one;*
- 6. an environmental contrast and clear distinction between town and country (including a general lack of urban infrastructure, such as street lighting, solid fences and footpaths).*

RPROZ-O5 Adverse effects of activities are managed to maintain rural character and amenity.

RPROZ-O6 The primary productive purpose and predominant character of the Rural Production Zone are not compromised by potentially incompatible activities establishing.

RPROZ-P1 To allow land-based primary production and ancillary activities, which are compatible with the primary productive purpose and predominant character and amenity of the Rural Production Zone.

RPROZ-P2 To allow activities of a limited scale, which support the function and wellbeing of rural communities and/or enjoyment of the rural environment and contribute to the vitality and resilience of the District's economy, where adverse effects are avoided,

²⁴ The subject site has a zoning of Rural Production under the Proposed District Plan.



remedied or mitigated. ...

RPROZ-P4 To manage the bulk, scale and location of buildings to maintain the character and amenity of the rural area.

RPROZ-P5 To require sufficient separation between sensitive activities and existing primary production and intensive primary production activities, and between new intensive primary production activities and property and zone boundaries, in order to avoid, remedy or mitigate potential adverse effects, including reverse sensitivity and land use conflict. ...

RPROZ-P7 To ensure activities do not locate in the Rural Productive Zone where the activity:

- 1. will be inconsistent with the primary productive purpose and predominant character of the Rural Productive Zone;*
- 2. will constrain the establishment and use of land for primary production;*
- 3. exhibits no exceptional or unusual features that would differentiate it from possible later applications, which in combination would lead to incremental creep of urban activities and/or sporadic urban activities onto the highly productive land of the District; and/or*
- 4. will result in reverse sensitivity and/or lead to land use conflict.*

RPROZ-P8 To avoid residential and rural lifestyle subdivision that results in fragmentation of land within the Rural Production Zone and/or which limits the use of land for primary-productive purposes.

257. Objective RPROZ-O2 and Policy RPROZ-P8 are specifically related to managing the effects of subdivision within the Rural Production Zone and are implemented by Subdivision Chapter Rules SUB-R1 and SUB-R5.
258. Rule SUB-R1 provides for subdivision to a minimum site size of 12ha as a controlled activity in the Rural Production Zone. Where that minimum site size is not achieved the application would be assessed as a discretionary activity.
259. Rule SUB-R5 provides for subdivision of a lifestyle site²⁵ incorporating an existing residential building within the Rural Production Zone as a controlled activity, provided the balance area is amalgamated so that no additional titles are created. The creation of a lifestyle site in the Plains Production Zone not meeting this requirement would be assessed as a discretionary activity.
260. Accordingly, under the Proposed District Plan, the subject site with a combined area of 220.77ha could be subdivided into approximately 17 or 18 complying sites (with consideration of the land requirements for internal accessways being the determining factor) as a controlled activity. Any application to create a greater number of sites would be subject to assessment as a discretionary activity. This assists in providing context to the above objectives and policies.
261. In my opinion, when read as a whole, the Rural Production Zone objectives and policies in the Proposed District Plan promote the following key themes:

²⁵ Of between 2,500m² and 4,000m² in area.



- The zone is predominantly used for primary production and the ability for the productive land of the zone to be used sustainably for such purposes is protected.
 - The productive rural land resource is to be protected from inappropriate building and development.
 - The character of the zone is defined as including a predominance of open space and rural production activities and associated buildings with the natural environment predominating over built form. Such character and amenity is to be retained.
 - The productive purpose of the zone is to be protected from reverse sensitivity effects (from incompatible activities).
 - Residential and rural lifestyle subdivision which limits the use of land for primary production is to be avoided.
262. In my opinion, the proposed subdivision is inconsistent with, and directly contrary to, the objectives and policies of the Rural Production Zone of the Proposed District Plan as 312 lots on an area the size of the subject site will not protect the productive rural land resource, will change the character of the zone in that area away from a predominance of rural production activities and open space, will create the potential for adverse reverse sensitivity effects, and is rural lifestyle subdivision that limits the use of land for primary production.
263. Although I have had regard to these objectives and policies, in terms of the weight that should be given to them, it is my opinion that they should be given limited weight in the decision on the subdivision application. Although they have legal effect, they are subject to submissions and may change through the hearing and appeals process. Further, the relevant rules do not have legal effect and, as such, the objectives and policies do not change controlled activity status of this application.
264. In saying that, I do consider that these objectives and policies to be relevant to the Applicant's request for an extended lapse date for the consent and discuss this in more detail later in this report.

SECTION 106 OF THE RMA

265. Section 106 of the RMA prevents or restricts the granting of subdivision consent applications in certain circumstances, and is set out below:

106 Consent authority may refuse subdivision consent in certain circumstances

(1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—

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

(b) [Repealed]

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

(1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—

(a) the likelihood of natural hazards occurring (whether individually or in combination); and

(b) the material damage to land in respect of which the consent is sought, other



*land, or structures that would result from natural hazards; and
(c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).*

(2) Conditions under subsection (1) must be—

(a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and

(b) of a type that could be imposed under section 108.

266. As set out in the natural hazards and building location assessments above, I am satisfied that, with the recommended conditions below, there is not a significant risk from natural hazards that would justify refusal of this consent. Further to that, I am also satisfied that sufficient provision is made for legal and physical access to each of the proposed allotments. Accordingly, I do not consider that there is any basis for consent to this application to be refused under section 106 of the RMA.

PART 2 OF THE RESOURCE MANAGEMENT ACT 1991

267. Part 2 sets out the purposes and principles of the RMA, with the purpose being the sustainable management of natural and physical resources.
268. Case law has clarified that that there is no need for separate resort to Part 2 where the plan has been prepared under the Act having regard to Part 2, as it would not add anything to the evaluative exercise. The Court in *RJ Davidson v Marlborough District Council [2018] 3 NZLR 283* held:

If it is clear that a plan has been prepared having regard to pt 2 and with a coherent set of policies designed to achieve clear environmental outcomes, the result of a genuine process that has regard to those policies in accordance with s 104(1) should be to implement those policies in evaluating a resource consent application. Reference to pt 2 in such a case would likely not add anything. It could not justify an outcome contrary to the thrust of the policies.

269. The District Plan was prepared having regard to Part 2 of the RMA, becoming operative in July 2000. In my opinion, consideration to Part 2 would not add anything to the evaluative exercise of this application, particularly given its controlled activity status and matters over which control are reserved.
270. I also note that the Proposed District Plan has only recently been prepared with regard to Part 2, albeit that it is still progressing through the statutory process and can be given little to no weight in the assessment of this application.



LAPSE DATE EXTENSION

271. The Applicant has requested an extension of the default five year subdivision consent lapse period. Section 125 of the RMA relates to the lapsing of consents and is set out as follows:

125 Lapsing of consents

(1) A resource consent lapses on the date specified in the consent or, if no date is specified,—

(a) 5 years after the date of commencement of the consent, if the consent does not authorise aquaculture activities to be undertaken in the coastal marine area; or

(b) 3 years after the date of commencement if the consent does authorise aquaculture activities to be undertaken in the coastal marine area.

(1A) However, a consent does not lapse under subsection (1) if, before the consent lapses,—

(a) the consent is given effect to; or

(b) an application is made to the consent authority to extend the period after which the consent lapses, and the consent authority decides to grant an extension after taking into account—

(i) whether substantial progress or effort has been, and continues to be, made towards giving effect to the consent; and

(ii) whether the applicant has obtained approval from persons who may be adversely affected by the granting of an extension; and

(iii) the effect of the extension on the policies and objectives of any plan or proposed plan.

(1B) Sections 357A and 357C to 358 apply to subsection (1A)(b).

(2) For the purposes of this section, a subdivision consent is given effect to when a survey plan in respect of the subdivision has been submitted to the territorial authority under section 223, but shall thereafter lapse if the survey plan is not deposited in accordance with section 224.

(3) This section is subject to section 150G.

272. I note the reference in section 125(2) above which applies to subdivisions. This means that, in practical terms, the Applicant has 5 years in which to apply for approval of the survey plan under section 223 of the RMA and then an additional 3 years from that date to obtain section 224 certification that the conditions of the subdivision consent have been complied with. Only once the section 223 and 224 approvals have been obtained can the new records of title can be issued. Under a standard 5 year lapse date for a subdivision consent, it is therefore possible for the final section 224 approval to be obtained a maximum of 8 years from the date of the original consent.

Relevant Extracts from the AEE and Further Information Process

273. The AEE states the following in regard to seeking an extension of the lapse date:

The application proposes the subdivision of the site through 16 stages to form a total of 312 rural sized lots. All necessary vested and private road and drainage infrastructure is proposed by the application scheme as part of the subdivision. An extended lapse date of fifteen years is sought to provide for the staged delivery of the development in response



to market demand.²⁶

In summary, the application proposes the staged subdivision of the assembled site to form a total of 312 rural lots with associated remediation of identified areas of soil contamination. An extract of the scheme plan is provided at Figure 8 and the full set of staged scheme plans is provided at Appendix F. Given the scale of the development, an extended lapse date of fifteen years is sought for the subdivision.²⁷

In accordance with the assessment undertaken at Sections 4 and 5 of this report, the proposed development raises the following resource consenting matters:

Staged subdivision of the assembled site to form 312 rural lots, the formation of a network of roads to vest in Council and shared accesses to be retained in private shared ownership, associated drainage and servicing infrastructure, and necessary development formation earthworks, incorporating a fifteen year consent lapse – controlled activity pursuant to Rule 9.9.3 of the Central Hawke's Bay Operative District Plan²⁸...

274. Further information was requested in regard to the reasons for the extension of the lapse date and, in the response dated 5 August 2021, the Applicant provided the following explanation:

The Applicant's intention is to commence development as soon as is possible following the grant of consent. There is no intention to bank the consent.

The fifteen year lapse date is commensurate with the total number of lots and the scale of required enabling infrastructure construction necessary to implement each stage of the development. This recognises the practicalities of physical construction, including the availability of general and specialist contractors and of construction materials. While it is hoped that the development will be completed in less than fifteen years, it will certainly span longer than the standard five year lapse of s125 of the Act, thereby necessitating a longer lapse duration.

The proposed revision to the direction of rural subdivision within the proposed district plan is understood but land development cannot be expected to be placed on hold to wait for the outcome of a district plan review process, especially in the context of an overwhelming housing crisis and shortage of available development land throughout Hawke's Bay.

Issues Raised by Submitters

275. Table 22 below lists those submitters raising concerns relevant to matters of extending the consent lapse date and provides a bullet point summary of the concerns raised.

²⁶ Application AEE page 1

²⁷ Ibid, page 9.

²⁸ Ibid, pages 35 and 48.



Table 22 – Submission Points Relevant to 'Extending Consent Lapse Date'

Submitters	Summary of Relevant Points Raised
AS Alder, R & H Ellis.	Do not extend the lapse date beyond 5 years. A 15 year window for this subdivision over 16 stages will mean putting up with 15 years of earthworks, building and general disruption.

Assessment of Request to Extend the Consent Lapse Date

276. As set out above, section 125(1) of the RMA allows a lapse date to be specified in a consent or otherwise establishes that a consent lapses 5 years after the date of commencement (being the date of the decision granting consent). I am not aware of any criteria in the RMA under which a request to extend a lapse date in an application should be considered and therefore assume the general considerations in section 104 of the RMA for assessing a resource consent to be relevant. Additionally, while section 125(1A) enables an application to be made to extend a lapse date after a consent has been granted, the criterion under section 125(1A)(b)(iii) is in my opinion an important consideration, and is also relevant under section 104.
277. As set out in my assessment above, I consider the proposed subdivision to be generally consistent with the objectives and policies of the Operative District Plan, but to be contrary to the objectives and policies of the Proposed District Plan. With hearings currently taking place on the Proposed District Plan and decisions on submissions scheduled to be released in 2023, it is highly likely that the development of this subdivision will not occur until the rules of the Proposed District Plan have legal effect and will still be occurring once the Proposed District Plan is operative.
278. The Applicant is clearly entitled to implement this controlled activity subdivision consent once granted, regardless of whether the District Plan that it was granted under ceases to have effect during the time of implementation, as will certainly be the case here. It is, however, another matter for the Council to exercise its discretion to extend the lapse period of that subdivision consent and allow more time for it to be implemented, when the subdivision is considered to be directly contrary to its proposed policy direction on rural subdivision.
279. For the reasons outlined in this report, the proposed subdivision may result in the following adverse effects: compatibility with adjoining land uses (reverse sensitivity²⁹); amenity of area including rural outlook; water supply (from the combined effects of bores drawing water from the aquifer); and sanitary sewage disposal (cumulative adverse effects of onsite waste water disposal). Although those issues are referred to in the assessment matters, there is either not sufficient control reserved in the District Plan or jurisdiction available for the Council to mitigate those effects through conditions of consent. There are also other potential adverse effects arising from the scale of the proposed subdivision that are not within the matters of control able to be assessed above, such as the loss of versatile land resource to non-productive activities and loss of rural character.

²⁹ As set out in paragraph 74 I do not consider that reverse sensitivity effects can be fully mitigated by no-complaints consent notices.



280. It is therefore my opinion that it would not be appropriate to grant an extension of the five year lapse date as sought in the Application as doing so would be providing additional time to enable the full extent of the subdivision to be completed. It is the scale of the subdivision that creates the adverse effects referred to above and the inconsistency with the objectives and policies of the Proposed District Plan. As such, I do not consider that granting the time extension sought would be consistent with the sustainable management purpose of the RMA.

SUMMARY AND CONCLUSIONS

281. Springhill Farm Holdings seek resource consent to subdivide the 220ha property at 1080, 1152 and 1200 State Highway 50 and 604 and 612 Wakarara Road, Ongaonga. The proposal is to create 312 separate lots for lifestyle residential purposes, with each lot complying with the minimum lot size requirement in the Operative District Plan of 4,000m². Access is proposed by an internal public road network to be vested in the Council and a series of Jointly Owned Access Lots.
282. 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.
283. The application also seeks resource consent under the NESCS due to residual contamination from historic farm activities (including sheep dips, farm sheds and a farm dump) in the vicinity of proposed Lots 198 – 201 (Stage 14) and Lots 176 – 179 (Stage 15). The application proposes the removal of the contaminated soils.
284. The subdivision is a Controlled Activity under the Central Hawke's Bay Operative District Plan, while the contaminated soils require Restricted Discretionary Activity resource consent for both 'soil disturbance' and 'subdivision' of a piece of land subject to the NESCS.
285. The two applications have not been bundled together for assessment as the contaminated soil component of the subdivision only relates to Stages 14 and 15. Accordingly, the subdivision activity has been assessed as a Controlled Activity, which must be granted with conditions only able to be imposed over those matters that the District Plan reserves control over.
286. The application was limited notified pursuant to section 95B of the RMA to the surrounding property owners and the Heretaunga Tamatea Settlement Trust. A total of seven submissions were received from neighbouring landowners, all in opposition to the application. Common concerns raised in the submissions related to reverse sensitivity effects, and a loss of rural character and amenity.
287. The written approval of Waka Kotahi, with conditions, has been provided to the application with the initial further information response, therefore any potential effects on the safety and efficiency of SH50 cannot be considered.
288. An assessment of effects on the environment has been undertaken regarding those matters over which the District Plan reserves control. In doing so, regard has been given to the Assessment of Environmental Effects that was submitted with the application, the further information received in response to various s 92 requests, the submissions and advice received from technical peer reviewers engaged by the Council, and the District Plan assessment matters over which control is



reserved.

289. Where appropriate, conditions have been recommended to mitigate the potential adverse effects of the subdivision within the matters of control reserved by the District Plan and these are set out in the recommendation below. There were several matters where potential adverse effects were identified but for which there were no matters of control available or measures within Council's jurisdiction to mitigate those effects by conditions of consent. Those matters are compatibility with adjoining land uses (reverse sensitivity); amenity of area including rural outlook; water supply (from the combined effects of bores drawing water from the aquifer); and sanitary sewage disposal (cumulative adverse effects of onsite waste water disposal). Nevertheless, the application is fully compliant with the District Plan and, in that regard, any resulting adverse effects are considered acceptable under the District Plan.
290. The application has been assessed under the relevant statutory instruments and, in my opinion, the proposal is consistent with the relevant objectives and policies of the Operative District Plan but inconsistent with, and contrary to, the objectives and policies of the Proposed District Plan. The Proposed District Plan does not provide for the creation of additional lifestyles sites in the Rural Production Zone as a Controlled Activity and requires a minimum subdivision site size of 12ha. Under the Proposed District Plan, I estimate the maximum potential complying subdivision yield of the subject site to be 17 lots.
291. The application under the NESCS has been assessed as a Restricted Discretionary Activity with consideration of the matters of discretion, the DSI and RAP reports provided by the Applicant and the peer review of those documents on behalf of the Council. Any potential adverse effects of the contaminated soil and its remediation are appropriately mitigated by the recommendations of the DSI and the proposed RAP. Accordingly, it is recommended that consent is granted to this aspect of the application with the conditions set out below.
292. The request to extend the lapse of consent from 5 years to 15 years has been assessed above and, in my opinion, should be declined. This is due to the identified potential effects resulting from the scale of the subdivision that are unable to be mitigated and the policy shift for subdivision in the Rural Production Zone under the Proposed District Plan. In particular, the scale of the subdivision is assessed as contrary to the Rural Production Zone subdivision objectives and policies that will be relevant at the time of completion (although I acknowledge that these are not yet treated as operative and may be subject to change). Nonetheless, in these circumstances, I consider it inappropriate to provide the time sought by the Applicant to complete the full extent of the subdivision.



CENTRAL HAWKE'S BAY

DISTRICT COUNCIL

293. Regarding the proposed subdivision, consent must be granted, and I recommend that it be granted subject to the conditions set out in the separate recommendation document.

Recommended by:

Philip McKay

Associate, Mitchell Daysh Ltd

Consultant for Central Hawke's Bay District Council



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

**ATTACHMENT 1: CENTRAL HAWKE'S BAY DISTRICT COUNCIL SECTION 92 REQUEST
FOR INFORMATION**

Letter dated 3 June 2021



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

ATTACHMENT 2: PATTLE DELAMORE PARTNERS LTD PEER REVIEW OF 'LOADING FROM ON-SITE WASTEWATER MANAGEMENT AND CUMULATIVE EFFECTS SPRINGHILL SUBDIVISION EVALUATION REPORT' BY PROFESSOR FREEMAN COOK

PDP memo dated 11 November 2021



ATTACHMENT 3: NOTIFICATION REPORT



**ATTACHMENT 4: STANTEC PEER REVIEW COMMENTS ON TRAFFIC AND ACCESS
MATTERS**

Emails dated May and September 2021



CENTRAL HAWKE'S BAY

DISTRICT COUNCIL

ATTACHMENT 5: STANTEC PEER REVIEW COMMENTS REGARDING NATURAL HAZARDS AND THREE WATERS

Memo dated 1 September 2021



**ATTACHMENT 6: STANTEC PEER REVIEW COMMENTS OF 'PRELIMINARY
GEOTECHNICAL REPORT' BY INITIA GEOTECHNICAL SPECIALISTS**

Email dated 12 May 2021



**CENTRAL
HAWKE'S BAY**
DISTRICT COUNCIL

ATTACHMENT 7: PEER REVIEW OF DETAILED SITE INVESTIGATION BY STANTEC

Memo dated 10 May 2021



**ATTACHMENT 8: STANTEC PEER REVIEW COMMENTS ON DRAFT REMEDIATION
ACTION PLAN BY GEOSCIENCES LIMITED**

Memo dated 31 August 2021