

Variation 2:
Irongate Industrial
Rezoning



Hearing Held Friday 2 December 2016

Heard by Independent Commissioners comprising:

Chair: Jenny Hudson

Alan Pattle

Attended by:

Hastings District Council Staff:

Environmental Policy Manager (R Wallis)

Reporting Planner (S Morgan, Sage Planning Ltd)

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 Dasent, Federated Farmers of New Zealand

D Vesty, Hawke's Bay Fruitgrowers Association Inc

E-A Powell, Hawke's Bay Regional Council

Dr N Jones, Hawke's Bay Population, HBDHB

J Roil, Hawke's Bay Project Management –
represented a number of submitters (listed below):

- Jara Family Trust
- Brendon Cane
- Jason Heard
- David Healey
- Greg Harman

D Woods, for Hawke's Bay Project Management

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

- Development Nous

- Mike Walmsley
- John and Rose Roil
- Carrfields Investments Limited
- Tumu Timbers Limited
- Navilluso Holdings Limited

Information tabled and read into the record:

The following submitters advised they would not be attending the hearing: J Altham, Sunfruit Orchards Limited and HW Richardson Group.

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		3	#11 Hawke's Bay Project Management
Issue 3	General Industrial Zone (Irongate Area), Minimum Lot Size	4	#4 M Walmsley Ltd
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			#6 Carrfields Investments Ltd
			#7 Tumu Timbers Ltd
			#8 Navilluso Holdings Ltd
			#9 Development Nous Ltd
Issue 4	Section 14.1.5 Rule G15 – Sale or Hire of Machinery	5	#4 M Walmsley Ltd
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Issue 12	Minor Errors		-

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
NPSFM	National Policy Statement - Freshwater Management (2014)
NOR	Notice of Requirement
PC 50	Plan Change 50
PDP	Proposed District Plan
Section 42A report	Planning officer's report, prepared under section 42A of the RMA
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
SMP	Stormwater Management Plan
Swale	has the same meaning as 'infiltration basin' for the purpose of this report
TANK	The Tutaekuri Ahuriri Ngaruroro Karamu catchment

1. INTRODUCTION

- 1.1 This report relates to the proposed rezoning of land from Deferred General Industrial under the Proposed District Plan 2015 to General Industrial Zone (Irongate).
- 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 2 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.
- 1.4 **Procedural Matters**
- 1.5 Scope of Variation
- 1.6 In terms of the scope of the Variation, 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 Omahu North and Irongate. The specific amendments that are the subject of the two variations are shown as highlighted text in the Decision Version (for Omahu North only) and in red font in the Variation documents. 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.
- 1.7 Additional Information
- 1.8 The hearing was adjourned 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 Dr N Jones (HBDHB) and J Roil (HB Project Management) regarding the GNS Report on Groundwater in relation to Variation 2, at

which time we were satisfied that we had sufficient information to determine the matter and make our recommendations to the Council.

2.0 THE PROPOSED VARIATION

2.1 Background

- 2.2 The background to the Proposed Variation is well documented in previous reports, including in the section 32 analysis and the section 42A report on the Variation prepared by Mrs Stella Morgan. A short description of key facts is outlined here to provide a context for our recommendations.
- 2.3 The Council initiated a plan change (PC 50) 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 at Irongate for industrial development. The plan change was adopted in 2011. Reviews of the overall strategic direction for provision of industrial land have taken place from time to time, both before and since the adoption of PC 50 and have endorsed the zoning of land at Irongate for large scale dry industry.¹ The section 42A report also refers to its embodiment in the RPS (Chapter 3.1 Managing the Built Environment).
- 2.4 The rezoning took the form of a two-stage deferred zoning, as the area does not have suitable three waters infrastructure in place that would have enabled a change in land use to occur immediately. As part of PC 50, full reticulation of stormwater, wastewater and potable water systems was envisaged, which necessitated the staging of development.
- 2.5 The plan change was made operative and its provisions carried forward into the Proposed District Plan. In the meantime, it has become apparent that development in the zone has not occurred in line with what was intended. One of the key issues, and constraints on development, is the cost of reticulated infrastructure which was to be funded by development contributions. Landowners have made it clear that these contributions have been a significant impediment to development. Meanwhile, some 'ad hoc' consents have been granted, notably, a decision of the Environment Court² granting consent to the establishment of an industrial workshop building and canopy for the construction, storage and sale of prefabricated residential and

¹ the section 42A report refers to a review of the Hastings District Industrial Strategy 2003 in 2009, the HPUIS in 2010 and review in 2016.

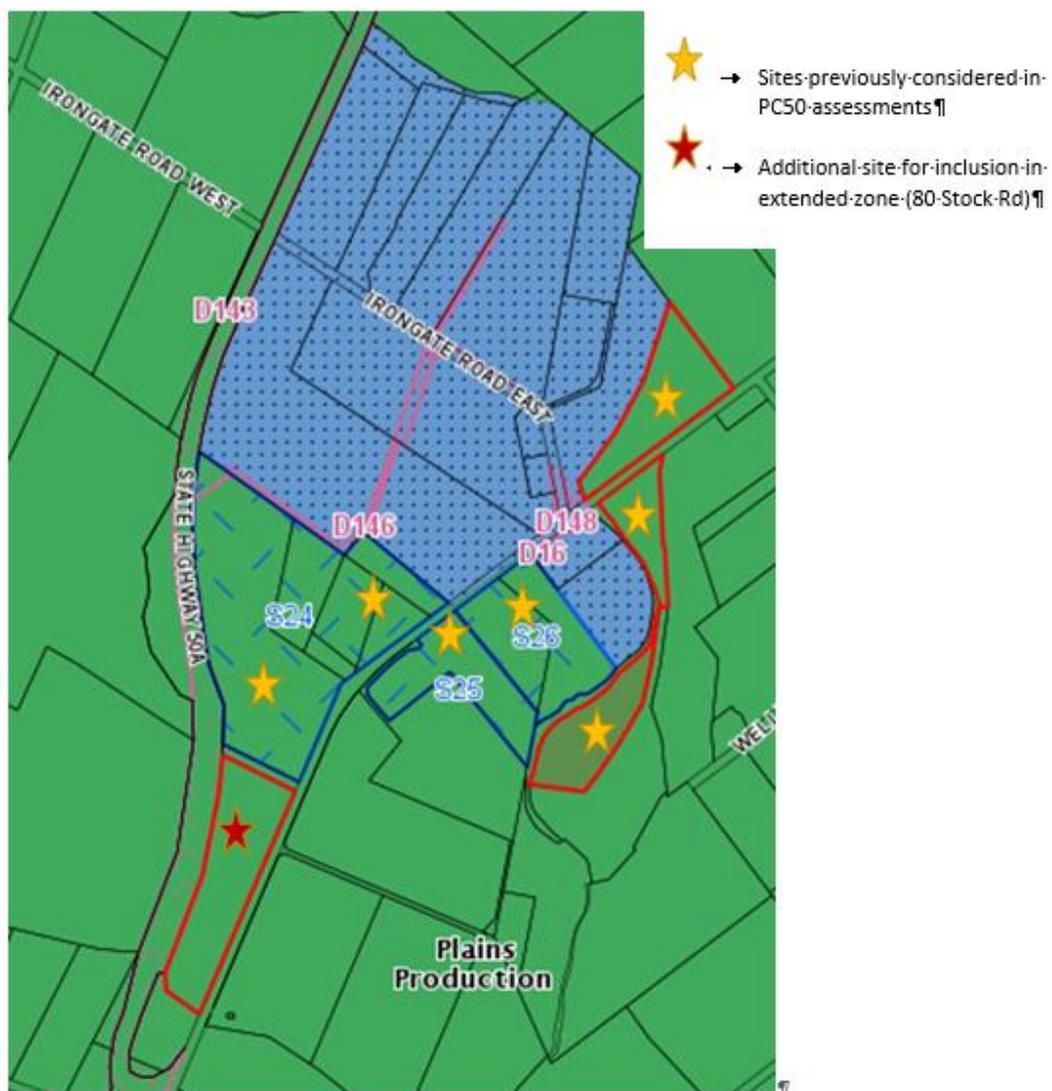
² JARA Family Trust v Hastings District Council [2015]NZEnvC208

commercial buildings, with associated offices and ancillary facilities on a 4.05ha site in Maraekakaho Road.

- 2.6 That decision made it clear that the rural character of Irongate has changed to one considered to be industrial/commercial.
- 2.7 The Council has now reconsidered servicing options for Irongate and has proposed Variation 2 on the basis that infrastructure can be provided that is less expensive than a fully networked system, primarily by allowing each site to provide its own on-site stormwater disposal. Wastewater and potable water systems will however be reticulated.
- 2.8 Other key aspects of the proposal is that staging and deferment are to be removed, and sites previously identified as scheduled sites are to be included within the zone. Altogether, including these sites, an additional 46.9 ha is to be zoned General Industrial. This brings the total area to 118 ha.
- 2.9 The Variation has been proposed on the back of expert advice sought by the Council 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, Variation 2 to the Proposed Hastings District Plan has been introduced to enable development to occur, subject to new provisions that principally relate to three waters provision.
- 2.10 In summary, the Variation involves:
- amending the zone provisions to enable individual sites to dispose of stormwater on-site;
 - replacing the 2-stage Deferred Industrial zoning with a General Industrial zoning that confers immediate development rights over the whole zone once services are available;
 - extending the zoning to include an additional 46.98 ha of land which absorbs three Scheduled Sites numbered 24, 25 and 26, resulting in consequential changes to the Plan to remove the scheduling from Appendix 26 of the PDP;
 - amending associated subdivision and land development standards;
 - inserting a definition of stormwater
 - amending the Irongate Structure Plan (Appendix 16)
 - amending the Plan Maps;
 - other consequential changes to the PDP

2.11 The Variation will therefore provide for on-site stormwater disposal, while reticulated wastewater and water infrastructure is to be provided by the HDC.

2.12 The land affected by the Variation is identified below, and distinguishes the original area proposed for rezoning under PC 50 from the scheduled sites previously zoned Industrial 6 which are now to be incorporated into the General Industrial Zone (Irongate). One further parcel of land at 80 Stock Road is also to be included as it is physically congruent with the rest of the proposed zone, is confined between two major roads (SH50A and Maraekakaho Road) and does not have high productive potential.



3.0 SUBMISSIONS

3.1 Original Submissions

3.2 Proposed Variation 2 was publicly notified on 16 July, 2016 in accordance with Schedule 1 of the Act. The closing date for submissions was 12th August, 2016.

3.3 A total of eleven (11) submissions, resulting in 17 separate submission points were received. These were summarised in the Summary of Submissions.

3.4 Ten of the submissions support the Variation subject to amendment or clarification.

3.5 The submission from **Hawke's Bay Regional Council (Submission 3)**, is neutral towards the Variation, but raises a number of concerns regarding the servicing option proposed and the relationship between the Proposed Variation 2 and the Hawke's Bay Regional Policy Statement.

3.6 Further Submissions

3.7 A summary of submissions was publicly notified and further submissions were called for on the 12th, September 2016 with a closing date for further submissions being the 24th September 2016.

3.8 A total of fourteen (14) further submissions were received. Of the further submissions 13 of the 14 further submissions are generally in support of the outcome of the Variation.

3.9 The further submission from **Hawke's Bay District Health Board (FS9)**, supports the **Hawke's Bay Regional Council (Submission 3)**.

3.10 Late Submissions

3.11 No late submissions were received in relation to this Variation.

4.0 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 statement³, 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 The National Policy Statement - Freshwater Management 2014 (NPSFM) is applicable as is the National Environmental Standard for Sources of Human Drinking Water 2007. The NPSFM requires regional 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 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. The district plan's provisions, and therefore the proposed Variation, must align with the RRMP and the RPS provisions embodied within the Hawke's Bay RRMP 2006.
- 4.5 In her section 42A report, Mrs Morgan has undertaken a thorough analysis of the relevant objectives and policies of the Hawke's Bay Regional Policy Statement⁴ in which she referred in particular to the overarching objectives 1, 2 and 3, and the objectives and policies in Chapter 3.1 relating to Managing the Built Environment. It is

³ not applicable to this variation.

⁴ section 42A report, section 6.8

unnecessary for us to repeat all of these in detail; however certain key themes emerge being:

- 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 and associated infrastructure, and enabling urban development to occur in an integrated, planned and staged manner
- 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
- protection of the water resources of the Heretaunga Plains aquifers
- the requirement for development to be in accordance with a structure plan;
- development which avoids or mitigates locational constraints including active earthquake faults, land with high liquefaction potential, nearby sensitive water bodies.

4.6 The overall direction of the Proposed Plan in enabling industrial expansion in the Irongate area, and the associated objectives and policies, is not in dispute. Unlike Omahu North, the proposed zone's soil types are not considered to be highly versatile or productive. We do not consider it necessary to revisit the statutory matters that have been tested under the Operative Hastings District Plan, Plan Change 50 or the Proposed District Plan in relation to the establishment of an industrial zone at Irongate. However, the proposed Variation relies on stormwater disposal for all land within the entire zone being via direct discharge to ground and the potential effects of this are a key issue in contention as outlined in the submission from the HBRC. The Regional Council's submission articulated its concerns that this proposed solution for stormwater was not consistent with the RPS embodied in its RRMP, with particular reference to two objectives in the RPS:

Objective 21 – No degradation of existing groundwater quality in the Heretaunga Plains and Ruataniwha Plains aquifer system

Objective 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’.

- 4.7 Having considered all of the submissions, evidence, supporting documentation, the additional information that was put before us, and the amendments that are now recommended to the Variation, we have concluded that there are sufficient checks and balances in place to ensure that the development of land at Irongate can be enabled with less than minor adverse effects on water quality.
- 4.8 As discussed further in our consideration of Issue 1 - giving effect to the RPS - we consider that a 'do nothing' approach is likely to perpetuate the continuation of ad hoc development that will be reliant not only on on-site stormwater disposal, but also on individual wastewater and water supply solutions and the consequences of this would be even less satisfactory.
- 4.9 In reaching our conclusions, we have paid particular attention to Objectives 21 and 22 of the RPS, as discussed further in our consideration of the issues raised in submissions, and have had regard to all of the statutory matters outlined fully in the section 42A report. We are satisfied that the section 32 and 32AA tests are met and that the proposal meets the sustainable management purpose of the RMA as set out in Part 2.

DETERMINATION OF ISSUES AND RECOMMENDATIONS ON SUBMISSIONS

5.0 ISSUE 1: REGIONAL POLICY STATEMENT

Table of Submitters and Further Submitters Number	Submitter (S) / Further Submitter (FS)
3	Hawke's Bay Regional Council
FS#1	HB Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman
FS#8	GB Stevenson and JL Armstrong
FS#9	Nicholas Jones
FS#11	Tumu Timbers
FS#12	Navillusso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd

5.1 THE SUBMISSIONS

5.1.1 This submission and further submissions relate to the Variation and its relationship with the Regional Policy Statement. No decision has been requested by the **Hawke's Bay Regional Council (Submission 3)**; however the overall tenor of the submission is one expressing concern that the proposed Variation does not fully align with the RPS.

5.1.2 The HBRC has made general comments regarding the Variation in relation to the following points:

- The relationship between Variation 2 and the Regional Policy Statement parts of the Hawke's Bay Regional Resource Management Plan; and
- The proposed servicing of the new zone, in particular the discharge of stormwater from individual onsite systems; and
- The necessity of upfront structure planning to ensure that development does not occur in an ad hoc manner.

5.1.3 Specific concerns cited by the Regional Council are:

- That the appropriate structure planning for stormwater servicing at a catchment scale cannot be undertaken due to the ad-hoc nature of the proposed onsite servicing, and that the proposed method does not provide for the desired integrated catchment management solution that is advocated by the Regional Council;
- The original (established under Plan Change 50) stormwater solution (development of a communal swale and detention system) is its preferred solution;
- Multiple individual on-site disposal systems are less desirable due to the greater risk of multiple systems failure, the potential for adverse effects on the environment, increased costs of monitoring and compliance and potentially greater costs to be incurred by the combined councils and developers due as a result; and
- While not directly situated over the Heretaunga Plains Unconfined Aquifer, overland flow may transport contaminants.

5.1.4 The HBRC's concerns relate to fundamental aspects of the proposed stormwater solution, and therefore to whether the Variation will be effective and efficient in achieving the objective of enabling industrial development to occur. It therefore requires comprehensive consideration.

5.1.5 Further submitters **Hawke's Bay Project Management (FS1)**, **Jara Family Trust (FS2)**; **Brendon Cane (FS3)**; **Jason Heard (FS4)** and **David Healey (FS5)** have opposed this submission questioning HBRC's stance relating to overland flow given its location over the confined aquifer; and commenting that checks and balances at the Building Act stage (including compliance with HBRC and HDC Plans) are sufficient requirement to avoid adverse effects in relation to stormwater quality and quantity.

5.1.6 **Tumu Timbers (FS11)**; **Navillusso Holdings Ltd (FS12)**; **Carrfields Investments Ltd (FS13)**; and **Development Nous Ltd (FS14)** have opposed the submission from HBRC, on the basis that the Regional Resource Management Plan provides appropriate mechanisms to protect the environment (providing it is implemented and adequately monitored by HBRC).

5.1.7 Further submitter **Hawke's Bay District Health Board (FS9)**, supports HBRC's submission in relation to concerns regarding the potential for overland flow and associated adverse effects on the environment. In addition, the DHB has stated concern for the potential for subsurface flows into the unconfined aquifer through weak seal areas and through subsurface flows to the unconfined aquifer. The DHB's second concern is potentially out of scope, as it does not relate to a matter identified by **Hawke's Bay Regional Council (Submission 3)**. This is further discussed below.

5.2 SECTION 42A REPORT

5.2.1 The section 42A report notes that the management of stormwater and its effects on water quality is one of the functions of both district and regional councils as set out in sections 30 and 31 of the RMA. While the regional council functions can be broadly described as managing the use of, and effects on water bodies, and the territorial functions as managing land-use effects on water, both councils have responsibilities for managing adverse environmental effects including effects of contaminants.

5.2.2 In reality, the methods for implementing these functions in relation to stormwater have a significant cross over as discussed further below.

Integrated Management and Structure Planning at Catchment Scale for Stormwater Management

5.2.3 The HBRC's submission identifies the relevant growth and structure planning provisions of the RPS (3.1B Managing the Built Environment - Objectives UD3, UD1 and Policies UD1, UD2, UD4.5(a), UD 10.1, UD10.3, 10.4 and UD12), as context for its concerns regarding the proposed method for managing stormwater in the Irongate Industrial Area. Sections of particular relevance are quoted in the section 42A report. They encompass:

the requirement for a comprehensive structure plan (POL UD10.1)
the matters to be included in a structure plan with specific reference to roads, infrastructure, indicative land uses, land required for stormwater treatment, retention and drainage paths (UD10.3)

5.2.4 Mrs Morgan's analysis in sections 6.8 through to 6.20 of her report, and amendments contained in her Addendum Report dated 1 December

2016⁵ forms the basis of her conclusion that Variation 2, does 'give effect to' the Hawke's Bay RPS and in particular the provisions referred to above, and therefore meets the RMA requirements that it must prepare and change its district plan in accordance with (RMA s75(3)(c)).

5.2.5 The section 42A report responds to the first concern expressed by Hawke's Bay Regional Council regarding structure planning at a catchment scale by outlining the following:

- Chapter 3 of the RPS requires a robust structure planning process for new land identified for development. The Irongate Industrial Area is not a new zone, and was introduced to the Operative District Plan in 2010. At that time, comprehensive work was completed regarding zone standards, servicing options, and the development of the structure plan.
- On-site servicing for stormwater was considered as an option but was not the preferred option at that time. The Hawke's Bay Regional Council supported the communal stormwater approach under Plan Change 50.
- In preparing for this Variation, HDC sought independent planning advice from Sage Planning⁶ which included input from Hawke's Bay Regional Council. The Regional Council is working with a multi stakeholder group on the TANK⁷ catchment, which includes the Irongate land, to develop an integrated catchment approach for stormwater management.
- The Regional Council has indicated that its policy position on stormwater management in the TANK catchment will change in future as it progresses its catchment management planning.
- The Regional Council supports Low Impact Design principles for stormwater management at an individual property and catchment level as well as the use of catchment-based Stormwater Management Plans.
- While it is understood why the HBRC advocates for reticulated stormwater systems for future industrial development in areas of high groundwater contamination vulnerability, the Irongate Area is identified in the RRMP as an area of *low to moderate vulnerability*, owing to its location over the Heretaunga Plains Confined Aquifer.

⁵ Addendum Report emailed on 1 December 2016, addressing Issue 1 in the original section 42A report

⁶ **Document 3, Attachment 4:** *Irongate Industrial Area, Implication of Onsite Stormwater Servicing on Hastings District Plan, Report to Hastings District Council, Sage Planning (November 2015)*

⁷ *the Tutaekuri Ahuriri Ngaruroro Karamu catchment*

- 5.2.6 The conundrum faced by the HDC, whilst acknowledging that the current proposed method is not the Regional Council's preferred option, is that it *"is faced with a zone that has struggled to develop due in part to the cost of infrastructure servicing"*.
- 5.2.7 As the TANK discussions are currently in their early stages and no guidance is available, it is therefore difficult for the District Council to respond to this approach ahead of that exercise and any findings that may come out of it.
- 5.2.8 The proposed alternative is considered to have sufficient checks and balances in place, through the provisions of the District Plan that do apply, and the need to obtain, in most instances, a resource consent from Hawke's Bay Regional Council for stormwater disposal, to ensure that the overall objectives of the RRMP are met.

Water Quality and Flow Risks

- 5.2.9 The section 42A report considers that the issue raised by the HBRC supported in their concerns by **Hawke's Bay District Health Board (FS9)** in terms of the risks that individual site stormwater management poses to water quality and overland flows has been addressed by permitting only 'dry' industrial activities, and applying controls already in the District Plan, for example a requirement for inert roofing material (14.1.6A.6) and a minimum site size of 1 hectare. In addition, a new plan definition for 'onsite in relation to stormwater' is proposed by Variation 2.
- 5.2.10 The report outlines the assessment criteria that apply to restricted discretionary and discretionary land use consents under Clause 14.1.8 of the PDP. These refer specifically to, inter alia, the potential for adverse effects on the ecology and amenity values of the Irongate Stream, whether the proposed methods meet the anticipated requirements of the development, and whether adverse effects including those from accidental discharges, sewer overloads or other emergencies can be avoided, remedied or mitigated, whether the activity will have adverse effects in terms of stormwater runoff or ponding and whether it would be appropriate to limit the scale of impervious surfaces and/or impose conditions requiring the incorporation of low impact design solutions into the development.

- 5.2.11 Subdivision will also require resource consent as a controlled activity and requires the provision of an on-site stormwater disposal system to service the site (Rule 30.1.7Q).
- 5.2.12 This combination of site factors and plan mechanisms has been considered and found to be appropriate for this area. The report does acknowledge that *"while District Plan standards apply to all new land use activities, assessment criteria are only triggered by proposals requiring resource consent for land-use or subdivision. Where consent is required, Council can impose conditions, for example, a requirement to prepare and administer a Stormwater Management Plan, that clearly demonstrates how stormwater will be managed on an ongoing basis by the land-owner. It is noted, however as industrial activities are a 'permitted activity' in this zone, many developments will not be 'captured' by these criteria"*.
- 5.2.13 The report then discusses the applicable rules in the RRMP for stormwater discharges. While Rules 42 and 43 of the RRMP apply to all sites where stormwater discharges cannot connect to a reticulated system, the permitted and controlled activity standards to be met on sites of less than 2 hectares are clearly inadequate and *"do not reflect current environmental practice"*.⁸ It is pointed out that there are only two sites of this size within the zone and therefore most sites will require a stormwater discharge consent from the HBRC.
- 5.2.14 The option of including a standard in the land-use section of the District Plan (Chapter 14 - General Industrial Zone (Irongate Area)), requiring a Stormwater Management Plan for all land use activities, as a potential precautionary measure, was considered by Mrs Morgan as one way of addressing some of Hawke's Bay Regional Council's concerns. However, she advised at the conclusion of the hearing that she did not support this approach.
- 5.2.15 Onsite management of stormwater under these rules is therefore an individual land owner responsibility, monitored by HBRC. Risk in terms of water quality and quantity is expected to be low given the types of uses that can establish (dry industry only), the combined provisions of the District and Regional Plans, the soil types of the Irongate Area, the zones location over the confined aquifer, and the consenting requirements that apply to land in the zone.

⁸ section 42A amended report, paragraph 8.2.26

5.2.16 Mrs Morgan also commented on the recent resource consent for discharge of contaminants to land that was issued by Hawke's Bay Regional Council for the Sunfruit Orchards packing house and storage activity. This is the first significant industrial activity to establish in the Irongate Industrial Area and provides some context to illustrate how individual onsite stormwater management will work.⁹ The stormwater solution includes a pipe network to convey clean water from roofed areas to soakage trenches; grassed swales to remove sediment and contaminants; scruffy dome chambers to capture water after it has passed through the swales; underground soakage system to manage 50-year storm events; and kerb and channel to direct run-off to swale entry points.

5.2.17 The consent contains a number of conditions including the requirement for a Spill Management and Contingency Plan, emergency shutoff valves in the event of a spill, and maintenance requirements. The consent assessment report recorded that *'the Heretaunga Plains aquifer is considered to be well confined in the location of the proposed discharge, the concentration of contaminants in the stormwater discharge are likely to be relatively low, and will be lessened by the treatment proposed, and dilution and dispersion within the aquifer.'*¹⁰

5.2.18 Mrs Morgan's overall conclusion was that **Hawke's Bay Regional Council (Submission 3)**, had not sought any changes to Variation 2. However, she considered that appropriate structure planning has occurred, and that environmental risks associated with individual onsite management of stormwater within the Irongate Industrial Area can be appropriately managed through the Hastings District Plan provisions as proposed, and Hawke's Bay Regional Resource Management Plan as outlined.

5.2.19 **Hawke's Bay District Health Board (FS9)**, has raised a further concern regarding the risk of subsurface flows containing contaminants entering the unconfined aquifer. While, as a further submitter, additional matters cannot be raised and therefore this further submission is potentially out of scope, Mr O'Callaghan has advised that *'the actual risk is very small due to the control of landuse avoiding the generation of large quantities of contaminants, the use of pre-treatment devices prior to discharge and the separation of the site from potential users.'*

⁹ Refer **Document 4, Attachment 2 – Decision, DP160103L Discharge of Contaminants, Sunfruit Orchards** issued by Hawke's Bay Regional Council (Oct 2016).

¹⁰ Document 4, Attachment 2: Assessment Report, DP160103L Discharge of Contaminants, Sunfruit Orchards, Hawke's Bay Regional Council (Oct 2016). p 4, s5.

5.3 EVIDENCE

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

5.3.1 The proposed stormwater solution for the Irongate area has been devised by Mr O'Callaghan (formerly of Cardno Consultants and now principal of OCDL). The work undertaken by Mr O'Callaghan comprises two documents, which are identified in the Hearing Agenda in 'Document 3' and which were prepared in June 2016 and November 2016.

5.3.2 At the hearing, Mr O'Callaghan circulated and addressed a number of subsequent documents, which are all recorded in the Council minutes. He discussed the peer review that the Council had commissioned from Tonkin and Taylor (T&T) of the engineering design of the stormwater servicing solutions proposed to service the proposed zone. That review¹¹ had only been finalised late afternoon on the day before the Variation 1 (Omahu Road (North)) hearing held on 1 December 2016. He also referred to the following information:

- Supplementary Information which comprised a letter from Mr O'Callaghan to Mr Kneebone, dated 29 November 2016 and an A3 colour enlargement of the attachment to this letter.
- The GNS Science Consultancy Report¹² investigating groundwater age determination associated with the supply of drinking water.
- Both T&T and Earthtech had been asked to comment on whether or not the GNS Report findings altered the content of their respective peer review reports, as relates to the Proposed Irongate Industrial Area.

5.3.3 Mr O'Callaghan commented on two plans with LIDAR/Council GIS contours and flow arrows to show the general surface flow paths.¹³ He noted the concerns about groundwater quality that had been highlighted due to recent events involving the discovery of pathogens in well water at Havelock North and addressed current levels of people's general understanding about groundwater.

¹¹ Council reference ENV-9-19-1-16-173

¹² Council reference WAT-20-10-16-1250

¹³ Council reference ENV-9-19-2-17-176

5.3.4 He explained the direction of the flow paths, noting the location of the Omahu Industrial Zone and orientated both plans so they could be directly compared.

5.3.5 He commented on the location of the Lyndhurst and Wilson Road water bores, and outlined his relevant work in regard to groundwater, bores and groundwater modelling.

5.3.6 He had reviewed the submissions and in the Hearing Agenda documents had summarised the benefits of individual onsite stormwater solutions as:

- *avoiding the need for large land areas to construct the large swale to convey the stormwater flows to a centralised detention and disposal area;*
- *avoiding the need to purchase and then fund back the cost of the land area for the swale and the detention/disposal area to the parties;*
- *avoiding the need to size and construct the system for unpredictable flows because the specific development pattern is not known at the beginning and thus a potentially oversized and overly expensive solution would need to be constructed early;*
- *avoiding the need for a staged approach, which avoids the previous potential 'oversizing' problem. Eliminating staging also reduces costs and land owner objection.*
- *each stormwater solution can be designed, sized and constructed to suit the specific site, the area of building/increased runoff area, detention sized to suit the increased runoff from that development, treatment devices/elements designed for the specific activity on the site and a Stormwater Management Plan prepared and implemented for the specific site to deal with the specific activity on the site, thus a pragmatic, cost effective and appropriate engineering solution can be achieved.*

5.3.7 In response to questions, Mr O'Callaghan and Mr Kneebone, the Council's Stormwater Manager, clarified the following points:

- The existing industrial sites were currently outside stormwater controls. Mr O'Callaghan was not aware of any breaches of the resource consent requirements and expanded on those comments.

- Mr Kneebone advised there was no standing water after a rain event. Water disposal was not a significant issue. The expressway was elevated and provides some form of catchment boundary for overland flow, although there are some culverts located under the road that feed into the Irongate area. The expressway was located on the line of the previous flow path of the Sisson's drain which now runs on its western side. There was no direct connection between the Sisson's Drain and the road side drain along the expressway.
- Landowners needed to be able to handle up to a 50 year event. Due to the high infiltration rate of 200mm/hour this was a reasonable design criterion in this zone. Mr O'Callaghan had reviewed the MWH work and test results. The longer term event was not the critical one for basin sizing, due to the high soakage rate. The shorter event was the more critical and therefore the scale of the infiltration basins and consequent build costs would be lower than assumed by MWH.
- The proposed concept was to keep roof runoff separate from yard surface water so that it could be discharged directly to ground soakage without the need for pretreatment, as per the Building Act. Inert roofing materials would be required to enable this discharge option.
Mr O'Callaghan referred to his calculations that showed that, based on his assumptions about likely impervious development area for the sites, all storm events could be contained on each site during the 50 year storm. He considered that this outcome addressed concerns about surcharging downstream flooding effects in the wider Irongate Stream and Sisson Drain catchments.
- In terms of how Council would manage the associated expenditure of capital works for both Irongate and Omaha being undertaken simultaneously, a presentation had already been made to Council regarding the two scenarios addressing engineering infrastructure, level of funding, development contributions and expenditure uptake rate.

Evidence of the HBRC - Ms Esther-Amy Powell

5.3.8 Ms Powell read a submission in the form of a letter addressed to the HDC dated 2 December 2016, and signed by James Palmer, Group Manager - Strategic Development. The letter reiterated the main points outlined in the Council's original submission and urged the HDC to

undertake structure planning and supporting documentation prior to rezoning taking place. The HBRC's position is that the structure plan should show indicative land uses, including land required for stormwater treatment, retention and drainage paths, and provide supporting documentation on how effective management of stormwater discharges is to be achieved. The Regional Council considers the proposed solution for Irongate to be ad hoc, and *"remains unconvinced that Variation 2 gives effect to the RPS."*

5.3.9 The submission also requested that *"If the District Council continues to insist that the collection, treatment and disposal of stormwater is via individual onsite services then the Regional Council is concerned that no stormwater management plan is required as part of this permitted activity standard/assessment criteria."* The Regional Council recommended that a SMP be required that is to the satisfaction of the HDC's Asset Management Manager, and provided suggested wording.

Evidence of Dr N Jones on behalf of the HBDHB

5.3.10 Dr Jones made an oral submission. He commented that the HBDHB has not submitted originally to this Variation, as they had believed the activity would take place over the confined aquifer. Upon reading the HBRC submission, the DHB then made a further submission to this Variation.

5.3.11 He drew attention to Section 32 of the Regional Policy Statement which requires that the unconfined aquifer has to remain fit for human consumption and said it was the Council's duty to take reasonable steps to maintain the water supply under the Health Act.

5.3.12 He put forward the suggestion of a possible need for a separate water supply and commented that in the GNS Consultancy Services report, Figure A 5.7, on the last page, shows the Holocene alluvial fan which appears to cross the Irongate area. This raises the issue of the age of the water in the aquifer and any independent water source that is to be developed.

5.3.13 He questioned whether it would be better for any water treatment to be undertaken centrally, rather than by individual property owners. The matter of the requirements for notifying domestic users under the Health Act was also noted.

The Earthtech report

5.3.14 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.

5.3.15 The Earthtech report's findings concluded that potential groundwater contaminants are soluble metals (zinc, copper and lead), nutrients, toxic organics, hydrocarbons and pathogens.¹⁴ While the proposed discharge of stormwater to ground within individual on-site systems is effective in controlling suspended solids, the control of these potential contaminants must be carried out at source.

5.3.16 At Irongate, existing groundwater conditions have been identified in the MWH (2009) Preliminary Geotechnical Assessment and HBRC publications as comprising:

- a shallow aquifer
- an aquitard forming a low permeability barrier between the shallow and confined aquifers
- a confined aquifer.

5.3.17 While the aquitard is extensive under the site, the shallow aquifer is unconfined, and absent in some areas due to Unit B ground conditions (middle clays and silts including peat and wood) extending to the ground surface. The confined aquifer is fully confined with artesian heads between 0.5m and 4m above ground level.

5.3.18 We note at this point that the “shallow aquifer” referred to by Earthtech, which appears to be their own definition, is not included within the defined “unconfined aquifer” unit as shown in Schedule Va of the RRMP. However, as Dr Jones pointed out with reference to Figure A 5.7 in the GNS report, the eastern edge of the unconfined aquifer may

¹⁴ Earthtech report, section 6 summary, page 9

extend further eastwards than shown and may extend as far as the western side of the Irongate zone. In this circumstance Earthtech's shallow aquifer would be synonymous with the HBRC defined unconfined aquifer, provided there was continuous connection across the intervening ground.

5.3.19 In its report Earthtech considers that potential groundwater effects are limited to the shallow aquifer and some reduction in groundwater quality is considered possible down-gradient of the zone. However, the reduction is considered to be small owing to the low contaminant source concentrations within stormwater, dilution effects within the aquifer, sorption effects associated with the clay, peat and ash layers and the dispersion effects of physical mixing.¹⁵

5.3.20 Potential effects on the Irongate Stream are also considered to be minor and, as no groundwater users are known to be present from the shallow aquifer downstream, it is concluded that the Irongate development will not pose a health risk with respect to local bores.

5.3.21 With regard to the confined aquifer, the artesian (above ground surface) water pressures create upward flow conditions which prevent shallow aquifer groundwater from impacting on the deeper confined system. Stormwater disposal into the shallow aquifer is therefore not expected to affect the confined aquifer.

5.3.22 In response to this information, the HBRC's submission expressed concern that overland flow may transport contaminants to the unconfined aquifer to the west, even though the Irongate industrial area is not situated directly over the unconfined aquifer. The submission also stated that "*provided that appropriate pre-treatment, storage and discharge practices are adhered to, risk of contamination to the unconfined aquifer is low*". The Earthtech reviewers agree with the OCDL assessment "that the risks associated with the scenario raised in the HBRC submission are extremely small and would be completely overshadowed by other mass inundation effects if/when significant overland flow occurred from this site".¹⁶

¹⁵ Earthtech report dated 25 November 2016, paragraph 4.2.1

¹⁶ *ibid*

5.3.23 On the basis of the additional information in this report, no further amendments to the Variation's provisions have been considered necessary by either the Council's expert Mr O'Callaghan, or Mrs Morgan.

Council Response

5.3.24 Mr O'Callaghan provided a written response to the HBRC's concerns at the hearing that the Council has not followed an integrated catchment management plan process in accordance with the RPS. He did not fully agree with this assertion, on the grounds that the proposed services have been developed as a comprehensive solution.

- Wastewater will be collected and conveyed from the zone to eliminate wastewater discharges to the catchment;
- The water supply eliminates the need for extraction of water from the immediate catchment;
- The disposal of stormwater to ground eliminates the need to discharge surface water over most of the zone except in extreme weather events.

5.3.25 He considered that the "near zero" effect on surface stormwater, from stormwater discharge to ground, results from favourable soils and there will accordingly be no effects on the wider catchment.

5.3.26 He also considered that the Regional Council's assertion that there are insufficient checks and balances incorporated into Variation 2 to deal with adverse effects of stormwater from new industrial land uses is inconsistent with its reasoning in granting consent to the Sunfruit Orchards development. From this, he inferred that the Council *"must be comfortable with the current knowledge of the groundwater system as they are issues resource consents for the large activities."* He did however support the required 50 year design event for the system design, and the required preparation of a Spill Management and Contingency Plan.

5.3.27 Mrs Morgan provided a response to the Regional Council's submission that Council consider inserting a standard requiring a Stormwater Management Plan, similar to that being included for Omahu. In her opinion, this is not appropriate for the reason that this is a regional council matter that should be addressed through the RRMP. Omahu and Irongate are different in that the HDC will have responsibility for stormwater discharges at Omahu as part of its discharge consent from

the HBRC, whereas direct discharges at Irongate and their effects on water quality is the Regional Council's responsibility via the RRMP.

FINDINGS

5.3.28 The HBRC's concerns regarding on-site stormwater disposal present a fundamental challenge to whether or not the objectives of the Variation are the most appropriate way to achieve the purpose of the Act.

5.3.29 While both the HBRC's and HDC's preferred option was for a reticulated stormwater system, it is now evident that unless a less expensive solution is adopted, development at Irongate is unlikely to occur in the manner anticipated by the HPU DS, RPS and both operative and proposed district plans. We note the extent to which industrial development has taken place at Irongate in an ad hoc fashion via individual resource consents, and the tenor of comments made by the Environment Court in the *JARA* decision regarding the industrial/commercial character of Irongate. We consider that there are risks associated with any significant delays in enabling industrial development to take place in a planned and structured manner at Irongate. A continuation of ad hoc development will be reliant not only on on-site stormwater disposal but also on individual wastewater and water supply solutions, which we see as having undesirable outcomes, as would development on higher quality soils beyond the boundaries of the proposed Irongate zone.

5.3.30 Overall, we are satisfied that on-site stormwater disposal provides an appropriate way of achieving the Act's purpose by suitably avoiding or mitigating adverse effects on the groundwater resource. The requirements of the RRMP will address stormwater discharges from the proposed industrial zone appropriately in the majority of cases. However, there are 2 existing sites with areas between 1 and 2 ha that are not subject to the RRMP rules and future subdivision will increase this number. It is unfortunate that permitted activity Rule 42 of the RRMP does nothing to control discharges to soakage, which is presumably the current method of disposal for the two existing sites. We expect that HBRC will update its plan once the TANK process is finished and this should deal with sites that are less than 2 ha more effectively, but that will take some time.

5.3.31 Accordingly, we have determined that the possible requirements for a Stormwater Management Plan (SMP) are for the majority of existing sites in the proposed zone, unnecessary and a duplication of process.

5.3.32 The requirement for a stormwater management plan at the subdivision stage, based on a conceptual development scenario, is supported as this will determine whether a feasible stormwater disposal system can be achieved on each proposed lot.

5.3.33 In the Irongate area the shallow geology as noted in the Earthtech report is variable:

- I Unit A – Upper Sands and Gravels Extensive under the majority of the site*
- II Unit B – Middle Clays and Silts ...In areas where Unit A is missing, Unit B extends to the ground surface.*

5.3.34 The infiltration tests referred to in the Earthtech report (from MWH 2009), which show very high rates, are in our view insufficient in number to confirm that adequate soakage is available everywhere, given the size of the proposed industrial area zone. From the soil description of Unit B it is likely that rates below those returned from the tests will be found where this geology is present. Hence, before a site is subdivided field testing will need to be carried out to confirm that sufficient soakage is present for a conceptual development on each lot. This needs to be a specific matter for consideration at subdivision stage.

5.3.35 We note the matter raised by Dr Jones of the HBDHB regarding the possible extension of the Heretaunga Plains unconfined aquifer into the Irongate area. Were this to be confirmed by further hydrogeological investigation, which we understand is ongoing by HBRC through the TANK process, the vulnerability to contamination of at least the western side of the Irongate area from surface sources may well be increased. At this stage that hydrogeological concept is mostly supposition and may or may not be confirmed through future investigation. Nevertheless, we are satisfied that should it arise, the controls on activities that are already incorporated in the PDP and will be extended by the Variation (dry industries, containment of hazardous substances and spill management plans) are appropriate land use measures to mitigate against contamination risks to the shallow groundwater.

RECOMMENDATION – ISSUE 1 REGIONAL POLICY STATEMENT

A) That the submission of Hawke's Bay Regional Council (Submission 3) regarding:

- The relationship between Variation 2 and the Regional Policy Statement parts of the Hawke's Bay Regional Resource Management Plan; and
- The proposed servicing of the new zone, in particular the discharge of stormwater from individual onsite systems; and
- The necessity of upfront structure planning to ensure that development does not occur in an ad hoc manner.

be accepted to the extent that additional rules and assessment criteria are introduced to the matters for control of subdivision to address stormwater runoff and discharge of contaminants, as follows:

Add the following to Section 30.1.7Q (b) after 'Each site shall be provided with an on-site stormwater disposal system to service the site': (bold, italics, underlined) *A stormwater management plan shall be provided at the time of subdivision based on a conceptual development scenario for each lot, to demonstrate that a feasible stormwater disposal system can be achieved.*

Add to 30.1.8.2 (Specific Assessment Criteria for Subdivisions):

General Industrial Zone (Irongate) Council will have regard to: *i) the feasibility of a conceptual on-site stormwater disposal system for each site; (ii) the results of infiltration tests to confirm that sufficient soakage is present for a conceptual development of each proposed lot.*

B) That the Further Submissions in opposition from HB Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4), David Healey (FS5); and Greg Harman (FS6), Tumu Timbers(FS1)1; Navilusso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14) are accepted in part.

C) That the further submission in support from Hawke's Bay District Health Board (FS9), is accepted in part.

REASONS - ISSUE 1 - REGIONAL POLICY STATEMENT

- 1. That the stormwater management solutions proposed, with additional requirements for conceptual Stormwater Management Plans to be prepared at subdivision stage where new lots of 1 - 2 ha are to be created, as well as a requirement for infiltration tests to be undertaken to demonstrate that a feasible stormwater disposal system can be achieved for each lot, is efficient and effective in ensuring that subdivided lots will be able to be adequately serviced in terms of stormwater runoff.**

- 2. Appropriate land use controls will be applied to adequately mitigate the potential effects of contaminants on groundwater and the management of land use and associated stormwater in this way is therefore not inconsistent with the Regional Policy Statement.**

- 3. The methods to manage stormwater combined with the district plan provisions incorporated in this variation to the Proposed Plan for the Irongate 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 Plan.**

6.0 ISSUE 2: EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE

6.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
2	HW Richardson Group
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman
FS#7	Irongate Holdings Limited
FS#10	Sunfruit Orchards Ltd
11	Hawke's Bay Project Management
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman
FS#7	Irongate Holdings Limited
FS#11	Tumu Timber
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd and
FS#14	Development Nous

6.2 THE SUBMISSIONS

Submission Point 2

6.2.1 **HW Richardson Group (Submission 2)**, has submitted in support in part of Variation 2, however questions whether the proposed servicing is the most efficient and effective means to provide this infrastructure in this location, and that the Zone provisions be amended to reflect their concerns.

6.2.2 Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); and Sunfruit Orchards Ltd (FS10), support this submission.

Submission Point 3

6.2.3 Hawke's Bay Project Management Group (Submission 11), raises concerns that the water supply system is not sufficient to meet the demands for firefighting across the zone and seeks Council consider an alternative water supply solution:

- '1. Would development of a pumping station and bores at Irongate to provide a higher level of protection than WS4, be considered more appropriate than developing individual bores and holding tanks for those requiring a higher level of protection, given that the aquifer provides a natural store of water?; and*
- 2. If not, then provide at the actual volumes and pressures attained by the following:*
 - a. Wilson Road upgrade indicating this will provide WS4 to Irongate), Plus*
 - b. Portsmouth Road is to remain in place for firefighting. (What will this increase the volume and pressure for Irongate), plus*
 - c. Hastings ring maining Flaxmere and Irongate through Irongate infrastructure (What will this increase the volume and pressure for Irongate).'*

6.2.4 Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); Tumu Timber (FS11); Navilluso Holdings Ltd (FS12); Sunfruit Orchards Ltd (FS10), Carrfields Investments Ltd (FS13); and Development Nous (FS14), support this submission.

6.3 SECTION 42A REPORT

Submission Point 2 - efficiency and effectiveness of proposed servicing

6.3.1 The section 42A report makes the comment that an alternative preferred solution is not specifically identified in the submission from **HW Richardson Group (Submission 2)** which questions the efficiency

and effectiveness of the servicing proposal. It is understood that this submission relates in part to the affordability of the infrastructure (and therefore the Development Contributions that will be required); however, the report considers that any amendment to the servicing options provided for by Variation 2, could potentially result in amendment of the structure plan and subdivision standards 30.1.7B and 30.1.7C. These standards require sites to connect to public reticulated services where these are available.

6.3.2 The report sets out a summary of the significant amount of work that has been undertaken in relation to finding a suitable alternative that Council could have confidence would meet environmental standards and encourage development in the Zone.

6.3.3 The most recent work by OCDL¹⁷ reviewed earlier assessments and concluded that existing reticulated solutions for water and wastewater are *'the right decision'* in terms of managing environmental risks for industrial sites in the Irongate area. That assessment also considered extending the alternative servicing solution to the additional land proposed for inclusion in the zone.

6.3.4 The only viable solutions are considered to be full reticulation for water and wastewater with a combination of onsite, swales and attenuation for stormwater, (as per the Proposed Hastings District Plan provisions), or reticulated water and waste-water, with on-site servicing for stormwater. The OCDL Services Report (May 2016) concludes:

'Whilst it is possible to construct a bore and large water storage on each site, the collective cost of doing so makes the option more expensive than a Council reticulation solution. In addition, a Council reticulation system would provide greater operating pressure within the network and thus assist the Fire Service to fight a fire.'

6.3.5 And with regard to wastewater the report concludes:

'Given the risks associated with cumulative adverse effects on the environment and the difficulties of achieving good performance across the Zone, it was concluded that an on-site wastewater treatment and disposal solution for this Zone was not the best solution. A Council owned and operated solution could achieve better results, reduce the risks of

¹⁷ **Document 3, Attachment 1:** OCDL Irongate Industrial Area – Report on Services for District Plan Variation', (16 May 2016), p2

adverse effects on the environment, achieve better public health protection and would not cost significantly more than an on-site solution. The fully reticulated solution has therefore been adopted.'

- 6.3.6 The provision of access to onsite bore water for drinking purposes combined with onsite disposal of waste water in the Irongate Industrial zone, is considered to increase the potential health risks to occupants of the zone, and for this reason is also not a preferred option.
- 6.3.7 Mrs Morgan has also outlined the consultation process with landowners and her opinion that *"In general, those who attended these meetings were satisfied that the proposed approach would provide a workable solution to landowners and assist in addressing current constraints through reducing the costs of infrastructure to acceptable levels"*.
- 6.3.8 For all the reasons outlined in her report, Mrs Morgan has considered that in terms of the submission from **HW Richardson Group (Submission 2)**, the solution being implemented through Variation 2 is the most effective and efficient, in terms of achieving the desired environmental outcomes, and being affordable to the community.

Submission Point 3 - On Site Water Supply

- 6.3.9 **Hawke's Bay Project Management Group (Submission 11)** have questioned whether onsite water provision would better meet the demands of firefighting for the zone than a reticulated water supply. This submission point overlaps with the more generic issue of concern to the submitter, relating to the overall cost of services provision charged through Development Contributions, which is discussed under Issue 10.
- 6.3.10 The report advises that the Council-supplied water infrastructure to service the zone is to supply 100 litres/second to meet the FW4 requirements for firefighting purposes. It will be the responsibility of the landowner/developer to convey the water from the Council's reticulated water supply to individual properties.
- 6.3.11 The report points out that for any requirement for additional water (beyond that supplied by the reticulated system), subdivision standard 30.1.7 B provides that:

'...where an additional level of service is required that exceeds the level of service provided by the reticulated system, the subdivider

shall demonstrate how an alternative and satisfactory water supply can be provided to each site.'

6.3.12 Accordingly, the option to provide for additional water, is not impeded under the current district plan provisions and that the Council's proposed supply of water infrastructure to provide 100 litres/sec is appropriate taking into account the progressive development that will occur in the zone, economic factors and the engineering aspects of the bore supply.

6.4 EVIDENCE

Legal submissions by M Lawson on behalf of John and Rose Roil and others

6.4.1 Mr Lawson submitted that alternative methods of providing infrastructure to the Irongate Industrial Area are available that are more effective and cost-efficient, but have not been properly considered by the Council. While he acknowledged that funding of infrastructure by way of development contributions falls outside the Variation process, he contended that *"the efficient and effective provision of services to the development falls within the resource management process"* and this was confirmed by the HDC Planning Manager's invitation to people to make submissions on the development of services within Irongate.¹⁸

6.4.2 He also submitted that the recent GNS report on the security and sustainability of the HDC water supply *"add considerable concerns and... indicates that substantial work is going to be required to the existing water supply infrastructure in order to ensure that water is secure, free from contamination and safe into the future"*.¹⁹ A further consideration was the much-publicised lack of capacity in the HDC supply.

6.4.3 His contention was that the Council had not adequately considered the option of a Council reticulated system, specifically to service the Irongate industrial area.

Evidence of Derek Wood - Flow Design Limited, on behalf of Hawke's Bay Project Management Limited

6.4.4 Mr Wood's evidence was in the form of a report on a standalone water supply scheme for the Irongate industrial area, dated December 2016.

¹⁸ Lawson submission at paragraph 53

¹⁹ *ibid*, paragraph 16

The report outlined the design parameters for an alternative concept, which was informed by an assessment of the aquifer carried out by Susan Rabitte from Lattey Group.

6.4.5 In response to questions Mr Wood clarified the figures included on the first page of his previously circulated report,²⁰ under “Design Parameters” and confirmed that the design value for consumptive demand in June 2009 was 0.5 L/s/ha. However, in May 2012 the peak design flow had been reduced to 0.4 L/s/ha and average demand specified as 0.2 L/s/ha.

6.4.6 He said that the route of the main was the same as Council had proposed. He estimated that the costs would be similar to the Council costs.

6.4.7 He outlined in some detail the advantages of his proposed scheme and how he felt the scheme costs could be significantly reduced, including:

- Detailed design and more refined modelling could significantly reduce costs. There is flexibility in the system.
- A lot of optimisation aspects could be reconsidered.
- Pipe size could be quite a bit smaller.
- The operating pressure of pumps would then need to be increased to match the smaller pipe size.

6.4.8 He commented that the owners of sites requiring a higher fire-fighting level than FW4 would need to provide that for themselves and if a significant number of landowners were in this position they could “cheaply” increase storage on site and pump capacity.

6.5 FINDINGS

6.5.1 The evidence that has been presented to us does not, in our view, show that an alternative water supply scheme to that proposed by HDC would offer any advantages in terms of efficiency and effectiveness of supply. HDC, as an experienced water supply operator, has the resources and knowledge to provide a water supply to the industrial zone that meets the Drinking Water and Fire Fighting regulatory standards on an ongoing basis. This is especially so for a scheme based on the particular characteristics of the Heretaunga Plains aquifer groundwater source, where an otherwise experienced third party operator would be at a

²⁰ Council reference ENV-9-19-2-16-121

disadvantage. This would include any private landowners with their own standalone systems.

6.5.2 We accept the engineering advice from both Mr Wood and Mr O'Callaghan that cost factors are sufficiently close to neutral to not hold sway in the consideration of alternatives. Given our finding that a Council scheme has significant operational advantages, in terms of being an integrated supply within the wider HDC water supply network, we therefore see no compelling driver for a standalone scheme in the zone. Nevertheless, it is a matter that HDC may wish to consider in finalising their plans for the water supply to the zone although our observations on site were that plans have advanced to the point of construction.

RECOMMENDATION – ISSUE 2 - EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE

- A) That the submission of HW Richardson Group (Submission 2), questioning whether the proposed servicing is the most efficient and effective means to provide this infrastructure in this location, and seeking this be reflected in District Plan provisions *be rejected* in that no changes are made as a result of this submission.**
- B) That as a consequence of A) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); Sunfruit Orchards Ltd (FS10), *also be rejected*.**
- C) That the submission of Hawke's Bay Project Management Group (Submission 11), seeking Council to consider an alternative water solution *be rejected*.**
- D) That as a consequence of C) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); Tumu Timber (FS11); Navilluso Holdings Ltd (FS12); Sunfruit Orchards Ltd (FS10); Carrfields Investments Ltd (FS13); and Development Nous (FS14), *also be rejected*.**

REASONS - ISSUE 2 - EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE

- 1. That provisions of the General Industrial Zone (Irongate Area), relating to infrastructure services (water, wastewater and stormwater) achieve the purpose of the RMA, to promote sustainable management in a way, that enables people and communities to provide for their social, economic, and cultural well-being, and for their health and safety.**
- 2. That the proposed infrastructure servicing solution, providing for reticulated water and waste-water, with on-site servicing for stormwater, represent the most efficient and effective outcome in terms of managing environmental risks for industrial sites in the Irongate area, and providing an affordable alternative to the community.**
- 3. That the provision of reticulated water as proposed, is appropriate for the proposed use of the zone, taking into account the progressive development nature of the zone, economic factors and the engineering aspects of the bore supply.**
- 4. That the proposed option for providing water to the zone, will supply 100 litres / second, and that the District Plan allows for supplementary water to be provided if required for firefighting purposes.**

7.0 ISSUE 3: GENERAL INDUSTRIAL ZONE (IRONGATE AREA), MINIMUM LOT SIZE

7.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
#4	M Walmsley
#5	J & R Roil
#6	Carrfields Investments Ltd
#7	Tumu Timbers Ltd
#8	Navilluso Holdings Ltd
#9	Development Nous Limited
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd

7.2 THE SUBMISSIONS

7.2.1 **M Walmsley (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9);** seek an amendment to District Plan provisions to provide for a minimum lot size of 5000m², and consequential amendment to the explanation to Policy IZP14 and the provisions in section 30.1 of the District Plan in Table 30.1.6A(7)(b).

7.2.2 These submissions are supported in further submissions from **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6);**

Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navillus Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).

7.2.3 Concerns identified in submissions and supported in further submissions include:

- Insufficient detail provided in the section 32 report accompanying Variation 2, justifying the 1-hectare minimum site size;
- The proposed 1-hectare minimum site size is not conducive to efficient and effective development; and
- It is understood that all service infrastructure is based on intensive site coverage and lot size should not limit development.

7.3 THE SECTION 42A REPORT

7.3.1 The section 42A report points out that Variation 2 is an amending proposal and does not propose any change to the Proposed District Plan provisions relating to minimum site size.

7.3.2 The 1-hectare minimum site size is introduced in **Policy IZP14**, being to:

Provide for the establishment of dry industrial activities on larger sites in the Irongate Industrial Area.

7.3.3 The policy flows through to the minimum net site area standard in section 30 of the Proposed District Plan and the explanation specifically refers to the reasons for the minimum site size of 1 ha being "*the density of development that service infrastructure and roading has been designed to accommodate*" as well as the limited access restrictions that apply to Maraekakaho Road and the lack of profile on Irongate Road. The area is therefore not considered appropriate for activities seeking smaller sites with a high profile and access to passing traffic. The report discusses the rationale in the Hastings Industrial Strategy, which informs the district plan provisions, referring to the provision for a range of activities across its four main industrial sites at Whakatu, Tomoana, Whirinaki, and Irongate, with smaller scale industry requiring profile, locating along Omahu Road.

7.3.4 A key consideration is that the servicing of Irongate will not provide trade waste, therefore it is a dry industrial zone, and has existing larger sites, "*that are desirable to attract large new industry to the region*". The

report cites the recent resource consent granted for a 24,200m² coolstore and packhouse development on the Sunfruit site as a good example of the type of activity that the zone is to cater for.

7.3.5 Other considerations referred to in the report and in the section 32 reports that have led to the particular controls for Irongate are:

- (i) Provision of larger sites is also part of the District Plan strategy to avoid creating pressure for ad-hoc development in the Plains and Rural zoned areas where there is ongoing pressure for larger industries to locate.
- (ii) A 1-hectare minimum site size will ensure sufficient land is available for onsite stormwater treatment associated with the larger development envisaged for the zone.
- (iii) The larger (1 ha) site size minimum was the preferred option in the original section 32 report²¹ accompanying Plan Change 50, for achieving the objectives in the Plan to attract new industries to the District, encourage industrial diversity, and support the establishment of 'dry' industrial activities in the Irongate Area. Smaller industries or those requiring greater commercial profile or trade waste could establish in other more suitable industrial areas.
- (iv) That report also acknowledged the potential economic cost to the developers through limiting the way in which the zone could be used. However it was considered that a lower minimum threshold could result in land provided for larger scale industry being fragmented through subdivision, which in turn would be an economic cost to the wider community if enough larger sites were not available.

7.3.6 For the above reasons, the section 42A conclusion is that reducing the minimum site size would defeat the purpose of the zone to provide for larger scale dry industry. Smaller industrial sites are adequately accommodated in other industrial zones in the district.

²¹<https://www.hastingsdc.govt.nz/files/all/documents/districtplan/planchanges/50/section32.pdf>

7.4 EVIDENCE

Legal submissions by M Lawson on behalf of John and Rose Roil and others

- 7.4.1 Mr Lawson's legal submissions referred to the apparent rationale for the 1 ha lot size being based on servicing for stormwater and roading at that density. He contended that stormwater disposal is a function of the hard services and sealed areas, *"which are the same, irrespective of whether the minimum lot size is 1 ha or 5000m²"*. He submitted that the additional side and rear yards required for smaller lots would actually reduce the potential coverage of buildings and therefore the potential stormwater runoff.
- 7.4.2 He also submitted that roading requirements *"are more likely to be a function of the number of heavy vehicles than the number of sites or minimum site size"* and that *"large factories on large sites are more likely to require more truck movements than smaller sites with smaller type businesses"*.²² He regarded the lot size as inefficient and ineffective in terms of sustainably managing the land resource at Irongate.

Evidence of J Tickner, Development Nous

- 7.4.3 Mr Tickner, a planning consultant also representing a number of landowner submitters opposed to the 1 ha minimum lot size, referred to the permitted lot size of 1000m² in the Industrial 6 zone. The Industrial 6 zoning under the Operative Hastings District Plan currently applies to certain sites that are now proposed to be included within the General Industrial zone at Irongate. He accepted that there are uses that require large lots such as packhouses and coolstores but *"there are only so many users that need such large sites"* and considered that there should be more flexibility in the plan provisions to allow a mix of industrial users from *"large to very large"*.²³
- 7.4.4 He considered that the market will dictate if large sites are required and questioned the point of having an industrial business owner purchasing 10,000m² when only half of that is needed. He referred to semi large, non-profile businesses being "forced" to a zone with higher DC's (development contributions) and land values, or to wet industrial land.

²² Submission of Mr M Lawson at paragraph 23

²³ Evidence of Mr J Tickner at paragraph 22

Evidence of Mr J Roil

7.4.5 Mr Roil's submission also addressed the issue of the proposed minimum lot size. He reiterated the comments made by Messrs Lawson and Tickner that:

- Many dry industrial businesses do not need 1ha lots – much of those sized sites will not be utilised efficiently. Irregular site sizes, the Irongate Stream and 33kVA power lines hamper development.
- Businesses should not be forced to locate to Omahu Road.
- A reduction of speed limit to less than 100km/hr would be a better approach than limiting the number of sites fronting the main road.

Council Response

7.4.6 Mrs Morgan's response was that the District Plan provides for a comprehensive, integrated and flexible mix of industrial development across a range of areas and specifically provides for large sites at Irongate to meet an identified shortage of sites for large dry scale industry. The 1 hectare minimum lot size is therefore a strategic district plan response to an identified industrial need.

7.4.7 In terms of the evidence from Mr Tickner on behalf of these landowners, that the NES (Urban Development Capacity) requires choice in land to be available, and that this should be left to the market, it was her view that provision, as outlined, protects such choice. The 1 ha minimum ensures larger sites are available for those activities that need it, and activities requiring smaller sites are directed elsewhere.

7.4.8 Accordingly, she did not support any change.

7.5 FINDINGS

7.5.1 We have carefully considered the basis on which the Council has determined the proposed minimum lot size. We find that the evaluations and reports which together have informed the Variation, including consideration of the District's natural and physical resources, identification of opportunities and constraints, development of an industrial strategy, costs of infrastructure options and formulation of objectives and policies at both regional and district level, all demonstrate a considered and balanced approach towards ensuring an adequate supply of industrial land suitable for a variety of purposes. Collectively,

the industrial zones have been promulgated to meet the economic needs of the community. All of these matters have involved extensive consultation and at the hearing we heard from Mrs Morgan that studies had shown evidence of demand for large sites.

- 7.5.2 The rationale for the proposed zone at Irongate has taken into consideration the purpose and location of other industrial zones, and the characteristics of the land that distinguish one area from another. While establishing a minimum lot size is to a certain extent arbitrary, the Council has made it clear that this is to achieve specific outcomes relating to transportation effects, management of stormwater and enabling larger industries. In our view, the physical constraints identified by Mr Roil (Irongate Stream and power lines) are a further reason to adhere to the 1ha minimum lot size instead of reducing it.
- 7.5.3 Submitters are wanting the opportunity to potentially create double the number of lots that are anticipated within the zone as currently proposed. However, they have not provided any qualitative or quantitative analysis to support their request.
- 7.5.4 The above matters add weight to the reasoning behind the need to provide a zoning that is specifically for large industries. It is much more difficult for a large industry to aggregate small allotments to suit its needs than vice versa, and in that respect we find that a reduction in the lot size at Irongate as sought by submitters would be both inefficient and ineffective. There are potentially risks and high costs to large industries if suitable land is unavailable and, as pointed out in the section 42A report, the possibility that cheaper land will be sought within another zone (most likely land zoned for rural production).
- 7.5.5 While we had no information before us regarding the extent to which industrial businesses might 'future proof' opportunities for expansion and growth over time, we would expect that they would make some provision for this. Accordingly, the size of lots must be adequate to allow not only for an industry's immediate needs but also for future development. The supply of land is also based on a reasonably long term planning horizon (in this case, 30 years), not simply the likely demand in the short term. In this regard we consider the Council's approach to be the most appropriate in terms of the section 32 tests.
- 7.5.6 In terms of transport matters, we do not accept the proposition that a larger site will as a matter of course generate a larger number of truck

movements than a small site, or that this is the only issue to be taken into account. The converse is often the case, depending on the nature of the activity. High volumes of traffic, irrespective of the number or proportion of heavy vehicles, may have effects on the safety, efficiency and function of the road network.

- 7.5.7 We also consider that the range of potential stormwater solutions may be reduced and adverse effects on the Irongate Stream exacerbated by reducing the lot size, for example, by restricting locational options within sites for soakage or infiltration basins, and development of a greater number of sites in closer proximity to the stream.

RECOMMENDATION – ISSUE 3- GENERAL INDUSTRIAL ZONE (IRONGATE AREA), MINIMUM LOT SIZE

- A) That the submissions of M Walmsley Ltd (submission 4); J & R Roil (submission 5); Carrfields Investments Limited (submission 6); Tumu Timbers Limited (submission 7); and Navilluso Holdings Ltd (submission 8), that Policy IZP14 be amended to reduce the minimum site size reference *be rejected*.
- B) That as a consequence of recommendation A) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane(FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Limited (FS13); Development Nous (FS14) also *be rejected*.

REASONS - GENERAL INDUSTRIAL ZONE (IRONGATE AREA), MINIMUM LOT SIZE

1. That a 1-hectare minimum site size is appropriate for the General Industrial Zone (Irongate Area), for the following reasons:
 - to enable the efficient and effective use and sustainable management of the District's resources by providing for new industries, and diversity of industries in accordance with the Hastings Industrial Strategy;
 - to provide for the establishment of dry industrial activities on larger sites in the Irongate Industrial Area.

- 2. To avoid further fragmentation of the District's valuable soil resource by providing large sites for processing and other rural related industries within an industrial zone specifically designed to cater to larger activities, that otherwise might seek to locate on nearby Plains and Rural zoned land.**
- 3. That a minimum site size of 1 hectare is appropriate to ensure that larger type 'dry' industries envisaged in the General Industrial Zone (Irongate Area) will have sufficient land to provide for onsite stormwater management.**
- 4. That a reduction in minimum site size for the General Industrial Zone (Irongate Area) would be inconsistent with the Policies and Objectives of the Proposed District Plan relating to the provision of industrial land and the Irongate Area.**

8.0 ISSUE 4: SECTION 14.1.5 RULE GI5 - SALE OR HIRE OF MACHINERY

8.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
#4	M Walmsley Ltd;
#5	J & R Roil
#6	Carrfields Investments Limited
#7	Tumu Timbers Limited
#8	Navilluso Holdings Ltd
#9	Development Nous Limited
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd

8.2 THE SUBMISSIONS

8.2.1 **M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9)** support Variation 2 subject to a number of amendments, including amendment of existing Rule GI5 of the General Industrial Zone, to include reference to the Irongate Industrial Area.

8.2.2 Rule GI5 currently provides for the sale or hire of machinery, equipment and supplies used for Industrial, horticultural, viticultural, building or landscaping purposes and for the sale or hire of buildings in the Omaha Road area only.

8.2.3 These submissions are supported by further submissions from **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navillus Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).**

8.3 SECTION 42A REPORT

8.3.1 The section 42A report records that Variation 2 is an amending proposal and does not propose any change to the Proposed District Plan provisions relating to the sale or hire of machinery.

8.3.2 The report outlines the activity status and threshold limits for various uses within the General Industrial zone. The current rule (Rule GI5), in Chapter 14.1.5 General Industrial Zone of the District Plan provides for the following as a permitted activity:

The sale or hire of:

- *Machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes;*
- *Buildings*

A clarifying note states that

this does not include the merchandising of comparison goods, being household furnishings, fittings and apparel.

However, the rule only applies to those Omaha Road sites within the areas identified in Appendix 36.

Under standard 14.1.7.1 Activity Thresholds, there is no activity size limit on sites fronting Omaha Road.

8.3.3 The General Industrial Zone also provides for the following commercial activities as permitted activities. Except for service stations, these are subject to activity thresholds in Rule 14.1.71 that limit their size:

- Dairies and food premises (Rule GI2);

- Service stations (Rule GI3); and
- Retail sales and offices on the same site and ancillary to an industrial activity (Rule GI4):

8.3.4 Where an activity exceeds the permitted thresholds, resource consent as a discretionary activity may be applied for.

8.3.5 Other permitted activities include:

- Tyre storage;
- Temporary events; and
- Emergency services facilities

8.3.6 A key objective is identified in the report as Objective IZO1 together with supporting policy IZP1 being:

To facilitate efficient and optimum use and development of existing industrial resources within the Hastings District; (IZO1)

Ensure that non-industrial activities will remain ancillary to the principal activities taking place in the Industrial Zones.(IZP1)

8.3.7 The issues identified in the explanation for the above objective and policy are the inefficiencies created by commercial and residential use of industrial land, the potential for non-industrial activities to create reverse sensitivity and maintaining the viability of the Hastings CBD. The Plan does not generally envisage any significant retail in the Irongate Industrial Area.

8.3.8 As well, the traffic environment of Maraekakaho Road within the General Industrial Zone (Irongate Area) is considered to make it unsuitable for significant retail beyond what is already provided for by the Proposed District Plan.

8.3.9 Mrs Morgan's overall conclusion was that significant rural-associated retail activity is not envisaged at Irongate, nor is it consistent with the zone purpose, and would not be considered an efficient use of the industrial zone.

8.4 EVIDENCE

Submission by M Lawson on behalf of John and Rose Roil and others

8.4.1 Mr Lawson's submission on behalf of John and Rose Roil et al is that "Variation 2 was to take over and assimilate all of the existing appeals to the PDP which included the use and zoning requirements on the Industrial zone at Irongate".²⁴ We are therefore in his submission able to consider the proposed plan provisions.

8.4.2 His argument is that many of the existing industries operating from the Irongate Industrial area are involved in the sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes. He gave examples of Tumu Timbers and the JARA site, and considered that it would not make sense for these activities to become non-complying or discretionary. He submitted that Mrs Morgan's reasoning that the request for their inclusion as permitted activities would put pressure for ad hoc development in the Plains and Rural Zones "*does not hold water*". He considered that inclusion of these activities would be consistent with Objective IZ01 (referred to above) and ensuring the industrial uses remain ancillary to the principal activities taking place in the industrial zone.

Evidence of J Tickner on behalf of Carrfield Investments Ltd, Mike Walmsley Ltd, Navilluso Holdings Ltd, Tumu Timbers Ltd and John and Rose Roil

8.4.3 Mr Tickner's planning evidence commented on the specific provision made for 'commercial' uses on a number of submitters' sites, including sale of building and landscaping supplies. He considered that the Variation would see the removal of permitted rights and no inclusion of the existing commercial components on Maraekakaho Road. He observed that it is these existing uses, both industrial and commercial, that Council recognised as needing to be encompassed in an urban zoning. He referred to the JARA Family Trust v Hastings District Council Environment Court decision²⁵ in which the Court acknowledged the nature of the existing environment as industrial/commercial. The Court decision granted approval for the manufacturing and sale of relocated buildings at the Roil property (1239 Maraekakaho Road).

²⁴ Lawson, paragraph 27

²⁵ ENV-2015-WLG-00017

8.4.4 Mr Tickner considered that the activities encompassed by Rule G15 were pivotal for all of the submitters he was representing. He gave examples of existing scheduled activities, also permitted under the Industrial 6 zone, as:

- (i) Tumu Timber/Navilluso sites - timber milling, treatment, storage and sales of building supplies
- (ii) Mike Walmsley site - permitted contractors depot and the sale of landscaping supplies and firewood.

8.4.5 He considered that industrial activities with a commercial component fall into a grey area under the "regimented approach" in the District Plan, where the commercial sale of products is limited to a comparatively small area (100m² GFA). However, it was his opinion that the zone is the most appropriate place for the sale of bulky/large items including relocatable buildings, bulk landscape supplies, timber, heavy machinery, construction and industrial supplies. Importantly, many of the commercial uses are directly related to the industrial uses on site, e.g. the servicing and maintenance of machinery, processing of timber.

8.4.6 Mr Tickner then went on to comment that *"most if not all of these commercial uses [already established in the zone] are either directly related to the industrial use or they are commercial uses that support to (sic) production of the surrounding Plains and Rural Zones and require large sites to establish (Carrfields, Ballance Fertiliser etc)"*.

8.4.7 He also addressed the transport effects that must be considered.

8.4.8 He was of the opinion that the speed limit along Maraekakaho Road needs to be reduced because there are already a number of existing industrial and commercial uses on the road, and the change in zoning will increase these uses. As a planner, he did not consider a 100kph speed limit to be appropriate for an industrial area looking to intensify. He explained that when the road ceased to be a State highway, there was a condition²⁶ that the speed limit could not be altered for a period of three years, which is now almost up.

8.4.9 He put forward the argument that the plan change will see the land develop whether in a large commercial or industrial capacity "and the traffic effects will be similar either way."

²⁶ We assume that this was imposed by the NZTA

8.4.10 He noted that existing commercial uses have all been assessed under the Limited Access Road restrictions and considered suitable in regard to traffic effects even prior to the diversion of State Highway 50A.

Council response

8.4.11 Mrs Morgan provided a written response in which she acknowledged that scheduled sites 24 (submitters 7 & 8), 25 (submitter 4) & 26 (submitter 6) and the Roil property fronting Maraekakaho Road (Lot 2 DP 12192 BLK XV Heretaunga SD), are lawfully established businesses, some with existing retail components. These submitters have sought extension of the Rule GI5 to their land as a way of recognising this existing situation, as well as applying the rule to the whole of the zone.

8.4.12 To assist in our deliberations, Mrs Morgan summarised in an attachment to her comments, the situation for these submitters' properties in terms of the operative plan (2003), the PDP (2015), Proposed Variation 2, and amended Variation 2. Under Variation 2, these properties will have an increase in development rights under the range of permitted activities GI1 -GI4, and GI6-GI8.

8.4.13 She considered that while some flexibility for the ongoing development of these existing businesses to enable sustainable development of their existing resource is desirable, application of this rule to the whole of the Irongate industrial area is not warranted for reasons stated in her s42A report.

8.4.14 She compared the Omahu industrial zone, which allows for commercial activity, with the proposed zone at Irongate where this is not the desired outcome, as reflected in the district plan anticipated outcome IZA02:

IZA02 Concentration of specific industry in appropriate locations, specifically:

- (a) Wet industry and Food Industry in the Tomoana and Whakatu areas utilising existing infrastructure.*
- (b) Dry industry in the Irongate Industrial Area.*
- (c) Industry requiring profile along the Omahu Road arterial route.*

8.4.15 She also drew to our attention Objective IZO1 and Policy IZP5, which has a strong focus on efficient use of existing industrial resources to which we have referred above.

8.4.16 Therefore, in her opinion, *"any further wholesale provision for sale and hire of goods could be seen to adversely affect other commercial areas, an effect the plan seeks to avoid. It could also result in commercial activities competing with large scale industry, that is not provided for anywhere else in the district, resulting in pressure on the plains zone resource. For these reasons, it is considered appropriate to limit the scale of any commercial activity in the Irongate industrial area."*

8.4.17 However, to facilitate some flexibility for the submitters' existing activities, she has recommended further amendments to Variation 2 as follows:

- An amendment to RULE GI5 providing for sale and hire of goods for the submitters sites;
- introduction of a new threshold applying limits on the sale and hire of goods from these sites (14.1.7.1 ACTIVITY THRESHOLD LIMITS);
- Where this threshold is exceeded application for a discretionary activity can be sought, and a new assessment criterion (14.1.8 ASSESSMENT CRITERIA (h)) is proposed requiring consideration of traffic impact for any commercial activity on these sites.
- Insert a new Appendix 36A mapping the properties to which this rule relates.

Amend the following provisions: ***(bold, italics and double underlined)***

GI5A	<p>The sale or hire of:</p> <ul style="list-style-type: none"> • Machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes¹; • Buildings <p>This rule only applies to those Omahu Road sites identified within the area identified in Appendix 36; <i><u>and those sites in the Irongate Industrial Area identified in Appendix 36 A</u></i></p>	<u>P</u>
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14.1.7.1 ACTIVITY THRESHOLD LIMITS

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

Service Stations: No limit.

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.

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, building or landscaping purposes and the sale or hire of buildings on sites fronting Omaha Road: No limit.

The sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes and the sale or hire of buildings on those sites in the Irongate Industrial Area identified in Appendix 36A: 100m² indoor retail display space. There shall be no limit on outdoor display space.

Outcome

Optimum and efficient use of industrial land resources and the avoidance of significant adverse effects. Non-industrial activities will remain ancillary to the principal activities taking place in the Industrial Zone (Irongate).

4.1.8 ASSESSMENT CRITERIA – RESTRICTED DISCRETIONARY AND DISCRETIONARY ACTIVITIES

14.1.8.2 ACTIVITIES NOT COMPLYING WITH THE GENERAL STANDARDS AND TERMS IN SECTION 14.1.6

(h) The extent and nature of traffic to be generated by the activity and the resultant potential for adverse effects (including cumulative effects) to occur on the safe operation of Maraekakaho Road.

Sites for Appendix 36A:

- Lot 1 DP 367052, Lot 1 DP26757, Lot 1 DP209209, Lot 1 DP 23232, Lot 1 DP 26022, Sec 13 SO 4381081229 (1215 -1229 Maraekakaho Road)²⁷;
- Lot 1 DP24887 (1206 Maraekakaho Rd);²⁸
- Lot 2 DP4414, and that part of Lot 2 shown as schedule 26 on Map 33 Lot 2 DP 19426 Int in ROW (1172 & 1194 Maraekakaho Rd)²⁹; and
- (Lot 2 DP 12192 BLK XV Heretaunga SD)³⁰;

Note: A map of these sites would assist particularly given that scheduled site 26 includes part of a legal site.

8.5 FINDINGS

8.5.1 We agree that there is a relationship between land use and associated traffic effects that needs careful consideration, although traffic effects are not the only matter relevant to provision for retail in the proposed zone. We do not find the propositions advanced by the submitters regarding traffic considerations to be robust or persuasive. Mr Tickner's arguments are contradictory. He admitted that rezoning will result in additional traffic, and that commercial activities could expand, creating higher traffic volumes. He then stated that the traffic effects will be similar either way. We disagree.

8.5.2 An important point is the effect of the Limited Access Road ('LAR') status of Maraekakaho Road on land use. It is our understanding that LAR status requires the road controlling authority to permit one access point to the LAR per lot, but only where the land does not have reasonably practicable alternative access from another road (s 346D Local Government Act 1974).

8.5.3 In the absence of expert and comprehensive traffic/transportation evidence that supports the submitters' position, we prefer the Council's reasoning for limiting the potential for commercial activities. While we agree that as a general principle, the established 'commercial' activities have a legitimate function in the zone owing to their specific characteristics and association with industrial activities, which should be

²⁷ Navillusso and Tumu Timbers currently scheduled site 24

²⁸ M Walmsley, currently scheduled site 25

²⁹ Carrfields site currently scheduled site 26

³⁰ J & R Roil site.

recognised, we do not consider it acceptable to open up the zone as a whole to the full gamut of commercial activities that fall within Rule G15. In particular, home improvement centres comprising not only timber sales but which may also incorporate retail garden centres, cafes, appliance sales, general merchandise and a wide variety of home improvement items (eg Bunnings, Mitre 10)³¹ are likely to be inappropriate in this location. Mr Tickner confirmed that in his opinion a home improvement centre would be permitted by the rule.

8.5.4 Should a developer consider that there are compelling circumstances that justify a particular activity being located at Irongate, it is appropriate that an application is made for resource consent so that any potential adverse effects can be fully evaluated and the proposal tested against the relevant objectives and policies of the Plan.

8.5.5 We agree with Mrs Morgan that lawfully established activities with a small commercial component should be provided at Irongate in a manner that does not conflict with the objectives and policies of the Plan, or give rise to high traffic generation. Her recommendation is to modify Rule G15 to permit such activities, provided they meet three criteria: that they predominantly involve outdoor display or storage, have limited covered areas associated with the use and have limited retail floor space. Should similar activities be contemplated elsewhere in the zone, we find that in order to ensure the overall objective of efficient and effective use of the industrial land resource is achieved, it is appropriate for such activities to make their case by way of resource consent application.

RECOMMENDATION – ISSUE 4 - SECTION 14.1.5 RULE G15 - SALE OR HIRE OF MACHINERY

A) That the submissions of M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9) that Rule G15 be amended to apply to the Irongate Industrial Area *be accepted in part, by amending the provisions as follows (bold, italics and double underlined)*

³¹ noting that some, but not all of these activities are excluded by the note to G15

<p>GI5A</p>	<p>The sale or hire of:</p> <ul style="list-style-type: none"> • Machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes¹; • Buildings <p>This rule only applies to those Omaha Road sites identified within the area identified in Appendix 36; <u>and those sites in the Irongate Industrial Area identified in Appendix 36 A</u></p>	<p><u>P</u></p>
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14.1.7.1 ACTIVITY THRESHOLD LIMITS

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

Dairies and food premises: The gross floor area of the premise shall not exceed 50m².

Service Stations: No limit.

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.

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, building or landscaping purposes and the sale or hire of buildings on sites fronting Omaha Road: No limit.

The sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes and the sale or hire of buildings on those sites in the Irongate Industrial Area identified in Appendix 36A: 100m² indoor retail display space. There shall be no limit on outdoor display space.

Outcome

Optimum and efficient use of industrial land resources and the avoidance of significant adverse effects. Non-industrial activities will remain ancillary to the principal activities taking place in the Industrial Zone (Irongate).

4.1.8 ASSESSMENT CRITERIA – RESTRICTED DISCRETIONARY AND DISCRETIONARY ACTIVITIES

14.1.8.2 ACTIVITIES NOT COMPLYING WITH THE GENERAL STANDARDS AND TERMS IN SECTION 14.1.6

(h) The extent and nature of traffic to be generated by the activity and the resultant potential for adverse effects (including cumulative effects) to occur on the safe operation of Maraekakaho Road.

Sites for Appendix 36A:

- Lot 1 DP 367052, Lot 1 DP26757, Lot 1 DP209209, Lot 1 DP 23232, Lot 1 DP 26022, Sec 13 SO 4381081229 (1215 -1229 Maraekakaho Road)³²;
- Lot 1 DP24887 (1206 Maraekakaho Rd);³³
- Lot 2 DP4414, and that part of Lot 2 shown as schedule 26 on Map 33 Lot 2 DP 19426 Int in ROW (1172 &1194 Maraekakaho Rd)³⁴; and
- (Lot 2 DP 12192 BLK XV Heretaunga SD)³⁵;

B) That as a consequence of recommendation A) above, the further submissions in support from Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navillusso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14) also be accepted in part.

³² Navillusso and Tumu Timbers currently scheduled site 24

³³ M Walmsley, currently schedules site 25

³⁴ Carrfields site currently scheduled site 26

³⁵ J & R Roil site.

REASONS - ISSUE 4 - SECTION 14.1.5 RULE GI5 - SALE OR HIRE OF MACHINERY

- 1. That it is appropriate to recognise and make ongoing provision for lawfully established activities involving the sale of large goods such as machinery and equipment used for industrial, agricultural, horticultural, building or landscaping purposes on existing sites within the Irongate Industrial Area.**
- 2. That amendment of Rule GI5 of the General Industrial Zone, to include reference to the whole of the Irongate Industrial Area would not facilitate efficient and optimum use and development of existing industrial resources within the Hastings District in that:**
 - sale of large goods such as machinery, and equipment used for industrial, agricultural, horticultural, building or landscaping purposes are provided for in other more suitable high profile industrial areas.**
- 3. That land sought for inclusion in the zone, already provides for some existing large scale retail activity and further provision for this type of activity would utilise the large sites available in this zone creating pressure for ad-hoc development in the Plains and Rural zoned areas where there is ongoing pressure for larger industries to locate.**
- 4. The amendment of Rule GI5 to provide for sale of machinery etc. from the whole of the General Industrial Zone (Irongate Area), does not serve the purpose of the proposed amendment, which is to amend infrastructure servicing options and achieve boundary rationalisation.**
- 5. Rule GI5 specifically relates to sites on Omahu Road, as supported by the Hastings Industrial Strategy and Proposed District Plan objectives and policies including:**

'Objective IZO1

To facilitate efficient and optimum use and development of existing industrial resources within the Hastings District.'

POLICY IZP1

Ensure that non-industrial activities will remain ancillary to the principal activities taking place in the Industrial Zones.'

Amending it to also include the General Industrial Zone (Irongate Area) would be inconsistent with these objectives and policies.

- 6. Maraekakaho Road is a high-speed traffic environment with access restrictions and large scale retail activities are discouraged from locating there.**

9.0 ISSUE 5: SECTION 14.1.6 GENERAL PERFORMANCE STANDARDS AND TERMS

9.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
#4	M Walmsley Ltd
#5	J & R Roil
#6	Carrfields Investments Limited
#7	Tumu Timbers Limited
#8	Navilluso Holdings Ltd
#9	Development Nous Ltd
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd
#4	M Walmsley Ltd
#5	J & R Roil
#6	Carrfields Investments Ltd
#7	Tumu Timbers Limited
#8	Navilluso Holdings Ltd
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
2	HW Richardson Group

9.2 THE SUBMISSIONS

9.2.1 Submission Point 6 - Maximum Building Height

9.2.2 **M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9)** seek an amendment to General Industrial Zone (Irongate Area) Standard 14.1.6A.1 – building height, to increase the maximum height allowed from 15 metres to 30 metres.

9.2.3 These submissions are supported in further submission from **Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).**

9.2.4 Submission Point 7 - Front Yard Setback and Landscaping

9.2.5 **M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); and Navilluso Holdings Ltd (Submission 8)** seek:

- amendment to General Industrial Zone (Irongate Area) *Standard 14.1.6A.3 - building setback* to remove the 10 m front yard setback requirement; and
- to retain General Industrial Zone (Irongate Area) *Standard 14.1.6A.4 -landscaping on front boundaries.*

1.1.1 These submissions are supported in further submission from **Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).**

9.2.6 Submission Point 8 - Shelterbelts

9.3 **HW Richardson Group (submission 2)** oppose General Industrial Zone (Irongate Area) standard 14.1.6A.5(b) Shelterbelts and request that it be deleted.

9.4 SUBMISSION POINT 6: BUILDING HEIGHT

9.4.1 SECTION 42A REPORT

9.4.2 The section 42A report makes the comment in relation to all three submission points in Issue 5 that Variation 2 is an amending proposal and does not propose any change to district plan provisions relating to the above general performance standards and terms of the General Industrial Zone. Therefore, where appropriate, reference has been made in the report to the supporting assessments completed at the time Plan Change 50 introduced the zone to the District Plan.

9.4.3 Issue 5 groups together submissions relating to the performance standards within the zone. Whilst submission points must be addressed individually, they are inter-related and our findings reflect that they have considered holistically.

9.4.4 The section 42A report records that the request of Development Nous Limited (Submission 9) for the building height to be increased from 15m to 30m is to maintain consistency with the height limits of the other General Industrial Zones, and that buildings such as grain silos and fertiliser sheds, which are currently existing and/ or likely to be developed in this zone, will potentially not be permitted.

9.4.5 The report refers to Policy IZP8 which expresses the requirement to provide a high level of amenity for new industrial zones, stating:

'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

and that the reason for the height standard in the PDP has a stated outcome:

Outcome

The amenity of the Zone will be maintained by preventing tall obtrusive structures or buildings.

9.4.6 The report describes the environmental characteristics of the proposed General Industrial Zone (Irongate Area) as comprising an 'open' environment, on the urban edge of Hastings, with much of the zone being located between two main gateway routes to Hastings from the south - Maraekakaho Road and State Highway 50A. The 15 metre height

control is considered to be consistent with the aim of the PDP in creating an attractive and integrated environment with surrounding development and where *"the effects of 30-metre-high buildings in this vicinity could be significant in such an open environment"*.

9.4.7 The report refers also to the reasoning behind the 15 metre height limit, in the landscape and visual assessment³⁶ that accompanied Plan Change 50: *'the existing maximum height for warehouses and buildings within the Plains zone is 15 metres. It is recommended this height restriction be mimicked within the proposed IIRA ensuring that the mass and form of the future buildings reflect the scale and character of the surrounding rural activities.'*

9.4.8 In addition, this building height was considered *'an appropriate tool to control the size and scale of the buildings and ensure they do not unduly dominate this landscape location which does have a significant viewing audience associated with Maraekakaho Road and the proposed Southern Expressway extension...'*³⁷

9.4.9 Whilst the section 42A assessment acknowledges that there may be some activities that may require an increased building height, as referred to in the submission from Development Nous Limited, Mrs Morgan is of the opinion that Rule GI11 adequately provides for activities that do not meet with these standards as a discretionary activity.

9.4.10 She has concluded that the need for an increased building height is outweighed by the need to protect the wider productive rural amenity, and the high visibility of this area from State Highway 50A and Maraekakaho Road.

9.5 Evidence - Building Height

9.5.1 Mr Lawson's submission on behalf of John and Rose Roil and others

9.5.2 Mr Lawson's submission stated that "many of the buildings within the Irongate Industrial Area are already at a greater height than 15m and

³⁶ <https://www.hastingsdc.govt.nz/files/all/documents/districtplan/planchanges/50/12-landscape.pdf> (Thow report)

³⁷ <https://www.hastingsdc.govt.nz/files/all/documents/districtplan/planchanges/50/12-landscape.pdf> (terra forme report)

inclusion of a 30m height limit would reflect this situation"³⁸ and make the provisions consistent with other industrial zones.

9.5.3 He considered that the existing situation, and not a landscape assessment undertaken for Plan Change 50 some 10 years ago is a determining aspect, along with the fact that much of the land within the zone will not have any interface with the surrounding Rural environment (the intent being to maintain Rural amenity).

9.5.4 Evidence of J Tickner on behalf of Development Noun and others

9.5.5 Mr Tickner's planning evidence echoed the Development Noun submission relating to the lack of consistency with other industrial zones, notably Omahu Road. He also referred to the example in the Carrfield submission of grain silos which exceed 15m in height. Mr Tickner referred to Standard 6.2.6K.2 that permits 30m buildings on the Tumu and Navilluso sites, both of which are central to the industrial zoning and have frontage to SH50A and Maraekakaho Road.

9.5.6 **Council Response**

9.5.7 No change was recommended by Mrs Morgan for the reasons outlined in her s42A report. She also noted that where an increase in height is sought this can be done by way of a restricted discretionary resource consent application.

9.5.8 **FINDINGS**

9.5.9 We accept that there are a few existing buildings and structures within the area now proposed to be zoned General Industrial which exceed the proposed height limit of 15m, although the number and location of these buildings were not identified in evidence, and are not typical of the 'existing environment'.

9.5.10 We note Mr Tickner's point that the Scheduled Activity status of the Navilluso and Tumu Timber sites currently allows development to a maximum height of 30m. This land does have extensive frontages to both SH50A and Maraekakaho Road, and comprises a sizeable area within the proposed General Industrial (Irongate) zone. It was not clear to us whether any existing development on this land exceeds 15m and we were not provided with details of any existing but as yet unimplemented resource consents that might change this situation.

³⁸ Lawson submission at paragraph 35

Much of this land is as yet undeveloped. However, the other two scheduled sites included in Variation 2 - Carrfields and Farmers Transport on Maraekakaho Road - currently have a height limit of 11m.

9.5.11 Determining an appropriate height limit is therefore made more challenging by the inclusion of these large scheduled sites within the Irongate Industrial Area, which are essentially spot zones originally zoned Industrial 6 under the Operative District Plan.

9.5.12 The result of this is that the existing sites are anomalous in terms of the overall purpose of the zone, as discussed elsewhere. A higher standard of amenity is a policy for the zone, for the reasons considered in the section 32 assessment, than for the Industrial 6 zone that it will in part replace. Whilst the proposed reduction in the permitted height from 30m to 15m is a consequence of this revised approach under Variation 2, we consider the rationale for the height limit as assessed in the section 32 analysis to be still current.

9.5.13 From our site visit, it was evident that certain established scheduled activities have already had a greater effect on visual amenity than that considered appropriate for the zone as a whole, particularly in regard to the absence of screening and the proximity of development to road frontages. Tall buildings may therefore be more visually prominent in these circumstances. In our view, rules that will ensure the attainment of better amenity outcomes for the balance of the zone (and for the remaining undeveloped areas within the scheduled sites now incorporated into Variation 2) are therefore justified and the proposed height limit of 15m is appropriate. We do not consider it unreasonable that an application for resource consent would be required to exceed this height limit.

9.6 SUBMISSION POINT 7: YARD SETBACKS AND LANDSCAPING REQUIREMENTS

9.6.1 Section 42A report

9.6.2 The section 42A report sets out for comparison with the Irongate Industrial Area, the front yard setbacks required under standard 14.1.6A.3 in all of the industrial zones. Proposed front yard setbacks at Irongate are 10m, the same as within General Industrial Areas adjacent to Kirkwood Road. Elsewhere, front yard setbacks range from nil to 6m opposite or adjacent to a Residential Zone. Omahu Road frontages require a 3m setback under Variation 1.

9.6.3 In addition, a minimum landscaping width of 2.5 metres is required along all road frontages in the General Industrial Zone (Irongate Area), other than along SH50A where standard 14.1.6A.5 requires shelterbelt planting to be established.

9.6.4 The front yard and landscaping standards for Irongate have been recommended as a result of the Landscape and Visual Impact Assessment (Summary Report) accompanying Plan Change 50³⁹ along with the 15 metre height restriction (discussed above) to ensure the Irongate Area would be appropriately integrated and to achieve a high level of amenity.

9.6.5 The section 32 report accompanying Plan Change 50 considered this the most efficient and effective method to meet zone objectives relating to maintaining acceptable levels of amenity as sought by Operative District Plan Objective IZ03, being

To ensure that industrial use and development is capable of co-existing with existing activities and maintains acceptable amenity levels.

This has been replaced by a similar objective IZO5 in the Proposed District Plan:

Industrial activities shall maintain acceptable amenity levels or be safeguarded from incompatible uses within surrounding environments.

9.6.6 The section 42A report notes that the majority of the additional land to be rezoned General Industrial has frontage to Maraekakaho Road, which has been identified as an important route into the city, and it is not proposed to enable 'high profile' retail. For these reasons, it is considered that the 10 metre setback, combined with the landscaping requirements, are the appropriate methods for achieving amenity objectives in this area.

9.6.7 The report also compares the proposed 10m setback with the 15m setback required for industrial activities in the Plains Production Zone and concludes that there will be no disadvantage to landowners resulting from the rezoning rule.

9.6.8 Mrs Morgan's overall conclusion is that removal of the front yard setback for the Irongate Industrial Area, would not achieve the desired

³⁹ <https://www.hastingsdc.govt.nz/files/all/documents/districtplan/planchanges/50/12-landscape.pdf> (terra forma report)

character and amenity sought for the zone, in that it would not be consistent with the amenity of the surrounding rural area.

EVIDENCE - YARD SETBACKS AND LANDSCAPING REQUIREMENTS

Mr Lawson's submission on behalf of John and Rose Roil and others

9.6.9 Mr Lawson's submission asserted that the section 42A report⁴⁰ does not justify the height, setback or landscaping provisions proposed within the Irongate area. He submitted that much of the land "will not have any interface with the surrounding environment, either fronting onto Maraekakaho Road or be 'internal' within the industrial zone."⁴¹

9.6.10 In his submission, the rationale proposed in the section 42A report is akin to an inter-zone boundary issue, not a general performance standard that should apply throughout the entire zone.

9.6.11 Council Response

9.6.12 No further comments were received on this submission point from the Council

9.6.13 FINDINGS

9.6.14 We accept the rationale outlined in the section 42A report, which has been informed by the analysis undertaken under section 32, for the minimum setback and landscaping provisions. These rules, together with the maximum height limit, are to ensure a level of amenity that reflects the zone's function (provision for large-scale industry) as well as its location at the interface with rural production land and with high-volume traffic routes. We did not have the benefit of expert evidence offering a contrary view.

9.7 SUBMISSION POINT 8: SHELTER BELT PLANTING

9.8 Section 42A report

9.8.1 The section 42A report sets out in full the requirements as proposed in Standard 14.1.6A.5(b) for shelter belt planting on boundaries adjacent to State Highway 50A, and boundaries adjacent to the Plains Production Zone. The proposed rule specifies the location, species and height of

⁴⁰ at paragraph 12.3.23

⁴¹ Lawson submission, paragraph 38

trees as well as maintenance requirements once the shelter belt is established.

9.8.2 Ms Morgan's advice was that the standard is not a new standard under this Variation. Instead, it is the result of the removal of staging under Variation 2, and its transfer from Deferred General Industrial Zone (Irongate Area) to General Industrial Zone (Irongate Area).

9.8.3 HW Richardson Group (Submission 2) oppose this standard, considering it to be overly onerous as uses permitted in the Plains Production Zone will generate similar visual effects to those permitted in the General Industrial Zone.

9.8.4 The section 42A report has considered the effect of the rule in relation to the submitter's land at 1174 - 1192 Maraekakaho Road, (Farmers Transport) and the submitter's interest in adjoining land that is subject to this Variation. These sites include currently 'scheduled' site 25, (formerly zoned Industrial 6). Standard 14.1.6A.5(b) would therefore apply to these sites if the Variation is adopted.

9.8.5 Figure 1 Scheduled Site 25



9.8.6 For scheduled sites, the relevant landscaping requirement is Standard 6.2.6.K of the Plains Zone (Proposed District Plan):

(a) At least 50% of any required yard shall be landscaped, planted and maintained for the full length of the boundary (excluding vehicle entrances)

(b) Any landscaping strip shall have a minimum width of 1.0 metre.

Outcome

Buildings and activities associated with the scheduled use of the site will not adversely affect the amenity of the rural environment.

9.8.7 The report states that Standard 14.1.6A.5(b) was imposed under Plan Change 50, and was identified as the preferred option for the following reasons:

The provisions of shelter belt planting provides benefits to existing rural activities which will bound the new industrial area as there will be an increased level of amenity from the screening of the industrial activities. There will also be benefit to the industrial activities through the minimisation of spray drift and dust from adjacent rural activities.⁴²

9.8.8 It is noted in the report that this site was considered in the landscape assessments completed for Plan Change 50; however the land was not included due to servicing constraints.

9.8.9 Mrs Morgan considers that as an industrial activity, it is appropriate to mitigate against cross-boundary effects, and the screening requirement is appropriate.

9.8.10 Her overall conclusion, is that amendments to the height, setback and shelter belt requirements of the General Industrial Zone as they apply to the Irongate Area, as sought by submitters, would not contribute to meeting the desired amenity outcomes for the zone.

9.9 Evidence - shelter belt planting

Evidence of Ms Diane Vesty on behalf of the Hawke's Bay Fruitgrowers' Association

9.9.1 Ms Vesty's evidence was in opposition to the HW Richardson Group's submission requesting removal of Rule 14.1.6A.5(b). She considered that the submitter may have interpreted the reason for the screening rule as only addressing visual amenity effects. However, she was of the opinion that the purpose of the rule is also to mitigate reverse sensitivity effects, and told us that the Association has been involved in public consultation with HDC since the industrial area was first being considered. She attached decision documents relating to Plan Change 50, in which the reasoning behind the requirements for shelter belts (to address reverse sensitivity issues) was clearly stated. She went on to say that "*this*

⁴² <https://www.hastingsdc.govt.nz/files/all/documents/districtplan/planchanges/50/section32.pdf> p44

industrial development is in the centre of the Plains Production zone and is surrounded by production properties with existing rights to farm. We agree with Federated Farmers' submissions that these internal buffers should be included so that the legally established activities on adjoining properties can continue with their usual practices".

9.9.2 Her request that the 'Outcome' be changed to reflect the intent to mitigate reverse sensitivity effects.

9.9.3 A related matter which she raised is that Rule 14.1.6A.5(c) could be read as overriding the shelter belt requirement.

9.9.4 Council Response

9.9.5 Mrs Morgan agreed that the order of Rules 14.1.6A.5(b) and 14.1.6A.5(c) is confusing and has recommended the following reordering/numbering, and amendment to outcome (***shown in bold, italics and double underlined***). She also agreed that the amendment to the outcome as sought is appropriate to reflect that screening will also assist with reverse sensitivity issues and has recommended the following amendments.

14.1.6A.5 SCREENING

1.0 General Industrial

a) All ~~other~~ Internal boundaries adjacent to Plains Production 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.

b) Internal boundaries adjacent to a Residential or Open Space zone

A 1.8m high solid fence shall be provided along the full length of any side or rear boundary adjoining land zoned Residential or Open Space.

Outcome

*Industrial activities adjoining Open Space, Residential or Plains Zones will have a pleasant appearance, **and provide protection to mitigate reverse sensitivity effects.***

Outcome

Industrial activities shall have a pleasant appearance from the neighbouring

State highway and Residential Zone.

1.0 Irongate Area

(a) Irongate Area – boundaries adjacent to the Plains Zone and Boundaries adjacent to Section 17 SO 438108 (HB131/166)

Outcome

The visual amenities of adjacent State Highway 50A will be maintained.

i) A shelterbelt shall be established along the full length of each boundary

ii) The shelterbelt shall consist of one of the following tree species:

- Sheoak – Casuarina
- Cryptomeria

iii) The individual trees shall be at least 2m in height at the time of planting.

iv) The shelterbelt shall be planted no closer than 5m and no further than 10m from the boundary.

v) The shelterbelt shall be maintained so that:

- the branches do not extend over the boundary; and
- its height does not exceed the distance the shelterbelt is from the boundary plus 4 metres.

(e.g. at a distance of 5 metres from the boundary, the height limit is 9 metres; at a distance of 9 metres from the boundary, the height limit is 13 metres).

vi) That the shelterbelt must be capable of being fully maintained from

within the site it is located.

vii) No new shelterbelt shall be required to be provided on a boundary where there is an existing legally established shelterbelt parallel to and within 10m of that boundary.

~~All other Internal boundaries adjacent to Plains Production 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.~~

~~Internal boundaries adjacent to a Residential or Open Space zone~~

~~A 1.8m high solid fence shall be provided along the full length of any side or rear boundary adjoining land zoned Residential or Open Space.~~

9.9.6 FINDINGS

9.9.7 We agree with the rationale for requiring shelter belt plantings around the perimeter of the Irongate Industrial zone and adjacent to SH50A for both visual amenity reasons and to avoid conflicts between differing land uses. The recommended amendments in Mrs Morgan's reply on behalf of the Council will clarify the purpose of the rule and avoid misunderstandings that could arise if Rule 14.1.6A.5(c) was considered to override Rule 14.1.6A.5(b), which it does not.

RECOMMENDATION – ISSUE 5 – SECTION 14.1.6 GENERAL PERFORMANCE STANDARDS AND TERMS

- A) That the submissions of M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9) to amend standard 14.1.6A.1 Building Height by increasing the minimum building height from 15 to 30 metres be rejected.**
- B) That as a consequence of recommendation A) above, the further submissions in support from Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14) also be rejected.**
- C) That the submissions of M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); and Navilluso Holdings Ltd (Submission 8) to amend *Standard 14.1.6A.3 - building setback*, by removing the 10m front yard setback requirement be rejected; and to retain *Standard 14.16A4 - landscaping on front boundaries*, be accepted.**
- D) That as a consequence of recommendation C) above, the further submissions in support from Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14) also be rejected in relation to the requested removal of the 10m front yard setback from Standard 14.1.6A.3 and accepted in part insofar as Standard 14.16A4 - landscaping on front boundaries is retained.**
- E) That the submission of HW Richardson Group (Submission 2), to remove standard 14.1.6A.5(b) - shelterbelts, be rejected.**
- F) That the following amendments are made to Standards 14.1.6A.5 as consequential amendments required for clarity**

14.1.6A. SCREENING

5

1.0 General Industrial

a) All ~~other~~ Internal boundaries adjacent to Plains Production 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.

b) Internal boundaries adjacent to a Residential or Open Space zone

A 1.8m high solid fence shall be provided along the full length of any side or rear boundary adjoining land zoned Residential or Open Space.

1.1 Irongate Area

(b) Irongate Area – boundaries adjacent to the Plains Zone and Boundaries adjacent to Section 17 SO 438108 (HB131/166)

i) A shelterbelt shall be established along the full length of each boundary

ii) The shelterbelt shall consist of one of the following tree species:

- Sheoak – Casuarina
- Crytomeria

iii) The individual trees shall be at least 2m in height at the time of planting.

iv) The shelterbelt shall be planted no closer than 5m and no further than 10m from the boundary.

v) The shelterbelt shall be maintained so

Outcome

Industrial activities adjoining Open Space, Residential or Plains Zones will have a pleasant appearance, and provide protection to mitigate reverse sensitivity effects.

Outcome

Industrial activities shall have a pleasant appearance from the neighbouring State highway and Residential Zone.

Outcome

The visual amenities of adjacent State Highway 50A will be maintained.

that:

- **the branches do not extend over the boundary; and**
- **its height does not exceed the distance the shelterbelt is from the boundary plus 4 metres.**

(e.g. at a distance of 5 metres from the boundary, the height limit is 9 metres; at a distance of 9 metres from the boundary, the height limit is 13 metres).

vi) That the shelterbelt must be capable of being fully maintained from within the site it is located.

vii) No new shelterbelt shall be required to be provided on a boundary where there is an existing legally established shelterbelt parallel to and within 10m of that boundary.

All other Internal boundaries adjacent to Plains Production 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.~~

Internal boundaries adjacent to a Residential or Open Space zone

~~A 1.8m high solid fence shall be provided along the full length of any side or rear boundary adjoining land zoned Residential or Open Space.~~

REASONS - ISSUE 5 - SECTION 14.1.6 GENERAL PERFORMANCE STANDARDS AND TERMS

- 1. That the General Industrial Zone (Irongate Area) amenity standards 14.1.6A.1 – building height; 14.1.6A.3 – building setback; 14.16A4 – landscaping on front boundaries; and 14.1.6A.5(b) shelterbelts, are necessary to maintain the amenity of the surrounding rural environment, and to meet the desired outcomes for the zone.**
- 2. That the General Industrial Zone (Irongate Area) is located along two key access routes to Hastings from the south, and it is therefore appropriate to have a higher standard of amenity than other industrial zones.**
- 3. That the purpose of Variation 2 is to amend the servicing solutions for the General Industrial Zone (Irongate Area), and to include adjacent scheduled sites within the zone, and that amendment of amenity standards 14.1.6A.1 – Building Height; 14.1.6A.3 – Building Setback; 14.16A4 – Landscaping on front boundaries; and 14.1.6A.5(b) Shelterbelts, as requested by submitters is not necessary to achieve that purpose.**
- 4. That these standards are based on the recommendations from the Landscape Assessments supporting Plan Change 50, which also apply to consideration of additional land being incorporated in the zone by Variation 2.**

10.0 ISSUE 6: SECTION 6.2 PLAINS PRODUCTION ZONE – RULE PP34 & REVERSE SENSITIVITY

10.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
4	M Walmsley
5	J & R Roil
10	Hawke's Bay Fruitgrowers' Association Inc
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd
9	Development Nous Limited
10	Federated Farmers Ltd

10.2 THE SUBMISSIONS

Submission Point 9 - Residential and Visitor Accommodation Activity Status

10.2.1 Rule PP34 of the Plains Production Zone provides that residential activities and visitor accommodation within 30 metres of any Industrial Zone on land identified within Appendix 36, Figure 2 (relating to Omaha Road industrial sites that adjoining the Plains Production Zone) are a 'non-complying activity'.

10.2.2 Variation 2 proposes that this be increased to 50 metres and also apply to Plains Production zoned land adjoining the Irongate Industrial Area.

10.2.3 **M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); and Hawke's Bay Fruitgrowers (Submission 10)**, oppose this amendment and seek that it be removed.

10.2.4 These submissions are supported in further submissions from **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).**

Submission Point 10 - Minimum Setback for Residential and Visitor Accommodation

10.2.5 **Development Nous Limited (Submission 9)**, seeks that Rule PP34 should apply the same 30 metre setback for residential and visitor accommodation activities adjoining the Irongate Industrial Area rather than having two different setback requirements in different areas that are supposed to achieve the same purpose (protect reverse sensitivity).

Submission Point 11 - Request for No Complaints Covenants

10.2.6 **Federated Farmers Ltd (Submission 1)**, have supported Variation 2 in general, but seek that any new development should include adequate internal buffer zones to protect adjacent rural activities including the development of residential accommodation, homestays etc. They also suggest consideration of adequate buffer zones and imposing suitable resource consent conditions to achieve this.

10.3 SUBMISSION POINTS 9 & 10 - RESIDENTIAL AND VISITOR ACCOMMODATION

10.3.1 Section 42A Report

10.3.2 The section 42A report identifies Rule PP34 as an existing Rule in the Proposed Hastings District Plan, but currently only applies to the Omaha Industrial Area. It classifies '*Residential Activities and visitor accommodation within 30 metres of any Industrial Zone on land identified within Appendix 36, Figure 2**' as a non-complying activity.⁴³

10.3.3 The report makes the comment that the purpose of the proposed amendment to Rule PP34 is to provide additional protection for activities in the General Industrial Zone (Irongate Area), through avoiding the potential for reverse sensitivity issues arising from residential activities,

⁴³ Appendix 36 Figure 2* references Omaha Road Areas to which additional Rules apply

locating in proximity to the zone. The proposed application of Rule PP34 to the General Industrial Zone at Irongate was considered desirable to achieve this.

10.3.4 Reverse sensitivity is considered to be a relevant matter for industrial zones which provide for activities that have potential to create high levels of nuisance effects such as noise, odour, dust and glare. Reverse sensitivity issues are to be managed within the Industrial Zone through a range of mechanisms including zone setback provisions, noise controls etc. Management of issues such as odour and dust are also subject to the requirements of the Hawke's Bay Regional Resource Management Plan.

10.3.5 The report considers that at the zone boundary interface, industrial activities can be particularly vulnerable to residential activities establishing in close proximity. For that reason, imposing an additional setback requirement for residential activities on Plains zoned land adjacent to the Irongate Industrial Area would provide further protection for activities within the Irongate Industrial Area.

10.3.6 There are however, a number of zone standards in District Plan Section 14 Industrial Zone, that seek to mitigate the effects of industrial development on residents in the Plains Zone including:

- building height in relation to boundary controls (Standard 14.1.6A.2)
- front yard setbacks of 10m (Standard 14.1.6A.3)

(a) screening of boundaries adjacent to the Plains Production Zone and Boundaries adjacent to Section 17 SO 438108 (HB131/166) by shelterbelts

10.3.7 In addition, more restrictive noise limits are imposed at the Plains/Industrial zone interface as outlined below:

Standard 25.1.6F Industrial Zones

The following noise conditions shall apply to all land uses within all Industrial Zones, other than those exempted in Rules and 25.1.6G (Whirinaki Industrial Zone):

(b) Provided that, 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:

<i>Control Hours</i>	<i>Noise Level</i>
<i>0700 to 1900 hours</i>	<i>55 dBL_{Aeq} (15 min)</i>
<i>1900 to 2200 hours</i>	<i>50 dB L_{Aeq} (15 min)</i>
<i>2200 to 0700 hours the following day</i>	<i>45dB L_{Aeq} (15 min)</i>
<i>2200 to 0700 hours the following day</i>	<i>75 dB L_{AFmax}</i>

10.3.8 It is also noted that the Irongate Industrial Area provides for 'dry' industry only, and there is no provision for trade waste.

10.3.9 The report considers that these standards place an onus on landowners in the Industrial Zone to ensure amenity levels at zone boundaries are consistent with the surrounding Plains Production Zone amenity. Of relevance to neighbouring residents is the restrictive night time noise limits of 45dBL_{Aeq} that would need to be met within 20 m of their dwelling.

10.3.10 Mrs Morgan is of the opinion that reverse sensitivity can continue to be appropriately managed through these mechanisms and that given the above rules and the focus of Variation 2 on extending the zone boundaries and introducing provisions to enable onsite servicing of stormwater, there is little to support introducing a new provision creating a buffer zone on adjacent Plains Production zoned land. She has therefore recommended its removal from the Variation.

10.4 **Evidence - residential and visitor accommodation**

10.4.1 Ms Rhea Dasent, Senior Policy Advisor, on behalf of Federated Farmers

10.4.2 Ms Dasent made a brief oral statement in which she referred to the tabled submission provided for the Omaha hearing the day before, addressing reverse sensitivity issues. Federated Farmers' concern is to ensure that reverse sensitivity is appropriately managed within the proposed industrial zone and that the rights of rural land owners to carry out rural activities are not impeded by the establishment of industrial activities in the adjacent zone.

10.4.3 Evidence of Ms Diane Vesty on behalf of the Hawke's Bay Fruitgrowers' Association

10.4.4 Ms Vesty on behalf of the Hawke's Bay Fruitgrowers' Association read a brief statement in which she confirmed the Association's agreement with the officer's recommendation to remove PP34 from the Irongate

Variation. She said that reverse sensitivity was the main area of concern for the Association, and Rule PP34, "*was never intended to set a precedent for future developments*". It had relevance to Omaha because of the unique circumstances that arise with the land ownership characteristics, the narrow structure of the planned development area which creates an "*exceptionally long*" interface between the Omaha industrial area and Plains land, with a wide swale along the zone boundary where no industrial activities can take place.

10.5 SUBMISSION POINT 11 - NO COMPLAINTS COVENANTS

10.5.1 Section 42A report

10.5.2 **Federated Farmers (Submission 1)**, have requested consideration of no complaints clauses as part of resource consent conditions. The section 42A report considers that this is a mechanism that can be used during the resource consenting process to assist in managing reverse sensitivity issues. However Mrs Morgan has concluded that this is not a matter that can be dealt with through the Variation process and reverse sensitivity issues can be appropriately managed through other existing District Plan provisions.

10.5.3 EVIDENCE

10.5.4 Ms Rhea Dasent, Senior Policy Advisor on behalf of Federated Farmers

10.5.5 Ms Dasent referred to the tabled submission that had been provided for our consideration in relation to Variation 1 (Omahu North). In that submission, it was stated that the Plan has a "*right to farm*" ethos and that a new set of farmers and orchardists will be on the zone boundary and possibly subject to reverse sensitivity that they hadn't encountered before. We infer that the same issue is considered relevant at Irongate owing to the extended zone area that is proposed.

10.5.6 Council response

10.5.7 Mrs Morgan has recommended further amendments to the landscaping and screening rules to clarify their application and intended purpose, as discussed in relation to Issue 5. She has concluded that these amendments will also assist with reverse sensitivity issues.

10.5.8 FINDINGS

10.5.9 In relation to the request that no complaints covenants be considered, we are satisfied that the rules in Variation 2 requiring inter alia, separation distances of buildings to site boundaries and shelterbelt screening along the Irongate Industrial Area interface with adjoining Plains Production land (as well as SH50A and Maraekakaho Road) are sufficient to manage the potential reverse sensitivity issues and that there is no justification for requiring no complaints covenants as a district plan rule.

RECOMMENDATION – ISSUE 6 - SECTION 6.2 PLAINS PRODUCTION ZONE – RULE PP34 & REVERSE SENSITIVITY

- A. That the submissions of M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); and Hawke’s Bay Fruit Growers Association (Submission 10) opposing the application of Rule PP34 to the Irongate Industrial Area ***be accepted.***
- B. That as a consequence of recommendation A) above, the further submissions in support from Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); Development Nous Ltd (FS14) also ***be accepted.***
- C. That the submission of Development Nous Limited (submission 9) requesting an amendment to Rule PP34 to include reference to the Irongate Industrial Area ***be rejected.***
- D. That the submission of Federated Farmers Ltd (Submission 10) supporting Variation 2 in part subject to amendments relating to reverse sensitivity ***be accepted in part.***

REASONS – ISSUE 6 - SECTION 6.2 PLAINS PRODUCTION ZONE – RULE PP34 & REVERSE SENSITIVITY

- 1. That the issue of reverse sensitivity for activities establishing in the General Industrial Zone (Irongate Area) can be appropriately managed by existing provisions of the District Plan, including standards:

- **14.1.6A.2 Height in Relation to Boundary;**
 - **Standard 14.1.6A.3 Setbacks;**
 - **Standard 14.1.6A.5 Screening;**
 - **Standard 25.1.6F Industrial Zones (relating to noise)**
- 2. That the purpose of Variation 2 is to introduce new District Plan provisions to enable onsite servicing of stormwater and extend the zone boundaries, and there is little to support introducing a new provision creating a buffer zone on adjacent Plains Production zoned land.**

11.0 ISSUE 7: MINIMUM VEHICLE ACCESS SEPARATION, MARAEKAKAHO ROAD

11.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
11.2 #4	M Walmsley Ltd
#5	J & R Roil
#6	Carrfields Investments Limited
#7	Tumu Timbers Limited
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman;
FS#7	Irongate Holdings Ltd
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd

11.2.1 **M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9)**, seek amendment to District Plan Standard 26.1.6A and Subdivision Standard 30.1.7E(2) to protect existing entrance ways and accesses by reducing the required minimum vehicle access separation for properties in the Irongate Industrial Area that front Maraekakaho Road, from 100 metres to 15 metres.

11.2.2 These submissions are supported in further submission from **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8);**

Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14).

11.3 SECTION 42A REPORT

11.3.1 The section 42A report refers to the classification of Maraekakaho Road, from Longlands to York Road, as 'Limited Access Road' (LAR), which restricts the number and location of access ways as a result of the 100 km/h speed limit, reflected in the Council's District Roding Hierarchy classification as an Arterial (high-volume road) road in the.

11.3.2 The report discusses the history of the road's LAR classification under the provisions of the Transit New Zealand Act 1989 and notes that any existing accesses should have been registered on individual titles pursuant to a gazette notice.

11.3.3 Since the development of the Southern Arterial, this control has now passed to the District Council, and the provisions of the Local Government Act 1974 (sections 346 – 346J) apply, and as such, no further protection is considered necessary under the District Plan.

11.3.4 The minimum separation distance between access ways was first introduced to the Operative Plan via Plan Change 50, and has been carried through to the Proposed Plan. Variation 2 has not proposed to amend this requirement, although the following new outcome is proposed:

'Outcome

The safe operation of Maraekakaho Road and where it intersects with Irongate Road.

11.3.5 The rationale for introducing the minimum separation distance was initially identified in the Traffic Impact Assessment accompanying Plan Change 50 as a safety measure, due to the high volume of traffic and its Limited Access Road status.

11.3.6 The section 42A report refers to the advice sought from the Council's traffic engineer Mr Sarath Kuruwita⁴⁴ in response to submissions and concludes that retaining this requirement is still preferred given the high speed, high volume nature of Maraekakaho Road. However, it is acknowledged that there may be instances where an applicant can

⁴⁴ Document 3, Attachment 3: Council Engineers Comments (14 Oct 2016)

demonstrate a lesser separation distance is appropriate by means of a Traffic Impact Assessment.

11.3.7 Traffic counts indicate that there has been an upwards trend in traffic volumes since 2011, which is expected to continue with the uptake of industrial land at Irongate.

11.3.8 It is noted in the section 42A report that subdivisions must comply inter alia with the provisions of 26.1 Transport and Parking in order to be consented as controlled activities, specifically Subdivision Standard 30.1.7E(1) and Standard 30.1.7E(2). These include a minimum separation distance between vehicle crossings of 100m to Maraekakaho Road and 15m to any other road as well as a minimum distance of 100m from a vehicle crossing on Maraekakaho Road to an intersection.

11.3.9 However, Rule SLD17 makes provision for non-compliance with these standards to be considered as a restricted discretionary activity. Assessment criteria refer to the need to demonstrate best practice in subdivision design, as set out in the 'Subdivision and Infrastructure Development in Hastings: Best Practice Design Guide, which includes consideration of connectivity, site or lot design, and property access.

11.3.10 The conclusion in the section 42A report is that there is sufficient scope in the Plan for a reduction in the minimum standards to be consented. The clear intent of the Plan with regard to this standard, is to reinforce safe access along this section of road that remains Limited Access Road, and is anticipated to experience increasing traffic volumes. Given this, and the additional land along this section of Maraekakaho Road being sought for inclusion in the Irongate Industrial Area, it is considered appropriate to retain the requirement for a 100 metre minimum separation distance between access points.

11.4 EVIDENCE

Mr Lawson's submission on behalf of John and Rose Roil and others

11.4.1 Legal submissions were made by Mr Lawson on the grounds that the separation distance is excessive, it does not reflect the number of existing access ways on to Maraekakaho Road that have been allowed to establish, and that compliance with the Engineering Code of Practice as well as parking and manoeuvring requirements are sufficient control mechanisms.

Evidence of J Tickner on behalf of Development Nous, Carrfield Investments Ltd, Mike Walmsley Ltd, Navilluso Holdings Ltd, Tumu Timbers Ltd and John and Rose Roil

11.4.2 Mr Tickner considered the minimum separation distance to be onerous, and unnecessary because of the restrictions imposed by the LAR classification of the road. He stated that the separation distance "makes it pretty hard to develop" and "requiring additional resource consent seems like an addition (sic) bureaucratic time and cost constraint for a matter which is already controlled by other existing and appropriate mechanisms".

11.4.3 He also thought the solution was a reduction in the speed limit along Maraekakaho Road.

11.4.4 Council Response

11.4.5 The Council officer's recommendation to this request remains unchanged. As a high speed road and main entrance to Hastings, retaining of control over the separation distance is appropriate. While lowering the speed limit could be a solution, this would also affect travel times and may not be a desirable outcome. Land owners can apply to Council for a reduction in minimum site separation between access points as a 'restricted discretionary' resource consent activity. This provides Council with the discretion to consider traffic safety is appropriately addressed, before granting consent.

11.4.6 FINDINGS

11.4.7 Neither Mr Lawson nor Mr Tickner are experts in traffic planning and we did not find their arguments persuasive. Speed limits are controlled outside the RMA process and we understand that any change to the posted speed limit involves an analysis of a wide range of matters including road function, road geometry, number of access ways and intersections, sight lines, crash history and land use.

11.4.8 The Council's rationale for maintaining the separation distance is soundly based and there is adequate scope for a lesser distance to be consented if it can be demonstrated that in the particular circumstances, the safety and efficiency of the road will not be adversely affected. We do not consider that the objectives in the Plan relating to traffic safety and efficiency would be achieved by reducing the separation distance. While maintaining the separation distance may mean additional

consenting costs for individual applicants, traffic safety is paramount. Maintaining the efficiency of Maraekakaho Road in accordance with its arterial route classification minimises the costs of delays to road users and is therefore the most appropriate method for achieving the objective.

RECOMMENDATION: ISSUE 7 - MINIMUM VEHICLE ACCESS SEPARATION, MARAEKAKAHO ROAD

- A) That the submissions of M Walmsley Ltd (Submission 4); J & R Roil (Submission 5); Carrfields Investments Limited (Submission 6); Tumu Timbers Limited (Submission 7); Navilluso Holdings Ltd (Submission 8); and Development Nous Limited (Submission 9), seeking to amend District Plan Standard 26.1.6A and Subdivision Rule 30.1.7E(2)) to protect existing entrance ways and accesses by reducing the required minimum vehicle access separation for properties in the Irongate Industrial Area that front Maraekakaho Road, from 100 metres to 15 metres *be rejected*.
- B) That as a consequence of recommendation A) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson and JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14); also *be rejected*.

REASONS: ISSUE 7 - MINIMUM VEHICLE ACCESS SEPARATION, MARAEKAKAHO ROAD

1. That retaining District Plan Standard 26.1.6A and Subdivision Rule 30.1.7E(2)), to maintain the requirement for 100 metres separation distance between vehicle crossings to sites on Maraekakaho Road, is appropriate to meet safety outcomes for Maraekakaho Road.
2. That no further protection of existing access ways is required in the District Plan, as protections are available under the provisions of the Local Government Act 1974, pertaining to Limited Access Roads.
3. The existing District Plan provisions provide sufficient flexibility to apply to Council for a reduction in separation distances between

access ways, provided that road safety and efficiency can be satisfactorily addressed.

12.0 ISSUE 8: STATUS OF DESIGNATION (PLANNING MAP 33 AND APPENDIX 16)

12.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
7	Tumu Timbers
8	Navilluso Holdings Ltd
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey;
FS#6	Greg Harman
FS#7	Irongate Holdings Limited
FS#11	Tumu Timbers Ltd;
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd
9	Development Nous Ltd

12.2 THE SUBMISSIONS

Submission Point 13

12.2.1 **Tumu Timbers (Submission 7), and Navilluso Holdings Ltd (Submission 8)**, submit that in terms of Planning Map 33, an existing designation is shown. These submitters understanding is that this was established / needed under the previous plan changes as evidenced in Appendix 15.1.7 (also referenced as Appendix 16 in the present Variation 2 document). This is not shown on the proposed structure Plan (Appendix 16). Accordingly, these submitters seek further clarification on this point and reserve the right to be heard in relation to this aspect should it be required.

12.2.2 No specific change is sought by these submitters.

12.2.3 Further Submitters **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14)**, support these submissions.

Submission Point 14

12.2.4 **Development Nous Ltd (Submission 9)**, have requested the removal of the Designation for Stormwater shown in the Planning Maps on the conclusion of the Variation Process as soon as reasonably possible.

12.3 SECTION 42A REPORT

Submission Points 13 and 14

12.3.1 The section 42A report has included an excerpt from the applicable planning map showing the designations that are identified on land within the Irongate industrial area, which is replicated below:



FIGURE 2 PLANNING MAP 33

12.3.2 There are five designations listed in the Designation Schedule (Appendix 66 Proposed Hastings District Plan) of which one is by Unison Networks for electricity distribution, one applies to State Highway 50A and one is for the intersection upgrade at the junction of SH50A and Maraekakaho Road. The two designations that will become redundant if Variation 2 is adopted are D146 and D147, which are for the *"Irongate infrastructure corridor for construction and operation of bulk utility services including water sewer and stormwater"* and *"Irongate Stage 1 Attenuation Area for Stormwater Purposes"* respectively.

12.3.3 The report makes the comment that the revised Planning Map as notified by Variation 2, shows the outline of these designations. However the designation schedule reference has been removed.

12.3.4 Mrs Morgan considers that while it is the intention of Council, as a requiring authority, to proceed with a designation process to reflect the updated Structure Plan once the process for Variation 2 is completed, the Planning Maps cannot be amended in the meantime.

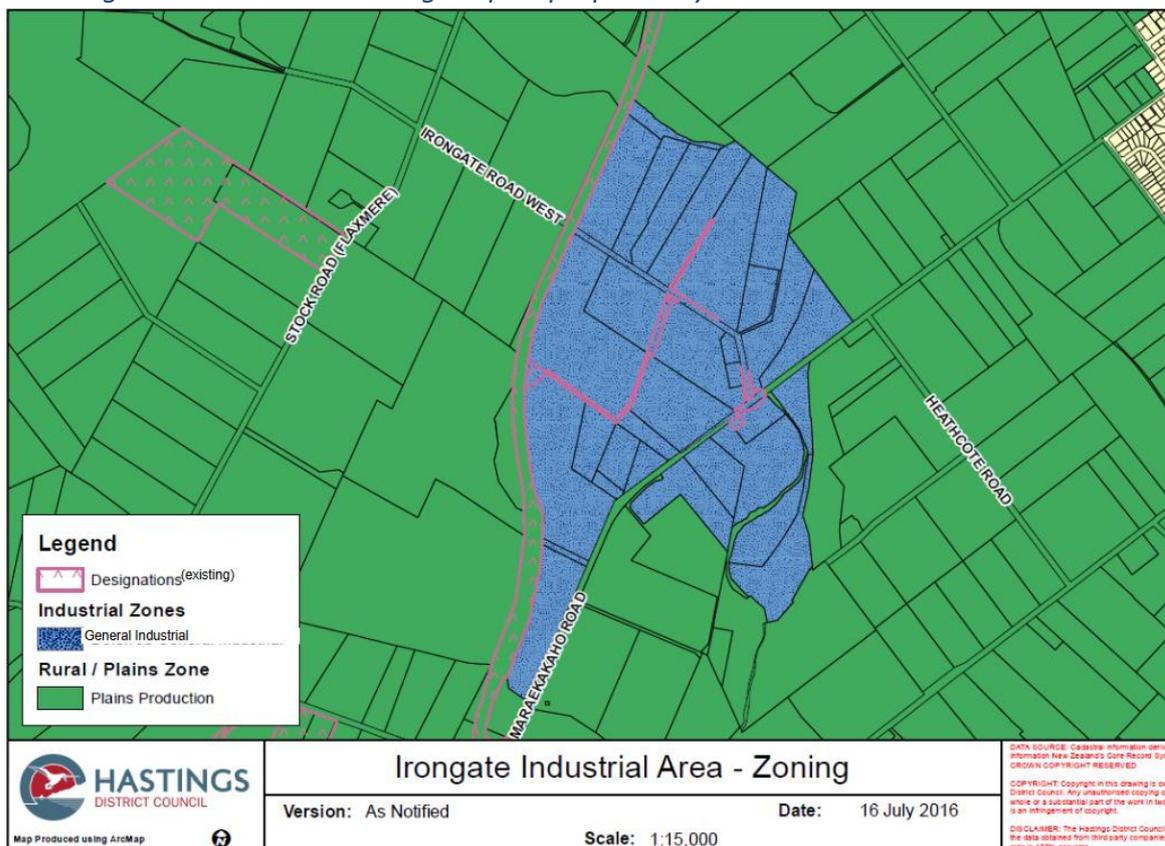
12.4 EVIDENCE

12.4.1 Mr Lawson's submission referred to the designation affecting the Navilluso and Tumu Timbers site; however he accepted that a separate process is required for removal of the designation.

12.4.2 FINDINGS

12.4.3 We agree that removal of a designation is beyond the scope of the variation submission process. However, we note that under section 182 of the RMA, removal of all or part of a designation is a relatively straightforward matter.

Figure 3 Amended Planning Map as proposed by Variation



RECOMMENDATION – ISSUE 8- STATUS OF DESIGNATION (PLANNING MAP 33 AND APPENDIX 16)

- A) That the submissions of Tumu Timbers (Submission 7), and Navilluso Holdings Ltd (Submission 8), seeking clarification regarding the noting of designations on Planning Map 33 ***are noted***.
- B) That as a consequence of recommendation A) above, the further submissions in support from Hawke’s Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14), ***are also noted***.

C) That the submission of Development Nous Ltd (Submission 9) requesting the removal of the Designation for Stormwater shown in the Planning Maps on the conclusion of the Variation Process as soon as reasonably possible, is noted.

REASONS – ISSUE 8 - STATUS OF DESIGNATION (PLANNING MAP 33 AND APPENDIX 16)

- 1. That the absence of reference to Designations D16, D143, D146, D147 & D148 on the Planning Map notified by Variation 2 is an oversight, as amendments to existing designations (including their removal) are subject to Part 8, Section 166 – 186 of the Resource Management Act,. A separate process is therefore required to remove Designation 147 (attenuation area) and amend Designation 146 (infrastructure corridor for the construction and operation of bulk utility services including water, sewer and stormwater).**
- 2. That it is Council’s intention to undertake the appropriate process once the Variation process is complete.**

13.0 ISSUE 9: RECOGNITION OF ESTABLISHED INFRASTRUCTURE AND LAWFULLY ESTABLISHED ACTIVITIES

13.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
4	M Walmsley
5	J & R Roil
6	Carrfield Investments Ltd
7	Tumu Timbers
8	Navilluso Holdings Ltd
9	Development Nous Ltd
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman
FS#7	Irongate Holdings Limited
FS#8	GB Stephenson & JL Armstrong
FS#11	Tumu Timbers Ltd
FS#12	Navilluso Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous Ltd
FS#9	Hawke's Bay District Health Board

13.2 THE SUBMISSIONS

13.2.1 The submissions of **M Walmsley (Submission 4)**, **J & R Roil (Submission 5)**, **Carrfields Investments Ltd (Submission 6)**; **Tumu Timbers Limited (Submission 7)**; and **Navilluso Holdings Ltd (Submission 8)** request that any rezoning of their land should recognize their established infrastructure (services and buildings) and lawfully established activities. No specific mechanisms were identified to achieve this.

13.2.2 Further Submitters **Hawke's Bay Project Management (FS1)**; **Jara Family Trust (FS2)**; **Brendon Cane (FS3)**; **Jason Heard (FS4)**; **David Healey (FS5)**;

Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14), support these submissions.

13.2.3 Hawke's Bay District Health Board (FS9), opposes these submissions.

13.3 SECTION 42A REPORT

13.3.1 The section 42A report makes the comment that with the exception of Development Nous Ltd, the above submitters are owners of land recognised in the District Plan as 'scheduled' activities. The current activities on these sites have been legally established pursuant to resource consents. The report provides a summary table of scheduled sites and their resource consent history as summarised in the table reproduced from the report, below.

Table 4 Scheduled Sites, Irongate Area

<i>Schedule Reference</i>	<i>Legal Description / Address /Owner</i>	<i>Resource Consent History</i>
24	Sec 13 SO 4381081229 Maraekakaho Road, (Navilluso Holdings Ltd)	<ul style="list-style-type: none"> ● Establish a retail/ off-licence premise; ● Subdivide to expand the existing Tumu Timbers building (2006) ● Second hand goods store/waiving threshold limits ● Erect building for show home office ● Operate an Animal Health supply business ● Erect a new display shed
25	Lot 1 DP24887, 1206 Maraekakaho Rd, (M Walmsley Ltd)	<ul style="list-style-type: none"> ● Operation of retail and whole sale outlet for recycled building materials. ● To operate a firewood and landscaping business ● Relocate an office ● Relocate a building ● Side yard waiver ● Side yard waiver
26	Lot 2 DP4414 Lot 2 DP 19426 Int in	<ul style="list-style-type: none"> ● Create a right of way

	<p><i>ROW, 1194 Maraekakaho Rd, (Carrfields Ltd)</i></p>	<ul style="list-style-type: none"> ● <i>Cert of Compliance</i> ● <i>Establish a Printing Plant</i> ● <i>Erect a sign</i> ● <i>Establish a printing plant</i> ● <i>Removal of underground separator unit and above ground tank</i>
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13.3.2 The section 42A report identifies two key issues for these properties as a result of their proposed rezoning under Variation 2 to General Industrial Zone (Irongate Area). These are:

- The range of uses activities available to these properties under a General Industrial Zone as opposed to their status as scheduled sites in the Plains Production Zone; and
- Protection of on-site infrastructure servicing under a new zone that requires connection to water and sewer services.

13.3.3 General Industrial Zone rights compared to ‘scheduled’ site rights

13.3.4 The report discusses the differences between the rights available to scheduled sites under the District Plan and rights available under the proposed General Industrial (Irongate) zoning. Scheduling recognises existing activities that have either have existing use rights or have been approved under resource consent.

13.3.5 Scheduled sites 24, 25 and 26 are currently able to operate activities that are consented to or have existing use rights, or are provided for by the underlying Plains Production Zone.

13.3.6 Under Variation 2, a different range of activities will be available to these land owners. A comparison of the range of opportunities that are available under each zone are set out in Table 5 of the report, and reproduced below.

Table 5 Comparison of Permitted Activities

Permitted Activities	
Plains Production Zone	General Industrial Activity (Irongate Area)
<ul style="list-style-type: none"> • Land Based Primary Production; • One Residential Building per site; • One Supplementary Residential Building • Retailing within specified limits (100m²); • Commercial Activities - within specified limits (100m² in total, one person living on site and maximum of 3 employees); • Industrial Activities - within specified limits (2,500m² per site, associated with processing, storage and/or packaging of agricultural, horticultural and/or viticultural crops and/or produce; and one person resident on site); • Temporary Events; • Wineries within specified limits (2,500m² as above); • Seasonal Workers Accommodation; • Alterations to, or the addition of new buildings to existing Places of Assembly or any building ancillary to a Recreation Activity not exceeding 15% of the gross floor area as at 12/09/2015; • Scheduled Activities – any activity listed in Appendix 26 in respect to the stated site; • Existing Education Facilities including extensions and alterations not exceeding 15% of the gross floor area, or not exceeding 15% of the Site area, as at 12/09/2015; and • Recreation Activity that occurs on reserves vested under the Reserves Act 1977. 	<ul style="list-style-type: none"> • Industrial premises; • Dairies and food premises (50m²); • Service stations (no limit); • Retail sales and offices on the same site and ancillary to an Industrial activity (subject to threshold standards (15% of total gross floor area of the buildings on site or 100m² gfa whichever is the lesser); • Tyre storage; • Temporary events; and • Emergency services facilities.

13.3.7 It is noted that while the range of activities under the Plains Zone provisions is slightly broader, the activities provided for by the General Industrial Zone are more aligned with existing scheduled activities. Retail

and commercial activities are restricted in both zones; and any legally established retail business will continue to have existing use rights or be protected by the conditions of its resource consent. The report considers that these properties will however, have greater potential to extend or establish industrial activities without the constraints of the Plains Zone such as limits on employee numbers or a requirement to have a person living onsite.

13.3.8 Thus, the inclusion of these properties within the General Industrial Zone and removal of scheduling status will provide landowners with a wider range of industrial activity development rights and existing activities will continue to be protected.

Infrastructure Servicing

13.3.9 The section 42A report advises that scheduled sites 24, 25 and 26 are serviced by onsite wastewater and have access to bore water and noted that these are 'dry' type industrial / semi industrial activities.

13.3.10 The removal of staging means that reticulated systems for water and wastewater will become available to the whole of the General Industrial Zone (Irongate Area). Stormwater servicing will, as previously discussed, be managed on a site by site basis.

13.3.11 For these scheduled sites, and all sites that have existing onsite waste disposal and water bore connections, a requirement to connect to the available reticulated system will only be triggered under the District Plan if a subdivision consent is applied for, and would only apply to the new site(s) to be created.

13.3.12 Under the Development Contribution Policy, Council can only require a contribution if the development creates a demand for council infrastructure. In the cases of scheduled sites S24, S25 and S26, a development contribution would only be triggered on those sites if:

- A service connection request is made where the existing site connects to Council water or wastewater services
- A building consent is granted for additional or new commercial / industrial buildings where the building connects to council roading, water or wastewater services.
- A resource consent is granted that creates a vacant additional site where the building connects to council roading, water or wastewater services.

13.3.13 The report notes that the existing buildings are therefore recognised under the above, in so far as a contribution would not apply where an existing connection exists.

13.3.14 EVIDENCE

Submission by M Lawson on behalf of John and Rose Roil and others

13.3.15 Mr Lawson submitted that the recognition of lawfully established infrastructure and activities relates to other submissions on the inclusion of Rule GI5 (sale of machinery, garden and building supplies etc). His contention was that many of the long-established activities in the Irongate area will become non-complying, which in his submission was not the intent of Variation 2 or of the provisions of the Proposed Plan. These concerns could be addressed by the inclusion of provisions such as Rule GI5.

13.3.16 FINDINGS

13.3.17 The issues raised in this submission point relating to existing activities have been in our view largely resolved by the recommended amendments to Rule GI5 which we have discussed under Issue 4 above. We consider that the explanation provided in the section 42A report of applicable Development Contributions demonstrates that no further amendments are required to the Variation to address infrastructure servicing.

RECOMMENDATION - ISSUE 9 - RECOGNITION OF ESTABLISHED INFRASTRUCTURE AND LAWFULLY ESTABLISHED ACTIVITIES

A) That the submissions of M Walmsley (Submission 4), J & R Roil (Submission 5), Carrfields Investments Ltd (Submission 6); Tumu Timbers Limited (Submission 7); and Navilluso Holdings Ltd (Submission 8) requesting that any rezoning of their land should recognize their established infrastructure (services and buildings) and lawfully established activities are accepted in part, to the extent that proposed amendments to Rule GI5, as set out in the recommendations for Issue 4, will provide for the sale or hire of machinery, equipment and supplies used for industrial, agricultural, horticultural, building or landscaping purposes and the sale or hire of buildings as permitted activities on the submitters' sites.

B) That as a consequence of recommendation A) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard

(FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); GB Stephenson & JL Armstrong (FS8); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous Ltd (FS14), are also accepted in part.

14.0 ISSUE 10: DEVELOPMENT CONTRIBUTION MATTERS

14.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
11	Hawke's Bay Project Management
FS#1	Hawke's Bay Project Management
FS#2	Jara Family Trust
FS#3	Brendon Cane
FS#4	Jason Heard
FS#5	David Healey
FS#6	Greg Harman
FS#7	Irongate Holdings Limited
FS#10	Sunfruit Orchard Ltd
FS#11	Tumu Timbers
FS#12	Navillus Holdings Ltd
FS#13	Carrfields Investments Ltd
FS#14	Development Nous

14.2 SUBMISSIONS

14.2.1 **Hawke's Bay Project Management Group (Submission 11)**, seek that Council consider:

14.2.2 The issues identified with water reticulation, especially when it appears that individuals have the ability to make a claim on Development Contributions, where it is clear the Public Benefit is clearly identifiable with Irongate providing infrastructure to a ring main water system between Hastings and Flaxmere.

14.2.3 To review the ability of Landowners to prepay actual costs of infrastructure for water and sewer, prior to any finance costs being attributed to the project. Such as:

- a. interest costs over the life of the project;
- b. internal costs from Council against the development.

14.2.4 To remove roading from the early development and to calculate costs for roading in a similar manner to those that submit on Resource Consents and Plan Changes.

14.2.5 To provide the calculations of rate take on the Irongate Development on the following basis:

- a. 40 ha fully developed with land value of \$50m² and hooking into Council services i.e. 33% uptake.

14.2.6 **Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); Sunfruit Orchard Ltd (FS10); Tumu Timber (FS11); Navilluso Holdings Ltd (FS12); Carrfields Investments Ltd (FS13); and Development Nous (FS14)**, support this submission.

14.3 SECTION 42A REPORT

14.3.1 The section 42A report reiterates that infrastructure servicing has been the subject of a significant amount of work in relation to finding a suitable alternative to reticulated stormwater that Council could have confidence would meet environmental standards and encourage development in the Zone.

14.3.2 The only viable solutions are full reticulation (as per the Proposed Hastings District Plan provisions) or reticulated water and waste-water, with on-site servicing for stormwater. The latter option can meet the same objectives for stormwater as provided under the reticulated option, while providing other benefits including savings to Council in terms of land required, and therefore impacts positively on the necessary development contributions required to fund the infrastructure, Council have deemed this to be their preferred solution.

14.3.3 Matters considered in the preparation of Variation 2, have included an investigation of alternatives, as required by Section 32 of the RMA, and development of amendments to the Proposed District Plan provisions to meet the requirements of the RMA for the alternative servicing solution.

14.3.4 The associated calculation of Development Contributions, including consideration of public versus private good and apportioning of cost accordingly, are Local Government Act matters, addressed through

Council's Development Contributions Policy, and are the subject of separate discussions between Council and landowners in the area.

14.3.5 Both these submissions raise matters, that while related to the development and funding of the infrastructure for the General Industrial Zone (Irongate Area), are not RMA related matters, or matters 'on' the Variation as proposed. For submissions to be in scope, they must be 'on' the Variation, and cannot raise matters unrelated to what is proposed.

14.3.6 As such, these matters are not able to be addressed through this process.

14.4 EVIDENCE

14.4.1 As noted in the discussion of Issue 2, there is a degree of overlap between alternative options for the provision of a water supply for the Irongate industrial area and Development Contributions. In addition to the matters discussed under Issue 2, Mr Lawson submitted that there has been some predetermination of these matters, that it is our duty as Commissioners to properly consider the servicing options for Irongate, and that the proposal outlined in the evidence of Mr Wood and Ms Rabbitte provides a more sustainable, cost effective and efficient service than that proposed by the Council.

14.4.2 Mr Roil spoke to his power point presentation, commenting on the issues with Development Contributions in this area, compared with the levels for Plains land.

14.4.3 He commented that there have been many reports on Irongate over the past 10 years but considered that the focus of the Beca Review had been too narrow. He and others had made a submission to this and raised some issues. He referred to Chapter 9 of the Beca Review which he considered highlighted many difficulties getting things moving/addressed in this process.

14.4.4 He expressed concern that the issue of development at Irongate had had to be addressed via appeal to the Environment Court, when he felt the matter was straight forward. He noted that Irongate sites have an alluvial layer of free draining soil, with no overland flow paths (as the identified flow path was the old Ngaruroro River bed) and there were no liquefaction issues.

14.4.5 In terms of roading and development costs, he questioned the high costs developers were being asked to pay, including kerb and channel. He suggested that Stage 2 should be removed and Stage 1 reconsidered.

14.4.6 Council Response

14.4.7 The Council's response to the comments received from Mr Lawson on behalf of John Roil to the GNS report is that *"whilst it is acknowledged that an alternative solution based on a local bore(s) with associated storage, treatment, pressure pumping facilities etc could provide a technically feasible water supply system for the Irongate Industrial area, the proposed extension of the existing water supply reticulation system to the Irongate Industrial area provides greater reliability, operational advantages and greater future-proofing, with no cost penalty. Hence the additional submission has not changed HDC's view that the proposed extension of the existing water supply system to the Irongate Industrial area is the most appropriate water supply solution for the zone."*

14.4.8 FINDINGS

14.4.9 It was apparent that Mr Roil and other landowners were frustrated by the process and they had been active participants, making submissions at various stages. While we have listened to their concerns in relation to water, sewer and roading, it is beyond our mandate to provide recommendations in relation to the matter of development contributions having already made recommendations on the most effective and efficient means of providing these services.

RECOMMENDATION - ISSUE 10 - DEVELOPMENT CONTRIBUTION MATTERS

- A) That the submission of Hawke's Bay Project Management Group (Submission 11), in relation to the feasibility of the servicing solutions proposed by Council for water, sewer and roading, the community benefit of these solutions and the development contribution calculations *is noted*.
- B) That as a consequence of A) above, the further submissions in support from Hawke's Bay Project Management (FS1); Jara Family Trust (FS2); Brendon Cane (FS3); Jason Heard (FS4); David Healey (FS5); Greg Harman (FS6); Irongate Holdings Limited (FS7); Sunfruit Orchard Ltd (FS10); Tumu Timbers Ltd (FS11); Navilluso Holdings Ltd

(FS12); Carrfields Investments Ltd (FS13); and Development Nours Ltd (FS14), are also noted.

15.0 ISSUE 11: OTHER MATTERS

15.1 Table of submitters and further submitters

Sub. No.	Submitter (S) Further Submitter (FS)
1	Federated Farmers of New Zealand
10	Hawke's Bay Fruitgrowers Association Inc

15.2 THE SUBMISSIONS

15.2.1 **Federated Farmers of New Zealand (Submission 1)** has identified an issue facing farmers whose land is being rezoned from Plains Production to Industrial. Federated Farmers consider that farmers in this situation, may face the issue of property values rocketing and subsequently large increases in rates, despite there being no immediate change in land use or capital. As a consequence of this Federated Farmers of New Zealand (Submission 1) recommend a remissions policy for land used for primary production and rural purposes in Industrial Zones.

15.2.2 **Hawke's Bay Fruitgrowers Association (Submission 10)** has raised concerns relating to the absence of tools to manage increased pressures for new land arising as a result of land banking. The Association submits that there is no shortage of industrial land in Hastings, but rather just a shortage of available land and that locally there are issues with industrial land laying undeveloped. It cites the reason being, a lack of will by current landowners to develop for this purpose. The submission requests that in the absence of any strategy to manage this issue, the entire Variation should be put on hold until an acceptable strategy is agreed and implemented.

15.3 SECTION 42A REPORT

15.3.1 Mrs Morgan considers in her section 42A report that Council development of a remission policy and land-banking strategy are matters, that while potentially related to the operation of the General Industrial Zone (Irongate Area), are not RMA-related, or matters 'on' the Variation as proposed. She previously outlined that for submissions to be in scope, they must be 'on' the Variation, and cannot raise matters unrelated to what is proposed.

15.3.2 These submissions are in her opinion, not 'on' the Variation, and therefore are not within the scope of what can be considered.

15.3.3 In relation to the **Hawke's Bay Fruitgrowers' Association (Submission 10)**, request that Variation 2 is placed on hold until the matter it has raised is addressed, Mrs Morgan considered that delaying the Variation would not best serve industrial development in the Irongate Area. She commented that there is currently a significant demand for available land for large scale dry industries, particularly for coolstores and packhouses. If Council holds up this Variation, this would likely place more pressure on rural land for these purposes.

15.4 EVIDENCE

Ms Rhea Dasent, Senior Policy Advisor, on behalf of Federated Farmers

15.4.1 Ms Dasent explained in her written evidence that Federated Farmers opposes rates reflecting speculative value rather than actual use of a property, and sought rates remission for farmers using land for primary production and rural purposes in Industrial zones.

15.4.2 The intention behind this was to address the issue of farmers having land rezoned from Plains Production to Industrial facing unsustainable increases in property values and therefore increases in rates.

15.4.3 She considered that the Variation should incorporate a new method, as outlined in her evidence and that there was a precedent for this in the District Plan. It was her opinion that section 32 required the Council to consider other methods and provided examples of rates remission policies in the Plan relating to heritage items, protection of indigenous vegetation and riparian land management.

15.4.4 She commented on the effect of rates and development contributions. The development contributions discouraged industrial buyers which increased the time lag and the rates were a burden on landowners.

Council Response

15.4.5 Mrs Morgan considered that there is potentially a scope issue with Federated Farmers' requested rates remission policy, as it appears to apply to the whole of the General Industrial Zone, not just Irongate. In addition, regardless of scope, the request seeks an economic benefit, which is outside the scope of the District Plan. Federated Farmers are however, encouraged to make a submission to the Annual Plan on this matter. No change is recommended for the reasons outlined in her s42A report.

15.4.6 No further comment was provided in relation to the Fruitgrowers' Association submission seeking that the Variation be placed on hold pending formulation of a Council policy on land banking.

FINDINGS

15.4.7 Whilst the Council may adopt any number of methods by which it wishes to achieve particular outcomes for development under the RMA, including rates rebates, not all methods are under the umbrella of the RMA legislation. As with Development Contributions that are set under the Local Government Act 2002 ('LGA'), rates rebates are a policy decision for the Council which must be undertaken in accordance with the processes outlined in the LGA and Local Government (Rating) Act 2002 including special consultative procedures. We have no jurisdiction to consider either this issue or the submission from the Fruitgrowers' Association relating to formulation of a strategy to address land banking.

RECOMMENDATION – ISSUE 11 - OTHER MATTERS

A) That the submission of Federated Farmers of New Zealand (Submission 1), requesting a remissions policy for land used for primary production and rural purposes in Industrial Zones *be noted*.

B) That the submission of Hawke's Bay Fruitgrowers Association (Submission 10) requesting a remissions policy for land used for primary production and rural purposes in Industrial Zones *be noted* and its submission requesting that Variation 2 be put on hold until an acceptable strategy to address landbanking of industrial land is developed *be rejected*.

1.1 REASONS – ISSUE 11 - OTHER MATTERS

- 1. That putting Variation 2 on hold, while Council develop a strategy to address the issue of land-banking, could place more pressure on rural zoned land for industrial uses.**

- 2. That the issues raised are not within the scope of Variation 2.**

2.0 ISSUE 12: MINOR ERRORS

2.1 RMA SCHEDULE 1, CLAUSE 16

2.1.1 Clause 16 (2) of Schedule 1 provides that:

'A local authority may make an amendment, without using the process in this schedule, to its proposed policy statement or plan to alter any information, where such an alteration is of minor effect, or may correct any minor error'

2.1.2 The following referencing and editing errors (highlighted in red) have been noted in relation to consequential amendments proposed under Variation 2 Section 30.1.7 30.1.7 General Site Performance Standards and Terms, relating to subdivisions:

30.1.7 E PROPERTY ACCESS

(2) Outcome

The safe operation of Maraekakaho Road and where it intersects with Longlands, Irongate and York Roads.

Note: Maraekakaho Road is a Limited Access Road under the ~~Transit NZ Act 1989~~ Local Government Act 1974 which has certain restrictions on the number and location of access.

2.1.3 The changes to the outcome are required to correctly reference the length of road to which this standard applies.

2.1.4 The management of Maraekakaho Road was transferred from the NZ Transport Agency to Hastings District Council in 2013, and is now subject to the provisions of the Local Government Act 1974 (sections 346 – 346J), instead of the Transit Act 1989.

2.1.5 Given that these are minor technical errors it is recommended that these corrections be made as part of the final variation to the District Plan.

2.2 RECOMMENDATION: MINOR ERRORS

A) That the following amendments be made to the wording of Variation 2:

30.1.7E PROPERTY ACCESS

'Outcome

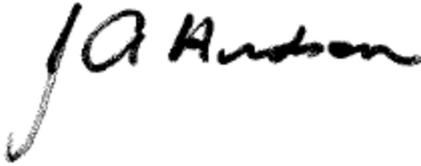
The safe operation of Maraekakaho Road and where it intersects with Longlands, Irongate and York Roads.

3.0 *Note: Maraekakaho Road is a Limited Access Road under the ~~Transit NZ Act 1989~~ Local Government Act 1974 which has certain restrictions on the number and location of access.*

3.1 REASONS: MINOR ERRORS

- 1. That the corrections as identified are minor and required to better understand the standards and notes to which they relate.**

DATED AT AUCKLAND THIS 15TH DAY OF MARCH 2017

	
JENNY HUDSON (CHAIRPERSON)	ALAN PATTLE (COMMISSIONER)