

Variation 1:
Omahu Road
North Industrial
Rezoning



Hearing Held Thursday 1 December 2016

Heard by Independent Commissioners comprising:

Chair: Jenny Hudson

Alan Pattle

Attended by:

Hastings District Council Staff:

Environmental Policy Manager (R Wallis)

Team Leader Environmental Policy (M Gaffaney)

Stormwater Manager (M Kneebone)

Consultant Engineer (R O'Callaghan of ODCL Ltd)

Democratic Support Officer (C Hilton)

Submitters Speaking:

R Hope

E Taylor, Villa Maria Estate Limited

D Vesty, HB Fruitgrowers Association Inc

D Renouf

E-A Powell, HB Regional Council

Dr N Jones, Hawkes's Bay Population, HBDHB

M Holder and J Tickner of Development Nous and M Lawson of Lawson Robinson – represented a number of submitters (listed below):

- Development Nous
- Raupare Partnership
- David Osborne J & V Currie: S Currie Family Trust; Hustler Equipment Ltd; S Currie
- K & K Bayley; Totara Holdings Ltd; Rimu Hastings Ltd; Bayley Family Trust

Information tabled and read into the record:

The following Submitters had also advised they would not be attending the hearing and had forwarded evidence to be circulated and read into the record at the hearing:

Federated Farmers

Index of Submitters & Further Submitters involved in Variation 1

Issue	Submitter & Further Submitter
<p>1. Support for proposed industrial zone</p>	<p>#01 Sherratt Holdings Ltd #02 Andrew and Rochelle Hope #04 Hawke’s Bay Regional Council #05 Unison Networks Ltd #06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust #08 Hawke’s Bay District Health Board #09 Federated Farmers #10 Development Nous #11 Raupare Partnership #12 Hawke’s Bay Fruitgrowers</p>
<p>2. Support for Objectives and policies in sections 2.9 and 14.1</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i></p>
<p>3. Stormwater Management and Water Quality</p>	<p>#04 Hawke’s Bay Regional Council <i>FS #05 Hawke’s Bay Fruitgrowers Assn Inc</i> <i>FS #10 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust</i> #03 David Renouf <i>FS#03 Hawke’s Bay Regional Council</i> <i>FS#05Hawke’s Bay Fruitgrowers Assn Inc</i> <i>FS #08 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust</i> #08 Hawke’s Bay District Health Board <i>FS#03 Hawke’s Bay Regional Council</i> <i>FS#05Hawke’s Bay Fruitgrowers Assn Inc</i> <i>FS#11 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust</i></p>

<p>4. Stormwater Standards</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> #10 Development Nous</p>
<p>5. Amenity Effects & Reverse Sensitivity</p>	<p>#02 Andrew and Rochelle Hope #09 Federated Farmers <i>FS #05 Hawke's Bay Fruitgrowers Assn Inc</i></p>
<p>6. Rule GI5 (The sale or hire of Machinery etc) and Commercial Threshold limit</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> #10 Development Nous</p>
<p>7. Visual Amenity</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> #07 Villa Maria Estate Ltd <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> <i>FS #09 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust</i> #12 Hawke's Bay Fruitgrowers <i>FS #06 J & V Currie Family Trust, S Currie Family Trust, Hustler Equipment Ltd, S Currie, J Currie</i> <i>FS #13 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust</i></p>
<p>8. Safety Requirements for Vehicle Access, including 50 metre</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited</p>

<p>Minimum Separation between Vehicle Crossings</p>	<p>Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> #10 Development Nous <i>FS #04 Villa Maria Estate Limited</i> #07 Villa Maria Estate Ltd</p>
<p>9. Site Specific - Zone boundary realignment on Lot 2 DP 419221</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i></p>
<p>10. Site Specific – Corner Raupare Road and Omahu Road - Zone boundary realignment on Section 1 SO 486816</p>	<p>#11 Raupare Partnership <i>FS #01 Development Nous</i></p>
<p>11. Site Specific – Inclusion of 9 Ormond Rd in the zone</p>	<p>#05 Unison Networks Ltd <i>SUBMISSION WITHDRAWN</i></p>
<p>12. General Performance Standards (Setbacks, Screening, HIRB)</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> #12 Hawke’s Bay Fruitgrowers</p>
<p>13. Technical Amendments To The Plan</p>	<p>#06 Kevin & Karen Bayley Totara Hastings Limited Rimu Holdings Limited Bayley Family Trust <i>FS #01 Development Nous</i> <i>FS #02 David Osborne</i> #10 Development Nous</p>

GLOSSARY OF TERMS AND ABBREVIATIONS

The following terms and abbreviations are used in this report:

DHB or HBDHB	Population Health Service - Hawke's Bay District Health Board
GNS	the Institute of Geological and Nuclear Sciences Limited ('GNS')
HDC	Hastings District Council
HBRC	Hawke's Bay Regional Council
HPUDS	Heretaunga Plains Urban Development Strategy
NOR	Notice of Requirement
PC 57	Plan Change 57
PDP	Proposed District Plan
RMA	Resource Management Act
RPS	Regional Policy Statement, incorporated into the Hawke's Bay Regional Resource Management Plan
RRMP	Hawke's Bay Regional Resource Management Plan
Section 42A report	Planning officer's report, prepared under section 42A of the RMA
RMA	Resource Management Act
SMP	Stormwater Management Plan
Swale	has the same meaning as 'infiltration basin' for the purpose of this report
TANK	the Tutaekuri; Ahuriri; Ngaruroro and Karamu Urban Catchment

1. INTRODUCTION

- 1.1. This report relates to the proposed rezoning of land from Plains Production Zone/deferred Omaha North Industrial Zone to Industrial General Zone (Omahu Road (North)).
- 1.2. The Council appointed commissioners Jenny Hudson and Alan Pattle to hear submissions and the related further submissions and to make recommendations for consideration by the Council. It is the Council which will finally decide whether or not to adopt the proposed Variation.
- 1.3. The hearing took place on 1 December 2016. Prior to the hearing a report was prepared under s42A of the RMA and circulated to all parties. The report provided the background to the Variation, comments on the section 32 evaluation and the expert advice which informed the proposal, an assessment of the submissions and further submissions, and reached an overall conclusion that the Variation be adopted with further changes in response to submissions.

Procedural Matters

Scope of Variation

- 1.4. At the commencement of the hearing we sought clarification regarding the scope of the Variation and there were different points of view expressed by Council officers and Mr Lawson, counsel for K and K Bayley et al. It is our understanding that all of the rules in the Proposed District Plan Decision Version dated September 2015 are beyond challenge except for the amendments that are proposed as part of Variations 1 and 2 relating only to Omaha North and Irongate. The specific amendments that are the subject of the two variations are shown as highlighted text in the Decision Version and in red font in the Variation documents. While Mr Lawson contended that all of the General Industrial Zone provisions, as well as the proposed zoning of the land are within scope, we consider that only the highlighted/red text together with the Variation maps and diagrams are within scope and have made our findings and recommendations on that basis.

Additional Information

- 1.5. The hearing was adjourned at the request of the DHB, at the conclusion of the submissions and Council reply, to enable parties who had made

submissions on water quality issues to respond to reports received by the Hastings District Council from Earthtech on 25 November 2016 and GNS on Friday 29 November 2016. During the adjournment further submissions were received from Mr D Renouf and the DHB, at which time we were satisfied that we had sufficient information to determine the matter and make our recommendations to the Council.

2. THE PROPOSED VARIATION

Background

- 2.1. The background to the Proposed Variation is well documented in previous reports and in the section 42A report on the Variation prepared by Mrs Gaffaney. A short description of key facts is outlined here to provide a context for our recommendations.
- 2.2. The Council initiated a plan change (PC 57) to the operative Hastings District Plan, in response to an identified shortage of industrial land in the Hastings District going back some 13 years (2003), to rezone land in Omahu Road North from Plains Production to industrial. That decision was informed by the adoption of the HPUDS. As part of PC 57, stormwater servicing was proposed to be in the form of a continuous stormwater drainage swale and retention pond system, which necessitated the staging of development. Wastewater and potable water was to be piped. This Plan Change was notified in September 2012 and decisions were released on 7 June 2013. Proposed infrastructure provision was not fully supported by submitters, and appeals on PC 57 have remained in abeyance while issues relating to provision of infrastructure, particularly stormwater drainage, were investigated further.
- 2.3. The Proposed Hastings District Plan was notified by the Council on 9 November 2013 in which the provisions of the Omahu North Industrial Zone were rolled over from PC 57.¹ The Plan Change has not been made operative and the Council decided not to consider submissions on the Proposed District Plan that related to Omahu North, having determined that the area required further investigation of three waters infrastructure before rezoning to industrial could be considered.² A

¹ report to the Planning and Regulatory Committee from Philip McKay dated 17 November 2015

² report to the Planning and Regulatory Committee from Philip McKay dated 17 November 2015

similar approach has been taken at Irongate, except that decisions have been issued for that area, and appeals are on hold pending progression of Variation 2.

- 2.4. The Council has since obtained expert advice from Mr Ray O'Callaghan of O'Callaghan Design Ltd ('OCDL') regarding options for on-site stormwater disposal. Mr O'Callaghan's recommendations have been peer reviewed. Consistent with that advice, Variations 1 (Omahu North) and 2 (Irongate) to the Proposed Hastings District Plan have been introduced to enable development to occur, subject to new provisions that principally relate to three waters provision. The variations were publicly notified on 21 May 2016 and the closing date for submissions was 20 June 2016. As Omahu North and Irongate are discrete areas with different issues, the variations have been considered separately.
- 2.5. Variation 1 proposes to enable development of a 63 ha strip for 'dry industry' along Omahu Road North over a distance of approximately 3.2km, generally between Raupare Road and Kirkwood Road. The area to be rezoned has been increased from 32 ha, as proposed in PC 57, in order to address the principal issues in contention in the appeals on that plan change. These were the cost of the development contributions, largely owing to the proposed stormwater solution, and the narrow depth of the rezoned land from Omahu Road.³
- 2.6. The Variation and associated Notice of Requirement ('NOR') will provide for on-site stormwater disposal via a series of soakage basins along the northern boundary of the interface with the Plains Production zone. The basins will form a series of unconnected 'swales' for which the Council is proposing to assume responsibility to ensure future management and maintenance. Wastewater and water infrastructure, including access for the maintenance of all three waters services, is to be accommodated within a corridor varying in width between 24m and 7m. The Council has issued a separate NOR for the corridor, which is discussed in a separate report.

3. SUBMISSIONS

³ Omahu North Industrial Zone Background Report and Section 32 Evaluation for Hastings District Council, April 2016, by EMS Ltd (the EMS report)

- 3.1. A total of twelve (12) submissions, resulting in 34 separate submission points were received on Variation 1.
- 3.2. Of the 12 submissions:
 - 1 is in full support
 - 10 are in support, subject to amendment or clarification
 - 1 is in opposition subject to amendment

Further Submissions

- 3.3. A summary of submissions was publicly notified and further submissions were called for on 16 July 2016 with a closing date for further submissions being 29 July 2016.
- 3.4. Fourteen (14) further submissions were received. Of the further submissions all (bar one) are generally in support of the outcome of the Variation.

Late Submissions

- 3.5. No late submissions or further submissions were received to this Variation.

4. STATUTORY CONTEXT

- 4.1. The particular provisions of the Resource Management Act 1991 that are relevant to the Variation are sections 73, 74, 75, 31, 32, 32AA, the First Schedule and Part 2. Broadly speaking, the matters to be considered relate to the sustainable management of natural and physical resources, determined by reference to any relevant national policy statements, NZ coastal policy statement⁴, regional policy statements and plans, and district plans, and the section 32 tests regarding the costs, benefits, efficiency, effectiveness and appropriateness of any particular method in achieving the overall objective, as well as the risks of acting or not acting.
- 4.2. In addition to the matters discussed in the section 42A report, the National Policy Statement - Freshwater Management 2014 (NPSFM) is applicable. Related to this is the National Environmental Standard for Sources of Human Drinking Water 2007. The NPSFM requires regional

⁴ not applicable to this variation.

councils to make or change regional plans to ensure they establish freshwater objectives and limits, and to establish methods to achieve them, including rules. These provisions must then be reflected in district plans.

- 4.3. Section 75(3) RMA requires that a district plan must give effect to—
- (a) any national policy statement; and
 - (b) any New Zealand coastal policy statement; and
 - (c) any regional policy statement.
- 4.4. Section 75(4) RMA (4) states that a district plan must not be inconsistent with.....b) a regional plan for any matter specified in section 30(1). Having regard to these higher level documents, the protection of the district's aquifers that contain high quality water resources is paramount.
- 4.5. In her section 42A report, Mrs Gaffaney has undertaken a thorough analysis of the relevant objectives and policies of the Hawke's Bay Regional Policy Statement which forms part of the Hawke's Bay Resource Management Plan 2006, the Proposed Hastings District Plan (which she advised has some effect from the date of notification), and the HPUDS⁵. While the objectives and policies of the Operative Plan and PC 57 were not specifically referred to, it is our understanding that they generally align with the Proposed District Plan and in any event, the objectives and policies are not in contention. It is unnecessary for us to repeat all of these in detail; however certain key themes emerge being:
- the requirement for development to be in accordance with a structure plan;
 - the protection of productive and versatile soils
 - containment of urban development to reduce its impact on the resources of the Heretaunga Plains
 - ensuring an adequate and timely supply of industrial zoned land
 - avoiding sporadic and uncontrolled conversion of rural land close to urban areas or on arterial/national traffic corridors
 - avoiding ad hoc development into the Plains Production zone
 - protection of residential amenities

⁵ section 42A report, sections 3.3 and 4.0

- protection of the water resources of the Heretaunga Plains aquifers
- 4.6. The overall direction of the Proposed District Plan in enabling industrial expansion in the Omaha North area, and the associated objectives and policies, is not in dispute. Nor is the productive potential of the site's soil types or the fact that the RPS, Operative District Plan, PC57 and the Proposed District Plan have consistently expressed the need to protect productive soils from inappropriate development.
- 4.7. The key issue, and one which is fundamental to whether or not Variation 1 can be recommended for approval, is the likely effect on the Heretaunga Plains Unconfined Aquifer of direct stormwater discharges to ground and the effectiveness of proposed treatment methods. The Unconfined Aquifer is the main source of drinking water for the district and has until recently provided water of high quality with little or no treatment. However, the issues arising from contamination of the water supply for Havelock North have heightened concerns from the DHB, the HBRC and others regarding the risks arising from a change of land use and the proposed method of managing stormwater discharges.
- 4.8. After careful consideration of all the material before us, including the background reports, the GNS report, the peer review of the GNS report undertaken by Earthtech, the evidence presented at the hearing, the written responses provided by the DHB and Mr Renouf to the GNS report following the hearing, and the Council's further reply, we have concluded that the proposal is able to meet the relevant criteria to ensure the maintenance and enhancement of water quality, which is a critical objective in the RPS and mirrors the outcomes sought by the NPSFM. Subject to amendments, the Variation will enable the purpose of the Act to be achieved being the sustainable management of natural and physical resources. We discuss individual submission points and our reasons for reaching this conclusion under 'Issue 3' in the analysis that follows.
- 4.9. Had we not reached this conclusion we would have been unable to recommend the Variation for Council approval, which is the reason for outlining the matter ahead of our consideration of the issues in the order adopted by Mrs Gaffaney in the section 42A report.

***DETERMINATION OF ISSUES AND
RECOMMENDATIONS ON SUBMISSIONS***

5. ISSUE 1 - SUPPORT FOR PROPOSED GENERAL INDUSTRIAL ZONE (OMAHU ROAD NORTH)

Table of Submitters and Further Submitters

Sub. No.	Submitter (S) Further Submitter (FS)	Submission Type
#01	Sherratt Holdings Ltd	Support rezoning, with amendment
#02	Andrew and Rochelle Hope	Support rezoning, with amendment
#04	Hawke's Bay Regional Council	Support rezoning –with areas of concern raised
#05	Unison Networks Ltd	Support rezoning, with amendment
#06	Kevin Bayley	Support rezoning, with amendment
#08	Hawke's Bay District Health Board	Support rezoning, with amendment
#09	Federated Farmers	Support rezoning, with amendment
#10	Development Nous	Support rezoning, with amendment
#11	Raupare Partnership	Support rezoning, with amendment
#12	Hawke's Bay Fruitgrowers	Support rezoning, with amendment
#07	Villa Maria Estate Ltd	Oppose rezoning, seek amendment

- 5.1. The above listed submitters state their support the notified rezoning of this land and do not oppose or seek amendment to the actual proposal for a General Industrial zone in this location.
- 5.2. Villa Maria Estate Limited opposes the variation on the basis that it considers the provisions to be unsatisfactory in terms of amenity controls (screening, landscaping and building design controls) in relation to the 'gateway to Gimblett Gravels winery area'. This matter and other amendments sought by submitters that support the variation in principle are addressed under the issues headings that follow.

5.3. RECOMMENDATION - SUPPORT FOR GENERAL INDUSTRIAL ZONE

A) That the submissions of:

- #01 Sherratt Holdings Ltd
- #02 Andrew and Rochelle Hope
- #04 Hawke's Bay Regional Council
- #06 Kevin Bayley
- #08 Hawke's Bay District Health Board
- #09 Federated Farmers
- #10 Development Nous
- #11 Raupare Partnership
- #12 Hawke's Bay Fruitgrowers

Note: submission #5 by United Networks was withdrawn prior to the hearing

in supporting the rezoning of this area of land as a General Industrial zone (Omahu Road north) subject to the Variation, **BE ACCEPTED;** insofar as the Variation is approved with modifications resulting from decisions on other submissions.

B) That the submission of **Villa Maria Estate Limited (7)** in opposing Variation 1 'until satisfactory provisions are included to ensure any buildings are designed to respond to the surrounding amenities' and that screening and landscaping controls provide for surrounding amenities to the gateway of Gimblett Gravels winery area **BE REJECTED.**

REASONS

1. That by stating in the submissions support for the rezoning of the northern side of Omahu Road for industrial use, it demonstrates that whilst there are aspects of the Variation on which submitters seek amendments, overall there is support for the rezoning to occur.

- 2. The variation enables a sustainable management of resources, and the concerns raised in respect of gateway amenity issues do not outweigh the benefits of the rezoning under Part 2 of the RMA.**

- 3. That the rezoning achieves the purpose of the Act and the relevant objectives of the plan as demonstrated in the section 32 Evaluation notified with Variation 1.**

6. ISSUE 2 - SUPPORT FOR CHANGES TO SECTION 2.9 (INDUSTRIAL STRATEGY) AND SECTION 14.1 (INDUSTRIAL ZONES)

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley Totara Hastings Limited	FS #01 Development Nous
Rimu Holdings Limited Bayley Family Trust	FS #02 David Osborne

- 6.1. The submission of **K & K Bayley et al (#06)** states its support for the changes proposed to Section 2.9 Industrial Strategy and the Objectives and Policies in Section 14.1 as proposed by Variation 1.
- 6.2. It is noted that this submitter was one of the appellants to Plan Change 57, wherein the appeal remains outstanding (and effectively on-hold). That appeal sought to increase the size of the zone and find a way to overcome the constraints associated with the servicing solutions associated with that plan change.
- 6.3. This submission is supported by **FS #02 David Osborne and FS 1 Development Nous.**
- 6.4. The proposed changes to section 2.9 include increasing the land area from 36 hectares to 63 hectares, and explaining the changes to the provisions applying to the proposed zone. The changes to the Objectives and Policies in the Industrial section are mainly to remove references to the previously Deferred Industrial zone and staging. This submission point is consistent with the intent of the Variation.

6.5. RECOMMENDATION - SUPPORT FOR CHANGES TO SECTION 2.9 (INDUSTRIAL STRATEGY) AND SECTION 14.1 (INDUSTRIAL ZONES)

- A) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (submission 6)** in support of the proposed changes to Section 2.9 Industrial Strategy and Objectives and Policies in Section 14.1 as proposed by Variation 1, **BE ACCEPTED.**
- B) That as a consequence of A) above, the further submission from **FS #02 David Osborne and FS 1 Development Nous** in support of submission 6, **BE ACCEPTED.**

REASONS

- 1. This submission is in support of the amendments to sections 2.9 and 14.1 Variation 1 and no further submissions nor submissions in opposition to these provisions have been received.**
- 2. That the amendments to sections 2.9 and 14.1 of the Plan proposed by Variation 1 achieve the purpose of the Act and the relevant objectives of the plan as demonstrated in the section 32 Evaluation notified with Variation 1.**

7. ISSUE 3 - STORMWATER MANAGEMENT AND GROUNDWATER QUALITY

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#03 David Renouf	FS #03 Hawke's Bay Regional Council
	FS #05 Hawke's Bay Fruitgrowers Assn Inc
	FS #08 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust
#04 Hawke's Bay Regional Council	FS #05 Hawke's Bay Fruitgrowers Assn Inc
	FS #10 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust
#08 Population Health Service - Hawke's Bay District Health Board	FS #03 HB Regional Council
	FS #05 Hawke's Bay Fruitgrowers Assn Inc
	FS #11 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust

7.1. The submission of the **Hawke's Bay Regional Council (submission 4)** seeks:

- *That HDC takes into account HBRC's position and give effect to the policies of the RPS in making their decisions.*

7.2. The specific areas that the HBRC submission relates to are:

- *The relationship between Variation 1 and the Regional Policy Statement parts of the Regional Resource Management Plan; and*
- *The proposed servicing of the new zone, in particular the discharge of contaminants over the Heretaunga Plains Unconfined Aquifer.*

7.3. The submission:

- Supports in part the intent of the Variation and the Notice of Requirement (NOR) to provide appropriate greenfield dry industrial growth zone within Hastings District; and
- states that 'on balance' the Regional Council is satisfied that Variation 1 and the NOR as proposed gives particular effect to Chapter 3.1B of the Regional Policy Statement, for reasons addressed in its submission. However, the Regional Council is not entirely satisfied that the stormwater servicing proposal underpinning Variation 1 and the NOR does give effect to the policies in the Regional Policy Statement, particularly Objectives 21 and 22 and associated policies.

7.4. The reasons provided in the submission are summarised as follows:

- The release of contaminants to the Unconfined Aquifer may lead to degradation of existing ground water quality in the Heretaunga Plains aquifer system;
- HBRC engineers are satisfied with the proposal for on-site stormwater disposal, subject to only light industrial activity being permitted within the Omahu Road zone and that contaminants are collected in pre-treatment devices prior to discharge into the proposed infiltration basin system;
- HBRC has not received the calculations for the infiltration basin sizing and so has not confirmed that it is satisfied with the sizing of the infiltration basin;
- The proposed pre-treatment of runoff will need to be matched to the particular industry and activity proposed on a specific site.
- The infiltration basin will require monitoring to ensure that it is functioning as intended.

7.5. **Hawke's Bay Fruitgrowers Association Inc (further submission 5) supports** the Regional Council submission to encourage HDC to take into account the Regional Council's position and give effect to the policies of the Regional Policy Statement, in making their decisions.

7.6. The further submission from **K & K Bayley, Bayley Family Trust, Rimu Hastings Ltd, Totara Hastings Ltd (FS 10) opposes** the aspects of the Hawke's Bay Regional Council submission that appear to require additional stormwater provision.

7.7. The decision sought by the submission of **David Renouf (submission 3)** seeks:

- That all sites and properties in the Omahu North Industrial Zone shall be connected to Hastings District Council's reticulated sewage and wastewater system⁶.
- That all stormwater which falls on uncovered areas where bunding is required to contain spillage in material handling areas, be directed to the sewer or containment for remote pump out.
- That all run off (road stormwater) from the north eastern side of Omahu Road carriageway be conveyed to the upper Southland Drain system after prior treatment of gross pollutant trap and sump.

7.8. **Mr Renouf** also sought acknowledgement that there is a current (as yet unresolved) Environment Court appeal to the Proposed District Plan decisions regarding the Heretaunga Plains Unconfined Aquifer protection and requests that any changes relating to that appeal are included into Variation 1.

7.9. The further submission from **Hawke's Bay Regional Council (further submission # 3)** opposes the Renouf submission because:

- There is no design capacity in the Southland Drain to take additional volumes of stormwater. The Southland Drain is part of the Heretaunga Plains Drainage Scheme managed by the Regional Council.

7.10. **Hawke's Bay Fruitgrowers Assn Inc (further submission 5)** oppose Mr Renouf's submission because:

- There is concern about how practical the decisions sought would be to implement and if implemented, whether they would be more efficient and effective in achieving the objectives of the Regional Policy Statement.

⁶ *It is noted that there are four properties to the west of Kirkwood Road which are shown on Variation 1 in the changes to the planning maps as part of this variation.*

- That consents related to water should be managed by the Regional Council and reflect policies and objectives of the HB Regional Resource Management Plan.
- 7.11. The further submission from **K & K Bayley, Bayley Family Trust, Rimu Hastings Ltd, Totara Hastings Ltd (FS 8)** oppose the aspects of Mr Renouf's submission that seek additional stormwater treatment for conveyance to the Southland Drain.
- 7.12. The original submission of **Population Health Service - Hawke's Bay District Health Board (8)** seeks that the Variation include a requirement for land users within the Omaha Road North Industrial Zone to submit a Pollution Prevention Plan under standard 14.6A.6 to reduce the risk of groundwater contamination.
- 7.13. The submission raises concern that contaminant discharges to ground from the infiltration swale might create a health risk. The DHB also seeks additional information on the effectiveness of the proposed infiltration system.
- 7.14. The further submission from **Hawke's Bay Regional Council (further submission 3)** opposes the HBDHB submission for the reason that HDC Stormwater Bylaw provides scope to require site specific stormwater management plans including a Pollution Prevention Plan.
- 7.15. The further submission from **K & K Bayley, Bayley Family Trust, Rimu Hastings Ltd, Totara Hastings Ltd (FS 10)** oppose the aspects of the DHB submission requesting additional stormwater provision for the reason that those aspects are already provided for in the Plan and the Regional Planning framework.

THE SECTION 42A REPORT

Overview

- 7.16. The submissions from David Renouf, the Hawke's Bay Regional Council and the DHB all want assurance that the proposed rezoning and associated management of industrial activities will ensure that ground water quality will not be adversely affected, particularly that part of the proposed zone that is located over the Heretaunga Plains Unconfined Aquifer. In particular there is concern as to whether the proposed

stormwater system will adequately manage contaminants. The HBRC and Renouf submissions highlighted Objectives 21 and 22 from the Regional Policy Statement component of the Hawke's Bay Regional Resource Management Plan (RPS), which are:

- *OBJ 21 No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer systems.*
- *OBJ 22 The maintenance or enhancement of groundwater quality in unconfined or semi-confined productive 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.*

7.17. The explanation of these objectives states that a precautionary approach should be taken with respect to future development.

7.18. In regard to the proposed stormwater solution and water quality/quantity issues, the section 42A report largely relies on the advice provided by Mr O'Callaghan, which we have considered as evidence, given that Mr O'Callaghan presented additional written material at the hearing and responded to questions.

Addendum to section 42A report

7.19. An addendum to the section 42A report was prepared by Mrs Gaffaney and circulated on 29 November 2016. It explains that the Council commissioned a peer review of the stormwater approach for Variation 1, undertaken by Earthtech, and received on 25 November 2016. This is discussed under a separate heading below.

EVIDENCE

Evidence of Ray O'Callaghan - OCDL, on behalf of Hastings District Council

7.20. The proposed stormwater solution for the Omahu Road Industrial Zone has been devised by Mr O'Callaghan (formerly of Cardno Consultants and now principal of OCDL). The Servicing Report prepared by Mr O'Callaghan⁷ considered that the proposed stormwater servicing solution for the zone will achieve the same environmental outcomes as its predecessor (Plan Change 57) and approved by resource consent No's DP120072L and DP120073W issued to the Council by the Hawke's

⁷ Attachment B to the section 42A report

Bay Regional Council in 2012. At present a variation to the current resource consent (discharge) is in train.

- 7.21. Mr O'Callaghan also prepared a supplementary report which responded to the specific concerns and questions of the above submitters, and answered questions on these matters at the hearing. The key points made by Mr O'Callaghan are outlined below.

Main principles of proposed stormwater solution

- The proposed use of pre-treatment devices and the infiltration basin is based on the premise that there will not be uncontrolled release of contaminants to the ground water system.
- Variation 1 proposes to allow specific land uses which exclude wet industry, heavy industrial activity and other activities which might give rise to high risks of contaminants being released from the site⁸
- The solution is the same in principle as the current consented solution. The main difference is that the consented system would involve a swale along the full length of the zone conveying the stormwater to a “community” treatment basin whereas Variation 1 involves a larger infiltration basin to provide linear storage and sand/gravel treatment in individual “cells,” instead of in one specific treatment area beyond the zone.
- The need for specific on-site pre-treatment devices is dependent upon the specific activity on each site.
- The combined processes of Variation 1 and HDC’s By-Laws provide a management regime to ensure that only those activities envisaged for the zone will occur in the zone.

Sizing of Infiltration Basin

- 7.22. A concern of the HBRC was that it had not received the calculations for the sizing of the infiltration basin.

Mr O'Callaghan confirmed that *"during the development of the solution Cardno [Consultants] carried out detailed site testing of the percolation rates of the soils across the zone, assessed expected*

⁸ It is noted that neither Variation 1 nor the ‘Omahu North General Industrial Zone’ restricts such activities; instead it is the hazardous substances provisions of section 29.1 of the Proposed District Plan that achieves this, in combination with there being no access to trade waste sewer or a water supply suitable for wet industry.

infiltration basin sizes and discussed the results with HBRC, including the design criteria to be used for the sizing...

The infiltration tests carried out within the zone⁹ varied in infiltration rates throughout the infiltration basin alignment. The average longer term infiltration rate was 49mm/hr and a test as low as 30mm/hr was recorded at one site. The shorter-term infiltration rates were much higher, typically over 100mm/hr for the first 1 – 2 hours of soakage".

The infiltration basin sizing was carried out using a design infiltration rate of 40mm/hr. This rate is considered to be conservative because the actual infiltration will be higher in the earlier phase of the rain event and thus a greater volume of runoff will be discharged to soakage in the earlier phase. However, a relatively conservative design infiltration rate will ensure sufficient storage is provided to avoid undesirable discharge to the downstream land during the design event.

The infiltration basin has been sized to ensure that it can contain all discharge in a 10-year design event, without any discharge to the surrounding land in a 10-year event and that the discharge in a 50-year event does not exceed current pre-developed runoff. Essentially, the infiltration basin forms a detention basin during the rainfall event and stores the bulk of the runoff for a day or more during the event. During the rainfall event, some of the runoff entering the infiltration basin is discharged to ground via soakage. In the shorter term events (less than 6 hours), less than 10% of the runoff is discharged to soakage during the event. In the longer events (eg 12 -24 hours), 20 - 30% of the runoff is discharged to soakage. The infiltration basin sizing has therefore been determined by establishing which duration event creates the greatest storage.

- 7.23. He advised that he had undertaken calculations for a typical development scenario with a site length of 250m applied to an infiltration basin length which is the same as the site width, an infiltration rate of 40mm/hr and an assumed development comprising a building with 35% site coverage and an impervious yard area of 55%. His calculations included an allowance for climate change effects on

⁹ OCDL supplementary report dated 8 November 2016, Item 2 Attachment 3 of the Hearing Agenda

increased rainfall intensity. He considered that it is the longer events (typically 6 – 24 hours) duration that require the greatest storage volume and that the calculations demonstrate that the overflow from the infiltration basin does not exceed the existing pre-developed discharge up to a 50 year event.

- 7.24. He concluded that his calculations were based on conservative assumptions about the infiltration rate: In practice, as the average infiltration rates over the duration of the rainfall event and over the full zone are expected to be higher than those adopted for the design, we expect that there will not be any discharge from the infiltration basin to overland flow, even in a 50-year event.

Pre-treatment devices

- 7.25. Mr O'Callaghan agreed with HBRC's comment that pre-treatment devices to be used on sites with potential contaminants need to be matched to the proposed activity on the site.
- 7.26. He explained that *"the building roof areas will not have contaminants and this flow will be discharged directly to the infiltration basin. The yard areas may have a risk of contaminants from vehicles and this can be assessed by HDC when the land owner applies for a building consent to construct the building and yard and establish the new land use. The existing HDC By-Laws requires the developer to submit details on stormwater disposal as part of their Building Consent Application"*.
- 7.27. Notwithstanding that the Bylaw requires details of stormwater disposal, he has recommended that the variation include a rule in the Plan that expressly requires a Stormwater Management Plan (SMP) to be submitted to HDC as part of the Building Consent Application. One of the matters to be included in the Plan would be an assessment of any risks associated with contaminants on the site and how they are to be managed (eg pre-treatment prior to discharge to the infiltration basin, containment areas), and how the consent holder intends to monitor the performance of their pre-treatment devices prior to discharge to the infiltration basin.
- 7.28. It was his opinion that an appropriate stormwater management plan process, monitored by HDC, will ensure that suitable pre-treatment devices are operated to protect the Unconfined Aquifer.

7.29. We understand that this view is shared by HDC engineers and is supported in principle by the HBRC. The DHB requested that a rule be included in Variation 1 that requires the property owner/developer to prepare a pollution prevention plan as part of their design/construction. The Stormwater Management Plan is in effect the same as a pollution prevention plan.

Treatment function of infiltration basin

7.30. The DHB's submission sought additional information on the effectiveness of the proposed filtration system. Mr O'Callaghan agreed with the comment in the submission that infiltration basins do not remove all contaminants. He reiterated that:

- *the zone is for light industrial activity that is not expected to generate high contaminant runoff*
- *The stormwater system is not reliant on just the infiltration basin to remove the contaminants that are generated with each site;*
- *there are four key elements to remove contaminants being*
 - *the on-site pre-treatment devices (eg interceptor traps etc)*
 - *the attachment of contaminants to the vegetation in the infiltration basin,*
 - *the filtration system (sand/gravel filter layer) in the base of the infiltration basin and*
 - *the filtration effect/die-off provided from the ground/soil through which the discharge slowly flows after discharge to ground.*

Alternative option in Renouf submission - stormwater discharge into reticulated wastewater system

7.31. The response from Mr O'Callaghan to Mr Renouf's submission advised that the connection of stormwater discharges to the reticulated wastewater system is not technically feasible, sensible or economic. The reasons for this include the inability of the wastewater system (reticulation and treatment plant) to cope with large stormwater ingress during wet weather and the associated pollution of the surrounding water courses resulting from overflow of the wastewater pipes, which are not designed to carry excess stormwater. The HBRC also opposed this option as requested by Mr Renouf in its further submission.

Discharge of stormwater from the road and bunded areas into the wastewater system

- 7.32. Mr O'Callaghan commented that Mr Renouf's objective is understood – being to protect the Unconfined Aquifer by avoiding discharging potentially polluted stormwater to ground. However, he was of the opinion that diverting stormwater to the wastewater system is not the answer to this. Current technology that is feasible and affordable does not fully remove all contaminants, and at present control at source is the only option. The proposed solution, at the Omaha Road zone, incorporates all of these methods (i.e. minimization of generation of contaminants, interceptor devices, infiltration basins, wet lands, filtration beds and the natural soil) to minimize the release of contaminants to the Unconfined Aquifer. The proposed solution is considered to be robust, effective and appropriate for this proposed development zone, taking into account the provisions in the Proposed District Plan to manage the effect of land uses on water quality.
- 7.33. These include
- the inert roofing requirement (standard 14.1.6A.6(d)i)).
 - rules controlling the use of hazardous substances (section 29.1).
 - controls for the handling and storage of hazardous substances (including in regards to stormwater management) and resource consent (discretionary activity) would be necessary to establish a 'Major Hazardous Facility' in Section 29.1 of the Proposed District Plan.

Evidence of Hawke's Bay Regional Council - Esther-Amy Powell

- 7.34. In the statement presented at the hearing on behalf of the HBRC, which took the form of a letter dated 1 December 2016 to the Hastings District Council signed by James Palmer, the Group Manager - Strategic Development of the HBRC, Ms Powell summarised the main points in the Regional Council's submission, being:
- that it is Regional Council policy to regulate discharges into the aquifer or onto land that may enter the Heretaunga Plains Unconfined Aquifer system.
 - The District Council currently holds consents to treat and dispose of stormwater from the Omaha industrial area; however these

consents do not cover the methods of stormwater treatment and disposal now being proposed to service the industrial development contemplated by Variation 1, and a new consent application or variation to the existing consents will be required.

7.35. The Regional Council has not indicated that it would have difficulty in approving a new or varied consent application. In having regard to the general tenor of the Regional Council's submission, we did not anticipate that this matter would be a fatal flaw to the adoption of the Variation.

7.36. The Regional Council has also provided its support for the recommended new standard at 14.1.6A.6(iv) referred to in the section 42A report, which will require Stormwater Management Plans to be submitted to the Council, with some refinements. In particular, that the SMP "is to the satisfaction of the Asset Manager at Hastings District Council". There was some discussion on this point, with consensus regarding the intent of the amendment but with further wording changes sought to clarify the process within the District Council.

7.37. The Regional Council's overall position was that

"with the inclusion of the additional standard requiring Stormwater Management Plans, the combined provisions within the HDP, the HDC Water Services Bylaw and the Regional Council's own statutory documents, that an appropriate framework will be in place to manage risk to the Heretaunga Plains Unconfined Aquifer from stormwater discharges".

7.38. Ms Powell also conceded that the current regional rules are "*not as good as they could be*" and industrial activities on sites of less than 2ha are not subject to regional council rules relating to stormwater discharges. From the information presented to us, we apprehend that at present there are risks to the aquifer from the lack of robust controls on smaller sites.

7.39. In further comments made orally Ms Powell went on to state that the Regional Council was expecting a report within a matter of days on groundwater modelling relating to the plan change process underway¹⁰

¹⁰ the 'TANK' process for the Tutaekuri; Ahuriri; Ngaruroro and Karamu Urban Catchment

for catchment management and that this could change the current provisions for stormwater management at the regional level. However, the Regional Council was not in a position to advise us of the contents of the report due for release.

- 7.40. She sought adjournment of the hearing to enable additional information to be provided to the panel. However, we have determined that we have sufficient information on which to base our recommendations to the Council and did not see any likely benefit in delaying the Variation process.

Evidence of Dr Nicholas Jones on behalf of the HBDHB

- 7.41. Dr Jones' submission on behalf of the DHB focussed on the environmental risks to the Unconfined Aquifer, and drinking water quality. He raised concerns at the findings of the GNS report, and the reduction in modelled water residence time within parts of the Heretaunga aquifer. In particular, the water bore at Wilson Road no longer meets the water residence time criterion for secure water status under the DWSNZ. He considered that the bore at Lyndhurst Road may also exceed the allowed fraction of water aged less than one year. He considered that the nature of possible flow changes identified in the GNS report are relevant to a change of land use proposed by the Variation. He hypothesised that surface water could be reaching the affected bores through the Unconfined Aquifer, which includes the proposed Omaha North zone and that water could possibly be drawn from the aquifer recharge areas more rapidly or that there is a combination of these factors operating. He considered that the report raises uncertainty in respect of the evidence before the hearing.
- 7.42. He acknowledged that the Earthtech report addressed a number of concerns raised in submissions from the Regional Council and DHB, but had not taken into account the GNS report [as this had been released only one day before the hearing].
- 7.43. He considered that
- the calculations based on earlier groundwater flow data may have underestimated the increases in contaminants;
 - the magnitude of risks from potential pathogen contamination might be altered after consideration of the new data;

- that the discharge of stormwater could contribute to a lowering of the residence time within the aquifer at Lyndhurst Road, even if free of contaminants. If this was the case, the result might be a considerable increase in water treatment requirements for that source.

7.44. Dr Jones also raised concerns about the effectiveness of stormwater treatment devices, referring to a report by Forbes Ecology which found that a treatment device in James Rochfort Place was ineffective in reducing dissolved zinc concentrations. The report had also noted that at times dissolved arsenic, dissolved reactive phosphorus and total phosphorus are elevated in excess of ANZECC trigger values.

7.45. He reiterated the concerns in the DHB submission regarding on-site stormwater storage capacity, and in his opinion the inadequacy of the use of a historical 1 in 50 ARI standard given climate change predictions by NIWA and others that extreme weather events will increase in frequency. He considered that a more conservative standard was warranted.

Mr Lawson's submission on behalf of K and K Bayley and others

7.46. Mr Lawson's submission reiterated the submitters' opposition to the recommended inclusion of standard 14.1.6A.6(d)(iv) which is the requirement to provide for a SMP prior to building consent, or prior to the commencement of any new activity or as part of a Certificate of Compliance. Mr Lawson contended that different approaches to stormwater management [in the Building Act, and the Regional Planning Framework] could become unnecessarily bureaucratic and could result in anomalies whereby a stormwater discharge is permitted under the Regional Planning Framework but not in terms of the District Planning Framework. He submitted that the Regional Council is responsible for regulating discharges to the environment and those roles should not be confused with those of the District Council.

Submission by David Renouf

7.47. The main points that were highlighted in Mr Renouf's submission, or that were addressed by him in response to questions from the Commissioners included:

- Referring to Page 42 of the Section 42A report, he compared the responses from Mr O’Callaghan to his submission.
- He felt the point in his submission had been missed; he had raised the issue as there were properties which have sewerage and wastewater that were not connected to the Council system.
- He asked whether the Council required properties to be connected if a reticulated system was available and what if they have resource consents for a septic tank.
- His concerns about discharge from yards (not roofs).
- His concerns about capture of the road runoff from Omahu Road North.
- He referred to the map of the area on the last page of his evidence questioned why the rest of Omahu North could not be be addressed in the same way – i.e. road runoff piped into the stormwater system.
- There were four properties along Omahu Road (at the Kirkwood Road end) that were currently “under one operation”. These properties were not discharging directly to land, but others with septic tanks were doing that.

Council response

- 7.48. Mr O'Callaghan provided a detailed written response to the submissions of the Regional Council and DHB at the hearing. He noted that the Regional Council had not raised any request to adjourn the hearing in its 1 December statement, that this statement confirmed satisfaction with the District Council's proposal for stormwater management, and that the Regional Council did not have its groundwater modelling expert appear at the hearing. He considered that *"the lack of such an expert has denied all parties [the opportunity] (sic) to gain a clear understanding of what the scope of the new report is, whether it might be relevant to the issues associated with Variation 1 and the only interpretation that can be inferred by the absence of such an expert is that HBR modelling staff do not see a specific relevance between their current modelling work and Variation 1"*.
- 7.49. He also considered that the Regional Council had a reasonably clear understanding of the movement of groundwater in the area, referring

to a report titled "*Twyford Consent Area, Technical Report - Groundwater Impact Assessment*" dated 10 October 2009, setting out the findings from a comprehensive groundwater study of the area. He produced a plan showing the location of Omaha Road North in relation to the study area, showing that the groundwater flow path from the Omaha Road is to the northeast. The Wilson Road and Lyndhurst Road bores are located 1.8km and 2.4km respectively from the proposed industrial zone (to the east and southeast) and they are 46m/63m deep respectively.

- 7.50. He believed that the Regional Council would have considered all of the relevant matters associated with groundwater in granting consent to the discharge of pre-treated stormwater to ground. His overall view was that there was no need for an adjournment of the hearing until the new model report was released.
- 7.51. The Stormwater Manager, Mr Kneebone, responded to the issues raised by Mr Renouf, the main points being:
- From the stormwater network in Omaha Road, there was no swale for the areas on either side of the road. Runoff flowed to the Southland Drain, to the Irongate Stream and to the Karamu Stream.
 - Capture of yard runoff could not be readily undertaken due to limited capacity in all these waterways.
 - If water was directed to the areas, as suggested, it would be flowing against the gradient of the land.
 - Upgrading would be needed in Omaha Road North anyway, including roundabout work and there would also need to be design work undertaken for additional road runoff discharge.
 - Any treatment of water would be only via a sump (silt trap). No other forms of treatment were possible due to the topography.
 - Regarding the four properties at Kirkwood Road end which Mr Renouf had referred to, clarification was sought on the use of those sites and the levels of wastewater and stormwater discharges.
 - The Council understood the HBRC supported its approach regarding connections to reticulated system.
 - The service corridor was not proposed to connect into those four properties, but if they were to be used for industrial purposes, there was potential to require them to be part of a "proper solution".

The Earthtech report

- 7.52. The Hastings District Council commissioned a report from Earthtech, received on 25 November 2016, to:
- review the proposed stormwater disposal approach presented by OCDL
 - undertake an assessment of hydrogeology from HBRC publications and water bore database;
 - review HBRC and DHB submissions regarding groundwater contamination.
- 7.53. The Earthtech report concluded that the stormwater disposal basins for the proposed Omaha North industrial area will discharge into the unconfined and semi-confined zones of the Heretaunga Plains gravel aquifers. Potential groundwater contaminants are soluble metals (zinc, copper and lead), nutrients, toxic organics, hydrocarbons and pathogens.¹¹
- 7.54. A conservative assessment of contaminant attenuation shows that *"only minor changes in groundwater quality is expected due to low source concentrations and large groundwater dilution effects. Only very small changes in groundwater quality is also expected for nutrients and toxic organics"*.
- 7.55. The proposed site pre-treatment and infiltration basins are expected to have limited capacity to remove pathogens. For the assessment of pathogen contamination, groundwater residence time calculations were carried out. USEPA guidelines indicate that pathogens drop to undetectable levels within six months. The assessment shows that aquifer residence times are inadequate to protect down-gradient potable supply wells from pathogen contamination. This therefore needs to be controlled at source and *"this could largely be achieved by not allowing the following activities in the industrial area:*
- *waste management sites - transfer stations and composting areas;*
 - *food processing such as bakeries with outside washing areas;*
 - *stock sale yards"*.

¹¹ Earthtech report, section 6 summary, page 9

- 7.56. The report supports land use restrictions to limit activity to dry industry and the SMP proposed for each site should specifically address potential pathogen contamination of stormwater.
- 7.57. In addition, disposal system design should be carried out in terms of MfE Guidelines (2004).
- 7.58. The overall conclusion of this report is that the proposed on-site disposal is appropriate, providing these recommendations are adopted.

The Tonkin and Taylor report

- 7.59. A peer review of the engineering design of the stormwater servicing solution¹² was also undertaken by Tonkin and Taylor at the behest of the HDC.
- 7.60. That report concluded that the proposed Omahu treatment systems are based on contaminant removal by sedimentation. The requirement for site specific stormwater management plans and the HDC Water Services Bylaw provide added regulatory controls to manage the risk of groundwater contamination. In both industrial areas (Omahu and Irongate) attention will be required in design to mitigate the risk of flooding in extreme events. Consideration could also be given to restricting the use of building materials that might introduce contaminants to runoff (eg copper and zinc). Overall, the proposed stormwater solution has been developed with appropriate regard to the management of the risk of groundwater contamination and in the context of the applicable regulatory frameworks.

The GNS report

- 7.61. As part of the wider investigation into groundwater issues associated with the supply of drinking water, a report commissioned by the HDC from the Institute of Geological and Nuclear Sciences Limited ('GNS Science - referred to from hereon as the GNS report), was received on Friday 25 November 2016, four working days before the commencement of the hearing on Variation 1. The purpose of the

¹² Letter from Tonkin and Taylor dated 30 November 2016 to Hastings District Council Attention M Gaffaney, headed 'Omahu and Irongate Industrial Areas Plan Changes - Proposed Stormwater Servicing Peer Review'

report was to provide the required five yearly review and assessment of groundwater security (the last review being in 2011) and was not for the purpose of the hearing.

- 7.62. That report summarised the results of age-testing of a number of wells from which the District's drinking water is obtained and identified the presence of a high proportion young water in some bores at the edge of the main aquifer. The results indicated that certain bores (Omahu, Wilson Road and Brookvale No 1) did not currently meet the residence time criteria of the Drinking Water Standards for New Zealand:2005 (Ministry of Health 2008).
- 7.63. Given the significance of the issue to the district, it was considered necessary to acknowledge the new information and whether the findings of the GNS report may have implications for the proposed new industrial zone at Omahu North.
- 7.64. The DHB's response dated 23 December 2016 had attached to it advice from Dr Lee Burbery, Senior Groundwater Scientist at the Institute of Environmental Science and Research Limited ('ESR') and from John Harding, Senior Public Health Engineer of the Ministry of Health. Dr Burbery's conclusions were that:
- the stormwater presents a hazard to groundwater quality in regard to microbial pathogens;
 - stormwater will marginally increase the component of young water in the groundwater system, and unlikely to affect groundwater more than 30m deep;
 - these increases are unlikely to be significant;
 - the proposal does present an increase in risk of pathogenic disease to existing community public water supply wells at Lyndhurst Road, by virtue of how risk is calculated from hazard x vulnerability (or probability). However, these wells are not seen as vulnerable owing to the well depths, aquifer confinement and the groundwater's relationship to the Ngaruroro River, nor recharge via the land surface. The risk is therefore not seen as significant.
 - The proposal presents an increased risk of pathogenic disease to public health via private well water (more so than community supply) but the level of increased risk remains questionable.

- 7.65. Whilst Dr Burbery was also sceptical about the effectiveness of engineered measures in mitigating acute pathogenic loads from stormwater events, he considered that there would be advantages in using pumice sand in place of silica or greywacke sand to provide better treatment.
- 7.66. Mr Harding's advice to the DHB was that neither of the HDC bores at Omaha Road and Wilson Road will be influenced by the Omaha North industrial zone, as they are not downstream of the zone. However, there are numerous downstream private bores in the unconfined and semi-confined aquifer.
- 7.67. He considered that the conclusions of the 25 November 2016 Earthtech report are sound; however the report concluded that there is potential for pathogen contamination of downstream bores and the recommendation is to control pathogen contamination at source via restricting land use to dry industry and not allowing particular activities in the industrial area (as noted above).
- 7.68. He was of the opinion that while any development in Omaha Road that employs stormwater infiltration basins *"will increase the risk of aquifer contamination, that is not necessarily a reason to prevent development. It is a case of being aware of the risks and taking steps to mitigate them"*.¹³
- 7.69. He considered that stormwater flows are too variable for effective pathogen removal to be reliably achieved and was not a supporter of attempting to treat stormwater prior to infiltration.
- 7.70. Mr Renouf's submission¹⁴ on the GNS report made the following points:
- the GNS report shows a "massive change" to the water quality of the District's drinking water;
 - the young water in some wells suggests that it is now more likely that any road runoff, which contains high levels of contaminants, will affect drinking water in wells.

¹³ Email from John Harding to Lee Burbery dated 19 December 2016

¹⁴ dated 12 December 2016

- the risk is now too great to allow the discharge of road runoff over and into the Unconfined Aquifer area and it is time to take a robust precautionary approach. Road runoff must be piped out of the area.
- the mapped areas of subsurface Holocene alluvial fans (Figure A 5.7) should also be considered a sensitive area
- Objectives 21 and 22 of the HBRC RRMP must be considered.

7.71. The Council's comments dated 19 January 2017 were that:

The submission from HBDHB expresses some concern about the possible increased risk to public health due to possible contamination connection between the Omaha Industrial Area and the Lyndhurst Road bore field. Their submission is based on the opinions of their technical advisors and those advisors note that although the proposed stormwater discharge at Omaha Road presents an increased risk of pathogenic disease to existing Community public water supply bores at Lyndhurst Road, that conclusion is only by the nature of how risk is calculated from hazard x vulnerability (or probability). Their expert advisor goes on to say "I do not see those wells as being vulnerable to the impacts arising from the proposal owing to the well depths: aquifer confinement and the ground water's relationship to the Ngaruroro River, not recharge via the land surface. For these reasons I do not perceive the increase in risk to be significant". This shows acceptance that there is a low probability of adverse effects on the aquifer from on-site stormwater disposal especially taking into account the dominant horizontal flowpath.

The submission from HBDHB suggests that there may be benefit in the use of pumice based sand in the base of the swale treatment zone as it has greater filtering qualities than greywacke sourced sand. The Council notes this point and will consider the technical specification of the sand with our discussions on the resource consent process with HBRC for the stormwater discharge consent. Those discussions can then consider supply issues, potential environmental benefit from the use of a specific sand and cost related matters.

The submission from Mr Renouf does not raise any new material that has not been considered as part of our assessment of the other additional submissions.

With respect to the Omaha Road Industrial Area, neither of the submissions raise any new information that change the HDC opinions expressed at the hearing.

Addendum to section 42A report

- 7.72. Mrs Gaffaney's addendum report was circulated on 29 November 2016, just prior to the hearing. It responded to the Earthtech peer review of the proposed stormwater solution and in particular the recommendation to control specific land uses (landfills, bakeries, stock sale yards).
- 7.73. Her report advised that landfills are classified as a Major Hazardous Facility and are therefore a discretionary activity under section 29.1, but are in any event a non-complying activity in the General Industrial zone, as are stock sale yards. She considered that there was sufficient rigor in the assessment required under section 104 of the RMA to enable any potential effects of pathogens to be considered for these activities if proposed at Omaha North.
- 7.74. However, bakeries fall under the definition of dairies and food premises, which are a permitted activity. She considered that the recommendation to include a requirement for a SMP as a performance standard would go some way towards addressing the risk of pathogens entering groundwater.
- 7.75. She commented that as pathogens fall within the definition of hazardous substances in the plan, there are specific performance standards to be met in order for the activity to be permitted, even if listed as a permitted activity in the General Industrial zone. If the standards are not met, a resource consent application must be made and the activity assessed. Bakeries are also controlled under the Food Act 2014 and the Food Regulations 2015, supported by the Building Act, and it is not permitted for wash down of baking trays of the like to enter the stormwater system. She outlined a number of options for dealing with bakeries, being:
- reliance on the hazardous substance provisions of the Plan, with the inclusion of a note that bakeries should be considered against the relevant hazardous substance rules;
 - Provide a specific performance standard for bakeries similar to the hazardous substance rule

- make bakeries a restricted discretionary activity either in their own right or where they fail to comply with the suggested performance standard.

FINDINGS

- 7.76. Having considered all of the information available to us, our conclusions are as follows.
- 7.77. The findings of the GNS report do not materially alter the assumptions or conclusions on which the proposed stormwater disposal methodology has been based. We are satisfied that the risks to the aquifer have been appropriately and rigorously assessed, and had no expert evidence before us to the contrary.
- 7.78. The GNS report refers to the sensitivity of the aquifer only, not to the risk of contaminants entering the aquifer from a particular land use in the recharge area. It particularly relates to the security of the public water supply wells in the Hastings area to bacterial contamination and does not address, nor did it intend to, the relationship of land use activities to groundwater quality. While the report results may indicate that some of the public supply bores are at risk from surface-derived contamination sources, the main issue to be decided here is whether there are sufficient controls in place to protect the aquifer from surface contamination associated with the proposed industrial land use, bearing in mind that the underlying aquifer is sensitive.
- 7.79. We are satisfied that the controls in the proposed Variation will provide an appropriate environmental outcome for the disposal of stormwater at Omahu Road North in terms of both stormwater quality and quantity. We agree with Mr O'Callaghan that light industrial activity is not expected to generate high contaminant runoff and that contaminant removal processes incorporated into the stormwater disposal system (pre-treatment devices, vegetative adsorption, and soil filtration) will reduce the risks to the underlying groundwater quality. The controls contained in the variation in our view will be sufficient to reduce this risk to a level that will give effect to Objectives 21 and 22 of the Regional Policy Statement.

- 7.80. Any effects arising from the use of chemicals including building wash-down chemicals, herbicides and pesticides as part of building and site maintenance is covered by Earthtech's assessment that the likely quantities are minor compared to the assimilation capacity of the aquifer.
- 7.81. The risks to water quality in the aquifer from a change in land use will be less than minor, having regard to the recommended methods to manage contamination. These include:
- restricting activities to dry industry only, including additional controls on the activities identified in the Earthtech report, as discussed below;
 - requiring Stormwater Management Plans to be provided and approved by the District Council for all subdivision and development in the zone.
- 7.82. By introducing controls over land use activities on sites less than 2 ha in area, which are not currently subject to Regional Council rules, there will be benefits in managing the effects of stormwater discharges from the affected land.
- 7.83. Any adverse effects of contaminants entering the aquifers from road runoff are a matter which should be addressed through the network discharge consent process between the District and Regional Councils. Whilst important, this is not a matter that arises directly as a result of the proposed Variation, notwithstanding the potential increase in traffic volumes likely to be associated with a change in land use.
- 7.84. We note that discharge consents are the responsibility of the Hawke's Bay Regional Council. The contents of the proposed variation to the discharge consent should satisfy the HBRC's questions around details of the management of contaminants. This is noted in paragraph 16 of the HBRC submission.
- 7.85. A further method of reducing risks by using pumice sand in the stormwater infiltration trenches may also be employed. However, this is a matter that is more appropriate for consideration at the time that consent is sought from the HBRC by the HDC.
- 7.86. In regard to the Renouf submission, we note that the on-site systems for stormwater disposal for a small number of properties at the western

end of the proposed zone are consented, and any change to this existing situation is a matter beyond the scope of the Variation. Similarly, the management of stormwater runoff from Omaha Road is not a matter for consideration within the scope of this Variation.

- 7.87. With respect to Mr Renouf's submission regarding the management of stormwater from yard areas we understand that his submission was focused on yard areas that require bunding to contain spillage in material handling areas rather than yard areas in general. These areas by the nature of the materials stored within them, usually hazardous chemicals, may have a higher risk to the aquifer than general yard areas. His request was for stormwater from such areas be required to be diverted to the sewer system. In considering this matter we note that the risks to the environment associated with such discharges are already controlled through existing provisions such as building consents and stormwater management plans. Through these instruments the requirements for the discharges are determined based on specific factors for each bunded area. Hence, we consider it inappropriate to control the destination of these stormwater outflows within the Variation. As part of the Stormwater Management Plan the degree if any, to which stormwater is discharged to the aquifer or to the sewer will be determined based on individual bunded area assessment within the respective Plans.
- 7.88. In regard to the Bayley et al submission, the arguments advanced by Mr Lawson that the recommended inclusion of a SMP not be accepted, were not persuasive. The SMP approach is consistent with that already required where consents must be obtained under the Regional Plan. A similar approach for stormwater discharges from sites less than 2ha in area, which are currently not regulated by the Regional Plan, is both efficient and effective given the sensitivity of the aquifer. As the District Council will be the consent holder for discharges from the proposed corridor, it will have the responsibility of ensuring that individual sites adhere to appropriate standards for stormwater discharges into the infiltration basins. We do not see that this concept creates any fundamental conflicts between district and regional consenting responsibilities and is the same for any discharge from a single property in an area covered by a network consent held by the District Council.
- 7.89. The submitters do raise a valid point in that an SMP is likely to be required by both Councils for sites >2ha when land use is changed to

industrial. This SMP could serve both Councils' requirements (including the HDC bylaw). Given that HDC is requiring sites to discharge to its basin system, which will be covered by discharge consent from HBRC, it seems superfluous for HBRC to continue to require consent from individual landowners. However, this is a matter for HBRC to consider and deal with. For these reasons we consider that the wording of standard 14.1.6A.6(d) should remain as proposed.

- 7.90. Overall, we find that the combined effectiveness of specific on-site pre-treatment devices selected for the specific activities on a given site, the filtration system in the bottom of the infiltration basin and the final filtering system provided by the ground beyond the site will be sufficient to reduce to a minimal level the risk to the Unconfined Aquifer of contamination from stormwater discharged from this zone.
- 7.91. While we note Mr O'Callaghan's opinion that the proposed system is at least as effective, if not more comprehensive and effective than the existing consented system approved as part of Plan Change 57, we have not placed a great deal of weight on this argument. Plan Change 57 is not operative for the very reason that stormwater issues remained unresolved and concerns regarding water quality have been heightened following contamination of the public water supply serving Havelock North.
- 7.92. However, compared with existing, primarily horticultural/viticultural and agricultural land uses currently occurring within the proposed zone, a change to industrial land use will be either neutral or positive and is accordingly consistent with the NPSFM.
- 7.93. At a macro level, HDC will be responsible for the regular monitoring and maintenance of the infiltration basin. It is intended that HDC prepare and implement an overall Management Plan for the stormwater disposal infiltration basin. The Plan will set out monitoring requirements, maintenance of vegetation, inspection of properties if there is evidence in the infiltration basin of a specific property discharging something that was not expected or envisaged at time of granting of the building consent and general reporting to HBRC as part of the expected discharge consent variation.
- 7.94. Having reached these conclusions, we re-examined the proposed Variation and the PDP decision version to check whether or not the

objectives and policies reflect these important matters. We are satisfied that in principle, Objective IZ02 (enabling industrial activities while ensuring adverse effects on the environment, human health and safety are avoided, remedied or mitigated) and Policy IZP7 (protection of the unconfined aquifer from contamination risks) do this.

7.95. However, we have determined that there must also be clear and unequivocal statements relating to the Omaha North area to strengthen the proposed wording and to ensure that the Earthtech recommendation restricting specific land uses is incorporated into the Plan in a way that will provide transparency and certainty. Currently, landfills and stock sale yards are a non-complying activity along with any other activity not specifically provided for in the General Industrial zone. We consider it important that the Plan contains a specific reference to the reasons why these activities are particularly unsuited to a location in the Omaha North General Industrial zone (arising from the potential for pathogenic contamination of the Unconfined Aquifer).

7.96. We have also considered the options for bakeries outlined by Mrs Gaffaney in her addendum to the section 42A report. It is our view that reliance on existing controls on food premises alone would place a great deal of responsibility on the Council's environmental health officers to recognise, identify and assess environmental risk in any particular case. It is also conceivable that a bakery operator would check the zoning of the property and general suitability under the district plan provisions before progressing to a detailed design for building consent and licence under the food regulations, and incorrectly assume that establishing bakery premises in the zone would be appropriate. Owing to the sensitivity of the aquifer, we consider that bakeries should be discouraged from locating in the zone in the first place, by classifying them as a non-complying activity. Whilst such an approach may result in additional consenting costs for a bakery and limit locational choice, we consider that the potential consequences of pathogenic contamination are sufficiently serious to adopt the principle of 'avoidance' rather than rely on 'mitigation' or 'remediation'.

7.97. For these reasons we recommend the following amendments

(a) to Policy IZP15 as follows:

"to **restrict** ~~provide for~~ the establishment of activities within the Omaha Road North General Industrial area to 'dry industry' and

'profile oriented' activities that have a low risk of contamination of the Heretaunga Plains Unconfined Aquifer."

(b) an addition to the explanation:

Certain industrial activities have been identified as being a high risk to the Heretaunga Plains Unconfined Aquifer owing to the potential for pathogenic contamination of ground water to occur. This situation arises as a result of stormwater discharges from development in the zone being into an infiltration basin rather than a reticulated system. These activities include waste management sites, transfer stations and composting areas, and stock sale yards, which are not anticipated in the zone and are non-complying.

For similar reasons, bakeries which have outside washing areas, which otherwise would be permitted under the definition of 'dairies and food premises', are also non-complying.

(c) to Activity Table 14.1.5.2 General Industrial zone Rule G12 "dairies and food premises except bakeries with outside wash down areas in the Omahu North General Industrial zone"

- 7.98. The proposed stormwater solution together with the provisions of the Proposed District Plan, the HDC Water Services Bylaw, and HBRC regulations and consents will ensure that the groundwater quality will be maintained and the rules and methods that are now proposed will be sufficient to ensure that the requirements of the NPSFM and Objectives 22 and 23 of the HBRC RRMP will be given effect.
- 7.99. The expected cost of these solutions is within an acceptable range for the efficient and cost effective development of the zone in meeting landowner expectations (and therefore enabling landowners and future occupiers of the zone to achieve their social and economic well-being). Once constructed, the infiltration basin will be maintained by Council to achieve an appropriate level of management and maintenance to ensure its functioning into the future.

7.100. RECOMMENDATIONS

A) That the submission of **Hawke's Bay Regional Council (Submission 4)** seeking that HDC takes into account HBRC's position and gives effect to the policies of the RPS in making their decisions **BE ACCEPTED**, and the submission of the **DHB (Submission 8)** requesting the introduction of a requirement for a pollution prevention plan, to reduce the risk of groundwater contamination be **ACCEPTED IN PART**; by:

making the following amendments (additions are bold and underlined and deletions are struck through):

i) All references in Variation 1 to 'swale' be amended to read: ~~swale~~ **infiltration basin**

ii) that Policy IZP15 be amended as follows:
"to ~~restrict~~ **restrict** ~~provide for~~ the establishment of activities within the Omaha North General Industrial area to 'dry industry' and 'profile oriented' activities **that have a low risk of contamination of the Heretaunga Plains Unconfined Aquifer.**"

iii) that the explanation to Policy IZP15 be amended by adding the following:

Certain industrial activities have been identified as being a high risk to the HP Unconfined Aquifer owing to the potential for pathogenic contamination of ground water to occur. This situation arises as a result of stormwater discharges from development in the zone being into an infiltration basin rather than a reticulated system. These activities include waste management sites, transfer stations and composting areas, and stock sale yards, which are not anticipated in the zone and are non-complying.

For similar reasons, bakeries which have outside washing areas, which otherwise would be permitted under the definition of 'dairies and food premises', are also non-complying.

iv) By amending Activity Table 14.1.5.2 General Industrial zone Rule G12 as follows: "dairies and food premises **except bakeries with outside wash down areas in the Omaha North General Industrial zone**"

- v) That standard 14.1.6A.6(d) be amended as follows:

14.1.6A.6 STORMWATER

(d) Omahu North Area

i) All roof surfaces shall be constructed from inert materials or painted with non-metal based paint and thereafter maintained in good order.

ii) All stormwater shall be conveyed to the designated infiltration ~~swale~~ **basin** on the northern boundary of the Zone.

iii) Where the designated infiltration ~~swale~~ **basin** has not been formed, any new development requiring stormwater disposal shall necessitate the construction of the swale within the designated area in accordance with the specifications set out in Appendix 17, Figure 2. The length of the swale required to be constructed will be proportionate to the size of the site on which the proposed activity is located as set out in Appendix 17, Figure 3.

Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17, Figure 1 as requiring alternative stormwater disposal methods to the designated infiltration ~~swale~~ **basin**. These properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below.

This exemption from ii) and iii) above also applies to building extensions / new buildings resulting in an increased gross floor area across the site of less than 100² over a 24 month period.

Note: clause iii) above is subject to further amendments as recommended under Issue 4

iv) A Stormwater Management Plan must be provided to the Council for the approval of the Environmental Consents Manager prior to the commencement of any new activity before discharging into the Stormwater Network. The Stormwater Management Plan must be prepared by a suitably qualified and experienced person and shall include the following:

- i) Details of the proposed land use, including an assessment of any risks associated with contaminants on the site, detailing how contaminants will be managed;
- ii) The method of monitoring the performance of pre-treatment devices, prior to discharge to the infiltration basin;
- iii) A to scale site plan, including details of the stormwater management proposed for the site;
- iv) A calculation of the expected stormwater run-off, storage volumes and post development discharge rates.

Note: Under the Hastings District Council Water Services Bylaw Approval is required to connect and discharge to the Stormwater Network.

B) That as a consequence of A) above, the further submission from **Hawke's Bay Fruitgrowers** in support of the Hawke's Bay Regional Council submission **BE ACCEPTED IN PART.**

C) That as a consequence of A) above, the further submission from **K & K Bayley, Bayley Family Trust, Rimu Hastings Ltd, Totara Hastings Ltd (FS 10)** in opposition to the Hawke's Bay Regional Council and DHB submissions **BE REJECTED.**

D) That the submission of **David Renouf (submission 3)** seeking that all road run off (stormwater) from the north eastern side of Omaha Road carriageway be conveyed to the upper Southland Drain system after prior treatment of gross pollutant trap and sump; that all sites and properties in the Omaha North Industrial Zone shall be connected to Hastings District Council's reticulated sewage and wastewater system; that all stormwater which falls on uncovered areas where bunding is required to contain spillage in material handling areas be directed to the sewer or containment for remote pump out; and that all run off (road stormwater) from the north eastern side of Omaha Road carriageway be conveyed to the upper Southland Drain system after prior treatment of gross pollutant trap and sump, **BE ACCEPTED IN PART,** insofar as all properties in the Omaha North Industrial Zone would be required to connect to reticulated wastewater, but **REJECTED** in regards to the other requests made.

E) That as a consequence of A) above, the further submissions from:

- Hawke's Bay Regional Council (FS 3)
 - Hawke's Bay Fruitgrowers Assn Inc (FS 5)
 - K & K Bayley, Bayley Family Trust, Rimu Hastings Ltd, Totara Hastings Ltd (FS 8)
- opposing Mr Renouf's submission **BE ACCEPTED**.

REASONS – STORMWATER MANAGEMENT - GROUNDWATER QUALITY

- 1. That the stormwater management solutions proposed with the additional amendments to the policy, explanation, Activity Table 14.1.5.2 Rule G12 and Standard 14.1.6A.6 will provide an appropriate level of service for the proposed industrial zone at Omahu Road North while avoiding, remedying or mitigating adverse effects on the environment and on ground water quality in particular.**
- 2. That an appropriate Stormwater Management Plan process (as added to standard 14.1.6A.6) monitored by HDC, will ensure that suitable pre-treatment devices are operated to protect the Unconfined Aquifer from any adverse effects.**
- 3. The methods to manage stormwater combined with the district plan provisions incorporated in this variation to the Proposed District Plan for the Omahu North General Industrial Zone promote sustainable management in terms of the purpose of the RMA and are appropriate for achieving the relevant objectives of the Proposed District Plan.**
- 4. That whilst well intended, the requests regarding stormwater management sought by Mr Renouf are not the most efficient and effective method of meeting the requirements of the Resource Management Act 1991 in terms of section 32.**

8. ISSUE 4 - STORMWATER STANDARD 14.1.6A.6 (III)

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited Bayley Family Trust	FS 01 Development Nous
	FS 2 David Osborne
#10 Development Nous	none

8.1. **Development Nous (Submission 10) and Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited and Bayley Family Trust (submission 6)** seek that standard 14.1.6A.6 (iii) STORMWATER be amended.

8.2. Submissions 10 and 6 are similar in their wording. Their concern is that the standard requires that the length of the swale is proportional to the size of the site on which the activity is located. However, due to the size of some of the submitters' land holdings, this requirement would mean that quite small developments on parts of sites would trigger the need to develop large proportions of the swale for the whole site.

8.3. Their contention is that, if only a portion of the site is being developed, the developer should not have to construct the entire swale, only the proportional area required to service the new use. They requested that the length of the swale to be constructed should...be in proportion to the scale of the proposed development or activity being undertaken'

8.4. Submission 6 also seeks a change to the wording of the exception to 14.1.6A.6 (iii):

'The exception to 14.1.6A.6 (iii) could also be more clearly expressed so that it is clear that the identified properties in Appendix 17 are not required to be connected to the swale. The suggested wording is:

"Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17 figure 1 as ***requiring a method of stormwater disposal alternative to and different from disposal by connection to the designated swale...***"

- 8.5. Submission 6 also requests the equivalent change to Standard 30.1.7R.3(b) in the Subdivision Section of the Plan which requires the length of the swale to be constructed to be proportionate to the parent title being subdivided. For reasons stated above in relation to 14.1.6A.6 (iii) the length of swale to be constructed should be proportional to the development being undertaken, not the parent title.
- 8.6. The further submissions from Development Nous (FS 1) and FS 2 David Osborne are supportive of Submission 6 in this regard.

THE SECTION 42A REPORT

- 8.7. The section 42A report sets out the standards as notified, which amongst other things require construction of a length of the infiltration basin that is proportional to the size of the site and to the specifications set out in Appendix 17, Figure 2 of the Variation, when development or subdivision of the land occurs.
- 8.8. It is intended that when a site is developed, by way of a building over 100m², or a subdivision consent application is made, the landowner will be required to construct the swale (in the designated corridor) for the whole of that site. The arrival at this solution was evaluated in the Section 32(2) report, which explored three alternative methods to implement the proposed stormwater swale system. The three alternative options are (pages 67 – 74):
- Option 1 – Proportional Stormwater Swale Requirement;
 - Option 2 – Proportional Requirement Discounting Land Already Developed; and
 - Option 3 – Construction of Stormwater Swale by Council prior to Development.
- 8.9. It was concluded in the Section 32 analysis that Option 1 is the most efficient method for implementing the stormwater infiltration basin system in terms of achieving the objectives of the Plan, as well as being based on considerable consultation with landowners.
- 8.10. The submitters' concerns are understood to relate to situations where development of more than 100m² on a large site is proposed, but the proportion of development to the site size is comparatively small.

8.11. The section 42A report considers that the requested wording of *“The length of the swale required to be constructed will be proportionate to the scale of the proposed development or activity being undertaken”* gives no measure of the actual length of the swale as a proportion of the new site(s). The report does not support the requested amendment.

EVIDENCE

8.12. The evidence on this point was somewhat limited. Mr O'Callaghan on behalf of the Council commented that the principle behind the rule was to achieve the establishment of the infiltration basin for the whole of the parent title as soon as possible but to also allow for proportional development of large sites.

8.13. At the hearing, Mr Holder, of Development Nous, a planning consultancy providing professional services to K and K Bayley and others, commented that *“it was always understood that a 'build as you go' approach could be achieved provided the portion of swale is constructed to the dimensions and standard expected for example in terms of width, depth and materials. This would be the same approach between titles in any event as swales met undeveloped boundaries”*.¹⁵

8.14. Mr Lawson contended that *“it makes no sense to require the full length of the swale to be constructed and thereby taken out of possible production activities if only a small part of the industrial land is initially developed.*

8.15. He went on to say that *“the prospect of having to apply for a restricted discretionary activity resource consent to consider a proposal on a case by case basis should be avoided”*.

FINDINGS

Proportional allocations of infiltration basin

8.16. Figure 12 (on page 68 of the supporting Section 32 document (the EMS Report)) demonstrates how the proportional allocation of the stormwater infiltration corridor to each property is intended to apply. Whilst Figures 17 & 18 set out the swale construction requirements for

¹⁵ Submission of M Holder, paragraph 15.0

both a building development example and a subdivision example, we were not satisfied that the overall intent of this rule would be workable and unambiguous. Neither the Variation nor the submitters' requested amendment completely resolved this matter. Accordingly, we found it necessary to seek further assistance from the Council in redrafting this provision, which refers to the area of the infiltration basin rather than the length, and which now identifies each of the parent sites to which the rule will apply. With further revisions to the wording and explanations within the Stormwater Proportion Standards 14.1.6A.6 Stormwater and 30.1.7R General Industrial Omahu North Area and Figures 17 and 18, the proportional allocations as set out in our recommendations below now seem to be clear and workable.

Restricted discretionary activity status of proposals that do not meet Stormwater Proportion Standards 14.1.6A.6 Stormwater and 30.1.7R General Industrial Omahu North Area

- 8.17. We had no evidential basis on which to determine that an application for a restricted discretionary activity would in some way be onerous, inefficient or ineffective in achieving the overall objective of ensuring an adequate and workable stormwater disposal system.
- 8.18. It is also our understanding of the NOR, that both water and wastewater services will be constructed for the entire length of the corridor. Mr O'Callaghan considered that the provision of stormwater disposal for each site is not expensive and that the overall intent is to enable some proportional development provided that the overall size of the infiltration basin is adequate.
- 8.19. In any situation that is not covered by the revised rule, the opportunity to apply for restricted discretionary activity consent is available and is appropriate as a relatively low-cost, expedient method of providing flexibility on a case by case basis. We consider that a rule requiring restricted discretionary consent in these circumstances has a proper resource management function and will assist the Council to carry out its functions under the Act (thereby meeting the requirement of the *Nugent* decision of the Environment Court¹⁶). We do not consider that a permitted activity rule is workable in these circumstances and would not meet those same tests.

¹⁶ *Nugent Consultants Ltd v Auckland City Council* A33/96 [NZPT94] 1996

8.20. Accordingly, we find that restricted discretionary activity resource consent (under rule G19) is appropriate for consideration of proposals on a case by case basis.

Requested Amendments to Standard 14.1.6A.6(d) exception

8.21. The wording as notified is:

Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17, Figure 1 as requiring alternative stormwater disposal methods to the designated swale. These properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below.

8.22. The wording as sought is:

Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17, Figure 1 as requiring ***a method of stormwater disposal alternative to and different from disposal by connection to the designated swale.*** ~~alternative stormwater disposal methods to the designated swale.~~ These properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below.

FINDINGS

8.23. We agree that the wording suggested by the submitter would achieve the intent sought by the standard, with the consequential amendment resulting from Issue 3 above and the term 'swale' being replaced with 'infiltration basin'.

8.24. RECOMMENDATION – STORMWATER STANDARDS

- A) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (submission 6)** seeking that standard 14.1.6A.6(d)(iii) be amended to say that 'the length of the swale to be constructed should...*be in proportion to the scale the proposed development or activity being undertaken*' instead of 'The length of the swale required to be constructed will be proportionate to the size of the site on which the proposed activity is located as set out in Appendix 17, Figure 3', **be ACCEPTED IN PART,** to the extent that the

rule is amended as set out below (text as notified shown in bold; recommended amendments are shown in bold underlining)

14.1.6A.6 STORMWATER (for land use)

(d) Omahu North Area (Appendix 17 Fig 1)

- i) All roof surfaces shall be constructed from** inert materials or painted with non-metal based paint and thereafter maintained in good order.
 - ~~ii) Stormwater from roof surfaces shall be disposed of on-site. All other stormwater shall be disposed via a council reticulated network when they become available.~~
- ii) All stormwater shall be conveyed to the stormwater infiltration basin within the designated service corridor <D#>.**
- iii) Where the stormwater infiltration basin has not yet been constructed, any new development requires the construction of the stormwater infiltration basin within the designated service corridor in accordance with the specifications set out in subdivision standard 30.1.7R.**
- iv) The above clauses (ii) and (iii) shall not apply to:**
 - **those properties identified within the Omahu Road Structure Plan area in Appendix 17, Figure 1 that require an alternative stormwater disposal method to the designated stormwater infiltration basin. For the avoidance of doubt, these properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below.**
 - **Building extensions / new buildings resulting in an increased gross floor area across the site of less than 100m² over a 24 month period from the date of the release of decisions on variation 1 <insert date>.**

B) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (submission 6)** seeking that wording of the exemption to standard 14.1.6A.6(d) be amended to say 'Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17, Figure 1 *as requiring a method of stormwater disposal alternative to and different from disposal*

by connection to the designated swale, **be ACCEPTED IN PART**; by the Plan being amended as follows:

The following amendments to Standard 14.1.6A.6(d) exception shall be made (Deletions are struck through and additions are bold and underlined):

Amendments to Standard 14.1.6A.6(d) exception:

Except that ii) and iii) above shall not apply to those properties identified in the Structure Plan in Appendix 17, Figure 1 as requiring **a method of stormwater disposal alternative to and different from disposal by connection to the designated infiltration basin.** ~~alternative stormwater disposal methods to the designated swale.~~ These properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below. The exemption from ii) and iii) also applies to building extensions / new buildings resulting in an increased gross floor area across the site of less than 100m² over a 24 month period.

- C) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (submission 6)** seeking that Standard 30.1.7R.3(b) be amended to say '*the length of swale to be constructed should be proportional to the development being undertaken, not the parent title*' instead of 'The length of the swale required to be constructed will be proportionate to the size of the parent title being subdivided as set out in Appendix 17, Figure 3.', **be ACCEPTED IN PART**, to the extent that the rule is amended as set out below (text as notified shown in bold; recommended amendments are shown in bold underlining).

30.1.7R GENERAL INDUSTRIAL OMAHU NORTH AREA ~~AND DEFERRED GENERAL INDUSTRIAL OMAHU NORTH AREA~~

1. The subdivision shall be in general accordance with the Structure Plan in Appendix 17.
2. Each site shall be connected to the Council's reticulated water **and**, wastewater ~~and stormwater~~ networks ~~when these networks become available.~~

3. (a) The subdivision design shall ensure that stormwater from each site created can be conveyed to the stormwater infiltration basin within the designated service corridor <D#> located on the northern boundary of the Zone.

(b) A stormwater infiltration basin shall be constructed in accordance with the specifications set out in Appendix 17, Figure 2 within the designated service corridor <D#>. The area of the infiltration basin to be constructed shall be determined in accordance with the Appendix 17, Figure 3. For the avoidance of doubt:

- the area of stormwater infiltration basin stated in column 4 has been determined for each of the 'Parent Sites' listed in Column 3
- the area of stormwater infiltration basin required for a new site shall be proportionate to its total area relative to the Parent Site(s) from which it has been created.

For example:

A property at Omahu Road north is to be subdivided into 3 lots:

<u>Parent Site (P01) is 13743m² (Column 3)</u>	<u>Total S/W basin (S04) = 1151m² (Column 4)</u>
<u>New Lot 1 = 4000m²</u>	<u>Required S/W basin = 335m²</u>
<u>New Lot 2 = 4000m²</u>	<u>Required S/W basin = 335m²</u>
<u>New Lot 3 = 5743m²</u>	<u>Required S/W basin = 481m²</u>

The above clause (ii) and (iii) shall not apply to:

- those properties identified within the Omahu Road Structure Plan area in Appendix 17, Figure 1 that require an alternative stormwater disposal method to the designated stormwater infiltration basin. For the avoidance of doubt, these properties are subject to the requirements of standard 14.1.6A.6 as it applies to 'All Other Areas' below.

That consequential amendments are made to Appendix 17, Figure 3 and associated table and map, as ATTACHED.

D) That the submission of **Development Nous (submission 10)** seeking that standard 14.1.6A.6(d)(iii) be amended to say that 'the length of the

swale to be constructed should...*be in proportion to the scale the proposed development or activity being undertaken*' instead of 'The length of the swale required to be constructed will be proportionate to the size of the site on which the proposed activity is located as set out in Appendix 17, Figure 3', ***be ACCEPTED IN PART***, to the extent that the rule is amended as set out in C) above.

REASONS – STORMWATER STANDARDS

- 1. That the stormwater management solutions proposed with the additional amendments to Standard 14.1.6A.6 will ensure the development of appropriate stormwater disposal infrastructure for the proposed industrial zone at Omahu Road North in a manner that avoids, remedies or mitigates adverse effects on the environment and on ground water quality; while still providing flexibility for restricted discretionary activity resource consent to be gained for smaller developments on large sites to form only an appropriate length of the infiltration swale for the development.**
- 2. The methods to manage stormwater combined with the district plan provisions incorporated in this variation to the Proposed District Plan for the Omahu North General Industrial Zone promote sustainable management in terms of the purpose of the RMA and are appropriate for achieving the relevant objectives of the Proposed District Plan.**
- 3. That the further amendments to standards 14.1.6A.6(d) and 30.1.7R will clarify the intent and administration of the rule.**
- 4. That Rule G15 provides an appropriate mechanism for assessing any proposal that does not comply with standards 14.1.6A.6(d) and 30.1.7R as a restricted discretionary activity.**

9. ISSUE 5 – AMENITY EFFECTS & REVERSE SENSITIVITY

Table of Submitters And Further Submitters

Submitter	Further Submitter (FS)
#02 Rochelle and Andrew Hope	n/a
#09 Federated Farmers	FS #05 Hawke’s Bay Fruitgrowers Assn Inc

- 9.1. The submission of **Rochelle and Andrew Hope (2)** generally supports the Variation though it seeks:
- That further consideration is made to the noise, environmental, hazardous substances and operation days/hours of industrial zoned land users bordering Plains Production zoned residential properties (specifically to their property at 30 Jarvis Road) as per Section 25.1 Noise and Section 29.1 Hazardous Substances of the Proposed Hastings District Plan (2015):
 - That for any industrial land user bordering their property, they be restricted to the hours of 7.00 hrs Monday – 1300 hrs Saturday inclusive, excluding Sunday.
- 9.2. The submission of **Federated Farmers (9)** generally supports the Variation proposal though it seeks:
- That issues of reverse sensitivity are fully and properly addressed, including modifying the proposal to provide for adequate buffer zones and considering the inclusion of a ‘no complaints’ clause on subdivision consents.
- 9.3. The further submission from **Hawke’s Bay Fruitgrowers Assn Inc (FS5)** supports the Federated Farmers submission, in particular the point that any new industrial development should include adequate internal buffer zones to allow future activities that might occur on the surrounding farm land such as normal rural development, the development of residential accommodation that is associated with rural activities and homestays etc. Federated Farmers is concerned with externalisation of the effects of the rezoning, with the cost of the effects of the rezoning being borne by adjacent land rural landowners rather than the developer of the industrial land. They also seek that the 50 metre setback buffer for new residential activities (as proposed by

the Variation in Rule PP34) in the Plains Production Zone is reduced (back to) to 30 metres.

AMENITY EFFECTS OF INDUSTRIAL ACTIVITIES (NOISE)

Section 42A report

9.4. The section 42A report discusses the issues raised in the Hope submission in terms of the Proposed District Plan controls designed to mitigate adverse effects from the Omaha North General Industrial zone on adjacent properties. It states that the submitters' concerns regarding the closer distance now proposed between the Omaha North industrial zone boundary and their property were discussed during consultation on the Variation and the EMS Report in its section headed 'Assessment of Potential Effects Resulting from the Rezoning of the additional land area to Industrial', at pages 22 – 24, 26 & 27 discusses the zone interface issues. A number of standards are identified in that report, which are designed to mitigate the effects of industrial development on residents in the Plains Production Zone. These standards are detailed in Table 5 of the Section 32 report and provide:

- a height in relation to boundary control (Standard 14.1.6A.2), intended to reduce the visual effects of buildings and to protect neighbouring residents from adverse effects of shading
- a building setback of 5m for industrial buildings from the zone boundary (Standard 14.1.6A.3), in addition to the separation distance that will be provided by the drainage infiltration basin and / or service and access corridor (24m or 7m respectively)
- a screening requirement under Standard 14.1.6A.5
- compliance with noise standards

9.5. The section 42A report advises that the noise provisions of the Proposed District Plan can now be treated as operative. The Council obtained specialist advice regarding the management of noise and the provisions now in place in the Plan, are considered the most appropriate method of achieving the objectives and policies of the Plan.

9.6. The objectives are to manage the emission and mitigate the effects of noise to maintain or enhance the acoustic environment; and ensure that the adverse effects of noise do not unreasonably affect people's health.

9.7. Noise standard 25.1.6F sets out the noise limits for Industrial Zones in relation to any noise sensitive activity in a rural zone (which is applicable to the Hopes):

(b) ... at any point within any Residential Zone or within the notional boundary of any noise sensitive activity in a rural zone, the following noise limits shall not be exceeded:

Control Hours	Noise Level	<i>Outcome</i>
0700 to 1900 hours	55 dB L _{Aeq} (15 min)	<i>Noise emissions will not intrude to an unreasonable degree on Residential and Rural Zones</i>
1900 to 2200 hours	50 dB L _{Aeq} (15 min)	
2200 to 0700 hours the following day	45 dB L _{Aeq} (15 min)	
2200 to 0700 hours the following day	75 dB L _{AFmax}	

- Notional Boundary means a line 20 metres from and parallel to any wall of a building or any wall of a building used by a noise sensitive activity or the legal boundary whichever is closer to the building.
- LAeq: means the time-average A-frequency weighted sound pressure level (dBA Leq) of a continuous steady sound that within a sample period has the same mean square sound pressure level as a sound under investigation whose level varies with time.
- LAm_{ax} or Lmax dBA: means the maximum A-frequency-weighted sound level (dBA Lmax) during a stated period of time.

Evidence

9.8. At the hearing, Mrs Hope presented a written statement on behalf of herself and her husband, summarising their position. They are the owners of a dwelling on a relatively small block of land at 30 Jarvis Road. Mrs Hope explained that their current neighbours who are approximately 140m away from their boundary "constantly have noise from their radio and machinery which is audible (sic) from with our home all hours of the day and night". She said it was not ideal to keep

complaining about neighbours' activities, there is a delay in response times from HDC noise control and together with the change in shifts at the factory it has a negative impact on her family.

Council response

- 9.9. Mr Wallis responded at the end of the hearing that there was a compliance issue with the property identified by Mrs Hope which the Council is endeavouring to resolve with the property owner.
- 9.10. The Environmental Consents Manager, Mr M Arnold, also addressed the hearing in relation to the noise issues that had been raised by Mr and Mrs Hope. He said that Council officers had been working with the Hopes and the industrial firm referred to at the hearing. Officers had thought that this issue had been resolved. Mr Arnold confirmed that officers would go to the site and take noise measurements. He suggested that if the noise is within permitted levels, it was likely the noise would have a nuisance component. Every effort would be made to resolve this situation before more stringent measures are deemed to be needed.

FINDINGS

- 9.11. We infer that the issue for the Hopes is not the result of inadequate rules to manage amenity effects (particularly noise) per se, but the enforcement of those rules.
- 9.12. We have considered whether, in terms of section 32 of the RMA, controlling the potential adverse noise effects of industrial activity should include limitations on the hours that an activity may operate in certain circumstances. While this may be appropriate where land is intensively developed with industry close to a residential zone interface, we do not see that limits on operating hours over the whole zone, which is adjacent to Plains Production land, is an efficient or effective way of achieving the objective of managing noise effects. Residential settlement within the Plains Production zone is relatively sparse and there are similar noise effects from permitted activities in the Plains Production zone to those likely to occur in the Omaha North General Industrial zone. Controls on noise levels at residential receivers is a more appropriate response in achieving the objectives of the Plan and purpose of the RMA, than restricting the operating hours of activities.

In this way activities that are inherently quiet or which employ effective noise mitigation methods, are able to operate without adversely affecting any nearby residents.

- 9.13. Accordingly, we accept that the provisions of the Proposed District Plan relating to noise are the most appropriate method of achieving the objectives and policies of the Plan. Any new development must meet the noise standards. In the event that the above noise standard is breached, monitoring and compliance action can be taken and additional remedies are available under the RMA if compliance is not forthcoming.

HAZARDOUS SUBSTANCES

Section 42A report

- 9.14. The Hopes' submission also requests that further consideration is made to environmental and hazardous substances provisions in relation to industrial activities bordering Plains zoned residential properties.
- 9.15. The section 42A report outlines the suite of measures which are intended to apply to Omaha Road North, and how these measures mitigate any potential adverse effects on the environment (including residential properties). In short, there are controls on the use and storage of hazardous substances under the Hazardous Substances and New Organisms Act 1996 (HSNO) as well as district plans.
- 9.16. The HSNO Act provides the general framework for controlling hazardous substances during their entire life-cycle.
- 9.17. Further scope for additional controls for hazardous substances is available through Sections 30 and 31 of the RMA in which, regional and district councils share the function of:

The control of any actual or potential effects of the use, development, or protection of land, including for the purpose of –

i) the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances.

- 9.18. The Hastings District Plan takes the approach that hazardous facilities are generally managed adequately through the HSNO Act. An extra

layer of protection can, and is provided in recognition that the Heretaunga Plains Unconfined Aquifer is a sensitive environment and a part of the proposed Omaha North General Industrial zone is located over the Unconfined Aquifer. Specific performance standards of the Hazardous Substances section of the Plan therefore apply. Furthermore, any activity defined in the Plan as a 'Major Hazardous Facility' is classified as a Discretionary activity, requiring resource consent approval before being allowed to establish in this zone.

- 9.19. The definition of 'Major Hazardous Facility' in section 33.1 of the Proposed District Plan encompasses a wide range of potentially hazardous activities. It is unnecessary to list them, the main point being that many of these activities would not be able to locate at Omaha Road North as they would require access to a trade waste sewer system. This is not part of the infrastructure proposed for the zone under the NOR and the proposed rules for the zone permit dry industry only.
- 9.20. Should a Major Hazardous Facility be proposed at Omaha North, it would be subject to assessment through the full discretionary activity resource consent process whereby the environmental effects would be scrutinized, including any potential effects on adjacent properties and on the Heretaunga Plains Unconfined Aquifer.
- 9.21. The storage, handling or use of hazardous substances, except arsenic and Major Hazardous Facilities, within the Heretaunga Plains Unconfined Aquifer, is a permitted activity, subject to the standards in Rule 29.1.6A¹⁷. These standards are designed to protect the quality of groundwater in the Unconfined Aquifer by requiring that all hazardous substances be stored and handled on areas with impervious surfaces, and that facilities are provided to prevent hazardous substances from being washed or spilled into natural ground, or entering any storm water systems or storm water ground soakage up to a 1% AEP (Annual Exceedance Probability) rain event. Evidence that these requirements are met would be required as part of a building consent application.
- 9.22. If those standards are not met, then a land use consent is required and is subject to assessment under section 29.1.7 of the Proposed District Plan.

¹⁷ We understand that a draft consent order proposes that this rule, and the related performance standards, will be removed from Section 29 and relocated to the relevant zone chapter, including the Industrial section.

Evidence

No additional evidence was presented at the hearing in relation to this issue.

FINDINGS

- 9.23. Having regard to the analysis in the Council's section 42A report and supporting documents, and taking into consideration the conclusions in the section 32 report, we are satisfied that the provisions in the Proposed District Plan in tandem with the requirements of HSNO are sufficient to manage the risks and potential environmental effects associated with the use and storage of hazardous substances and that no further measures are necessary to avoid or mitigate adverse effects on residences from the range of activities anticipated within the zone.

SETBACK REQUIRED FOR RESIDENTIAL DWELLINGS AND VISITOR ACCOMMODATION IN THE PLAINS PRODUCTION ZONE

Section 42A report

- 9.24. The section 42A report identifies Federated Farmers' concern that reverse sensitivity is appropriately managed within the proposed industrial zone and that the rights of rural land owners to carry out rural activities in the usual manner, such as spraying crops, building a house or establishing visitor accommodation in the Plains Production Zone is not impeded (in order to manage the reverse sensitivity effects) by the establishment of industrial activities in the adjacent zone. This position is supported by Hawke's Bay Fruitgrowers Assn.
- 9.25. **Hawke's Bay Fruitgrowers Assn (FS5)** is more specific in its position and asks that the rule (Rule PP34 in the Plains Production zone) which lists new residential activities and visitor accommodation within 50 metres of the industrial zone as a non-complying activity, be amended to reduce the separation distance to 30 metres (at it was in the Proposed District Plan as notified).

- 9.26. The section 42A report considers this request to be within the scope of the original Federated Farmers submission which broadly sought appropriate buffers to manage reverse sensitivity.
- 9.27. Industrial provisions, rules and standards already contained in the Proposed District Plan, the HSNO regulations and the 24 metre wide service corridor are considered sufficient to provide a significant physical separation of the Industrial zone from the Plains Production zone, facilitates good environmental outcomes and minimises potential for reverse sensitivity.
- 9.28. In the event that an industrial activity breaches noise standards, or any other standards, compliance actions can be taken.
- 9.29. Having had regard to the section 32 assessment of setbacks on page 79 of the EMS Report and the submission requesting that it be reduced back to 30m, an increase in the setback (from 30m to 50m) for new residential and visitor accommodation in the Plains Production zone is considered by Mrs Gaffaney to over-compensate for the issues around reverse sensitivity. She has concluded that a more balanced and appropriate response in achieving the objectives in the Plan would be met by reducing the setback to 30 metres for new residential and visitor accommodation activities in the Plains Production Zone.

Evidence

- 9.30. Federated Farmers tabled a written submission¹⁸ for our consideration, in which it is stated that the Plan has a "right to farm" ethos and the proposed Variation will, with the extension of the zone boundary, mean that "a whole set of new farmers and orchardists will now be on the boundary and possibly subject to reverse sensitivity that they hadn't encountered before".
- 9.31. In her evidence on behalf of the Fruitgrowers Association, Ms Vesty commented that the Association does not support any rule which erodes the existing rights of legally established activities to accommodate a new activity with a conflicting land use. She said that for new industrial developments there would normally be a requirement for a large buffer zone including a measured area of land

¹⁸ dated 3 December 2016

and shelter belt plantings/constructions between the existing and new land uses to prevent reverse sensitivity issues occurring (as in Variation 2 - Irongate). She highlighted the differences between Omaha North and elsewhere, being the relatively narrow strip zoning, the separation distances imposed on new dwellings and visitor accommodation in the Plains Production zone from the Omaha North industrial zone, the current pattern of land ownership at Omaha Road (in which the majority of landowners affected by the rezoning also own the adjacent Plains Production zoned land) and the presence of swales which will create a degree of separation between activities.

- 9.32. Ms Vesty said that the Fruitgrowers Association fully supports the recommendation to decrease the buffer zone from 50m to 30m for the reason that "the decrease in distance is a lesser erosion of existing rights and will enable a wider range of choices for the best use of the remaining Plains-zoned land".
- 9.33. However, her support on behalf of the Association noted that under normal circumstances (in other zones), *"any new activity should provide internal buffers so that legally established activities on adjoining properties can continue with their usual practices and for any other development without the unique features of Omaha Road, [the Association] would strongly pursue a requirement for shelter belts"*.

FINDINGS

- 9.34. Given the separation distance to be created between industrial activities and Plains Production-zoned land as a result of the service corridor, as well as the restricted range of activities to be permitted within the Omaha North General Industrial zone, we agree that a distance of 30m to the zone boundary provides an acceptable interface for the purpose of controlling potential reverse sensitivity effects. Rule PP34 applies only to visitor accommodation and residential activities in the Plains Production zone and these activities are subordinate to the productive purpose of the zone. We do note that the 30m distance includes the service corridor as this is within Plains Production zoned land, which could result in residential or visitor accommodation being located 6m from the northern edge of the corridor. However, given that the corridor will effectively remain as open space, and noise effects are subject to noise performance standards, we find that a separation

distance of 30m is appropriate and accept the section 42A report recommendation accordingly.

REQUEST FOR NO COMPLAINTS COVENANTS

- 9.35. Federated Farmers' submission is concerned that landowners in the new industrial zone will complain about farming type activities in the adjacent rural zone that could impinge on their rights to farm.

Section 42A report

- 9.36. Federated Farmers has requested consideration of a no complaints clause on subdivisions in the Industrial Zone. The section 42A report refers to a current provision in the Proposed District Plan for such a covenant, which is written into a structure plan for a new residential development area in Haumoana. The reason for it is that there is an existing poultry farm within 400 metres of the proposed residential area. The covenant is to protect the interests of the poultry farm.
- 9.37. The section 42A report makes the comment that a strong driver for this industrial zone, with its high profile on Omahu Road, is demand from the local horticultural industry to provide space for post-harvest facilities (i.e. coolstores and packing sheds), the sale of agricultural machinery, and engineering companies that design and build machinery to support farming. A reason for this extended zoning proposal is to satisfy owners of land in and immediately adjacent to the proposed zone (many of whom are one and the same) seeking to meet this demand. This is as a result of the significant growth of fruit production and continued projected growth over the next 10 years.
- 9.38. The report refers to legal advice having been sought in regard to no-complaints covenants. They are generally used as a condition of resource consent in reverse sensitivity situations, typically where a sensitive receiver seeks to establish in close proximity to an effects-producing neighbour. Furthermore it would be unusual for a Plan to include a rule that a no-complaints covenant must be offered up, and would likely to be susceptible to challenge. Whether a no-complaints covenant is being offered as a condition may be a relevant and valid matter of assessment to which regard could be had where reverse sensitivity effects are an issue, however it is not clear that reverse

sensitivity effects realistically arise on a Plains/Industrial border such that they would need special assessment criteria to address that issue.

- 9.39. It is considered that there would be costs associated with such a covenant (costs of preparing and registering on the title, plus the general deterrent effect of any such instrument on the title) that would outweigh any benefits; and that it is not reasonably necessary to address a potential adverse effect on the environment because of the unlikelihood of reverse sensitivity effects arising.
- 9.40. Industrial provisions, rules and standards already contained in the Proposed District Plan, the HSNO regulations and the 24 metre wide service corridor provides a significant physical separation of the Industrial zone from the Plains Production zone, facilitates good environmental outcomes and minimises potential for reverse sensitivity.
- 9.41. The report states that there are no specialised intensive farming activities in the vicinity of the proposed zone (such as Intensive Rural Production) that could necessitate additional controls for reverse sensitivity.

Evidence

- 9.42. Federated Farmers tabled a submission for our consideration, in which it continued to advocate for a no complaints provision in the Plan. The submission acknowledged that industrial activities are less likely to be impacted by adjacent rural production activity, but that offices and caretaker accommodation in the General Industrial Zone could result in complaints.

FINDINGS

- 9.43. We consider it a reasonable assumption that industrial activities are not as environmentally sensitive to rural activities as many other forms of land use, such as residential. While there are some effects, such as crop spraying, that have the potential to adversely affect any person on adjacent land, we were not provided with evidence regarding the nature and range of effects that might be experienced beyond property boundaries, and assume that such activities are required to avoid adversely affecting neighbouring land. In addition, the physical buffer

created by the stormwater infiltration basin and access corridor will assist in mitigating any reverse sensitivity from crop spraying.

9.44. Noise from frost fans or farm vehicles is not likely to be an issue, as noise from within the industrial zone and from the traffic on Omaha Road is assumed to generally be louder than that emanating from the neighbouring Plains Production zone.

9.45. We accordingly agree with the conclusions in the section 42A report that a rule requiring a no-complaints covenant does not meet the statutory tests for the most appropriate method of achieving the objectives and policies of the Plan.

9.46. RECOMMENDATION - AMENITY EFFECTS & REVERSE SENSITIVITY

A. That the submission of **Rochelle and Andrew Hope (2)** seeking that further consideration is made to the noise, environmental, hazardous substances and operation days/hours of industrial zoned land users bordering Plains Production zoned residential properties (and specifically to their property (30 Jarvis Road)) as per the following sections of the Proposed Hastings District Plan (2015): Section 25.1 Noise, Section 29.1 Hazardous Substances; and that for any industrial land users bordering their property, they be restricted operating within the period 7.00hrs Monday – 1300hrs Saturday inclusive, excluding Sunday, **BE REJECTED** as there are appropriate District Plan regulations already in place within the Plan to manage the effects of industrial activity, both within the industrial zone and within the adjacent zone.

B. That the submission of **Federated Farmers (9)** seeking that issue of reverse sensitivity is fully and properly addressed, including modifying the proposal to provide for adequate buffer zones and considering no complaints clause on subdivision consents, **BE ACCEPTED IN PART;** insofar as the buffer distance in Rule PP34 be reduced to 30 metres instead of 50 metres as proposed in the notified Variation 1.

Amendments to the District Plan are as follows:

Section 6.2 Plains Production Zone, Table 6.2.4

Rule PP34	Residential Activities and visitor accommodation within 30 50 metres of any the General Industrial Zone (Omahu North) as on land identified within by Appendix 17 36 , Figure 2	Non Complying Activity
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Section 30.1 Subdivision and Development and Land Development

30.1.6C EXEMPTION TO MINIMUM SITE PROVISIONS

3. Omahu North Industrial Area

Where:

- (a) A subdivision creates a site or sites within the General Industrial zone (Omahu North) which complies with 30.1.7R and a single site within the Plains Zone There shall be no minimum site size for the Plains Zone site¹.

Note 1: New Residential Activities and Visitor Accommodation are defined as a Non complying activity where they are located within ~~50m~~ **30m** of the General Industrial Zone (Omahu North). ~~the area identified in Appendix 36 Figure 2.~~ Refer to Rule PP34~~29~~ (Section 6.2).

- C. That as a consequence of B) above, the further submission from **Hawke's Bay Fruitgrowers Assn Inc (FS5)** in support of **Federated Farmers (FS9)**, **BE ACCEPTED IN PART.**

REASONS - AMENITY EFFECTS & REVERSE SENSITIVITY

1. That the industrial provisions, rules and standards already contained in the Proposed District Plan, the HSNO regulations and the 24 metre wide service corridor provides a significant physical separation of the Industrial zone from the Plains Production zone, facilitates good environmental outcomes and minimises potential for both direct effects on neighbouring residents and reverse sensitivity.
2. That controlling the hours of operation in an industrial zone is not effects-based, as a quiet industrial activity can operate without affecting the amenity of nearby residents. The noise limits included

in the Noise Section of the Plan are therefore a more appropriate way of mitigating adverse effects on neighbouring residents than introducing controls on hours of operation.

- 3. That having regard to both the section 32 assessment on the proposed 50m setback and the submission to reduce it back to 30m, accepting the submission is a more balanced and appropriate response in achieving the objectives in the Plan.**
- 4. Requiring a no complaints clause has been considered, as requested by Federated Farmers and does not meet the statutory tests for the most appropriate method of achieving the objectives and policies of the Plan.**

10. ISSUE 6 – RULE G15 AND THE PROVISION FOR COMMERCIAL ACTIVITIES IN THE OMAHU NORTH GENERAL INDUSTRIAL ZONE

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust.	FS #01 Development Nous
	FS #02 David Osborne
#10 Development Nous	n/a

10.1. The submissions of **Kevin & Karen Bayley, Totara, Hastings Limited, Rimu Hastings, Limited & Bayley Family Trust (6)** and **Development Nous (10)** seek an amendment to Rule G15 in the rule table 14.1.5.2 to add the word ‘viticultural’ to the list of activities so that it reads:

Rule	Land Use Activities	Activity Status
G15	<p>The sale or hire of:</p> <ul style="list-style-type: none"> <i>Machinery, equipment and supplies used for industrial, agricultural, horticultural, viticultural, building or landscaping purposes</i> <i>Buildings</i> <p><i>This rule only applies to those Omahu Road sites identified within the area identified in Appendix 36.</i></p>	Permitted

10.2. The submission of Kevin & Karen Bayley, Totara, Hastings Limited, Rimu Hastings, Limited & Bayley Family Trust (6) also seeks:

1. Amendment to Activity Threshold Limits

Amendments sought to **Rule 14.1.7.1 (a) Activity Threshold Limits**
Offices on same site as, and ancillary to, an Industrial Activity:

The activity shall not occupy more than 15% of the total gross floor area of the buildings on the site.; ~~or 100m² gross floor area whichever is the lesser.~~

*The sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, **viticultural**, building or landscaping purposes and the sale or hire of buildings on sites fronting Omahu Road: No limit*

- 10.3. The submission of Development Nous (10) seeks an amendment to Activity Threshold Limits:

Either: Amend 14.1.7.1 by removing the standard all together for ancillary offices (given these uses are part of the permitted use onsite – Rule GI4);

- 10.4. This is interpreted as:

~~*Offices on same site as, and ancillary to, an Industrial Activity:*~~

~~The activity shall not occupy more than 15% of the total gross floor area of the buildings on the site,; or 100m² gross floor area whichever is the lesser.~~

Or as a minimum, increase the size limit for offices to 200m² and remove the 15% GFA control to allow offices associated with industrial yards that may not necessarily have buildings associated with the industrial use.

This is interpreted as:

Offices on same site as, and ancillary to, an Industrial Activity:

The activity shall not occupy more than 15% of the total gross floor area of the buildings on the site,; or **200m²** 100m² gross floor area (of the buildings on the site) ~~whichever is the lesser.~~

- 10.5. The further submissions of Development Nous and David Osborne support Submission 6.

THE ADDITION OF 'VITICULTURAL' TO RULE G15 AND OTHER CONSEQUENTIAL CHANGES

Section 42A report

10.6. The section 42A report makes the comment that through the District Plan review appeal process it became apparent that the wine industry considers viticulture as a distinctly different land use from horticulture and wants it recognised separately in the definition of Land Based Primary Production. The Hastings District Council has accepted this view and on that basis proposes an amendment to the definition of Land Based Primary Production to include viticulture, as follows:

Land Based Primary Production means:

- (a) Livestock rearing which is primarily reliant on the underlying land (excluding farming of mustelids); and*
- (b) Horticulture (including, orcharding, cropping, market gardening, commercial vegetable production, berry fruit growing, nurseries and glasshouses not falling within the definition of Intensive rural Production but not garden centres; and*
- (c) Trees, plants and crops grown in the ground but under cover;*
- (d) Forestry;*
- (e) Viticulture; and*
- (f) Directly associated accessory buildings, structures and activities.*

10.7. Policy IZP15 states that the Omahu North Industrial Area is about:

'the establishment of predominantly dry and 'profile' oriented industrial activities in the Omahu North Industrial Area.'

10.8. The explanation to this policy states:

The Omahu North Industrial Area is particularly suited to dry industrial or industrial related activities that require a site with a profile to a busy road. Examples of industrial related activities falling into this category requiring profile are the sales and hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscape purposes...

The infrastructure within the Omahu North Industrial Area is suited to predominantly 'dry' activities as the capacity of the adjacent trade waste sewer is limited and access to it is not assured.

10.9. The above policy makes it clear that the Omaha North industrial area is designed to provide for those service industries that support land-based primary production, which is a primary driver of the Hastings economy.

Amendment to Appendix 36

10.10. The report points out that if the recommendation is accepted, amendment is also required to Appendix 36 which needs updating to reflect the increased depth of the industrial zone proposed by Variation 1. This amendment was not requested in the submission but can be made under Clause 16 as a minor amendment to ensure consistency between the related plan provisions.

Evidence

10.11. There was no additional evidence provided at the hearing on this topic.

FINDINGS

10.12. We agree that amending Rule GI5 will align with Policy IZP15 and is consistent with the anticipated and permitted activities (given that under the definition it is deemed to be a form of horticulture). Accordingly, viticulture should be added to the list of permitted activities under Rule GI5 and for consistency in Plan provisions, to Appendix 36.

STANDARD 14.1.7.1 COMMERCIAL THRESHOLD LIMITS

10.13. Submissions from Development Nous and Kevin Bayley both request an increase to the maximum floor area for offices that are ancillary to an industrial activity, on the same site.

Section 42A report

10.14. The section 42A report makes the comment that Policy IZP1 seeks to ensure that non-industrial activities remain ancillary to the principal activities taking place in the industrial zone. The reason to restrict commercial activity is to facilitate efficient and optimum use and development of the industrial land resource, which is also in part to protect the Hastings CBD from office and retail leakage to the outer areas, to maintain its economic viability.

10.15. The report refers to the receipt by the Council of five resource consent applications for coolstores in 2016 and three in 2015. The report states:

"Landowners/developers have expressed to HDC that there is a demand for industrial land for this, and other purposes (driven by growth of the horticulture industry) and are keen to get this zone operative so that they can develop in this regard. Feedback from those in the horticulture industry is that it is in a period of significant growth and will be so for the next 5-10 years and that at present there is a shortage facilities that support rural industries. Growth in the horticulture industry is likely to increase the demand for the machinery and post-harvest facilities necessary to support this industry. A conscious decision has been made in regards to this Omaha North zone, proposed in Plan Change 57, to provide for service/commercial activity relating to rural industries due to its high profile location on this arterial road. The nature of this type of activity (sale and hire of goods and services for rural industries) is such that there may be a greater need for ancillary office space for those businesses. Also where very large coolstore / packhouse complexes are constructed an office of a size proportional to the staff employed would be required".

10.16. The section 42A report considers that the key to the provision is ensuring that offices must be on same site as, and ancillary to, an Industrial Activity which is reinforced by Rule GI4 which states that retail sales and offices on the same site and ancillary to an Industrial Activity are a permitted activity (subject to the Commercial Threshold Limit - 14.1.7.1).

10.17. It is accepted in the report that the 100m² limit seems to be inadequate for offices associated with larger industrial facilities, or for those activities that may largely take place outdoors, such as agricultural machinery sales. The report recommends accepting the submission and increasing the permitted floor area for ancillary offices to 200m².

Evidence

10.18. Mr Lawson's submission on behalf of K and K Bayley et al noted the submitters' support for the recommended increase. There was no evidence in opposition.

FINDINGS

10.19. We accept the analysis in the section 42A report that the strategic objectives for both the industrial zone and the commercial zones will not be compromised by increasing the permitted amount of office space associated with industrial activities allowed in the zone to 200m².

10.20. RECOMMENDATION - PROVISION FOR COMMERCIAL ACTIVITIES IN THE OMAHU NORTH GENERAL INDUSTRIAL ZONE

A) That the submissions of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** and **Development Nous (Submission 10)**, be ACCEPTED; insofar as the word viticulture is added to the following provisions of the Proposed District Plan. Recommended changes are as follows (additions in bold and underlined):

RULE TABLE 14.1.5.2 - GENERAL INDUSTRIAL ZONE		
Rule	Land Use Activities	Activity Status
GI5	<p>The sale or hire of:</p> <ul style="list-style-type: none"> • Machinery, equipment and supplies used for industrial, agricultural, horticultural, <u>viticultural</u>, building or landscaping purposes • Buildings <p>This rule only applies to those Omahu Road sites identified within the area identified in Appendix 36¹⁹.</p>	Permitted

B) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** and **Development Nous (Submission 10)** in regards to ancillary offices, be ACCEPTED IN PART insofar as the threshold for Offices on the same site as, and ancillary to, an Industrial Activity be amended to provide a

¹⁹ Appendix 36 is recommended to be updated under Clause 16 of Schedule 1, RMA to identified the larger expanse of the Omahu North Industrial Zone under Variation 1.

greater maximum gross floor area as follows (additions in bold and underlined):

14.1.7.1 ACTIVITY THRESHOLD LIMITS

(a) General Industrial Zone and Deferred General Industrial Zone:

- i. *Dairies and food premises:* The gross floor area of the premise shall not exceed 50m².
- ii. *Service Stations:* No limit.
- iii. *Retail sales on same site as, and ancillary to, an Industrial Activity:* The activity shall not occupy more than 15% of the total gross floor area of the buildings on the site; or 100m² retail display space (indoor and outdoor) whichever is the lesser.
- iv. *Offices on same site as, and ancillary to, an Industrial Activity:* The activity shall not occupy more than 15% of the total gross floor area of the buildings on the site; or 100m² gross floor area whichever is the lesser.

Add new standard to 14.1.7.1(a):
- v. **Offices on same site as, and ancillary to, an Industrial Activity on land shown in the Omaha North Industrial Area - Structure Plan (Appendix 17 Figure 1): The maximum gross floor area for offices on the same site as, and ancillary to, an Industrial Activity shall be 200m².**
- vi. *The sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, **viticultural**, building or landscaping purposes and the sale or hire of buildings on sites fronting Omaha Road:* No limit.

C) That as a consequence of recommendation B) above, the further submission from **Development Nous (FS 1) in support of the submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** **BE ACCEPTED.****

REASONS – PROVISION FOR COMMERCIAL ACTIVITIES IN THE OMAHU NORTH GENERAL INDUSTRIAL ZONE

- 1. That amending Rule GI5 to reference viticulture is consistent with Policy IZP15 and the definition on Land Based Primary Production and is therefore more appropriate with regard to section 32 of the RMA, than the status quo of not providing specific reference to viticulture.**
- 2. That the nature of the types of activity intended to be provided for in the zone (sale and hire of goods and services for rural industries and large coolstore / packhouse complexes) is such that there may be a greater need for ancillary office space for those businesses, provided such office space remains ancillary to the permitted activity an increase in the permitted area of office space to 200m² would be consistent with the intent of both the Plan's industrial and commercial strategies and remain appropriate in giving effect to the objectives of the Plan.**

11. ISSUE 7 VISUAL AMENITY

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust.	FS #01 Development Nous
#07 Villa Maria Estate Ltd	FS #02 David Osborne
	FS #01 Development Nous
	FS #09 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust
#12 Hawke's Bay Fruitgrowers	FS #06 J & V Currie Family Trust, S Currie Family Trust, Hustler Equipment Ltd, S Currie, J Currie
	FS #13 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust

- 11.1. The submissions of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** state the following in support of their request that the landscaping standard 14.1.6A.4 as applied to Omahu Road be removed:

'Rule 14.1.6A.4 requires that a minimum of 25% of the frontage to Omahu Road (the 25% excludes vehicle entrances) be landscaped to a depth of 3 metres. The submitter submits that such a requirement is unnecessary particularly where the sites are to be used as anticipated by Rule G1 5 for the sale and hire of Machinery, equipment and supplies used for industrial, agricultural...purposes. These activities by their nature rely on exposure to Omahu Road as an essential element of the activities.'

Villa Maria Estate Limited (Submission 7) opposes the variation "until such time as satisfactory provisions are included in the

variation to ensure any buildings are designed to respond to the surrounding amenities. That screening and landscaping controls provide for surrounding amenities as this is the gateway to the Gimblett Gravels winery area".

- 11.2. The submission of **Hawke's Bay Fruitgrowers (submission 12)** requests that the screening standard 14.1.6A.5 be amended as follows:

'14.1.6A.5 SCREENING

All other Internal boundaries adjacent to a Plains zone

Either a 1.8m high solid fence; or a 2m wide landscaping strip shall be provided along the full length of any side or rear boundary adjacent to a Plains Zone. ~~This requirement does not apply to boundaries adjacent to the designated stormwater swale corridor in the Omaha North General Industrial Zone.~~

- 11.3. The Association submits that the purpose of this standard is to provide screening adjacent to other zones. This exception proposed by the variation will be inadequate in providing enough distance to enable such an exception to screening. It also submits that a 1.8m high solid fence; or a 2m wide landscaping strip along the full length of any side or rear boundary adjacent to a Plains Zone is still fairly inadequate to provide protection to the rural production activities.
- 11.4. In response to these submissions are the further submissions as follows:
- 11.5. **Development Nous (FS1) support** the submission from Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6) to remove the 25% frontage landscaping standard and seek that this submission be allowed.
- 11.6. The further submissions from **David Osborne (FS2), Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (FS9) and Development Nous (FS1) oppose** the Villa Maria Estate Limited (Submission 7) which seeks stronger amenity controls along Omaha Road and seek that this submission be rejected.
- 11.7. The further submissions from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (FS13), and J & V Currie Family Trust, S Currie Family Trust, Hustler Equipment Ltd, S**

Currie, J Currie (FS6) oppose the Hawke's Bay Fruitgrowers submission to maintain the screening requirement along the boundary of the Industrial zone with the Plains zone, and seek that it be rejected.

ROAD FRONTAGE LANDSCAPING AND AMENITY

Section 42A report

11.8. The section 42A report observes that the submissions represent a wide range of views on the level of landscape planting and screening necessary to address visual amenity, from wanting no landscaping at all, to stating that there are not enough landscaping and design controls and that more should be done to maintain visual amenity. Hawke's Bay Fruitgrowers Association's focus is more on the benefits of screening to buffer rural activities from industrial activities.

11.9. The report states that the Variation proposes a lesser requirement for landscaping and screening than that proposed in the Plan (as notified). Under the Proposed District Plan as Notified (2013) a requirement for landscaping along the full length of the Omahu Road frontage (with exception to driveways) and no exception for screening along the interface with the Plains zone was proposed.

11.10. The report identifies the following relevant objectives, policies and environmental outcomes:

Objectives IZO2 and IZO3 refer to avoiding or mitigating adverse effects on the environment and maintaining acceptable amenity levels respectively.

11.11. Policy IZP 9 seeks to specifically implement these objectives in terms of landscaping as follows:

IZP 9 Require the provision of on-site landscaping along front boundaries in industrial areas located along the high profile arterial routes which provide an entrance to the Hastings urban areas.

Explanation: Industrial activities along high profile arterial routes such as Omahu Road and the Southern Expressway can create reduced visual amenity for visitors entering the Hastings Urban areas. On-site landscaping will help to break the visual monotony of large buildings,

industrial yards, and carparks. The cumulative effect of such landscaping will be to enhance the visual amenity of the District's highly visible industrial areas.

11.12. Objectives IZO1 and IZO4 seek to 'facilitate the efficient and optimum use of industrial resources' and 'the efficient and effective use of resources'.

11.13. The environmental outcome sought by Landscaping Standard 14.1.6A.4 is that 'landscape plantings will help maintain the amenity of industrial sites and provide a visually coherent streetscape whilst not unduly enclosing road corridors'.

11.14. The environmental outcome sought by the Screening standard (14.1.6A.5) states that 'Industrial activities adjoining Open Space, Residential or Plains Zones will have a pleasant appearance'.

11.15. The Section 32 report for Variation 1 has considered the objectives, policies and methods as follows:

The standard as Proposed in the Variation seeks to achieve Policy IZP9 in requiring landscaping along the front boundary to enhance the visual amenity of Omahu Road as an important entrance to Hastings. The landscaping is however required along only 25% of the boundary but to a 3m, rather than 2m, depth. This will allow property owners to utilise the profile of their property to Omahu Road (optimum and effective use of industrial resources achieving objectives IZO1 and IZO4) without it being obscured by landscape plantings, while ensuring that meaningful portions of the frontage are landscaped to achieve the amenity objectives of IZO2 and IZO3 and policy IZP920.

11.16. Mrs Gaffaney has commented in the section 42A report that the landscaping as proposed in the Variation (being 25% of a property frontage at a depth of 3 metres), is a considerable compromise from a requirement for the full frontage to be landscape planted. The 3 metre depth allows for 'meaningful' planting whereby plants have a greater land area in which to thrive.

11.17. She also considers that

²⁰ EMS Report page 76.

- acknowledgment of the significance of gateways to a city or town is one way to enact principles of urban design;
- The significance of this gateway is identified in Policy IZP 9 (above).
- While Villa Maria Estate also considers Omahu Road to be a gateway to Gimblett Gravels winegrowing area it is also flanked by a well-established, large industrial area to the south side of Omahu Road and the proposed zone will effectively mirror the existing General Industrial zone out to Kirkwood Road. This area has been identified for Industrial purposes since 2003 in the Industrial Strategy.
- Policy IZP 9 also acknowledges that Industrial zones, by nature have large (often unadorned) buildings, industrial yards and large car parking and maneuvering areas.

11.18. Mrs Gaffaney has concluded that the provisions as proposed strike an appropriate balance between acknowledging the area as a high profile entrance to Hastings urban area with some landscape planting enhancing amenity and the practicable needs to be a functional industrial area, including for businesses requiring profile from the road.

11.19. She has also raised an unintended outcome arising from the manner in which landscaping standard 14.1.6A.4 is drafted, such that it is applying the 25% frontage landscaping requirement to all industrially zoned areas of the District. However, this is not within the scope of the variation which applies only to the area subject to rezoning (the northern side of Omahu Road) as per the planning maps accompanying this Variation. Therefore an amendment to the drafting of this standard would clarify that this applies only to Omahu Road.

Evidence

11.20. While Mr Lawson made a brief submission on behalf of his clients who are opposed to the provision of any landscaping on Omahu Road, we had no expert evidence on this matter.

11.21. Ms E Taylor, a viticulturalist, read evidence on behalf of Villa Maria Estate Limited. The main issues that were highlighted by Ms Taylor or addressed in response to questions from the Commissioners included:

- The evidence related to Issue 7 “Visual Amenity” and not Issue 8 “Vehicle Access Crossings” on which they had also submitted.
- She referred to Landscaping Standard 14.1.6A.4, noting that this did not explicitly state that a high standard of landscaping was to be installed on a site and that it also needed to be maintained.
- There were high profile dry industries in this area and existing landscaping on some sites was either minimal or non-existent.
- The Commissioners commented that Villa Maria's submission did not include much detail as to how Variation 1 could address this issue and Ms Taylor was asked if she could see a way in which the amenity level for the whole Omaha strip could be put in place, given the situation with the existing sites.
- Ms Taylor responded that Villa Maria felt the Commissioners should make use of the potential they had before them to put changes into place and not just say “the horse has bolted”.
- She suggested a condition be added regarding maintenance, particularly watering the landscaping. A list of suggested species of planting and visual height guidelines would also be useful.
- Apart from planting, the size and location of buildings could also be taken into account under the issue of visual amenity.

FINDINGS

11.22. From our observation of development along the existing industrial strip, landscaping varies in quality and quantity. It is our view however, that the amenity of the zone is enhanced by landscaping and that the required quantum is modest, particularly in the light of the considerable enlargement of the industrial zoning when compared with the original proposal under PC57. However, it is beyond the scope of submissions or our powers to recommend a greater quantum of landscaping than that specifically requested.

11.23. On the basis of the assessment undertaken by Mrs Gaffaney, and against matters contained in District Plan Policy IZP9 and the relevant

Environmental Outcomes for Landscaping, the provision of 25% landscaping along the frontage of Omaha Road at a depth of 3 metres is considered to meet Objectives IZO2 and IZO3, and Policy IZP 9, though clarification is necessary to ensure that it applies only to Omaha Road.

11.24. While we agree with Ms Taylor that the Plan should require the maintenance of landscaping and that planting guidelines are a useful tool to encourage the use of appropriate plant species, we see this as a matter which should be addressed in a more holistic way, for all areas and zones in the District where amenity planting is required. The Council has the means to enhance gateways to particular parts of the District by improvements within road corridors and this could be undertaken in tandem with landscaping on individual sites. We also note that the Council has monitoring and enforcement powers which could be utilised to ensure that a higher level of compliance with landscaping rules is achieved.

SCREENING ALONG THE INTERFACE WITH THE PLAINS PRODUCTION ZONE

Section 42A report

11.25. The section 42A report highlights an excerpt from the section 32 assessment, in which it is clear that the justification for exempting the provision of landscaping from the boundary with the Plains Production zone was the anticipated provision of amenity plantings within the infiltration basin/services corridor.²¹

11.26. More recent advice from the Council's engineers is that the only landscaping allowable within the servicing corridor will be grass, not shrubs or trees as indicated on the preliminary concept of the corridor. The reason provided for this change is that shrubs and trees would impede the functionality of the corridor and require too much additional maintenance.

11.27. Mrs Gaffaney considered that the screening provisions as notified for the Variation, are not now deemed appropriate to meet the required environmental outcome of the standard and to give effect to Policy IZP8 which states:

²¹ section 32 Report for Variation 1 (page 76)

"New industrial development is to be designed and operated in a manner which does not detract from the existing amenity levels of the surrounding environment nor result in cumulative effects that lower surrounding amenity levels over time".

11.28. She commented that throughout the industrial zones there is a requirement for screening adjacent to Plains Production, Residential or Open Space zones to maintain amenity and pleasantness of place. This proposed zone has an interface with the Plains Production zone of approximately 3.2 kilometres in length. Given that engineering advice is that planting cannot now occur within the Service Corridor (which is different from that consulted on and assumed in the preparation of the Variation), she considered that it would be prudent and consistent to apply the screening requirement, as sought by the Hawke's Bay Fruitgrowers' submission.

Evidence

11.29. Mr Lawson's submission sought deletion of any required landscaping or screening on the basis that provision of a 1.8m high solid fence or a 2m wide landscaping strip "did not make sense" and would be expensive and unnecessarily obtrusive to both the industrial and adjacent Plains Production Zone.

11.30. Ms Vesty indicated her support for the recommended reinstatement of the rule requiring either a 1.8m high solid fence or 2m landscaping, but qualified that statement by her comment that this is still inadequate to provide reverse sensitivity protection for rural production activities and *"it is only the distance provided by the presence of the 30m (sic) swale which makes the lack of a shelter belt requirement acceptable in this instance. Normally the presence of screening in the form of shelter belts provides much more than just visual amenity. Shelter belts give more protections for cross boundary reverse sensitivity issues and help to prevent the adverse impacts of which can have impacts on the quality of the land for food production."*

Council Response

11.31. Mr O'Callaghan responded to this issue in the Council's reply. He told us that fencing along the northern boundary of the swale was always envisaged but that owing to maintenance concerns, landscaping within

the swale was no longer proposed and there would be risks arising from tree falls if larger plantings were undertaken. The issue is the boundary between the industrial zone and the corridor. Planting would have to be undertaken inside the industrial zone boundary and he did not consider that this was required for visual amenity or security. However, he was of the opinion that some form of barrier was desirable to prevent 'creep' from activities within the industrial zone on to the corridor and could be in the form of a standard 7-wire fence.

FINDINGS

11.32. We were faced with conflicting opinions from Council officers regarding the amenity benefits of screening along the rear and side boundaries of industrial land at the Plains Production zone interface. We concur with Mrs Gaffaney and Ms Vesty that some amenity planting is desirable, and that this should be required (as proposed) where industrial sites do not abut the service corridor but have side or rear boundaries adjacent to the Plains Production zone. On balance, we find that the service corridor provides an adequate buffer between industrial land and the Plains Production land, and that screening for amenity purposes along the boundary with the service corridor would have little added benefit. Some form of demarcation between the service corridor and the zone is nonetheless necessary to ensure the avoidance of 'creep.'

11.33. We also recognise that loss of amenity can occur from the use of land at the rear of industrial properties for container, pallet and waste storage and for these reasons we have concluded that the most efficient and effective option for managing adverse effects is a rule requiring a fence, which may be a standard 7-wire fence or something more substantial if desired by the owner of the industrial land. The 2m provision of landscaping is equally appropriate, as long as the minimum requirements are adhered to. To ensure that access is available for firefighting, a further minor amendment has been recommended to require provision for a 4m gap in any landscape strip.

11.34. However, as the recommended amendments to Standard 14.1.6A.5 will not require full screening of the boundary between industrial and Plains Production activities, we have also recommended that there be no change to the required 5m building setback from boundaries as discussed under Issue 12.

11.35.RECOMMENDATION – VISUAL AMENITY

- A) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** seeking that the landscaping standard 14.1.6A.4 as applies to Omaha Road be removed, **be REJECTED**; insofar as this standard remains but with the following amendment pursuant to Clause 16 of Schedule 1 of the RMA to clarify that the 25% to 3m depth only applies to Omaha Road North:

14.1.6A.4 LANDSCAPING

- (a) The full length of each front boundary (excluding vehicle entrances) shall be landscaped for the minimum width identified below; **except for boundaries fronting Omaha Road (North), where a minimum of 25% of the length of each front boundary (excluding vehicle entrances) shall be landscaped for the minimum width identified below:**

Areas	Minimum Width
Irongate	
Area Boundaries adjacent to State Highway 50A	Nil
All other instances	2.5 metres
All other General Industrial Areas	
Sites opposite or adjacent to a Residential Zone	2 3 metres
Boundaries adjacent to Kirkwood Road	5 metres
Boundaries adjacent to Omaha Road (North)	3 metres
All other instances	Nil

- B) That as a consequence of recommendation A) above the further submission from **Development Nous (FS 1)** in support of the submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** **is REJECTED**.
- C) That the submission of **Villa Maria Estate Ltd (Submission 7)** to 'Oppose the variation until such time as satisfactory provisions are included in the variation to ensure any buildings are designed to respond to the surrounding amenities. That screening and landscaping controls provide for surrounding amenities as this is the gateway to

the Gimblett Gravels winery area', **be REJECTED**; insofar as no additional landscaping requirements are added to those already included in standard 14.1.6A.4.

- D) That as a consequence of recommendation C) above the further submissions from **David Osborne (FS 2), Development Nous (FS 1) and Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (FS 13)**, **be ACCEPTED**.
- E) That the submission of **Hawke's Bay Fruitgrowers (Submission 12)** seeking that Standard 14.1.6A.5 be amended to remove the screening exception along the designated stormwater infiltration basin corridor, **be REJECTED**, and the following amendments be made (deletions are bold and struck through):

14.1.6A.5 SCREENING

All other Internal boundaries adjacent to a Plains zone

Either a 1.8m high solid fence; or a 2m wide landscaping strip shall be provided along the full length of any side or rear boundary adjacent to a Plains Zone. **This requirement does not apply to boundaries adjacent to the designated stormwater swale corridor in the Omahu North General Industrial Zone.**

Omahu North: All boundaries adjacent to the designated stormwater swale corridor in the Omahu North General Industrial Zone

Either a 1.8m high ~~solid~~ fence, **which may be a standard 7-wire fence** or a 2m wide landscaping strip shall be provided along the full length of any side or rear boundary adjacent to a Plains Production Zone. **A 4m wide gap shall be provided in the landscaping strip to allow access for firefighting.**

- F) That as a consequence of recommendation E) above the further submissions from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (FS13), and J & V Currie Family Trust, S Currie Family Trust, Hustler Equipment Ltd, S Currie, J Currie (FS6)** **be REJECTED**.

REASONS - VISUAL AMENITY

- 1. That District Plan Policy IZP 9 and the relevant Environmental Outcomes for Landscaping, which in turn give effect to objective IZO2 and IZO3 necessitate that there be a landscaping requirement along the Omahu Road frontage. As per the section 32 evaluation for Variation 1, the requirement for 25% of the frontage of Omahu Road of each site to be landscaped to a depth of 3 metres achieves an appropriate balance between enabling the intended form of development and achieving the amenity objectives and policies of the Plan.**
- 2. With regards to screening, based on the new information from engineers regarding the exclusion of any trees or landscaping from the design plans for the stormwater infiltration basin corridor, screening is not required for amenity purposes between the industrial boundary and service corridor. The amended requirement for landscaping/ fencing along the stormwater infiltration basin boundary is now a more appropriate method, having regard to the possible need for emergency access between the infiltration basin boundary and the adjacent industrial land.**

12. ISSUE 8 SAFETY REQUIREMENTS FOR VEHICLE ACCESS, INCLUDING 50 METRE MINIMUM SEPARATION BETWEEN VEHICLE CROSSINGS

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust.	FS #01 Development Nous
	FS 02 David Osborne
#10 Development Nous	FS #04 Villa Maria Estate Limited

- 12.1. The submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** and **Development Nous (Submission 10)** seek that standard 30.1.7E be removed:

‘Submission 6: Rule 30.1.7E requires a minimum separation of 50 metres between vehicle crossings. This separation is unnecessary, inefficient, and unworkable and it is noted that none of the existing development along Omahu Road would meet this criteria. There should be no separation between vehicle crossings.’

‘Submission 10: The access separation standard should be removed and the separation of vehicle accesses should be left as a function of the Engineering Code of Practice. Remove Standard 30.1.7E.’

- 12.2. Development Nous’s rationale for removing this standard is that there are a number of existing approved accesses that would not meet this requirement and therefore any change of use or intensification of these uses would automatically trigger resource consent in spite of being previously approved by HDC. Their submission (10) also states that smaller sites fronting Omahu Road may lose their right to develop due to adjoining sites constructing accesses close to boundaries. The submission continues to say that the other side of Omahu Road has no such rule.
- 12.3. The further submissions from Development Nous (FS 1) and David Osborne (FS 2) support Submission 6 whereas the further submission

from Villa Maria Estate Limited (FS 4) opposes Submission 10 on the basis that removing this separation distance between crossings will allow crossings in close proximity to each other and reduce necessary areas for turning off/into these sites.

- 12.4. The submission from **Villa Maria Estates Limited (submission 7)** seeks to ensure that development of this land (Omahu Road North) requires plenty of space and turning for vehicles into intersections and driveways.

Section 42A Report

- 12.5. The section 42A report comments that the standard as proposed by the Variation, which sits in the Subdivision Section of the Plan and applies to applications for subdivision is:

30.1.7E PROPERTY ACCESS

3. Access to property in General Industrial Zone (Omahu North):

- (a) All accessways to a property or properties located within the General Industrial Zone (Omahu North) shall comply with Drawing Number C38 “Pedestrian Visibility Splay” in Appendix 73.
- (b) The minimum separation distance between vehicle crossings on the same side of the road shall be:
 - (i) Omahu Road – 50m
 - (ii) Any other road – 15m

- 12.6. The policy which guides this standard is Policy SLDP10 which states:

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

Explanation

High vehicular ownership and use requires the consideration of vehicular access to newly created sites. Pedestrian access is also just as important to physically access new sites. This may require the upgrading of existing roads or the provision of new roads within the subdivision site to connect the subdivision to the District roading network. Vehicular and pedestrian access to sites must be practicable, safe and convenient for users, and should avoid adverse effects on the environment.

12.7. The report advises that HDC transport engineers consider it important to retain this standard in the Plan, for the reasons that Omahu Road is a Regional Arterial Road carrying between 13,900 – 14,200 vehicles/day, and is therefore a high volume road, with development of the Industrial zone expected to accelerate traffic growth.

12.8. This 50m minimum separation distance between vehicle crossings was a recommendation from the Traffic Impact Assessment for the previous Plan Change 57, wherein the zone was for an industrial area of 36 hectares. The proposed zone is now approximately 63 hectares in area.

12.9. The reason for this standard was stated in the section 32 report as primarily to accommodate an identified need for 151 on-street parking spaces, with minimum design standards, including exit and entrance tapers²². The comments from the transport engineer in relation to this submission state:

'Benefits associated with the standard are:

- 1. 50 metres separation would improve the pedestrian and cyclist safety by minimising the need to be aware of multiple vehicle movements close together*
- 2. Helps to reduce the number of entries to Omahu Road, thereby reduce congestion*
- 3. Endure adequate separation between conflicting movements thus ensuring adequate road safety performance is maintained*
- 4. Maximises available on street parking provision.'*

12.10. The engineers state that Point 4 is important for the following reasons:

- The industrial nature of the area means it is highly likely that on-street parking demand for long vehicles is required (a demand that is currently observed on Omahu Road)*
- Maximising on-street parking along this route could be beneficial to adjacent businesses whereby off street parking provision can be reduced this maximising the available area for commercial use*
- Council encourages a single entrance per property even in Industrial areas unless the need for more accesses is well established*

²² As a result of a parking demand study done as part of the Traffic Impact Assessment for Plan Change 57

- *It is prudent to limit access to a high volume road as it can increase safety*
- *Drivers would have sufficient time to react to a vehicle movement on an access. Short distances would reduce driver's ability to react.*
- *Pedestrian safety is ensured by longer separations than accesses closer together, especially in an urban context.*

12.11. In essence, longer separations minimise conflict points and ensures a safer environment for all road users. The previous submissions report on PC 57 said that the separation distance was calculated on the ability to have one truck being parked between accesses and still have minimum sightlines.

12.12. It is noted that there is no environmental outcome in the Plan to accompany the above standard and to assist Plan users with the reason for the standard, the addition of an outcome is considered to be beneficial.

Evidence

12.13. The statement from Mr Holder on behalf of Raupare Partnership and others did not agree with the conclusions in the section 42A report that the proposed 50m rule should remain in place. Mr Holder considered that a number of existing properties would not comply and "*any change of use or intensification of these uses would automatically trigger resource consent....and this is not an efficient or wise use of the industrial resource*". Mr Holder also thought that smaller sites would potentially lose their right to develop as a result of adjoining sites having their access crossings close to boundaries. He considered that unnecessary additional costs and delays could be incurred by some landowners and pointed out that there are no controls on the industrial zone on the opposite side of Omahu Road. He also challenged the reasoning behind the rule to enable parking to be provided along the road.

12.14. In response to questions, he conceded that intensification of land use and further subdivision were precisely the reasons why additional controls on the location of access points might be desirable.

FINDINGS

12.15. We were somewhat surprised by the reasoning in the section 32 report which supported the proposed rule in order to, amongst other things, ensure the ongoing availability of roadside parking. Omaha North is essentially a 'greenfield' zone in which future industrial activities will be required to provide on-site parking in accordance with parking ratios that reflect likely parking generation and which have sufficient on-site manoeuvring for industrial vehicles.

12.16. Notwithstanding that particular point, we agree with the more fundamental traffic safety reasons for ensuring adequate separation distances between vehicle crossings, as proposed. If these are not met, it is in our view entirely appropriate that an application is made for resource consent so that the location of any proposed access is assessed with proper regard for the nature of the activity, intensity of use, potential for conflicts, sight distances and the full range of criteria that are normally applied to avoid, remedy or mitigate adverse traffic effects.

12.17. We also note that a significant increase in the proposed size of the zone will likely result in greater levels of traffic generation than originally anticipated for the 36 ha zone proposed under PC 57. This is a further reason for ensuring adequate separation distances between vehicle crossings.

12.18. We therefore accept the conclusion in the section 42A report that the present standard is the most appropriate method of meeting the objectives and policies of the Plan. There is still the ability to apply for accesses that are closer than 50m apart through the restricted discretionary resource consent process. Such applications would be assessed on a case by case basis. Overall, the proposed rule is efficient and effective.

12.19. RECOMMENDATION – 50 METRE MINIMUM SEPARATION BETWEEN VEHICLE CROSSINGS

A) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust**

- (Submission 6)** seeking the removal of Standard 30.1.7E Property Access, **be REJECTED.**
- B) That as a consequence of recommendation A) above the further submission from **Development Nous (FS 1) and David Osborne (FS 2)** in support of the submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** **be REJECTED.**
- C) That the submission of **Development Nous (Submission 10)** seeking the removal of Standard 30.1.7E Property Access, **be REJECTED.**
- D) That as a consequence of recommendation C) above, the further submission from **Villa Maria Estate Ltd (FS 4)** opposing the submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** **be ACCEPTED.**
- E) That the submission of **Villa Maria Estate Ltd (submission 7)** seeking to ensure that development of this land (Omahu Road north) requires plenty of space and turning for vehicles into intersections and driveways, ***BE ACCEPTED IN PART***, insofar as standard 30.1.7E be amended to include the following Outcome (additions are bold and underlined):

<p>30.1.7E PROPERTY ACCESS</p> <p>3. Access to property in General Industrial Zone (Omahu North):</p> <p>(a) All accessways to a property or properties located within the General Industrial Zone (Omahu North) shall comply with Drawing Number C38 “Pedestrian Visibility Splay” in Appendix 73.</p> <p>(b) The minimum separation distance between vehicle crossings on the same side of the road shall be:</p>	<p><u>Outcome</u></p> <p><u>Safe access will be provided for vehicular traffic entering and exiting sites.</u></p> <p><u>The appropriate level of on-road car and truck parking can be achieved on Omahu Road between vehicle crossings.</u></p>
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(i) Omahu Road – 50m (ii) Any other road – 15m	
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REASONS – 50 METRE MINIMUM SEPARATION BETWEEN VEHICLE CROSSINGS

- 1. That removal of the 50 metre separation distance between vehicle crossings would not adequately manage traffic effects associated with the proposed industrial zone and resulting intensification of industrial activity, and in particular would not ensure a safe environment for all road users and adequate on street parking for cars and trucks.**
- 2. Resource consent is the most effective means of assessing the effects of new sites, or a change or intensification of an activity on sites, that does not meet the minimum separation distance between vehicle crossings on a case by case basis.**
- 3. Retention of the 50m separation distance as proposed is the most appropriate method to achieve the relevant objectives and policies of the Plan including IZO2 and SLDP10.**

13. ISSUE 9 - SITE SPECIFIC –AMENDMENT TO ZONE BOUNDARY ON LOT 2 DP 419221 (BAYLEY)

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust	FS #01 Development Nous
	FS 2 David Osborne

13.1. The submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (Submission 6)** seeks to amend the zone boundary (and the service corridor) on their property Lot 2 DP419221 (PID 101508). The submission to the variation itself is



Existing Alignment



Requested Alignment

Figure 13: Bayley Submission

brief, stating that the District Planning Maps are supported subject to the inclusion of the adjustment to the Service Corridor and Omaha Road Industrial zone as shown in figure 13.

- 13.2. More information is provided on their submission to the Notice of Requirement (NOR Submission 5) which is also relevant to providing context to this request. The location of the zone boundary directly behind the CNC Profile Cutting property (bottom left of map) is not 'workable' to the landowners. They submit that:

"6. The submitters are substantial growers of horticultural produce on their properties fronting onto Jarvis Road. They utilise large machinery in working 'corners' which become difficult to cultivate, become an area requiring increased weed control during growing season, require additional management input, and it becomes more difficult to irrigate an irregular boundary by creating two corners in close proximity..."

9. In addition to the benefits of avoiding increased difficulties in cultivating the balance of the land, the relocation of the service corridor to that proposed is contiguous with the much larger section of service corridor to the east, allows better integration between sections of service corridor and swale and avoids two right angle bends in water and waste water pipelines in close succession."

- 13.3. This submission is supported by the further submission from Development Nous (FS 1) and David Osborne (FS 2).

Section 42A Report

- 13.4. The section 42A report notes that the area of land involved will result in a further 0.8900ha loss of versatile soils from productive use, should the landowner develop this land for industrial activities. However, in balancing this loss of soils against the strategic importance in providing long term provision of industrially zoned land, it is considered the effects on this loss of less than a hectare (0.89ha) of soils over the Heretaunga Plains will be indiscernible.
- 13.5. The Council's Servicing Engineers have advised that the proposed realignment is significantly better than that which was notified in the Variation, for the reason that not having such 'tight' bends in close

succession is a more practicable for the movement of emergency vehicles through the corridor.

- 13.6. The report comments that the requested change to the alignment creates a consequential change in that the CNC property, which is to the front of this land and self-serviced and 100% developed, would need to be exempt from connecting to the stormwater swale within the service corridor. This would need to be identified in the Structure Plan in Appendix 17 as 'Land Subject to Exception in Standard 14.1.6A.6'.
- 13.7. The report has considered the effects of the realignment on adjacent properties, with the nearest dwelling being the property at 30 Jarvis Road belonging to Andrew and Rochelle Hope, who made an original submission on other aspects of the Variation (discussed in Issue 4). They were directly notified of all the submissions received and informed that they were able to make a further submission in opposition or support of any of the original submissions.
- 13.8. No further submission from Andrew and Rochelle Hope has been received in relation to the request from K & K Bayley et al to realign the zone boundary. The report also records that, prior to notification, a number of discussions were had with both the Bayleys and the Hopes regarding the alignment of zone boundary and corridor.
- 13.9. Although accepting the submission would result in the realigned boundary moving 47m closer to the Hope's rear boundary, there will still be a separation between these two boundaries of over 125m.
- 13.10. Mrs Gaffaney has concluded that realignment of the zone boundary, as per the submission request, is considered a practicable solution from an engineering and farming perspective, results in a relatively small area of versatile soils being rezoned and whilst it will bring the zone boundary approximately 45 metres closer to the Hope property, the amenity effects will remain appropriately managed through the provisions of the District Plan (as explained under Issue 4) as well as the 125m separation between the realigned boundary and the Hopes' property.

Evidence

- 13.11. Mr Lawson confirmed his clients' support for the recommendation to accept the submission.

13.12. No other evidence was proffered in relation to this matter.

FINDINGS

13.13. We accept the advice of Mrs Gaffaney in her section 42A report that the loss of a further 0.8900ha area of productive soils will be indiscernible and that the submission seeking realignment of the zone boundary can be accepted. In reaching this conclusion, we acknowledge that the loss of versatile soils must be weighed against the strategic importance of rezoning land in Omaha Road to enable industrial growth to occur, along with the associated long term solution for stormwater management for the Omaha North Industrial area.

13.14. RECOMMENDATION – BOUNDARY REALIGNMENT AT AMENDMENT TO ZONE BOUNDARY ON LOT 2 DP 419221

- A) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Holdings Limited, Bayley Family Trust (Submission 6)** seeking to amend the zone boundary on their property (PID 101508) as per the map below, **BE ACCEPTED and the following amendments be made to the extent of the zone and consequential amendment to the Structure Plan – Appendix 17:**



Figure 2: zone and designation as notified - 21 May 2016



Figure 2: Zone and designation as result of accepting submission 6, Issue 9



Appendix 17 Figure 1 as notified 21 May 2016



Appendix 17 Figure 1 as result of accepting submission 6, Issue 9

- B) That as a consequence of recommendation A) above the further submission from **Development Nous (FS 1)** in support of the submission from **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** **be ACCEPTED.**

REASONS – BOUNDARY REALIGNMENT AT AMENDMENT TO ZONE BOUNDARY ON LOT 2 DP 419221

- 1. That the effects of a loss of versatile soils (0.89ha) is outweighed by the strategic importance in providing long term provision of industrially zoned land with more practicable boundary alignments.**
- 2. That the proposed realignment is a more practicable solution in terms of movement of emergency vehicles through the service corridor.**

- 3. That whilst it will bring the zone boundary approximately 45 metres closer to the property at 30 Jarvis Road, the amenity effects will remain appropriately managed through the provisions of the District Plan (as explained under Issue 4) and the 125 metre separation between 30 Jarvis Road and the realigned boundary.**

- 4. That the landowners of 30 Jarvis Road have not made a further submission in relation to this submission proposal in support or opposition.**

14. ISSUE 10 - SITE SPECIFIC – BOUNDARY REALIGNMENT TO ACCESS CORRIDOR ON SECTION 1 SO 486816

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#11 Raupare Partnership	FS#1 Development Nous

14.1. The submission from Raupare Partnership (submission 11) overall supports the variation (and Notice of Requirement) subject to a reduction of the designation width and inclusion of this area as Industrial zoned land (General Industrial zone). The full submission includes maps, plans and support for the proposed amendment from engineering consultant, Ray O'Callaghan.

14.2. It states:

‘The designation as proposed is the full 24m in width with a 7m access strip containing the sewer and water mains and a 17 metre wide swale drain. However we consider that access, sewer and water main is not necessary for this property for the following reasons:

- a) The service corridor does not connect to any adjoining property;
- b) The access will not link with any other easement or designation;
- c) The cost to install the full length of the designations outweighs the benefit which is limited if any;
- d) The proposed use of the site does not require the access or services to be in the amended Omahu Road – land requirement plan and land areas Map 18 below:’ (above)



Figure 1 - Map 18 (as notified)

As part of the submission to remove the 7m access/service corridor it is proposed that this area (approximately 1953m²) which was

proposed as access and zoned Plains Production, will become part of the Industrial Zone.'

14.3. In terms of the variation side of the submission the relief sought is:

'to accept their submission of the variation and to update the relevant zoning maps and appendices including (but not limited to):

b. Appendix 17 – Omahu North Industrial Area

i Figure 1 - Structure Plan

c. Changes to Planning Maps

14.4. This submission is supported by the further submission from Development Nous (FS#01).

Section 42A Report

14.5. The section 42A report records that the requested amendment to the designation has been discussed between the Requiring Authority's engineer and the submitter. Whilst it is possible to accommodate this request, it will mean that the rear of the site between Raupare Road and the eastern boundary of the site would be prevented from future subdivision. The submitters are aware of this and have indicated that it is their intention to build a coolstore in this location. Provision for stormwater access will need to be taken into account in the design of the coolstore, as stormwater from future development along the Omahu Road frontage of the site would need to be conveyed into the stormwater infiltration basin. This access could be secured by way of an agreement between HDC and the landowner (outside the District Plan).

14.6. The report refers to Mr O'Callaghan's statement attached to the submission, in his role as engineering advisor to the submitter, that if no new site is to be created in the rear corner of the property, access to water and sewage services would be able to be provided from both Omahu and Jarvis Roads. However, the submitter must remain aware that, if new sites are to be subdivided along the Omahu Road frontage for commercial service activities, there will still be an obligation for stormwater from these sites to be conveyed to the stormwater infiltration basin. Provision for such stormwater access needs to be taken into account in the design of the coolstore.

14.7. The area of land involved is approximately 1,953m² and is currently zoned Plains Production. The section 42A report concludes that as this piece of land was to be 'lost' to orcharding (for the purposes of the Service Corridor) in any case, it does not result in any further loss of versatile soils to productive activities. It is concluded that the proposal will 'work' from a servicing perspective; that there will be no additional loss of versatile soils; and that this is effectively the end of the proposed industrial zone. No other land to the east of Raupare Road is required to be serviced and for all these reasons the impact of allowing this submission does not affect the objectives of the Plan.

Evidence

14.8. Mr Holder made a brief statement on behalf of Raupare Partnership confirming support for the reporting planner's recommendations.

FINDINGS

14.9. We accept the fact that there is no fundamental opposition to the request from either the Council as Requiring Authority for the NOR, or in the section 42A report. In order to ensure that there is a record of the need to make appropriate provision for future development of the Omahu Road frontage and associated stormwater discharge to the infiltration basin, we have recommended the inclusion of a condition on the designation, as set out in our report on the NOR, requiring suitable protection of access to the infiltration basin.

14.10. RECOMMENDATION – BOUNDARY REALIGNMENT - SERVICE CORRIDOR ON SECTION 1 SO 486816

A) That the submission of **Raupare Partnership (submission 11)** seeking to remove the 7 metre wide access/water/waste water strip on their property SECTION 1 SO 486816 (PID 55033, ***be ACCEPTED*** and the following amendments be made to the extent of the zone and consequential amendments to the Structure Plan – Appendix 17:



Figure 4 - zone and designation as notified 21 May 2016

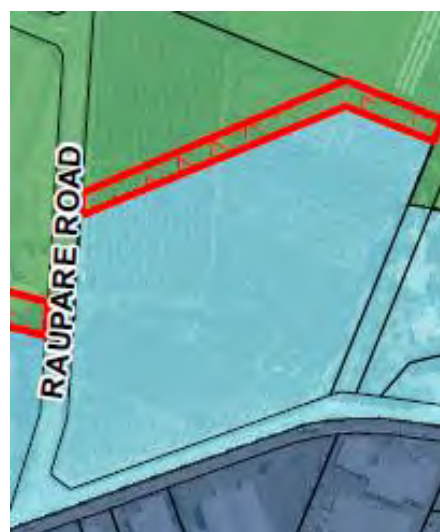


Figure 4 - zone and designation as result of accepting submission 11, Issue 10



Appendix 17 Figure 1 as notified 21 May 2016



Appendix 17 Figure 1 as result of accepting submission 11, Issue 10

- B) That as a consequence of recommendation A) above, the further submission from **Development Nous (FS 1)** in support of the submission from **Raupare Partnership (submission 11)** ***is also ACCEPTED.***

REASONS – BOUNDARY REALIGNMENT SERVICE CORRIDOR ON SECTION 1 SO 486816

- 1. That there will be no additional loss of versatile soils to production as a result of this change, as the land in question was to be designated as an access corridor to serve the industrial zone and already counted as a loss of approximately 1,953m² of versatile soils.**
- 2. That the proposed zone boundary realignment still enables a practicable engineering solution for water supply and waste water access to the site (via Raupare Road), though it will restrict any future subdivision in the back eastern corner of the site.**
- 3. That allowing this submission is appropriate in regards to the objectives of the District Plan.**

***NOTE: ISSUE 11 RELATED TO A SUBMISSION BY UNISON NETWORKS,
WHICH WAS WITHDRAWN PRIOR TO THE HEARING***

15. ISSUE 12 GENERAL PERFORMANCE STANDARDS (SETBACKS, SCREENING, HEIGHT IN RELATION TO BOUNDARY)

Table of Submitters and Further Submitters

Submitter	Further Submitter (FS)
#06 Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust.	FS #01 Development Nous
	FS 2 David Osborne
#12 Hawke's Bay Fruitgrowers Assn	n/a

Note: the Hawke's Bay Fruitgrowers Assn submission relating to screening (Standard 14.1.6A.5 SCREENING) has also been identified and evaluated in Issue 7 and is therefore not now included under Issue 12.

Height In Relation To Boundary - Standard 14.1.6A.2

- 15.1. The submission of **Hawke's Bay Fruitgrowers Assn (submission 12)** seeks to amend the Height in Relation to Boundary standard as follows:

14.1.6A.2 HEIGHT IN RELATION TO BOUNDARY

(a) On any boundary with a site zoned Plains, Rural, Residential or Public Open Space, buildings shall not project beyond a building envelope constructed by recession planes from points 2.75 metres above the boundary. The angle of such recession planes shall be determined for each site by use of the recession plane indicator in Appendix 60.

Note 1: EXCEPT In the case of the boundary of the Omaha North General Industrial Zone with the designated stormwater swale and / or access corridor, the recession plane calculation shall be from the Plains Production Zone side of this designated corridor.

Setbacks - Standard 14.1.6A.3 - Internal 5 metre Yard

- 15.2. The submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** seeks that standard 14.1.6A.3 Setbacks - Internal Yards be amended:

'Rule 14.1.6A.3 provides for 'internal Yards of 5 metres for boundaries adjacent to Open Space or 'Plains Zone'. The submitters seek that this provision not apply to sites where the boundary in question is adjacent to the designated stormwater swale and or access corridor. They suggest that this could be achieved by excluding those boundaries from the yard requirement or by having a note similar to note 1 to rule 14.1.6A.2 so that the yard is measured form the Plains side of the designated corridor.

- 15.3. The further submission from Development Nous and David Osborne are in support of Submission 6.

Storage Setbacks - Standard 14.1.6A.3

- 15.4. The submission of **Hawke's Bay Fruitgrowers Assn (submission 12)** seeks the following amendment to standard 14.1.6A.3 Setbacks, as follows:

Storage Setbacks

No structure shall be erected or item/s stored in manner that exceeds a height of 1.5m from ground level within 2m of a boundary adjacent to a Residential, Open Space or Plains Zone¹.

Note 1 EXCEPT: In the case of the boundary of the Omahu North General Industrial Zone with the designated stormwater swale and ~~for~~ access corridor, this storage setback rule shall not apply as the designated corridor will ensure a physical separation from industrial activities to adjoining Plains Production Zone properties. For the avoidance of doubt, this exemption does not apply where there is an easement for underground service connections only.

Section 42A Report

- 15.5. The section 42A report explains that the applicable provisions are 'Notes' applying to the performance standards referred to above in the Fruitgrowers Association submission, and Standard 14.1.6A.3 Setbacks that is the subject of the K and K Bayley and others submission, which requires a building setback of 5m from boundaries adjacent to Open Space or Plains Production zoned land. The manner in which the 'notes' have been written is intended to be a regulatory method and the decision sought by this submission is considered valid in this regard.

- 15.6. The **Bayley et al submission (Submission 6)** considers that the 5 metre internal yard applying to buildings in the industrial zone is not necessary by reason that there will be a service corridor between the zones that will provide a sufficient physical separation between rural and industrial activities.
- 15.7. The section 42A report identifies the following environmental outcome for this standard in the Plan:
The provision of suitable setbacks in order to separate incompatible activities and to facilitate the establishment of planting and screening.
- 15.8. The purpose of the above standard is therefore considered to be the provision of a suitable separation distance between industrial buildings and the rural and recreational activities that occur in the Plains Production zone and Open space zone.
- 15.9. The report considers that the service corridor will provide a considerable separation between the industrial and rural activities (24 metres or 7 metres). The additional 5 metre yard setback brings that distance to 29 metres, or 12 metres at the narrower parts of the corridor.
- 15.10. The report comments that the yard setback is intended to apply in situations when there is no buffer area between the rural properties and the Industrial Zone properties. That said, the variation already provides an exception to the requirement for screening of the industrial zone (under 14.1.6A.5), to which Hawke's Bay Fruitgrowers Assn object and to which we have recommended further amendments to require a standard 7 wire fence rather than a solid fence for reasons discussed under Issue 7.
- 15.11. The report evaluates the section 32 report rationale for not requiring amenity planting along the industrial zone boundary owing to the expected inclusion of amenity plantings within the service corridor. However, as discussed above, this is no longer the case and there will be no amenity planting in the corridor.
- 15.12. The report observes that "*Though optimising the use of the industrial land by having a lesser yard setback is an economic benefit, this is*

partially achieved by the outdoor storage exemption" and considers a number of matters that have a bearing on whether or not the yard is still appropriate and necessary. These include:

- Doing away with the 5m yard needs to be balanced with 'practicalities' (or social wellbeing).
- Now that no screening is to be provided in the designated areas to the rear of the zone, a yard setback is appropriate to lessen the effects of building bulk.
- The outdoor storage exemption helps enable the economic use of this land.
- There are a number of instances where the boundaries to the Plains Production Zone from the Omahu North General Industrial Zone directly adjoin, with no designated corridors (neither the stormwater infiltration basins nor the access corridor). Examples of this are all of those sites identified in Appendix 17 – Figure 1, as 'Land Subject to Exception in Standard 14.1.6A.6'.

15.13. The report concludes that after weighing up the intent and purpose of the screening and setback provisions to separate 'incompatible' activities and to achieve amenity considerations, along with the requests of the submissions, the considerable physical separation that the designated service corridor will provide and the change in stance on landscape planting inside the service corridor; it is considered that both submissions have merits, though the most appropriate outcome is considered a reinstatement of the screening requirement along the boundary and a lesser yard setback (except for where there are no designated corridors along the zone boundary).

Evidence

15.14. Mr Lawson's submission on behalf of K and K Bayley et al confirmed support for a reduction in the required 5m yard to 3m adjacent to the service corridor.

15.15. No other evidence was presented specifically in relation to Issue 12; however, we have taken into consideration the points raised by Ms Vesty that have been referred to under Issue 7.

FINDINGS

15.16. Having determined that amendments to the screening requirements will provide a more efficient and effective option for firefighting and functional reasons in relation to the service corridor, we find that retention of a 5m building setback is necessary to maintain an adequate level of amenity between industrial activities and the adjacent zone, notwithstanding the open space afforded by the presence of the service corridor as this will be only 7m in several locations. We are also of the view that a 5m setback provides a more usable space within industrial sites than a lesser yard, and is therefore a more efficient and effective option.

15.17. RECOMMENDATIONS – GENERAL PERFORMANCE STANDARDS

- A) That the submission of **Hawke’s Bay Fruitgrowers Assn (submission 12)** seeking amendments to 14.1.6A.2 Height in Relation to Boundary **be ACCEPTED**; insofar as the Plan is amended as follows:

The following changes made (deletions are struck through and additions are bold and underlined):

14.1.6A.2 HEIGHT IN RELATION TO BOUNDARY

(a) ... for each site by use of the recession plane indicator in Appendix 60.

~~Note 1:~~ **EXCEPT** *In the case of the boundary of the Omaha North General Industrial Zone with the designated stormwater swale and / or access corridor, the recession plane calculation shall be from the Plains Production Zone side of this designated corridor.*

- B) That the submission of **Hawke’s Bay Fruitgrowers Assn (submission 12)** seeking amendments to 14.1.6A.3 Setbacks **be ACCEPTED IN PART**; insofar as the Plan is amended as follows:

The following changes made (deletions are struck through and additions are bold and underlined):

14.1.6A.3 Storage Setbacks...

~~Note 1~~ **EXCEPT**: In the case of the boundary of the Omaha North General Industrial Zone with the designated stormwater **infiltration basin** and ~~for~~ access corridor, this storage setback rule shall not

apply as the designated corridor will ensure a physical separation from industrial activities to adjoining Plains Production Zone properties. For the avoidance of doubt, this exemption does not apply where there is an easement for underground service connections only.

- C) That the submission of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (Submission 6)** seeks that standard 14.1.6A.3 Setbacks - Internal Yards provide for a reduced building setback of 3m from the Omahu Road service corridor **be REJECTED** and that no change is made to the required building setback of 5m adjacent to Open Space or Plains Zone boundaries.
- D) That as a consequence of D) above, the further submission from **Development Nous (FS01)** and **David Osborne (FS 2)** in support of **Kevin & Karen Bayley, Totara Hastings Limited, Rimu Hastings Limited & Bayley Family Trust (submission 6)** submission, **be REJECTED**.

REASONS

1. That in weighing up the intent and purpose of the screening and setback provisions to separate 'incompatible' activities and to achieve amenity considerations, along with the requests of the submissions and taking into consideration the need to enable the service corridor to operate efficiently, the most appropriate outcome is considered to be a relaxation of the screening requirement along the boundary and retention of the required building setback adjacent to the Plains zone boundary.

DATED AT AUCKLAND THIS 14TH DAY OF MARCH 2017



JENNY HUDSON
(CHAIRPERSON)



ALAN PATTLE
(COMMISSIONER)

