

Before Hastings District Council

In the Matter of the Resource Management Act 1991 (**Act**)

And

In the Matter of an application by Russell Roads Ltd for resource consent to undertake mineral processing associated with gravel extraction activities carried out adjacent to the Ngaruroro River, Maraekakaho.

Hearing Reference Resource consent – RMA20180258

Decision of Hearing Commissioner

Dated 29th January 2019

DECISION OF HEARING COMMISSIONER

Introduction:

1. This is an application by Russell Roads Ltd for a land use consent to establish and operate a river gravel processing plant on a site located along the bank of the Ngaruroro River (subject site), near the village of Maraekakaho in the Hastings District.
2. The Applicant at present extracts gravel from the Ngaruroro River under a regional consent, processes the gravel on the site and then transports the material offsite for a variety of uses including for roading aggregate.
3. There is currently a dispute¹ before the Environment Court between Council and the applicant over whether the applicant is entitled to undertake the processing operations on the subject site under existing use rights without a land use consent. This application if granted is intended to regularise the situation.
4. The application was publically notified in July 2018 and 65 submissions were received. Most of the submissions opposed the application and were from people living mainly around the Maraekakaho area.
5. I was appointed as an Independent Commissioner by the Hastings District Council as consent authority to hear and determine the application. A hearing was held at the Hastings District Council office in Hastings on the 26th and 27th of November. I undertook a site visit on the afternoon of the 26th of November. Those persons who attended the hearing and presented submissions and evidence are listed in the schedule attached to this decision.
6. At the conclusion of the hearing I issued minutes requesting additional information from Council's reporting officer Mr Bishop and from the Hawke's Bay Regional Council (HBRC) a submitter at the hearing. I also gave Mr Lawson Counsel for a number of Maraekakaho submitters who opposed the application the right to respond in writing to any additional information received, with Mr Brabant Counsel for the applicant having the final right of reply.
7. Once all the information and further submissions were received, I closed the hearing on the 10th of January 2019.
8. To assist me to decide this application, I received and read the following documents;
 - The application documents and the supporting assessment of environmental effects (AEE).
 - The submissions in support and those opposing the application.

¹ Abatement Notice Appeal Proceedings.

- The s42A Report prepared by Council's Reporting Officer Mr D Bishop that provided a planning analysis of the application and made a recommendation to grant the application for my consideration. I am not obliged to follow that recommendation and must make my own determination based on the evidence I received.
- The further submissions and evidence presented at the hearing and the additional information provided after the hearing.

Background:

9. There is a history associated with this application. Since 1993, the applicant has been extracting gravel from the Ngaruroro River, near the Maraekakaho village under resource consents issued by the HBRC. The gravel extracted by the applicant was stock piled on the river bank on the current site and then trucked to a nearby site alongside a river access road off Kereru Road (the Kereru Road site) where the material was processed and then transferred offsite.
10. I understand in 2003, due to noise and dust complaints from neighbours, the crusher was moved to the current subject site for a short period but was then moved back to the Kereru Road site. The whole of the processing operation was finally moved to the subject site in 2017 where it is currently operating.
11. The extraction consents issued to the applicant by the Regional Council are renewed annually and have been for varying amounts of gravel since 1993, from 6000m³ or less to 40,000m³ in 2017 and 2018.
12. I am told the volume of consented gravel material to be extracted in each year varies from year to year depending on the need to maintain the design capacity of the river channel to avoid flood risk. The amount is calculated annually along sections of the river and then allocated to contractors.

The Proposal:

13. A full description of the proposal is set out in the AEE accompanying the application and in the s42A Report. By way of overview, the applicant is seeking consent to process gravel extracted from the Ngaruroro River under the regional consents mentioned earlier. The site is approximately 2.2ha of a 11.29ha local purpose reserve owned by the regional council adjoining the river.
14. The stock piling, processing and loading of the extracted gravel will all take place within the one site whereas previously prior to 2017, the gravel was either transported unprocessed directly to market or to the Kereru Road site for processing and dispatch. Attached are photo plans showing the Kereru Road site and the subject site.

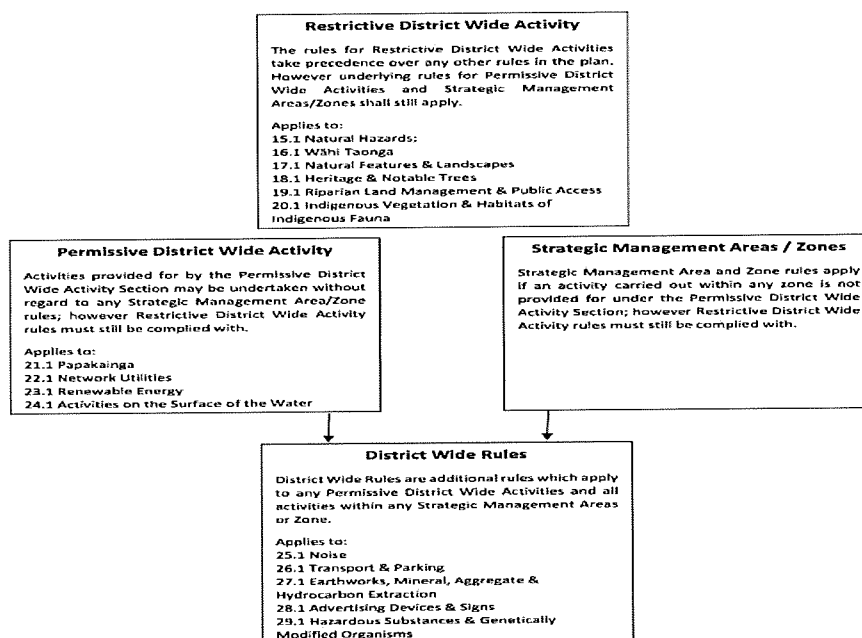
15. The site will be enclosed by security fencing around 3 sides of the site with a farm fence on the southern boundary adjoining farm land. However it is intended to screen the site with plantings along the southern boundary. The security fencing is important to prevent public access through the site and to ensure a safe working environment.
16. There is to be a small portacom building for staff and a staff portaloo located on the north eastern corner of the site.
17. It is proposed the hours of operation will be from 7am to 6pm Monday to Friday and 7am to 3.30pm on Saturdays. There will be no processing activities occurring on Sunday or public holidays. It is anticipated there will be no more than 3 staff on site.
18. An important aspect of this application is that the existing site access off Kereru Road from State Highway 50 will no longer be utilised by the applicant and instead a new 2 way sealed private road will be constructed to provide direct access from State Highway 50 to the site. It is estimated that the new road will take up to 12 months to construct, but in the meantime the applicant would like to continue to use the existing access road.
19. The construction of the new road is intended to address public safety and amenity problems associated with heavy trucks using the existing route. Members of the public using the road for access to the river for recreation purposes will no longer have to share what is a substandard unsealed track with large trucks that cause dust and noise. The processing of extracted gravel on the Kereru Road site and the use of the access road by heavy trucks has been an issue of concern to the Maraekakaho community and the local school.

The Status of the Application:

20. On this issue I was faced with competing legal arguments over the legal status of the proposal but before addressing those arguments, I should briefly describe what the proposed Hastings District Plan (PDP) says about this type of proposal.
21. Firstly, there is no dispute that the application is to be dealt with under the PDP. There are no longer any outstanding appeals against the planning provisions relevant to this application and therefore under s86 of the RMA the relevant rules of the PDP are to be treated as operative.
22. The applicant is seeking consent for the processing of gravel which falls within the definition of "Mining" in the PDP. That definition reads as follows;

***Mining:** means to take, win or extract, by whatever means, a mineral existing in its natural state in land, or a chemical substance from that mineral for the purpose of obtaining the mineral or chemical substance; and includes gravel extraction, quarrying **and the processing of minerals**, but does not include prospecting or exploration, or any of the foregoing where the material is for use on the same site (for example the establishment or maintenance of tracks on a farm); and to 'mine' has a corresponding meaning. (Emphasis added).*

23. The subject site is located in the Rural Zone under the PDP. There are a number of overlays that apply to the site, the relevant one being for this application the River Hazard Overlay. Under that Overlay permanent buildings and structures such as the portacom and security fence are classified as non complying activities being located in a hazard area.
24. Under the Rural Zone, mining is not provided for in any of the activities in that zone. However there is a "catch all" rule that provides that if an activity is not provided for in any of the activity categories in the zone they shall be a non complying activity.
25. Mining however is provided for as a district wide activity in the District Wide Activity Section in the PDP (chapter 27) which applies to activities that can occur across the district irrespective of zones². Under that Section mining (which includes processing) is a discretionary activity.
26. As the General Introduction Section of the PDP describes³, district wide activities and rules have been split into 3 categories. The first category is Restrictive District Wide Activities which, although not defined, I interpret as activities that require consent. The second category is permissive district wide activities which are activities permitted under the PDP. The third category is District Wide Rules which is self explanatory.
27. The inter relationship between district wide activities and rules and zone activities and rules and which rules take precedent are explained in a flow chart in the General Introduction Section that for ease of reference is set out as follows.



28. I have set out briefly the relevant provisions of the plan showing how the plan is intended to work but I do acknowledge that following the flow chart is not straight

² Part C – District Wide Activities.

³ See P6 – General Introduction.

forward. The difficulty in following the flow chart is highlighted in Mr Lawson's submissions on behalf of the Maraekakaho residents opposing the application.

29. Mr Lawson's main argument is that consent is required for mining as a non complying activity under the default rule in the Rural Zone Provisions as well for a discretionary activity under the District Wide Activity rules. As mentioned earlier, the default rule (rule RZ27 in Chapter 5) in the rural zone provides that any activity not provided for in that zone is to be classified as a non complying activity.
30. For this reason, Mr Lawson says the application must be considered against both the district wide provisions and the provisions of the rural zone. He argues that the application should be considered as a non complying activity overall and that the applicant needs to apply for the other rural zone consent.
31. Mr Lawson refers to the flow chart for support which explains the hierarchy for undertaking land use activities in the plan. He argues that although the Restrictive District Wide Activity box records that rules for Restrictive District Wide Activities take precedent over other rules in the plan, this is not a Restrictive District Wide Activity.. He then refers to the District Wide Rules box, and this is the nub of his argument, and says that the wording in that box supports his argument by recording that District Wide Rules are additional rules which apply to any permissive District Wide Activities and all activities within any strategic Management Areas or Zone.
32. Mr Lawson contends that the explanations given in the flow chart support his argument that both sets of rules for the Rural Zone and for the District Wide Activities apply to this application. He maintains that must be the case in order to take into account the wider effects of mining on the surrounding rural zone including its rural character and amenity rather than assessing the effects of mining under the more general assessment criteria in Chapter 27.
33. In response Mr Brabant points out that the specific District Wide Activity provisions for controlling mining activities define the status of mining, not the default rule in the rural zone. Council's Reporting Officer Mr Bishop supports Mr Brabant's position based on legal advice he had received.
34. Before I respond to the competing arguments over the proposal I should briefly set out the general principle for interpreting subordinate legislation which is relatively straight forward. Where any obscurity or ambiguity arises over the meaning of rules or their application, it may be necessary to refer to the other sections of the plan and to the relevant objectives and policies of the plan itself.⁴
35. I have considered closely the wording contained in the flow chart which seeks to explain how the rules of the plan are to be applied. From my reading of the flow chart, the wording does not support what Mr Lawson says it means.

⁴ *Powell v Dunedin City Council* [2005] NZRMA.

Although the use of the word “additional” in the District Wide Rules box suggests the application of district wide rules are in addition to Zone Rules, I consider on a purposive interpretation the explanation in that box simply records that the district wide rules apply in relation to those matters listed in the box to all activities in other zones and, as stated in the District Wide Activities box, take precedent over other rules in the plan. I consider to construe the flow chart otherwise would result in earthworks or mining having the status of a non complying activity in all zones as they are not provided for in zones.⁵ It would result in Chapter 27 becoming redundant.

36. My interpretation is supported by the relevant objectives and policies in Chapter 27 which recognise the importance of mineral extraction particularly gravel extraction for river control and economic use subject to controlling adverse effects.⁶ To make mining a non complying activity under the Rural Zone rules runs counter to the enabling provisions in Chapter 27.
37. The Budden decision relied on by Mr Lawson in his submissions to support his case is not helpful in my view. That decision was decided on its own facts. The case involved a potential conflict between zone rules and overlay rules and was decided according to the wording of the particular provisions and their context in the Auckland Unitary Plan. In my view, the wording in the Hastings District Council PDP on close analysis supports my interpretation that this application for a mining consent is to be assessed as a discretionary activity under the District Wide Provisions in the PDP.
38. Mr Lawson’s alternative submission that the proposal should be considered as an industrial activity in the rural zone does not assist his case any further than the default rule argument. I agree with Mr Brabant that the industrial activity provisions in the rural zone are not intended to cover mining activities and that the specific provisions in Chapter 27 instead apply to mining operations.
39. Finally on the status issue I accept the consent to locate the portacom and security fence in a flood hazard zone should be treated as a separate consent for a non-complying activity and not be bundled with the mining consent application.

District Council Consent for Gravel Extraction:

40. Mr Lawson raises a further similar issue which appears to be a “subset” of his main argument that consent for this proposal is also required under the rural zone provisions in the PDP. Mr Lawson contends that a land use consent for gravel extraction from the river is required under the PDP and not just for the processing of extracted gravel as applied for by the applicant.
41. He maintains there is an overlapping jurisdiction in respect of gravel extraction between the Regional Council and the Hastings District Council in terms of their functions to manage gravel extraction. He submits that consent for gravel extraction

⁵ Under default rules.

⁶ Policy ENP 7 & Objection EN04.

is required pursuant to rules EM9 in Chapter 27 and the default rule RZ27 in Chapter 5. According to Mr Lawson this integrated approach enables effects associated with gravel extraction such as noise, traffic movements and amenity values to be considered within the jurisdiction of the District Council whereas they are not matters within the Regional Council's jurisdiction.

42. The difficulty I have with Mr Lawson's argument on this issue is that it overlooks the clear separation of functions of a regional council and a district council for managing gravel extraction from a river bed. As Ms Blomfield explained in her submissions for the Regional Council, gravel extraction activities occur within the river for which resource consent is required under s13(1)(b). s13(2) clearly contemplates it is for regional plans not district plans to have rules relating to gravel extraction. Furthermore, Ms Blomfield points out that extracting gravel from a river bed under a regional consent would entail taking the gravel away from the bed, which in this case would involve the applicant stockpiling the gravel on the subject site.⁷
43. Ms Blomfield also submitted that the definition of mining in the PDP does not encompass gravel extraction from a river bed as the definition of extraction in the PDP is limited to extraction of a site with a Certificate of Title whereas a river bed is not an area of land held in a Certificate and Title.
44. I agree with Ms Blomfield's submissions. In my view the interrelationship between controlling the extraction of river gravel under a regional consents and the processing of gravel under a district consent as contemplated in the PDP is entirely consistent with the respective functions of the regional and district councils for managing river gravel extraction activities.
45. I am not sure why Mr Lawson is raising this argument. Here the applicant is in fact applying for the required land use consent to process gravel extracted from the river and stockpiled on the subject site under a regional consent. Consideration of the processing operations as a land use consent involves an assessment of a range of effects such as noise, dust, heavy traffic, visual effects and the effects on the amenity values of the area. For these reasons I am unable to accept Mr Lawson's argument that a land use consent is required for extracting gravel from a river bed.

General Legal Considerations:

46. The legal framework for considering this application is relatively straight forward. As a discretionary activity I am obliged to consider under s104 and s104B of the RMA the actual and potential effects of the proposed activity including cumulative effects, any offset or compensation offered by the applicant for any adverse effects caused by the proposal, what the relevant planning provisions say about this type of proposal and any other relevant matters all of which may be evaluated against the Acts purpose and principles in part II of the RMA. For the Non-complying River Aspect of this application, I must be satisfied under s104D that the effects of locating the structures

⁷ *Christchurch Ready Mix Concrete Limited v Canterbury Regional Council* [2011] NZEnvC 195.

in a hazard area will be either minor or will not be contrary to the relevant objectives and policies in the PDP.

Existing Environment and permitted baseline:

47. The subject site and its surrounding locality have been described in various reports and in evidence given at the hearing. Briefly the area has a rural focus but with gravel being extracted from the river and stockpiled on the subject site. The rural village of Maraekakaho with its early childhood centre and primary school is located approximately 1.3km to the west of the site and there are lifestyle properties located on the elevated hills to the south, many of whom have open views to the north including to the site from distances ranging from 800 metres to 1250 meters.
48. What is taking place in the existing environment and what is likely to take place in the future are relevant for assessing what impact this proposal is likely to have on that receiving environment. Case law has established that the scale of effects of a proposed activity are to be assessed against the effects from lawfully established activities that are already taking place in the surrounding area or likely to occur from unimplemented resource consents⁸.
49. I also have a discretion under s104(2) of the RMA to disregard any adverse effects of a proposed activity on the environment if a plan permits an activity with the same or similar effects.
50. The issue that arises here is the extent to which I can take into account the gravel extraction and processing activities that are currently occurring on the subject site for the purpose of assessing the effects of this proposal.
51. The current use of the site for processing operations is subject to proceedings before the Environment Court. I understand the applicant is claiming existing use rights to process gravel on the site but that claim is disputed by Council. It is outside my jurisdiction to determine any existing use rights in relation to the past and current use of the subject site by the applicant for processing gravel. I therefore intend to exclude from my assessment of what constitutes the receiving environment any consideration of the effects of processing gravel on the subject site including its transportation off the site.
52. However I consider the gravel extraction activities including the stockpiling of the extracted gravel on the subject site as authorised under the regional consent does form part of the receiving environment. I note that the regional consent is renewed each year which raises the question whether gravel extraction and stockpiling should be included as part of the existing environment due to the need to for new consents to be granted each year. There is no guarantee that those consents will continue to be granted.

⁸ *Queenstown Lakes District Council v Hawthorn Estate Limited* (206) NZRMA.

53. I consider it would be unrealistic to assess the existing environment as though those activities did not exist. The granting of the consents are primarily for river control purposes and have been granted to the applicant each year for more than 20 years. Furthermore as Mr Brabant points out in his submissions, the exercise of the processing consent for which consent is being sought is dependent on gravel being extracted from the river bed under the regional consent so it would be fanciful not to include gravel extraction and stockpiling as part of the receiving environment. I agree with his submission.
54. In addition to assessing the receiving environment against which the effects of the proposal to process extracted gravel is to be assessed, I can also take into account what is permitted under the PDP under Rule EM4 which allows for the removal of gravel by a local authority for river control purposes including the relocation of the extracted material. The Regional Plan has a similar provision under rule 70 which permits a local authority to extract gravel for flood and drainage control. Although the Regional Council undertakes flood control measures through contractors, it is not in my view unrealistic to take into account as part of the permitted baseline that gravel extraction and its removal (but not processing) can be undertaken by a local authority as a permitted activity when assessing the effects of this proposal.
55. So to sum up, I consider the character of the receiving environment against which I am to assess the effects of this proposal is predominantly a rural environment in which gravel is being lawfully extracted from the river bed by the applicant and stockpiled on the subject site, all of which is overlaid by the fact that a local authority can undertake the same work as a permitted activity including relocating the extracted material.

Concerns Raised by Submitters:

56. The importance of this proposal to people living in the area is reflected in the evidence presented to me at the hearing. Some submitters conditionally supported the application but the majority strongly opposed the proposal. They all shared similar concerns over dust, noise, heavy traffic effects, visual effects and the cumulative effects of all of these elements on the rural character and amenity of the area.
57. I heard heartfelt submissions from the Bryant/Brough family members as to the negative impact this proposal if granted would have on their enjoyment of their property which is located on the hills overlooking the river and the subject site. Jonathon Brough and Michele Bryant explained how they moved the family to Maraekakaho at the end of 2014 and set up an art and design business on their property. At that time the applicant was operating from the Kereru Road site and they say the effects from its processing operations were tolerable. It was when the applicant started processing from the subject site in 2017 nearer to their property that they began experiencing noise and dust effects including the excessive beeping from loaders with reverse alarms that they could hear all day inside their house and work studio. Besides the noise from the loaders, the other main noise sources were from the screener and the crusher. They described how the dust from the processing

operations on the site enters both their house and their studio affecting design prints. They submitted that having an industrial type activity in a growing rural/ residential area is inappropriate and will result in the obstruction of river access enjoyed by the local community. They dispute the applicant had used the subject site in the past for gravel processing until about 18 months ago.

58. I heard from Helen and Peter Liddle who also live on the hills overlooking the site. They described how the community enjoyed the recreation values of the river and expressed concern that truck movements, noise from the loading and crushing machinery and dust would when combined effect their families enjoyment of their home and the local river environment.
59. I received submissions from Megan and Annabelle Linnell who spoke of the danger to road users from the heavy trucks transporting metal from the subject site and how the combined effect of noise, visual effects, dust and traffic from the processing operations created a loss of rural amenity in their community.
60. I heard from Helen Davison on behalf of the Maraekakaho Childhood Centre. Their main concerns were potential dust effects on small children attending the centre and the potential conflict between heavy truck movements and traffic dropping off and picking up children at the centre and the local school.
61. The Board of Trustees for the local primary school acknowledged through its Chair Ms Monteith that moving the gravel processing operations from the Kereru Road site to the subject site and creating a new access road would reduce noise and dust effects on the school but the volume of gravel allowed to be extracted should be capped to prevent unforeseeable environmental risk to the community and school. The Board of Trustee took overall a neutral position on the application.
62. I heard from Mr C Bogard for Focus Maraekakaho which is a group elected by the Maraekakaho Community to represent its interest. The group supported the creation of new access road to the site which would make the Kereru Road access safer for recreation users. If consent was to be granted for the application, the group wanted to see a limit put on its hours of operation and the volume of gravel extracted to no more than 40,000m³ per annum. It sought conditions limiting the consent to a 10 year term and the extensive landscaping of the site. The group however considered there were alternative sites better suited for this type of activity away from the village and school and recreation facilities.
63. I have outlined the concerns raised in only some of the many submissions received opposing this application as those concerns represent the range of issues raised by submitters. The common theme raised in most submissions related to dust, noise and impact on rural amenity including on the recreational values associated with the river.

Consideration of the application:

64. It is understandable that many people in the Maraekakaho community are apprehensive about this proposal given what they have experienced from the processing operations that have taken place in the past on the Kereru Road site close to the village, school and childcare centre, and having to share a poorly formed metal access road with heavy trucks when accessing the river. The community have been subjected to noise, dust and traffic safety issues, and even from the operations currently taking place on the subject site there have been complaints about noise mainly from the reverse alarms on loaders.
65. In order for the community to have any confidence that these effects will not continue, the offsite effects from this proposal need to be mitigated and closely managed.

Noise effects:

66. The main noise sources associated with this proposal are from the screener, crusher, the loaders and from the heavy truck movements. The applicant engaged Mr J R Styles, an acoustic expert to undertake a noise assessment for the proposed activity. As part of that assessment the background noise level was measured between 43 and 47dB for the properties on the hills to the south of the site, with the main ambient noise source being the traffic on State Highway 50.
67. Against this background noise level, the highest modelled predicted noise levels from the gravel processing operations were assessed at the nearest dwelling some 800 meters from the site at 45dB LAeq, and 38dB LAeq at the Maraekakaho School. Those predicted noise levels were based on a busy processing day scenario at the site with truck movements operating at a maximum of 18 movements per hour.
68. According to Mr Style's assessment, the predicted noise levels from the processing operations will be well within the noise limits for activities in the rural zone in the PDP (as measured at the notional boundary of any noise sensitive activity) which are;
- 0700 to 1900 hours - 55dBLAeq (15 minutes)
 - 1900 to 2200 hours - 50dBLAeq (5 minutes)
 - 2200 to 0700 hours the following day - 45dBLAeq (15 minutes)
 - 2200 to 0700 hours the following day - 75dBLAFmax
69. Mr Styles opined that the noise levels from the site will be audible to many of the receiving properties on the hills overlooking the site during gaps in the traffic on State Highway 50 and depending on weather conditions but the noise will not be unreasonable and will be at a level consistent with traffic and other sounds in the area.
70. Due to noise being a significant concern raised in submissions, Council as consent authority engaged Mr Nevil Hegley, an acoustic expert to peer review Mr Style's

acoustic report. Mr Hegley generally agreed with Mr Style's noise assessment but recommended that a day time noise limit be set at 50dB LAeq to ensure greater protection for the residents in the area. Mr Hegley considered when taking into account the noise levels predicted by Mr Styles, noise from the processing operations including noise from truck movements is expected to remain within the 50dB LAeq limit with a margin of safety.

71. Both acoustic experts recommended that tonal reverse alarms should be prohibited on all vehicles that are permanently located on site which were a source of annoyance to many residents.
72. Having considered the evidence and reports from the 2 acoustic experts Mr Styles and Mr Hegley and taking into account the existing reasonably high background noise levels already existing in the area, I am satisfied noise from the processing operations can be managed at an acceptable level for residents in the area through appropriate conditions of consent. I agree with Mr Hegley that the day time noise limit should be set at 50dB LAeq to provide greater protection to residents if this consent is granted. I also agree with Mr Hegley's other recommendations that there should be a noise monitoring condition to ensure noise limits are being achieved and there should be a prohibition on tonal reverse alarms for equipment permanently located on the site.
73. Although it is not offered as part of this application I note the applicant intends to establish over 1 or more construction seasons an earth bund on the southern boundary of the site as an additional attenuation measure. I would recommend that the applicant pursue this option as an additional noise mitigation measure.
74. A number of submitters expressed concerns that the number of heavy truck movements associated with the gravel processing operations would create loud intrusive noise effects in the area and gave examples of the trucks rumbling along the Kereru Road access and then accelerating or engine breaking on SH 50. Mr Styles in his evidence specifically addressed this issue and stated that because the truck noise is much lower than the overall noise admissions in the area, the noise level from each truck movement will be at a level that is consistent with the noise from passing traffic and gravel processing. I also note the applicant will be constructing a new sealed access road to the site which will also help reduce noise levels from truck movements.
75. Overall I am satisfied that so long as the applicant complies with the noise conditions proposed by Mr Hegley, then the noise characteristics from the processing operations will be generally consistent with the noise levels currently existing in the area.

Dust Effects:

76. Dust nuisance from the processing operations was a common concern raised by submitters. In order to address this potential ongoing problem, the applicant commissioned an air quality expert Ms P M Harwood to prepare a Dust Management

Plan for the site and to explain how dust effects should be managed. Ms Harwood in her evidence stated that the Dust Management Plan would require the applicant to adopt the following dust control methods;

- The use of water misting units on all of the dust generation points in the crushing and screening plant;
- Spraying the surfaces of the unprocessed and processed gravel stockpiles with water if they dry out and are creating dust;
- Sealing the main access road to the site and keeping it free of deposited material;
- Dampening the yard areas on the site with a water cart when required; and
- Establishing screen planting along the southern perimeter of the site and retention of the existing vegetation on the western, northern and eastern boundaries of the site.

77. Ms Harwood explained how the recently purchased crushing and screening unit is fitted with water misting units to minimise the generation of dust and when she observed it in operation there was no visible dust being generated from the plant. Ms Harwood expressed the opinion that if the requirements of the Dust Management Plan are complied with, the dust effects from the processing operations would be no more than negligible beyond the site boundary. She also considered that the new sealed access road would remove the dust nuisance caused by heavy traffic using the unsealed Kereru access road access.

78. Having considered the requirements of the Proposed Dust Management Plan and Ms Harwood's evidence, I am satisfied the dust effects from the processing operations will be kept to a minimum so long as the Dust Management Plan is complied with. I note that until the new access road is constructed which the applicant estimates will take 12 months, the applicant intends to continue to use the Kereru Road access to the site. As the use of this road by heavy trucks is a source of dust nuisance I consider the applicant should be required as part of the Dust Management Plan to dampen the unsealed road with a water cart when required during operating hours.

Effects on Rural Character and Amenity:

79. One of the over arching concerns expressed by some submitters was that this type of "industrial" activity was unsuitable in a growing rural community consisting of lifestyle blocks, an expanding village community and alongside an area of the river popular with recreational users. In short they said the proposed processing site was in the wrong area and should be located further eastwards down the river away from the village and the nearby lifestyle blocks. They submitted it would detract from the

existing rural character and amenity if processing operations were allowed to operate on the proposed site.

80. I accept these concerns would carry greater weight from an effects based planning perspective if gravel extraction was a new activity to the area. However I am told that gravel extraction and its removal have taken place in this area since 1993 and that this part of the river requires gravel extraction to avoid flood risk in the area. Although the volume of gravel extracted has increased in recent years it is relevant to note that the removal of gravel for river maintenance purposes by a local authority is permitted under both the Regional Plan and the PDP. The processing aspect of gravel extraction would not in my view increase the level of impact on rural character and amenity that currently exists from gravel extraction operations taking place in the area and which are permitted under the PDP if undertaken by a local authority, so long as dust and noise effects from processing are properly mitigated.
81. It is also relevant that the proposed site has been identified as "Local Purpose (Soil Conservation and River Control Works) Reserve" by the Regional Council and under the terms of the Licence to Occupy 2.2ha of the 11.29ha site, the applicant is to assist in providing enhanced access and vehicle parking for recreational users of the reserve. Public access along the reserve will be maintained and the new access road will reduce dust and noise and will remove any conflict between traffic accessing the river on Kereru Road and heavy truck movements transporting aggregate.
82. When taking into account all the factors I have mentioned, I am satisfied that so long as the proposed processing activity operates within appropriate conditions of consent I find that the site will be suitable for river gravel processing without adversely changing the existing rural character and amenity of the area in any significant way.

Traffic Effects:

83. There are a number of elements associated with the heavy truck movements generated from the proposed processing operations that concerned submitters. I have already mentioned noise dust and safety issues in relation to the use of Kereru Road by heavy trucks accessing the subject site. There is also the issue of constant heavy truck movements detracting from the rural character and amenity of the area.
84. In response to these concerns, the applicant proposes to construct a new sealed 2 lane access road to the site directly from SH 50 to be used only by trucks and traffic servicing the site. I acknowledge the new road would be a considerable improvement on the Kereru Road access and will greatly reduce noise and dust that previously occurred when Kereru Road was used by heavy trucks. However I consider there needs to be a cap on the number of heavy truck movements each day in order to maintain the existing rural character of the area notwithstanding SH 50 runs through the area and is able to assimilate additional heavy traffic.
85. Both the acoustic expert Mr Styles and the applicant's traffic engineer Mr M G Georgeson based their respective noise and traffic assessments on 180 truck movements per day ie: 18 truck movements per hour. Mr Georgeson expressed the

view that that level of truck movements can safely and efficiently access and egress the site from SH 50 using the new entrance, and Mr Styles considered the noise effects from that level of truck movements using the new access road would be assimilated into the general noise levels generated by passing traffic on SH 50.

86. The reporting officer Mr Bishop recommends that if consent is granted, a condition should be imposed limiting truck movements to no more than 18 vehicles per hour. I agree with that recommendation which I believe will assist in controlling the scale of gravel processing within an acceptable level for the community.

Landscape and Visual Effects:

87. Some submitters expressed concerns about the visual and landscape effects of having an “industrial type” activity located in a rural area along side a river environment. They maintained it would detract from the natural aesthetic of the area. In order to counter these concerns the applicant proposes to undertake screen planting on the south side of the site. I also heard evidence from the applicants Landscape Architect Ms S M Dick who undertook a comprehensive landscape and visual effects assessment. She concludes that after taking into account that gravel extraction and stockpiling on the subject site has taken place for many years and forms part of the river landscape, the proposed screen planting will reduce the visual effects of the processing operations and given the distant views from the hill side properties overlooking the site, she considers visual and landscape effects from this proposal will be no more than minor.
88. Ms Dick also described how the natural character of the river margin in this area has been gradually modified through past gravel extraction activities to the extent that the processing operations will have little effect on the areas existing modified natural character.
89. In terms of access along the river margin to the north of the site Ms Dick describes how there will be retained approximately 20 meters available for access, with views of the site buffered by willows. Ms Dick’s overall assessment is that the proposed processing operations will have little effect on the existing natural character and landscape values of the area, and its visual effects on the nearest properties on the hillside will be no more than minor. Having visited the site and surrounding area I agree with her assessment.

Other effects:

90. As to other potential effects such as reverse sensitivity, flood risk and the risk to health from Silica dust, I find they are unlikely to arise or are likely to only have a minimal impact on the surrounding area.
91. In conclusion my overall finding on the potential effects that may arise from this proposal is that I consider they are able to be controlled through appropriate conditions of consent at a level that will be acceptable to the community. From the

evidence I have heard from submitters, I gain the impression that gravel extraction and processing operations have been undertaken in the past with little consideration being given to mitigating adverse effects on the local community.

Planning documents:

92. Even though I have found the potential adverse effects on the environment from this proposal can be satisfactorily managed through appropriate conditions of consent, I still need to be satisfied the PDP allows for this type of activity to take place in the rural zone.
93. The s42A Report provides a detailed analysis of the relevant objectives and policies in the PDP that apply to this proposal. Under Section 27 of the PDP which deals with Earthworks and Mineral Extraction, river gravel extraction and processing is recognised as an appropriate activity throughout the district subject to satisfying assessment criteria relating to visual impact, effects on other land uses and adjoining properties, noise effects and traffic effects. Policy EMP7 in that section expressly recognises the importance of river based gravel extraction for river management purposes as well as the need to provide suitable aggregate to meet the economic needs of the community.
94. However that policy direction needs to be balanced alongside Policy EMP5 which recognises the need to control the effects of mining activities such as river gravel extraction and processing on the natural and physical environment. Policy EMP8 is also relevant as it directs that mining activities in areas where adverse effects on the environment can not be avoided, remedied or mitigated should be prevented.
95. When this application is considered in the context of these policy directions for allowing mining activities in the district, it is easy to distil that the level of adverse effects on the natural and physical environment that potentially could arise from the processing operations is the primary consideration. Having found earlier that any adverse effects from this proposal can be satisfactorily mitigated and controlled through appropriate conditions of consent, I am satisfied that granting consent for this proposal would be generally consistent with these policy directions for allowing mining activities within the district and on the subject site.
96. The s42A Report also contains an analysis of other objectives and policies in the PDP including the relevant rural zone provisions as well as the relevant planning provisions in other planning documents such as those in the Hawkes Bay Regional Policy Statement and the Regional Plan, but there is nothing in any of those other planning provisions that I have considered that would persuade me to refuse consent for this application.

Other matters – s104(1)(C):

97. There are no other matters that would influence my decision on this application. Plan integrity and precedent issues are unlikely to arise as this proposal involves a site that has been used for stockpiling extracted river gravel since 1993 and the proposed

activity is generally consistent with the relevant policy provisions in the plan for allowing mining activities of this kind and at this location.

The Non-complying Component of this Application:

98. The non-complying aspect of this application relates to placing structures ie: the portacom and security fence within a river hazard area. I am satisfied that given the small scale of these structures any adverse effects from placing them in a flood area are likely to be minimal and would not be contrary to the natural hazard risk objectives and policies which are intended to address more substantive hazard risk issues.

The conditions:

99. Earlier in this decision I concluded that the offsite effects of this proposal are capable of being mitigated and controlled through conditions of consent. The relevant conditions that I consider will help achieve that outcome are;
- There should be a cap on the scale on the processing operations at 40,000m³ per annum as well as a limit on the heavy truck movements at no more than 18 vehicles per hour.
 - Dust arising from processing operations is to be suppressed under a Dust Management Plan and if any offensive dust drifts beyond the boundary, work is to cease immediately and the dust source remedied. There will also be a requirement for the applicant to suppress dust on Kereru road during operating hours until the new access road becomes functional.
 - The noise limit for processing operations is to be set at 50dB LAeq to ensure greater protection for neighbouring properties, and tonal reverse alarms will be prohibited on machinery and vehicles undertaking the processing activity on the site, a source of annoyance to many submitters.
 - There will be screen planting undertaken on the southern boundary of the site to help screen the site from properties overlooking the area.
100. Mr Brabant for the applicant has suggested changes to draft conditions that were circulated by the reporting officer Mr Bishop after the hearing. I accept many of those suggested changes are appropriate but not those in relation to the proposed lower noise limit, the special audible characteristics restriction, the need for a construction management plan for the new access road but excluding the bund, or the Proposed Dust Management Plan condition. I consider those conditions as proposed by Mr Bishop should remain unchanged in order to provide greater control over the applicants processing operations.

Overall Assessment Under Part II of the Act:

101. The objective and policies in the PDP relating to mining and aggregate extraction recognise the importance of river based gravel extraction in the district subject to site suitability and being able to mitigate any adverse effects to an acceptable environmental level. Gravel extraction has a two fold purpose in the Hawke's Bay Region. It reduces flood risk in braided rivers and provides an economic benefit through the supply of aggregate as a valuable resource for the community.
102. Here the site in question has been used in the past for gravel extraction for the stockpiling and relocation of the extracted material in an area of the river that requires flood control maintenance. Past extraction activities appear to have been undertaken with little regard to the management of adverse effects. In my view the granting of consent for this proposal subject to the conditions I have outlined will result in an improved situation for the community by moving the processing site further away from the Maraekakaho village, by creating a new access road for heavy trucks, and by having offsite effects from processing operations more closely managed and monitored through conditions of consent.
103. If consent is refused, there would be no new access road and there is the prospect that gravel extraction would continue as in the past in a relatively unmanaged way. I am also mindful that if consent is refused, gravel extraction and its relocation can be undertaken by a local authority in this area for flood control purposes as a permitted activity again without close management.
104. As the policies in the PDP for mining and aggregate extraction provide a clear direction for enabling this type of proposal, under the recent Court of Appeal decision in *R J Davidson Family Trust v Marlborough District Council*⁹ there is no need for me to resort to Part II of the RMA to decide this application.
105. However for completeness I consider that granting consent for this proposal subject to conditions will enable the management of flood risk in the area and provide for the use of the extracted material as valuable aggregate all of which will meet the acts purpose which is to provide for the sustainable management of natural and physical resources.

Decision:

- A. That pursuant to Rule EM8 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 104B and 108 of the Resource Management Act 1991, resource consent as a Discretionary Activity is GRANTED to Russell Roads Limited to undertake the processing of gravel associated with gravel extraction activities (defined as 'Mining') on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.
- B. That pursuant to Rule NH12 and Sections 104, 104B, 104D and 108 of the Resource Management Act 1991 resource consent as a Non-Complying Activity is GRANTED to Russell Roads Limited to erect permanent buildings within the River Hazard Overlay on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.

⁹ [2018] NZCA.

- C. That pursuant to Section 348 of the Local Government Act 1974 the Hastings District Council approves the granting of a right of way over Part Lot 1 Deposited Plan 357840 and Lot 3 Deposited Plan 473957 (CFR 663412) in favour of the Hawke's Bay Regional Council, on the alignment shown in the application with a minimum width of 6 metres.

SUBJECT TO THE FOLLOWING CONDITIONS:

GENERAL

1. That unless otherwise altered by the consent conditions, the proposal shall proceed in accordance with the plans and information submitted in the application Resource Consent: **RMA20120258**, application received **25 June 2018**, specifically:
 - a) Application (HDC Ref: 103419#0004 - #0008)
 - b) Further information provided (103419#0016, #0017, #0020, #0103)
2. No gravel or aggregate shall be transported from the site other than in trucks or truck and trailer units (i.e. no private motor vehicles or trailers).
3. The activity shall be carried out between the hours of 0700 to 1800 hours Monday to Friday and 0700 to 1530 hours on Saturday's. No operations shall take place on Sunday's or public holidays.

CONSTRUCTION MANAGEMENT PLAN

4. Within 3 months of this consent commencing, the consent holder shall submit a Construction Management Plan (CMP) prepared by a suitably qualified and experienced person(s) that details the way in which construction works for the proposed access will be managed to ensure there will be no adverse effects beyond the site to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee). The CMP shall, as a minimum, address the following:
 - a) Timing and staging of construction works;
 - b) Reporting and auditing;
 - c) Complaints handling and reporting procedure;
 - d) All measures that will be undertaken to mitigate potential construction noise effects to ensure compliance with the conditions of this consent;
 - e) Any other measures that will be undertaken to mitigate potential nuisance effects;
 - f) The contact details for the site manager;
 - g) Compliance with the provisions of the New Zealand Standard NZS 6803:1999 "Acoustics – Construction Noise."

CONSTRUCTION NOISE

5. All construction work, being the development of the access road and the construction of any permanent noise control or landscaping bunds on the site, shall be designed and conducted to ensure that noise measured at the notional boundary of any dwelling or noise sensitive activity does not exceed the Typical Duration Limits Specified in NZS6803:1999.

6. All construction noise shall be measured in accordance with New Zealand Standard 6803:1999 "Acoustics – Construction Noise."
7. All construction work shall be limited to the hours of 7:00am – 5:00pm Monday to Friday and 8:00am – 5:00pm Saturday (with no work on Sundays or public holidays).

OVERSPILL, DUST AND DEBRIS

8. That the consent holder shall submit a final Dust Management Plan to the satisfaction of Council's Environmental Consents Manager, Planning and Regulatory Services (or nominee) within 3 months of this consent commencing. The Final Dust Management Plan Shall contain:
 - a) Objectives that are necessary to ensure the prevention of dust nuisance on adjacent land owners or occupiers, and along the access route (including the interim route via Kereru Road).
 - b) Methods to achieve the Objectives which shall contain measures to address the following:
 - i. During dry and windy periods the aggregate shall be moist prior to processing and for transporting beyond the site.
 - ii. The access roadway (including the interim route via Kereru Road). shall be kept free of overspill, dust and debris.
 - iii. All aggregates transported from the site shall be covered or carried in a dampened state to prevent dust annoyance. In the event of sediment or gravel being carried off the property and is deposited on the public carriageway the consent holder shall arrange for its removal as soon as it is reasonably possible.
 - iv. Should offensive or objectionable dust be observed, to the extent that it causes an adverse effect at any point beyond the site boundary the activities generating the dust must cease immediately and must not restart until such time as the dust nuisance causing the adverse effect has been remedied.
9. The Consent Holder shall ensure all on site activities authorised by this consent are carried out in accordance with the approved Dust Management Plan for the site.

NOISE

10. The following noise limits shall not be exceeded at any point within the notional boundary of any noise sensitive activity:

Control Hours	Noise Level
0700 to 1900 hours	50 dB LAeq (15 min)
1900 to 2200 hours	45 dB LAeq (15 min)
2200 to 0700 hours the following day	40 dB LAeq (15 min)

2200 to 0700 hours the following day	75 dB LAFmax
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11. Noise shall be measured in accordance with the requirements of NZS 6801:2008: Acoustics - Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008: Acoustics - Environmental Noise.
12. Tonal reverse alarms shall be prohibited on machinery and vehicles that undertake the processing activity on the site. To avoid doubt, this does not include trucks being loaded and unloaded on the site.
13. No plant or machinery shall be operated on site that has a special audible characteristic as defined by NZS6802:2008 Acoustics - Environmental Noise.
14. Where stockpiling can practicably be used to screen machinery, the consent holder shall take all practicable steps to utilise stock piles to mitigate noise arising from the consented activities.
15. Within three months of the date this consent is granted the Consent Holder shall demonstrate to the Environmental Consents Manager, Hastings District Council via field measurement and assessment that the noise limits set out in Condition 10 are being complied with. Sound levels shall be measured and assessment completed by a suitably experienced acoustic expert acceptable to the Council. Measurement shall be in accordance with New Zealand Standard 6801:2008 Acoustics - Measurement of Environmental Sound, and assessment in accordance with New Zealand Standard 6802:2008 Acoustics - Environmental Noise. The requested Noise Monitoring Compliance Report shall be submitted to the Environmental Consents Manager, Hastings District Council within 4 weeks of completing the field measurements.
16. In the event of non-compliance with Condition 15 the applicant shall implement any appropriate noise mitigation within one week and measure the noise once this mitigation is in place within 2 weeks. A copy of these measurements shall be provided to the Environmental Consents Manager (or nominee), Hastings District Council, within one week of the noise measurements being undertaken.

LANDSCAPING, SCREENING & FENCING

17. That the consent holder shall submit a landscape plan prepared by a suitably qualified and experienced person for the approval of the Environmental Consents Manager (or nominee), within 3 months of this consent commencing. The landscaping plan shall include planting specifications detailing the specific planting species, the number of plants provided, locations, heights/Pb sizes. Specifically, the landscaping plan shall provide for:
 - a) Compliance with the recommendations of the Landscape and Visual Impact Assessment undertaken by Sue Dick of Eastern Earth Landscape Architects, dated 5 June 2018, submitted with the application.
 - b) Use of the following tree species: Willow/Salix matsudana, or other non-invasive Salix spp, or Poplar/Populus nigra x euramericana 'Crows Nest'; or Tasmanian blackwood/Acacia melanoxylon, or other similar species approved by the Environmental Consents Manager, Hastings District Council (or

nominee).

- c) Methods used to ensure the successful establishment of the trees;
 - d) Provision for irrigation of the plantings for the 3 years following planting.
- 18. The plants shall have a minimum height of 1.5m at time of planting. The landscaping is to be maintained thereafter and once established at a minimum height of 5 metres.
 - 19. The landscaping shall be completed in accordance with the approved landscape plan required by Condition 17 before the end of the planting season following the grant of consent.
 - 20. The required landscaping shall be maintained for the duration of this consent.

Advice Note: "Maintained" means the ongoing replacement of any dangerous, dead or dying matter, the replacement of any plants that are lost or are otherwise defective and the general preservation of the landscaping to a healthy standard.

- 21. The processing site shall be enclosed on the western, northern, and eastern boundaries of the site with up to 3m high security fencing, within 3 months of this consent commencing.

SITE ACCESS

- 22. Access to the processing site shall be via a standard 'T' intersection access from State Highway 50 in accordance with the amended design (Ref: 103419#0371).
- 23. The location of the access shall be in the position shown in the amended design (Ref: 103419#0371) across the Hastings District Council owned Utility Reserve (Lot 4 DP 11536) or any other location approved by the NZTA.
- 24. The consent holder shall submit written confirmation to the Environmental Consents Manager (or nominee), Hastings District Council, that appropriate legal access can be obtained from State Highway 50 to the processing site within 3 months of this consent commencing.
- 25. Engineering plans detailing the construction of the State Highway 50 entrances and internal access in accordance with the requirements of the New Zealand Transport Agency and the Hastings District Council Engineering Code of Practice 2011 and Proposed Hastings District Plan, shall be submitted to the Environmental Consents Manager (or nominee), Hastings District Council, prior to construction.
- 26. The access route from State Highway 50 to the processing site shall have a chip seal road surface, or similar, and be constructed in accordance with the approved design.
- 27. Construction of the State Highway 50 vehicle crossing, right turning lane and internal access road shall be completed in accordance with the approved design(s) and to the satisfaction of the Environmental Consents Manager (or nominee), Hastings District Council, within 12 months of this consent commencing.
- 28. The access route from State Highway 50 shall be maintained to a high standard so that pot holes and an uneven road surface do not cause unnecessary body and tray rattle on vehicles.

29. The consent holder shall submit a Statement of Professional Opinion from a suitably qualified and registered professional engineer that the construction works for the access and internal roads have been completed in accordance with the approved plans, at the completion of the construction works.
30. All vehicle entranceway construction work shall be undertaken by a contractor who has been pre-approved by the New Zealand Transport Agency to work in the boundaries of the legal road.

TRAFFIC AND TRANSPORT

31. That the number of truck movements shall not exceed a peak daily rate of 180 or a peak hourly rate of 18. (Note: a vehicle movement includes the arrival or departure of the vehicle i.e. 180 truck movements equates to 90 vehicles in and 90 vehicles out on the busiest day and 9 vehicles in and 9 vehicles out per hour on the busiest day).
32. The Consent Holder shall erect and maintain in place at either end of the access road signs advising of a 20 km/h speed restriction on the access road.
33. That once the access route from State Highway 50 to the processing site is operational all trucks shall use this access. No access to the processing site by trucks utilising the unformed legal road off Kereru Road shall occur, except in an emergency.

HAZARDOUS SUBSTANCES

34. The consent holder shall ensure all plant and equipment is stored on a hardstand area, bunded to prevent contamination by accidental spillage or leakage of fuels, oils or other contaminants.
35. The consent holder shall provide anti-contaminant traps to trap any spillage or leakage of contaminants, the content of which shall be removed from site for disposal as necessary.
36. Any hazardous substance stored on-site shall be stored in a locked and secured storage facility bunded to prevent contamination by spillage or leakage of fuels, oils or other contaminants.

REVIEW CONDITION

37. Pursuant to Section 128 of the Resource Management Act 1991 the Council may review any condition(s) of this consent, at any time, for any of the following purposes:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage; or
 - b) If the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

MONITORING

38. That a monitoring deposit of \$220 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above conditions in accordance with Council's schedule of charges. In the event of non-compliance being detected by monitoring or a justified complaint and/or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.
39. That all costs associated with complying with any or all conditions of this consent shall be borne by the consent holder.

Dated 29th January 2019



Paul Cooney
Commissioner

ATTENDANCE SCHEDULE:

FOR RUSSELL ROADS HEARING LIMITED – 26 and 27 November 2018

FOR THE APPLICANT - Russell Roads Limited:

- Robbie Gale – Managing Director and shareholder of Russell Roads
- Richard Brabant – Legal Counsel
- Prue Harwood – Environmental Engineer
- Jon Styles – Acoustic Consultant
- Sue Dick – Landscape Architect
- Mary Wong – Senior Planner, Barker & Associates Limited
- Mark Georgeson - Transportation

FOR HASTINGS DC – AS CONSENT AUTHORITY:

- David Bishop – Reporting Planner
- Murray Arnold – Environmental Consents Manager
- Caleb Sutton – Team Leader Environmental Consents/Subdivision

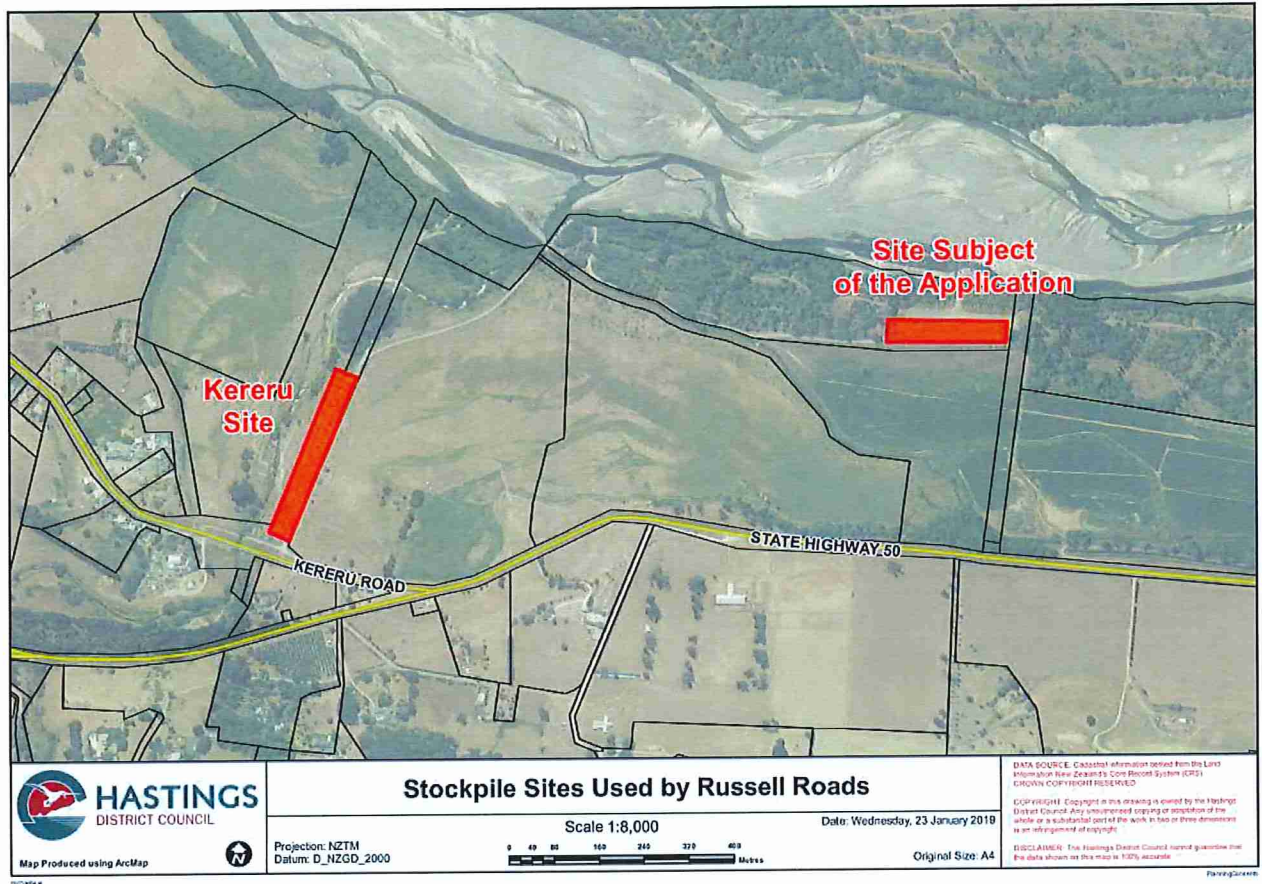
SUBMITTERS:

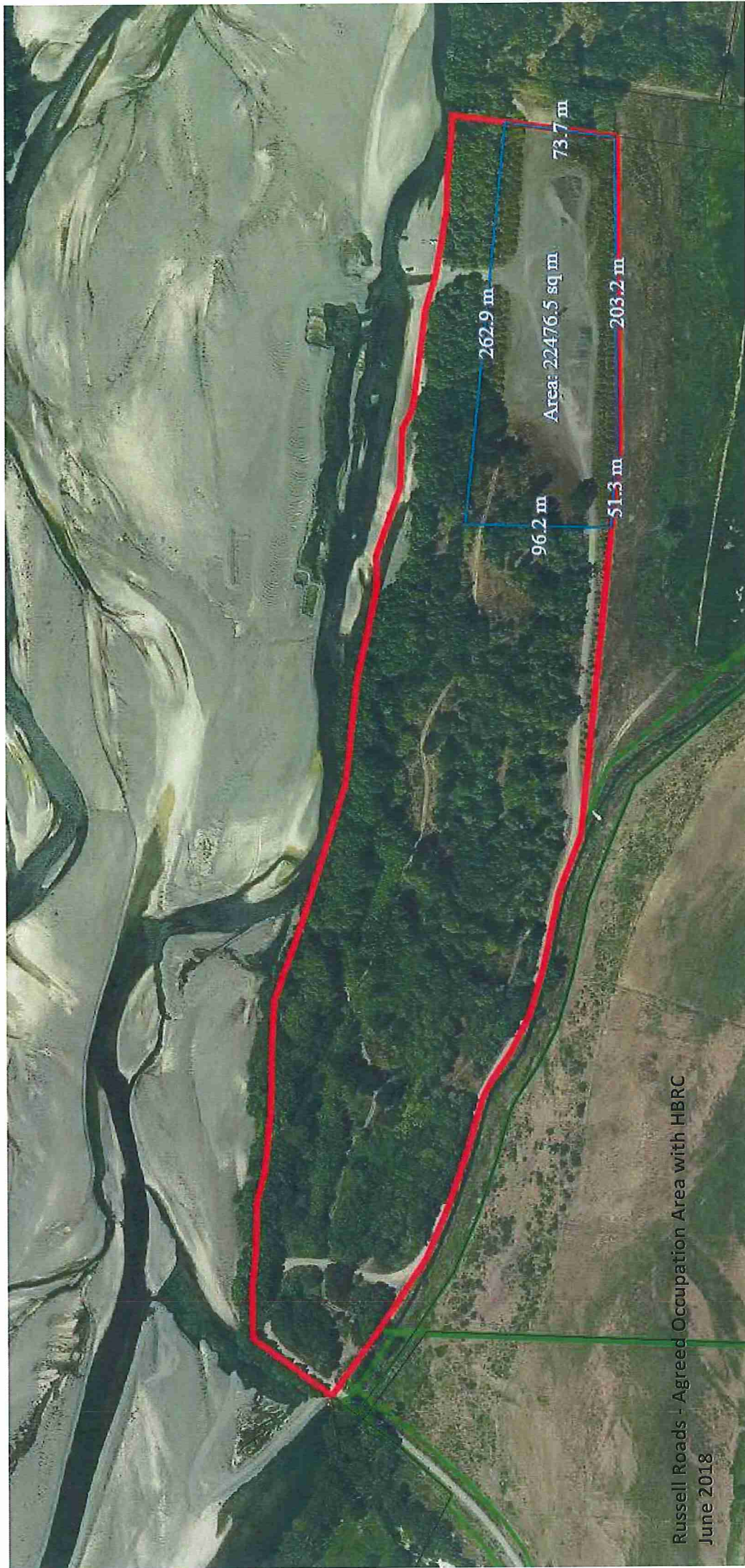
- Vince Byrne – appearing for HB Regional Council
- Keryn Whitney
- Michelle Monteith
- Kathleen and Arthur Hughes
- Peter and Helen Liddle
- Megan Linnell
- Roger and Carol Edwards
- Michele Bryant and Jonathan Brough
- David and Ngaire Bryant
- Kara Duncan-Hewitt
- Charlie Bogard
- Donald Bauckham
- Helen Davison
- Matthew Lawson – Counsel for Maraekakaho residents

ADMINISTRATION:

Christine Hilton - Committee Secretary

AERIAL PHOTO SHOWING SITES USED BY RUSSELL ROADS LTD





Russell Roads - Agreed Occupation Area with HBRC
June 2018

This decision amends conditions 1, 4, 21 and 27 of RMA20180258 pursuant to Section 127 of the Resource Management Act 1991. Additions shown in ***Bold Italic underlined*** text and highlighted. Deletions shown as **~~strike through~~** text and highlighted.

Decision:

- A. That pursuant to Rule EM8 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 1048 and 108 of the Resource Management Act 1991, resource consent as a Discretionary Activity is GRANTED to Russell Roads Limited to undertake the processing of gravel associated with gravel extraction activities (defined as 'Mining') on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.
- B. That pursuant to Rule NH12 and Sections 104, 1048, 1040 and 108 of the Resource Management Act 1991 resource consent as a Non-Complying Activity is GRANTED to Russell Roads Limited to erect permanent buildings within the River Hazard Overlay on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.
- C. That pursuant to Section 348 of the Local Government Act 1974 the Hastings District Council approves the granting of a right of way over Part Lot 1 Deposited Plan 357840 and Lot 3 Deposited Plan 473957 (CFR 663412) in favour of the Hawke's Bay Regional Council, on the alignment shown in the application with a minimum width of 6 metres.

**SUBJECT TO THE FOLLOWING CONDITIONS:
GENERAL**

- 1. That unless otherwise altered by ~~the consent conditions~~ ***RMA20200268***, the proposal shall proceed in accordance with the plans and information submitted in the application Resource Consent: RMA20120258, application received 25 June 2018, specifically:
 - a) Application (HOC Ref: 103419#0004 - #0008)
 - b) Further information provided (103419#0016, #0017, #0020, #0103)
- 2. No gravel or aggregate shall be transported from the site other than in trucks or truck and trailer units (i.e. no private motor vehicles or trailers).
- 3. The activity shall be carried out between the hours of 0700 to 1800 hours Monday to Friday and 0700 to 1530 hours on Saturday's. No operations shall take place on Sunday's or public holidays.

CONSTRUCTION MANAGEMENT PLAN

- 4. Within ***3-18*** months of this consent commencing, the consent holder shall submit a Construction Management Plan (CMP) prepared by a suitably qualified and experienced person(s) that details the way in which construction works for the proposed access will be managed to ensure there will be no adverse effects beyond the site to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee). The CMP shall, as a minimum, address the following:
 - a) Timing and staging of construction works;

- b) Reporting and auditing;
- c) Complaints handling and reporting procedure;
- d) All measures that will be undertaken to mitigate potential construction noise effects to ensure compliance with the conditions of this consent;
- e) Any other measures that will be undertaken to mitigate potential nuisance effects;
- f) The contact details for the site manager;
- g) Compliance with the provisions of the New Zealand Standard NZS 6803:1999 "Acoustics - Construction Noise."

CONSTRUCTION NOISE

- 5. All construction work, being the development of the access road and the construction of any permanent noise control or landscaping bunds on the site, shall be designed and conducted to ensure that noise measured at the notional boundary of any dwelling or noise sensitive activity does not exceed the Typical Duration Limits Specified in NZS6803: 1999.
- 6. All construction noise shall be measured in accordance with New Zealand Standard 6803: 1999 "Acoustics - Construction Noise."
- 7. All construction work shall be limited to the hours of 7:00am - 5:00pm Monday to Friday and 8:00am - 5:00pm Saturday (with no work on Sundays or public holidays).

OVERSPILL, DUST AND DEBRIS

- 8. That the consent holder shall submit a final Dust Management Plan to the satisfaction of Council's Environmental Consents Manager, Planning and Regulatory Services (or nominee) within 3 months of this consent commencing.
The Final Dust Management Plan Shall contain:
 - a) Objectives that are necessary to ensure the prevention of dust nuisance on adjacent land owners or occupiers, and along the access route (including the interim route via Kereru Road).
 - b) Methods to achieve the Objectives which shall contain measures to address the following:
 - i. During dry and windy periods the aggregate shall be moist prior to processing and for transporting beyond the site.
 - ii. The access roadway (including the interim route via Kereru Road).shall be kept free of overspill, dust and debris.
 - iii. All aggregates transported from the site shall be covered or carried in a dampened state to prevent dust annoyance. In the event of sediment or gravel being carried off the property and is deposited on the public carriageway the consent holder shall arrange for its removal as soon as it is reasonably possible.
 - iv. Should offensive or objectionable dust be observed, to the extent that it causes an adverse effect at any point beyond the site boundary the activities generating the dust must cease immediately and must not restart until such time as the dust nuisance causing the adverse effect has been remedied.
- 9. The Consent Holder shall ensure all on site activities authorised by this consent are carried out in accordance with the approved Dust Management Plan for the site.

NOISE

10. The following noise limits shall not be exceeded at any point within the notional boundary of any noise sensitive activity:
Control Hours Noise Level
0700 to 1900 hours 50 dB LAeq (15 min)
1900 to 2200 hours 45 dB LAeq (15 min)
2200 to 0700 hours the following day 40 dB LAeq (15 min)
2200 to 0700 hours the following day 75 dB LAFmax
11. Noise shall be measured in accordance with the requirements of NZS 6801:2008: Acoustics - Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008: Acoustics - Environmental Noise.
12. Tonal reverse alarms shall be prohibited on machinery and vehicles that undertake the processing activity on the site. To avoid doubt, this does not include trucks being loaded and unloaded on the site.
13. No plant or machinery shall be operated on site that has a special audible characteristic as defined by NZS6802:2008 Acoustics - Environmental Noise.
14. Where stockpiling can practicably be used to screen machinery, the consent holder shall take all practicable steps to utilise stock piles to mitigate noise arising from the consented activities.
15. Within three months of the date this consent is granted the Consent Holder shall demonstrate to the Environmental Consents Manager, Hastings District Council via field measurement and assessment that the noise limits set out in Condition 10 are being complied with. Sound levels shall be measured and assessment completed by a suitably experienced acoustic expert acceptable to the Council. Measurement shall be in accordance with New Zealand Standard 6801:2008 Acoustics - Measurement of Environmental Sound, and assessment in accordance with New Zealand Standard 6802:2008 Acoustics - Environmental Noise. The requested Noise Monitoring Compliance Report shall be submitted to the Environmental Consents Manager, Hastings District Council within 4 weeks of completing the field measurements.
16. In the event of non-compliance with Condition 15 the applicant shall implement any appropriate noise mitigation within one week and measure the noise once this mitigation is in place within 2 weeks. A copy of these measurements shall be provided to the Environmental Consents Manager (or nominee), Hastings District Council, within one week of the noise measurements being undertaken.

LANDSCAPING, SCREENING & FENCING

17. That the consent holder shall submit a landscape plan prepared by a suitably qualified and experienced person for the approval of the Environmental Consents Manager (or nominee), within 3 months of this consent commencing. The landscaping plan shall include planting specifications detailing the specific planting species, the number of plants provided, locations, heights/Pb sizes. Specifically, the landscaping plan shall provide for:
 - a) Compliance with the recommendations of the Landscape and Visual Impact Assessment undertaken by Sue Dick of Eastern Earth Landscape Architects, dated 5 June 2018, submitted with the application.
 - b) Use of the following tree species: Willow/Salix matsudana, or other non- invasive Salix spp, or Poplar/Populus nigra x euramericana 'Crows Nest'; or Tasmanian

blackwood/Acacia melanoxylon, or other similar species approved by the Environmental Consents Manager, Hastings District Council (or nominee).

- c) Methods used to ensure the successful establishment of the trees;
 - d) Provision for irrigation of the plantings for the 3 years following planting.
18. The plants shall have a minimum height of 1.5m at time of planting. The landscaping is to be maintained thereafter and once established at a minimum height of 5 metres.
19. The landscaping shall be completed in accordance with the approved landscape plan required by Condition 17 before the end of the planting season following the grant of consent.
20. The required landscaping shall be maintained for the duration of this consent.

Advice Note: "Maintained" means the ongoing replacement of any dangerous, dead or dying matter, the replacement of any plants that are lost or are otherwise defective and the general preservation of the landscaping to a healthy standard.

21. The processing site shall be enclosed ~~on the western, northern, and eastern boundaries of the site~~ with up to 3m high security fencing ***in accordance with the site layout plan prepared by B&A and dated August 2020***, within 3 months of this consent commencing. ***The consent holder shall also erect signage and physically mark and demarcate where processing activities are authorised to occur within the processing site, and where the stockpiling of river gravel is only permitted on the western side of the enclosed area as shown on the site layout plan prepared B&A and dated August 2020 (HDC Ref: 103419#0427).***

SITE ACCESS

22. Access to the processing site shall be via a standard 'T' intersection access from State Highway 50 in accordance with the amended design (Ref: 103419#0371).
23. The location of the access shall be in the position shown in the amended design (Ref: 103419#0371) across the Hastings District Council owned Utility Reserve (Lot 4 DP 11536) or any other location approved by the NZTA.
24. The consent holder shall submit written confirmation to the Environmental Consents Manager (or nominee), Hastings District Council, that appropriate legal access can be obtained from State Highway 50 to the processing site within 3 months of this consent commencing.
25. Engineering plans detailing the construction of the State Highway 50 entrances and internal access in accordance with the requirements of the New Zealand Transport Agency and the Hastings District Council Engineering Code of Practice 2011 and Proposed Hastings District Plan, shall be submitted to the Environmental Consents Manager (or nominee), Hastings District Council, prior to construction.
26. The access route from State Highway 50 to the processing site shall have a chip seal road surface, or similar, and be constructed in accordance with the approved design.
27. Construction of the State Highway 50 vehicle crossing, right turning lane and internal access road shall be completed in accordance with the approved design(s) and to the

satisfaction of the Environmental Consents Manager (or nominee), Hastings District Council, within ~~12~~ **20** months of this consent commencing.

28. The access route from State Highway 50 shall be maintained to a high standard so that pot holes and an uneven road surface do not cause unnecessary body and tray rattle on vehicles.
29. The consent holder shall submit a Statement of Professional Opinion from a suitably qualified and registered professional engineer that the construction works for the access and internal roads have been completed in accordance with the approved plans, at the completion of the construction works.
30. All vehicle entranceway construction work shall be undertaken by a contractor who has been pre-approved by the New Zealand Transport Agency to work in the boundaries of the legal road.

TRAFFIC AND TRANSPORT

31. That the number of truck movements shall not exceed a peak daily rate of 180 or a peak hourly rate of 18. (Note: a vehicle movement includes the arrival or departure of the vehicle i.e. 180 truck movements equates to 90 vehicles in and 90 vehicles out on the busiest day and 9 vehicles in and 9 vehicles out per hour on the busiest day).
32. The Consent Holder shall erect and maintain in place at either end of the access road signs advising of a 20 km/h speed restriction on the access road.
33. That once the access route from State Highway 50 to the processing site is operational all trucks shall use this access. No access to the processing site by trucks utilising the unformed legal road off Kereru Road shall occur, except in an emergency.

HAZARDOUS SUBSTANCES

34. The consent holder shall ensure all plant and equipment is stored on a hardstand area, bunded to prevent contamination by accidental spillage or leakage of fuels, oils or other contaminants.
35. The consent holder shall provide anti-contaminant traps to trap any spillage or leakage of contaminants, the content of which shall be removed from site for disposal as necessary.
36. Any hazardous substance stored on-site shall be stored in a locked and secured storage facility bunded to prevent contamination by spillage or leakage of fuels, oils or other contaminants.

REVIEW CONDITION

37. Pursuant to Section 128 of the Resource Management Act 1991 the Council may review any condition(s) of this consent, at any time, for any of the following purposes:
 - a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
or
 - b) If the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially

influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

MONITORING

38. That a monitoring deposit of \$220 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above conditions in accordance with Council's schedule of charges. In the event of non-compliance being detected by monitoring or a justified complaint and/or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.
39. That all costs associated with complying with any or all conditions of this consent shall be borne by the consent holder.

Dated 29 January 2019

**Paul Cooney
Commissioner**

Recommended by:

**Michelle Hart
SENIOR ENVIRONMENTAL PLANNER (CONSENTS)**

**Decision issued under Delegated
Authority by:**



**Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES**

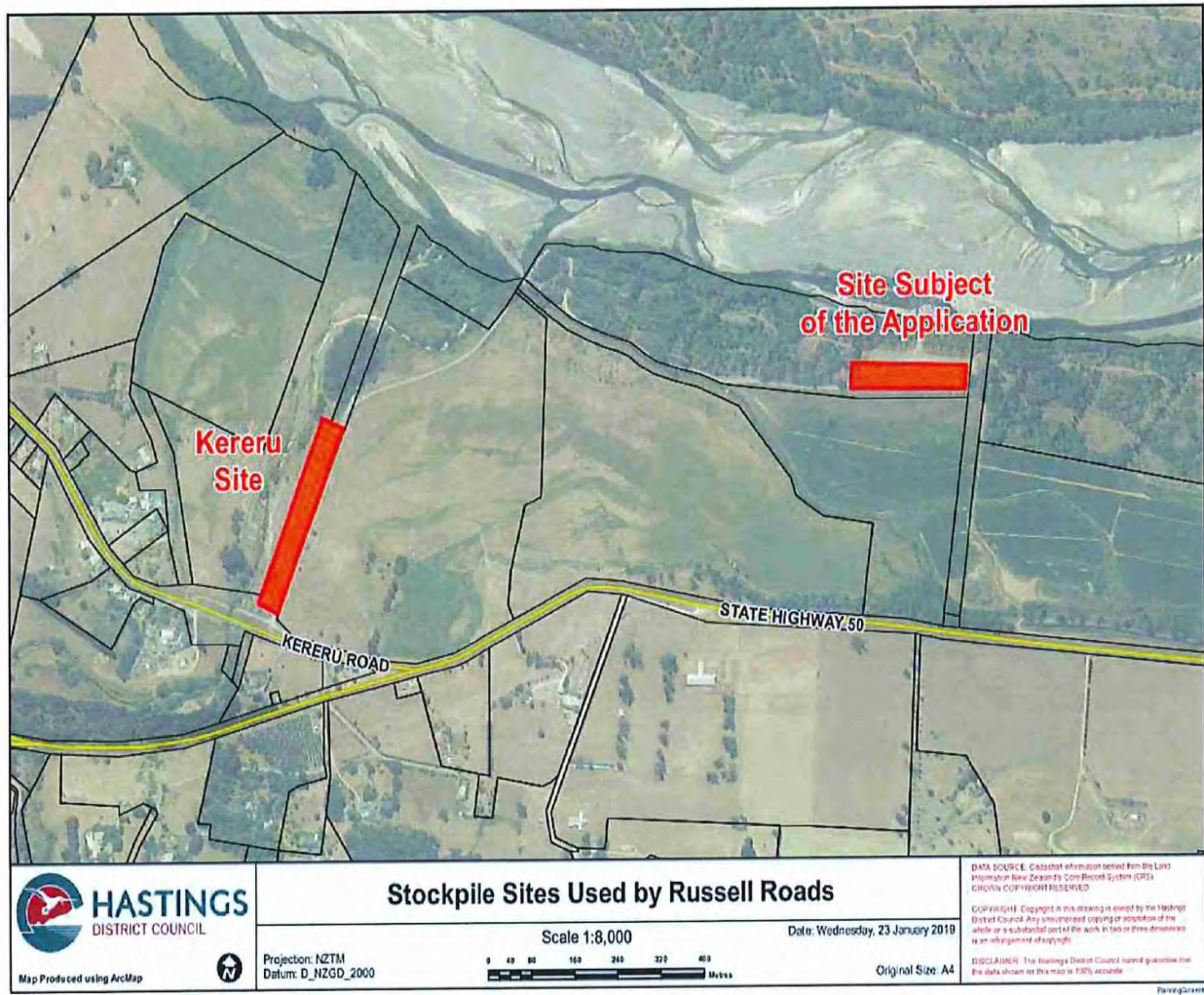
Date:

2 September 2020

Approved Plan RMA20200268 - Variation of RMA20180258 – HDC Ref: 103419#0427



AERIAL PHOTO SHOWING SITES USED BY RUSSELL ROADS LTD





Decision:

This decision amends conditions 1, 4, 8, 22-30 and 33 of RMA20180258 (as amended by RMA20200268) pursuant to Section 127 of the Resource Management Act 1991. Additions shown in ***Bold Italic underlined text*** and **highlighted**. Deletions shown as ~~strike-through text~~ and **highlighted**.

Decision:

- A. That pursuant to Rule EM8 of the Proposed Hastings District Plan (As Amended by Decisions 15 September 2015) and Sections 104, 1048 and 108 of the Resource Management Act 1991, resource consent as a Discretionary Activity is GRANTED to Russell Roads Limited to undertake the processing of gravel associated with gravel extraction activities (defined as 'Mining') on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.
- B. That pursuant to Rule NH12 and Sections 104, 1048, 1040 and 108 of the Resource Management Act 1991 resource consent as a Non-Complying Activity is GRANTED to Russell Roads Limited to erect permanent buildings within the River Hazard Overlay on a site legally described as Lot 4 Deposited Plan 463659, CFR 614100 and physically located along the bank of the Ngaruroro River, near Maraekakaho.
- C. That pursuant to Section 348 of the Local Government Act 1974 the Hastings District Council approves the granting of a right of way over Part Lot 1 Deposited Plan 357840 and Lot 3 Deposited Plan 473957 (CFR 663412) in favour of the Hawke's Bay Regional Council, on the alignment shown in the application with a minimum width of 6 metres.

SUBJECT TO THE FOLLOWING CONDITIONS:**GENERAL**

1. That unless otherwise altered by ~~the consent conditions~~ **RMA20200268 and RMA20210119**, the proposal shall proceed in accordance with the plans and information submitted in the application Resource Consent: RMA20180258, application received 25 June 2018 **and Resource Consent: RMA20210119 application received 12 March 2021** specifically:
 - a) Application (HDC Ref: 103419#0004 - #0008)
 - b) Further information provided (103419#0016, #0017, #0020, #0103)
2. No gravel or aggregate shall be transported from the site other than in trucks or truck and trailer units (i.e. no private motor vehicles or trailers).
3. The activity shall be carried out between the hours of 0700 to 1800 hours Monday to Friday and 0700 to 1530 hours on Saturday's. No operations shall take place on Sunday's or public holidays.

CONSTRUCTION MANAGEMENT PLAN

4. Within 3 ~~18~~ months of this consent commencing, the consent holder shall submit a Construction Management Plan (CMP) prepared by a suitably qualified and experienced person(s) that details the way in which construction works for the proposed access will be managed to ensure there will be no adverse effects beyond the site to the satisfaction of the Environmental Consents Manager, Hastings District Council (or nominee). The CMP shall, as a minimum, address the following:
- a) Timing and staging of construction works;
 - b) Reporting and auditing;
 - c) Complaints handling and reporting procedure;
 - d) All measures that will be undertaken to mitigate potential construction noise effects to ensure compliance with the conditions of this consent;
 - e) Any other measures that will be undertaken to mitigate potential nuisance effects;
 - f) The contact details for the site manager;
 - g) Compliance with the provisions of the New Zealand Standard NZS 6803:1999 "Acoustics - Construction Noise."

CONSTRUCTION NOISE

- 5. All construction work, being the development of the access road and the construction of any permanent noise control or landscaping bunds on the site, shall be designed and conducted to ensure that noise measured at the notional boundary of any dwelling or noise sensitive activity does not exceed the Typical Duration Limits Specified in NZS6803: 1999.
- 6. All construction noise shall be measured in accordance with New Zealand Standard 6803: 1999 "Acoustics - Construction Noise."
- 7. All construction work shall be limited to the hours of 7:00am - 5:00pm Monday to Friday and 8:00am - 5:00pm Saturday (with no work on Sundays or public holidays).

OVERSPILL, DUST AND DEBRIS

- 8. That the consent holder shall submit a final Dust Management Plan to the satisfaction of Council's Environmental Consents Manager, Planning and Regulatory Services (or nominee) within 3 months of this consent commencing.
The Final Dust Management Plan Shall contain:
 - a) Objectives that are necessary to ensure the prevention of dust nuisance on adjacent land owners or occupiers, and along the access route owned **by the Hawkes Bay Regional Council but used for access to the site.** ~~(including the interim route via Kereru Road).~~
 - b) Methods to achieve the Objectives which shall contain measures to address the following:
 - i. During dry and windy periods the aggregate shall be moist prior to processing and for transporting beyond the site.
 - ii. The access roadway **to the site** ~~(including the interim route via Kereru Road).~~ shall be kept free of overspill, dust and debris.
 - iii. All aggregates transported from the site shall be covered or carried in a dampened state to prevent dust annoyance. In the event of sediment or gravel being carried off the property and is deposited on the public carriageway the consent holder shall arrange for its removal as soon as it is reasonably possible.

iv. Should offensive or objectionable dust be observed, to the extent that it causes an adverse effect at any point beyond the site boundary the activities generating the dust must cease immediately and must not restart until such time as the dust nuisance causing the adverse effect has been remedied.

9. The Consent Holder shall ensure all on site activities authorised by this consent are carried out in accordance with the approved Dust Management Plan for the site.

NOISE

10. The following noise limits shall not be exceeded at any point within the notional boundary of any noise sensitive activity:
- | Control Hours Noise Level | |
|--------------------------------------|---------------------|
| 0700 to 1900 hours | 50 dB LAeq (15 min) |
| 1900 to 2200 hours | 45 dB LAeq (15 min) |
| 2200 to 0700 hours the following day | 40 dB LAeq (15 min) |
| 2200 to 0700 hours the following day | 75 dB LAFmax |
11. Noise shall be measured in accordance with the requirements of NZS 6801:2008: Acoustics - Measurement of Environmental Sound and assessed in accordance with the requirements of NZS 6802:2008: Acoustics - Environmental Noise.
12. Tonal reverse alarms shall be prohibited on machinery and vehicles that undertake the processing activity on the site. To avoid doubt, this does not include trucks being loaded and unloaded on the site.
13. No plant or machinery shall be operated on site that has a special audible characteristic as defined by NZS6802:2008 Acoustics - Environmental Noise.
14. Where stockpiling can practicably be used to screen machinery, the consent holder shall take all practicable steps to utilise stock piles to mitigate noise arising from the consented activities.
15. Within three months of the date this consent is granted the Consent Holder shall demonstrate to the Environmental Consents Manager, Hastings District Council via field measurement and assessment that the noise limits set out in Condition 10 are being complied with. Sound levels shall be measured and assessment completed by a suitably experienced acoustic expert acceptable to the Council. Measurement shall be in accordance with New Zealand Standard 6801:2008 Acoustics - Measurement of Environmental Sound, and assessment in accordance with New Zealand Standard 6802:2008 Acoustics - Environmental Noise. The requested Noise Monitoring Compliance Report shall be submitted to the Environmental Consents Manager, Hastings District Council within 4 weeks of completing the field measurements.
16. In the event of non-compliance with Condition 15 the applicant shall implement any appropriate noise mitigation within one week and measure the noise once this mitigation is in place within 2 weeks. A copy of these measurements shall be provided to the Environmental Consents Manager (or nominee), Hastings District Council, within one week of the noise measurements being undertaken.

LANDSCAPING, SCREENING & FENCING

17. That the consent holder shall submit a landscape plan prepared by a suitably qualified and experienced person for the approval of the Environmental Consents Manager (or nominee), within 3 months of this consent commencing. The landscaping plan shall include planting

specifications detailing the specific planting species, the number of plants provided, locations, heights/Pb sizes. Specifically, the landscaping plan shall provide for:

- a) Compliance with the recommendations of the Landscape and Visual Impact Assessment undertaken by Sue Dick of Eastern Earth Landscape Architects, dated 5 June 2018, submitted with the application.
 - b) Use of the following tree species: Willow/Salix matsudana, or other non- invasive Salix spp, or Poplar/Populus nigra x euramericana 'Crows Nest'; or Tasmanian blackwood/Acacia melanoxylon, or other similar species approved by the Environmental Consents Manager, Hastings District Council (or nominee).
 - c) Methods used to ensure the successful establishment of the trees;
 - d) Provision for irrigation of the plantings for the 3 years following planting.
18. The plants shall have a minimum height of 1.5m at time of planting. The landscaping is to be maintained thereafter and once established at a minimum height of 5 metres.
19. The landscaping shall be completed in accordance with the approved landscape plan required by Condition 17 before the end of the planting season following the grant of consent.
20. The required landscaping shall be maintained for the duration of this consent.

Advice Note: "Maintained" means the ongoing replacement of any dangerous, dead or dying matter, the replacement of any plants that are lost or are otherwise defective and the general preservation of the landscaping to a healthy standard.

21. The processing site shall be enclosed ~~on the western, northern, and eastern boundaries of the site~~ with up to 3m high security fencing **in accordance with the site layout plan prepared by B&A and dated August 2020**, within 3 months of this consent commencing. **The consent holder shall also erect signage and physically mark and demarcate where processing activities are authorised to occur within the processing site, and where the stockpiling of river gravel is only permitted on the western side of the enclosed area as shown on the site layout plan prepared B&A and dated August 2020 (HDC Ref: 103419#0427).**

SITE ACCESS

- ~~22. Access to the processing site shall be via a standard 'T' intersection access from State Highway 50 in accordance with the amended design (Ref: 103419#0371).~~
- ~~23. The location of the access shall be in the position shown in the amended design (Ref: 103419#0371) across the Hastings District Council owned Utility Reserve (Lot 4 DP 11536) or any other location approved by the NZTA.~~
- ~~24. The consent holder shall submit written confirmation to the Environmental Consents Manager (or nominee), Hastings District Council, that appropriate legal access can be obtained from State Highway 50 to the processing site within 3 months of this consent commencing.~~
- ~~25. Engineering plans detailing the construction of the State Highway 50 entrances and internal access in accordance with the requirements of the New Zealand Transport Agency and the Hastings District Council Engineering Code of Practice 2011 and Proposed Hastings~~

~~District Plan, shall be submitted to the Environmental Consents Manager (or nominee), Hastings District Council, prior to construction.~~

~~26. The access route from State Highway 50 to the processing site shall have a chip seal road surface, or similar, and be constructed in accordance with the approved design.~~

~~27. Construction of the State Highway 50 vehicle crossing, right turning lane and internal access road shall be completed in accordance with the approved design(s) and to the satisfaction of the Environmental Consents Manager (or nominee), Hastings District Council, within 12 20 months of this consent commencing.~~

~~28. The access route from State Highway 50 shall be maintained to a high standard so that pot holes and an uneven road surface do not cause unnecessary body and tray rattle on vehicles.~~

~~29. The consent holder shall submit a Statement of Professional Opinion from a suitably qualified and registered professional engineer that the construction works for the access and internal roads have been completed in accordance with the approved plans, at the completion of the construction works.~~

~~30. All vehicle entranceway construction work shall be undertaken by a contractor who has been pre-approved by the New Zealand Transport Agency to work in the boundaries of the legal road.~~

TRAFFIC AND TRANSPORT

31. That the number of truck movements shall not exceed a peak daily rate of 180 or a peak hourly rate of 18. (Note: a vehicle movement includes the arrival or departure of the vehicle i.e. 180 truck movements equates to 90 vehicles in and 90 vehicles out on the busiest day and 9 vehicles in and 9 vehicles out per hour on the busiest day).

32. The Consent Holder shall erect and maintain in place at either end of the access road signs advising of a 20 km/h speed restriction on the access road.

33. That once the access route, **owned and maintained by the Hawkes Bay Regional Council approved under RMA2019018,** from State Highway 50 to the processing site is operational all trucks shall use this access. No access to the processing site by trucks utilising the unformed legal road off Kereru Road shall occur, except in an emergency.

HAZARDOUS SUBSTANCES

34. The consent holder shall ensure all plant and equipment is stored on a hardstand area, bunded to prevent contamination by accidental spillage or leakage of fuels, oils or other contaminants.

35. The consent holder shall provide anti-contaminant traps to trap any spillage or leakage of contaminants, the content of which shall be removed from site for disposal as necessary.

36. Any hazardous substance stored on-site shall be stored in a locked and secured storage facility bunded to prevent contamination by spillage or leakage of fuels, oils or other contaminants.

REVIEW CONDITION

37. Pursuant to Section 128 of the Resource Management Act 1991 the Council may review any condition(s) of this consent, at any time, for any of the following purposes:
- a) To deal with any adverse effect on the environment which may arise from the exercise of the consent and which it is appropriate to deal with at a later stage;
or
 - b) If the information made available to the consent authority by the applicant for the consent for the purposes of the application contained inaccuracies which materially influenced the decision made on the application and the effects of the exercise of the consent are such that it is necessary to apply more appropriate conditions.

MONITORING

38. That a monitoring deposit of \$220 (including GST) shall be payable to cover the reasonable costs of monitoring compliance with the above conditions in accordance with Council's schedule of charges. In the event of non-compliance being detected by monitoring or a justified complaint and/or the costs of monitoring consent exceeding the deposit, the costs to Council of any additional monitoring shall be paid by the consent holder in accordance with the Council's advertised schedule of fees.
39. That all costs associated with complying with any or all conditions of this consent shall be borne by the consent holder.

Dated 29 January 2019

Paul Cooney
Commissioner

Decision on Variation RMA202100119 Recommended by:

Michelle Hart
SENIOR ENVIRONMENTAL PLANNER (CONSENTS)

Decision issued under Delegated
Authority by:



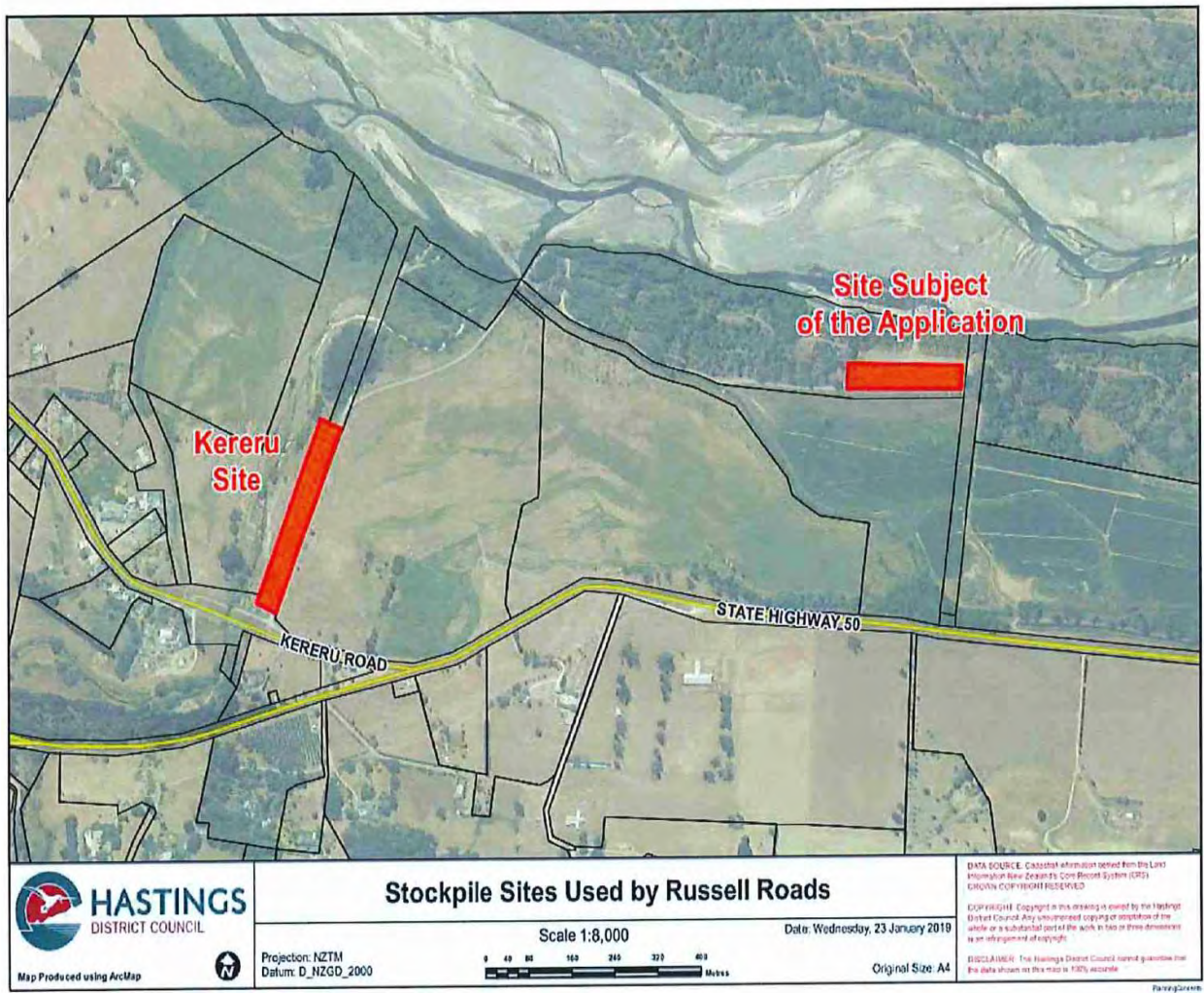
Caleb Sutton
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES

Date:

13 August 2021



AERIAL PHOTO SHOWING SITES USED BY RUSSELL ROADS LTD





HBRC Access and Access Road to the River

Decision:

Pursuant to Rules NH12 and EM6 of the Proposed Hastings District Plan (As Amended by Decisions 12 September 2015) and Sections 104, 104B and 104D of the Resource Management Act 1991, consent as a Non-Complying Activity is GRANTED to Hawkes Bay Regional Council to undertake earthworks for the establishment of an access track including driveway and culvert structures. The proposal is over Lot 4 DP 11536, at State Highway 50, Hawkes Bay 4120 (RT E4/17), and involving associated works over Pt Lot 1 DP 357840 and Lot 3 DP 473957 (RT 657170) and within the strip of riverbed land between these parcels extending from Lot 4 DP 11536 to the Ngaruroro River.

Subject to the Following Conditions:

1. That the development proceeds in accordance with the plans and information submitted in the application (HDC Ref: PID 53966), Resource Consent: RMA20190184, application received on the 20 May 2019 (Including additional information received , all under HPRM Ref's: 53966#0011, #0012, #0013, #0021, #0023 and #0027), unless otherwise altered by the consent conditions.
2. The consent holder shall submit to Council a final design, detailing the earthworks to be carried out for approval by the Environmental Consents Manager, Planning and Regulatory Services Hastings District Council (or nominee), prior to construction. The earthworks carried out shall be generally in accordance with the approved plans.
3. That as part of the earthworks no filling shall take place that will obstruct overland flow from higher ground/upstream.
4. The consent holder shall submit to Council a Sediment and Erosion Control Plan (ESCP) prepared by an appropriately qualified person, for approval by the Development Engineer, Planning and Regulatory Services Hastings District Council (or nominee), prior to the commencement of any work on the site. The ESCP shall detail how sediment and erosion controls will be carried out at the site in accordance with current engineering best practice. A statement shall be included with the plan stating the author's qualifications and experience in this area.
5. All sediment and erosion controls shall be installed in accordance with the ESCP approved under condition 4 above prior to the commencement of the earthworks. These controls shall be maintained throughout the period of the works, to the satisfaction of the Development Engineer, Planning and Regulatory Services Hastings District Council (or nominee).
6. A registered and professionally qualified engineer shall certify that the sedimentation works have been designed and constructed in accordance with the approved design.
7. All earthworks operations shall be so conducted as to comply with the provisions of New Zealand Standard NZS 6803: 1999 Acoustics – Construction Noise. Noise levels will be measured in accordance with the New Zealand Standards NZS 6803: 1999 Acoustics – Construction Noise.
8. All areas of earthworks (not being finished in a sealed surface) shall be either re-grassed with a minimum cover of 90% achieved within 6 months of the completion of the earthworks, undertaken to the satisfaction of the Environmental Consents Manager, Planning and

Regulatory Services Hastings District Council (or nominee).

Advice Note: Please ensure that those managing works have due consideration of this condition and manage works so that there is sufficient time to allow grass to grow. This will include having regard to any seasonal limitations and water requirements.

9. There shall be no off-site deposit of sediment or detritus from the area of the works and no deposit of sediment or detritus into any watercourse or stormwater drain.
10. While the earthworks are being undertaken, and prior to re-vegetation, areas of exposed earth shall be regularly dampened with water to ensure that no wind born dust is deposited outside the application property boundaries.
11. All unsuitable soils and fill materials uncovered during the earthworks, that may need to be removed off-site, shall be removed off site to an appropriate land fill facility.

With the Reasons for this Decision Being:

1. Written consent has been provided by Pastoral Services Limited, and NZTA have confirmed their agreement with the proposed alignment for access to the State Highway. The adverse effects on the environment are less than minor, and no special circumstances surround the proposal that would warrant public or limited notification of the application. The application need not be publicly or limited notified under Sections 95A and 95B respectively of the Resource Management Act.
2. The adverse effects of this proposal are minor, in that:
 - Substantial earthworks are provided for in the Rural zone where standards are met under the PDHP.
 - Construction effects are short-lived.
 - Erosion and Sediment controls are to be employed during the works.
 - Loss of soil will be negligible given the comparatively small area being worked and with top soil to remain on site.
 - Risk to and from proposed driveway and culvert structures from flooding is very low.
 - There are no known special heritage items or trees or wāhi taonga in the area of works.
 - The works are well away from the river bed of the Ngaruroro River.
 - Vegetation loss limited in area and would be minimal involving primarily pasture, blackberry and willow.
 - The landscape and visual effects assessments of Mr Tonks and Sue Dicks provided as a part of the application information (and additional information), is accepted. The valued rural character of the area would be sufficiently maintained.
 - The Hawkes Bay Regional Resource Management Plan controls the diversion of the irrigation channel that is to be undertake as a part of the broader earthworks proposal.

3. The proposed earthworks enables alternative access in a direct manner to the river for the HBRC to efficiently fulfil its role as river controlling authority, more broadly serving the community by protecting and managing the Ngaruroro River system.
4. The proposal is consistent with the Objectives, Policies and other provisions of the Proposed Hastings District Plan, in that:
 - The productive rural nature of the area will remain, with only a small relative area affected by the proposed works. Given the land parcels affected by the access track, the productive rural activities of the land will be able to remain.
 - The visual and landscape quality and values will be sufficiently maintained.
 - The works will create limited risk in a flooding risk.
 - NZTA retains control over the vehicle access to the State Highway and road works and design within the State Highway, which will ensure any future access that may occur will be sufficiently safe and efficient.
5. The application meets the sustainable management purpose of the Resource Management Act 1991. Adverse effects can be sufficiently avoided, remedied or mitigated. The proposal creates limited risk with regards to flooding hazards.

Advice Notes:

1. To avoid doubt, except as otherwise allowed by this resource consent, all land uses must comply with all remaining standards and terms of the relevant Hastings District Plan. The proposal must also comply with the Building Act 2004, Engineering Code of Practice and Hawke's Bay Regional Plans. All necessary consents and permits shall be obtained prior to development.
2. Under Section 125 of the Resource Management Act 1991 a resource consent will lapse if not given effect to within 5 years of the date the consent was granted, unless an extension is authorised under Section 125(1A)(b).
3. Separate agreement for the road works associated with any new crossing to the State Highway will need to be made with NZTA.
4. Consented proposal RMA20180258 for Russell Roads is a separate consent to this decision and any conditions therein will need to be addressed if / when that consent is to be implemented.

Recommended by:

**Rebecca Jarman
ENVIRONMENTAL PLANNER (CONSENTS)**

RMA20190184

**Decision issued under Delegated
Authority by:**

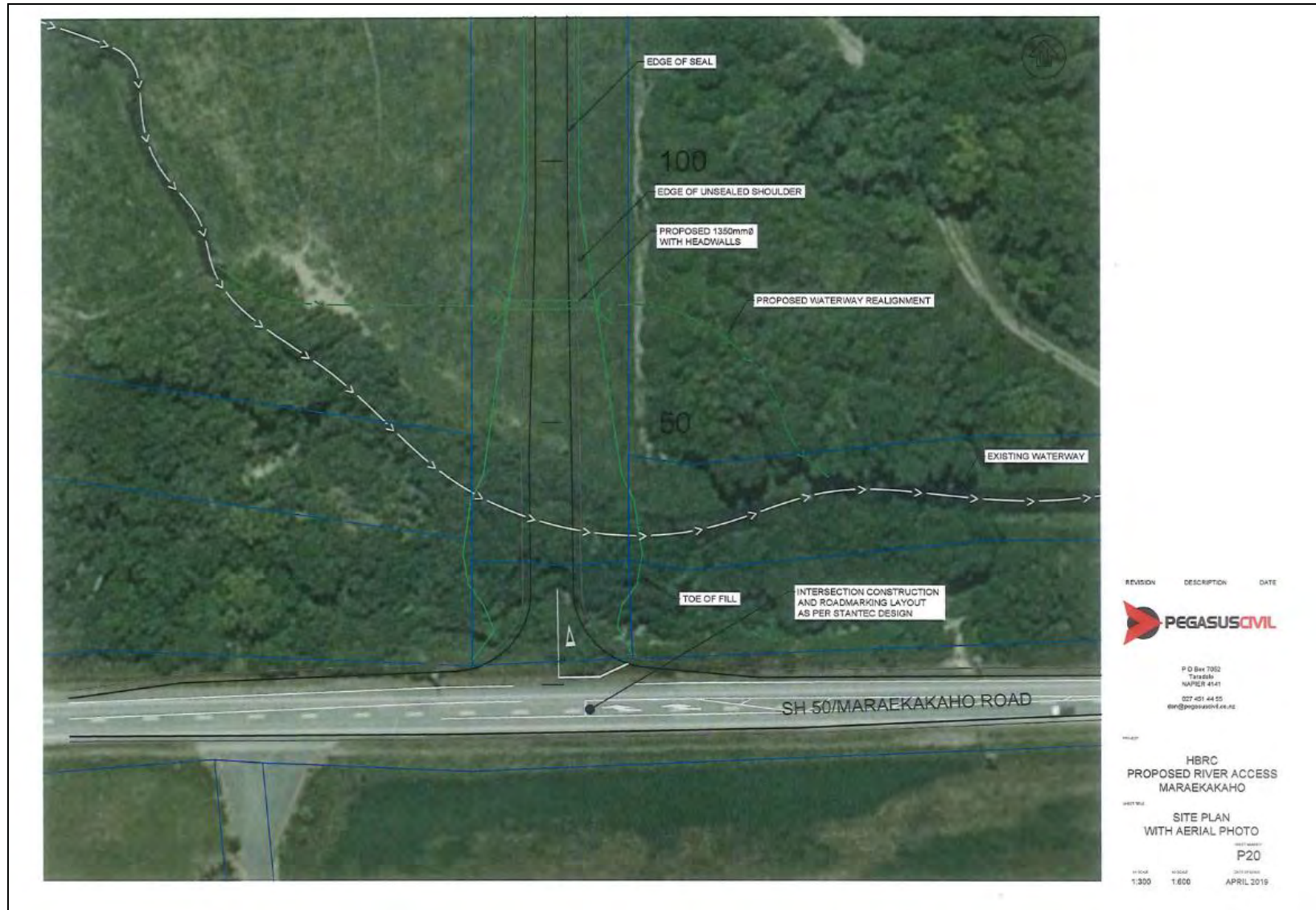
A handwritten signature in black ink, appearing to read 'M. Arnold', with a long horizontal stroke extending from the bottom of the signature.

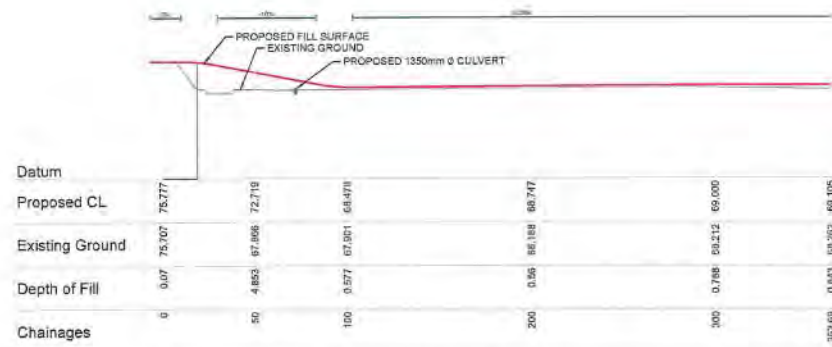
**Murray Arnold
ENVIRONMENTAL CONSENTS MANAGER
PLANNING AND REGULATORY SERVICES**

Date:

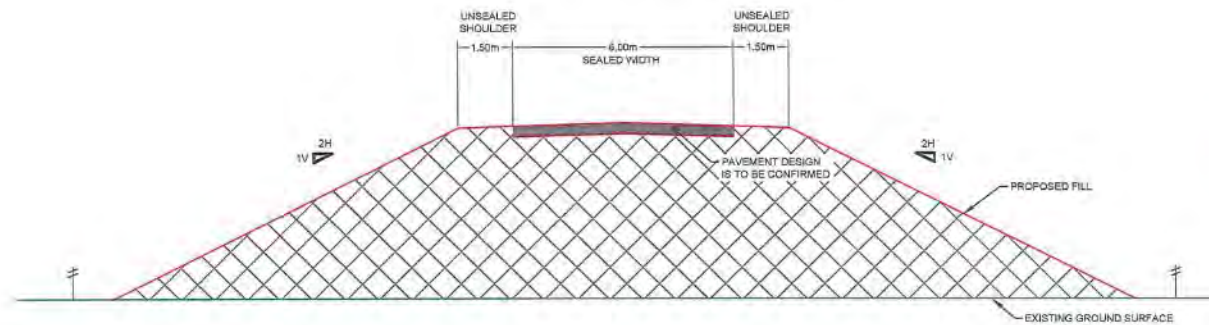
13 August 2019







MARAEKAKAHO RIVER ACCESS
LONGSECTION
 A1 SCALE H: 1:20 V: 1:50
 A3 SCALE H: 1:200 V: 1:100



MARAEKAKAHO RIVER ACCESS
TYPICAL CROSS SECTION
 A1 SCALE 1:50
 A3 SCALE 1:100



P.O. Box 7032
 Te Kōwhiri
 HAWKES BAY
 3214 431 44 00
 0841 000 000 000 000

HBRC
 PROPOSED RIVER ACCESS
 MARAEKAKAHO
 LONGSECTION AND
 TYPICAL XS

P30

AS AS APRIL 2015



RESOURCE CONSENT

Water Permit

In accordance with the provisions of the Resource Management Act 1991 (RMA), and subject to the attached conditions, the Hawke's Bay Regional Council (the Council) grants a resource consent for a discretionary activity to:

Russell Roads Limited

14 Senamor Place
Flaxmere
Hastings 4120

To take and use water from a shallow bore no. 17214 (150-200 mm diameter, 10 m deep) adjacent to the Ngaruroro River for aggregate washing and to discharge wash water via settling ponds.

LOCATION

Address of site

Kereru Road, Maraekakaho

Legal description

Site of take and use: Lot 4 DP 463659
and as illustrated on the Site Map adjacent.

Map reference (NZTM)

Well no. 17214: 1911830 E – 5605254 N

LAPSING OF CONSENT

This consent shall lapse in accordance with section 125 of the RMA on 31 May 2031 if it is not given effect to before that date.

CONSENT DURATION

This consent is granted for a period expiring on 31 May 2031.

Paul Barrett

Team Leader Consents

POLICY AND REGULATION GROUP

Under authority delegated by Hawke's Bay Regional Council

31st August 2021

CONDITIONS

1. The consent holder shall undertake all operations in accordance with any drawings, specifications, statements of intent and other information supplied as part of the application for this resource consent, including the following documents:
 - a) Resource Consent Applicant Forms A and B and the supporting document titled "Resource Consent Application for a Non-Consumptive- Kereru Road, Maraekakaho, Russell Roads" prepared by Stradegy, lodged with the Council on 9 July 2021,
 - b) The further information provided via email on 28 July 2021 being an updated bore location and depth and confirmation of the well driller that will be undertaking the works,
 - c) The further information provided on 28 July 2021, 3 August 2021, 4 August 2021 and 5 August 2021, being an updated site plan.

In the event that there is conflict between the information supplied with the application and any consent condition(s), the condition(s) shall prevail.

2. The rate of taking shall not exceed **70 litres per second**.
3. Water shall be abstracted from a well that is 10m deep and located within 100 m of the Ngaruroro River as shown on the site plan attached as Appendix 1.
4. In the event that any changes to the site plan attached as Appendix 1 are required, the consent holder must submit an update site plan for the Council's (Compliance Manager) approval before drilling the bore and constructing the sediment retention pond and infiltration gallery.
5. The volume taken shall not exceed the following:
 - a) **15,750 cubic metres in any 7 day period; and,**
 - b) **327,600 cubic metres within the 12 month period, 1 July to 30 June in consecutive calendar years.**
6. A water meter with a data logger and a telemetry unit(s) compatible with the Council's telemetry system shall be installed prior to the exercise of this consent and be operated and maintained to measure the volume of water taken to an accuracy of +/- 5%.
7. Water take and use data supplied to the Council in accordance with conditions of this consent shall be collected by a water measuring device or system that has been verified by a suitably qualified person to be accurate to within +/-5% at that point of take within the following time periods:
 - a) For existing devices or systems: within the previous 5 water years (water year is 1 July - 30th June); or,
 - b) For new devices or systems: before the end of the first water year (ending 30 June) for that water permit.

8. All water measuring devices or systems shall be re-verified by a suitably qualified person as accurate to within +/-5% within a maximum of 5 years from the date of the previous verification.
9. Where a portable pump is used to take water as authorised by this consent, both the water meter and telemetry devices must be installed, operated and maintained in accordance with the Council's Technical Publication "HBRCs Requirements for the use of Portable pumps used to report water use" (February 2013) (see Advice Note II).
10. The telemetry unit(s) shall record the rate and volume of take every 15 minutes. Each 15 minute interval of data shall be date and time stamped with the New Zealand Standard Time at the end of the 15 minute interval.
11. Data shall be transmitted to the Council's telemetry system at least once per day.
12. The telemetry unit(s) shall be installed so as to provide an accurate record of the flow meter data by a suitably qualified person. A record of installation shall be provided to the Council (Manager Compliance) in writing using the Council's "Telemetry Installation Form" within one week of installation of the new or reinstalled unit(s) having occurred (see Advice Note II).
13. A manual water meter reading shall be taken during the month of June each year. The water meter reading and the date and time the reading was taken shall be provided in writing to the Council (Manager Compliance) prior to 10 July each year.

Advice note: It is recommended that a photograph of the meter, with the meter reading clearly visible, is also provided at the same time as the reading required by condition 11.

14. Where the telemetry equipment fails, the consent holder shall notify the Council (Manager Compliance) of the failure within 3 working days, shall read the water meter at daily intervals and shall provide the Council with a record of the following:
 - a) The meter reading (in cubic metres); and,
 - b) The daily volume of water taken (in cubic metres); and,
 - c) The date and time of each reading; and,
 - d) The point of take that the record relates to (where applicable)

This information shall be supplied no later than 7 days after the end of each calendar month. Where the telemetry equipment is returned to full operation, the information shall instead be supplied within 7 days of this return to full operation occurring.

15. All works and structures relating to this resource consent shall be designed and constructed to conform to best engineering practices and at all times maintained to a safe and serviceable standard.
16. To minimise the risk of contaminants entering groundwater, the consent holder shall:
 - a) Ensure that well headworks are constructed and maintained to prevent any leakage and/or movement of water or contaminants between the ground surface and groundwater and shall ensure that there are no openings through which

contaminants might enter the well. This shall include (but not be limited to) ensuring that there are no gaps around any pipework and/or cables at the wellhead.

- b) Ensure that the well is maintained and serviced by a suitably qualified and experienced person at a frequency suitable for ensuring that conditions 15 and 16(a) are met and provide records of this maintenance and servicing to the Council (Manager Compliance) upon request.
- c) In the absence of sufficient records to demonstrate to the satisfaction of the Council (Manager Compliance) that conditions 15 and 16(a) are met, the consent holder, upon request by the Council (Manager Compliance), shall engage at their cost a suitably qualified and experienced person to inspect and certify that the wells(s) meet the requirements of conditions 15 and 16(a). The certification shall be provided to the Council (Manager Compliance) within 7 days of its receipt.

Advice note: For the purposes of this condition, an acceptable “suitably qualified and experienced person” is a professional well driller or well engineer (or equivalent), with demonstrable experience in the field of wellhead security, design, construction and maintenance.

- 17. The consent holder shall engage a suitably qualified and experienced person at their cost to inspect the well authorised to take water under this consent and to produce a bore security report. This report shall be provided to the Council (Manager Compliance) within 3 months of abstraction commencing (see Advice Note XI).
- 18. Only sediment laden water that is abstracted from well no. 17214 shall be discharged to the settling pits and infiltration gallery.
- 19. All aggregate wash water shall be discharged via a series of three settlement ponds, designed and constructed to provide a minimum storage capacity of 1,800 m³ cubic metres and an infiltration gallery.
- 20. There shall be no direct discharge of wash water to the Ngaruroro River.
- 21. The settling ponds shall be maintained to ensure that accumulated solids do not exceed 50% of the storage capacity of the ponds and so that there is no overflow of washwater from the ponds to the river, including via overland flow.
- 22. The consent holder shall provide to the Council (Manager Compliance) the following information within one month of the discharge commencing:
 - a) ‘as built’ plans, showing the size and location of the settlement ponds, infiltration gallery and point of take (well), and other key site features.
 - b) GPS coordinates for the infiltration gallery.
 - c) design details and calculations to demonstrate compliance with condition 19.
- 23. The consent holder shall undertake inspections of the three settlement ponds at a minimum of once in each of the months of January, April, August, and November, and shall:

- a) Notify the Council (Manager Compliance) in writing of any change in the length or size of the three settlement ponds and explain the changes that have occurred since the last inspection was undertaken.
 - b) Record dates of any maintenance or clearing of sediments from the ponds and take photographs of the ponds at that time
 - c) Provide the information required by a) and b) above to the Council (Manager Compliance) within 10 working days of the last day of the month in which the inspection occurred.
24. Containers, tanks or other equipment used to store hazardous substances outside shall be inspected regularly to ensure they are of a suitable quality to avoid leakage occurring.
25. No hazardous substances shall be intentionally discharged onto any part of the site that drains to the settlement ponds, or into any drain, channel or watercourse, or onto the ground.
26. The consent holder shall take all practical measures to prevent contaminants from entering the settlement ponds and infiltration gallery. Such measures shall include, but are not limited to, the refuelling and carrying out of machinery maintenance or servicing away from areas that drain to the settlement ponds and away from waterbodies and overland flow paths.
27. A spill management plan shall be prepared which includes but is not limited to, details of how spills will be prevented, managed and remedied, and where spill management kits will be kept on site. This will be provided to the Council (Manager Compliance) before the discharge commences.
28. Chemical spill kits suitable for the types of materials held on the site shall be kept on the site at all times and shall be regularly inspected and maintained to ensure that they are available for use at all times. The spill kits shall be readily accessible in the event of a chemical spill, and staff shall be trained in spill response procedures, including the use of the spill kits.
29. Any spills of contaminants such as solvents and hydrocarbons, or any other hazardous substances, shall immediately be cleaned up, collected or soaked up using a chemical spill kit, and disposed of into sealed containers that will not leak, and that are stored in bunded 'roofed' areas with impervious floors. Any collected materials containing hazardous substances shall be disposed of at an appropriate off-site waste collection facility.
30. For all spills of contaminants over 20 litres associated with the consent holder's operations that escape into a surface water body, stormwater catch-pit or unsealed ground, the consent holder shall:
- a) Immediately take all practicable steps to contain and then remove the contamination from the environment, and;
 - b) Immediately notify the Council (Pollution Hotline: 0800 108 838) of the escape, and;
 - c) Report to the Council, in writing and within 7 days, describing the manner and cause of the escape and steps taken to control it and prevent its reoccurrence
31. The conditions of this consent may be reviewed by Council during the month of May of any year pursuant to sections 128, 129, 130, 131 and 132 of the RMA. The actual and reasonable

costs of any review undertaken will be charged to the consent holder, in accordance with section 36 of the RMA. The consent(s) may be reviewed for any of the following purposes:

- a) To deal with any adverse effect on the environment which may arise from the exercise of this consent, which it is appropriate to deal with at that time or which became evident after the date of issue;
- b) To require that the installation and reading of the water-measuring device or water meter data reporting system is consistent with any policies or rules in a regional plan, a National Environmental Standard;
- c) To modify any monitoring programme, or to require additional monitoring if there is evidence that current monitoring requirements are inappropriate, inaccurate or inadequate;
- d) To ensure that the rate and volume of water authorised by the consent is consistent with actual water needs for an efficient take for the consented purpose and is physically able to be taken;
- e) To require, if necessary, the installation of a backflow prevention device to ensure that no contaminant can enter the aquifer through the bore;
- f) To modify and/or add conditions of consent in order to ensure that it is consistent with the operative provisions of a regional plan. This shall include (but not be limited to) conditions specifying any maximum or minimum levels, minimum flows and associated implementation timeframes, and/or abstraction rates or volumes (including allocation limits).

REASONS FOR DECISION

The reasons for the decision are set out in the associated s42A report.

ADVICE NOTES

Non consumptive

- I. This water take is considered to be non-consumptive with respect to the Ngaruroro River and the connected shallow unconfined aquifer.

Water Shortage Direction

- I. In accordance with s329 of the RMA, the Council may issue a water shortage direction at any time if it considers there is a serious temporary shortage of water. This direction may require this take to be apportioned, restricted or suspended for a period of 14 days for each water shortage direction.

Water Meter Technical Specifications

- II. The following documents are available from the Council's website "*Technical Specifications and Installation Requirements for Flow Meters*" (February 2010) (www.hbrc.govt.nz/services/water/water-metering/meters/) and "*HBRCs Requirements for the use of Portable pumps used to report water use*" (February 2013) (www.hbrc.govt.nz/assets/Document-Library/Technical-Publications/Technical-Specifications-and-Installation-Requirements-for-portable-pumps-March-2013.pdf). The *Telemetry System Installation Form* is provided to telemetry installers by the Council upon request.

Wellhead Construction

- III. To minimise the risk of contaminants entering groundwater, well headworks are required to be constructed to ensure that there are no openings through which contaminants might enter the well. This would include ensuring that there are no gaps around pipework and cables at the wellhead

Notification of Changes to Details

- IV. It is the responsibility of the consent holder to inform the Council (Manager Consents) if any details regarding this consent change, including any sale / purchase of the property and any change to contact details.

Water Quality Testing

- V. It is the responsibility of the consent holder to ensure that the water abstracted under this resource consent is of suitable quality for its intended use. Where water is to be used for human consumption, the consent holder should have the water tested prior to use and should discuss these requirements with a representative of the Ministry of Health and should consider the following Drinking Water Standards (see link below): <https://www.health.govt.nz/publication/drinking-water-standards-new-zealand-2005-revised-2018>.

Review TANK

- VI. The consent holder is advised that the Council is currently undertaking a plan change for the Tutaekuri, Ngaruroro, Ahuriri and Karamu catchments. This plan change may introduce rules or provisions that affect this consent. The Council may review the conditions of this consent so as to implement the operative minimum flow(s) and allocation limits of this plan change. More information about the plan change can be found on the Council's website (www.hbrc.govt.nz key word "#TANK").

Bore Security Report

- VII. For the purposes of this condition, an acceptable "suitably qualified and experienced person" is a blue tick accredited water meter verifier or a well driller.

MONITORING NOTE

Routine monitoring

Routine monitoring inspections will be undertaken by Council officers at a frequency of no more than once every year to check compliance with the conditions of the consent. The costs of **any** routine monitoring will be charged to the consent holder in accordance with the Council's Annual Plan of the time.

Non-routine monitoring

"Non routine" monitoring will be undertaken if there is cause to consider (e.g. following a complaint from the public, or routine monitoring) that the consent holder is in breach of the conditions of this consent. The cost of non-routine monitoring will be charged to the consent holder in the event that non-compliance with conditions is determined, or if the consent holder is deemed not to be fulfilling the obligations specified in section 17(1) of the RMA shown below.

Section 17(1) of the RMA states:

Every person has a duty to avoid, remedy, or mitigate any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with

- a) *any of sections 10, 10A, 10B, and 20A; or*
- b) *a national environmental standard, a rule, a resource consent, or a designation.*

Consent Impact Monitoring

In accordance with section 36 of the RMA (which includes the requirement to consult with the consent holder) the Council will levy additional charges for the cost of monitoring the environmental effects of this consent, either in isolation or in combination with other nearby consents. Any such charge would generally be set through the Council's Annual Plan process.

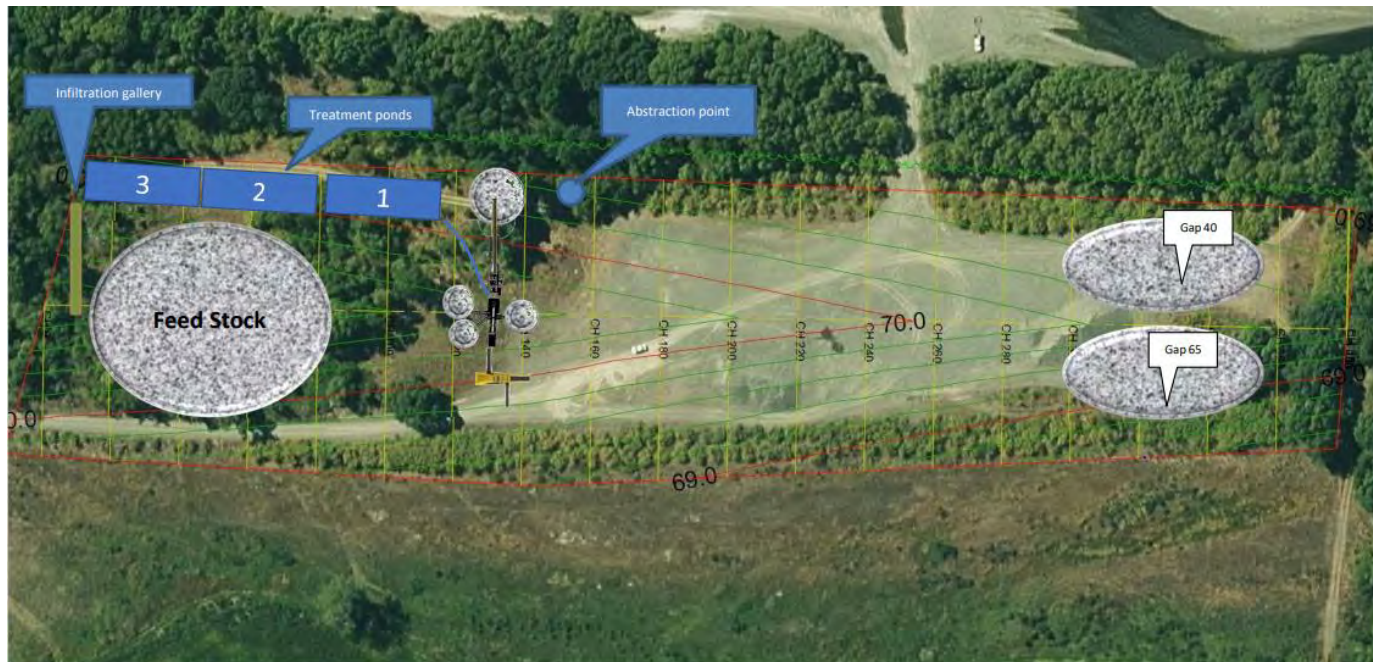
DEBT RECOVERY

It is agreed by the consent holder that it is a term of the granting of this resource consent that all costs incurred by the Council for, and incidental to, the collection of any debt relating to this resource consent, whether as an individual or as a member of a group, and charged under section 36 of the RMA, shall be borne by the consent holder as a debt due to the Council, and for that purpose the Council reserves the right to produce this document in support of any claim for recovery.

CONSENT HISTORY

Authorisation No.	Date	Event	Relevant Rule	Relevant Plan
AUTH-127331-01 and AUTH127334-01	31/08/2021	Consent initially granted	55	Regional Resource Management Plan

APPENDIX 1: SITE PLAN



1 June 2022

Dear Robbie,

2022-23 Gravel Allocations

Hawke's Bay Regional Council (HBRC) has completed the allocation process for the 2022-23 financial year.

The enclosed table indicates the quantity and location of material allocated to you for the 2022-23 extraction year. This letter and table **do not constitute a consent**. Individual consents will be issued as applications are received from extractors, but please note these allocated volumes are not final and additional volumes can be consented in areas where gravel extraction is sustainable and available.

The gravel allocation process considers the availability with respect to a design riverbed level and requests for extraction. The criteria we used to determine these allocations include: availability, fair and reasonable distribution, historic extraction (recorded in declarations), and compliance record.

As advised at the contractors meeting and in previous years, survey data is showing reduced availability from most Hawke's Bay rivers, especially the Tutaekuri and Ngaruroro rivers. All those who requested material on the Tutaekuri, as well as those below NG55 on the Ngaruroro, have been allocated zero or a minimal volume.

Gravel availability is further impacted on the Tukituki and Waipawa rivers due to the presence of Chilean Needle Grass. The IRG project in UTT will provide further opportunity for gravel supply. The funding will be used to incentivise areas where extraction is difficult or has previously been limited. The next tender round is planned to be sent out in early June 2022 to those that pre-qualified last year. To find out more about the tender process please contact Tim Jones at tim.jones@hbrc.govt.nz.

Please ensure declarations for all material extracted up to 30 June 2022 are returned to the Council by **20 July 2022**. New 2022-23 consents will not be issued, and **no** further extraction will be permitted until all declaration returns have been received for the 2021-22 year.

Consent applications can be made by contacting acting Officer Schemes Mark Brinsdon at mark.brinsdon@hbrc.govt.nz. Please allow for 10 working days for processing.

The 2021-22 charges will continue without change for the 2022-23 year:

Extraction Type and Region	Financial Year (cost per m ³)
	2022-23
Heretaunga Plains (HPFCS rivers including lower & middle Tukituki)	\$1.20
SOUTHERN (UTT) below Tukituki-Tukipo & Waipawa-Mangaonuku	\$0.80
SOUTHERN (UTT) above Tukituki-Tukipo & Waipawa-Mangaonuku	\$0.80
Inferior material	\$0.40
UTT IRG Scheme	\$0.00

